

Sunset Public Hearing Questions for
BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
Created by Section 62-2-201, *Tennessee Code Annotated*
(Sunset Termination June 2016)

1. Provide a brief introduction to the Board of Architectural and Engineering Examiners, including information about its purpose, statutory duties, staff and administrative attachment.

The Board of Architectural and Engineering Examiners protects the public health, safety and welfare through regulation of the practice of architecture, engineering, and landscape architecture, and use of the title "registered interior designer," in Tennessee. This mission is accomplished through the adoption of rules and policies, licensing/registration, communication efforts, and enforcement (disciplinary action).

The Board is administratively attached to the Division of Regulatory Boards within the Department of Commerce and Insurance, and currently has a staff of six persons, including an Executive Director.

2. Provide a list of board members and describe how membership complies with Section 62-2-201, *Tennessee Code Annotated*. Please indicate if there are any vacancies and explain what is being done to fill those vacancies.

*A list of current Board members is attached (**Attachment 1**). The Board is composed of 9 voting members (3 architects, 3 engineers, 1 landscape architect, 1 registered interior designer, and 1 public member) and 3 non-voting associate engineer members. An architect, engineer, and associate engineer member is appointed from each grand division of the state. All Board members are appointed by the Governor for a four-year term. There are currently no vacancies on the Board.*

Architect, engineer, landscape architect, and registered interior designer members must have at least ten (10) years' experience in the practice of their profession as a registrant, with no record of any formal disciplinary action. Such members shall have been in responsible charge of work for at least five (5) years, and shall have demonstrated an interest in improving the profession by involvement in a statewide association directly related to their profession for at least five (5) years. They must also be a citizen of the United States and shall have been a resident of Tennessee for five (5) years at the time of appointment. The public member cannot be engaged in the practice of architecture, engineering, or landscape architecture and must be a resident of the state. The current membership of the Board complies with these requirements. Also, the Board shall include, where possible, at least one (1) female and at least one (1) member of a racial minority. At present, two (2) females (Susan Ballard and Laura Reinbold) and one (1) member of a racial minority (Philip Lim, who is Asian) serve on the Board.

- Has the Governor under the authority granted in Section 62-2-202(b), *Tennessee Code Annotated*, removed any members “for misconduct, incompetency, incapacity or neglect of duty“?

No.

- Does the board’s membership include public/citizen members? Female members? Members of racial minorities? Members who are 60 years of age or older?

One (1) public member (Wilson Borden) serves on the Board. The law requires, where possible, that at least one (1) female and at least one (1) member of a racial minority serve on the Board. At present, two (2) females (Susan Ballard and Laura Reinbold) and one member of a racial minority (Philip Lim, who is Asian) serve on the Board. The law contains no requirement for members 60 years of age or older, but five (5) Board members currently fall into this category (Richard Thompson, Wilson Borden, Jerome Headley, Paul W. Lockwood, and Frank Wagster).

- How many times did the board meet in fiscal years 2013 and 2014 and to date in fiscal year 2015? How many members were present at each meeting?

The Board generally meets six (6) times a year.

FY 2013

<i>Meeting Date</i>	<i>Members Present</i>
August 15, 2012	12
October 12, 2012	11
December 5, 2012	11
February 13, 2013	12
April 10, 2013	12
June 12, 2013	10

FY 2014

August 14, 2013	12
October 11, 2013	11
December 5, 2013	11
February 13, 2014	10
April 10, 2014	10
June 12, 2014	10

FY 2015

August 14, 2014	11
October 10, 2014	11
December 4, 2014	12
February 12, 2015	12
April 9, 2015	12

- What per diem or travel reimbursement do board members receive? How much was paid to board members during fiscal years 2013, 2014 and to date in fiscal year 2015?

Board members receive a per diem of \$50 for days when they work four (4) or more hours performing duties relating directly to the Board (such as application or continuing education audit reviews) or for time or days spent attending Board meetings where a quorum is present (T.C.A. § 8-23-205). In addition, they receive travel reimbursement for the carrying out of Board-sanctioned activities pursuant to the state's comprehensive travel regulations.

	FY 2013	FY 2014	FY 2015 (to 5/8/15)	Total
Per Diem	\$11,000	\$12,850	\$8,750	\$32,600
In-State Travel*	\$13,127.09	\$18,425.54	\$15,261.25	\$46,813.88
Out-of-State Travel**	\$17,648.54	\$15,136.19	\$10,875.36	\$43,660.09
FY Totals	\$41,775.63	\$46,411.73	\$34,886.61	\$123,073.97

**In-state travel is primarily associated with Board meetings.*

***Out-of-state travel is for attending national regulatory council meetings. The national regulatory councils assist member boards in carrying out their duties by developing uniform national examinations and model laws and rules and facilitating reciprocity, among other responsibilities.*

7. What were the board's revenues (by source) and expenditures (by object) for fiscal years 2013 and 2014 and to date for fiscal year 2015?

See Attachment 2.

8. Is the board subject to Sunshine law requirements (per Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of its meetings and making its minutes available to the public?

Yes. The Board schedules all board meetings for each year and places the schedule on the website no later than one (1) month before the first Board meeting of the year. Meeting agendas are sent to all stakeholders and posted on the Board website at least seven (7) business days before a regularly scheduled meeting. Minutes are recorded for each meeting and are placed on the Board website following approval by the Board; minutes are also available for inspection in the Board office. In addition, recordings of meetings are placed on the Board website.

9. How does the board ensure that its members are operating in an impartial manner and that there are no conflicts of interest? If the board operates under a formal conflict of interest policy, please attach a copy of that policy.

When Board members are appointed, they are given an orientation during which conflicts of interest and the need for impartiality are discussed. All Board members are required to sign an annual conflict of interest statement.

Additionally, complaints against members of the profession are presented to the board in an anonymous manner so the board members can avoid conflicts during the disciplinary hearing process.

(Attachment 3).

10. Has the board established continuing professional education requirements for architects, engineers, landscape architects and registered interior designers or promulgated rules as authorized in 62-2-202(d), *Tennessee Code Annotated*?

Yes. See Chapter 0120-05 of the Board's rules.

11. Does the board have a website? Is so, please provide the web address. What kind of public information is provided on the website?

Yes—<http://www.tn.gov/regboards/ae/>. The website provides contact information; frequently asked questions; public meeting calendars, agendas, minutes, and recordings of meetings; forms and publications, including the Board's newsletter, the Reference Manual for Building Officials and Design Professionals, and the Consumer's Guide to the Design Professions; laws; rules; Board policies; a complaint form and list of disciplinary actions; and links to other resources.

**Note: there will be a new web address after June 5, 2015.
<https://tn.gov/commerce/section/architects-engineers>*

12. What were the board's major accomplishments during fiscal years 2013, 2014 and to date in fiscal year 2015?

- *Enforcement of Qualifications-Based Selection for Public Projects. A new rule took effect on March 11, 2013, that prohibits registrants from competitively bidding professional services on public projects in violation of Tenn. Code Ann. § 12-4-107(a), which requires that government agencies select design professionals based upon their competency, qualifications and experience rather than by price. The Board has engaged in efforts to educate registrants, procurement officials, government agencies, and other parties regarding this requirement.*
- *Enhanced Enforcement Authority. New rules took effect on March 11, 2013 (0120-02-.10 Other Enforcement Actions and 0120-04-.12 Other Enforcement Actions), enhancing the authority of the Board to require passage of a law and rules exam, additional continuing education hours, or probation with peer review of technical work in disciplinary cases.*
- *Grants to Higher Education. The Board continues to provide grants each year to accredited architectural, engineering, landscape architectural and interior design programs of Tennessee colleges and universities. Grant funds may be used for computers to be utilized by students, laboratory or instructional equipment, library resources, or to pay intern development program fees or examination fees for students. Private institutions were first eligible for grant funds in fiscal year 2014. The Board has awarded over \$2.9 million in grant funds since the inception of the program in 2002.*

- Exam Computerization. *The national Fundamentals of Engineering (FE) examination, which is required for certification as an engineer intern, was converted to a computer-based format in 2014, and is now administered during four testing windows throughout the year rather than twice a year. The law was amended in 2013 to remove references to a “minimum 8-hour written” engineering examination in preparation for the computerization of the FE exam; the FE exam is now 6 hours in duration.*
- New Policies to Guide the Industry. *The following Board policies were adopted during this period:*
 - *Commissioning of Engineered Systems*
 - *Official Transcript Waiver Policy*
 - *Sealing Manufactured Product Details, Review Letters, and Shop Drawings*
 - *Spill Prevention, Control and Countermeasure (SPCC) Plans*

13. Section 62-2-207(a), *Tennessee Code Annotated*, requires the board to keep a record of all applicants for registration. How many applications for registration did the board receive during fiscal years 2013 and 2014 and to date in fiscal year 2015? Of those, how many registrations were granted? How many were denied and what were the primary reasons for denial? How many licenses, certifications or registrations were suspended or revoked during the same period?

	FY 2013	FY 2014	FY 2015 (to 5/8/15)	Totals
Applications Received	1,964	1,964	1,439	5,367
Registrations Granted	1,087	1,951	1,033	4,071
Applications Denied by Board	49	45	26	120
Registrations Suspended	5	2	1	8
Registrations Revoked	0	1	1	2

The above statistics include architects, engineers, landscape architects, registered interior designers, and engineer interns.

The primary reasons for denial by the Board are educational deficiencies and lack of progressive experience.

14. What reports, if any, does the board prepare concerning its activities, operations and accomplishments? Who receives copies of these reports? Please attach copies of any such reports issued in fiscal years 2013 and 2014 and to date in fiscal year 2015.

All programs prepare a year-end financial report. This includes the revenues and expenditures for the year and is presented to the board by the administration and director annually. Examples of the year-end financials are also attached as mentioned in answer #7.

15. Has the board developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the board has developed and implemented quantitative performance measures, answer questions 16 through 23. If the board has not developed quantitative performance measures, proceed directly to question 25.

Yes, the Board has developed and implemented quantitative performance measures with the assistance of the Division of Regulatory Boards.

16. What are your key performance measures for ensuring the board is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

The Board's key performance measures are:

- 1) Timely issuance of licenses*
- 2) Efficient resolution of complaints filed against industry members*
- 3) Financial self-sufficiency of the board*

These goals are important because the program is charged with protecting the interests of consumers while ensuring effective and timely processing of licensure and oversight of Tennessee professionals.

17. What aspect[s] of the program are you measuring?

The aspects being measured are timely licensure, efficient complaint processing, and financial self-sufficiency.

18. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.

Licensure: The data collected for the licensure metric is pulled monthly from our Licensing System, RBS (Regulatory Board System and reviewed by the Division's Accounting Manager. This data is used by the Accounting Manager to evaluate average licensure times and form a summary report within Excel.

Complaints: The data for the complaint information pulled weekly from RBS and is presented in a case and complaint report, which reports the current status of all complaints open. The Division's Accounting Manager then pulls raw data from RBS and utilizes Access and Excel monthly to calculate the complaint metric.

Self-Sufficiency:

The program works with the Fiscal Division and Accounting Manager to prepare an Annual Spending Plan. Then monthly the program reviews performance spreadsheets that include forecast and actual amounts, conducts monthly meetings with Assistant Commissioner's staff to review board performance, monitors expenses and revenue and schedules annual financial presentations to the board.

19. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.

Complaint performance measure – The board is measured by evaluating whether complaints are resolved or referred to formal hearing within 180 days of their initial processing beginning with the date of receipt of the complaint.

Licensing performance measure – The average number of days required to issue a license is taken and compared annually against the previous year's average licensure timeframe.

Self-Sufficiency – The program is evaluated by whether the program can financially sustain its operations over (2) years.

20. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?

It is a real number.

21. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.

The performance measures and associated data/calculations are reviewed by the Accounting Manager and the Board director. The 180 Day Case and Complaint metric is also reviewed by the program attorneys. The measure is compared to the prior month's measures to assess appropriateness and accuracy. The financial performance measures are reviewed by the Accounting Manager, the Board director, the Board, and the Assistant Commissioner for Regulatory Boards. Additionally, all licensure and complaint calculations are reported to the Office of Customer Focused Government monthly.

22. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.

Yes, see attached complaint SOP, which is used to describe the process used to measure the efficiency of the complaint process.

Yes, see attached self-sufficiency SOP and Annual Spending Plan, which maintains performance spreadsheet that includes forecast and actual amounts.

23. Describe any concerns about the board's performance measures and any changes or improvements you think need to be made in the process.

The current measures related to licensure and complaints will be impacted by the new licensure system that will be put into place this year. This system should create a more efficient process for handling licensure and complaints, but it will take time to make sure the measurements will accurately take into account the changes caused as a result of the implementation of the new licensure system processes.

24. Provide an explanation of any items related to the board that may require legislative attention, including your proposed legislative changes.

No legislative changes are needed at this time.

25. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of the State of Tennessee?

Yes. This Board should be continued in order to ensure that only properly qualified individuals engage in the practice of architecture, engineering, and landscape architecture and make use of the title "registered interior designer." Only registered architects, engineers, and landscape architects may perform design services related to buildings and structures of significant size. Termination of the Board would negatively impact the public health, safety, and welfare, since the public would no longer have the assurance that buildings and structures in Tennessee were designed by qualified individuals. All 50 states have recognized that the regulation of architecture, engineering, and landscape architecture is vital to protect the public's health, safety, and welfare.

26. Please list all board programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Board does not receive federal financial assistance.

If the board does receive federal assistance, please answer questions 27 through 34. If the board does not receive federal assistance, proceed directly to question 33.

27. Does the board prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

28. Does the board have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

29. To which state or federal agency (if any) does the board report concerning Title VI? Please describe the information the board submits to the state or federal government and/or provide a copy of the most recent report submitted.

30. Describe the board's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.
31. Describe the board's actions to ensure it is meeting Title VI requirements. Specifically, describe any board monitoring or tracking activities related to Title VI, and how frequently these activities occur.
32. Please describe the board's procedures for handling Title VI complaints. Has the board received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
33. Please provide a breakdown of current board staff by title, ethnicity, and gender.

Title	Ethnicity	Gender
Executive Director	White	Male
Administrative Manager RB	Black	Female
Administrative Assistant RB 1	Black	Female
Administrative Assistant RB 1	White	Female
Administrative Assistant RB 1	White	Female
Administrative Assistant RB 1	White	Female

34. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

Fee-for-Service Contracts:

<i>Contract No.</i>	<i>Contractor</i>	<i>Services Provided</i>	<i>Contract Amount</i>	<i>Ethnicity of Contractor</i>
40418	John W. Smith DBA JWS & Associates	Engineering transcript evaluations	\$3,000	White

Grant Contracts: (may not need to include)

<i>Contract No.</i>	<i>Contractor</i>	<i>Services Provided</i>	<i>Contract Amount</i>	<i>Ethnicity of Contractor</i>
44530	Middle Tennessee State University	2015 A&E Board grant	\$1,372	N/A
44600	Lipscomb University	2015 A&E Board grant	\$13,501	N/A
44464	UT Chattanooga	2015 A&E Board grant	\$27,629	N/A

44404	Vanderbilt University	2015 A&E Board Grant	\$25,381	N/A
44354	Tennessee Technological University	2015 A&E Board Grant	\$39,813	N/A
44529	Tennessee State University	2015 A&E Board Grant	\$18,867	N/A
44463	Union University	2015 A&E Board Grant	\$12,306	N/A
44472	UT Knoxville	2015 A&E Board Grant	\$86,068	N/A
44528	O'More College of Design	2015 A&E Board Grant	\$1,342	N/A
44381	Christian Brothers University	2015 A&E Board Grant	\$14,477	N/A
44493	UT Martin	2015 A&E Board Grant	\$14,822	N/A
44340	University of Memphis	2015 A&E Board Grant	\$44,422	N/A

Grant funding is provided from the Board's revenues or reserve funds. The Tennessee General Assembly and Governor Haslam authorized funding for the grants (2014 Public Acts, Chapter 919, Section 7, Item 26). Grant funds may be used for computers to be utilized by students, laboratory or instructional equipment, library resources, or to pay intern development program fees or examination fees for students in accredited architectural, engineering, landscape architectural, and interior design programs. Grantees are required to submit documentation of their purchases for monitoring purposes.

3351012001 - Architects & Engineers		<u>Expenditures:</u>										Requisitions/ Encumbrances	Year-to-Date Total	Percentage Expended to Date
		July Period 1	August Period 2	September Period 3	October Period 4	November Period 5	December Period 6	January Period 7	February Period 8	March Period 9	April Period 10			
Regular Salaries and Wages (70100)	254,000.00	21,311.00	22,711.00	21,611.00	22,711.00	21,161.00	21,061.34	19,961.18	21,961.00	21,111.00	20,175.55		213,775.07	84.16%
Longevity (70102)	13,500.00	2,000.00	0.00	2,000.00	0.00	2,200.00	2,500.00	3,000.00	0.00	0.00	0.00		11,700.00	86.67%
Overtime (70104)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Employee Benefits (702)	114,600.00	9,876.91	9,530.40	9,899.85	9,530.42	9,910.77	9,769.77	9,775.19	9,157.64	10,478.20	9,008.15		96,937.30	84.59%
Payroll Expenditures	382,100.00	33,187.91	32,241.40	33,510.85	32,241.42	33,271.77	33,331.11	32,736.37	31,118.64	31,589.20	29,183.70	0.00	322,412.37	84.38%
Travel (703)	60,000.00	0.00	6,111.80	1,695.45	7,790.50	5,436.44	3,786.10	0.00	3,042.45	1,106.31	4,374.89		33,343.94	55.57%
Printing, Duplicating & Film Proc. (704)	2,000.00	0.00	0.00	0.00	65.88	0.00	0.00	0.00	0.00	0.00	0.00		65.88	3.29%
Utilities and Fuel (705)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Communications & Shipping (706)	22,000.00	1,615.81	1,528.81	1,408.15	1,860.25	867.96	2,798.25	1,923.20	1,734.65	1,639.97	1,929.80		17,306.85	78.67%
Maint., Repairs and Svcs by Others (707)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	17.36	0.00	0.00	0.00		17.36	#DIV/0!
Third Party Prof. & Admin. Svcs (708)	45,000.00	6,506.99	1,634.13	1,404.44	1,092.42	5,087.61	5,637.40	1,550.54	12,387.60	1,316.72	7,796.52		44,414.37	98.70%
Supplies and Office Furniture (709)	2,500.00	0.00	0.00	284.91	3.24	0.00	0.00	157.76	45.50	0.00	307.24		798.65	31.95%
Rentals and Insurance (710)	2,200.00	0.00	134.52	134.52	134.52	281.46	134.52	134.52	134.52	134.52	134.52		1,357.62	61.71%
Motor Vehicle Operation (711)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Awards and Indemnities (712)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Grants and Subsidies (713)	300,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	186,504.00	0.00	113,196.00		299,700.00	99.90%
Unclassified Expenses (714)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Inventory (715)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Equipment (716)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Land (717)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Buildings (718)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Lost Discounts (719)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Highway Construction (720)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00	#DIV/0!
Training of State Employees (721)	8,900.00	2,375.00	300.00	0.00	0.00	0.00	0.00	0.00	450.00	295.00	295.00		3,715.00	41.74%
Computer Related Items (722)	1,900.00	0.00	0.00	122.65	0.00	0.00	0.00	0.00	145.98	0.00	176.90		445.53	23.45%
State Prof. Svcs. (725)	50,000.00	98.73	1,830.06	6,279.06	4,146.71	4,307.43	3,417.39	3,444.75	4,210.84	3,933.74	4,428.82	3,493.00	39,590.53	79.18%
Other Expenditures	494,500.00	10,596.53	11,539.32	11,329.18	15,093.52	15,980.90	15,773.66	7,228.13	208,655.54	8,426.26	132,639.69	3,493.00	440,755.73	89.13%
TOTAL EXPENDITURES	876,600.00	43,784.44	43,780.72	44,840.03	47,334.94	49,252.67	49,104.77	39,964.50	239,774.18	40,015.46	161,823.39	3,493.00	763,168.10	87.06%
COSTBACK BUDGET	0.00											165,479.04	w/Costback= 763,168.10	87.06%

Attachment 1—Board Member Roster

Board Members	Appointment Expiration Date
Richard D. Thompson <i>Chair</i> <i>Architect (East TN)</i>	6/30/17
Robert G. Campbell, Jr. <i>Vice Chair</i> <i>Engineer (East TN)</i>	6/30/15
Susan K. Ballard <i>Secretary</i> <i>Interior Designer</i>	6/30/16
Hal Balthrop <i>Engineer (Middle TN)</i>	6/30/16
Wilson Borden <i>Public Member</i>	6/30/15
Jerome M. Headley <i>Architect (Middle TN)</i>	6/30/16
Philip K. S. Lim <i>Engineer (West TN)</i>	6/30/17
Bill Lockwood <i>Landscape Architect</i>	6/30/16
Frank W. Wagster <i>Architect (West TN)</i>	6/30/15
Richard C. Bursi <i>Associate Engineer (West TN)</i>	6/30/15
Stephen J. King <i>Associate Engineer (East TN)</i>	6/30/16
Laura R. Reinbold <i>Associate Engineer (Middle TN)</i>	6/30/17

ATTACHMENT 2

REGULATORY BOARDS
REVENUE AND EXPENDITURES

For Fiscal Years 2013-2015

FY12-13

FY13-14

FY14-15
through March 2015

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EXPENDITURES BY OBJECT	A&E	A&E	A&E
Regular Salaries and Wages (70100)	243,149	262,959	193,600
Longevity (70102)	12,100	12,600	11,700
Overtime (70104)	0	0	0
Employee Benefits (702)	109,763	116,098	87,929
Payroll Expenditures	365,012	391,657	293,229
Travel (703)	44,106	41,367	28,969
Printing, Duplicating & Film Proc. (704)	1,958	375	66
Utilities and Fuel (705)	0	0	0
Communications & Shipping (706)	18,170	21,467	15,377
Maint., Repairs and Svcs by Others (707)	0	230	17
Third Party Prof. & Admin. Svcs (708)	286,476	184,011	36,618
Supplies and Office Furniture (709)	1,102	2,540	491
Rentals and Insurance (710)	2,149	1,851	1,223
Motor Vehicle Operation (711)	0	0	0
Awards and Indemnities (712)	3,000	0	0
Grants and Subsidies (713)	250,000	300,000	186,504
Unclassified Expenses (714)	0	0	0
Inventory (715)	0	0	0
Equipment (716)	0	0	0
Land (717)	0	0	0
Buildings (718)	0	0	0
Lost Discounts (719)	0	0	0
Highway Construction (720)	0	0	0
Training of State Employees (721)	7,780	5,680	3,420
Computer Related Items (722)	611	2,222	269
State Prof. Svcs. (725)	75,330	49,890	35,162
Total Other Expenditures	690,682	609,633	308,116
GRAND TOTAL	1,055,694	1,001,290	601,345
Cost Backs:			
Administration	215,746	208,238	Not available
Investigation	0	3,297	Not available
Legal	20,252	45,605	Not available
Total Cost Backs	235,998	257,140	
TOTAL EXPENDITURES	1,291,691	1,258,430	601,345
Licensing Revenue	1,560,771	1,446,659	1,053,143
Case and Complaint Revenue	15,400	15,450	2,000
Less: State Regulatory Fee	101,500	93,300	Not available
NET REVENUE	1,474,671	1,368,809	1,055,143
FISCAL YEAR BALANCE	182,979	110,379	453,799
PRIOR FISCAL YEAR RESERVE	1,008,596	1,191,575	1,213,000
RESERVE BALANCE	1,191,575	1,301,954	1,666,799
CORE Expense	0	88,954	Not available
RESERVE BALANCE AFTER CORE EXPENSE	1,191,575	1,213,000	

Attachment 3



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY, SECOND FLOOR
DIVISION OF REGULATORY BOARDS
NASHVILLE, TENNESSEE 37243-0572
615-741-3449 FAX 615-741-6470**

CONFLICT OF INTEREST STATEMENT

**For
Board and Commission Members**

- 1) Each board or commission member shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - i. Using public office for private gain;
 - ii. Giving preferential treatment to any person;
 - iii. Impeding government efficiency or economy;
 - iv. Losing complete independence or impartiality;
 - v. Making a government decision outside of official channels; or
 - vi. Affecting adversely the confidence of the public in the integrity of the government.
- 2) Use of information. No board or commission member shall, directly or indirectly:
 - i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the respective board or commission and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the board or commission member; or
 - ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her board or commission appointment.
- 3) Use of government property. No board or commission member shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is incidental or de minimis or is lawfully available to the general public.
- 4) The board or commission member will avoid all known conflicts of interest, and to the extent he or she becomes aware of a conflict of interest in connection with any matter brought before the board or commission on which he or she serves, he or she will disclose such conflict to the appropriate person and will further recuse himself or herself from participating in any consideration of the matter.
- 5) While serving on any board or commission, the board or commission member will not participate in considerations or actions involving individuals in his or her immediate family, individuals employed by him or her, or his or her organization, services provided by him or her, or his or her organization, or any other matter in which his or her participation may create an appearance of bias or impropriety.
- 6) While serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, in any trade or professional association directly related to the trade or profession regulated by the board or commission on which he or she serves. Service on committees of trade or professional associations is permissible; provided, however, that

Attachment 3

while in such service, the board or commission member does not participate in considerations or actions concerning the board or commission of which he or she is a member.

- 7) Questions on interpretation of this statement. When a board or commission member is in doubt as to the proper interpretation of this conflict of interest statement, he or she is expected to seek the advice of the Commissioner of Commerce and Insurance or the Ethics Compliance Officer of the Department of Commerce and Insurance.

Board or Commission Member

Date

Print Name: _____

Board or Commission Name: _____

Please list any conflicts of interest:

**DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
COMPLAINT HANDLING STANDARD OPERATING PROCEDURE**

Form of complaint

The original of a complaint received by or a complaint initiated by the Division shall be sent to the Respondent for a response. All complaints sent to the Respondent should be in writing. A complaint initiated by the Division should fully explain the allegation.

Who can initiate a complaint?

A complaint may be initiated by any member of the public. Complaints may also be initiated by referrals from the Division, the Department's legal staff, or Board or Commission members. All complaints initiated by the Division, the Department's legal staff, or Board or Commission members should be opened as staff complaints. All anonymous complaints shall be reviewed on a case-by-case basis by the Program Director in consultation with the attorney assigned to the program ("Program Attorney") to determine what, if any, action they merit. Unless a program has specific statutory authority to deny anonymous complaints, anonymous complaints should be opened under the regular procedure so long as they state a ground that the program could, if true, take action.

Declining to open a complaint

If the Executive Director and Program Attorney decide that a complaint fails to state any ground for the agency to take action, construed liberally in favor of opening a complaint, then a letter should be sent by U.S. mail to the Complainant explaining the reason for declining to open a complaint within seven (7) business days of receiving the complaint.

Request for complaint form

Board Staff should first direct the requestor to the complaint form on the website. If the requestor does not have internet access, then staff shall mail a complaint form to requestor within one (1) business day of the request with instructions explaining the Program's complaint process, legal authority, and a statement that Regulatory programs cannot require restitution or specific performance.

Upon receipt of complaint

Within two (2) business days of receipt of complaint, the Program Director or designee shall conduct an initial review of the complaint to determine: (1) whether the complaint has been filed with the correct program and (2) whether the complaint is a high priority matter (e.g., the alleged conduct poses an imminent danger to the public health, safety or welfare).

- 1) If the complaint is not filed with the correct program, then the Program Attorney should be consulted. Then the complaint should be forwarded to the correct Division program or other state regulatory program(s) within three (3) business days of its receipt.
- 2) If the complaint is a high priority matter, then the Program Attorney should immediately be consulted and he/she shall immediately notify the Deputy General Counsel and Assistant Commissioner. The Program Attorney should report the progress of all high priority matters in the weekly report to the Deputy General Counsel and the Program Director should report the progress of all high priority matters in his/her regular report to the Assistant Commissioner.

- 3) Within five (5) business days of receiving the complaint, the Complaint Coordinator shall:
 - a. Enter the complaint into the Regulatory Boards Case/Complaint System (“RBS”) which automatically assigns a complaint number.
 - b. Send a copy of the complaint, via U.S. mail, to the Respondent, unless otherwise advised by the Program Attorney after consultation with the Program Director.¹ The Complaint Coordinator shall enclose a letter instructing that Respondent has fourteen (14) calendar days (or the number of days allowed by the Program’s law and rules, but not to exceed thirty (30) calendar days) from date of receipt of the complaint to respond.
 - c. Send notification of receipt of the complaint to Complainant via U.S. mail.

No response to complaint

If the Respondent does not respond, the Complaint Coordinator shall forward the complaint to the Division’s legal department within thirty (30) calendar days of its receipt.

Upon receipt of response to complaint

Within three (3) business days of receiving Respondent’s response to the complaint, the Complaint Coordinator shall:

- 1) Update RBS.
- 2) Forward a copy of the complaint and Respondent’s response to the Program Director and Program Attorney.
- 3) Forward a copy of Respondent’s response to the Complainant.

Upon referral to Legal Staff

The Legal Division Secretary or Program Paralegal shall open new matter transmittals in RBS as cases and transmit them to the Program Attorney within three (3) business days after receiving the complaint.

Investigation referrals

The Program Attorney shall make a determination whether or not a complaint needs investigation within forty-five (45) days of receiving the complaint from the program. Investigations requests shall be completed and written investigation reports shall be sent to the Program Attorney within thirty (30) calendar days of referral. If additional time is needed for completion of investigations requests, then the investigator shall make such request by email to the Director of Investigations with a copy to the Attorney who requested the investigation. The request shall specify how much additional time is needed and must be made within twenty-five (25) calendar days of when the matter was referred.

Presentation to Regulatory Authority

¹ The program in consultation with the program attorney may determine that sending the complaint to the Respondent would be harmful to a future investigation of the complaint. An example of this includes a complaint of unlicensed activity or illegal action where a copy of the complaint requesting a response would solicit a denial from the Respondent and further harm a future investigation. In this scenario, the complaint may be forwarded directly to legal after consultation and agreement with the program attorney whose office will request an investigation of the complaint prior to informing the Respondent of the allegations.

After review of the complaint, as well as any response, investigation report or other relevant information, the Program Attorney will present an anonymous summary of the complaint in a written legal report to the Program's regulatory authority along with a recommendation as to probable cause and course of action. In cases where informal settlement is authorized (e.g., Consent Order), the Respondent shall be given thirty (30) calendar days from receipt of the offer of settlement to respond. If the Respondent fails to respond to the offer within the thirty (30) calendar day period, the Program Attorney shall refer the case to the Litigation Attorney for formal charges.

Final action and case closure

1) Procedure for case in which Respondent is to comply over time

Cases closed with a signed order (Consent Order, Agreed Order, Initial Order or Final Order) that includes a period of time for payment of a civil penalty and/or costs and/or any non-monetary conditions to be completed over a period of time shall be monitored by Program Staff and the Program Attorney. Within one (1) day of receipt, the Program Attorney will deliver a copy of the executed and/or filed order to the Program Director and the Program staff will initially enter the order on the appropriate tracking chart within three (3) business days of receipt of the Order.² The Program Attorney, Litigation Attorney and Program Director will review Respondent's compliance with such Orders at each monthly meeting. Any evidence of compliance received by the Attorney shall be delivered to Program Staff within one (1) business day of receipt. Program Staff shall update the tracking chart within three (3) business days of Program Staff's receipt of each item of compliance. Once Respondent fully complies with the terms of the Order or is determined by the Program Director and the Program Attorney to have failed to comply with the Order, any final action provided in the Order shall be taken and the case shall be closed as set forth below.

2) Procedure for closing case

After final action is taken in a case, the Program or Litigation Attorney shall complete the Legal Status Tracking Memorandum, which shall include the date of closure and a description of the final action (e.g., dismissed, letter of warning, consent order paid, formal hearing/revocation, etc.). The Memorandum and the file shall be delivered to the Program Paralegal, who shall within three (3) business days of receipt deliver a copy of the Legal Status Tracking Memorandum and the executed order or letter of warning to the Program staff and update RBS within 3 days.

3) Determining the Closure Date

A complaint's closure date shall be determined as follows:

Dismissed/Closed with no action: Date of board vote;

Letter of Warning: Date letter is sent;

Consent Order/ Agreed Order (no monitoring): Date executed order is received;

² Orders requiring monitoring shall be included on the Disciplinary Action Report upon receipt of the executed and/or filed Order.

Consent Order/ Agreed Order (with monitoring): Date final payment or action is completed. The Board does not close the case until the final payment is received. Legal will close the case coding it "Payment Plan" but it will remain on the legal report until the final payment is received;

Order following a Formal Hearing: Date Initial/Final Order is filed with Secretary of State.

Complaint Closure

The complaint coordinator shall close the complaint in RBS and send a written closure notification to the Complainant and the Respondent within three (3) business days of receipt of closure Memorandum from Legal Staff.

Cases Referred for Collection

Any Order authorized or issued by a Board, Commission, Commissioner or Administrative Law Judge that assesses a civil penalty and/or costs that is not timely satisfied, is subject to being sent outside the Department for collection. Any Final Order that is thirty (30) calendar days past the appeal deadline or any fully executed Consent Order or Agreed Order that is sixty (60) calendar days past the payment deadline should be reviewed by the Litigation Attorney, who will determine whether it should be referred for collection. If it is determined that the Order should be referred for collection, the Litigation Attorney should follow the standard operating procedures for referring cases outside the Division for collection.

Reporting

The Program Director or designee shall submit a Disciplinary Action Report to Mark Green – Chief Counsel and designated Paralegal by the close of business on the third (3rd) day of each month.

Meetings

The following meetings are to be held regularly:

- 1) *Monthly*: The Program Director, Complaint Coordinator, Board Attorney, and Program Paralegal shall meet to review the accuracy of the weekly RBS complaint report, compliance with performance standards, cases for the upcoming legal report, Orders on the chart tracking compliance and any other issues related to the status and handling of cases that may arise.
- 2) *Quarterly (to be scheduled by Assistant Commissioner with each program)*: Assistant Commissioner, Deputy General Counsel, Chief Counsel, Program Director, Complaint Coordinator, Board Attorney, Litigation Attorney and Program Paralegal shall meet to review complaint patterns, i.e., oldest complaints, repeat offenders, unpaid citations, non-compliant respondents and any other issues related to the status and handling of complaints and cases that may arise.

Acknowledgement of receipt and understanding of Complaint Handling Standard Operating Procedure:

[PROGRAM DIRECTOR'S NAME]

Division of Regulatory Boards Self-Sufficiency SOP

Objective:

The following provides a brief overview of the plan that the Division of Regulatory Boards has developed in order to have a documented and formalized process to ensure that the financial position of each board is properly reviewed. Additionally, management will devote ongoing resources to education and training of appropriate program staff (Executive Directors and Administrative Managers) with regards to budget forecasting, allocation formulas, data integrity, best practices, etc.

Education:

The Accounting Manager will prepare and conduct formalized training sessions related to the budget process and the monthly financial reports for the Division. This will include documents and training on commonly used reports, and any other financial topics, State and Fiscal policies as needed.

The budget process session will be held annually, prior to the preparation of the budget documents for F&A.

Monthly:

The Accounting Manager will hold monthly meetings with each director to review and discuss their board(s) financial position. The Accounting Manager should strive to conduct these meetings within 10 working days following the release of the monthly reports from the Department's Fiscal Service Office. This discussion will allow the Accounting Manager to focus on each individual board to ensure that all aspects of each board's financial position is reviewed and evaluated. The meeting and any notes or corrections that arise from the meeting will be recorded and kept by the Accounting Manager with the current fiscal year information.

Following the individual discussions with the board directors the Accounting Manager will meet with the Assistant Commissioner of Regulatory Boards. During this meeting the Division's overall position and any specific concerns will be discussed. Documented meeting outcomes will include

- Trend Analysis, including over/under performance by board
- Notes related to remedial steps/action items to address performance failures
- Updating of the spreadsheet used to track action item statuses
- Minutes or notes related to the meeting

Quarterly:

The Assistant Commissioner and the Accounting Manager will meet with the Deputy Commissioner and review the boards' financial positions. The meeting will be held at the conclusion of each quarter. Documented outcomes of the meeting shall include:

- Trend Analysis
- A quarterly view of the boards individual performance
- Forecast reports by board
- Identify and discuss extraneous threats to boards self-sufficiency
- Advise the Deputy Commissioner of current remedial steps/action items

The Accounting Manager will meet with the Department's Fiscal Service staff to discuss any upcoming financial reporting deadlines. The will include the annual budget, spending plans, reserve letters, and any other report required by F&A. The meeting will be held at the conclusion of the quarter.

Annually:

The Accounting Manager will prepare a financial statement for each board within 30 working days of the F&A reserve letter deadline.

The Assistant Commissioner will appear before each board and discuss the board's financial position. This meeting will ensure that board members are apprised of any financial concerns or challenges that the board may be facing. During this meeting each year the Assistant Commissioners will present the board with its financial statements from the prior fiscal year. This meeting will be held as part of the board's established monthly, bimonthly or quarterly meeting.

During the annual budget process the Accounting Manager will coordinate the preparation of the following:

- Annual Revenue Projections – Each board director is responsible for their board(s) projection.
- Annual Spending Plan – The Accounting Manager and the Assistant Commissioner will prepare with input from the directors.