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REGULATORY BOARD REVIEW

BOARD OF PROFESSIONAL SURVEYORS

AUDIT OVERVIEW

The Board of Professional Surveyors Complies With Most of the General Provisions of Chapter 30 of the West Virginia Code. However, the Board Needs to Monitor Its End-of-Year Cash Balance to Prevent Further Declines

The Board's Website Scores Low on Transparency But Needs Only Modest Improvement to Enhance User-Friendliness



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CONTENTS

Executive Summary 5

Issue 1: The Board of Professional Surveyors Complies With Most of the General Provisions of Chapter 30 of the West Virginia Code. However, the Board Needs to Monitor Its End-of-Year Cash Balance to Prevent Further Declines 7

Issue 2: The Board’s Website Scores Low On Transparency But Needs Only Modest Improvement to Enhance User-Friendliness 19

List of Tables

Table 1: Actual Revenues and Expenditures FY 2009 Through FY 2013 9
 Table 2: Actual and Expected License Renewal Revenues 11
 Table 3: Percentage of Payment Methods Received By the Board 12
 Table 4: Percentage of Low-Risk Expenditures 13
 Table 5: Professional Surveyor License Fees in Surrounding States..... 14
 Table 6: Complaints FY 2011 Through FY 2013 16
 Table 7: Continuing Education Requirements for Professional Surveyors in Surrounding States 17
 Table 8: Board of Professional Surveyors Website Evaluation 19
 Table 9: Board of Professional Surveyors Website Evaluation Scores 20

List of Figures

Figure 1: Complaint Procedure..... 15

List of Appendices

Appendix A: Transmittal Letter 23
 Appendix B: Objective, Scope and Methodology 25
 Appendix C: Website Criteria Checklist and Points System..... 27
 Appendix D: Agency Response 31

EXECUTIVE SUMMARY

This evaluation of the West Virginia Board of Professional Surveyors (Board) is authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. This review evaluates the Board's compliance with the general provisions of Chapter 30, articles 1 and 13A, of the *West Virginia Code*, compliance with recommendations made in a previous report, and the Board's website. The findings of our review are highlighted below.

Report Highlights

Issue 1: The Board of Professional Surveyors Complies With Most of the General Provisions of Chapter 30 of the West Virginia Code. However, the Board Needs to Monitor Its End-of-Year Cash Balance to Prevent Further Declines.

- The Board is financially self-sufficient but it needs to prevent further declines in its end-of-year cash balance. For the past five fiscal years the Board's annual expenditures have averaged over \$206,000, and for FY 2013 cash reserves are around \$200,000.
- In the 2005 Regulatory Board Review, the Legislative Auditor recommended that *the Board focus on closing a greater percentage of complaints, while continuing to improve its complaint resolution time*. In recent years the Board has significantly improved both its percentage of complaint closures as well as the resolution time.

Issue 2: The Board's Website Scores Low On Transparency But Needs Only Modest Improvement to Enhance User-Friendliness.

- The Board can improve the transparency of its website by including a link to the Board's budget, an organizational chart, FOIA request information, and other features.
- The Board's website has many user-friendly features and only modest changes are needed to improve its user-friendliness.

PERD Evaluation of the Agency's Written Response

PERD received the Board's response to the report on June 4, 2014. The Board is in agreement with all recommendations and most points made in the report. The Board states that it will closely monitor its end-of-year cash balance and projects that its balance will increase in FY 2014. The Board also states that it will assess if a more detailed itemized list of receipts and disbursements is necessary in its annual reports. The Board agrees that the user-friendliness and transparency of its website could be improved and anticipates that the website will be completely revamped in the future. The Board's response can be found in Appendix D.

Recommendations

1. *The Legislative Auditor recommends that the Board of Professional Surveyors should be continued.*
2. *The Legislative Auditor recommends that the Board of Professional Surveyors monitor its end-of-year cash balance to prevent further declines.*
3. *The Legislative Auditor recommends that the Board of Professional Surveyors make improvements to its website to increase user-friendliness and transparency.*

ISSUE1

The Board of Professional Surveyors Complies With Most of the General Provisions of Chapter 30 of the West Virginia Code. However, the Board Needs to Monitor Its End-of-Year Cash Balance to Prevent Further Declines.

Issue Summary

The West Virginia Board of Professional Surveyors (Board) is in compliance with most general provisions required by Chapter 30 of the state code. One concern is that the Board's end-of-year cash balances have declined over the last three years. While the balance is currently at a prudent level, it is at a point where any further declines will create a concern of the Board's financial condition. Although the Board has deficiencies in internal control, which is normal for small regulatory boards, PERD finds that the risk of fraudulent activity occurring in the receipt of revenues or in purchasing is relatively low.

The Board Should Be Continued.

In 2005, the Legislative Auditor conducted a regulatory board review of the Board. The Legislative Auditor concluded that the licensing of professional surveyors is necessary for the protection of the citizens of West Virginia. For the 2014 review, the Legislative Auditor asked the Board why it believes the Board should be continued. The Board responded:

The West Virginia Board of Professional Surveyors believes that this Board should be continued in order to protect the health, safety, and welfare of the public, promote the high quality of professional surveying services, and to assure the highest degree of professionalism. Regulation is necessary to allow only qualified individuals to obtain a license, to define the scope of practice, to provide supervision guidelines, to document continuing education, and to possess a means to receive and resolve complaints to protect the inhabitants of this state from dishonest or incompetent surveying.

As the occupational tasks of professional surveyors have not changed since the 2005 report, the Legislative Auditor finds that the State has a continuing interest in regulating the profession.

As the occupational tasks of professional surveyors have not changed since the 2005 report, the Legislative Auditor finds that the State has a continuing interest in regulating the profession.

The Board Has Complied With Most of the General Provisions of Chapter 30.

The Board is in compliance with most requirements of Chapter 30 of the *West Virginia Code*. These requirements include the following:

- The Chair or Chief Financial Officer has attended an orientation session conducted by the State Auditor (§30-1-2a (b));
- The Board has adopted an official seal (§30-1-4);
- The Board has met at least once annually (§30-1-5(a));
- The Board’s complaints have been investigated and resolved with due process (§30-1-5(c); (30-1-8);
- The Board has promulgated Rules specifying the investigation and resolution procedure of all complaints (§30-1-8);
- The Board has established continuing education (§30-1-7a);
- The Board has created a register of all applicants with the appropriate information specified in Code (§30-1-12(a));
- The Board has submitted annual reports to the Legislature and Governor (§30-1-12(b)).
- The Board has complied with public access requirements (§30-1-12(c));
- The Board has prepared and maintained a Roster of all licensees which includes name, and office address (§30-1-13); and
- The Board is financially self-sufficient. (§30-1-6(c)).

The Board mostly complies with the requirements for an annual report except that the report does not contain an itemized statement of its receipts and disbursements (§30-1-12(b)).

The Board mostly complies with the requirements for an annual report except that the report does not contain an itemized statement of its receipts and disbursements (§30-1-12(b)).

The Board Is Financially Self-Sufficient But It Needs to Prevent Further Declines in Its End-of-Year Cash Balance.

For the past five fiscal years, the Board has maintained a positive end-of-year (EOY) cash balance (see Table 1). Therefore, the Board is financially self-sufficient. However, the Legislative Auditor also evaluates the amount of cash balances a board maintains in determining a board’s financial condition. At a minimum, a board should hold cash reserves in the amount that equals the board’s annual expenditures. The lower the percentage cash reserves are of a board’s annual expenditure, the more concerning it is for maintaining financial self-sufficiency. Having cash reserves that are between one and two year’s expenditures is considered prudent.

Table 1 shows that for the past five fiscal years the Board's annual expenditures have averaged over \$206,000, and for FY 2013 cash reserves are around \$200,000. Although the Board's cash balances have dropped the last three fiscal years, they still are sufficient to cover nearly a year's worth of expenditures. **Therefore, the level of the Board's EOY balance does not present a major concern at this time.** A contributing factor in the decline of cash balances is an increase of the Board's expenditures for legal fees in 2011 totaling \$12,251 that were not anticipated by the Board. The legal fees are largely attributed to a civil action brought against the Board in 2010. Three petitioners in a civil action, all professional surveyors, contested Letters of Warning sent by the Board. One petitioner argued successfully to be reimbursed for attorney fees, travel and other expenses incurred in litigating the action.

Although the Board's cash balances are at a satisfactory level, it has experienced a relatively large and steady drop in cash balances over the past three years.

Another contributor to the rise in the Board's expenditures was an increase in staff salaries from \$80,108 in 2010 to \$97,422 in 2013. The Board has two full-time employees, the Board Administrator and an Administrative Assistant. Each employee received salary increases in both 2011 and 2012; with the Board Administrator receiving nearly a 25% increase (\$9,400) in 2011.

Table 1			
Actual Revenues and Expenditures			
FY 2009 Through 2013			
Fiscal Year	Revenues	Expenditures	End-of-Year Cash Balances
2009	\$255,018	\$190,967	\$200,372
2010	\$225,183	\$177,421	\$247,433
2011	\$214,791	\$219,948	\$240,746
2012	\$204,045	\$231,398	\$213,393
2013	\$199,509	\$211,899	\$200,903

Source: West Virginia State Auditor's Office.

Although the Board's cash balances are at a satisfactory level, it has experienced a relatively large and steady drop in cash balances over the past three years. While some of the decline is explained by extenuating and unexpected circumstances, if this decline continues the Board will be in a more precarious financial condition. **Therefore, the Legislative Auditor recommends that the Board monitor this situation and take appropriate measures to avoid any further weakening of its financial condition.** The Legislative Auditor also has a concern with the relatively significant drop in revenue since 2009, which is not explained by a decline in the number of licensees. PERD discusses this occurrence in the following subsection as part of its assessment of the risk of fraud.

Although the Board's Internal Controls Are Lacking There Is No Evidence of Inappropriate Use of Resources.

Many regulatory boards are relatively small, with a limited number of staff. Consequently, internal control will invariably be deficient, particularly in the area of segregation of control duties. The Board has two full-time employees, an administrator and an administrative assistant. Therefore, certain control activities governing purchasing and handling revenue will be performed by the same employee. For example, the Board's current procedure for cash handling includes stamping checks as "For Deposit Only" immediately upon receipt and logging into the Board's Itemized Record of Collections spreadsheet. The checks are stored in a combination safe and are deposited within 24 hours or the next business day. When payment is made in U.S. currency, a pre-numbered cash receipt is issued and both employees are made aware of the cash payment. Both of the Board's full-time employees are authorized to receive revenue submitted by licensees of the Board. Recording of cash is typically completed by the administrative assistant. Depositing and reconciliation of revenue are typically performed by the administrator. According to the Board, this is not always possible due to a recent extended employee absence. It can be concluded that at times one employee performs two or more of the cash handling duties, which is not the ideal internal control.

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The Board's purchasing procedure involves annually naming the board administrator as the Agency Procurement Designee. This gives the board administrator the agency purchasing authority and the responsibility to attend any purchasing training. Purchases and services are paid for with the Board's state purchasing card. All purchases are reconciled in the monthly purchasing card report and approved by the Board at the next scheduled board meeting. Any purchases requiring verbal or written bids are approved by the Board prior to purchase.

Segregation of duties is an important internal control that guards against inappropriate or fraudulent use of the Board's resources. Given the staffing limitations of most regulatory boards, which create inadequate internal control, the Legislative Auditor routinely assesses a board's risk of fraud. This assessment is done in the areas of procurement and in handling of revenue. The assessment of fraud risk on the revenue side consists of determining if actual license renewal revenue equals or exceeds expected renewal revenue, and determining how much of a board's revenue is received electronically. If a relatively high percentage of revenue is received electronically and actual revenue is not below expected revenue, this would suggest a low risk of revenue being lost through fraudulent activity.

With respect to actual and expected revenues, PERD finds that for the past five fiscal years actual revenues exceeded expected revenues

each year except in FY 2013 (see Table 2). The amount of the discrepancy is \$1,588, which is relatively small. The discrepancy can be explained by some licensees not renewing their licenses or late renewals. The discrepancy is small enough at this time to not be a concern.

Table 2
Actual and Expected License Renewal Revenues

Year	Number of Professional Surveyor* (\$100)	Minimal Expected License Renewal Revenue	Actual License Renewal Revenue	Difference in Expected vs. Actual Revenue
2009	1095	\$109,500	\$128,424	\$18,924
2010	1098	\$109,800	\$121,420	\$11,620
2011	1081	\$108,100	\$119,295	\$11,195
2012	1076	\$107,600	\$110,040	\$2,440
2013	1073	\$107,300	\$105,712	-\$1,588

Sources: Board recorded data from its annual reports, and State Auditor's Office.
*Includes 'Inactive' Licensee Status.

It should also be noted that the positive difference between expected and actual license renewal revenue has fallen each year. The Board indicates that:

The positive revenue difference from the projected revenue can be mostly attributed to license and COA late fees, which both accrue at \$20 per month. There have also been some instances when a licensee does not renew their professional surveying license (Delinquent Status) until the end of the 36-month period for revenue gain of \$1,120 per delinquent renewal. Delinquent licenses has dropped from 72 (2009) to 48 (2013). . . It would appear, that both professional surveyor licenses and COA's are being renewed in a more timely manner. This can be attributed to the on-line renewal option which is now available for both surveyors and businesses. [sic]

The Board had a significant drop in revenue since 2009 that is not explained by a decline in the number of licensees. The Board provided detailed information indicating some outliers in its revenue sources.

The Board had a significant drop in revenue since FY 2009 that is not explained by a decline in the number of licensees. The Board provided detailed information indicating some outliers in its revenue sources. For example, in FY 2009 the Board collected \$21,726 in administrative and investigative fees compared to \$431 in FY 2013. Examples of administrative fees include charges for returned checks, archival research, license verifications from other boards, copies, document requests and fees associated with complaint hearings. Additionally, the Board collected \$30,930 in application and exam fees in FY 2009 compared to \$23,375 in FY 2013. This accounts for \$28,850 of the difference between FY 2009 and FY 2013.

In regard to the difference in license renewal fees and late fees, the Board's explanation of more timely payment by licensees could account for much of the difference. Board-provided information indicates a reduction in delinquent licensees from 72 in FY 2009 to 48 in FY 2013. A licensee is considered delinquent immediately upon failure to renew by the due date of June 30th of a given year. Late fees are calculated as 20 percent of the renewal fee for each month or fraction of the month that the licensee is delinquent. These fees accrue for a period of three years at which time the license is designated as expired. Therefore, a delinquent licensee may pay fees of just over \$100 when the late fee is prorated to a high of \$1,120. The Board expects final revenues for FY 2014 to be \$220,053.

The greater the percentage of revenue received electronically, the lower the risk of fraud. In FY 2013 the Board received 45% of its revenue electronically.

The Board allows renewals of licenses and certificate of authorizations (COA) to be paid electronically. Electronic payments for continuing education courses provided by the Board are also available. The greater the percentage of revenue received electronically, the lower the risk of fraud. Table 3 shows that in FY 2013 the Board received 45% of its revenue electronically. This amount could be higher if the Board continued the use of the State Treasurer's Lock-Box system. The Board began to decrease its use of the lockbox system in 2010. According to the Board, the reasons for closing its lockbox account were renewal forms were not being received in a timely manner, difficulties determining late fees, and the rising costs of the perforated tear-off coupons. Also, correspondence other than renewal fees was being mailed to the lockbox. **Overall, the Legislative Auditor determines that the risk of fraud having occurred in the receipt of revenue is low.**

According to the Board, the reasons for closing its lockbox account were renewal forms were not being received in a timely manner, difficulties determining late fees, and the rising costs of the perforated tear-off coupons.

Table 3
Percentage of Payment Methods Received By the Board

Fiscal Year	Electronic	Lockbox	Physical Deposits
2009	12%	29%	59%
2010	15%	31%	54%
2011	32%	19%	49%
2012	46%	3%	51%
2013	45%	N/A*	55%

Source: PERD calculations of West Virginia State Auditor's data.

*By 2013 the Board no longer utilized the State Treasurer's Lockbox Program.

The Legislative Auditor also assesses the risk of fraud in a board's purchasing process. The assessment includes determining a board's required and essential expenditures as a percentage of total expenditures. Several categories of required expenditures are considered to be low-risk for fraud. Some of these expenditures include salaries and benefits, increment pay, payroll taxes, rent (office building), utilities, and insurance. If such expenditures are at least 90 percent of total expenditures, then the risk of fraud is considered relatively low. If the percentage of low-risk

expenditures is significantly below 90 percent, then the risk of fraud is considered relatively high.

Table 4 shows that the percentage of low-risk expenditures to total expenditures has varied over the last few years, with the percentage being as low as 73 percent in FY 2011. The Board’s low-risk expenditures did not equal 90 percent in any fiscal year from 2010 to 2013. On average, the Board’s high-risk expenditures were 23 percent of total expenditures over the last four years, which is relatively high and a concern. When high-risk expenditures significantly exceed the 10 percent threshold, PERD performs a detailed examination of the high-risk expense categories that comprise most of a board’s high-risk expenditures. Some high-risk expense categories include travel, office expenses, overtime, hospitality, cellular charges, contractual expenses, and purchases of computers.

Most of the Board’s high-risk expenses were for travel and contractual services. The Board’s contracted services are largely attributed to the Complaint Review Committee, and for presenters and materials for the continue education course administered by the Board.

Table 4 Percentage of Low-Risk Expenditures			
Fiscal Year	Low Risk Expenditures	Total Expenditures	Percentage of Total Expenditures in Low Risk Category
2010	\$138,387	\$177,421	78%
2011	\$161,226	\$219,948	73%
2012	\$176,060	\$231,398	76%
2013	\$169,626	\$211,899	80%

Source: PERD calculations of WV State Auditor data for the Board’s annual expenditures.

Most of the Board’s high-risk expenses were for travel and contractual services. The Board’s contracted services are largely attributed to the Complaint Review Committee, and for presenters and materials for the continue education course administered by the Board. The Board pays members of the Complaint Review Committee to investigate complaints for the Board. These expenditures are justified. Although the travel costs do not exhibit fraudulent behavior, travel accounted for an average of 10 percent of the Board’s expenditures from FY 2010 through FY 2013. Given the Board’s current financial situation; this is a category in which the Board should consider reducing costs. **PERD’s review of the major high-risk expenditure categories suggests that the risk of fraud occurring in the Board’s procurement process is relatively low.**

Although the travel costs do not exhibit fraudulent behavior, travel accounted for an average of 10 percent of the Board’s expenditures from FY 2010 through FY 2013.

Board’s Fees Are Higher Than Most Neighboring States.

Table 5 lists fee amounts charged for professional surveyor licensure by West Virginia and its surrounding states. West Virginia’s application fees are higher than the surrounding states. West Virginia and Kentucky’s renewal fees are significantly higher than surrounding states given that all other surrounding states require a biennial renewal.

Table 5
Professional Surveyor License Fees in Surrounding States

State	Application	Exam	Renewal Fee	Renewal Period	Certificate of Authorization
Kentucky	N/A	\$265	\$150	Annual	\$100
Maryland	\$35	\$165	\$68	Biennial	\$135
Ohio	\$75	N/A	\$40	Biennial	\$50
Pennsylvania	\$50	\$260	\$50	Biennial	\$25
Virginia	\$90	\$255	\$90	Biennial	\$100
West Virginia	\$200	\$165	\$100	Annual	\$100

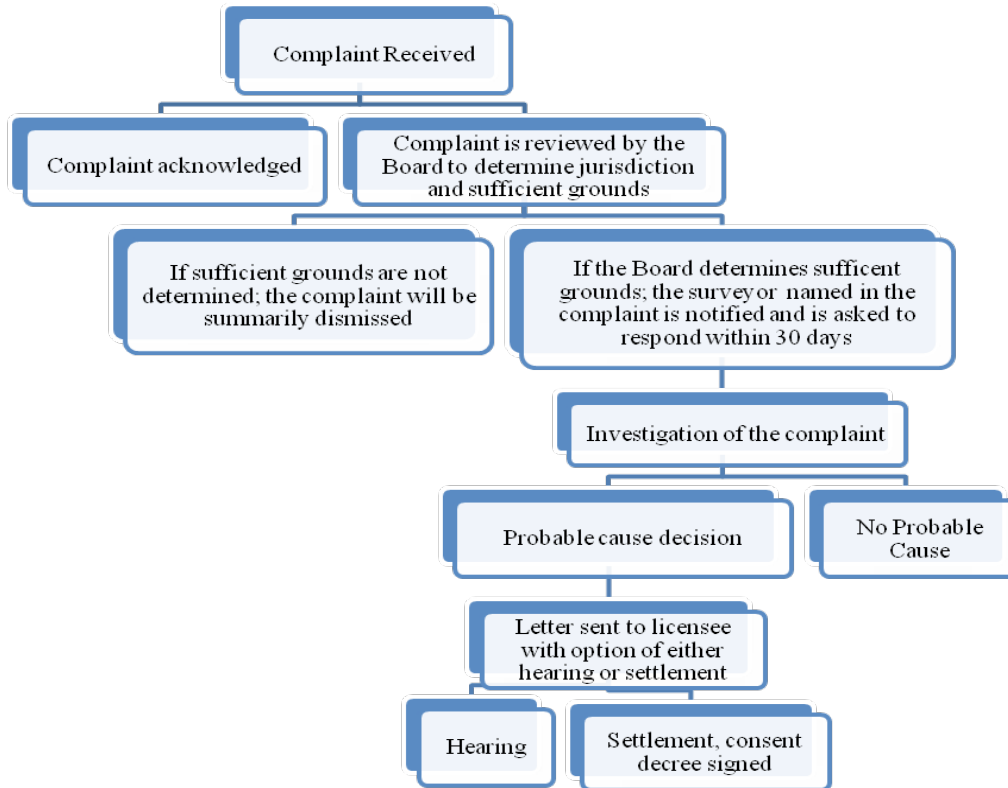
Sources: National Council of Examiners for Engineering and Surveying, and Code Sites of Surrounding States.

The Board Resolves Complaints Timely and With Due Process.

In the 2005 Regulatory Board Review, the Legislative Auditor recommended that *the Board should focus on closing a greater percentage of complaints, while continuing to improve its complaint resolution time.* In recent years the Board has significantly improved both its percentage of complaint closures as well as the resolution time. At the time of the 2005 regulatory board review, the Legislative Auditor found that 52 percent of the complaints received by the Board from calendar year 2003 to 2005 had yet to be resolved. As of September 2013, the Board has closed 95 percent of the complaints it has received from fiscal years 2011 to 2013. The Board should strive to maintain compliance in the area of complaint resolution and maintain its percentage of closed cases when possible. Figure 1 demonstrates the Board's complaint procedure.

In recent years the Board has significantly improved both its percentage of complaint closures as well as the resolution time.

**Figure 1
Complaint Procedure**



The average time of complaint resolution has decreased from 11.5 months in the 2005 report to approximately 4 months or 121 days as seen in Table 6. All cases of Cease and Desist Orders (CDO) from 2011 to 2013 were due to individuals practicing without a license or businesses practicing without a Certificate of Authorization. In some cases surveying work had been performed; while in others it appeared the businesses had intent or were offering to perform survey work in the state. In some cases in which no survey work was performed, the CDO was withdrawn or the complaint dismissed.

The average time of complaint resolution has decreased from 11.5 months in the 2005 report to approximately 4 months or 121 days.

**Table 6
Complaints
FY 2011 Through FY 2013**

FY	Total Number of Complaints	Open	Closed	Dismissed	Cease and Desist	Consent Decree/ Other Action	Avg. Resolution Time	Median Resolution Time
2011	29	0	29	15	9	5	106 Days	41 Days
2012	21	0	21	16	2	3	144 Days	108 Days
2013	14	3	11	9	0	2	*117 Days	70 Days
Total	64	3	61	40	11	10	121 Days	70 Days

Source: West Virginia Board of Professional Surveyors Complaint Ledger.

**Does not include open complaints.*

The reasons for complaints being dismissed are often that there are insufficient grounds or are out of the jurisdiction of the Board, such as a boundary dispute. All fines collected as a result of Consent Decrees have been deposited with the State Treasurer's Office as required by code. Actions other than Consent Decrees include settlement agreements and complaints being closed without prejudice. In one case in 2012, 'Other Action' denotes a permanent injunction against an individual who performed underground survey work in the state without the proper licensing.

All fines collected as a result of Consent Decrees have been deposited with the State Treasurer's Office as required by code.

The Board Has Established Continuing Education Requirements.

The Board's continuing education (CE) requirements are established in its legislative rules. Professional surveyors are required to receive eight hours of CE annually. The requirements include mandatory minimums of courses on technical standards as well as ethics in the profession of surveying every four years. Other eligible forms of CE in the field of surveying include teaching courses, participating in related committees, publishing papers and patenting inventions. The Board audits continuing education annually by selecting not less than five percent of renewal applicants and requesting the licensees provide documentation of all listed credit hours. In 2013, 43 licensees were randomly selected to have their CE audited to ensure their reported CE hours were documented and appropriate. The audit resulted in no findings and all licensees were issued their active Professional Surveyor licenses.

Professional surveyors are required to receive eight hours of CE annually.

Table 7 compares the Board's CE requirements with those of surveyor licensing boards in the surrounding states. The number of annual CE hours in WV and neighboring states ranges from 8 to 15. The Board's requirement of eight hours of CE annually is lower than three of West Virginia's surrounding states.

Table 7 Continuing Education Requirements for Professional Surveyors in Surrounding States		
State	CE Hours	Renewal Period
Kentucky	8	Annual
Maryland	24	Biennial
Ohio	30	Biennial
Pennsylvania	24	Biennial
Virginia	16	Biennial
West Virginia	8	Annual

Source: Websites and regulations of the respective states' Surveyor Licensing Boards.

The Board Maintains a Roster of All Licensees and a Register of All Applicants.

The Board maintains a roster of licensees across several categories including Active, Inactive, Delinquent, Revoked, Intern, Expired, Deceased and Retired. A register of all applicants is maintained as well.

In the 2005 report there was an issue pertaining to the Retired status license. Licensure under the Retired status is meant to be an honorary title to acknowledge a surveyor's contributions to the profession. Retired licensees were not permitted to practice in the state and were not required to pay annual license fees. At the time there was no age restriction on those who could apply for Retired status and the Board was concerned that this status could be abused.

The Legislative Auditor recommended that the Legislature consider adding an age requirement to the Retired status in the 2005 report. Prior to that recommendation, during the 2005 legislative session, the Board proposed a modification to its legislative rules that would set that requirement at age 62. The legislation passed further defining the Retired licensee status but with no minimum age requirement. However, the rule has since been modified and an age requirement of 65 or older for retired licensure status is found in the Board's Legislative Rules. The Board currently has 214 licensees with Retired status.

The legislation passed further defining the Retired licensee status but with no minimum age requirement. However, the rule has since been modified and an age requirement of 65 or older for retired licensure status is found in the Board's Legislative Rules.

Conclusion

The Board is in compliance with most of the general provisions required by chapter 30 of the state code. The Board is financially self-sufficient and its cash reserves are at a prudent level. However, the Board's cash balance has declined the last three years and it is at a point where any further decline will be cause for concern. Therefore, the Board should monitor its end-of-year cash balance to prevent any further decline. Most

small regulatory boards will have deficiencies in their internal control, which heightens the risk of fraud. Although the Board has a relatively high percentage of expenditures in high-risk categories, PERD's review revealed no evidence of fraudulent activity. In addition, the Board has made marked improvement in its percentage of closed complaint cases as well as complaint resolution times since the Legislative Auditor's last review in 2005.

Recommendations

1. *The Legislative Auditor recommends that the Board of Professional Surveyors should be continued.*
2. *The Legislative Auditor recommends that the Board of Professional Surveyors monitor its end-of-year cash balance to prevent further declines.*

Issue 2

The Board’s Website Scores Low On Transparency But Needs Only Modest Improvement to Enhance User-Friendliness.

Issue Summary

The Legislative Auditor’s Office conducted a literature review on assessments of governmental websites and developed an assessment tool to evaluate West Virginia’s state agency websites (see Appendix C). The Legislative Auditor performed the assessment of the Board’s website on December 17, 2013. The assessment tool lists several website elements. Some elements should be included in every website, while other elements such as social media links, graphics and audio/video features may not be necessary or practical for state agencies. Table 8 indicates that the Board integrates 40 percent of the checklist items in its website. This measure shows that the Board website can benefit from improvements in both user-friendliness and transparency.

Table 8 Board of Professional Surveyors Website Evaluation			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little or No Improvement Needed
0-25%	26-50%	51-75%	76-100%
	BPS 40%		

Source: The Legislative Auditor’s review of the Board of Professional Surveyor’s website. As of December 17, 2013.

The Board’s Website Scored Relatively High in User-Friendliness

The Board’s scores in each category of the website evaluation is shown in Table 9. The Board scores considerably higher in user-friendly features than transparency features. The Board’s website scored 10 out of 18 points, or 56 percent, in user-friendliness on the Legislative Auditor’s assessment. This indicates only modest improvement is needed in the area of user-friendliness. The Board’s website is easy to navigate. Every page is linked to the homepage and there is a site specific search tool on each page. According to the Flesch-Kincaid Readability Test, the site’s text is written at a seventh grade level, which is close to the advisable reading level. Therefore, it should be easily understood by most visitors to the site.

The Board’s website scored 10 out of 18 points, or 56 percent, in user-friendliness on the Legislative Auditor’s assessment.

Table 9
Board of Professional Surveyors
Website Evaluation Scores

Category	Possible Points	Agency Points	Percentage
User-friendly	18	10	56%
Transparency	32	10	31%
Total	50	20	40%

Source: The Legislative Auditor's calculations based on a criteria checklist of common website features.

Some notable components that can be added to the site to improve user-friendliness are as follows:

- **A Help Page-** There should be a link that allows users to access a FAQ section and agency contact information on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link.
- **Foreign Language Accessibility-** A link to translate all web pages into languages other than English.
- **RSS Feed-** RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.
- **Online Survey/Poll-** A short survey that pops up and requests users to evaluate the website.

Changes to the Board's Website Are Needed to Improve Transparency.

The Board's website scored 10 out of 32 points, or 31 percent, in transparency on the assessment. Important transparency components that are found on the website include an online complaint form, general contact information and links to statutes and rules. The following are important components to transparency that the Board should consider adding to its website:

- **Board Budget-** A link to the annual budget.
- **Public Records** – Applicable records such as meeting minutes and annual reports.
- **Organizational Chart.** A narrative describing the agency organization, preferably in pictorial representation such as a hierarchy/organizational chart.
- **Calendar of Events-** Provides the public and licensees with pertinent information about when and where Board events are taking place.
- **FOIA Information** – Information on how to submit a FOIA request, ideally with an online submission form.

The Board's website scored 10 out of 32 points, or 31 percent, in transparency on the assessment.

- **Administrative Contact Information-** While a list of administrators is found on the website, contact information is not listed.

Conclusion

The Board's website's functionality could be improved by implementing more transparency and user-friendly components mentioned in the report. The Board needs modest improvement in the area of user-friendliness. However, its score was low in the area of transparency on the Legislative Auditor's website analysis.

Recommendation

3. *The Legislative Auditor recommends that the Board of Professional Surveyors make improvements to its website to increase user-friendliness and transparency.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

May 23, 2014

Dennis Jarrell, Board Administrator
West Virginia Board of Professional Surveyors
783 Airport Road
Sutton, WV 26601

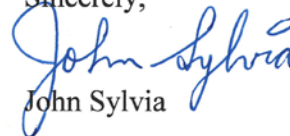
Dear Mr. Jarrell:

This is to transmit a draft copy of the Performance Review of the West Virginia Board of Professional Surveyors. This report is scheduled to be presented during the June 16-18, 2014 interim meeting of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committees may have.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us between Wednesday, May 28 and Friday, May 30, 2014. We need your written response by noon on Thursday, June 5, 2014 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, June 12, 2014 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,


John Sylvia

Joint Committee on Government and Finance

Appendix B

Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this Regulatory Board Review of the West Virginia Board of Professional Surveyors as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code*, as amended. The purpose of the Board of Professional Surveyors, as established in *West Virginia Code* §30-13A, is to protect the public interest and provide for the regulation of land surveying in West Virginia.

Objectives

The objectives of this review is to assess the Board's compliance with the general provisions of Chapter 30, Article 1, of the *West Virginia Code*, the Board's enabling statute (WVC §30-13A), and other applicable rules and laws such as the Open Governmental Proceedings (WVC §6-9A) and purchasing requirements. Finally, it is also the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The evaluation included a review of the Board's internal controls, policies and procedures, complaint files for fiscal years 2011-2013, complaint resolution process, disciplinary procedures and actions, meeting minutes for fiscal years 2011-2013, continuing education requirements, the Board's compliance with the general statutory provisions for regulatory boards and other applicable laws, and a review of the Board's website as of December 17, 2013. In order to analyze the trend of the Board's revenue and cash balances, revenues and expenditures were reviewed from FY 2009 to FY 2013.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence gathered for this review through interviews or discussions with the Board's staff was confirmed by written statements. PERD collected and analyzed the Board's meeting minutes, complaint data, budgetary information, annual reports, procedures for investigating and resolving complaints, continuing education, procedures for collecting revenue and disbursing expenditures. Information was gathered from Ohio, Virginia, Pennsylvania, Kentucky, and Maryland's surveying regulatory boards regarding their continuing education requirements and license fee structures.

The Legislative Auditor also tested the Board's expenditures for fiscal years 2009-2013 to assess risks of fraud on the expending side. The test involved determining if low-risk expenditures were at least 90 percent of total expenditures. Some low-risk expenditures include salaries, board-member compensation, insurance, office rent and utilities, printing and binding costs, rental fees, and telecommunication costs. The Legislative Auditor determined that during the scope of the review, low-risk expenses were significantly below 90 percent

of total expenditures. The Legislative Auditor then further analyzed the most significant high-risk expense categories of travel reimbursement and contractual services. These expenses were found to be appropriate and the risks of fraud on the expenditure side would not be significant enough to affect the audit findings or conclusions.

The Legislative Auditor compared the Board's actual revenues to expected revenues in order to assess the risks of fraud, and to obtain reasonable assurance that revenue figures were sufficient and appropriate. Expected revenues were approximated by applying license fees to the number of licensees for the period of fiscal years 2009-2013. The Legislative Auditor found that the expected revenue was lower than the actual revenue for all fiscal years except 2013. However the difference was found to be insignificant. Therefore, our evaluation of expected and actual revenues allowed us to conclude that the risks of fraud on the revenue side were at a reasonable level and would not affect the findings or conclusions of the audit, and actual revenues were sufficient and appropriate.

In order to evaluate state agency websites, the Legislative Auditor conducted a literature review of government website, reviewed top-ranked government websites, and reviewed the work of groups that rate government websites in order to establish a master list of essential website elements. The Brookings Institute's "2008 State and Federal E-Government in the United States" and the Rutgers University's 2008 "U.S. States E-Governance Survey (2008): An Assessment of State Websites" helped identify the top ranked states in regards to e-government. The Legislative Auditor identified three states (Indiana, Maine and Massachusetts) that were ranked in the top 10 in both studies and reviewed all 3 states' main portals for trends and common elements in transparency and open government. The Legislative Auditor also reviewed a 2010 report from the West Virginia Center on Budget and Policy that was useful in identifying a group of core elements from the master list that should be considered for state websites to increase their transparency and e-governance. It is understood that not every item listed in the master list is to be found in a department or agency website because of some of the technology may not be practical or useful for some state agencies. Therefore, the Legislative Auditor compared the Board's website to the established guidelines for user-friendliness and transparency so that the Board can determine if it is progressing in step with the e-government movement and if improvements to its website should be made.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C

Website Criteria Checklist and Points System

Board of Professional Surveyors			
User-Friendly	Description	Total Points Possible	Total Agency Points
Criteria	The ease of navigation from page to page along with the usefulness of the website.	18	10
		Individual Points Possible	Individual Agency Points
Search Tool	The website should contain a search box (1), preferably on every page (1).	2 points	2 points
Help Link	There should be a link that allows users to access a FAQ section (1) and agency contact information (1) on a single page. The link's text does not have to contain the word help, but it should contain language that clearly indicates that the user can find assistance by clicking the link (i.e. "How do I...", "Questions?" or "Need assistance?")	2 points	0 points
Foreign language accessibility	A link to translate all webpages into languages other than English.	1 point	0 points
Content Readability	The website should be written on a 6 th -7 th grade reading level. The Flesch-Kincaid Test is widely used by Federal and State agencies to measure readability.	No points, see narrative	
Site Functionality	The website should use sans serif fonts (1), the website should include buttons to adjust the font size (1), and resizing of text should not distort site graphics or text (1).	3 points	3 points
Site Map	A list of pages contained in a website that can be accessed by web crawlers and users. The Site Map acts as an index of the entire website and a link to the department's entire site should be located on the bottom of every page.	1 point	1 point
Mobile Functionality	The agency's website is available in a mobile version (1) and/or the agency has created mobile applications (apps) (1).	2 points	1 point
Navigation	Every page should be linked to the agency's homepage (1) and should have a navigation bar at the top of every page (1).	2 points	2 points

Board of Professional Surveyors			
FAQ Section	A page that lists the agency's most frequent asked questions and responses.	1 point	0 points
Feedback Options	A page where users can voluntarily submit feedback about the website or particular section of the website.	1 point	1 point
Online survey/poll	A short survey that pops up and requests users to evaluate the website.	1 point	0 points
Social Media Links	The website should contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.	1 point	0 points
RSS Feeds	RSS stands for "Really Simple Syndication" and allows subscribers to receive regularly updated work (i.e. blog posts, news stories, audio/video, etc.) in a standardized format.	1 point	0 points
Transparency	Description	Total Points Possible	Total Agency Points
Criteria	A website which promotes accountability and provides information for citizens about what the agency is doing. It encourages public participation while also utilizing tools and methods to collaborate across all levels of government.	32	10
		Individual Points Possible	Individual Agency Points
Email	General website contact.	1 point	1 point
Physical Address	General address of stage agency.	1 point	1 point
Phone Number	Correct phone number of state agency.	1 point	1 point
Location of Agency Headquarters	The agency's contact page should include an embedded map that shows the agency's location.	1 point	0 points
Administrative officials	Names (1) and contact information (1) of administrative officials.	2 points	1 point
Administrator(s) biography	A biography explaining the administrator(s) professional qualifications and experience.	1 point	0 points
Privacy policy	A clear explanation of the agency/state's online privacy policy.	1 point	1 point

Board of Professional Surveyors			
Public Records	<p>The website should contain all applicable public records relating to the agency's function. If the website contains more than one of the following criteria the agency will receive two points:</p> <ul style="list-style-type: none"> • Statutes • Rules and/or regulations • Contracts • Permits/licenses • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	2 points
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1 point
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	0 points
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	0 points
Agency Organizational Chart	A narrative describing the agency organization (1), preferably in a pictorial representation such as a hierarchy/organizational chart (1).	2 points	0 points
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	0 points
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 points
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	1 point	0 points

Board of Professional Surveyors			
Agency history	The agency's website should include a page explaining how the agency was created, what it has done, and how, if applicable, has its mission changed over time.	1 point	0 points
Website updates	The website should have a website update status on screen (1) and ideally for every page (1).	2 points	0 points
Job Postings/links to Personnel Division website	The agency should have a section on homepage for open job postings (1) and a link to the application page Personnel Division (1).	2 points	0 points

Appendix D Agency Response

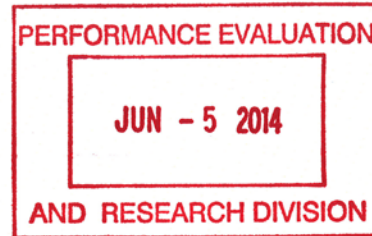
CHAIRMAN	SECRETARY
Roy E. Shrewsbury, II	Nelson B. Douglass
Mark H. Hornish	Anthony J. Sparacino, Jr. R. Michael Shepp



STATE OF WEST VIRGINIA
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June 4, 2014

Mr. John Sylvia, Director
 Performance Evaluation and Research Division
 West Virginia Legislature
 Building 1, W-314
 1900 Kanawha Boulevard, East
 Charleston, WV 25305



Dear Mr. Sylvia:

This letter comes to you on behalf of the West Virginia Board of Professional Surveyors in response to the Regulatory Board Evaluation of our agency received on May 29, 2014. In this letter, we will often refer to ourselves as “the Board.”

We would like to thank Mr. Michael Midkiff and Mr. Derek Thomas for their time, professionalism and diligence in conducting the performance evaluation of our Board. The Board views this evaluation as an opportunity to improve our operations to better serve the Citizens of West Virginia and the surveying community.

After reviewing this Board’s evaluation by the Legislative Performance Evaluation and Research Division (PERD), we offer the following responses with respect to each of the outlined findings and recommendations.

Issue 1: The Board of Professional Surveyors Complies With Most of the General Provisions of Chapter 30 of the West Virginia Code. However, the Board Needs to Monitor Its End-of-Year Cash Balance to Prevent Further Declines.

The Board Should Be Continued.

The Board concurs that regulation of the surveying profession is necessary to protect the health, safety, and welfare of the Citizens of West Virginia from unlicensed, dishonest, or incompetent surveying.

Board of Professional Surveyors
Performance Evaluation**The Board Has Complied With Most of the General Provisions of Chapter 30.**

The Board concurs and appreciates the review by your Division to ensure Chapter 30 Code compliance. However, the Board's annual report does contain an itemized statement of its receipts and disbursements. The most recent annual report (2013) provides an itemized listing by category for the previous two years. The Board will assess what measures are necessary to show a more detailed itemized listing of receipts and disbursements on future Annual Reports.

The Board Is Financially Self-Sufficient But It Needs to Prevent Further Declines in Its End-of-Year Cash Balance.

The Board concurs and appreciates the thorough review by your Division to ensure our Board is financially self-sufficient. The Board has reviewed the end-of-year balance decline over the past three years, and has taken steps to reduce spending from \$231,000 in 2012 to \$205,000 in 2014. While legal fees are unpredictable and merit raises were justified based upon advanced level of responsibility and performance, the Board projects an end-of-year balance for 2014 of \$215,000 (above the 2012 end-of-year balance). The Board will continue to closely monitor its end-of-year cash balance and evaluate areas where expenditures can be further reduced.

Although the Board's Internal Controls Are Lacking There Is No Evidence of Inappropriate Use of Resources.

The Board concurs that only having one or two employees is not the ideal situation for activities involving cash handling and purchasing. While electronic payment of license renewal fees is preferred, there will always be a need for some cash payments. As an additional internal control, the Board is provided detailed receipts, disbursement, and purchasing reports that are reviewed and approved at each Board meeting. The Board agrees that the overall risk in the receipt of revenue and procurement process is low.

Board's Fees Are Higher Than Most Neighboring States.

The Board notes that fees are contained in *W.Va. Code R. §23-4*, Legislative Rule effective May 1, 2008.

The Board Resolves Complaints Timely and With Due Process.

The Board concurs and remains ever cognizant of the importance of efficiently processing complaints to resolution in order to best protect the health, safety and welfare of the public. The Board has worked diligently to advance the complaint process during the past three years. The decrease in the amount of time it takes to resolve complaints is due in large part to the commitment and work ethic of the Board Administrator. The Board will continue to strive to maintain compliance in the area of complaint resolution.

The Board Has Established Continuing Education Requirements.

The Board concurs and appreciates the thorough review by your Division of our continuing education requirements. The Board has a successful continuing education process and there have been very few reporting errors by professional surveyors in complying with the continuing education requirements. The required annual random audit has been streamlined to allow professional surveyors to scan and email their supporting documentation to the Board office. This allows faster review for compliance notification and results in cost savings.

Board of Professional Surveyors
Performance Evaluation

The Board Maintains a Roster of All Licensees and a Register of All Applicants.

The Board concurs and continues to maintain licensee and application information on an internal database developed many years ago. The Board is currently entertaining the possibility of obtaining an updated licensure software program that would allow for a completely automated database system.

Issue 2: The Board's Website Scores Low On Transparency But Needs Only Modest Improvement to Enhance User-Friendliness.

The Board's Website Scored Relatively High in User-friendliness.

The Board concurs and appreciates the evaluation of the Board's website (www.wvbps.wv.gov) using the Website Criteria Checklist and Points System assessment of governmental websites. The Board's website was designed to be user-friendly and incorporates the most frequently requested information by both the public and licensees. The availability to download forms and search for professional surveyors and surveying business has significantly reduced Board mailing costs.

Changes to the Board's Website Are Needed to Improve Transparency.

The Board concurs that the website could contain additional information to improve transparency. The Board agrees to review the inclusion of additional content to the website to include budget, annual reports, meeting minutes, and FOIA information. It is anticipated that in obtaining a new licensure software program (*stated above*), that the Board's website will be completely revamped and greatly increase both user-friendliness and transparency.

CONCLUSION

Thank you for the opportunity to provide this response to the Performance Evaluation of this agency. While the end-of-year budget balance was recognized by the Board to have declined, the Board has taken immediate steps to monitor expenditures which could affect the end-of-year balance. We appreciate the PERD's acknowledgement that there is no evidence of inappropriate use of resources and that the risk of fraud in receipt of revenue and procurement process is low, given our current staff levels. The West Virginia Board of Professional Surveyors will continue to strive for excellence and provide the best service possible to the citizens of the State of West Virginia and the surveying community.

The Board looks forward to the opportunity to meet with the Joint Committee on Government Operations and the Joint Committee on Government Organization to answer any questions that members may have following your presentation of the Performance Evaluation Report.

Respectfully Submitted,



Roy E. Shrewsbury, II
Board Chairman



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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