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REGULATORY BOARD REVIEW REAL ESTATE APPRAISER LICENSING AND CERTIFICATION BOARD

AUDIT OVERVIEW

The West Virginia Real Estate Appraiser Licensing and Certification Board Complies With Most of the General Requirements of Chapter 30; However, the Complaint Process Has Areas of Concern

The Real Estate Appraiser Licensing and Certification Board Website Is User-Friendly and Transparent With Only Modest Improvements Needed



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Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Ashley Summitt, began employment as the Governor's Deputy Chief Counsel. Most of the actions discussed and work performed in this report occurred prior to this date. Therefore, the Performance Evaluation and Research Division does not believe there are any threats to independence with regard to this report.

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted a Regulatory Board Review of the Real Estate Appraiser Licensing and Certification Board (Board) pursuant to West Virginia Code §4-10-10(b)(9). Objectives of this audit were to assess the Board's compliance with provisions of Chapter 30 and other applicable laws, and evaluate the Board's website for user-friendliness and transparency. The issues of this report are highlighted below.

Frequently Used Acronyms in this Report:

PERD – Performance Evaluation and Research Division

AMC – Appraisal Management Company

Report Highlights:

Issue 1: The West Virginia Real Estate Appraiser Licensing and Certification Board Complies With Most of the General Requirements of Chapter 30; However, the Complaint Process Has Areas of Concern.

- The Board has complied with Chapter 30 requirements by being financially self-sufficient, meeting at least once annually, establishing continuing education requirements, and is accessible to the public.
- The Board does not have adequate separation of purchasing duties despite having a sufficient number of employees.
- The Board exceeds its statutory authority by having non-board members participate on its complaint committee.
- The Board violates W.Va. Code §30-38-6(g) by hiring licensees.
- The Board has not notified licensees of complaints in a timely manner or sent complainants status updates when complaint resolutions extend beyond six months as required by W. Va. Code §30-1-5(c).
- The Board has insufficient documentation of how it calculated fines and complaint administrative costs.
- The Board did not remit complaint fines to the State Treasurer's Office for deposit in the general revenue fund as required by W. Va. Code §30-1-10(a).

Issue 2: The Real Estate Appraiser Licensing and Certification Board Website Is User-Friendly and Transparent With Only Modest Improvements Needed.

- The Board's website scores high on user-friendliness but the Board could consider adding such features as mobile functionality and social media links.
- The Board's website has more than half of the core elements that are necessary for a general understanding of the Board's mission and performance, but the Board could improve transparency by adding FOIA information, budget data, and performance measures and outcomes.

PERD's Response to the Agencies' Written Response

The Office of the Legislative Auditor's Performance Evaluation and Research Division received the Board's response to the draft copy of the regulatory board review on August 8, 2017. The Board's response can be found in Appendix D. The Board's response to recommendations one and two by stating it notes the recommendation to improve. The Board states it will consider recommendations 3, 4, 7 and 11 at its September 2017 board meeting. The Board indicates in its response to recommendations to five and six that it had deposited fines collected into the State Treasury. While this is true, the fines were deposited into the Board's fund and transferred into the state general revenue fund as a result of this regulatory board review. In response to recommendation eight, the Board indicates it adopted new purchase card policies and procedures. The Board response to recommendations nine and ten was to state that at the most recent State Auditor training those required to be present were in attendance. As is indicated in the report this is accurate; however, during part of the time reviewed, the Board was not in compliance.

Recommendations

1. *The Board should send six-month status updates to complainants whose complaints take longer than six months to resolve as required by W.Va. §30-1-5(c).*
2. *The Legislative Auditor recommends the Board inform licensees that a complaint has been received against them in accordance with Code of State Rules §190-4-5.3 and promptly report the Board's decision on complaints.*
3. *The Legislative Auditor recommends the Board strike Code of State Rules §190-4-4 which provides for the use of non-Board members to review complaints.*
4. *The Board should review and investigate complaints without the use of non-Board members on its complaint committee.*
5. *The Legislative Auditor recommends the Board document how it calculates complaint administrative fees and fines.*
6. *The Board should remit all fines collected to the State Treasurer's Office for deposit in the state general revenue fund as required by W.Va. Code §30-1-10(a).*
7. *The Legislative Auditor recommends that the Board conduct a review of its financial situation and take necessary steps toward ensuring that the Board remains financially self-sufficient.*
8. *The Legislative Auditor recommends the Board reduce the amount of board purchase cards and ensure it has controls in place that prevent one staff person from performing two or more control activities associated with purchasing.*

9. *The chairperson or executive director should attend the State Auditor Orientation Session annually as required by W. Va. Code §30-1-2a(c)(2).*
10. *Every board member should attend at least one State Auditor orientation session during each term in office as required by W. Va. Code §30-1-2a(c)(3).*
11. *The Legislative Auditor recommends that the Board consider incorporating other features into its website to increase transparency.*

ISSUE 1

The West Virginia Real Estate Appraiser Licensing and Certification Board Complies With Most of the General Requirements of Chapter 30; However, the Complaint Process Has Areas of Concern.

Issue Summary

The Real Estate Appraiser Licensing and Certification Board (Board) complies with most Chapter 30 requirements. It is financially self-sufficient, meets at least once annually, and has established continuing education requirements. The Board has not notified licensees of complaints in a timely manner or sent complainants status updates when complaint resolutions are extended beyond six months. Additionally, as PERD has indicated in a previous review, the Board continues to have insufficient documentation of how it calculates complaint administrative costs and fines. Furthermore, the Board did not remit complaint fines to the State Treasurer's Office for deposit in the general revenue fund.

The Board is in satisfactory compliance with most of the general requirements of Chapter 30 of West Virginia Code.

The Board Has Complied With Most General Requirements of Chapter 30.

The Board is in satisfactory compliance with most of the general requirements of Chapter 30 of West Virginia Code. These provisions are important for the effective operation of regulatory boards. The Board complies with the following provisions:

- adopt an official seal (§30-1-4),
- meet at least once annually (§30-1-5(a)),
- maintain financial self-sufficiency in carrying out its responsibilities (§30-1-6(c)),
- establish continuing education requirements (§30-1-7a),
- promulgate rules specifying the investigation and resolution procedure of all complaints (§30-1-8(k)),
- maintain a register of all applicants (§30-1-12(a)),
- ensure that the address and telephone number are included every year in the state government listings of the Charleston area telephone directory ((§30-1-12(c)), and
- prepare and maintain a roster of all licensees that includes names and office addresses (§30-1-13).

However, the Board is not in compliance with the following provisions:

- chairperson or executive director attend an annual orientation session conducted by the State Auditor (§30-1-2a(c)(2)),
- each board member attends the annual orientation session conducted by the State Auditor during each term of office (§30-1-2a(c)(3)),
- send status reports to complainants for complaints that went beyond six months (§30-1-5(c)), and
- submit an annual report to the Governor and Legislature describing transactions for the preceding two years (§30-1-12(b)).

The Board's chairperson or executive director did not attend the State Auditor annual orientation session 1 of the 5 years that covers the scope of the audit and 8 of 13 board members did not attend the State Auditor annual orientation session during each term of office. Additionally, the Board did not have documentation to demonstrate it provided statutorily-required status updates to complainants in 16 of the 40 complaints that went beyond 6 months. Finally, the Board did not submit annual report to the Legislature in fiscal years 2012, 2014 or 2015.

PERD identified 40 complaints that took longer than 6 months to resolve; 16 of these complaints did not have evidence that the Board sent the initiating party status updates.

The Board Should Tighten Adherence to Complaint Procedures.

The Board received 103 complaints during the 5-year scope of this review. The average time to resolve complaints was eight months. The most frequent complaints alleged errors within the appraisal reports or unprofessional behavior. The Board also received complaints about appraisal report comparables, documentation, failure to disclose information, timeliness, unlicensed practice, violations of Uniform Standards of Professional Appraisal Practice, and value of appraisals. The public and licensees made 53 percent of the complaints and the remaining complaints were made by Appraisal Management Companies (AMC), the Board, review boards, government agencies, banks, and anonymous individuals. The Board dismissed 65 percent of complaints while it issued licensees legal orders in 23 percent of the complaints. The remaining complaints resulted in licenses being revoked, cease and desist letters, and other disciplinary actions.

Table 1 summarizes the complaints received by the Board from FY 2012 through FY 2016. PERD identified 40 complaints that took longer than 6 months to resolve; 16 of these complaints did not have evidence that the Board sent the initiating party status updates. According to W.Va. Code §30-1-5(c), each Chapter 30 regulatory board,

. . . has a duty to investigate and resolve complaints which it receives and shall, within six months of the complaint being filed, send a status report to the party filing the complaint by certified mail with a signed return receipt and within one year of the status report's return receipt date issue a final ruling, unless the party filing the complaint and the board agree in writing to extend the time for the final ruling.

Therefore, the Board should send status updates when complaints are open longer than six months in compliance with W. Va. Code §30-1-5(c).

**Table 1
Timeline of Complaint Resolution
FY 2012 Through FY 2016**

Fiscal Year	Number of Complaints Received*	Number of Complaints Closed Within 18 Months	Number of Complaints Exceeding 6 Months	Average Number of Days to Resolution	Number of Complaints Without Status Updates
2012	26	25	6	198	4
2013	27	26	8	203	6
2014	17	15	11	296	5
2015	15	13	10	262	1
2016	18*	17	5	167	0
Total	103	96	40	225	16

** Five complaints remain open at the time of PERD's analysis. The Board voted to close four of these complaints at its October 2016 meeting.*

Source: PERD analysis of Board complaint records based on the date the Board received the complaint and the date the Board notified the licensee that a complaint had been received.

The Board has procedural rules for investigating and resolving complaints, denying licenses and conducting hearings. These rules are to assure due process rights are provided and public protection is ensured. Regarding the complaint process, the Legislative Auditor has the following concerns:

- Seven (7) Licensees Were Not Told Complaints Were Filed Against Them, and
- In 48 Percent of All Complaints, Licensees Were Not Notified of Complaints For Weeks and Occasionally Months.

In 7 of the 103 complaint files, there was no documentation that the Board informed the licensed real estate appraiser that a complaint was filed against them.

In 7 of the 103 complaint files, there was no documentation that the Board informed the licensed real estate appraisers that a complaint was filed against them. Furthermore, the Board is not notifying licensees of complaints in compliance with its own procedures. The Board's complaint procedure states that **upon the receipt of a complaint**, it is date stamped and **the statutory six-month period begins**. Additionally, the Board's procedural rule §190-4-5.3 states,

Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee for his or her response to the allegations contained in the complaint . . . [emphasis added]

Table 2 summarizes the length of time between the Board's receipt of a complaint and the Board notifying the licensee of the complaint. Of the 49 occasions where the Board did not inform a licensee of a complaint against them for 15 or more days; 26 occasions took for a month or longer. In six of these complaints, the licensee was not notified of the complaint for more than four months.

Table 2
Timeline to Notify Licensee a Complaint Was Received
FY 2012 through FY 2016

Fiscal Year	Number of Complaints Received*	Average Number of Days to Notify Licensee of Complaint	Number of Licensees Not Notified of Complaint For 15 or More Days	Number of Licensees Not Informed of Complaint
2012	26	12	7	1
2013	23	26	12	2
2014	21	42	11	3
2015	15	65	13	1
2016	18	13	6	0
Total/Average	103	31	49	7

** Five complaints remained open at the time of PERD's analysis. The Board voted to close four of these complaints at its October 2016 meeting.*

Source: PERD analysis of Board complaint records based on the date the Board received the complaint and the date the Board notified the licensee that a complaint had been received.

Licensees should always be informed when a complaint has been lodged against them. **Therefore, the Legislative Auditor recommends the Board notify licensees that complaints were filed in compliance with the Board's procedural rule.**

- **On Average, 45 Days Elapsed Before the Board Informed Licensees That It Made a Decision On the Complaints and 8 Complaint Files Did Not Contain Documentation That the Licensees Were Informed the Board Made a Decision.**

The average number of days between the Board voting on the action to take on a complaint and the Board notifying the licensee of the final resolution was 45 days. Of the 103 complaint files examined, 53 files (or 51 percent) contained letters documenting it took 15 days or longer before licensees were notified of the complaints final resolution. The longest the Board took to notify a licensee that a complaint was resolved was 212 days. An additional eight complaint files had no evidence that letters of the final resolution, pre-diversion agreements or consent orders were sent to licensees.¹ The result of the Board not sending letters to licensees is that both parties of complaints are left unaware of board actions for long periods of time. **Therefore, the Legislative Auditor recommends the Board promptly inform licensees of the complaint resolution.**

On Average, 45 Days Elapsed Before the Board Informed Licensees That It Made a Decision On the Complaints and 8 Complaint Files Did Not Contain Documentation That the Licensees Were Informed the Board Made a Decision.

The Board Exceeds Its Statutory Authority By Having Non-Board Members Participate In A Committee That Exercises Sovereign Powers Granted to the Board.

The Board created a complaints committee within its procedural rule. In practice, the committee works as an investigator of complaints and prepares reports to present to the Board. These reports include recommendations as to suggested sanctions and evidence. It is the duty of the committee to determine if there is probable cause to proceed with a hearing. The Board generally accepts the committee's recommendations. The powers granted to the Board that are set out in Chapter 30 include:

- “...cause an investigation to be made with respect to an alleged violation of this article or rules of the board” (W.Va. Code §30-38-13(a))
- “...revoke, suspend, or refuse to renew the license or certificate or otherwise discipline an appraiser, or deny an application, for any of the acts or omissions set forth in this article or in the rules of the board” (W.Va. Code §30-38-13(b))
- “...make informal disposition of the matter, including entering into a consent agreement or taking one or more of the disciplinary actions set forth in the board's rules” (W.Va. Code §30-38-13(e))

Eight complaint files had no evidence that letters of the final resolution, pre-diversion agreements or consent orders were sent to licensees.

¹ Complaints not closed by the Board at the time of PERD's review of the Board's complaint files are not counted.

These powers fall within disciplinary powers granted to professional licensing boards. By allowing the committee to fulfill some of these functions, the committee is acting as a subunit of the Board, as laid out in procedural rules for “Investigative and Hearing Procedures,” 190 CSR 4 (2012). The Board’s procedural rule that establishes the committee assigns some sovereign power to it, allowing the committee to contract and issue subpoenas. The duties of the committee require judgement and discretion, not merely the performance of a delegated task. It is the opinion of Legislative Services that the actions of the committee are judicial or quasi-judicial and they are not the kind of tasks that the Board could delegate to deputies or employees.

The Board’s procedural rule that establishes the committee assigns some sovereign power to it, allowing the committee to contract and issue subpoenas.

If the committee was composed only of Board members, these tasks could legitimately be assigned to members because they are lawfully appointed officers of the state. However, not all current members of the committee are board members and according to Legislative Services the Board has no legal power to add non-board members to participate in its disciplinary functions. By creating the committee, the Board has, in essence, established another administrative agency without anything within its enumerated powers allowing it to do so. Furthermore, the Board has unlawfully established the committee through a procedural rule. Although W.Va. Code requires the Board to adopt procedural rules for the investigation and resolution of complaints, the establishment of the committee through procedural rule goes beyond what is allowed within the Administrative Procedures Act.

According to Legislative Services the Board has in essence, established another administrative agency without anything within its enumerated powers allowing it to do so.

The Board’s Actions Encroach On the Constitutional Powers of the Legislature and the Governor.

According to Legislative Services, the way the Board has created the committee has usurped the powers of both the Legislature and Governor. Article VIII, Section 8 of the West Virginia Constitution states,

“The governor shall nominate, and by and with the advice and consent of the Senate, (a majority of all the senators elected concurring by yeas and nays) appoint all officers whose offices are established by this constitution, or shall be created by law, . . .”

This means it is the governor’s power to nominate a person to public office and the Senate has the power to confirm or deny a nomination. Since no other agency of government may exercise these powers, the Board exceed its delegated authority when it created the committee. It is the opinion of Legislative Services that appraisers hired to serve on the committee are acting as officers in positions that have not been lawfully created and to which they have not been lawfully appointed.

It is the opinion of Legislative Services that appraisers hired to serve on the committee are acting as officers in positions that have not been lawfully created and to which they have not been lawfully appointed.

The Board Has Violated W.Va. Code By Hiring Licensed Appraisers.

Although prohibited by statute, the Board has hired real estate appraisers to review complaints. According to a legal opinion from Legislative Services, the Board is authorized to employ staff as necessary to perform the functions; however, there is a restriction of that authority found in W.Va. Code §30-38-6(g), which states,

*“The board may employ staff as necessary to perform the functions of the board, to be paid out by the board fund created by the provisions of this article. Persons employed by any real estate agent, broker, appraiser or lender, or any partnership, corporation, association, or group engaged in any real estate business, **may not be employed by the board.**” [emphasis added]*

While the Board has not employed non-board member appraisers as payroll employees, the Board’s records show that these appraisers are being compensated for their participation in meetings of the committee.² It is the opinion of the attorneys with Legislative Services that since the committee members are compensated for their work, they are employed by the Board and are in violation of W.Va. Code. It is the opinion of Legislative Services that appraisers hired to serve on the committee are acting as more than mere employees by acting as officers in positions that have not been lawfully created and to which they have not been lawfully appointed.

Although prohibited by statute, the Board has hired real estate appraisers to review complaints.

The Board has assessed costs for investigations in several instances.

The Board Has Not Documented and Does Not Know How It Calculates Complaint Administrative Fees and Fines and Did Not Remit Fines to the General Revenue Fund.

Chapter 30, Article 1, Section 8(a) discusses a board’s authority to assess administrative costs associated with investigating complaints that result in disciplinary action, such as the suspension or revocation of licenses. The Board has assessed costs for investigations in several instances. However, the Board’s documentation of these assessments is limited to an administrative worksheet which indicates licensees are being charged for such items as copies of documents for all board members and postage.

Some fees incurred by the Board are documented.

This same issue was identified in a 2003 PERD review of the Board. PERD found documentation that the Board assessed administrative fees in 20 complaints and fines in 4 of those complaints. Some fees incurred

² As compensation, non-board member committee members are paid \$150 per diem plus mileage and parking costs.

by the Board are documented.³ However, the total administrative costs documented within the 20 complaints total \$15,420, while the total amount of fees documented by the Board in the legal orders total \$30,669. When PERD asked the Board how it calculates the administrative fees the Board responded by saying,

“The Board attorney from the State of WV Attorney General Office would calculate the total daily hours [sic] on the complaint and add to the total administrative expenses for the Final Total Administrative Fee to be charged.”

Based on this response PERD concludes that some of the undocumented fees assessed in the legal orders were attorney costs; however, those fees have not been documented within the complaint files or in payments made for the salary of the attorney. The Board told PERD it did not maintain the attorney’s time sheets. However, the Board has the responsibility to maintain documentation that supports the administrative fees charged to licensees.

Licensing boards are permitted by W. Va. 30-1-8(a) to assess fines that are not to exceed one thousand dollars per day per violation. The Board’s rules reiterate this statutory provision. The Board assessed a fine in three complaints. Each complaint’s consent order lists the provisions the licensees were found to have violated. However, the consent orders do not clearly indicate whether one or several fines are being assessed. When PERD asked how it assessed the fines, the Board responded by saying, *“The Board Attorney would make a recommendation to assess a fine and then the Board would make the final decision to assess a fine.”* The Board states it is unable to obtain this information because the attorney has since retired. Fines should not be arbitrary, there should be a correlation between the violation and the fine. In order to avoid the appearance of being unfair, inconsistent, or arbitrary when assessing fines, the Legislative Auditor recommends the Board document how it assesses administrative complaint fees and fines.

After a review of expenditure and revenue information, PERD did not find evidence that the Board remitted the fines to the general revenue fund as required by W.Va. §30-1-10(a) which states that, *“Any money received as fines shall be deposited into the general revenue fund of the state treasury.”* PERD requested the Board provide evidence that it deposited the fines into the state general revenue fund. **The Board stated that it had not remitted any of the \$5,000 to the general revenue fund of the State Treasury.** The Board indicated to PERD that it intends to deposit the fines in the general revenue fund of the State Treasury.⁴

³ Fees documented include the cost of creating booklets for standards committee members to review, postage, and other printing costs.

⁴ The Board requested the State Treasurer to transfer \$5,000 from its fund to the general revenue fund on June 29, 2017. According to the State Treasurer’s Office the transfer occurred on July 5, 2017.

However, the total administrative costs documented within the 20 complaints total \$15,420, while the total amount of fees documented by the Board in the legal orders total \$30,669.

The Board assessed a fine in three complaints.

The Board stated that it had not remitted any of the \$5,000 to the general revenue fund of the State Treasury.

Table 3 shows the amount of the fines assessed within complaint files and the Board action.

Complaint Number	Amount of Fine	Board Response
12-009	\$1,000	Not collected
12-010	\$2,500	Collected, but not deposited
13-014	\$2,500	Not collected
13-017	\$2,500	Collected, but not deposited

Sources: PERD analysis of Board complaint records and correspondence with the Board.

While the Board Is Improving Its Financial Self-Sufficiency, It Needs Stronger Financial Management Controls.

Financial self-sufficiency of regulatory boards is required by West Virginia Code §30-1-6(c). Table 4 shows the Board’s end-of-year cash balances from FY 2012 through FY 2016. The Legislative Auditor’s evaluation of a board’s finances includes determining whether a board has positive cash reserves and if cash reserves are at an appropriate level. Although the Board has maintained positive cash balances over the 2012 through 2016 period, it has not always been at prudent levels. The Legislative Auditor considers a prudent cash reserve to be equivalent to one to two years of expenditures. The Board had cash reserves of 51 percent of annual expenditures in FY 2014. However, in FY 2015 the Board began licensing appraisal management companies (AMC) for the first time accounting for 30 percent of FY 2015 revenues. The Legislative Auditor notes that the expenditures of the Board are rising and the end-of-year cash reserves are falling. The Legislative Auditor suggests two options that would increase revenue. Should the Board exercise these options it may still find itself falling short of maintaining an end-of-year balance that is equal to one year’s amount of expenditures. Options are:

- reduce expenses, or
- raise fees.

Reduce Expenses

Factors that appear to be contributing to the decrease in cash balances are increases in employee salaries, and contractual and professional costs. Line item expenditures related to employee payroll increased by 20 percent from FY 2014 to FY 2015. This is partly due to the addition of a new staff position in April 2014. However, \$12,916 is attributable to a 25 percent pay raise for three employees in October 2014. Another factor is the cost for contractual and professional services.

Although the Board has maintained positive cash balances over the 2012 through 2016 period, it has not always been at prudent levels.

From FY 2012 to FY 2015, the cost for contractual and professional services more than tripled. While much of these expenditures are for legal services paid to the Attorney General’s Office, expenditures for non-board member appraisers on the complaints committee contributed. As discussed earlier in this issue, the Board’s payments to appraisers serving on its complaint committee is not authorized by statute.

Raise Fees

A license renewal fee increase is another option to increase revenue. However, as is discussed later in this issue the Board’s primary revenue sources, initial and renewal licensure fees, are already higher than West Virginia’s surrounding states so this may not be a practical option. **The Legislative Auditor recommends that the Board conduct a review of its financial situation and take necessary steps toward ensuring that the Board remains financially self-sufficient.**

While the Board has four staff members, its internal controls are deficient, because of a lack of segregated control duties.

The annual revenues primarily stem from renewals, federal registration fees, and other associated fees as specified within the Board’s rules. The annual disbursements include expenditures for employees, contracted employees, board member travel, telecommunications, office rent, continuing education training, and other operating expenses. As can be also be seen in Table 4, until FY 2016, the Board’s disbursements have generally been increasing from year to year. The payment of a lawsuit accounts for 52 percent of the expenditure increase in 2015, while the hiring of an additional staff person and pay raises for staff accounts for 20 percent of the expenditure increase.

**Table 4
Budget Information
FY 2012 Through FY 2016**

Fiscal Year	Beginning Cash Balance	Revenue	Disbursements	Ending Cash Balance
2012	\$86,297	\$285,636	\$229,470	\$142,463
2013	\$142,463	\$270,113	\$268,317	\$144,258
2014	\$144,258	\$329,608	\$314,398	\$159,468
2015	\$159,468	\$747,466	\$486,057	\$420,876
2016	\$421,787*	\$556,796	\$421,285	\$557,298

*Source: State Auditor’s Office data as compiled in Digest of Revenue Sources, FY 2012 through FY 2016.
*FY 2016 Digest of Revenue Sources included thirteenth month revenues.
Sums may not compute exactly due to rounding to the nearest whole dollar.*

While the Board has four staff members, its internal controls are deficient, because of a lack of segregated control duties. Until the Board

began using the State Treasurer's lockbox service in 2015, checks were mailed to the Board's office and received by any of its three⁵ employees.

One of two staff would record and deposit revenue. Reconciliation of revenue was done by the executive director. After the establishment of the lockbox in 2015, the State Treasurer's Office began receiving and recording revenue. Prior to the establishment of the lockbox in 2015, the segregation of duties over the receipt of revenue was not adequate because it was possible for one staff member to receive, record and deposit revenue.

The Board states that it segregates purchasing duties by having all purchases reviewed by the executive director and the Board. Two of the four Board employees have purchase cards in addition to the Board's ghost account. Furthermore, at one given time during the scope, three different staff members held purchase cards. Once a purchase was made, they were recorded by one of two staff assistants or were reconciled by the executive director. Starting in 2015, staff communicated that all purchases were automatically recorded into OASIS, reconciled by a staff assistant, and manually reconciled by the executive director. The segregation of duties for making purchases could be improved by assigning tasks to staff members. The way the Board currently divides purchasing procedures, it is possible for the same person to make a purchase, receive, the purchase, reconcile the purchase and record the purchase.

The way the Board currently divides purchasing procedures, it is possible for the same person to make a purchase, reconcile the purchase and record a purchase.

The West Virginia State Treasurer specifies in its Cash Receipts Handbook for West Virginia Spending Units, *“Unless otherwise authorized by the State Treasurers Office, an individual should not have the sole responsibility for more than one of the following cash handling components:*

- *collecting,*
- *depositing,*
- *disbursement, and*
- *reconciling.”*

This is a problem because the risk of fraud is high when there is a lack of segregation of duties. Additionally, the lack of segregation of duties puts the Board at risk of misuse of funds and the loss of revenue.

In 2015 the State Auditor's Purchasing Card Division issued a report on the Board's purchasing card management from July 1st, 2013 through September 30th, 2014. The State Auditor found that the Board did not do independent reviews of purchasing card documentation, receipts and transaction reports on a regular basis before the implementation of OASIS. After the implementation of OASIS, the same staff member was assigned to reviewing and approving purchasing card transactions while also holding a purchase card. **Therefore, the Legislative Auditor**

⁵ A fourth employee position was added in 2015.

recommends the Board reduce the amount of Board purchase cards and ensure it has controls in place that prevent one staff person from performing two or more control activities associated with purchasing.

An Analysis of Board Finances Found the Risk of Fraud Relatively Low.

In order to assess the risk of fraud and gain reasonable assurance that fraud has not occurred, PERD examined revenues and expenditures. For expenditures, PERD calculated expected and required expenditures and compared them to actual expenditures. The Legislative Auditor's opinion is that when expected and required expenditures are 90 percent or more of total annual expenditures, the likelihood of fraud having occurred on the expenditure side is relatively low. As seen in Table 5, the percentage of expenses from expected and required purchases are 90 percent or above for three of the five years of the audit.

Table 5
Percentage of Expected or Required Expenditures
FY 2012 Through FY 2016

Fiscal Year	Percentage of Expected and Required Expenditures
2012	92%
2013	92%
2014	89%
2015	76%
2016	92%

Source: PERD calculations based on data from the State Auditor's Office FY 2012 through FY 2016.

As expected and required expenditures for FY 2014 were only slightly under 90 percent a detailed review wasn't warranted. However, as the percentage of expected expenditures were significantly lower than 90 percent for FY 2015, PERD conducted a detailed review of expenditures for that year to assess the likelihood that fraud had occurred. The most likely factor in FY 2015 expenses falling below the 90 percent level was a \$84,722 payment for a lawsuit. This payment is atypical and the percentage of expected expenditures would have exceeded 90 percent without that payment. Therefore, the Legislative Auditor deems the likelihood of fraud having occurred on the expenditure side as relatively low.

For revenue, PERD calculated the minimum expected revenue for the Board by multiplying annual fees by the number of licensees listed within annual reports for FY 2012 through FY 2016. Table 6

provides a comparison of actual and expected revenues for the Board. The actual revenues were more than expected for all years examined. As the overall balance over a five-year period exceeds the expected revenue the Legislative Auditor deems the likelihood of fraud having occurred on the revenue side as relatively low.

Table 6
Expected Revenue and Actual Revenue
FY 2012 Through FY 2016

Fiscal Year	Expected Revenue	Actual Revenue	Difference
2012	\$250,505	\$285,636	\$35,131
2013	\$237,760	\$270,113	\$32,353
2014	\$310,759	\$329,608	\$18,849
2015	\$475,975	\$747,466	\$271,671
2016	\$430,430	\$556,796	\$126,366
Total	\$1,705,249	\$2,189,618	\$484,369

Sources: Board annual reports from FY 2012 through FY 2016, CSR 190-2, and data from the State Auditor's Office FY 2012 through FY 2016.

Sums may not compute exactly due to rounding to the nearest whole dollar.

The Board's Licensure Fees Are Higher Than Most Surrounding States and Licensure Fees for Appraisal Management Companies Is Significantly Higher.

On an annual basis, Kentucky and West Virginia have the highest fees of the surrounding states for appraisal management companies. Kentucky's fees are highest for renewals across most levels of licensure, while West Virginia's are second highest. Kentucky has the highest fee for initial licensure. Table 7 provides the fee schedules of similar boards in surrounding states. The reason why other states have lower fees could be because, with the exception of Kentucky, appraisers are regulated in centralized boards with other professions.

On an annual basis, Kentucky and West Virginia have the highest fees of the surrounding states for appraisal management companies. Kentucky's fees are highest for renewals across most levels of licensure, while West Virginia's are second highest.

Table 7
Real Estate Appraiser Licensure Fees in West Virginia and Surrounding States

State	Appraisal Management Companies		Licensed Real Estate Appraisers		Certified Residential Appraisers		Certified General Appraisers		Renewal Cycle
	Initial Fee	Renewal Fee	Initial Fee	Renewal Fee	Initial Fee	Renewal Fee	Initial Fee	Renewal Fee	
Kentucky	\$2,300	\$2,300	\$252	\$452	\$252	\$452	\$252	\$452	Annual
Maryland	\$2,000	\$2,000	\$250	\$250	\$250	\$250	\$250	\$250	Biennial
Ohio	\$2,000	\$2,000	\$175	\$165	\$175	\$165	\$175	\$165	Biennial
Pennsylvania	\$1,000	\$1,000	\$235	\$225	\$235	\$225	\$235	\$225	Biennial
Virginia	\$490	\$120	\$290	\$205	\$290	\$205	\$290	\$205	Biennial
West Virginia	\$2,500	\$2,000	\$150	\$265	\$150	\$315	\$150	\$465	Annual

Source: State licensure board websites and statutes.

The Board Is Not in Compliance With Attendance to the State Auditor's Annual Training.

W.Va. Code §30-1-2a(c)(2) requires that the board chairperson or executive director must annually attend an orientation session. Neither the Board's chairperson or executive director attended the session in FY 2012. **Therefore, the Board's chairperson or executive director should attend the State Auditor Orientation Session annually.**

W.Va. Code §30-1-2a(c)(3) requires that each board member attend at least one orientation session during each term in office. During the scope of this audit 13 persons served on the Board; 8 board members did not attend the State Auditor orientation session during each term of office.⁶ As a result, the board members are not in compliance with statutes applicable to occupational licensing boards. **Therefore, every board member should attend at least one State Auditor orientation session during each term in office as required by law.**

Conclusion

The Board complies with most of the general provisions of Chapter 30. However, the Board's complaint process is not in full compliance with statutory requirements. The Board should send official status reports to complainants as required by code. Moreover, the Board

⁶ The five members that are in compliance with W.Va. Code are newly appointed at the end of 2015 and the beginning of 2016.

is acting outside its statutory authority by paying non-board member appraisers to act as a subunit of the Board. Additionally, the Board needs to ensure complaint fines are remitted to the State Treasurer and document how it calculates assessed fines and administrative costs. Although the Board makes efforts to segregate duties related to financial controls, staff members perform multiple purchasing duties that negate proper internal controls. Finally, the Board needs to review its financial situation and take necessary steps to ensure it remains financially self-sufficient.

Recommendations

1. *The Board should send six-month status updates to complainants whose complaints take longer than six months to resolve as required by W.Va. §30-1-5(c).*
2. *The Legislative Auditor recommends the Board inform licensees that a complaint has been received against them in accordance with Code of State Rules §190-4-5.3 and promptly report the Board's decision on complaints.*
3. *The Legislative Auditor recommends the Board strike Code of State Rules §190-4-4 from its procedural rule for the investigation and hearing procedures.*
4. *The Board should review and investigate complaints without the use of non-Board members on its complaint committee.*
5. *The Legislative Auditor recommends the Board document how it calculates complaint administrative fees and fines.*
6. *The Board should remit all fines collected to the State Treasurer's Office for deposit in the state general revenue fund as required by W.Va. Code §30-1-10(a).*
7. *The Legislative Auditor recommends that the Board conduct a review of its financial situation and take necessary steps toward ensuring that the Board remains financially self-sufficient.*
8. *The Legislative Auditor recommends the Board reduce the amount of board purchase cards and ensure it has controls in place that prevent one staff person from performing two or more control activities associated with purchasing.*

9. *The chairperson or executive director should attend the State Auditor Orientation Session annually as required by W. Va. §30-1-2a(c)(2).*
10. *Every board member should attend at least one State Auditor orientation session during each term in office as required by W. Va. §30-1-2a(c)(3).*

ISSUE 2

The Real Estate Appraiser Licensing and Certification Board Website Is User-Friendly and Transparent With Only Modest Improvements Needed.

Issue Summary

The Office of the Legislative Auditor 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 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 necessary or practical for some state agencies. Table 8 indicates the Board integrates 64 percent of the checklist items in its website. The measure shows the Board has a user-friendly and transparent website that only needs modest improvements.

Table 8			
Real Estate Appraiser Licensing and Certification Board Website Evaluation Score			
Substantial Improvement Needed	More Improvement Needed	Modest Improvement Needed	Little to No Improvement Needed
0-25%	26-50%	51-75%	76-100%
		Board 64%	
<i>Source: The Legislative Auditor's review of the Real Estate Appraiser Licensing and Certification Board's website as of November 21, 2016.</i>			

The Board's Website Scores Well in User-Friendliness and Transparency.

In order to actively engage with an agency online, citizens must first be able to access and comprehend the information on government websites. Therefore, websites should be designed to be user-friendly. A user-friendly website is understandable and easy to navigate from page to page. Government websites should also provide transparency of an agency's operation to promote accountability and trust.

PERD reviewed the website for both user-friendliness and transparency. As illustrated in Table 9, the website needs only modest improvements its user-friendliness and transparency. The Board should consider making a few website improvements to provide a better online experience for the public and for its licensees.

The Board should consider making modest improvements to its website.

Table 9
Website Evaluation Score for the
Real Estate Appraisal Licensing and Certification Board

Category	Possible Points	Agency Points	Percentage (%)
User-Friendly	18	14	78%
Transparency	32	18	56%
Total	50	32	64%

Source: The Legislative Auditor's review of the Board's website as of November 21, 2016.

The Board's Website Scores High on User-Friendliness.

The Board's website is easy to navigate as there is an area to click on links to find forms, a search tool is located at the top of every page, and has an established site map. According to the Flesch-Kincaid Reading Test, an acceptable readability score for the general public should aim for an eighth grade level. The readability of the Board's website is 9th grade, only slightly above the accepted level.

The readability of the Board's website is 9th grade, only slightly above the accepted level.

User-Friendly Considerations

The following are attributes the Board could consider adding:

- **Foreign Language Accessibility** – A link to translate all web pages into languages other than English.
- **Mobile functionality** – Create a mobile application.
- **Online survey or poll** – A short survey that pops up and request users to evaluate the website.
- **Social Media Links** – Contain buttons that allow users to post an agency's content to social media pages such as Facebook and Twitter.

The Board's website contains important transparent features such as email contact information, office address, and its telephone number.

The Website Has Some Good Transparency Features, But Modest Improvements Should Be Considered.

A website that is transparent should promote accountability and provide information for citizens about what the agency is doing, as well as encouraging public participation. The Board's website has 56 percent of the core elements that are necessary for a general understanding of the Board's mission and performance. The website contains important transparent features such as email contact information, office address, and its telephone number.

Transparency Considerations

The Board should consider providing additional elements to the website to improve transparency. The following are a few attributes to consider:

- **Administrative Officials** – Include the contact information for administrative officials.
- **Administrator’s Biography** - A biography explaining the administrator’s professional qualifications and experience.
- **Budget** – Budget data are available at the checkbook level and ideally in a searchable database.
- **Calendar of Events** – Information on events, meetings, etc. imbedded using a calendar program.
- **FOIA Information** – Information on how to submit a FOIA request, ideally with an online submission form.
- **Performance Measures and Outcomes** – A page explaining the agency’s performance measures and outcomes.

Conclusion

The Legislative Auditor finds that the Board’s website needs only modest improvements, primarily in transparency. The website can benefit from incorporating several common features. The Board has pertinent public information on its website including its board meeting minutes and agendas. The home page has contact information, a telephone number, and an address.

Recommendation

11. *The Legislative Auditor recommends that the Board consider incorporating other features into its website to increase 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

July 31, 2017

Brenda Ashworth, Interim Executive Director
Real Estate Appraiser Licensing and Certification Board
405 Capitol Street Suite 906
Charleston, WV 25301

Dear Ms. Ashworth:

This is to transmit a draft copy of the regulatory board review. This report is tentatively scheduled to be presented during the August 20-22, 2017 interim meetings 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 board be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting between August 1 and 4, 2017. Please notify us to schedule an exact time. In addition, we need your written response by noon on August 8, 2017 in order for it to be included in the final report. If your board intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, August 17, 2017 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,

A handwritten signature in blue ink that reads "John Sylvia".

John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B

Objectives, 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 Real Estate Appraiser Licensing and Certification Board (Board) as required and authorized by Chapter 4, Article 10 of the West Virginia Code. The purpose of the Board, as established in West Virginia Code §30-38-1(a), is to protect the public through its license process, and to be the regulatory and disciplinary body for real estate appraisers throughout the state.

Objectives

The objectives of this review are 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, and other applicable rules and laws, such as the Open Governmental Proceedings Act (West Virginia Code §6-9A), and purchasing requirements. Additionally, it is the objective of the Legislative Auditor to assess the Board's website for user-friendliness and transparency.

Scope

The evaluation includes a review of the Board's internal controls, policies and procedures, meeting minutes, complaint files from fiscal years 2012 through 2016, complaint-resolution process, disciplinary procedures and actions, revenues and expenditures for the period of fiscal years 2012 through 2016, the Board's compliance with the general statutory provisions (WVC 30-1) for regulatory boards and other applicable laws. Finally, the evaluation includes a review of key features of the Board's website on November 21st, 2016.

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.

PERD staff visited the Board's office in Charleston and met with its staff and one board member. Testimonial evidence was gathered and confirmed through written statements and in some cases, by corroborating evidence. PERD collected and analyzed meeting minutes, budget information, procedures for collecting fees and making purchases, procedures for selecting members of the complaint committee, expenditures, continuing education, purchase documents, and complaint files. PERD requested a legal opinion from Legislative Services regarding the Board's use of a committee, partially comprised of non-board members, to investigate complaints.

PERD also obtained information regarding licensure fees and continuing education requirements from equivalent boards in Kentucky, Maryland, Ohio, Virginia, and Pennsylvania. This information was assessed against statutory requirements of West Virginia Code as well as the Board's enabling statute to determine compliance with such laws. PERD used some information as supporting evidence to determine the sufficiency and appropriateness of the overall evidence.

The Legislative Auditor compared the Board's actual revenues to expected revenues in order to assess the risk 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 2012 through 2016. The actual revenues were more than expected for all years examined. Therefore, our evaluation of expected and actual revenues allowed us to conclude that the risk of fraud on the revenue side was at a reasonable level and would not affect the audit objectives, and actual revenues were sufficient and appropriate.

The Legislative Auditor also tested the Board's expenditures for fiscal years 2012 through 2016 to assess the risk of fraud on the expenditure side. The test involved determining if expected or required expenditures were at least 90 percent of total expenditures. Expected or required expenditures include: salaries and benefits, per diem payments, travel reimbursement, board-member compensation, insurance, office rent, and utilities. The Legislative Auditor determined that during the scope of the review, expected or required expenses were between 76 and 92 percent of total expenditures. Most of these percentages gave reasonable assurance that the risk of fraud on the expenditure side was not significant enough to affect the audit objectives. However, 76 percent in fiscal year 2015 was relatively low; therefore, PERD conducted a detailed review of expenditures for that year. The most likely factor in fiscal year 2015 expenses falling below the 90 percent level was a \$84,722 payment for a lawsuit. This payment is atypical and the percentage of expected expenditures would have exceeded 90 percent without that payment. Therefore, the Legislative Auditor deems the likelihood of fraud having occurred on the expenditure side as relatively low.

In order to evaluate the board's website, PERD conducted a literature review of government websites, 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. PERD 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. PERD 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 some of the technology may not be practical or useful for some state agencies. Therefore, PERD compared the board's website to the established criteria 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 required 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

Website Criteria Checklist and Points System Real Estate Appraiser Licensing and Certification Board			
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	14
		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	2 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

Website Criteria Checklist and Points System Real Estate Appraiser Licensing and Certification Board			
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
FAQ Section	A page that lists the agency’s most frequent asked questions and responses.	1 point	1 point
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	1 point
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	18
		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
Telephone Number	Correct telephone 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	1 point

Website Criteria Checklist and Points System Real Estate Appraiser Licensing and Certification Board			
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
Complaint form	A specific page that contains a form to file a complaint (1), preferably an online form (1).	2 points	1 point
Budget	Budget data is available (1) at the checkbook level (1), ideally in a searchable database (1).	3 points	0 points
FOIA information	Information on how to submit a FOIA request (1), ideally with an online submission form (1).	2 points	0 points
Calendar of events	Information on events, meetings, etc. (1) ideally imbedded using a calendar program (1).	2 points	1 point
Mission statement	The agency's mission statement should be located on the homepage.	1 point	1 point
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	1 point
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/licensees • Audits • Violations/disciplinary actions • Meeting Minutes • Grants 	2 points	2 points

Website Criteria Checklist and Points System Real Estate Appraiser Licensing and Certification Board			
e-Publications	Agency publications should be online (1) and downloadable (1).	2 points	2 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	1 point
Graphic capabilities	Allows users to access relevant graphics such as maps, diagrams, etc.	1 point	1 point
Audio/video features	Allows users to access and download relevant audio and video content.	1 point	0 points
Performance measures/outcomes	A page linked to the homepage explaining the agencies performance measures and outcomes.	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	2 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

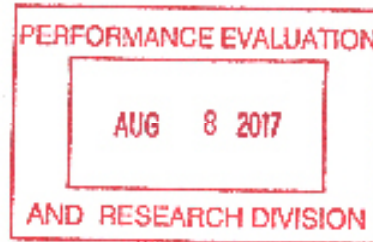
Appendix D Agency Response



State of West Virginia West Virginia Real Estate Appraiser Licensing and Certification Board

August 7, 2017

Mr. John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building Room W-314
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610



Dear Mr. Sylvia:

Our PERD Review began August 8, 2016, and on October 19, 2016 the previous Executive Director voluntarily terminated her employment and I was appointed the Interim Executive Director for our board.

We appreciate that your staff met with us on Thursday, August 3, 2017 for an exit conference.

Response to your Recommendations:

1. The Board should send six-month status updates to the complainant whose complaints take longer than six months to resolve as required by W.Va. §30-1-5 (c).
2. The Legislative Auditor recommends the Board inform licensees that a complaint has been received against them in accordance with § 190-4-5.3 and of the Board decision on the complaint promptly.

Our board completed our Federal Audit for the previous 2 years of December 2014 to December 2016 with a Good Report 12/14/2016 which was an Improved Score from the December 2012 to December 2014 which Improvement was needed in our complaint process. Noting in your Table 1 and Table 2 also shows an improvement for our communication and our board notes your recommendations to improve. Our board is striving for Excellent Rating in our 2018 ASC Federal Audit.

3. The Legislative Auditor recommends the Board strike §190-4-4 from its procedural rule for the investigation and hearing procedures.
4. The Board should review and investigate complaints and discontinue use of non-Board members.

Our Board Members have reviewed your recommendations #3. And #4. To be addressed at our next scheduled Board Meeting on September 27, 2017.

405 Capitol Street, Suite 906, Charleston, West Virginia 25301
Telephone 304-558-3919, Fax 304-558-3983, www.appraiserboard.wv.gov



State of West Virginia
West Virginia Real Estate Appraiser Licensing and Certification Board

August 7, 2017 Page two of three / Mr. John Silva

5. The Legislative Auditor recommends the Board document how it calculates complaint administrative fees and fines.
6. The Board should remit all fines collected to the State Treasurer's Office as required by law.

The board will remit all administrative fines to the General Revenue fund and include documentation to support calculation.

The Board did remit fines to State Treasurer's office Lock Box System and will create an OASIS Document to transfer into the General Revenue Fund.

7. The Legislative Auditor recommends that the Board conduct a review of its financial situation and take necessary steps toward ensuring that the Board remains financially self-sufficient.

Our Board Members have reviewed your recommendations to address at our next scheduled Board Meeting on September 27, 2017 to strive for prudent cash reserves of one to two years of expenditures.

8. The Legislative Auditor recommends the Board reduce the amount of board purchase cards and assign specific staff to each function of the purchasing process to prevent staff from performing inconsistent duties.

April 5, 2017 the board adopted updated P-Card Policies and Procedures.

9. The chairperson or executive director should attend the State Auditor Orientation Session annually as required by W.Va. §30-1-2a (c) (2).

10. Every board member should attend a least one State Auditor orientation session during each term in office as required by W.Va. §30-1-2a (c) (3).

Board Chair and Interim Executive Director attended 2016 State Auditor Orientation Session and three new appointed board members were in attendance.

405 Capitol Street, Suite 906, Charleston, West Virginia 25301
Telephone 304-558-3919, Fax 304-558-1983, www.appraiserboard.wv.gov



State of West Virginia
West Virginia Real Estate Appraiser Licensing and Certification Board

August 7, 2017 Page 3 of 3 / Mr. John Silvia

11. The Legislative Auditor recommends that the Board consider incorporating other features to increase transparency.

We acknowledge your high scores on User-Friendliness and will consider the modest improvements to be considered within your audit.

We thank you again for your review that will assist our board to examine our policies and procedures.

Sincerely,

A handwritten signature in blue ink that reads "Brenda S. Ashworth".

Brenda S. Ashworth
Interim Executive Director

cc; Glenn Summers, Board Chairman



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

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

telephone: 1-304-347-4890 | www.legis.state.wv.us/Joint/PERD/perd.cfm | fax: 1-304-347-4939