

**ADMINISTRATOR'S STATEMENT**  
81st Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

**DATE:** 8/20/2008

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**Agency Code:** 551

**Agency Name:** Texas Department of Agriculture

**Commissioner Todd Staples**

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After nearly two years as commissioner, I continue to be compelled by the importance of the Texas Department of Agriculture (TDA) mission and the professionalism through which the TDA workforce performs its duties. In addition to my daily review of the department's effectiveness and efficiency, TDA is fortunate to have recently undergone a beneficial review by the Sunset Advisory Commission. The evaluation identified several instances where statutory changes are needed to improve efficiency and output of the agency.

This legislative appropriations request represents targeted priorities established by diverse stakeholders and proposes investments into areas of unique importance to Texas and our mission. Each proposal is designed to propel Texas forward and is originated to empower individual Texans to maximize their opportunities. These targeted priorities fall within four main categories: agricultural biosecurity, consumer protection, economic development, and healthy lifestyles.

**Significant Changes in Policy**

TDA recognizes the increasing importance of risk-based inspections to ensure the safety of the state's agriculture industry and to ensure the agency is effectively performing its consumer protection responsibilities. Currently the agency conducts regulatory inspections on statutorily mandated and complaint-based schedules. During the current interim, the agency has begun to conduct risk-based inspections in addition to the inspection frequencies specified in statute. The Sunset Advisory Commission identified this as an important technique for the agency to ensure limited resources are placed where they are most needed. The risk-based approach increases TDA's ability to detect serious violations and licensees with poor compliance histories.

In addition to the agency's revised inspection activities, TDA has updated penalty and fee structures. This is another issue identified by the Sunset Advisory Commission. A number of penalties were outdated and did not serve as a deterrent to violations. Even though the agency has raised appropriate penalties to the maximum level, the Sunset Advisory Commission identified the need to raise the agency's administrative penalty authority further to better address the potentially severe nature of illegal activity and to conform the agency to the standard penalty amount of other regulatory agencies.

TDA is working to enhance rural economic development opportunities throughout the state. The agency has implemented the Certified Retirement Community Program and seeks to utilize the fees already collected from program members by having them appropriated to the agency in order to fully implement its benefits to rural communities as intended by the Texas legislature. TDA is also seeking assistance from the legislature to build on the federally funded, TDA administered, Texas Capital Fund. This initiative is known as the Texas Rural Investment Fund and will allow the agency to address the gaps in the current program by using the lessons learned in administering the current program and sculpting a Texas specific program with a workforce readiness component.

Promoting nutritious meals and healthy lifestyles is a key priority for the agency. TDA has worked diligently to implement the Texas Public School Nutrition Policy and to increase the nutritional health of youth statewide. Over the past five years, school meals have improved, although the agency still faces challenges in educating the public and stakeholders on the policy. To address these challenges, Commissioner Staples has appointed the Healthy Students = Healthy Families Advisory Committee to recommend ways to improve delivery and focus of the policy. TDA recognizes, as did the Sunset Advisory Commission, the importance of placing the nutrition policy in administrative rule. TDA is actively pursue this goal and believes the policy will be strengthened as a result. Although TDA has seen significant success through its nutrition policy, growing rates of obesity and obesity-related illnesses among Texas youth compel the agency to do more. To answer this challenge, Commissioner Staples is actively promoting the "3 E's of Healthy Living: Education, Exercise and Eating Right." By continuing to educate our youth on proper food and physical activity choices, we will see a healthier Texas.

**Significant Changes in Provision of Services**

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The 80th Texas Legislature increased TDA's responsibilities through the consolidation of several nutrition and pesticide programs into the agency. As of September 2007 TDA absorbed the responsibilities of the Structural Pest Control Board. TDA took responsibility for an additional 14,000 occupational licenses and 3,600 business licenses. TDA is working to integrate the license processes into its existing automated systems and business processes.

During the same time, TDA's Food and Nutrition Division assumed administration of several Special Nutrition Programs formerly managed by the Texas Health and Human Services Commission. This increased the division's employees from 33 to 132. With additional programs, the division now serves 1,358 school districts, charter schools, faith-based, private and non-profit schools; 1,744 Child and Adult Care Food Program sponsors; 309 Summer Food Service Program sponsors; 1,486 Food Distribution Program providers; and 15 Commodity Assistance Program providers (food banks).

Another new directive from the 80th Texas Legislature is the Texans Feeding Texans Home Delivered Meals Grant Program. This \$20 million dollar grant program provides assistance to agencies serving home-delivered meals to qualifying Texans. TDA has awarded the first year grant funds to agencies across the state. Many grantees have expanded services and maintained services to current clients at a time when rising food and fuel costs would otherwise have forced agencies to reduce services. Many Texans stay in their homes longer as a result of this program.

**Significant Externalities**

The Texas Boll Weevil Eradication Foundation was established by the legislature to eradicate the boll weevil and pink bollworm from Texas cotton fields. Funding for the foundation passes through TDA. Eradication efforts have suffered recent setbacks due to hurricanes, tropical storms and re-infestation from neighboring areas. Since the inception of the program, boll weevil and pink bollworm populations have been reduced by more than 99 percent. Stringent eradication efforts will be critical to the long-term success of this program and to the success of the cotton growers who have contributed to this program for many years.

Texas is under an increasing threat from plant pests and diseases recently identified in neighboring states. For example, a case of citrus greening was found in Louisiana in August and more than eight parishes are infested with the citrus psyllid, which can potentially transmit the disease to the citrus plants. Several Florida citrus-growing counties are under surveillance for citrus greening and citrus psyllid, and the state is also quarantined for citrus canker.

Asian cycad scale from Florida has devastated the Texas cycad palm industry. The pink hibiscus mealy bug from Louisiana and Florida made entry to the Pearland area near Houston and the Valley in June 2008 and Aransas County in 2007. It is being surveyed, monitored and controlled using biological control agents. These pests, along with other previously identified pests, present a significant threat to the biosecurity of the flourishing agricultural and horticultural industries of Texas. The Caribbean fruit fly frequently found in Florida also threatens the Texas citrus industry.

The popularity of organic produce has increased; therefore the demand for TDA's Organic Certification has expanded well beyond the current resources of the program. This program has experienced repeated backlogs during recent months. The industry has shown support for increased resources to meet the growing need even at the expense of higher fees.

U.S. beef cattle had been banned from import to Mexico since 2003. In March 2008 the U.S./Mexico cattle trade was re-established. The reopening of the border has resulted in a tremendous boost for the livestock industry and greatly increased the volume of cattle being transported through TDA livestock export facilities.

Rising fuel costs have had a significant impact on the agency's budget and operations. At the beginning of fiscal year 2008, TDA was averaging about 19,000 gallons of fuel per month, at an average cost of \$2.69 per gallon. Based on growth of constituent program demands, increase of fleet size and increased complaint inspection

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frequency, TDA was using more than 21,000 gallons of gas per month at the end of the fiscal year at the increased cost of approximately \$3.73 per gallon. TDA anticipates further increases in fuel consumption and fuel prices. Increased usage, combined with a dramatic increase of fuel costs, is driving fleet costs beyond TDA's annual or biennial projections.

The rising cost of fuel is also a key factor behind the soaring number of fuel pump complaints. The number of complaints has risen more than 120 percent since 2005.

Rural communities are facing new economic development opportunities and economic downturns. Job creation and workforce education is vital to the survival and prosperity of a rural community. Federal Community Development Block Grant guidelines, currently the primary source available for economic development projects, do not address many Texas-specific needs. Rural communities are vital to the agriculture industry and the state's economy. Texas-specific programs would greatly benefit these communities and the people and industries they support.

**Purpose of New Funding**

**1. Salary Equity**

This request improves the agency's ability to recruit, retain and compensate qualified employees. Going into FY 2009, TDA staff makes 74.3% of the average salary of State employees within midsize agencies. TDA's average salary falls below the average salary of all other mid-sized Texas state agencies by more than 20%. The \$2 million exceptional item request would not eliminate this average salary difference, but it would reduce it significantly.

**2. Consumer Protection**

This exceptional item provides for a revised approach to addressing consumer protection, primarily in fuel pump regulation. This involves the implementation of a three-tiered approach to regulation by conducting routine inspections/audits using risk-assessed data; conducting inspections based upon consumer complaints; and conducting blitz operations based upon trend analysis.

**3. Nutrition Initiative**

This exceptional item provides funding for new programs to provide grants for increased nutrition education. These programs will complement the nutrition policy, programs and initiatives established at TDA as well as initiatives within other state agencies.

**4. Texas Rural Investment Fund**

This request proposes a state-funded program to complement the federally funded Community Development Block Grant. This program will be similar to the federal program, but will enhance the opportunities to rural communities and businesses through the development of a Texas-specific program structure, including a workforce readiness component.

**5. Biosecurity Inspection Initiative**

This exceptional item proposes the expansion of program activities to increase the number of road station inspections; expand the number of market blitz inspections; and conduct pathway analysis and risk assessments to enhance quarantine enforcement activities. Road station inspections provide the first line of defense against any invading pests and helps safeguard the agricultural interests of Texas.

**6. Feral Hog Abatement Program**

This request expands the existing program. Additional resources are necessary to better address the rapidly increasing statewide feral hog population.

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**7. Certified Retirement Community Program**

This exceptional item resolves a technical error. The Certified Retirement Community Program is currently collecting membership fees intended to be appropriated to TDA for the support of the program. This appropriates those funds.

**8. Fee Recovered Improvement to Commodity Programs**

This exceptional item will allow the agency to expand the current Organic Certification and Grain Warehouse Program to meet the growing needs of these industries. Fee increases are anticipated to balance this request.

**9. Boll Weevil Eradication**

This exceptional item provides a one-time increased investment in the Boll Weevil Eradication Program to provide relief from financial setbacks due to hurricanes, tropical storms and re-infestation from neighboring areas where program participation was delayed by failed referenda in prior years.

**10. Appropriation of Receipts: Yardage Fees**

This rider increases the cap on the appropriation to TDA of yardage fees collected at TDA export facilities. These facilities have experienced a significant increase in activity as a result of the reopening of the Texas-Mexico border to export Texas breeding cattle into Mexico following a four-year ban. The funding will be used to cover increasing expenses related to maintenance and operation.

**11. Data Center Consolidation**

This rider provides funding for the difference between FY2008-09 budget and the FY 2010-11 estimated cost of data center services as provided by the Department of Information Resources.

**Ten Percent Reduction Exercise**

TDA is dedicated to continuously identifying actions to enhance efficiency without sacrificing quality or essential services. The first step of TDA's LAR development initiated a comprehensive evaluation of all agency functions and operations. This evaluation along with the recent review by the Sunset Advisory Commission and feedback from stakeholders provided key inputs to TDA's LAR. The areas identified as options for reductions represent a variety of research, marketing and service-oriented grant programs. These programs provide support to people, businesses, communities and institutions across Texas. The proposed funding reduction is an equal percentage across all programs with the exception of one. A reduction priority order has not been identified. The programs are listed alphabetically.

The Zebra Chip Research Grant was identified as an option for 100 percent reduction due to the significant progress made during the current funding cycle. Although the cause and cure of the Zebra Chip disease has not been clearly identified, the current funding and research will position this project as a candidate for future private and federal funding.

**Statutory Authority to Conduct Background Checks and Agency Policy**

TDA has a criminal background check policy. The purpose of the policy is to establish guidelines for conducting criminal background checks on prospective employees; applicants of specific license types administered by TDA; and to comply with state law. The Texas Department of Public Safety (DPS) Crime Records Service (CRS) approves all TDA CRS users. CRS Criminal Background Checks are allowed only:

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- On prospective employees who are under final consideration, following normal screening and selection processes;
- Prior to the approval of specific license types administered by TDA within the Pesticide and Regulatory Programs;
- On persons who have provided TDA with an appropriate release to allow a criminal history check to be conducted; and
- When reasonable suspicion is deemed by the Ethics Officer.

Unsatisfactory criminal background information may disqualify an applicant from TDA employment or deny issuance of a license. There are no exceptions to this policy. Failures to adhere to the policy may subject the employee to disciplinary action, up to and including termination.

Statutory Authority is located in the following sections of the Texas Government Code:

Section 411.122 - Authorizes agencies that issue occupational licenses to get criminal history information. TDA uses this authority most commonly to perform background checks on applicants for Structural Pest Control Licenses.

·Section 411.135 - Provides for a public right to certain criminal history information. TDA uses this as a basis for obtaining criminal history information on TDA employment applicants.

·Section 411.1405 - Authorizes state agencies to obtain criminal history information for certain Information Technology employees or applicants for employment if that position would provide access to sensitive information.

·Section 411.085 - Provides for a penalty for misuse of criminal history information.

The remaining document details TDA's 2010/2011 Legislative Appropriations Request. In submitting this LAR, TDA accepts and will always strive to meet the challenge of fulfilling its mission to "partner with all Texans to make Texas the nation's leader in agriculture, fortify our economy, empower rural communities, promote healthy lifestyles and cultivate winning strategies for rural, suburban and urban Texas through exceptional service and the common threads of agriculture in our daily lives."