

## IMPACT STATEMENT

**Legislation title:** Accept the Private For-Hire Transportation Innovation Task Force Final Taxi and TNCs Recommendation Report.

**Contact name:** Bryan Hockaday, Office of Commissioner Novick

**Contact phone:** 503-823-4682

**Presenter name:** Mike Greenfield, PFHT Innovation Task Force Chair

**Purpose of proposed legislation and background information:**

This purpose of this report is to provide Council with recommendations for regulations that apply to taxicab companies and Transportation Network Companies (TNCs). Transportation Network Service has emerged as a unique model of private for-hire transportation service in many cities around the U.S. and world. As Transportation Network Service operators seek entry into the Portland market, Council may consider changes to the City's private for-hire transportation regulations. Furthermore, with changes in consumer demand, Council may consider updates to taxicab regulations. This report provides regulatory recommendations for Council's consideration.

**Financial and budgetary impacts:**

- None.

**Community impacts and community involvement:**

Commissioner Novick convened the Private for-Hire Transportation Innovation Task Force in January 2015. The 12-member community Task Force was asked to provide guidance and recommendations to the Commissioner on how the City of Portland's Private for-Hire Transportation (PFHT) regulatory program should evolve and respond to new developments in the industry, including the entry of TNCs. It is critical that the City provide necessary safeguards and standards to protect consumers, ensure accessibility for all, and allow for a fair, competitive market for drivers and companies across all sectors of the PFHT industry.

The Task Force, has so far held 13 full Task Force meetings, nine subcommittee meetings and five public forums. Additionally, the Task Force solicited and received a great deal of public input and written comments. In all, the Task Force has spent over 670 hours deliberating and developing the regulatory recommendations.

The report currently before Council is the Task Force's final recommendations for taxicab and TNC regulations. The Task Force will continue to meet throughout and solicit public input this fall and will develop additional PFHT regulatory recommendations that pertain to other modes of for-hire transportation, including town cars, limousines, pedicabs and shuttles.

### Budgetary Impact Worksheet

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

<b>Fund</b>	<b>Fund Center</b>	<b>Commitment Item</b>	<b>Functional Area</b>	<b>Funded Program</b>	<b>Grant</b>	<b>Sponsored Program</b>	<b>Amount</b>

# Private for Hire Transportation

## PFHT Innovation Task Force

August 24, 2015

### Council Questions

#### Answers to questions prepared for August 30, 2015 Hearing continuation

1) *What are the budget impacts since the Pilot Program started? (Fritz)*

Under direction of City Council, taxicab driver renewal fees and new driver fees were suspended during the pilot phase. The following table illustrates the amount of unassessed fees as a result of this direction.

Pilot phase	Number of Taxi/LPT Drivers Permit Renewals	Value of unassessed Taxi/LPT Renewal permit fees
April – October	1,218	<\$121,800>

Pilot Phase	Estimated Number of new Taxi/LPT drivers	Est. total new Taxi/LPT driver fees
April - October	127	<\$25,400>

Taxi company renewal fees – suspended until final regulations are in place = <\$166,800>

TNC company permit fees = \$80,000

Net budget impact <\$121,800> + <25,400> + <166,800> - \$80,000 = <\$234,000>

2) *What will be the permit fees for the program?*

Since reassigning the Private for Hire Transportation Program from the Revenue Bureau to the Bureau of Transportation, determining a true cost recovery formula for permit fee rates has been a priority. It is the Task Force's recommendation and staff's intent to ensure that the PFHT Program is adequately resourced by establishing cost recovery rates and be fully supported by fees. Program staff are evaluating the time and cost efforts required to perform all program tasks and functions, including the new tasks associated with the TNC companies, and will determine the level of resources required to administer permits and ensure compliance with PFHT rules.

Once a full cost recovery assessment is conducted, PFHT Program staff will draft permit fee rate options operate the new program concurrent with the new regulations adopted by Council. The options will include a sliding scale so as not to be cost prohibitive to small companies.

3) *What are the Business Tax Revenue impacts due to the Pilot Program? (Fritz)*

*Response from Revenue Bureau*

**From:** Williams, Terri

**Sent:** Monday, August 24, 2015 10:02 AM

**To:** Fritz, Amanda

**Cc:** Rust, Ken ; Lannom, Thomas; Hockaday, Bryan

**Subject:** Request for analysis on Taxi Companies revenues

Commissioner Fritz-

You asked about receiving an analysis on what impact the TNCs may be having on Taxi companies when regulation changes come forward to Council in the fall.

I have reviewed all 8 taxi company year ends to determine if we will have any information by then to do such an analysis. Unfortunately, we won't have any information that would tie to the trial period by fall. Six of the eight companies have December year ends, so we won't get any information until April 2016 at the earliest. One company has a March year end, which is before the trial period began, and one company has a September year end, which will not be due until January 2016, and that company unusually files an extension.

Let me know if there is anything else I can provide.

Terri Williams, CPA

Tax Division Manager | Deputy Director

Revenue Division - City of Portland

Bureau of Revenue & Financial Services | OMF

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**From:** Williams, Terri

**Sent:** Wednesday, August 26, 2015 10:06 AM

**To:** Fritz, Amanda

**Cc:** Lannom, Thomas; Rust, Ken; Adamsick, Claire ; Hockaday, Bryan ; Yates, Jody

**Subject:** Taxi Company Tax Revenues

Commissioner-

Taxi companies (at least the traditional ones) generated a significant amount of their revenue from the drivers via the “kitty” charge. It is likely that if the kitty amount doesn’t change and the number of drivers for the companies doesn’t change, the company will not see a substantial decrease. BUT, if you assume that we will see a 30% reduction in business license (income) tax revenues as a result of a shift in the market away from the traditional taxi industry, then we would likely see an estimated \$7,000 reduction in tax revenues from taxi companies.

As we have previously discussed, many drivers are exempt and do not pay the City’s business tax and for those that do, they are generally paying the minimum tax of \$100. We do not anticipate a significant reduction in tax revenues from drivers.

Additionally, I understand from the message from Claire that you were asking specifically about tax revenues from Uber. City code does not allow me to release financial information about a single company, so I cannot specifically discuss Uber. I can say that they are registered with the business tax program. We don’t have a specific filing from them as their tax filing deadline has not passed yet. Additionally, I can also confirm that Lyft is on status with us.

Because of the company tax filing deadlines and the timing of the pilot periods, we will not be able to conduct a meaningful analysis until late summer/early fall 2016.

Please let me know if you have any other questions. Thanks.

Terri Williams, CPA

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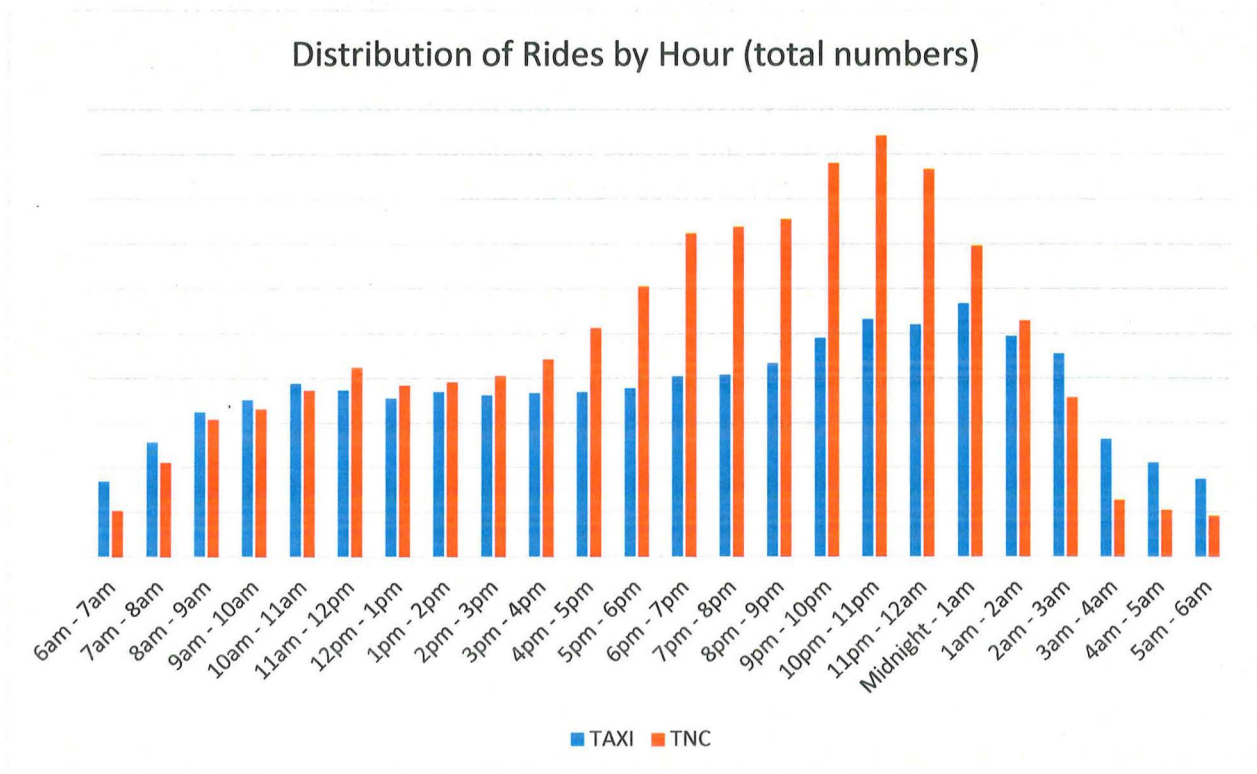
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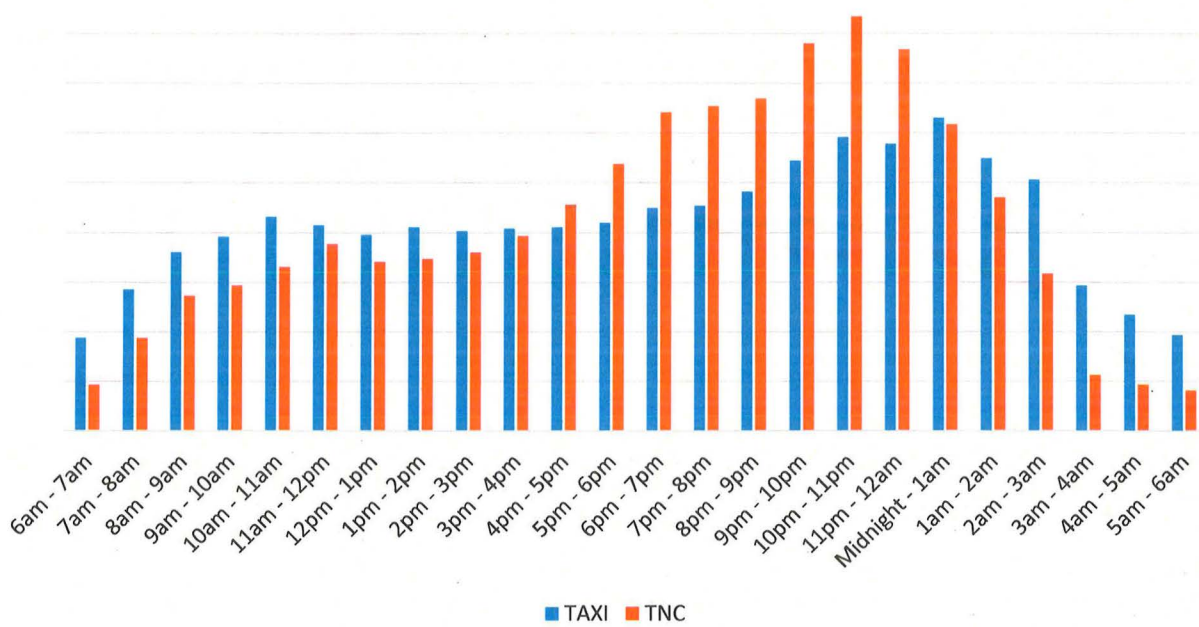
4) Please provide evidence of geographic equity. (Fish)

Please refer to attached graphs for time and location of services provided by Taxicabs and TNC's for the months of May and June 2015. Both company formats (Taxicab and TNC) provide service 24/7 and to all zip codes within the City.

Time of day distribution in bar charts, first chart is raw numbers, second is proportion of each industry.



Distribution of Rides by Hour (proportion of company total)



Time of day distribution in line charts, first chart is raw numbers, second is proportion of each industry.

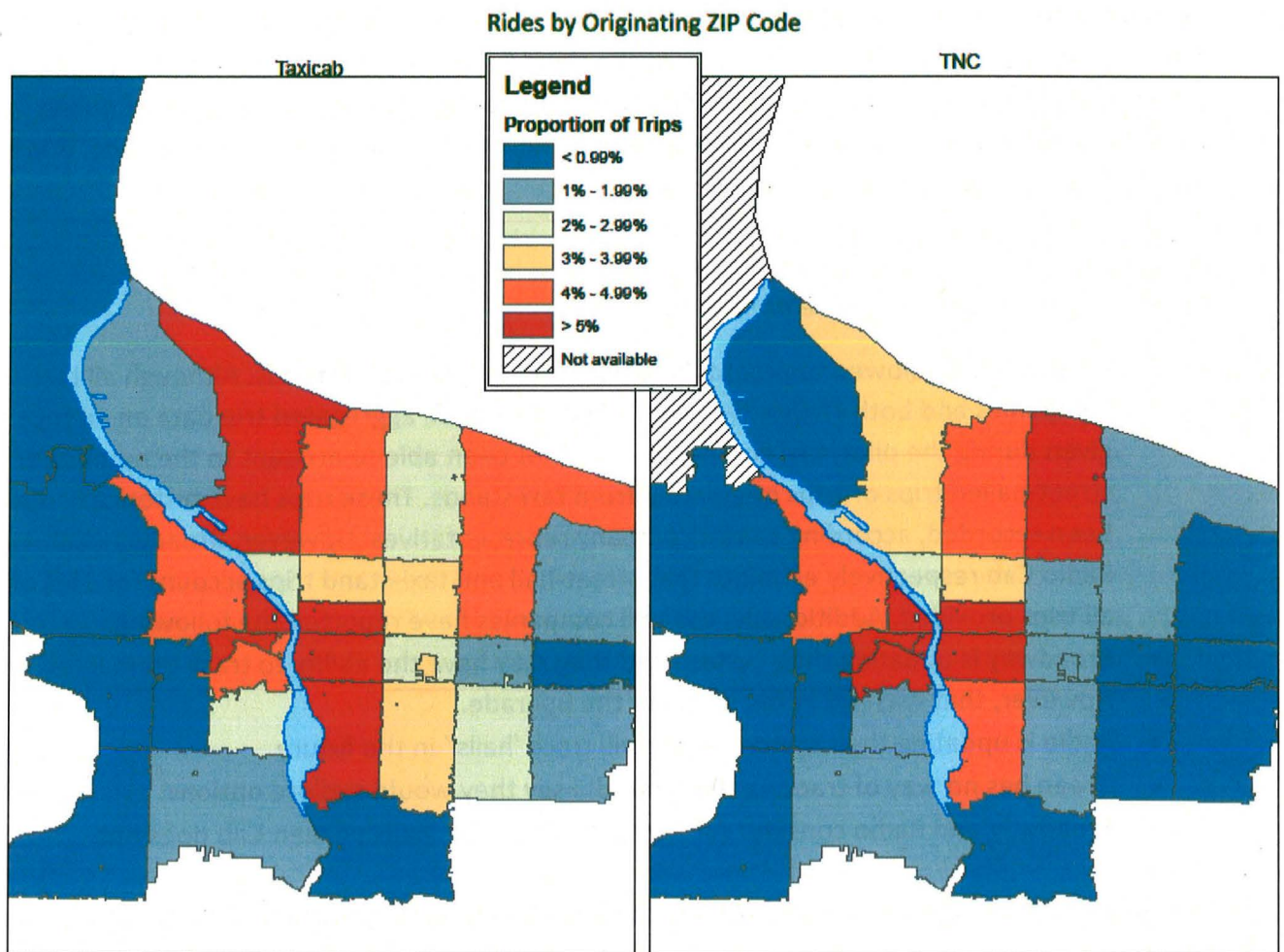
Distribution of Rides by Hour (total numbers)



Distribution of Rides by Hour (proportion of company total)







5) *Have the Terms of Service Agreements been modified to reflect Oregon law? (Fish)*

As was discussed in April, both Lyft and Uber recognize that applicable tort law in Oregon (or any other jurisdiction) will supersede limitations of liability contained in their User Agreements. For example, Uber’s Terms of Service (dated April 8, 2015) provide in its Limitation of Liability Section “THE LIMITATIONS AND DISCLAIMER IN THIS SECTION 5 DO NOT PURPORT TO LIMIT LIABILITY OR ALTER YOUR RIGHTS AS A CONSUMER THAT CANNOT BE EXCLUDED UNDER APPLICABLE LAW.”

Lyft’s Terms of Service (dated April 29, 2015) state in relevant part in its Limitation of Liability section that: “[c]ertain jurisdictions may not allow the exclusion or limitation of certain damages. If these laws apply to you, some or all of the above disclaimers, exclusions or limitations may not apply to you, and you may have additional rights.”

To explicitly make clear to the companies that applicable tort law in Oregon applies, the Interim Administrative Rule TRN-12.23 Section 6, K provides “User Terms of Service. No disclaimer of

liability for negligence or other tortious conduct contained in any TNC User Terms of Service shall have any force or effect in the City of Portland. Any tort claim against a TNC shall be governed by tort law in effect at the time of the claim.” Further, as was stated back in April, we believe that these types of limits on liability or anticipatory releases are a violation of public policy and enforcement of such a release would be held unconscionable in Oregon. See, *Bagley v. Mt. Bachelor, Inc.*, 356 Or 543 (2014).

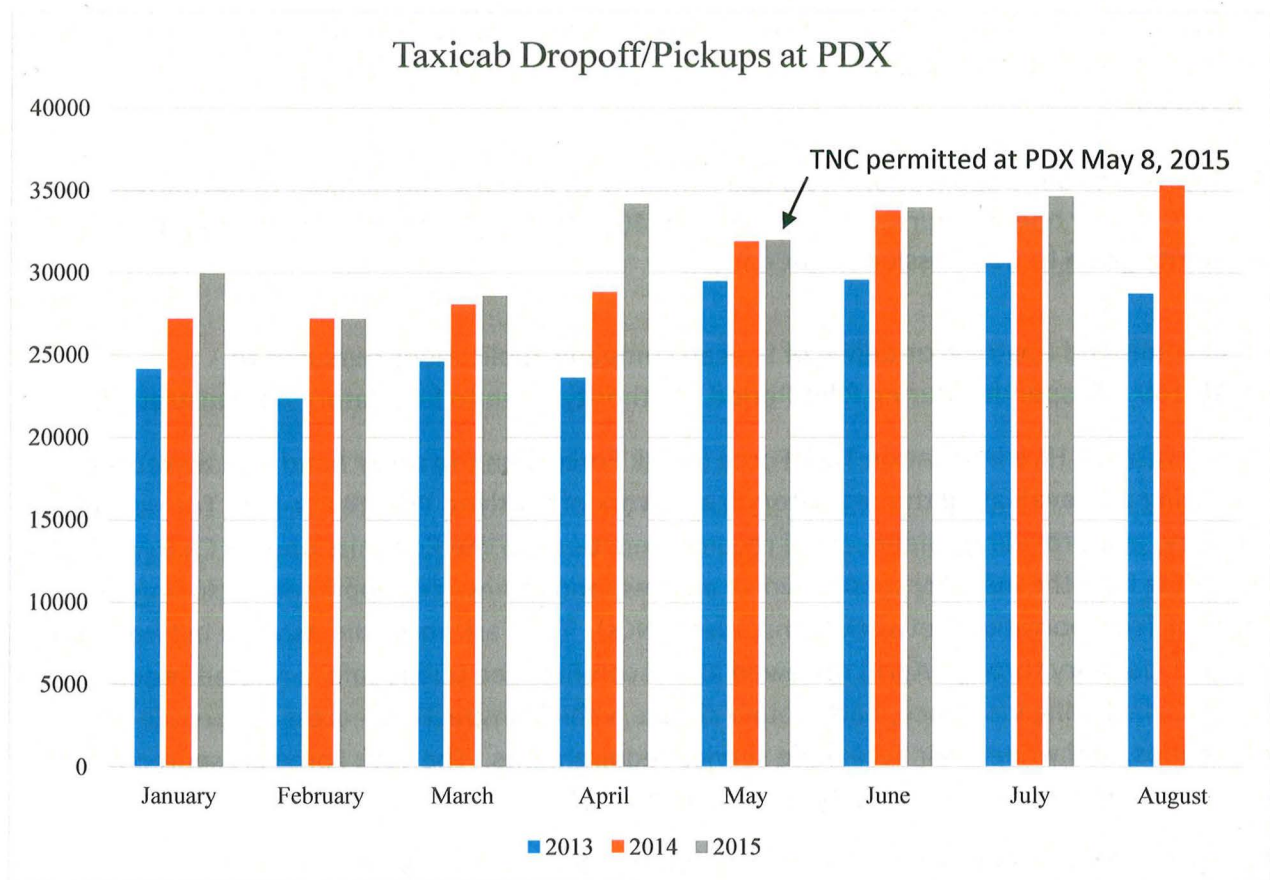
6) Please provide information related to street hails.

- Only taxis are allowed to accept street hail and queue in taxi stands. Although all taxi companies and both TNCs have been asked to provide aggregated trip data on all trips given during the pilot, taxi companies have not been able to account to the number of street-hailed trips or trips originating from taxi stands. These trips have historically not been recorded, according to taxi company representatives. However, Broadway Cab and Radio Cab respectively estimate that street-hail and taxi-stand trips account for 15% of all trips provided. Additionally, the taxi companies have reported the following:
- Broadway is updating their system and they may have the ability to track them later. However, that was not in the scope of the upgrade.
- Radio is updating their system and it will track ‘hails’ in the future.
- Green has no way of tracking them but did say they would explore options.
- Broadway and Radio consider Air Port pick-ups to be ‘hails’; Green Cab does not.

The Port of Portland provided the following information regarding taxicab activity at the airport:

	2013	2014	2015
January	24115	27154	29941
February	22320	27168	27189
March	24576	28042	28602
April	23606	28801	34224
May	29474	31863	32003
June	29559	33741	33973
July	30565	33393	34658
August	28736	35263	---

TNC’s were permitted to operate at the Port of Portland on May 8, 2015. The Port tracks actual dropoff/pickups by taxis, TNC’s, shuttles, etc.



7) Please provide information regarding how many applicants have failed background checks. (Fritz)

Uber has reported that 27% of its driver partner applicants are disqualified from driving during the course of the on-boarding process, which includes the review of the applicant’s criminal and driving history and vehicle inspection.

8) What is the authority of the PFHT Board? What is the authority (scope) of the Innovation Task Force?

Currently, the PFHT Board Authority is outlined PCC 16.40.050. The Board advises the Bureau on matters related to the for-hire transportation industry operating within the City of Portland. Additionally, the Board has specific authority to do the following:

1. Adopt or reject administrative rules proposed by the Director<sup>1</sup>;
2. Impose, modify or remove fuel surcharges that are in addition to any fare amounts regulated under Chapter 16.40;

<sup>1</sup> The Director has authority to adopt emergency interim rules pursuant to PCC 16.40.520 J. for 120-days without PFHT Board approval.

3. Approve or deny applications by an LPT company to increase the number of decaled vehicles it may operate if the number has been capped by administrative rule pursuant to Section 16.40.200;

4. Approve or deny applications by a taxi company to increase the number of permitted taxicabs it may operate pursuant to Section 16.40.210; and [Suspended during Pilot Period. Authority given to Commissioner-in-Charge].

5. Recommend approval or denial of taxicab company applications pursuant to 16.40.160. [Suspended during Pilot Period. Authority given to Regulatory Administrator].

The Private for Hire Innovation Task Force (“Task Force”) on the other hand was tasked with reviewing and evaluating the regulatory framework of Portland Private For-Hire Transportation industry, and providing guidance and recommendations to the Commissioner in Charge of PBOT regarding how the industry should evolve and respond to new developments including the entry of Transportation Network Companies (TNCs). The Task Force did its work in two phases: Phase 1 (January through April) reviewed and recommended public safety-related requirements for TNCs including insurance, background checks, vehicle inspection, access for people with disabilities, and wheelchair accessible service requirements. The Task Force presented a report of its recommendations to the City Council on April 9<sup>th</sup>.

In Phase 2 (May to August), the Task Force continued to look at issues and make recommendations surrounding TNCs, as well as recommendations for taxicabs and changes to the overall Private For-Hire structure. The Task Force presented a report to the City Council on August 20<sup>th</sup>.

Task Force members acknowledge that their role is to provide advice and frame policy choices and that final decisions on Task Force recommendations rest with the City Council. The Task Force charter can be found at:

<https://www.portlandoregon.gov/transportation/article/514201>.

*9) Please describe the current compliance audit process.*

**TNC Compliance Audit Check:**

Each week the program administrator requests 10 names from previous certification lists from all TNC companies.

The following documents are required for the audit:

- Background check document
- MVR/DMV Record Check
- Certificate of compliance from the Revenue Bureau
- Driver’s License
- Vehicle Registration

- Driver's personal insurance
- Vehicle Inspection form

Staff review documentation and, based on information received, determine if information conforms to Code and/or administrative rules as applicable. If individual does not conform to Code, then request is sent to TNC to have individual removed from the platform.

**Criminal Record and Driving Record Checks for New Driver (Taxicab/LPT/SAT) Applications:**

- Request and review criminal record search from Portland Police Records Division.
- If the applicant has no criminal record, proceed to the driving record search.
- If the applicant has a criminal conviction in any state, request a background search from a background investigation company. The third party vendor will search for the record and confirm it in the county or city it was issued.
- Review the criminal record: Compare the applicant's convictions (not arrests) to the disqualifying factors listed in Portland City Code.
- If the applicant has no disqualifying convictions, proceed to the driving record search.
- Perform a driving record search – Obtain the applicant's driving record by searching in the Oregon DMV system.
- If the applicant has been issued a driver's license in another state, search for the applicant's record using the ADR\WebMVR system for up to 10 years, if available.
- Compare the driving records to the disqualifying factors from Portland City Code to determine if the applicant passes the driving record search.

*10) What is the current staffing and do the classifications allow for compliance monitoring?  
(Fritz)*

There are currently 5 Regulatory Program Specialists, 1 Program Manager, and 1.5 Office Support Specialists III that administer and conduct compliance monitoring for the City's Private for Hire Transportation Program.

To collect and analyze the data recommended to be collected to ensure compliance with the operational considerations, the Bureau is proposing to add a 0.75 FTE Management Analyst.

BHR reviewed the classification with respect to compliance monitoring, enforcement, and vehicle inspection and concurred that these job duties are within the classification of Regulatory Program Specialist.