



Draft Administrative Rules

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TITLE 28: INSURANCE

PART 4: STATE OFFICE OF RISK MANAGEMENT

CHAPTER 251: GENERAL ADMINISTRATION

Subchapter A: General Provisions

§251.101. Definitions

- (a) The following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:
- (1) Office – The State Office of Risk Management.
 - (2) Director – The Executive Director of the State Office of Risk Management
 - (3) Board – The Board of Directors of the State Office of Risk Management.
 - (4) Division – The Texas Department of Insurance Division of Workers' Compensation (TDI-DWC).
 - (5) Attorney General – The Texas Office of the Attorney General.
 - (6) Employee – Any person who is a state employee as defined by §501.001(5) and §501.024, Texas Labor Code, or is otherwise considered under Texas law to be a state employee for the purposes of that chapter.
 - (7) Employing agency or employer – The agency, department, office, board, commission, body, or entity of the state by which the state employee is employed.
 - (8) Covered entity or state agency – Any state agency, department, board, commission, or body, including a court or institution of higher education, subject to Chapter 412 and/or Chapter 501, Texas Labor Code, unless specifically excepted therein.

§251.102. Purpose and Construction of Rules

- (a) These rules are adopted under the authority granted by §412.031, Texas Labor Code, authorizing the Board of Directors of the State Office of Risk Management to adopt rules as necessary to implement Chapters 412 and 501, Texas Labor Code, including rules relating to reporting requirements

for a covered entity. These rules are adopted for the following purposes:

- (1) to ensure the efficient administration of the state employees' workers' compensation system;
 - (2) to establish risk management practices for state agencies;
 - (3) to establish and explain the practices and procedures followed by the Office and its employees in performing the Office's duties; and
 - (4) to provide the specific guidance necessary to encourage and ensure full compliance with all laws administered by the Office.
- (b) Nothing in these rules shall be construed to conflict with the rules, orders, and decisions of the Texas Department of Insurance Division of Workers' Compensation or other applicable law.

§251.103. Administrative Attachment

- (a) The Office is administratively attached to the Attorney General but is independent of the Attorney General's discretion.
- (b) The Office shall enter an interagency contract with the Attorney General specifying the kind and amount of administrative support services and resources the Attorney General will provide to the Office, the basis for computing reimbursable costs, and the maximum costs during the period of the contract. The period for each interagency contract will be two years.

Subchapter B: Rulemaking and Compliance

§251.201. Compliance

- (a) Any party seeking any action by the Office, the Board, or the Director shall comply with these rules, unless the director determines that compliance under the particular circumstances would result in injustice to any party.

§251.202. Employing Agencies' Cooperation

- (a) All employing agencies shall cooperate with the State Office of Risk Management in all actions required for proper administration of Chapters 412 and 501, Texas Labor Code, any amendments thereto, and other applicable law.

§251.203. Notice of Proposed Rules and Amendments

- (a) Notices of proposed rules and amendments to rules will be submitted for publication in the Texas Register in accordance with the procedure prescribed in Chapter 2001, Texas Government Code.
- (b) At the same time any such proposal is submitted for publication in the Texas Register, a plain-language summary thereof shall be published at the Office's website.
- (c) Each rule or amendment adopted shall take effect after the expiration of the statutory period unless it is adopted using the emergency rulemaking procedures described in §2001.034, Texas Government Code.
- (d) Written comments on a proposed rule received by the Office shall be reviewed by the Director and made available to the Board before final action to adopt the rule.

§251.204. Petition for Adoption or Amendment of Rule

- (a) Any interested person, as defined by §2001.021(d), Texas Government Code, may by petition to the Office request the adoption or amendment of a rule.
- (b) Form and procedure. Petitions for the adoption or amendment of rules shall be submitted to the Director in writing by personal delivery, certified mail, or interagency mail and shall include:
 - (1) the name of the petitioner,
 - (2) a brief explanation of the proposed rule,
 - (3) the text of the proposed rule prepared so as to indicate any words to be added to or deleted from the current text,
 - (4) a statement of the legal authority under which the rule is proposed to be promulgated,
 - (5) an explanation of how the public would benefit by adoption of the proposed rule, and
 - (6) any information or data showing a need or justification for the proposed rule.
- (c) The Director shall review all petitions for compliance with this section. If the Director determines that the petition does not comply with this section, the petitioner shall be notified in writing of any deficiencies found and given an opportunity to cure the deficiencies by filing an amended petition that

complies with this section. If the petitioner fails to provide an amended petition before the end of normal business hours on the 15th day following the date the Director sent a notice of deficiencies to the petitioner, the petition shall be deemed abandoned and no further action will be taken on the petition.

- (d) If the Director receives a petition that complies with this section, the Director shall notify the petitioner in writing that the petition has been submitted and will be processed in accordance with the Administrative Procedure Act, Chapter 2001, Texas Government Code, and these rules. The Director shall present the petition to the Board with a recommendation as to whether a rulemaking proceeding should be initiated.
- (e) Within 60 days of the submission of a petition, the Board shall either deny the petition or initiate rulemaking proceedings. If the Board denies the petition, the Director shall send a written notification of and reasons for denial to the petitioner.
- (f) The Office may modify a petitioned-for rule to ensure that it adequately addresses the petitioner's objective, adheres to the limits of the Office's authority, conforms to all affected statutes and rules, and meets standards for publication in the Texas Register.
- (g) The Board shall hold a public hearing on each proposed rule derived from an accepted petition before it takes final action to adopt the rule. Unless otherwise scheduled, the public hearing will be held immediately before the Board votes on the proposed rule.
- (h) The Office may utilize negotiated rulemaking procedures when appropriate, either informally, in a manner established by the Office, or formally, in accordance with the procedures established in Chapter 2008, Texas Government Code.
- (i) Nothing in this section shall preclude the Director from considering or developing new rules or amendments to existing rules without petition from an interested person or express direction from the Board.

§251.205. Employee Leave Pools

- (a) A sick leave pool is established to alleviate hardship caused to an employee if a catastrophic injury or illness forces the employee to exhaust all available leave time earned by that employee.

- (1) The Office's Director of Talent Management is designated as the pool administrator.
- (2) The administrator will operate the pool consistently with the Office's sick leave pool policy and Chapter 661, Subchapter A, Texas Government Code.
- (b) A family leave pool is established to provide employees flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement; or caring for a seriously ill family member or the employee, including illnesses or complications resulting from a pandemic.
 - (1) The Office's Director of Talent Management is designated as the pool administrator.
 - (2) The administrator will operate the pool consistently with the Office's family leave pool policy and Chapter 661, Subchapter A-1, Texas Government Code.

§251.206. Customer Service Program

- (a) The Office shall collect and promptly act on compliments or complaints filed with the Office; shall maintain information about parties to the compliment or complaint, the subject matter of the compliment or complaint, a summary of the results of the review or investigation of the compliment or complaint, and the disposition of the compliment or complaint; shall make available information describing the Office's procedures for compliment or complaint investigation or resolution; and shall periodically notify parties to a compliment or complaint of the status of that compliment or complaint until final disposition thereof.
- (b) Information regarding the compliment or complaint process will be provided and maintained on the Office's website. All compliments or complaints must be submitted electronically via the method(s) designated on the Office's website.
- (c) Telephonic communications or other forms of correspondence not designated on the Office's website for the purposes of communicating a compliment or complaint will not be tracked or processed in accordance with this section.

§251.207. Policies and Procedures

- (a) With the assistance of the Office, the Board shall adopt and maintain a Board Governance and Policy Manual to assist the Board in the exercise of its duties and responsibilities and to

serve the best interests of the State of Texas, the Office, and its clients.

- (b) The Office shall routinely review the Board Governance and Policy Manual for compliance with relevant laws, regulations, and agency procedures.
- (c) The Office shall adopt and maintain Policies and Procedures governing the administration of the Office and its programs.
- (d) The Office shall review biennially the Office's Policies and Procedures for compliance with current operational practice and applicable law.

Subchapter C: Communications

§251.301. Forms; Communications with the Office

- (a) All communications with the Office shall be filed or submitted in the form and manner prescribed by the Office.
- (b) Correspondence and forms, unless otherwise specified, may be sent to the Office via any of the following channels:
 - (1) interagency mail code no. 031 (state agencies only);
 - (2) facsimile transmission to (512) 370-9025;
 - (3) hand delivery to 300 W. 15th Street, 6th Floor, Austin, Texas 78701;
 - (4) regular mail to P.O. Box 13777, Austin, Texas 78711-3777;
 - (5) authorized email addresses designated for the receipt of specific forms or communications; or
 - (6) secure online portal(s) designated by the Office.
- (c) facsimile numbers, telephone numbers, e-mail addresses, and secure online portals designated by the Office are subject to change without advance notice.
- (d) Forms referenced herein may be obtained at the Office's website or from the Division.

§251.302. Computation of Time

- (a) This rule applies unless another method of computation is required by statute or another applicable rule.
- (b) Working days for the Office are any day that is not a Saturday, Sunday, or a national holiday as defined by §662.003, Texas Government Code.
- (c) Normal business hours for the Office are 8:00 a.m. to 5:00 p.m., Central Standard Time.

- (d) Unless the circumstances clearly indicate otherwise, non-electronic written communications received by the Office shall be deemed to have been sent on:
 - (1) the date received if sent by facsimile, personal delivery, or electronic transmission; or
 - (2) the date postmarked if sent by United States Postal Service regular mail, or, if the date is unavailable, the later of the signature date on the written communication or the date received minus five days. If the date received minus five days was a Sunday or a legal holiday, the communication will be deemed sent the next prior day which was not a Sunday or a legal holiday.
- (e) Any written, electronic, or telephonic communications received outside of normal business hours are considered received at the beginning of normal business hours on the next working day.
- (f) Due dates and time periods shall be computed as follows:
 - (1) In computing a period of time measured by days, the first day is excluded and the last day is included.
 - (2) If the last day of any period not a working day, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.
 - (3) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

§251.303. Deadlines

- (a) Unless otherwise specified by rule, any written, electronic, or telephonic communications will be considered timely only if received within deadlines prescribed by the Office.
- (b) If a party seeks an extension of a deadline established by the Office and shows good cause therefor, it is within the Director's discretion to extend or waive that deadline.

§251.304. Claims-Related Communications from Third Parties

- (a) All communications from a third-party related to particular workers' compensation claims must contain the injured

employee's name; the date of injury; the name of the employing agency; and the last four digits of the injured employee's social security number or date of birth.

- (b) All claims-related communications from third parties may be subject to the confidentiality provisions of §251.401(b), the Workers' Compensation Act, or other applicable law.
- (c) Failure to provide the information required by Subsection (a) does not establish proper notice for the purposes of the Workers' Compensation Act.

Subchapter D: Legal

§251.401. Public Information Requests

- (a) For the purposes of the Public Information Act, Chapter 552, Texas Government Code, the Director is the officer for public information for the Office. The Director may designate a department head to be a public information coordinator to administer the responsibilities of the public information officer.
- (b) Certain information maintained by the Office, including information in or derived from workers' compensation claim files and information in or derived from a risk management review related to facility security or continuity of operations, is confidential and/or excepted from public disclosure and may not be disclosed by the Office except to persons specifically authorized by law to access that information.
- (c) Charges for copies of public information maintained by the Office shall be determined by reference to the relevant rules promulgated by the Office of the Attorney General located at Chapter 70, Texas Administrative Code.

§251.402. Waste, Fraud, and Abuse

- (a) The Office shall make available to the public information about reporting waste, fraud, and abuse, including but not limited to the telephone number for the State Auditor's Office Fraud Hotline and a link to the State Auditor's Office online fraud report form.
- (b) Allegations of fraud, waste, or abuse that give the Director or General Counsel reasonable cause to believe that fraud, waste, or abuse has occurred shall result in the initiation of an Office investigation, referral to the State Auditor's Office, and/or

referral to any other appropriate authorities for judicial action or criminal prosecution.

Subchapter E: Procurement

§251.501. Purpose and Definitions

- (a) The purposes of this Subchapter are to provide a protest procedure to be used by any actual or prospective bidder, offeror, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract by the Office from a procurement and to ensure the Office's compliance with the Historically Underutilized Businesses program.
- (b) The following words and terms, when used in this subchapter, shall have the following meanings.
 - (1) Procurement Division – the Procurement Division of the Office of the Attorney General;
 - (2) Interested party – a vendor who has submitted a bid or proposal, as applicable, for the procurement involved; and
 - (3) Received or receipt – actual receipt.

§251.502. Filing of Protest

- (a) An actual or prospective bidder, offeror, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract by the Office may file a written protest.
- (b) A protest must be addressed to the Office and must be received no later than ten working days after the aggrieved person knows or should have known of the occurrence of the protested action.
- (c) To be considered, a protest must satisfy the criteria of the Comptroller of Public Accounts at 34 Texas Administrative Code §20.535, relating to Filing Requirements. Protests that do not satisfy those requirements may be dismissed administratively and without written notice.

§251.503. Protest Review

- (a) Upon receipt of a timely and compliant protest, designated Office personnel will review the protest and notify the Director.

The Office may solicit written responses to the protest from other interested parties.

- (b) On consultation with the Director and with written approval, designated Office personnel have the authority to settle or resolve the dispute.
- (c) If the protest is not settled by mutual agreement, the Office will issue a written determination of the protest.
 - (1) if the Office determines that it did not violate any statute or rule in declining to award a protestor a contract, it will inform the protestor of that determination and its reasons therefor in writing.
 - (2) if the Office determines that it violated any statute or rule in declining to award a protestor a contract when that contract has or has not yet been awarded to any bidder, offeror, proposer, or contractor, it shall, in writing, inform the protestor of that determination and the reasons therefor, and may set forth any appropriate remedial action, which may include cancelling or voiding the contract to the extent allowed by law.

§251.504. Appeal of Protest

- (a) A protestor or other interested person who is not satisfied with the determination of the Office may appeal the determination to the Director. The appeal must be submitted in writing to the Director and received by the Office no later than ten working days after the date of the initial determination.
- (b) The appealing party must send copies of the appeal to all other interested parties. The appeal must contain a sworn affidavit avowing that such copies have been provided.
- (c) Upon receipt of a timely appeal that conforms with this Section, the Director may designate one or more Office employees to review the appeal. If designated, the employee(s) will prepare and submit to the Director a written recommendation regarding the appeal.
- (d) The Director may issue a written decision concerning the protest and appeal or refer the matter to the Board for consideration at a regularly scheduled public meeting.
- (e) A decision issued by the Board in a public meeting or in writing by the Director shall be the final administrative action of the Office.

§251.505. Failure to Timely File

- (a) Protests and appeals which are not timely filed will not be considered unless the Director determines there is good cause for delay or the Director determines that the protest or appeal raises significant issues with the Office's procurement practices or procedures.

§251.506. Status of Procurement During Protest and Appeal

- (a) If a contract being protested has not yet been awarded, upon the timely filing of a protest or appeal under this Subchapter, the Office shall not proceed further with the solicitation or award of the contract until the matter is resolved unless the Director makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the State of Texas.

§251.507. Standards for Maintaining Procurement Documentation

- (a) The Procurement Division shall maintain all documentation about the purchasing process to be used in the event of a protest or appeal in accordance with the Attorney General's agency retention schedule.
- (b) The Office may maintain copies and additional procurement documentation in accordance with its retention schedule.

§251.508. Historically Underutilized Business Program

- (a) In compliance with §2161.003, Texas Government Code, the Office adopts the Comptroller of Public Accounts' rules relating to Historically Underutilized Businesses located at 34 Texas Administrative Code §§20.281–20.298.

Subchapter F: Cost Allocation

§251.601. Purpose

- (a) The purpose of this Subchapter is to:
 - (1) equitably distribute workers' compensation losses, risk management costs, the Office's administrative or other authorized expenses;
 - (2) encourage the implementation of risk management programs and practices designed to minimize occupational injuries and illnesses, protect state property, and provide

- appropriate safety and health training for all state employees; and
- (3) encourage compliance with the rules of the Office, the Division, and the Texas Enterprise Risk Management (TERM) Guidelines published by the Office.

§251.602. Definitions

- (a) The following words and terms, when used in this subchapter, shall have the following meanings:
- (1) Claims cost – the net amount of payments or penalties on claims, minus subrogation, recovery, and restitution payments, as reported by the Office.
- (2) Covered FTE – a Full-Time Equivalent Employee, as defined by Section 2052.102, Texas Government Code, covered by the State Employees Workers' Compensation System.
- (3) Injury Frequency Rate (IFR) – the number of accepted claims from a covered entity's employees, as reported by the Office, per 100 covered FTEs of the entity. For the purposes of this calculation, no covered entity is deemed to have less than 100 covered FTEs.
- (4) Payroll – the total amount of dollars paid for gross salary, as defined by the Comptroller, for all covered FTEs reported by covered entities.
- (5) Fiscal year – the state fiscal year (FY) beginning on September 1 and ending on August 31 of the following year.

§251.603. Total Assessment

- (a) Each fiscal year, the Office will calculate the total amount (hereinafter "total assessment") to be collected from covered agencies to pay the aggregate costs of workers' compensation losses, the Office's risk management program, and other administrative costs necessary for the Office's operations.
- (b) In even numbered years, the Office may commission an actuarial study for the purpose of projecting the total amount of workers' compensation losses which will be paid in the following fiscal year.
- (c) The total assessment will be the total of:

- (1) the projected total amount of workers' compensation costs, as described in Subsection (b) of this Section, for the following fiscal year;
- (2) any amount the Office borrowed in the previous fiscal year to pay workers' compensation costs;
- (3) the costs of the Office's risk management program;
- (4) other administrative costs necessary for the Office's operations;
- (5) minus any carryover funds from the previous fiscal year.

§251.604. Allocation of the Total Assessment

- (a) The total assessment will be allocated among covered entities via interagency contracts. Upon request by the Office, covered entities must submit a signed copy of their interagency contract with the Office in the form and manner prescribed by the Office. Failure to submit an interagency contract under this subsection does not prevent the Comptroller from transferring a covered entity's total assessment nor alter the deadlines prescribed by the Office.
- (b) Each covered entity's share will be calculated based on:
 - (1) the covered entity's payroll as a percentage of all covered entities' payrolls,
 - (2) the covered entity's number of covered FTEs as a percentage of the total number of covered FTEs,
 - (3) the total number of accepted claims from the covered entity's employees adjusted according to the covered entity's IFR,
 - (4) the total cost of claim payments made to the covered entity's employees as a percentage of the total cost of claims payments made by the Office, and
 - (5) such other relevant factors as the Board may determine.
- (c) The Office will use a weighted three-year rolling average to calculate payroll, covered FTEs, and IFR for each covered entity. In the weighted average, the most recent completed fiscal year will constitute 50% of the total for that factor, the next most recent fiscal year will constitute 33% of the total, and the earliest fiscal year will constitute 17% of the total.
- (d) The Office will use a simple three-year rolling average to calculate the total number of accepted claims and cost of claim payments for each covered entity.

- (e) Subject to modification by the Board pursuant to §251.6XX of this Subchapter, the factors identified in Subsection (a) of this Section shall be weighted as follows when dividing the total assessment among covered entities:
 - (1) payroll – 12.5%;
 - (2) covered FTEs – 12.5%;
 - (3) accepted claims adjusted by IFR – 15%;
 - (4) claims cost – 60%.
- (f) Each covered entity's total number of claims will be adjusted by the covered entity's IFR by multiplying the number of claims by a given modifier. Subject to modification by the Board pursuant to §251.6XX of this Subchapter, the modifier shall correspond to IFR as follows:
 - (1) Low IFR (employing agency's claims constitute less than 3.50% of total claims) – 0.95;
 - (2) Moderate IFR (employing agency's claims constitute 3.50% to 7.50% of total claims) – 1.00;
 - (3) High IFR (employing agency's claims constitute more than 7.50% of total claims) – 1.05.
- (g) The amount a covered entity is charged based on accepted claims modified by IFR shall not exceed 2% of the covered entity's 3-year weighted average payroll.
- (h) The amount a covered entity is charged based on claims cost shall not exceed 4% of the covered entity's 3-year weighted average payroll.
- (i) When the amounts chargeable to a covered entity per the caps described in Subsections (f) and (g) of this Section are less than they would be without such caps, the remainders of those costs shall be allocated among all other covered entities in the same manner as the initial total assessment calculation.

§251.605. Administrative Penalties

- (a) The Office shall maintain records of administrative penalties assessed against the Office by the Division.

§251.606. Omitted, Merged, or Newly Created Covered Entities

- (a) In the event that a covered entity is omitted from the Office's apportionment of the total assessment for any fiscal year, that entity will promptly:

- (1) remit to the Office an assessed amount based on projected payroll and number of covered FTEs, as reported by that entity; and
 - (2) reimburse the Office for all covered losses incurred during that fiscal year in excess of the assessed amount.
- (b) Notwithstanding §251.604(b) of this Subchapter:
- (1) if a covered entity has existed for only the two most recent fiscal years of the weighted three-year rolling average period, the most recent completed fiscal year shall constitute 60% of the total for the weighted factors and the next most recent plan year shall constitute the remaining 40%;
 - (2) if a covered entity has existed for only the most recent fiscal year of the weighted three-year rolling average period, then the most recent completed fiscal year shall constitute 100% of the total for the weighted factors; and
 - (3) if the covered entity has not existed for a full fiscal year, weighted three-year rolling averages shall be calculated using that entity's current or projected payroll and number of covered FTEs, as reported by the entity, and the entity's actual claims costs to date, if any.

§251.607. Required Reports

- (a) In addition to any other reports required under this Part, each covered entity shall report to the Office not later than February 1 of each fiscal year its total payroll and number of covered FTEs by funding source for the prior fiscal year. The Office will prescribe the form and manner by which covered entities shall make these reports.
- (b) The reports required by Subsection (a) may be amended, supplemented, or corrected at any time prior to June 1 of the fiscal year during which they are submitted. The calculation of the total assessment and its apportionment to covered entities will be made using the data contained in the reports required by this Section as of June 1 of each fiscal year.
- (c) At the beginning of each fiscal year, the Office shall report the total assessment and its apportionment to covered entities to the Comptroller of Public Accounts.

§251.608. Date of Payment for Assessments

- (a) Each covered entity's assessment payment must be received by the Office not later than the third day after appropriations become available via the Uniform Statewide Accounting System (USAS) except as otherwise provided by this Section.
- (b) Upon timely petition and justification by the requesting entity, and subject to review and approval by the Office, the portion of a covered entity's assessment which must be paid from funding sources that must first be collected from sources other than appropriations may be paid in semiannual or quarterly installments. An entity authorized by the Office to exercise this option must pay at least 25% of that portion by the date specified in Subsection (a) of this Section, with the balance of the assessment due according to a payment schedule approved by the Office.
- (c) Covered entities shall ensure that 75% of their assessed allocation is transferred to the Office by deadlines prescribed by the Office, the General Appropriations Act, or other applicable law.
- (d) No later than May 1 of each year, the Office shall determine the remaining assessment due from each agency and prepare a statement reflecting the remaining assessments. Covered entities shall ensure that their remaining assessed allocation is transferred to the Office by deadlines prescribed by the Office, General Appropriations Act, or other applicable law.
- (e) If payment is not received within 30 days of any date or deadline outlined in this section, the Comptroller may take appropriate action to effectuate a transfer of funds to the Office.
- (f) The Office shall comply with the accounting procedures and regulations promulgated by the Comptroller in administering the total assessment.

§251.609. Sources of Funding for Payment of Assessment; Internal Allocation

- (a) Each covered entity shall pay its assessment from funding sources in the same proportion as their expected payroll funding.
- (b) Each covered entity shall report to the Office, in a manner prescribed by the Office, information regarding the specific funding sources from which it pays its assessment.

Subchapter G: Publications

§251.701. Publication and Review of Claims Coordinator Handbook

- (a) The Office shall publish the Claims Coordinator Handbook such that it is accessible to all covered entities, including by providing the Handbook on the Office's website.
- (b) The Office shall, at least biennially, review the Handbook for accuracy and alignment with current Office and Division rules and practices.
- (c) Whenever the Office propagates or amends an administrative rule in this Part, the Office shall update the Claims Coordinator Handbook to reflect the change in rules, if necessary.

§251.702. Publication and Review of Risk Management Guidelines

- (a) The Office shall publish Texas Enterprise Risk Management (TERM) Guidelines such that they are accessible to all covered entities, including by providing the TERM Guidelines on the Office's website.
- (b) The Office shall, at least biennially, review the TERM Guidelines to determine whether they are appropriate and current.
- (c) The Office shall, at least every five years, update the TERM Guidelines to be consistent with industry best practices and current law. In doing so, the Office shall solicit input from covered entities concerning the coverage and user-friendliness of the TERM Guidelines.

§251.703. Publication and Review of Continuity Planning Guidance

- (a) The Office shall publish a Continuity Planning Guidance such that it is accessible to all covered entities, including by providing the letter on the Office's website.
- (b) The Office shall, at least biennially, review the Continuity Planning Guidance Letter for accuracy and alignment with current Office rules and practices.

Subchapter H: Risk Management Information System

§251.801. Definitions

- (a) The following words and terms, when used in this subchapter, shall have the following meanings:

- (1) Contracted vendor – a third-party vendor contracting with the Office to conduct reviews or services related to RMIS.
- (2) Risk Management Information System (RMIS) – a software or platform for collecting, managing, analyzing, and reporting risk, claims, insurance, safety, and other information as directed by the Office.
- (3) User license – a license for an individual user to access, manage, and submit data and information within RMIS.

§251.802. Required Method of Data Reporting

- (a) Covered entities and contracted vendors may be required to submit claims, data, documents, forms, reports, and other information located throughout this Part to the Office via RMIS.
- (b) The Office shall provide notice to a covered entity or contracted vendor of the need to submit certain information under subsection (a) no later than 30 days before such a data submission is due.

§251.803. RMIS Use Restrictions

- (a) Covered entities and vendors shall comply with RMIS use terms and conditions prescribed by the Office. This includes, but is not limited to:
 - (1) Complying with RMIS data use, protection, and storage requirements;
 - (2) Completing RMIS user trainings required by the Office;
 - (3) Participating in RMIS user-acceptance testing or other pre-production testing; and
 - (4) Other actions as necessary to ensure the proper operation of RMIS.
- (b) Failure to comply with the RMIS use terms and conditions contained within subsection (a) may result in an individual or covered entity's RMIS access being revoked or restricted.

§251.804. License Requirements

- (a) Covered entities and contracted vendors must obtain and maintain adequate RMIS user licenses as directed by the Office. Instructions on license requirements and procedures shall be published on the Office's website.
- (b) Covered entities shall respond to license verification requests as directed by the Office.

§251.805. Authorized Representatives

- (c) Covered entities shall designate two employees as Authorized Representatives for RMIS by completing the Agency Designation of RMIS Authorized Representative Form located on the Office's website.
- (d) Only Authorized Representatives, the administrative head of an agency, or other financial personnel approved by the Office may obtain user licenses and make license changes on behalf of the covered entity.
- (e) Covered entities shall annually review and update as necessary their Authorized Representative's contact information within RMIS.

§251.806. Blackout Periods

- (a) The Office shall notify covered entities and other RMIS users of applicable license blackout periods. Information on license blackout periods is available on the Office's website.
- (b) Add language clarifying that we will not add licenses in Q4 of any fiscal year. May be billed individually, in addition to assessment.