



Presentation to NAIC Consumer Liaison Committee

Modernizing Market Regulation Data Collection and Analysis

April 8, 2022

Birny Birnbaum
Center for Economic Justice

The Center for Economic Justice

CEJ is a non-profit consumer advocacy organization dedicated to representing the interests of low-income and minority consumers as a class on economic justice issues. Most of our work is before administrative agencies on insurance, financial services and utility issues.

On the Web: www.cej-online.org

About Birny Birnbaum

Birny Birnbaum is the Director of the Center for Economic Justice, a non-profit organization whose mission is to advocate on behalf of low-income consumers on issues of availability, affordability, accessibility of basic goods and services, such as utilities, credit and insurance.

Birny, an economist and former insurance regulator, has worked on racial justice issues for 30 years. He performed the first insurance redlining studies in Texas in 1991 and since then has conducted numerous studies and analyses of racial bias in insurance for consumer and public organizations. He has served for many years as a designated Consumer Representative at the National Association of Insurance Commissioners and is a member of the U.S. Department of Treasury's Federal Advisory Committee on Insurance, where he co-chairs the subcommittee on insurance availability. Birny also served as a member of the U.S. Federal Reserve Board's Insurance Policy Advisory Committee.

Birny served as Associate Commissioner for Policy and Research and the Chief Economist at the Texas Department of Insurance. At the Department, Birny developed and implemented a robust data collection program for market monitoring and surveillance.

Birny was educated at Bowdoin College and the Massachusetts Institute of Technology. He holds Master's Degrees from MIT in Management and in Urban Planning with concentrations in finance and applied economics. He holds the AMCM certification.

Why CEJ Works on Insurance Issues

Insurance Products Are Financial Security Tools Essential for Individual and Community Economic Development:

CEJ works to ensure ***fair access*** and ***fair treatment*** for insurance consumers, particularly for low- and moderate-income consumers.

Insurance is the Primary Institution to Promote Loss Prevention and Mitigation, Resiliency and Sustainability:

CEJ works to ensure insurance institutions maximize their role in efforts to reduce loss of life and property from catastrophic events and to ***promote resiliency and sustainability*** of individuals, businesses and communities.

What Type of Information Is Needed For Effective Market Regulation and Development of Public Policy?

Let's look at information available as the pandemic unfolded

Workers' Compensation: As the pandemic unfolded, the advisory organization / statistical agent for WC in most states was able to track Covid-related WC claims – including the number and projected cost of such claims by state and by industry sector, as well as by severity of type and severity of Covid-related claims.

Mortgage and Other Lending: Federal agencies and private organizations provided monthly and quarterly data on use of CARES Act loan accommodations and delinquencies by geographic area and type of loan.

What about Personal Auto and Homeowners Insurance?

We knew PPA claim frequency and claim costs had to decline because of business closures and stay and home orders emptying the roads, but what information was available to help insurers and regulators?

On March 10, 2022, the NAIC published a report showing a 2.2% increase in average homeowners premium **from 2018 to 2019**.

On January 31, 2022, the NAIC published a report showing a 2.2% decrease in collision frequency **from 2016 to 2018** and average premium **for 2019**.

There was a **special data call** for business interruption claims.

Why are Timely and Granular Data on Insurer and Consumer Market Outcomes Available for WC and Lending, But Not for the Largest Property/Casualty Lines of Insurance and Life Insurance?

How can regulators carry out their responsibilities as well as inform public policy in the absence of timely and relevant data?

An Anachronistic P/C (other than WC) Data Collection

When the topic of market regulation data comes up, most of you will think about consumer complaints and the Market Conduct Annual Statement. While useful, consumer complaints are not remotely a comprehensive indicator of insurer market performance or consumer market outcomes for a variety of reasons. MCAS is a highly-flawed data collection tool for which, after 15 years of use, provides largely unreliable data with limited functionality due to the small number of highly-summarized data elements, lack of timely submission and lack of geographical granularity.

Statistical Reporting is Principal Source of Market Reg Data

It may be news to many that the principal source of market regulation data comes from a statistical agency system that hasn't been updated – in the vast majority of states – in over 40 years. It is this anachronistic statistical agent system that results in the NAIC producing auto and home data three years after the beginning of the experience year and two years after the end of the experience year.

But WC is insurance – what's the difference that requires timely reporting of granular experience data and timely publication of insurer and consumer market outcomes?

WC versus PPA and HO Data Collection

There are two main differences – who collects the data for regulators and what type of data are collected.

1. WC data collection is performed by a **single statistical agent** in each state. Most states designate NCCI to be that statistical agent. In contrast, most states permit insurers writing property casualty lines of insurance to pick among at least four different statistical agents.

2. WC data collection is **transaction data** – insurers report each premium and claim transaction – on a monthly basis. This means that adding new data reporting – like a COVID flag – requires only adding a data field to the statistical reports. In contrast, the majority of personal lines p/c experience is reported at a summary level on an annual basis. With such summary reporting, adding any new data element or new break-out of experience requires re-writing the entire statistical plan.

The current personal lines statistical reporting system is **long outdated**. The data reported and the timelines for reporting were designed for an era in which regulators either set or approved industry-wide rates for auto and home insurers. So the systems are designed to produce industry aggregate data for industry aggregate rate analysis – essentially a slow method of accumulating the ratemaking data for industry aggregate rate analysis.

Outdated Statistical Reporting Yield Little Benefit

The result of this historical anomaly is the production of statistical reports with almost no value to regulators or the public today and an impediment to effective market regulation.

The reports do not provide timely or relevant information for nearly all issues of concern for market regulation – like the impacts of COVID on personal auto rates in 2020 and 2021 or the ability to examine racially-biased outcomes or other algorithmic bias in insurer pricing, claims settlement and anti-fraud.

Perhaps most bizarre, the statistical agents – agents designated and appointed by the Commissioner to collect data on behalf of the Commissioner – refuse to provide individual insurer data to the regulator, citing contractual provisions with reporting insurers.

Straightforward Solution to Modernizing Market Reg Data Collection

The solution to multiple problems – lack of timely or useful data, an outdated data collection system, unresponsive statistical agents – is straightforward with ample precedence.

Use existing regulatory authority to update statistical plans, ***designate a single statistical agent through a competitive bidding process and establish requirements that the primary duty of the statistical agent is to serve the regulator.***

In terms of updating statistical plans, the ***statistical plans should require transaction detail reporting on at least a quarterly basis.***

In terms of a ***single statistical agent, such an approach logically produces efficiency, uniformity and accountability.*** It also stops insures from picking a statistical agent based on the lowest requirements for data reporting and data quality.

In terms of a ***primary responsibility to serve the regulator,*** the statistical agent should be required to provide the regulator with any data collected by statistical agent in its role as the regulator's statistical agent – including individual company data whether summarized or transaction.

Historical Precedence

I mentioned historical precedence and we've already discussed the use of this approach for WC insurance. There is another example. In 1995, the Texas Department of Insurance was examining racial bias in auto insurance and the then-statistical agents told the Department they wouldn't provide company-specific data to the Department – just as the statistical agents refused to provide company-specific data as part of the NAIC's recent efforts to study auto insurance issues.

TDI issued a Request for Interest and Qualifications (“RFIQ”) from organizations seeking to become the Department's statistical agent for private passenger auto. Similar RFIQs were issued for residential property insurance and commercial lines. Attached to these slides are the opening pages of the PPA RFIQ. Here is the first expectation of the designated statistical agent. While unremarkable, it was not the norm in Texas in 1995 and is still not the norm in other states today:

The designated statistical agent is the agent of the Department. Data reported to the statistical agent are, in fact, data reported to the Department. The designated statistical agent's primary responsibility in carrying out the activities of the Texas statistical agent will be to the Department.

Moving towards a more efficient and effective system of market regulation data collection is even more straightforward today than it was in 1995 with far greater opportunities to utilize new technologies, such as the OpenIDL blockchain being developed by AAIS and a number of insurers and regulators.

More Efficient and Effective for All Stakeholders

By moving to more timely, granular, uniform and responsive market regulation data collection through a modernized statistical agent framework, regulators can

- create ***massive efficiencies*** for yourselves and insurers ranging from ***elimination of special data calls*** and the current MCAS;
- develop ***more effective market analysis that minimizes burden on companies performing well for consumers;*** and
- develop ***new abilities to apply predictive models and AI to all phases of the insurance life cycle to much more quickly identify and stop practices harming consumers and promote more competitive insurance markets.***

Texas Department of Insurance

Request for Interest and Qualifications

**of Organizations Interested in Designation as
the Texas Residential Property Statistical Agent**

Issued December 5, 1995

1. Purpose of Request for Interest and Qualification (RFIQ)

The Commissioner of Insurance intends to designate a statistical agent for residential property insurance statistical data collection in Texas. The purposes of this RFIQ are to:

- describe the Department's expectations regarding the services and performance of a designated statistical agent;
- provide detailed instructions for interested organizations to submit statements of interest and qualifications for serving as the Department's statistical agent; and
- provide information necessary for interested organizations to understand the requirements of a designated statistical agent and adequately respond to the RFIQ.

2. Definition of Residential Property Insurance

Residential property insurance, for the purpose of statistical data collection, includes the following coverages: homeowners, tenant homeowners, condominium, farm and ranchowners, dwelling fire, dwelling extended coverage, farm fire and farm extended coverage.

3. Statutory Authority and Requirements for Statistical Data Collection

Article 21.69, *Texas Insurance Code*, was modified by the 74th Legislature.

21.69 STATISTICAL DATA COLLECTION

- (a) The commissioner may, for a line or subline of insurance, designate or contract with a qualified organization to serve as the statistical agent for the commissioner to gather data relevant for regulatory purposes or as otherwise provided in this code.

- (b) To qualify as a statistical agent, an organization must demonstrate at least five years of experience in data collection, data maintenance, data quality control, accounting and related matters.
- (c) The commissioner's designation or contracting with a statistical agent under this article authorizes the statistical agent to collect from the reporting insurers any fees necessary for the statistical agent to recover the necessary and reasonable costs of data collection services provided by the statistical agent. A reporting insurer shall pay the fee to the statistical agent for the data collection services provided by the statistical agent.
- (d) A statistical agent designated or contracted with by the commissioner under this article shall collect data from reporting insurers under a statistical plan promulgated by the commissioner.
- (e) An insurer shall provide all premium and loss cost data to the commissioner or the commissioner's agent designated or contracted with under this article as the commissioner or the agent requires.
- (f) The statistical agent may provide aggregate historical premium and loss data to its subscribers.
- (g) The commissioner may adopt rules necessary to accomplish the purposes of this article.

4. TDI Expectations of a Designated Statistical Agent

The Department expects the following from its designated statistical agent:

- 4.1 The designated statistical agent is the agent of the Department. Data reported to the statistical agent are, in fact, data reported to the Department. The designated statistical agent's primary responsibility in carrying out the activities of the Texas statistical agent will be to the Department.
- 4.2 The statistical agent will collect data from reporting companies pursuant to the Department's promulgated statistical plan. If requested by a reporting company, the statistical agent may collect data from reporting companies in a different format than specified in the statistical plan. However, the statistical agent must collect data in detail at least as great as specified in the statistical plan and be able to reproduce the company submission in the detail and format specified by the statistical plan.
- 4.3 The statistical agent will accommodate and implement changes in data collection and reporting activities resulting from promulgated changes to the statistical plan.

- 4.4 The statistical agent will work with the Department to update and revise the residential property statistical plan for implementation with reporting of 1997 experience.
- 4.5 The statistical agent will employ a variety of activities to ensure the reliability, validity, accuracy and completeness of data reported to the Department, including, but not necessarily limited to, edit procedures and reasonability checks employed by the statistical agent, provision of edit packages for use by reporting companies prior to submission of data, and financial and other incentives for accurate and timely reporting.
- 4.6 The statistical agent will not alter reporting companies' submissions unless such activity is authorized by the Department.
- 4.7 The statistical agent will process reporting company submissions, develop and maintain required databases, and produce accurate reports, on both regular and ad hoc bases, for the Department.
- 4.8 The statistical agent will create a capability for the Department to have access to databases through on-line direct connection to the statistical agent's computer, provision of data on CD-ROMs, or other appropriate mechanism
- 4.9 The statistical agent will bill reporting companies for the costs of designated statistical agent activities. Such billing procedures will optimize the goals of encouraging the timely submission of reliable data and spreading the costs of statistical agent activities equitably among policyholders.
- 4.10 The statistical agent will implement data security procedures to ensure no unauthorized access to data reported by insurers to the Department.
- 4.11 The statistical agent will submit to financial and performance audits on a regular basis. The cost of such audits will be billed back to reporting companies in a manner equitable to policyholders. The statistical agent will maintain and make available to TDI staff or other individuals designated by TDI, books, records, work papers, electronic files and other materials related to services as the Texas residential property designated statistical agent.
- 4.12 The statistical agent will strive to meet the Department's performance standards.

- 4.13 The statistical agent will provide statistical agent services in a cost-effective manner and will provide the Department with feedback on the costs of complying with Departmental requests, such as reports or data access.
- 4.14 The statistical agent will not use data collected through its role as a statistical agent for any purposes other than authorized by the Department in designating a statistical agent, unless the Department specifically authorizes those additional purposes or the data are otherwise available pursuant to the Texas Open Records Act. Advisory organizations are invited to seek designation as a statistical agent, but the roles of advisory organization and statistical agent shall be separate and distinct. Designation as a statistical agent shall not confer any special privileges to an advisory organization in its role as an advisory organization.
- 4.15 The statistical agent shall maintain data, databases and related programs in a manner which allows for ease of transfer to another organization in the event the Department withdraws statistical agent designation. Data, databases, statistical plans, edit and reasonability test specification, and certain programs for editing data at the company level and for generating certain reports are the property of the Department and will be provided by the statistical agent to the Department upon request.

5. Procedures for the Commissioner's Designation of a Residential property Statistical Agent

- 5.1 By issuing this RFIQ, the Department makes no guarantee that one of the respondents to the RFIQ will be designated as the residential property statistical agent.
- 5.2 All questions regarding this RFIQ and the designation of a residential property statistical agent and all responses to this RFIQ shall be addressed to:

Birny Birnbaum
Associate Commissioner for Policy and Research
Texas Department of Insurance MC 113-1C
333 Guadalupe Street
P.O. Box 149104
Austin, TX 78714-9104
Phone: (512) 305-7194
Fax: (512) 475-2005

- 5.3 The activities and timeline leading to designation of a residential property statistical agent are:

<u>Date</u>	<u>Activity</u>
12/4/95	Notice of Commissioner's Intent to Designate a Texas Statistical Agent for Residential Property Insurance Data Collection
12/5/95	Request for Interest and Qualifications (RFIQ) from Organizations Interested in Being Designated as the Texas Residential Property Statistical Agent Available.
1/3/95	Deadline for Submission of Questions Regarding RFIQ
1/16/96	Questions and Answers Distributed to Interested Parties
1/30/96	Responses to RFIQ Due
2/20/95	Publication of Proposal to Designate Texas Residential Property Statistical Agent
3/5/96	Public Hearing to Consider Proposed Designation of Texas Residential Property Statistical Agent

- 5.3 Questions regarding the RFIQ must be submitted in writing. A copy of questions received and the Department's answers will be provided to all interested parties. Questions received by January 3, 1995 will be answered by the Department. The Department will provide the questions and answers to interested parties no later than January 16, 1995
- 5.4 The due date for responses to the RFIQ is 3:00 p.m., January 30, 1995. Facsimile submissions are not permitted and will not be accepted.
- 5.5 TDI reserves the right to reproduce all or portions of any information submitted in response to this RFIQ for the purpose of evaluation. All submitted materials become the property of TDI and are subject to release under the Texas Open Records Act, unless the materials are exempt from disclosure under the Act. Trade secret material is exempt from disclosure under the Act. Respondents should clearly identify any trade secret material included in the response to the RFIQ to ensure that the material may be considered exempt from the Act.

- 5.6 The designation of the statistical agent is at the sole discretion of the Commissioner of Insurance, subject to the statutory requirements of Article 21.69.

6. Information to Assist in Response to RFIQ

The following information is attached to assist interested parties in responding to the RFIQ:

- 6.1 Appendix A contains the Department's current residential property statistical plan.
- 6.2 Appendix B contains a description of the status of residential property data collection, including products available from the Department's current statistical agent, statistics on reporting companies and data volume and the anticipated status of data processing at the time of designation of a new statistical agent.
- 6.3 Appendix C contains the Department's desired statistical agent performance standards.
- 6.4 Appendix D contains a description of the Department's desired validity edits and reasonability tests.
- 6.5 Appendix E provides a description of the Department's desired reports.

7. Instructions for Responding to the RFIQ

- 7.1 Responses to this RFIQ must be received by 3:00 p.m., January 30 by the following:

Birny Birnbaum
Associate Commissioner for Policy and Research
Texas Department of Insurance MC 113-1C
333 Guadalupe Street
P.O. Box 149104
Austin, TX 78714-9104
Phone: (512) 305-7194
Fax: (512) 475-2005

- 7.2 Submit one original and five (5) copies of the response to the RFIQ. Submissions by facsimile machine are not permitted and will not be considered.
- 7.3 Please print the words "Response to Residential Property RFIQ" and the name of the responding organization on as many pages of the response as practically feasible. Do not put this information on all pages created expressly for the response to this RFIQ. Do not put this information on annual reports or previously-printed supporting materials.
- 7.4 Proposals should be organized into the following sections. Please note that detailed instructions for each section follow this overview.
1. Letter of Transmittal
 2. Respondent's Statement of Intent
 3. Background Information on Respondent
 4. Technical Qualifications
 5. Data Collection and Maintenance
 6. Data Quality and Reliability Procedures
 7. Data Security Procedures
 8. Provision of Reports and Data to TDI
 9. Proposal and Timeline for Transition to New Agent
 10. Estimated Annual Cost and Allocations to Reporting Companies
 11. Billing Procedures and Financial Reports
 12. Performance Standards

7.5 Detailed Instructions

The following sections provide more details on the required services.

Section 1: Letter of Transmittal

The letter of transmittal must contain the following information:

- A. Date of response
- B. Name of RFIQ for which response is to be considered
- C. Name of respondent's organization
- D. Signature of person authorized to make decisions on behalf of respondent
- E. Contact person's name, mailing address, telephone and facsimile numbers

Section 2: Respondent's Statement of Intent

The purpose of this section is for the respondent to briefly respond to the Department's expectations of a statistical agent as described in section 4 of this RFIQ. The respondent shall respond to each item in section 4 and state agreement, partial agreement (with explanation) or disagreement (with explanation). The respondent's statement of intent may reference other sections of the response to the RFIQ.

Section 3: Background Information on Respondent

Please provide the following information in this section:

- A. Company profile providing introductory and background information on the entity, any affiliated companies, and any subcontractors
- B. Organizational structure of the respondent, including affiliates and parent companies
- C. Activities of the respondent, its affiliates and parents
- D. Profiles of key individuals who will be responsible for providing the required services
- E. A summary of financial performance for the past three years, with a copy of the most recent audited financial statements included as an attachment to the response
- F. Three references including name, address, contact person and telephone number

Section 4: Technical Qualifications

Please provide the following information in this section:

- A. Experience as a statistical agent, in general, including data collection operations, data base management, data quality activities, billing and invoicing, financial accounting, software and report development and other relevant activities
- B. Experience as a statistical agent for residential property insurance
- C. Overview of computer resources and capabilities, including:
 - Computer equipment and software
 - Ability to provide remote data access to TDI
 - Capability to collect and disseminate data in a variety of common formats and media
- D. Physical location of personnel, offices, computer resources and data
- E. Key personnel who will be providing services to TDI with description of their expertise and experience.

- F. Any additional information the respondent feels relevant for TDI to assess respondent's qualifications as a residential property statistical agent

Section 5: Data Collection and Maintenance

Please provide the following information in this section:

- A. Respondent's proposed process and procedures for data collection and maintenance, including
- Tracking submissions and identifying insurers who have not made required submissions
 - Procedures and timetable for processing submissions, applying edit checks and reasonability tests and building databases
 - Procedures and timetable for handling error correction and resubmission of company data
 - Procedures for maintaining database or databases, including back-up and/or off-site copies of data or databases

Section 6: Data Quality and Reliability Procedures

Please provide the following information in this section:

- A. Procedures to implement the Department's validity and relational edit checking specifications described in Appendix D or the respondent's proposal, with justification, for different specifications
- B. Procedures to implement the Department's reasonability testing specifications described in Appendix D or the respondent's proposal, with justification, for different specifications
- C. Procedures to minimize late and/or inaccurate data reporting, including, but not limited to, incentives for timely and accurate reporting, provision of company edit package and other support services to reporting companies
- D. Any additional activities to promote data quality and reliability

Section 7: Data Security Procedures

Please provide the following information in this section:

- A. Data security procedures, including, but not limited to, restrictions on access to data and databases and prevention of alteration to data and databases.

Section 8: Provision of Reports and Data to TDI

Appendix E describes the reports and data to be provided to the Department. Please describe your proposed schedule and methods for providing the regular reports, including rate development reports. Please describe your approach to responding to ad hoc report requests from the Department.

Section 9: Proposal and Timeline for Transition to New Statistical Agent

It is TDI's desire to effect a smooth transition from the current statistical agent. TDI has developed certain technical reporting procedures, data edit programs, data base layouts, report programs and other materials. The respondent may, at its options, make use of the products and materials. Appendix B contains a description of the status of residential property data collection, including products available from the Department, statistics on reporting companies and data volume and the anticipated status of data processing at the time of designation of a new statistical agent. For the purposes of this section, assume official designation as the residential property statistical agent on March 5, 1996. In this section, please provide the activities and timeline for the following:

- A. Transfer of historical data and reporting records from current statistical agent
- B. Initial reporting of experience by insurers to new designated statistical agent
- C. Movement to regular schedule of data collection, processing and reporting
- D. Initial billing for services to reporting companies
- E. Update/Rewrite of residential property statistical plan of implementation with reporting of 1997 experience
- F. Other activities necessary to transfer statistical agent activities and initiate activities as the new residential property statistical agent

Section 10: Estimated Annual Cost and Allocations to Reporting Companies

Please provide the following information in this section:

- A. Estimate of the annual fees required by the respondent to perform the activities of the Texas residential property statistical agent for each of the first three years as the statistical agent. To better provide the Department with cost implications for various services, please categorize annual compensation into the following categories:
 - Start-up/Development Costs
 - Data Collection and Maintenance
 - Data Quality and Reliability Procedures
 - Production of Reports and Data to TDI
 - Billing/Invoicing and Accounting
 - Other Activities (please describe)
- B. Estimated cost savings, if any, from moving from monthly reporting by insurers to quarterly reporting
- C. Cost saving suggestions and opportunities

Section 11: Billing Procedures and Financial Reports

Please provide the following information in this section:

- A. Respondent's procedures for invoicing reporting companies for services
- B. Proposed schedule of fees for services, i.e., method of allocating the cost for services among reporting companies
- C. Procedures for occurrences of non-payment by reporting companies

Section 12: TDI Performance Standards

Please review the Performance Standards contained in Appendix C of this RFIQ and describe your willingness and ability to meet or exceed these standards. Please respond to each standard with "Will Not Meet", "Meet", or "Exceed". Provide brief explanations or references to other sections for "Will Not Meet" or "Exceed" responses.