

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Board Meeting Agenda

The William P. Hobby Jr. Bldg., Tower II, Room 225

333 Guadalupe Street

Austin, Texas

Monday, October 20, 2014

9:00 a.m.

1. Preliminary Matters

- A. Call to order
- B. Roll call
- C. Excused and unexcused absences
- D. Determination of a quorum
- E. Recognition of guests
- F. Chair's opening remarks
- G. Public Comments

Alfred Vidaurri
Paula Ann Miller
Alfred Vidaurri

2. Approval of the August 21, 2014 Board Meeting Minutes (*Action*)

Alfred Vidaurri

3. Interim Executive Director Opening Remarks

Glenn Garry

4. Interim Executive Director Report (*Information*)

Glenn Garry

- A. Operating Budget/Scholarship: Presentation on FY2014 year-end expenditures/revenue
- B. Pocket card (cost, revenue, actual practice)
- C. Agency Social Media Plan
- D. Trend Analysis Presentation on Agency Performance and Operations
- E. Report on Action Items assigned at the August 21, 2014 Board Meeting
- F. Update on Past and Upcoming Legislative Hearings and Reports

Report on Conferences and Meetings (*Information*)

- A. 2014 CLARB Annual Meeting – *Sep 24-27*
- B. 2014 LRGV-AIA Building Communities Conference – *Sep 25-27*
- C. Texas Association of School Administrators/Texas Association of School Boards Conference 2014 – *Sep 25-27*

Chad Davis
Jack Stamps
Glenn Garry

5. Approval of the Revised Executive Director's Job Description and Review of Scheduled Next Steps and Salary Range for Vacancy Announcement (*Action*)

Alfred Vidaurri

6. Report on Rules (*Action*)

Scott Gibson

A. Proposed Rules for Adoption/Consideration of Public Comments

- I. Amend Rules 1.69, 3.69 and 5.79 relating to continuing education

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- II. Amend Rules 1.22, 3.22 and 5.32 to provide an expedited process of reciprocal registration of military spouses
- I. New Rules 1.29, 3.29 and 5.39 relating to the registration of military service members and military veterans
- II. Amend Rules 1.232, 3.232 and 5.242 relating to the penalty matrix for assessing sanctions for specified laws enforced by the Board
- III. Amend Rule 1.147 clarifying restrictions upon the submission of competitive bids during architectural procurement in violation of the Professional Services Procurement Act
- IV. Repeal Rule 3.147 to eliminate the application of certain provisions of the Professional Services Procurement Act to the procurement of landscape architectural services
- V. Amend Rules 1.144, 3.144 and 5.154 relating to dishonest practices to define the terms "intent" and "knowledge" and to clarify prohibitions upon offering an inducement to a governmental entity
- VI. Amend Rules 1.43, 3.43 and 5.53 to allow for extensions to the 5-year "rolling clock" deadline on passing all sections of the registration examinations

B. Draft Rules for Proposal

Amend Rules 1.65, 3.65, and 5.75 to require the Board to send monthly renewal statements to registrants by email instead of U.S. Mail.

7. Enforcement Cases (*Action*)

Scott Gibson

Review and Possibly Adopt the Interim ED's Recommendation in the following Enforcement Cases:

Continuing Education Cases:

Bubis, Barry Ray (#142-14A)

Carson, Virginia (#154-14A)

Douthitt, Thomas (#148-14A)

Hailey, Royce J. (#057-14A)

Kingham, Alva Hill (#153-14I)

Rude, Brian C. (#159-14L)

Sander, Erin L. (#150-14I)

The Board may meet in closed session pursuant to TEX. GOV'T CODE ANN. §551.071(1) to confer with legal counsel

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Austin, Texas

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| 8. Discussion of Specific Duties Delegated to the Board Legislative Committee: <i>(Information)</i>
Chuck Anastos
Sonya Odell
Chad Davis
Chase Bearden
Debra Dockery (Alternate) | Alfred Vidaurri |
| 9. Board Election <i>(Action)</i>
Board Vice-Chair and Secretary/Treasurer | Alfred Vidaurri |
| 10. 2015 Board Meeting Schedule <i>(Information)</i>
Thursday, January 22, 2015, Room III-102
Thursday, April 30, 2015, Room II-225
Monday, August 24, 2015, Room III-102
Thursday, October 29, 2015, Room III-102 | Alfred Vidaurri |
| 11. Chair's Closing Remarks | Alfred Vidaurri |
| 12. Adjournment | Alfred Vidaurri |

NOTE:

- ◆ *Items may not necessarily be considered in the order they appear on the agenda.*
- ◆ *Executive session for advice of counsel may be called regarding any agenda item under the Open Meetings Act, Government Code §551.*
- ◆ *Action may be taken on any agenda item.*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services are required to call (512) 305-8548 at least five (5) work days prior to the meeting so that appropriate arrangements can be made.

FREQUENTLY USED ACRONYMS

ACSA	Association of Collegiate Schools of Architecture
ADA	Americans with Disabilities Act
AIA	American Institute of Architects
ASID	American Society of Interior Designers
ASLA	American Society of Landscape Architects
ARE	Architect Registration Examination
BOAT	Building Officials Association of Texas
CACB	Canadian Architectural Certification Board
CIDA	Council for Interior Design Accreditation (Formerly FIDER)
CIDQ	Council for Interior Design Qualification
CLARB	Council of Landscape Architectural Registration Boards
GAA	General Appropriations Act
GRF	General Revenue Fund
IDCEC	Interior Design Continuing Education Council
IDEC	Interior Design Educators Council
IDP	Intern Development Program
IIDA	International Interior Design Association
LARE	Landscape Architect Registration Examination
MBA	Member Board Administrator (within NCARB)
NAAB	National Architectural Accreditation Board
NCARB	National Council of Architectural Registration Boards
OAG	Office of the Attorney General
SOAH	State Office of Administrative Hearings
SORM	State Office of Risk Management
TAID	Texas Association for Interior Design
TAS	Texas Accessibility Standards
TASB	Texas Association of School Boards
TBPE	Texas Board of Professional Engineers
TxA	Texas Society of Architects
TSPE	Texas Society of Professional Engineers

TEXAS BOARD OF ARCHITECTURAL EXAMINERS

Minutes of August 21, 2014 Board Meeting

William P. Hobby Jr. Building, 333 Guadalupe Street

Tower III, Conference Room 102

Austin, TX 78701

9:00 a.m. until completion of business

1. Preliminary Matters

A. Call to Order

Chair called the meeting of the Texas Board of Architectural Examiners to order at 9:00 a.m.

B. Roll Call

Chuck Anastos called the roll.

Present

Alfred Vidaurri	Chair
Debra Dockery	Vice-Chair
Charles H. (Chuck) Anastos	Member
Bert Mijares, Jr.	Member
Chase Bearden	Public Member
Sonya Odell	Member
Michael (Chad) Davis	Member
William (Davey) Edwards	Public Member

Excused Absent

Paula Ann Miller	Secretary/Treasurer
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TBAE Staff Present

Scott Gibson	General Counsel
Glenda Best	Director of Operations
Glenn Garry	Communications Manager
Mary Helmcamp	Registration Manager
Christine Brister	Staff Services Officer
Kenneth Liles	Finance Manager
Jack Stamps	Managing Investigator
Dale Dornfeld	IT Manager
Katherine Crain	Legal Assistant
Julio Martinez	Network Specialist

C. Determination of a quorum

A quorum was present.

D. Recognition of Guests

The Chair recognized the following guests: Donna Vining, Executive Director for Texas Association for Interior Design, David Lancaster, Senior Advocate for Texas Society of Architects (in at 9:06 a.m.), Jeri Morey, registered architect of Corpus Christi, Texas, and Jaime Condit.

F. Chair's Opening Remarks

The Chair welcomed everyone to the Board meeting. He stated that he attended his first Board meeting ten years ago. He observed some of the faces have changed while others remained constant. He said that he was thinking about the journey and what a privilege it has been to serve on the Board. However, he noted it has not always been easy and there have been days that were very difficult.

The Chair stated he recently attended a leadership training where a young man stated "Pressure is a privilege." The Chair said he thought about that and found it interesting. The context of the conversation was a person in the middle of active participation in a practice making decisions is probably always under a certain degree of pressure. With that pressure, a person gains experience and wisdom. The Chair observed as Board members we have very active practices, active businesses, volunteerism and your service on this board there is pressure involved in many of those things you do, but in many ways it is a privilege. So, while pressure isn't easy, many times it comes with the territory, but it is productive to look at it as truly a privilege. So the Chair suggested that mindset as the Board conducts its business and makes important decisions.

The Chair encouraged full discussion of the items on the agenda but urged the Board to move through the agenda expeditiously. Some things on the agenda might have to be taken up at a subsequent meeting.

G. Public Comments

None

2. Approval of the May 15, 2014 Board Meeting Minutes

The Chair put the draft minutes of the last Board meeting before the Board. A MOTION WAS MADE AND SECONDED (Anastos/Edwards) TO APPROVE THE MAY 15, 2014, BOARD MEETING MINUTES.

Ms. Dockery moved to correct the following errors: Walter Gropius is erroneously stated to have made a PowerPoint presentation. She also stated "Snowden Architects" should read "Snøhetta Architects." The Chair also stated the reference to "UT-Austin" should read "UT-Arlington."

The Chair asked if there were any other corrections to be made. There were none. He put the Motion, as amended, before the Board for a vote. THE MOTION TO APPROVE THE MAY 15, 2014, BOARD MEETING MINUTES, AS CORRECTED, PASSED UNANIMOUSLY.

The Chair stated the Board would take up item 3 on the agenda and then the Board would take up item number 6 on the agenda.

3. Executive Director Report

The Chair stated that the Executive Director was not available today due to a health issue. He requested the Finance Manager to approach the Board.

- A. Fiscal Year 2014 3rd Quarter Operating Budget (*Information*); and**
- B. Board Approval of the Fiscal Year 2015 Operating Budget (*Action*)**

The Finance Manager noted the budget documents include projections to the end of the year pursuant to the Board's request. At the start of the fiscal year, the agency asked the Board to authorize the expenditure of \$105,000.00 from the reserve fund for specific projects during this fiscal year. The Finance Manager anticipated the agency will need only \$12,000.00. The Chair asked if all of the projects to be funded from an allocation from the reserve have been funded. The Finance Manager stated that they have been fully funded because the agency has done well with its revenue receipts and holding down expenditures. As a result, the agency did not need as much from the reserve as it initially thought.

Mr. Edwards noted that the budget for late fees was \$75,000 and actual receipts are projected to be \$88,000, whereas, the projection for next year is \$85,000. He asked whether this year's late fees might be the result of a one-time restructuring and whether it is prudent to budget that much for next year. The Finance Manager stated the agency had originally underestimated the amount of late fees that the agency would capture in 2014. He stated his belief that the projected revenue of \$85,000 is accurate. Late fees were reduced last legislative session and, as a result, more people are paying them.

Ms. Dockery asked why the proposed printing budget is significantly higher than this year's printing expenditures. The agency is projected to spend \$12,000 on printing in 2014, but the proposed budget is for \$23,000. The Finance Manager deferred to the Registration Manager. The Registration Manager stated the agency required new wall certificate blanks, renewal postcards, and pocket cards during next year. The Finance Manager noted the agency will be spending an additional \$10,000 for scanning records at the State Library and Archives. Mr. Mijares noted that it was a 335% increase in printing from 2014 and he proposed doing away with printing notebooks for Board meetings which would save some costs. Mr. Anastos asked that the agency not compromise on the quality of the certificates of registration. Ms. Dockery noted that at some point the agency is going to have to stop relying on the reserve fund to balance the budget and start restoring the reserve. The Finance Manager stated the IT projects are critical and as revenue improves it might be that there will be no draw upon the reserve for fiscal year 2014.

The Chair asked if the rules allow for the Board to provide renewal notices exclusively by email, to reduce the costs of printing and mailing postcards.

The General Counsel stated the rule allows the Board to provide notice via email upon request of the registrant. He suggested a rule amendment would be necessary to allow the Board to send notification to registrants by email exclusively. Mr. Bearden asked if the agency could track whether the number of registrants drop or fail to timely renew after going exclusively to email. The Registration Manager said the agency could do so. Mr. Anastos suggested that the agency send something through the mail and email at the beginning and drop down to just email after one year. The Chair questioned whether it was necessary for the agency to send pocket cards to the registrants.

Mr. Mijares stated one thing that can be implemented immediately is doing away with printing Board notebooks. He proposed experimenting with meeting without a notebook at the Board's next meeting in October.

The Finance Manager added that the agency has researched the issue of document imaging in-house in order to reduce the printing budget. The IT Manager explained the process for document imaging and stated that the project has not been initiated yet. Once implemented, the agency will not have to pay \$10,000 for microfilming agency records. Mr. Anastos asked if records could be copied digitally, not by microfilm. The IT Manager said it would be digitally copied, stored on a storage server and also, as a long term goal, stored on the Cloud.

A MOTION WAS MADE AND SECONDED (Mijares/Davis) TO APPROVE THE PROPOSED 2015 BUDGET OF THE BOARD AS PRESENTED. THE MOTION PASSED UNANIMOUSLY.

The Chair recognized the Communications Manager to lay out the agency Strategic Plan for 2015-2019.

C. Board Approval of the 2015-2019 Strategic Plan (*Action*)

The Communications Manager stated the agency is required to adopt a Strategic Plan every 2 years in even-numbered years. The Strategic Plan must be approved by the Board. He reported the agency must file the Strategic Plan with the Governor's office, the Legislative Budget Board, and possibly with the Office of the Speaker of the House and the Lieutenant Governor's Office. Mr. Mijares asked about the difference between the current strategic plan and the proposed plan before the Board. The Communications Manager reported the proposed strategic plan included performance measure definitions which do not appear in the current plan. The inclusion of the performance measures was to ensure compliance with requirements of the Sunset bill from last session.

A MOTION WAS MADE AND SECONDED (Anastos/Dockery) TO APPROVE THE 2015-2019 STRATEGIC PLAN.

Ms. Odell questioned why it is entitled a 4-year report when the agency must submit it every 2 years. The Communications Manager said the strategic planning instructions require a 4-year plan prepared every 2 years so they overlap. Ms. Odell noted the Board would have an opportunity to change it in 2 years.

The Chair noted it was strange to him for a strategic plan to include the Board as stakeholders only at the end. He opined that the process is almost backwards. He read it and found some things seemed more tactical and less strategic, and it seemed odd to have it in a strategic plan. He noted it was different from any strategic plan process he had ever been involved in. The Chair recommended a meeting to allow the public to have input in the plan. He suggested in the future the agency should conduct strategic planning with more Board and public input at the front end. Mr. Mijares agreed and suggested that the title of the report be "TBAE's Operational Plan" instead of "Strategic Plan."

The Chair asked for further comment. There was none. The Chair put the Motion before the Board for a vote. THE MOTION PASSED UNANIMOUSLY.

Mr. Anastos noted the Motion was not to approve the Strategic Plan as submitted, but was to allow leeway for corrections to typos or other technical errors.

D. Report on Action Items assigned at the May 15, 2014 Board Meeting (Information)

The Chair recognized the Director of Executive Administration to explain the document which lists items for agency action at the Board's direction. The Chair explained that it is a new reporting process and he was open to suggestions. He asked what happened as items were completed. The Director stated they remain on the list but are color coded to indicate completion. Mr. Edwards asked how each item is prioritized. The Director stated that comes as direction from the Board. Mr. Bearden and Ms. Dockery stated it is useful and helpful in refreshing one's memory about Board deliberations. Mr. Edwards requested staff to email a copy of the document prior to each meeting.

E. Customer Service Survey Report (Information)

The Chair recognized the Communications Manager to present the customer service survey report. The Communications Manager stated the survey is required and is part of the strategic planning process. In the last two surveys the agency received a 93% rating of overall satisfaction, but it had dropped to 87% in the latest survey. He reported the drop is due to the fingerprinting requirement. The agency received 700 text responses

on fingerprinting in the survey. Respondents went out of their way to add comments about fingerprinting. The main complaint on fingerprinting was a fundamental belief that fingerprinting is governmental overreach which is something beyond the agency's control. The Communications Manager noted the agency made great efforts to let people know about the new fingerprinting requirements to make it as easy as possible to comply. He reported 82% of respondents heard about it twice and 95% of respondents had heard about it at least once. The agency thus succeeded getting information to the registrants. By a ratio of 7.5:1 respondents said agency instructions on fingerprinting were helpful. Eighty-seven percent of survey responses requested TBAE produce continuing education programs, including on demand access via prerecorded presentations or courses for free or low cost. Approximately 35% suggested that the agency make a rule to lower continuing education hours, return to the old reporting schedule, or remove the requirement for sustainability and accessibility continuing education. Respondents also suggested lowering renewal fees and lowering the 20,000 square foot threshold for retaining an architect. Many respondents complained about title restrictions, particularly the misuse of the title "architect" in the context of the Internet or software or other areas unrelated to professional design. Mr. Anastos recommended that the agency address these concerns in the next newsletter. He noted the agency should let people know that the Board cannot change statutes. Mr. Davis asked if there is a way to determine the percent of small businesses registered in the agency database. He noted 70% of survey respondents were from small businesses. He observed that is an important consideration for the Legislature.

F. Agency response to Sunset advisory Commission request for information on the SDSI program

The Chair recognized the General Counsel to outline the agency's written response to the Sunset Advisory Commission regarding the SDSI program. Mr. Davis noted the agency now transfers enforcement penalty revenue to the Comptroller for deposit in the General Revenue fund. At the last Board meeting he had proposed pursuing legislation to recover costs for collecting that revenue. He asked the General Counsel if an amendment to that effect should be added to this discussion. The General Counsel suggested it might be an issue the Board's legislative committee might consider addressing.

The Board took a break at 10:11 a.m. and reconvened at 10:25 a.m.

The Chair directed the Board to item 6 on the agenda.

6. Request for reinstatement after architectural registration was revoked by operation of law (Action)

The Chair recognized the General Counsel regarding the reinstatement application. He explained that Jaime Condit was a registered architect who was

convicted for a substance abuse matter and had served some prison time. The materials before the Board included a letter of reference from a parole officer. The materials show Mr. Condit completed substance abuse training, successfully completed parole, and the agency staff recommended reinstatement of his registration.

A MOTION WAS MADE AND SECONDED (Mijares/Bearden) TO ACCEPT STAFF'S RECOMMENDATION AND REINSTATE JAIME CONDIT'S ARCHITECTURAL REGISTRATION.

Ms. Dockery inquired about continuing education after reinstatement and whether Mr. Condit will wait until next year to report continuing education after reinstatement. The Registration Manager stated he does not have an obligation to do continuing education during the period of revocation. He will begin fulfilling the continuing education requirement after reinstatement. Mr. Anastos noted Mr. Condit had returned his certificate of registration and architectural seal in 2013. Mr. Condit stated he had turned in his seal after he had served time in prison in response to a letter from the Managing Investigator. The Chair asked Mr. Condit if he wished to address the Board. Mr. Condit stated that he had a lot of personal tragedies that he did not handle very well when he committed his offense.

The Chair put the question before the Board. THE MOTION PASSED UNANIMOUSLY.

4. Staff recommendation regarding Legislative Committee of the Board
(Action)

The Chair recognized the General Counsel to outline the memo recommending the creation of a legislative committee. At the Board's direction, agency staff researched minutes from 1997 to the present. He explained the Board had an Ad Hoc Stakeholders Committee from 2006 through 2008. Other than that, there was no real formal committee ever created by an action of the Board that met to address matters. The memo to the Board recommended that the Board create a Legislative Committee. The General Counsel noted the Board may not lobby the Legislature but may provide information to the Legislature. The Chair asked for input from the Board on the composition of the Committee if it were created. Mr. Edwards noted the Board of Professional Land Surveyors had several committees and conducted much of its business through committee. He asked if the Board could appoint members that were not currently on the Board. The General Counsel stated he had researched this before and advised against the appointment of people not on the Board because the Board has no legislative authority to do so. Appointing committees from outside the Board raises difficult questions regarding the authority of the agency to reimburse for travel expenses and other issues regarding the legal authority of the committee. Mr. Anastos, Mr. Davis and Ms. Odell volunteered to serve on the Legislative Committee. The Chair accepted Mr. Bearden's offer to serve on the committee. Ms. Dockery offered to serve as an alternate as she has experience testifying at legislative

hearings and is located near Austin. Mr. Davis suggested receiving input from the professional societies. The Chair invited Ms. Vining to address the Board. Ms. Vining reported that TAID does not intend to file any legislation at the upcoming session. She agrees the agency should attempt to recover the cost of enforcement as suggested by Mr. Davis. She also reported TAID will meet with Mr. Abbott's staff regarding interior design in response to statements made in his campaign for Governor. She said TAID will support a bill, if needed, to address agency issues. Mr. Lancaster stated he has noted lots of public information specialists from agencies, although agencies are not allowed to lobby. He noted the agency has an appropriate role to answer questions and serve as a resource and it is wise to convene to address how it will answer those questions. He stated that TxA had some items on their agenda and would let the Board know what those are when he is authorized to do so.

A MOTION WAS MADE AND SECONDED (Edwards/Mijares) TO APPOINT MR. ANASTOS, MR. DAVIS, MS. ODELL AND MR. BEARDEN TO A LEGISLATIVE COMMITTEE AND TO APPOINT MS. DOCKERY AS AN ALTERNATE MEMBER. THE MOTION PASSED UNANIMOUSLY.

5. Proposed Rules for Adoption (Action)

Report of the Rules Committee

Possible Rule Amendments Recommended by the Rules Committee for Proposal

A. Rules 1.69, 3.69, and 5.79 relating to continuing education.

The General Counsel explained that the first set of rules pertain to continuing education requirements during the initial period of registration or reinstatement. The amendments create an exemption for the remainder of the calendar year after initial registration. The Board at an earlier meeting had expressed concern about being out of compliance with other jurisdictions which may cause reciprocity problems. The General Counsel reported there are no consistent standards in other jurisdictions.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT PROPOSED RULES 1.69, 3.69 AND 5.79. THE MOTION PASSED UNANIMOUSLY.

B. New rules relating to registration of military service member, military veterans; amend Rules 1.22, 3.22, 5.32 to provide an expedited process of reciprocal registration of military spouses.

The General Counsel stated the rules implement legislation passed during the last legislative session. The new rules would expedite reciprocal registration for spouses of military service members. The Committee amendments to Rules 1.22, 3.22 and 5.32 would require the Board to give credit to an applicant for registration for education, training and experience while in military service. The Board discussed the proposed rules regarding military training, the meaning of an "auxiliary" of the military, and the application of the rules to a veteran of the National Guard. Mr. Davis stated that the Committee decided to track the wording from the statute. Mr. Edwards questioned whether it was the Board's prerogative to apply it

to a veteran of the National Guard. The General Counsel stated that he believed so, if the training was relevant to the professions TBAE regulates. Ms. Dockery opined the statute seems to state a person who serves a 6 year term and 2 years in the reserves could substitute military education for an accredited degree entirely. Mr. Davis understood that the agency could still require the accredited education component even under this provision in order to ensure access to the examination which is still required under the law. He construed the law to allow military training and experience to count toward fulfilling the experience requirement. The General Counsel stated the law allows for credit toward education but does not supplant the accredited degree. He stated the law does not exempt someone from the education requirement. Mr. Lancaster asked about the meaning of “auxiliary service” and whether the Board could construe that to mean serving in the National Guard. He also asked about “verified” service under the new law. General Counsel confirmed verification would be by staff but the Committee discussed verification by the national registration associations for consistency. Ms. Dockery suggested the rule draft be amended to specify that military service does not supplant an accredited degree in addition to the examination. Mr. Davis stated the examination, which is not supplanted, includes the accredited degree as a prerequisite so such a change is not necessary. After examining the bill passed by the Legislature, Ms. Dockery noted the Board seems to be required to adopt the provisions as written. Mr. Anastos suggested the military education may count toward fulfilling the experience requirement for registration.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO PROPOSE AMENDMENTS TO RULES 1.22, 3.22 AND 5.32 AND PROPOSE NEW RULES 1.29, 3.29, AND 5.29 AS PRESENTED AND TO NOTE ON THE RULES 1.29, 3.29 AND 5.29 THAT THE REQUIREMENT FOR AN ACCREDITED DEGREE IS NOT SUPPLANTED BY EXPERIENCE GAINED IN THE MILITARY. THE MOTION PASSED UNANIMOUSLY.

- C. Amend Rules 1.232, 3.232 and 5.242 relating to penalty matrix for assessing sanctions for specified violations of laws enforced by the Board. The General Counsel said the Rules Committee thoroughly reviewed these rule drafts. The amendments correct cross-references, revise recommended sanctions, and improve descriptions of offenses subject to penalties.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO PROPOSE AMENDMENTS TO THE PENALTY MATRIX IN RULES 1.232, 3.232, AND 5.242. THE MOTION PASSED UNANIMOUSLY.

Ms. Dockery had a question regarding the description of a violation of the construction observation rules. BY UNANIMOUS CONSENT, THE DESCRIPTION WAS AMENDED TO CLARIFY THE OFFENSE OF UNAUTHORIZED CONSTRUCTION OBSERVATION OF ARCHITECTURAL CONSTRUCTION. The Board conducted further

discussion regarding the discretion of the Board to set the amount of administrative penalties. The Chair put the question before the Board. THE MOTION PASSED UNANIMOUSLY.

- D. Amend Rule 1.147 relating to the implementation of the Professional Services Procurement Act as applied to the procurement of architectural services.

- E. Repeal Rule 3.147 regarding the procurement of landscape architectural services under the Professional Services Procurement Act.

The General Counsel stated the amendments to Rule 1.147 and repeal of 3.147 are recommendations of the Rules Committee. The amendment to Rule 1.147 would bring the rule as applied to architects more in line with the way the rules read for the procurement of engineering and land surveying services. As amended, the rule defines the term “competitive bid” as used in the statute to include information from which architectural fees may be indirectly determined or extrapolated. The General Counsel reported that the Rules Committee noted landscape architecture is not one of the professions to which the two-step procurement process applies under Section 2254.004, Government Code, of the Procurement Act. For that reason, the Committee recommends rule 3.147 be repealed.

A MOTION WAS MADE AND SECONDED (Dockery/Davis) TO PROPOSE THE AMENDMENTS TO RULE 1.147 AND THE REPEAL OF RULE 3.147 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

- F. Amend Rules 1.144, 3.144 and 5.154 relating to dishonest practices and to define the term “intent” as used in the rules, the term “knowing” as used in Rule 1.144, and to clarify prohibitions on offering an inducement to a governmental entity.

The General Counsel reported that the dishonest practices rules include a measure of intent to deceive, mislead or defraud. The amendments define the term “intent” for purposes of the prohibition. The draft definitions are based upon definitions of the same terms in the Penal Code, relating to culpable mental states. The rule provides that intent may be established by circumstantial evidence in the same manner as provided in the Penal Code.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO PROPOSE THE AMENDMENTS TO RULE 1.144, 3.144 AND 5.154 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

- G. Amend Rules 1.43, 3.43 and 5.53 to allow for extensions to the 5-year “rolling clock” deadline for passing registration examinations.

The General Counsel reported that the draft amendment is in response to a memo from NCARB which noted the Board’s rules conflict with exceptions in NCARB’s model law. The Board’s current rule allows only one extension for the birth or adoption of a child. As amended the rules would also grant an extension for a serious medical condition or for

military service. The amendment would also allow for granting more than one extension.

A MOTION WAS MADE AND SECONDED (Mijares/Odell) TO PROPOSE AMENDMENTS TO RULES 1.43, 3.43 AND 5.53 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

Mr. Davis, Chair of the Rules Committee thanked Mr. Edwards and Ms. Odell for their hard work on the Rules Committee meeting. Mr. Edwards stated the Committee missed Mr. Anastos (who had an excused absence) as the architect on the Committee and stated he looks forward to working with Mr. Anastos on the Committee.

11. Approval of the Proposed 2015 Board Meeting Dates (Action)

Thursday, January 22, 2015

Thursday, June 25, 2015 (*Board member orientation early June & NCARB 2015 Annual Business Meeting, June 17-20, New Orleans*)

Thursday, August 20, 2015

Thursday, October 29, 2015 (*TxA Conference, Nov. 5, Dallas*)

12. Upcoming Board Meeting (Information)

Monday, October 20, 2014 – Full Board

The Chair placed agenda items 11 and 12, relating to upcoming Board meeting dates, before the Board for deliberation. He explained that there was a conflict with the scheduled October 30th Board meeting. NCARB will hold the regional chairs meeting on October 30th which is an important meeting for Board Chairs and Executive Directors of the Boards. He recognized the Director of Executive Administration for a range of possible alternative dates for the Board meeting. She indicated November 20, 2014, appears to be the best date upon which a meeting room is available. The Board considered different dates and determined meeting earlier would be preferable to meeting later. The Board decided to change the date to October 20, 2014, for the next Board meeting. The Chair suggested Board Committee meetings may be held on October 21st.

The Chair noted the following Board meeting is scheduled for January 29, 2015. He stated he has a conflict on that date involving NCARB. The Board rescheduled the meeting to January 22, 2015.

The Board discussed rescheduling the August meeting and determined it would be Monday, August 24, 2015.

The Board recessed at 12:03 p.m. and reconvened at 12:35 p.m.

7. Enforcement Cases (Action)

Review and possibly adopt Executive Director's recommendations in the settlement of the following enforcement cases:

A. Registrant & Non-Registrant Cases:

The Chair recognized General Counsel to present the following cases to the Board for their consideration and possible approval of proposed agreed settlements:

Dooley, Thomas A. (#085-14A)

The General Counsel stated that the Respondent is registered in Texas but resides in Tennessee and had worked on two projects in Texas while on inactive status. Respondent reported himself when he realized his registration was inactive.

A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION IN CASE NUMBER 085-14A INVOLVING THOMAS A. DOOLEY TO IMPOSE AN ADMINISTRATIVE PENALTY OF \$1,500. THE MOTION PASSED UNANIMOUSLY.

Sanchez, Rafael (#116-13N)

The General Counsel stated that this case involved a non-registrant who provided architectural services and executed a contract for architectural services. He prepared construction documents for the design of multi-family dwellings in excess of 16 units per building and engaged in construction observation of the buildings. The Executive Director has recommended an administrative penalty of \$15,000.00 which represents \$5,000.00 per violation.

A MOTION WAS MADE AND SECONDED (Mijares/Bearden) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDATION TO ASSESS A \$15,000.00 ADMINISTRATIVE PENALTY IN CASE NUMBER 116-13N AGAINST RAFAEL SANCHEZ.

Mr. Anastos stated his failure to understand the contract does not absolve him of responsibility for contracting to provide architectural services. If Respondent does not understand the contract, he probably did not understand the building code. For this reason, Mr. Anastos said he was not sure that a \$15,000.00 penalty is adequate. The General Counsel explained that it is a problematic project, there are code violations, and there is a related case. Mr. Edwards asked the General Counsel about an additional case involving the same project. General Counsel stated that the companion case will be before the Board at a later date. In response to questions from Mr. Edwards, the project did receive a building permit but should not have and there are issues with the client. Ms. Dockery noted that in the past the Board has applied a penalty per sheet and it appears that Mr. Sanchez prepared 43 sheets of architectural plans. She inquired about why the proposed penalty is not assessed per sheet. The General Counsel explained that the Respondent was assessed a maximum fine for practice, title usage and construction observation and that the proposed administrative penalty is the result of negotiations with the Respondent but he acknowledged it was a serious case. He also added that Mr. Sanchez was an architect in Mexico and was trying to get licensed in Texas. In response to inquiries by the Chair, the General

Counsel stated Respondent had an informal conference and was represented by legal counsel. The Chair put the motion before the Board. THE MOTION PASSED 5-2. (Anastos and Dockery opposed).

B. Continuing Education Cases:

The General Counsel outlined the cases on the agenda. For continuing education cases, the Executive Director's proposed agreed orders include a standard penalty of \$700 for misstatements to the Board, \$500 for failing to complete continuing education, and \$250 for failing to timely respond to an inquiry of the Board. The Chair asked if any case had unusual facts or otherwise required particular discussion. The General Counsel stated that they all fit the same fact patterns and none required specific discussion and all proposed administrative penalties adhere to the standard matrix.

A MOTION WAS MADE AND SECONDED (Odell/Anastos) TO APPROVE THE EXECUTIVE DIRECTOR'S RECOMMENDED ADMINISTRATIVE PENALTIES IN THE PROPOSED AGREED SETTLEMENTS OF THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Fridrich, Susan L. (#134-14I)
Hagmann, Gregory G. (#091-14A)
Merwin, Peter C. (#120-14A)
Noah, Robert S. (#203-13A)
Preston, Brigitte (#094-14I)
Spina, Victor (#119-14A)
Suttle, William G. (#118-14A)
Valadez, Frank M. (#121-14A)

THE MOTION PASSED UNANIMOUSLY.

The Chair noted that the General Counsel had received a request to mediate a case relating to the Sanchez case. He asked Board members to contact him if they wish to volunteer. He stated he planned to assign three members to participate in a mediated settlement conference before a mediator at the State Office of Administrative Hearings.

10. The National Council of Architectural Registration Boards (NCARB) Proposed Changes to the Intern Development Program (IDP), the Broadly Experienced Architect Program (BEA), and the Broadly Experienced Foreign Architect Program (BEFA) (Action)

The Chair reported that NCARB requested the member boards to provide input on proposed changes for its consideration in determining whether to make the proposed changes. The Chair recognized Ms. Dockery to report on the proposed changes to the Intern Development Program.

Ms. Dockery stated that IDP currently requires 5600 hours of experience which works out to 3 years. Of that total mandatory experience, the candidate must earn 3740 hours, or 2 years, of core experience in specified categories. The

remainder may be earned in allowed auxiliary experience. One of the 3 years has to be under the direction of an architect in the traditional practice of architecture. The other 2 years may be in other work settings like an engineer's office or in academia. Recently, a change was adopted that allows the IDP credits to be earned right after high school graduation. The proposed revisions would eliminate the elective credits which would shorten IDP to 2 years of core hours. A candidate would still have to work 1 year under the direction of an architect. Experience could still be earned immediately after high school. The next step in the proposed revisions to the IDP would be to realign the current categories to four categories based upon the new ARE exam categories. Ms. Dockery stated the rationale for the proposed changes is to support NCARB's efforts to make IDP rigorous for a reason. The proposed changes are recommendations from an ongoing study of the Intern Development Think Tank. Ms. Dockery noted the underlying reason is to eliminate impediments to licensure and reduce the time it takes to become licensed. She observed the 1 year of electives which may be eliminated includes credits which are worthwhile such as obtaining construction specification institute certification and attending AIA continuing education. These credits also serve to reinforce core credits.

Ms. Dockery also expressed concern about credits earned right out of high school when the candidate might not comprehend the training activity. She also noted a letter from Florida which advocated requiring both years to be under the control of an architect if IDP is only going to be for 2 years. She stated she reached out to architects to gauge reaction and reviewed the letter from TxA which expressed concerns about the time it takes to gain licensure. The letter did not request reducing IDP to 2 years. It suggested only providing greater options to fulfilling core hours. Everyone opposed the change.

The Chair recognized Mr. Anastos who opposed lowering the 5600 hours for the internship. He also believed 2 years should be under the control of an architect. He said he agreed with Ms. Dockery's concern about receiving credit directly out of high school when the candidate probably does not understand what they are learning. He said an accelerated program of 2 years work study under an architect might be appropriate for certain candidates but not everyone. Mr. Mijares agreed that candidates should not get credit right out of high school. He stated the IDP is being changed too often. Mr. Mijares also noted that the IDP which specifies exact numbers of hours in certain categories of practice is not realistic, especially the required 2200 hours of design. He noted the requirement when he became licensed was to work for 2 years in an architectural office. The intern should take the initiative to learn various aspects of the practice. Mr. Anastos related his experience with candidates who are not interested in passing the ARE and becoming architects. The Chair said he needed a recommendation from the Board.

The Chair noted it appears the Board should relate that the Board is not in favor of reducing IDP from 3 years to 2 years for a variety of reasons related in the deliberations.

A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO REPORT TO NCARB THAT THE BOARD IS NOT IN FAVOR OF THE PROPOSED CHANGES TO THE IDP REQUIREMENTS TO ELIMINATE ELECTIVE HOURS. THE MOTION PASSED UNANIMOUSLY.

Nancy Fuller, Assistant Attorney General arrived at the meeting. The Chair put agenda item 8 before the Board.

8. Committee Report on the Executive Director Performance Goals and the Revision of the Executive Director's Performance Evaluation form (Information)

The Chair recognized Ms. Odell, Committee Chair, to outline the Committee's work in revising the performance evaluation form and setting goals. Ms. Odell reported that the Committee looked at other agencies, best practices, and professional organizations to determine the leadership qualities of effective executive directors. The Committee used this information to put together an evaluation tool that was specific, measurable, and included those leadership qualities. She noted the Committee's intent was to create an evaluation form which was not person specific but position specific. On July 24, 2014, the Committee met and the Executive Director proposed an alternate form. Ms. Odell noted even though there were similarities and overlaps there were definitely things in the alternative evaluation form which were different. The form seemed to emphasize more administrative functions than leadership skills. She stated the alternative evaluation form proposed at the Committee meeting raised the following legal questions:

1. What are the conditions for an at-will, exempt Executive Director?
2. What is the role of the Board in setting these performance evaluations and correlation of the evaluation with the position description?
3. There were matters relating to merit raises and disciplinary actions put into the alternate evaluation. The Committee has questions about whether these and other standard state employee envelope of personnel matters should be put in this particular position.

At 1:15 p.m., the Chair convened the Board in closed session pursuant to Tex. Gov't Code Ann. Section 551.071(c) to confer with legal counsel on a confidential or privileged legal matter.

The Board adjourned closed session and convened in open session at 2:04 p.m. Ms. Odell submitted written materials regarding the performance evaluation form to agency staff.

The Board recessed at 2:05 p.m. The Board reconvened at 2:15 p.m.

9. Board Discussion of following matters regarding Executive Director Vacancy (Action)

- A. Agency staff transition plan for the assumption and execution of executive director duties.

The Chair laid out the transition plan prepared by agency staff. The plan specified the reassignment of pending matters before the Executive Director upon retirement. The board discussed the manner in which the Executive Director's retirement is to be communicated. The Chair stated he believed it is important to announce the Executive Director's retirement. Ms. Dockery stated she agreed and suggested an email announcement to registrants sooner rather than later. She also stated the agency's next newsletter should include a two to three page story about the Executive Director's accomplishments over the course of her service as Executive Director.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT THE EXECUTIVE DIRECTOR TRANSITION PLAN AS PROPOSED BY THE AGENCY. THE MOTION PASSED UNANIMOUSLY.

- C. Development of process for recruitment and selection to fill the executive director vacancy.

The Chair laid out the selection process prepared by agency staff. The Chair asked the board members if they had had any experience in recruiting and filling an executive director position. Two members gave their input.

Mr. Mijares stated that he was Chair of the Texas Public Finance Authority when the Executive Director of that agency decided to take a job in the private sector. He stated that the Board contracted with a search firm, posted the position in the Texas Marketplace, the search firm came up with a short list, the Board interviewed candidates, a candidate was selected and the new Executive Director took the position approximately 7 months after the position became vacant. It took roughly \$50,000 to employ the search firm.

Mr. Edwards stated that he was President of the Texas Society of Professional Surveyors when the Executive Director retired. The Society had a procedure in place to fill the position. They contacted an association for executive directors, advertised in its publication, received applicants, a committee scored applications, developed a short list and presented to the Board the candidate the committee felt was the best selection. The timing allowed for overlap with the retiring Executive Director to assist with onboarding. The process took about 3 months to fill. At the same time the Society provided input on the selection of an Executive Director of the Texas Board of Professional Land Surveying.

Mr. Anastos expressed his concern about delegating the search and selection process to a committee when one-third of the Board will leave soon and some expertise and experience may be lost if someone is not

appointed to the committee because of his or her impending departure. He favored having the full board engaged in the screening and appointment process. Mr. Mijares agreed and said if the Board did not retain a search firm, the entire Board should carry out the selection process. Mr. Davis suggested that the position description should not require licensure by the agency or a design background but should have the skills and ability to lead the agency. The Board generally discussed this issue and the value to the Executive Director of knowing about the design professions.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ADOPT THE PROPOSED RECRUITMENT AND SELECTION PROCESS PREPARED BY STAFF, AS AMENDED TO ASSIGN TO THE BOARD INSTEAD OF A COMMITTEE THE RECRUITMENT AND SELECTION TASKS IN THE PROCESS. THE MOTION PASSED UNANIMOUSLY. After further discussion, the Board instructed agency staff to have a job description prepared for Board approval at its meeting in October. The Chair stated the goal is for the Board to take all the action it must take in order to have the position posted after the October meeting.

The Chair stated that he wanted to go into closed session to deliberate on the appointment of an interim executive director.

- B. Appointment of interim or acting executive director pending the appointment of the executive director.

The Board adjourned the open meeting and convened the Board closed session at 2:52 p.m. to deliberate on personnel matters pursuant to Texas Government Code Section 551.074. The Board adjourned closed session and reconvened in open session at 3:26 p.m.

The Chair stated that there was no formal action taken by the Board during closed session. The Chair stated he will appoint a Committee to invite some current individuals on staff to interview for the Interim Executive Director position in order to fill this position within the next 3-4 weeks. The Chair asked if any Board members would like to serve on the Committee. Ms. Dockery and Mr. Anastos volunteered to serve on the Committee. Mr. Bearden volunteered to serve as an alternate. The Chair stated the Committee would interview Ken Liles, Glenn Garry, Glenda Best and Scott Gibson, plus anyone else anyone on the Board would recommend for the position.

A MOTION WAS MADE AND SECONDED (Edwards/Odell) TO ADOPT THE CHAIR'S RECOMMENDATION FOR THE COMMITTEE AND ALLOW THE COMMITTEE TO APPOINT THE INTERIM EXECUTIVE DIRECTOR. THE MOTION PASSED UNANIMOUSLY.

The Board took a break 3:30 p.m. and reconvened at 3:45 p.m.

10. **The National Council of Architectural Registration Boards (NCARB) Proposed Changes to the Intern Development Program (IDP), the Broadly Experienced Architect Program (BEA), and the Broadly Experienced Foreign Architect Program (BEFA) (Action) – CONTINUED.**

The Chair explained that in 1990, NCARB decided to create an alternative to the 5-year degree program in order to obtain an NCARB certificate. In order to qualify under the program a person has to be licensed as an architect. Depending upon the amount of education obtained, the person has to have 6, 8, or 10 years of experience after licensure. The person submits a dossier of his or her work to establish experience. The proposed changes are to require the candidate to meet the member board's experience requirements, pass the ARE, and maintain the license for one year in good standing. The Chair observed that currently the pass rate is 75%. The changes would allow issuance to all who meet the criteria. The Chair opined that the changes may undermine efforts to emphasize the importance of an accredited 5-year degree. However, there are 17 jurisdictions which do not require the accredited degree for licensure. The Chair stated it is a trust issue – whether each member board trust the other boards to ensure competence to practice. He expressed concern about only 1 year of post licensure experience. Mr. Anastos, Ms. Dockery, and Mr. Mijares noted the changes would allow reciprocal candidates to obtain licensure by meeting lower standards, depending upon the jurisdiction, than required of an in-state candidate. The Chair noted the current BEA process is rigorous and expensive but a candidate can always go back and obtain the degree. The Chair stated he believes he has a sense of the Board's opposition to the proposed change.

The Chair put the proposed changes to the BEFA process before the Board. The BEFA process allows a broadly experience foreign architect to obtain an NCARB certificate. The Chair outlined the current BEFA process. It requires graduation from a recognized architectural program, licensure in the foreign jurisdiction, at least 7 years of post-licensure experience, and submission of a dossier which shows experience applying practice skills in all seven sections of the ARE. The dossier must show responsible control and comprehensive practice. The dossier must be translated and show the modifications to meet U.S. codes, accessibility laws, and requirements. The proposed changes would require licensure, 2 years of licensed experience, or 2 years working in the U.S. under supervision and control of an architect, and successful completion of the ARE. Ms. Dockery suggested passing the ARE might show competence but there should be 3 years of experience so it more closely resembles the internship program. Mr. Anastos noted the only real difference under the proposed changes is the accredited educational program. But passing the ARE would establish competence by an objective standard. The Chair noted most of the candidates who make it through the BEFA process are very accomplished and talented architects. Mr. Mijares stated it did not seem reasonable to expect architects of that caliber to sit for the ARE. The Chair noted that the sense of the Board seemed undecided about the proposed changes.

The Chair directed the Board back to item number 3 of the notebook.

Report on Conferences and Meetings (Information)

- A. NCARB Annual Business Meeting – June 18-21
Ms. Dockery reported that this meeting was held in Philadelphia. The theme of the meeting is the history of NCARB and the build-up of the 100 year anniversary of NCARB in 2019. She reported Texas was one of 13 founding NCARB member boards. Architects in 1919 at an AIA convention in Nashville were invited to serve an organization facilitating the licensure in states. All resolutions were adopted, including the resolution requiring NCARB certification to serve on the NCARB board. She announced the officers elected at the meeting. She stated the workshops were moderately informative but presentations at the resource centers were very good. The keynote speakers were impressive. They spoke on the seven essential elements of innovation. She reported the TBAE Chair was honored as a President Medalist for Distinguished Service. Mr. Mijares reported he followed the meeting as it was streaming on the Internet which he said worked very well.
- B. Building Officials Association of Texas (BOAT) Annual Conference – August 5-6
The Managing Investigator outlined the presentation he gave at the BOAT Conference. He spoke to 60 building officials and was asked to give the presentation at two cities.
- C. METROCON14 – Aug. 14-15
The Communications Manager stated that he and the Director of Registration gave two presentations at METROCON14 on sealing rules and registration and made 60 impressions the first day and 100 impressions on day two.

13. Chair’s Closing Remarks

The Chair thanked the Board for their attention and comments and concluded by stating that the Board covered a lot of ground today.

14. Adjournment

A MOTION WAS MADE AND SECONDED (Mijares/Odell) TO ADJOURN THE MEETING AT 4:30 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

ALFRED VIDAURRI, JR., AIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS

2014 Budget: Executive Summary and Explanatory Notes

Executive Summary:

The agency had a better-than-expected budgetary year in FY 2014, for a variety of reasons. Rather than tapping the reserve fund for about \$105,000 as planned, the agency finished the year with a surplus of almost \$58,000. A combination of higher-than-expected revenues and lower-than-expected expenditures made the difference.

Highlights and items of interest are presented below. The budget report follows this page.

Explanatory Notes:

Revenues

1. Licenses & Fees: Staff's projection was exactly correct.
2. Late Fee Payments: As discussed previously, late fees were unexpectedly high by nearly \$30,000. Research into this has yet to suggest a clear and logical reason.

Expenditures

1. Salaries and Wages/Payroll Related Costs: The two biggest-ticket expenditure items together netted a savings of \$73,000, due to an unfilled budgeted position in the Enforcement Division.
2. Professional Fees & Services: Agency costs for professional services were \$24,000 lower than budgeted, because it was a relatively quiet year on the legal front.
3. Board and Staff Travel: Together, these budget items netted a savings of almost \$22,000. The Board held three meetings instead of four, the Executive Director's travel was much lower than usual, and generally there was less out-of-state travel.
4. Postage: A one-time-only mailing of fingerprinting postcards explains this overage of about \$8,000.
5. Printing: A major imaging project (microfiche documents from the Texas State Archives) accounts for this \$5,800 overage; the Board has devoted adequate funding to continue the imaging project in FY 2015.
6. Conference Registration and Staff Training: Together, these items netted a savings of about \$8,000 due to less travel and fewer staff training initiatives.
7. IT Upgrades with Servers: The 2014 portion of this ongoing project was completed slightly below budget.

Texas Board of Architectural Examiners Fiscal Year-end 2014 Budget with Servers	
Total Beginning Fund Balance	
Revenues:	
Licenses & Fees	2,455,356.00
Business Registration Fees	67,500.00
Late Fee Payments	75,000.00
Other	1,000.00
Interest	2,500.00
Potential Draw on Fund Balance	105,458.00
Total Revenues	2,706,814.00
Expenditures:	
Salaries and Wages	1,394,330.00
Payroll Related Costs	383,310.00
Professional Fees & Services	40,000.00
Travel	
Board Travel	30,000.00
Staff Travel	23,000.00
Office Supplies	15,000.00
Postage	15,000.00
Communication and Utilities	15,000.00
Repairs and Maintenance	1,000.00
Office Rental	60,910.00
Equipment Leases--Copiers	10,000.00
Printing	7,000.00
Operating Expenditures	45,000.00
Conference Registration Fees	7,000.00
Membership Dues	21,000.00
Credit Card Fees---Sep. only for 2014	9,000.00
Staff Training	10,000.00
SWCAP Payment	68,939.00
Payment to GR	510,000.00
IT Upgrades in 2014 with Servers	41,325.00
Total Expenditures	2,706,814.00
Excess/(Deficiency) of Rev over Exp.	-

FY 2014 Approved Budget	FY 2014 Actual through 8-31-2014
2,455,356.00	2,452,368.97
67,500.00	73,305.00
75,000.00	104,737.50
1,000.00	2,986.00
2,500.00	850.96
105,458.00	-
2,706,814.00	2,634,248.43
1,394,330.00	1,304,770.75
383,310.00	399,647.73
40,000.00	15,689.54
30,000.00	17,589.48
23,000.00	13,685.57
15,000.00	11,134.96
15,000.00	16,424.09
15,000.00	14,100.85
1,000.00	106.50
60,910.00	60,910.00
10,000.00	7,885.84
7,000.00	12,376.64
45,000.00	46,848.89
7,000.00	4,483.25
21,000.00	19,225.00
9,000.00	9,311.00
10,000.00	4,483.25
68,939.00	68,474.00
510,000.00	510,000.00
41,325.00	39,276.66
2,706,814.00	2,576,424.00
-	57,824.43

FY 2014 Actual Versus 2014 Approved Budget as a Percentage
99.88%
108.60%
139.65%
298.60%
34.04%
97.32%
93.58%
104.26%
39.22%
58.63%
59.50%
74.23%
109.49%
94.01%
10.65%
100.00%
78.86%
176.81%
104.11%
64.05%
91.55%
103.46%
44.83%
99.33%
100.00%
95.04%
95.18%

FY 2015 Approved Budget
2,446,000.00
72,000.00
85,000.00
1,000.00
500.00
67,105.00
2,671,605.00
1,356,156.00
398,000.00
32,000.00
30,000.00
18,000.00
12,000.00
15,000.00
18,800.00
1,000.00
60,910.00
10,000.00
23,475.00
47,000.00
4,000.00
20,000.00
-
5,000.00
68,939.00
510,000.00
41,325.00
2,671,605.00

* Funding for 6 months
Ending Fund Balance

	\$ 1,288,212.00
	\$ 931,885.28

Enforcement Penalties Passed Through to the State

\$ 140,650.00 (Does not appear in budget)

General Revenue Passed Through to the State

\$ 3,139,000.00 (\$200 per Active-status license, not in budget)

**Texas Board of Architectural Examiners
Fiscal Year-end 2014 Budget
Scholarship Fund**

	FY 2014 Budget	FY 2014 Actual Expenditures Sept 1, 2013---August 31, 2014	FY 2014 Remaining Budget
Operating Fund Beginning Fund Balance:	-	-	122,964.98
Adjusted Beginning Balance	-	-	-
Scholarship Fund Beginning Balance	139,946.44	139,946.44	
Total Beginning Scholarship Fund Balance	139,946.44	139,946.44	122,964.98
Expenditures:			
Operating Expenditures-Scholarship Payments		16,981.46	-
Total Expenditures		16,981.46	-
Excess/(Deficiency) of Rev. over Exp.	139,946.44	122,964.98	-
Ending Fund Balance	139,946.44	122,964.98	122,964.98

Number of Scholarships Awarded

34

Frequency per Fiscal Year----January 31, May 31, and September 30

Discussion: Social Media for TBAE

On February 12, 2014, the Board asked TBAE staff to look into launching a social media (SM) presence for the agency. In fact, in anticipation of this development, staff developed a written plan in an effort to implement social media policy and procedures.

PROS of an SM presence

- ✓ No cost
- ✓ A social media presence is, by now, a given for almost any organization
- ✓ Simple (though not particularly meaningful) metrics
- ✓ Fast feedback
- ✓ Social media is, for some, their default news, media, and communications portal

CONS of an SM presence

- Negative commentary (flaming, trolling, etc.) will be public
- Unknown increase in staff time devoted to social media presence (responding to inquiries, etc.)
- Potential to unwittingly violate open meetings laws (low probability, and simple to avoid)
- Parody accounts, etc.
- Perception among some that SM is frivolous or “just for kids”

Types of content for social media publication (examples):

- Invitations to public presentations
- News stories (similar to the Announcements section of the Web site)
- Office closure notices (holidays, inclement weather, etc.)
- How-to and instructional videos, infographics, reminders, tips
- Renewal reminders (mass, not individual)
- Board meeting announcements

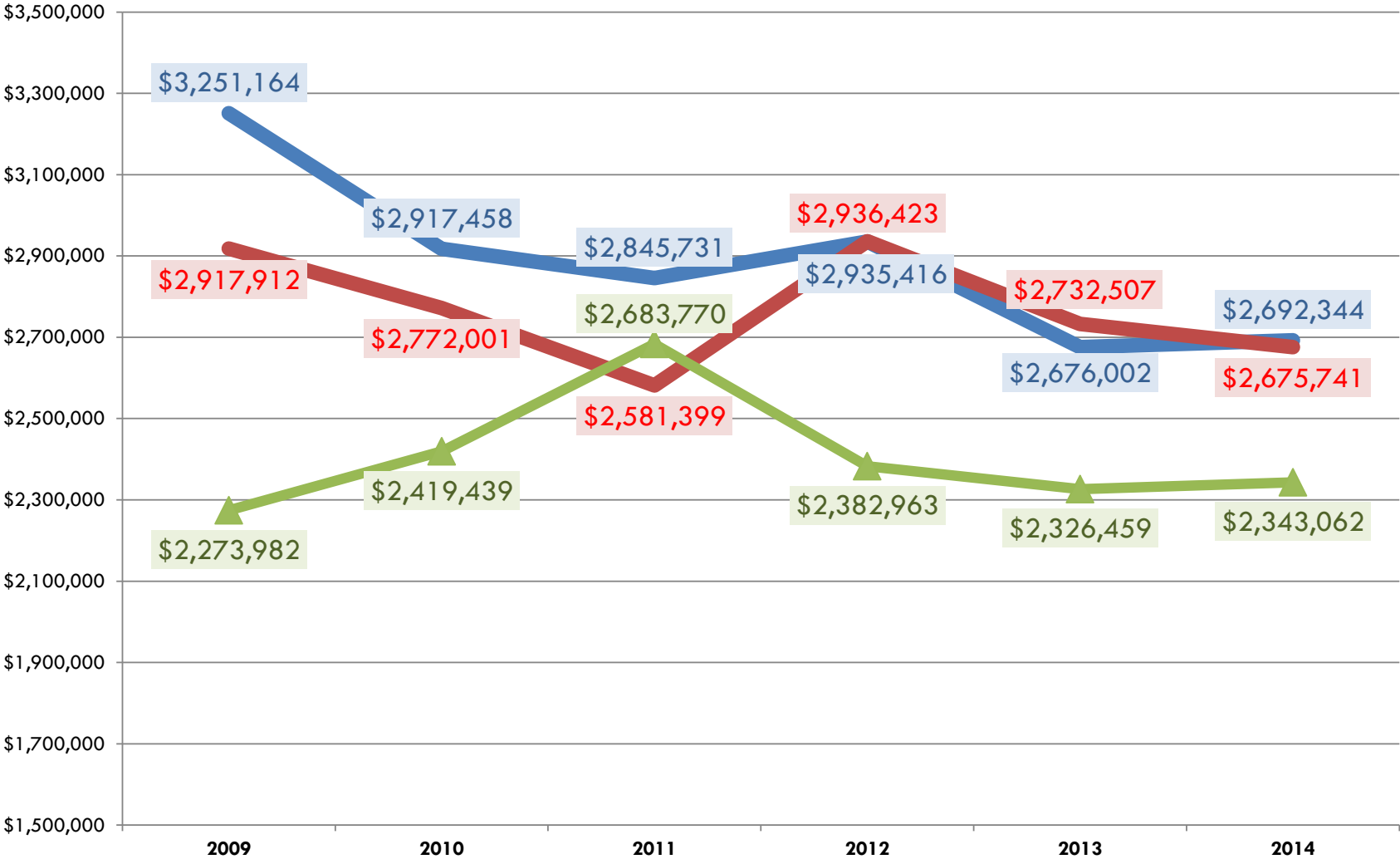
Types of content NOT for social media publication (examples):

- Gratuitous photos or other low-content material
- Personally identifiable information
- Needless jokes, etc.
- Hostile content of any type

Miscellaneous notes:

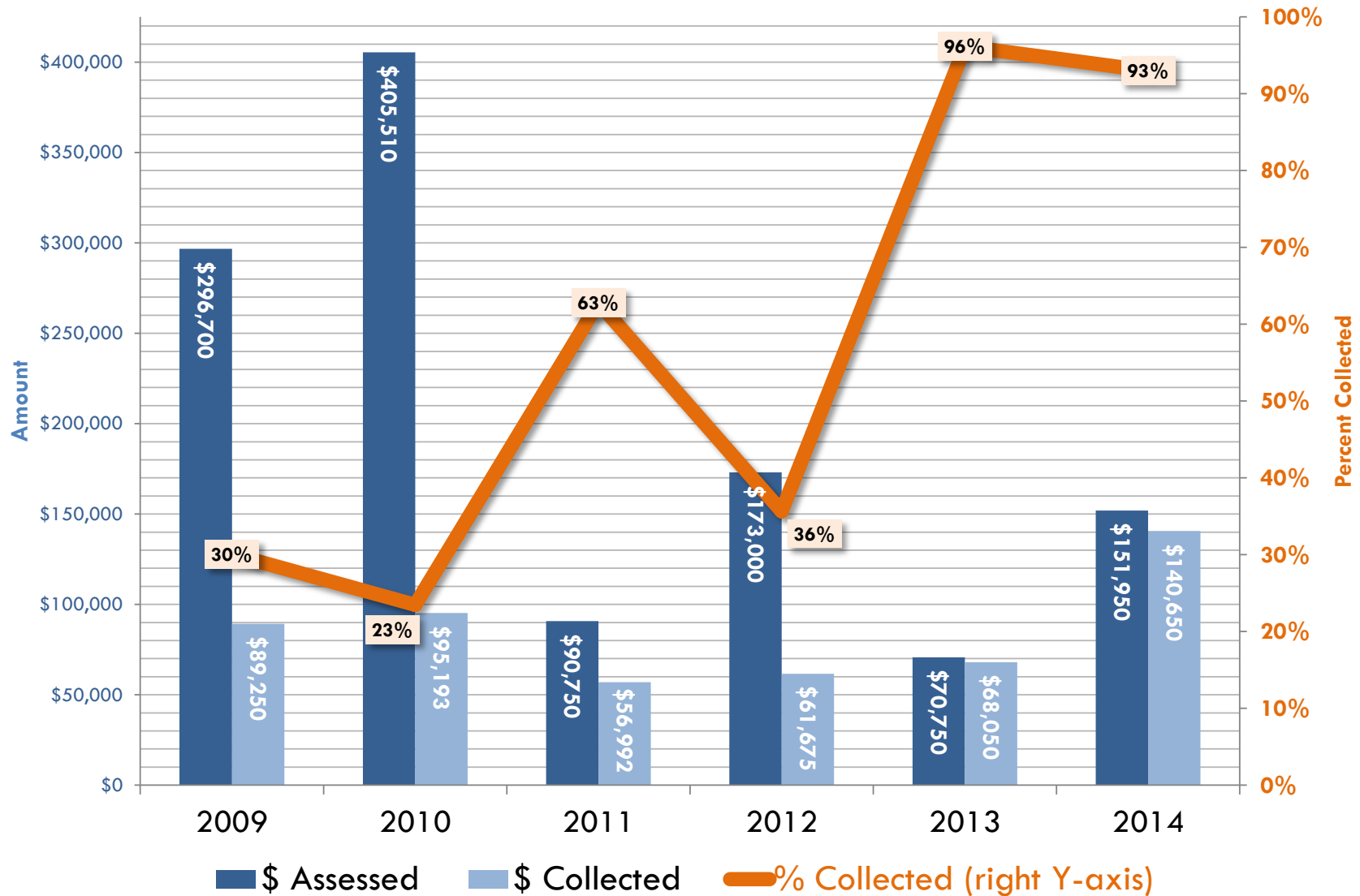
- Board Members should be mindful not to inadvertently violate open meetings laws; discussing Board business via social media could do just that.
- Initially, TBAE plans to create accounts on Twitter, LinkedIn (“company page”), and Facebook. Later, YouTube might be a very powerful tool, but producing quality video is an involved process, and there is a fairly steep learning curve.

Revenues, Expenditures, Fund Balance by FY

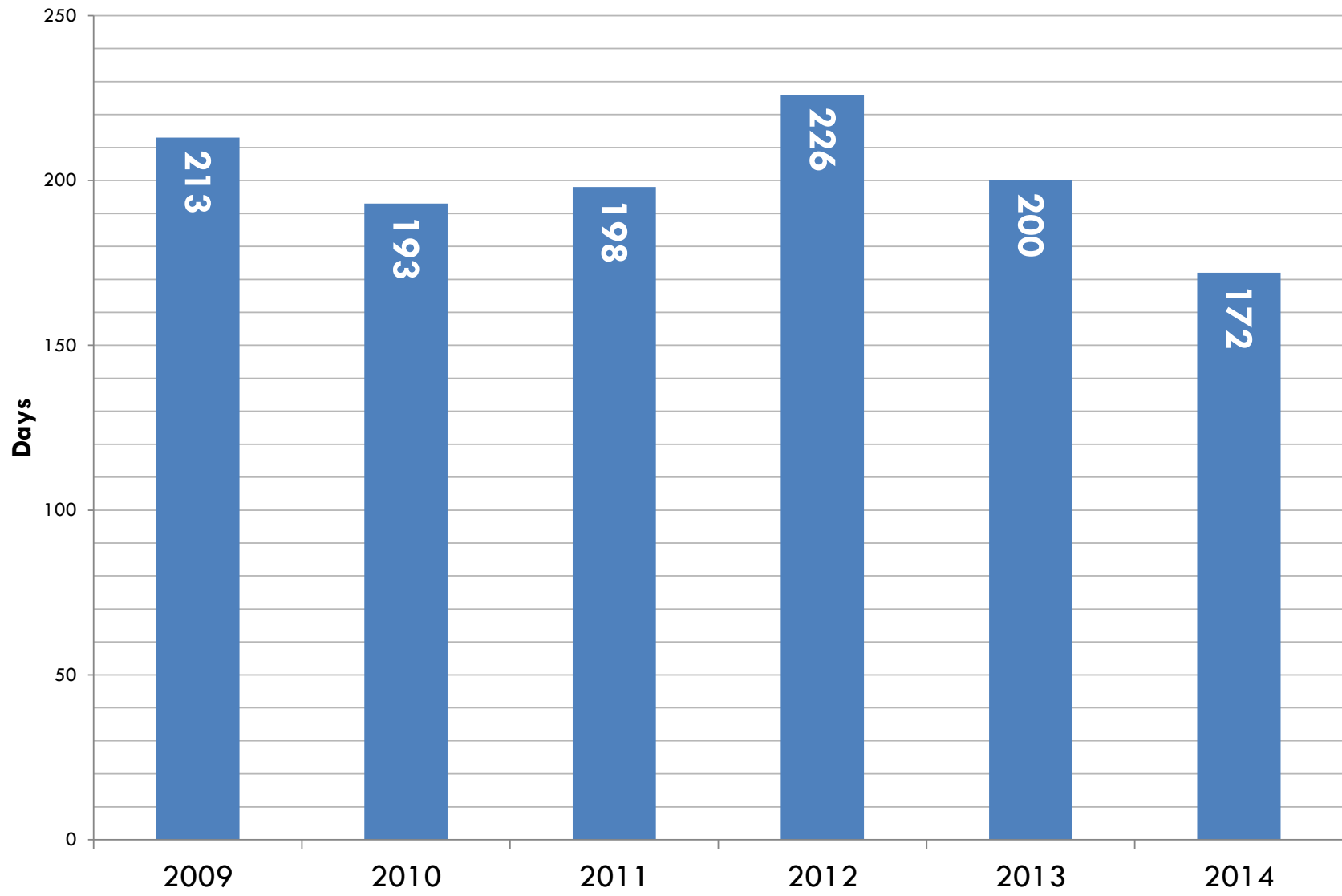


— Revenues
 — Expenditures
 —▲ Fund balance

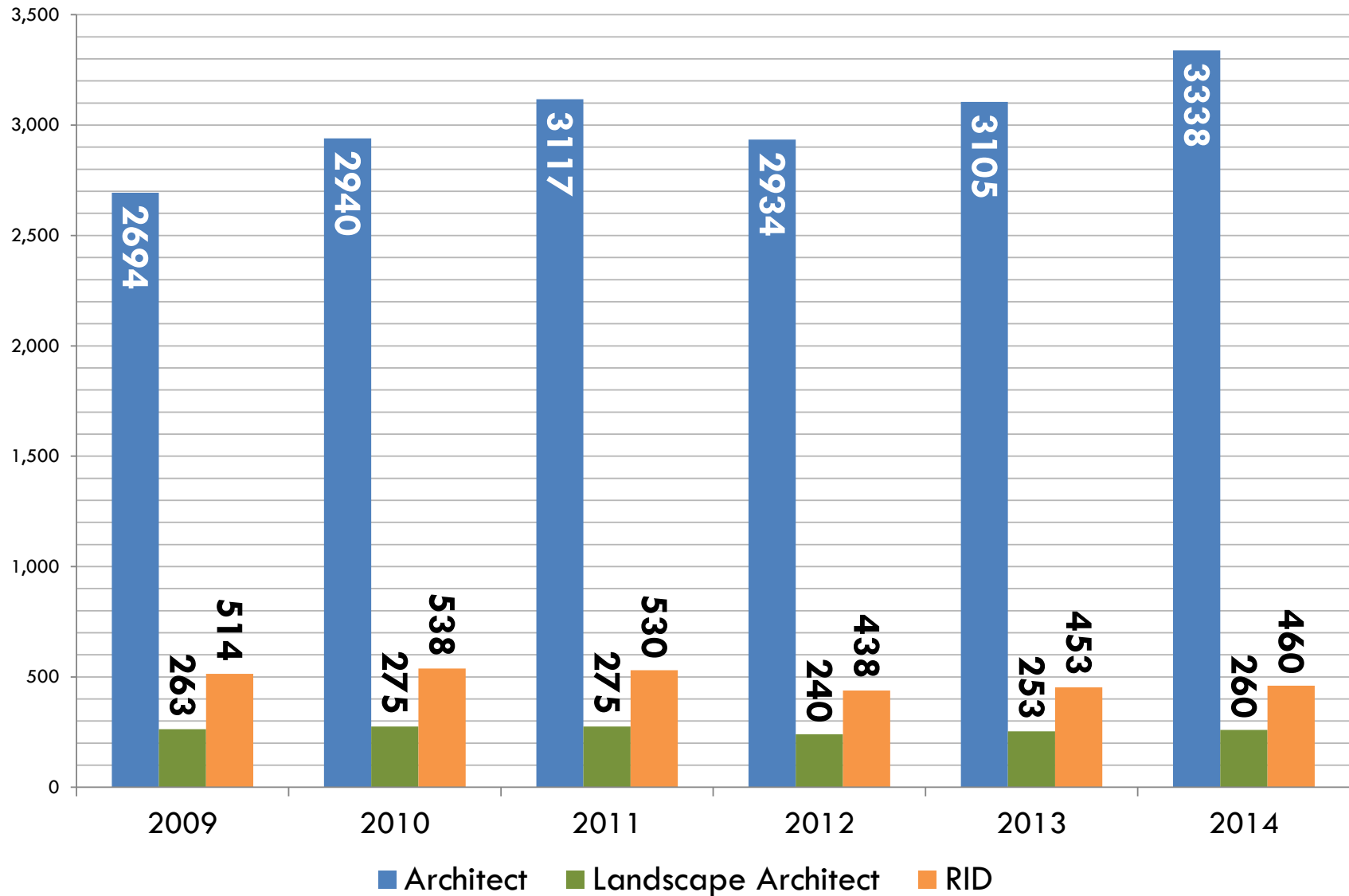
Penalties Assessed and Collected by FY



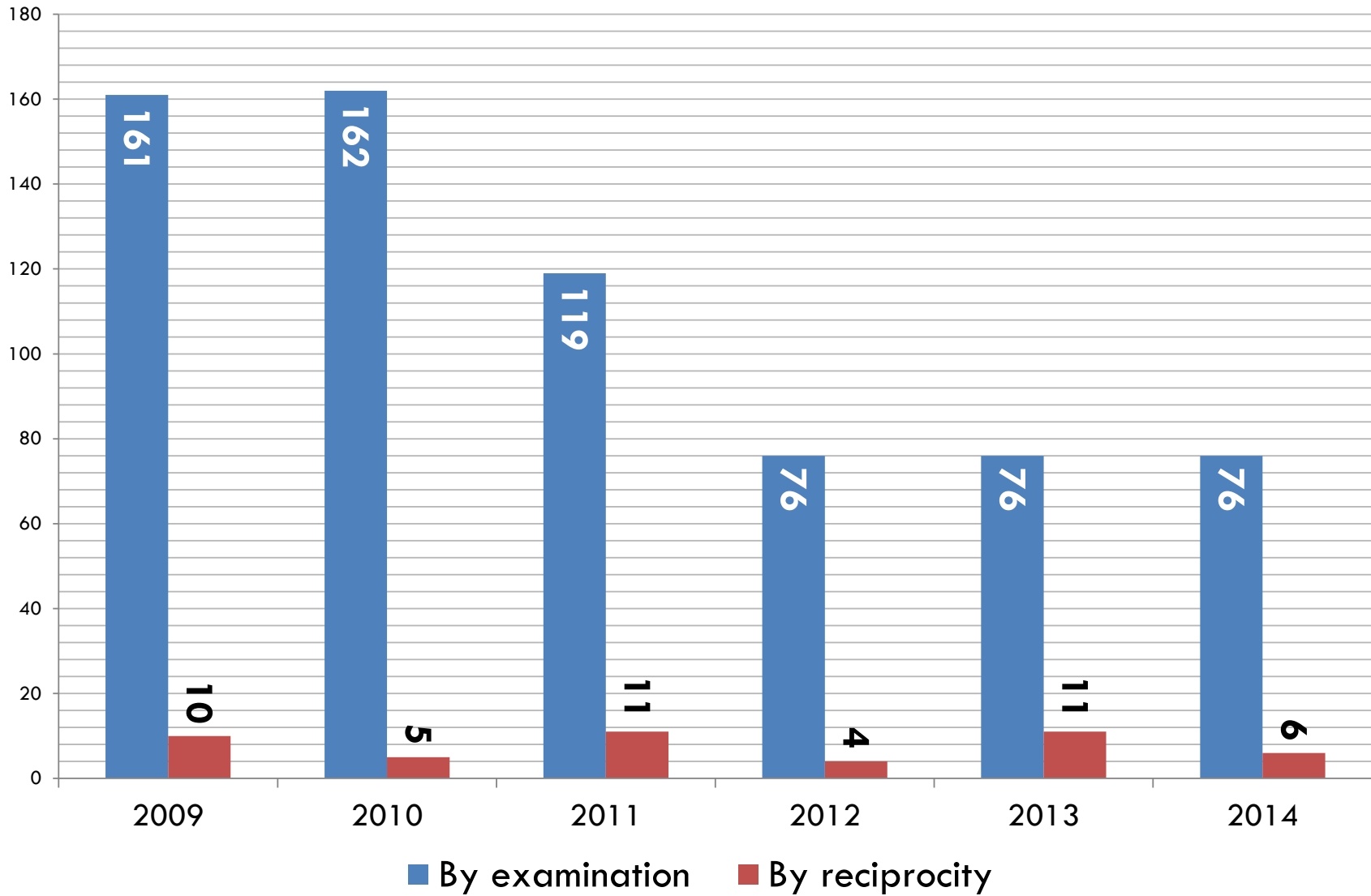
Average Time to Resolve a Complaint



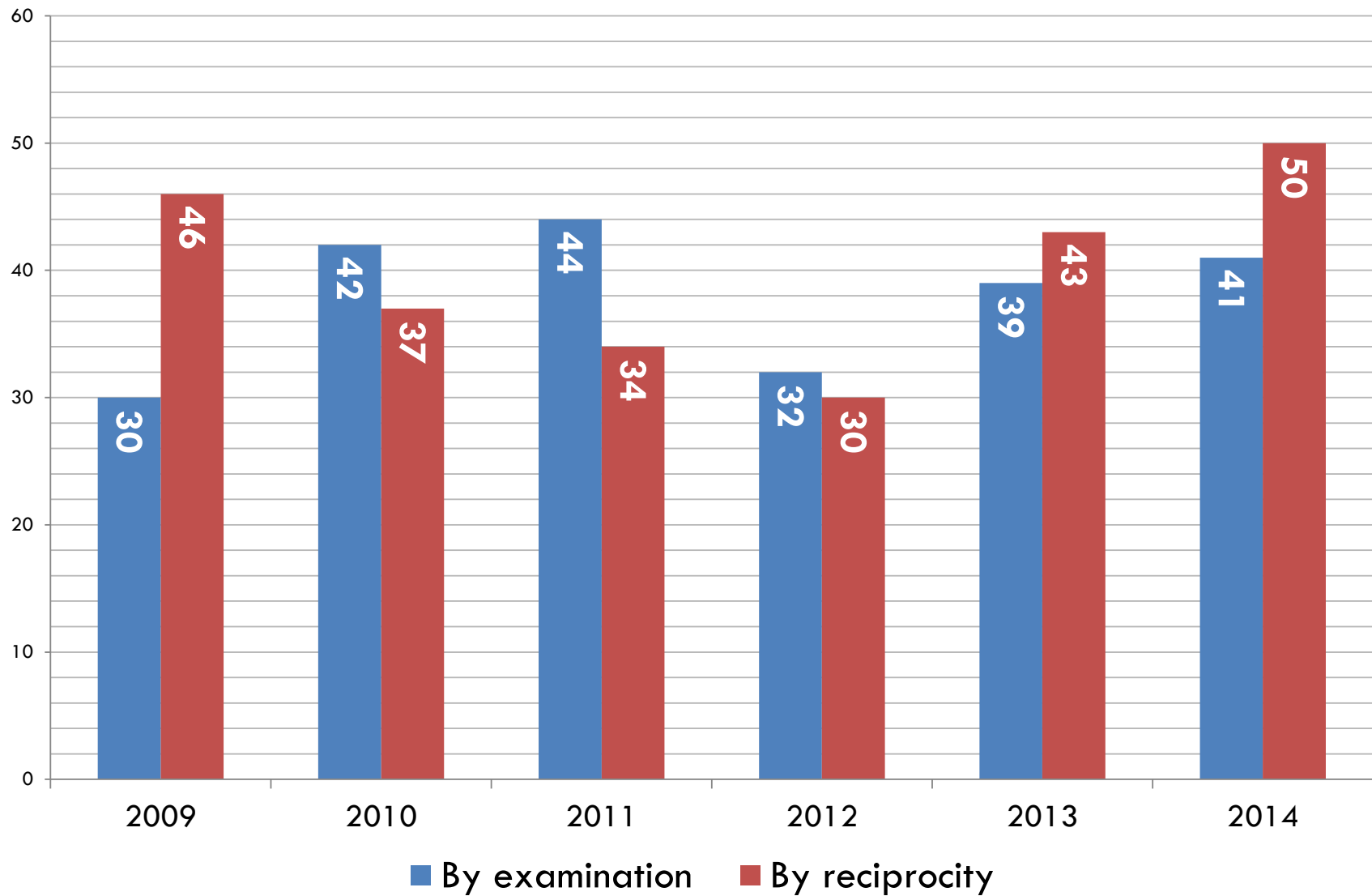
Exam Candidates by Profession by FY (Open and Closed)



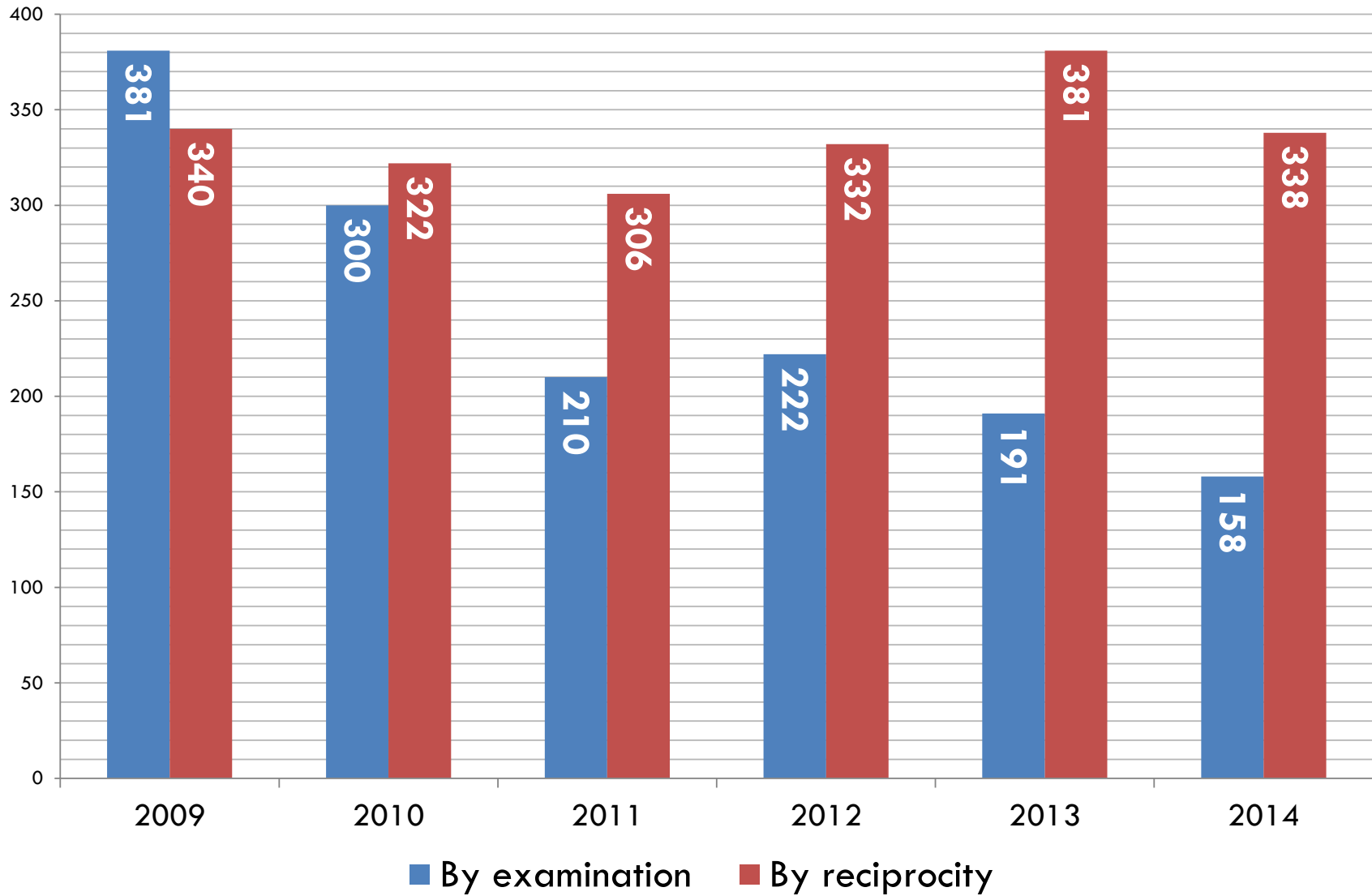
New RIDs by FY



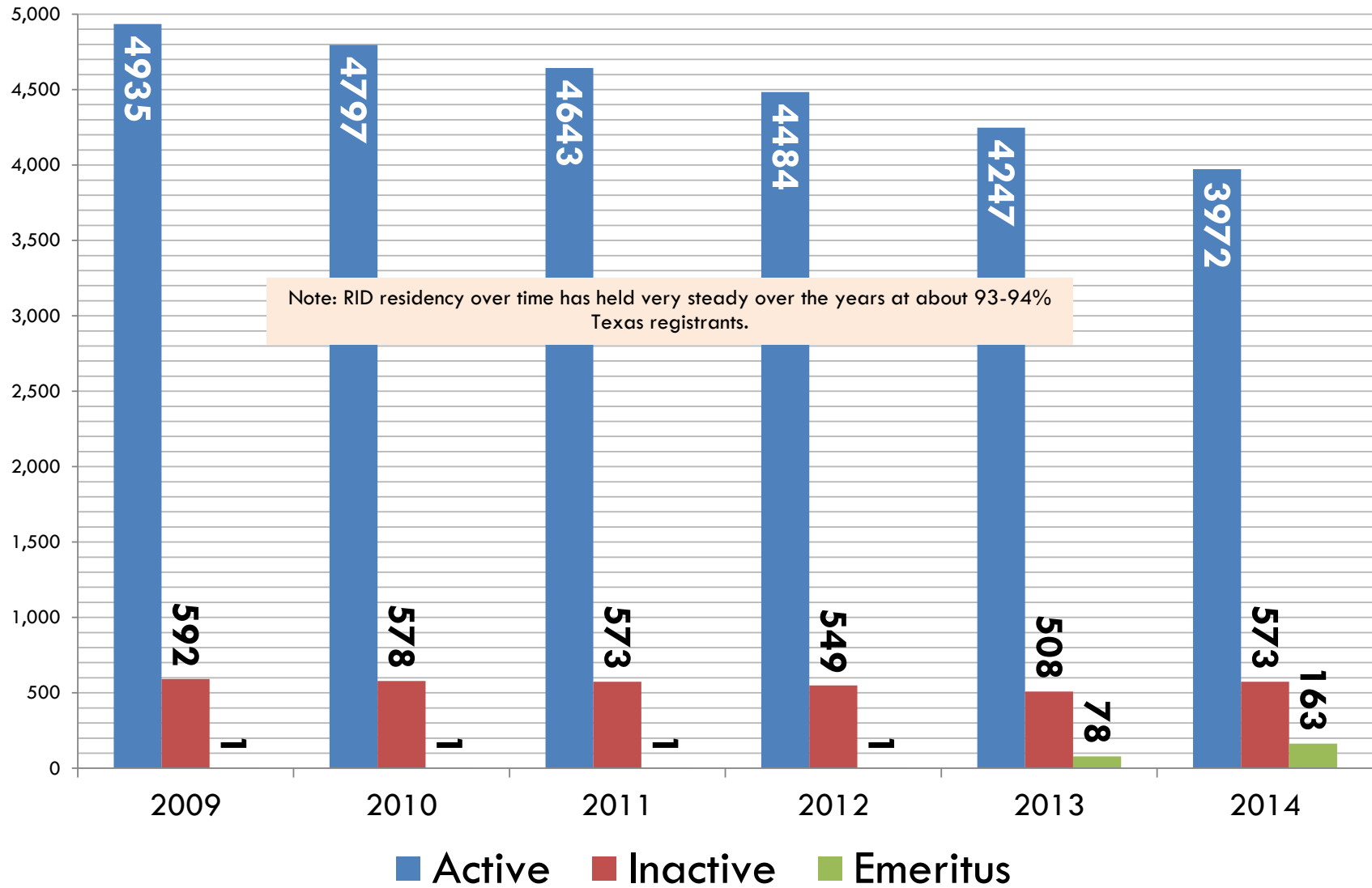
New Landscape Architects by FY



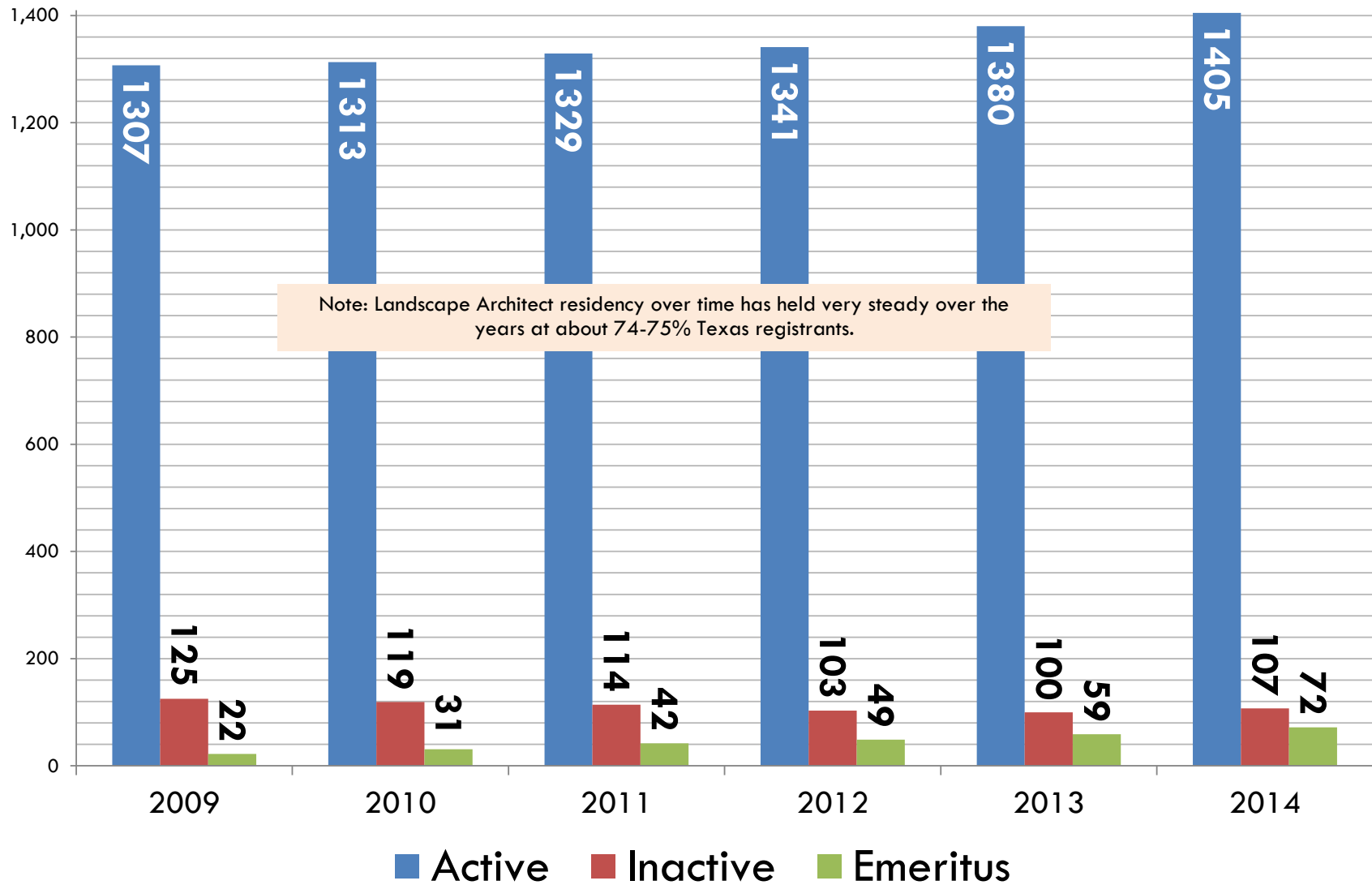
New Architects by FY



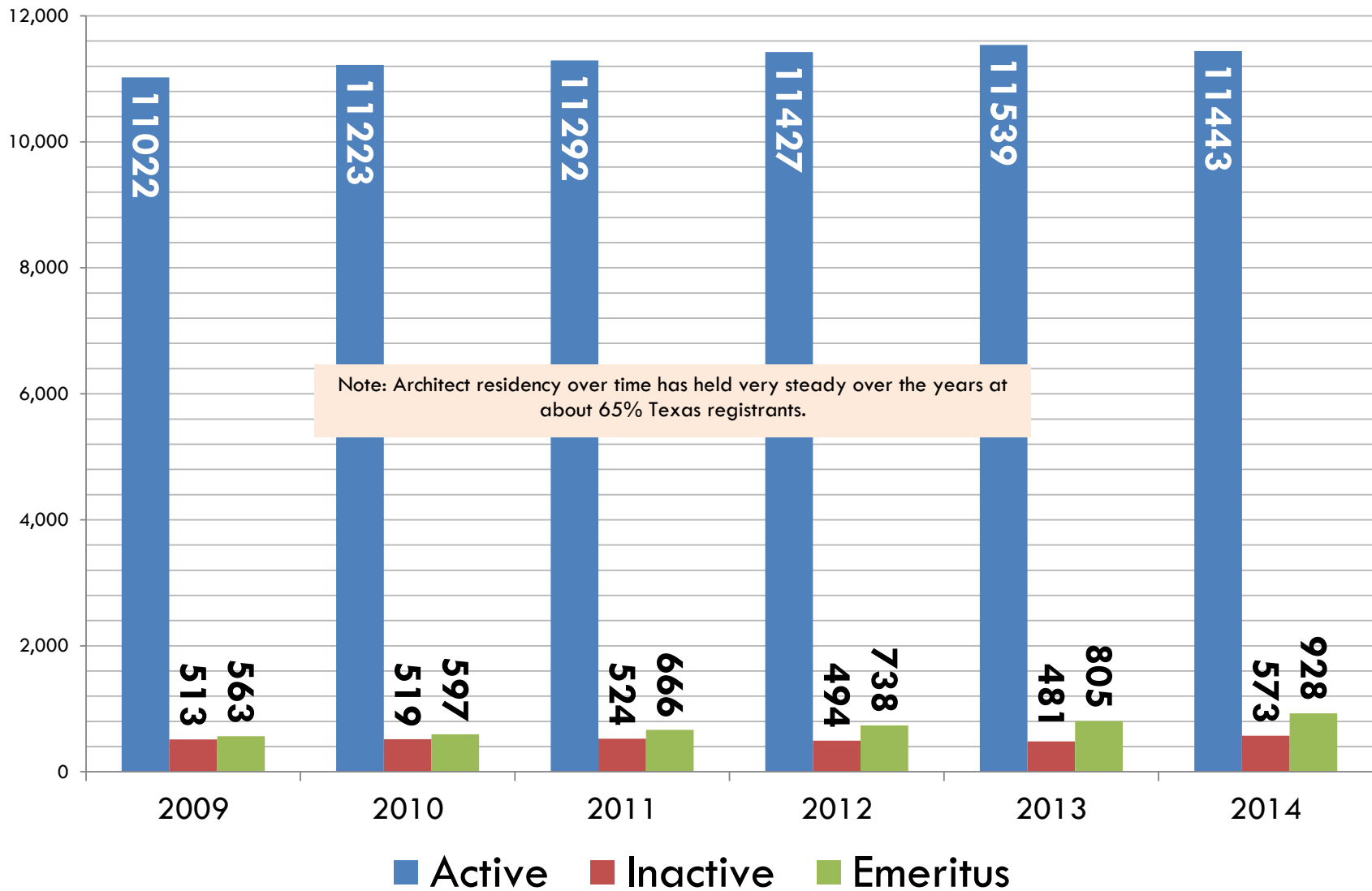
RIDs, by status



Landscape Architects, by status

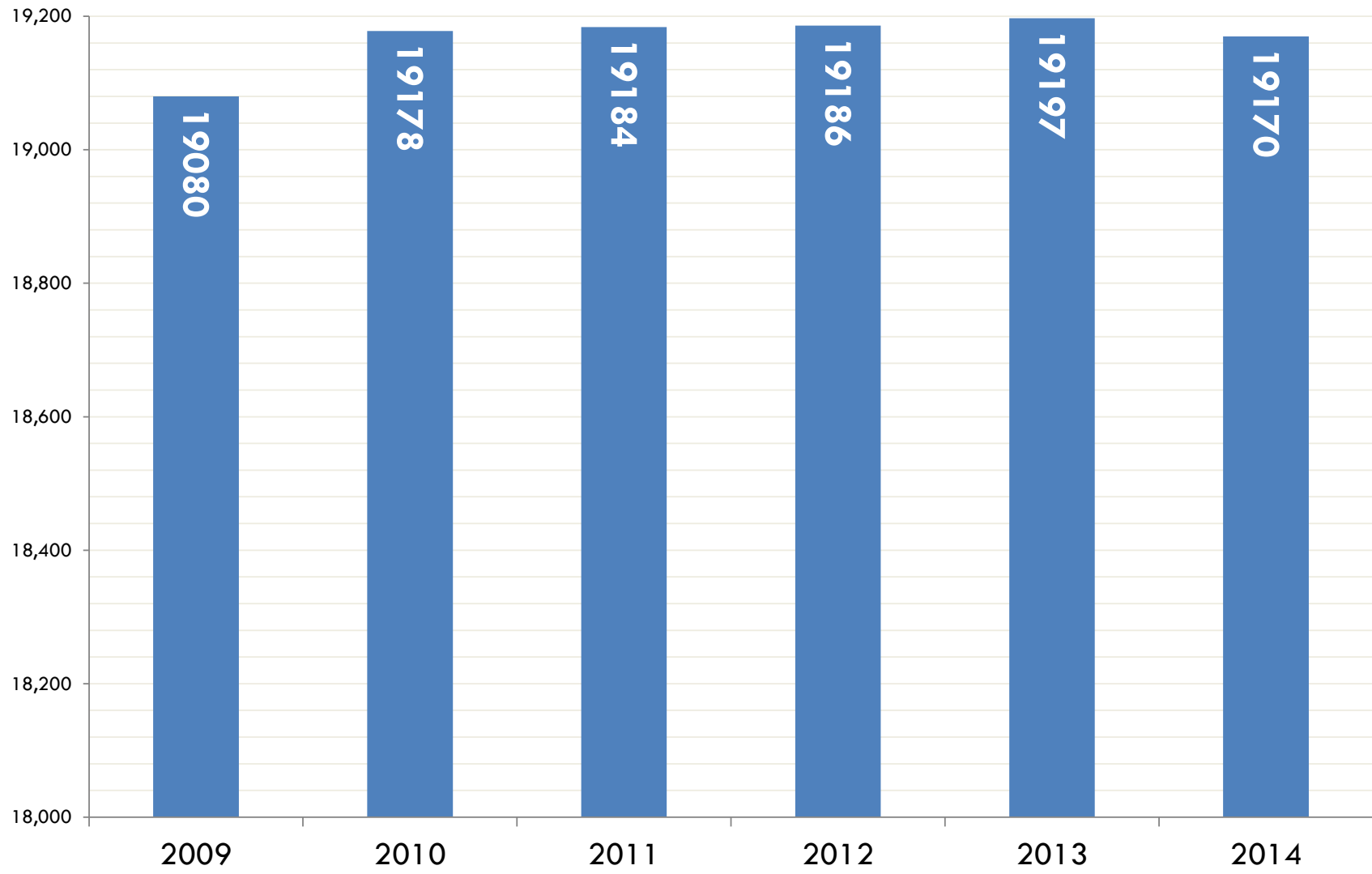


Architects, by status

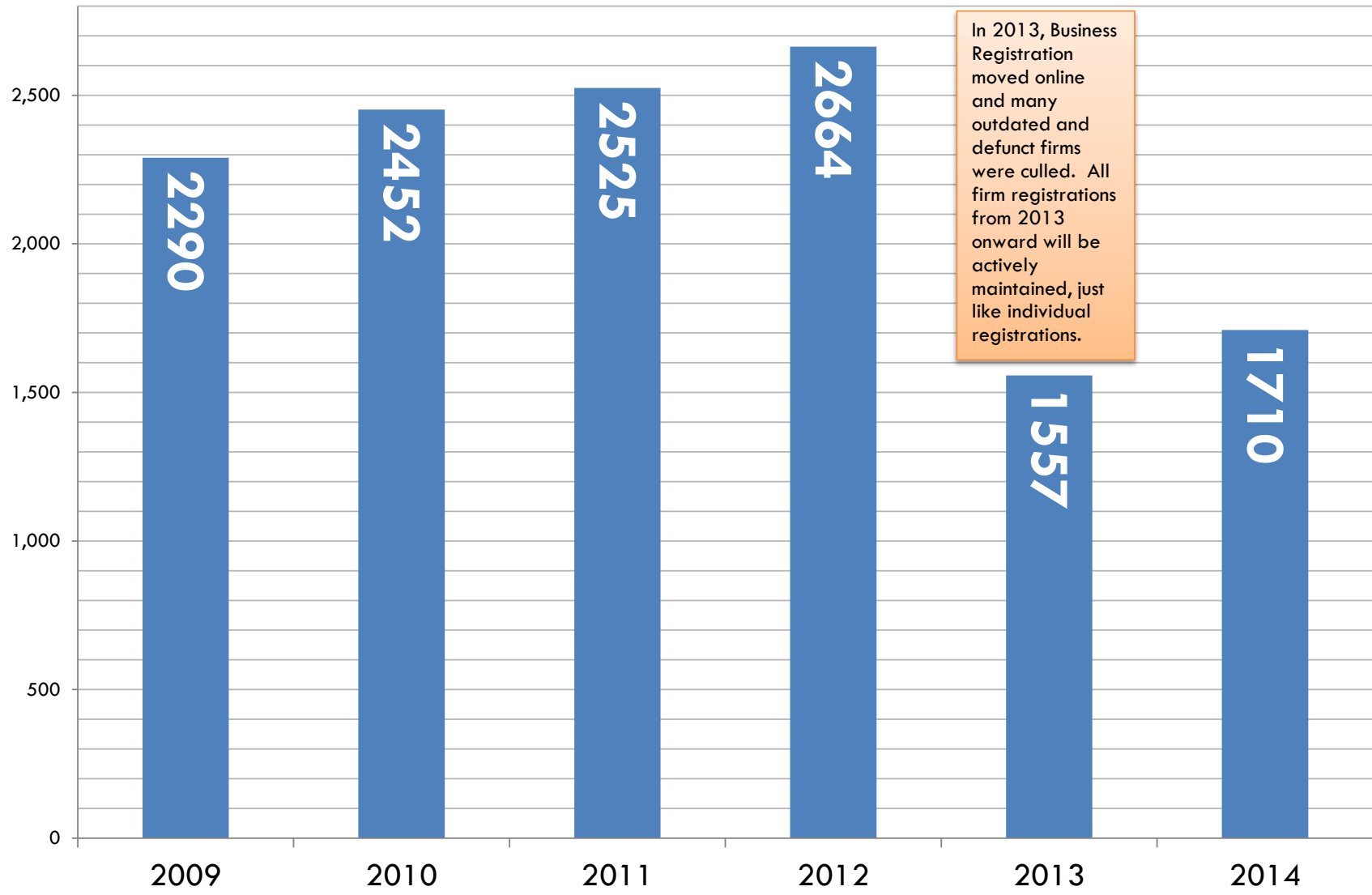


Individual registrations by FY

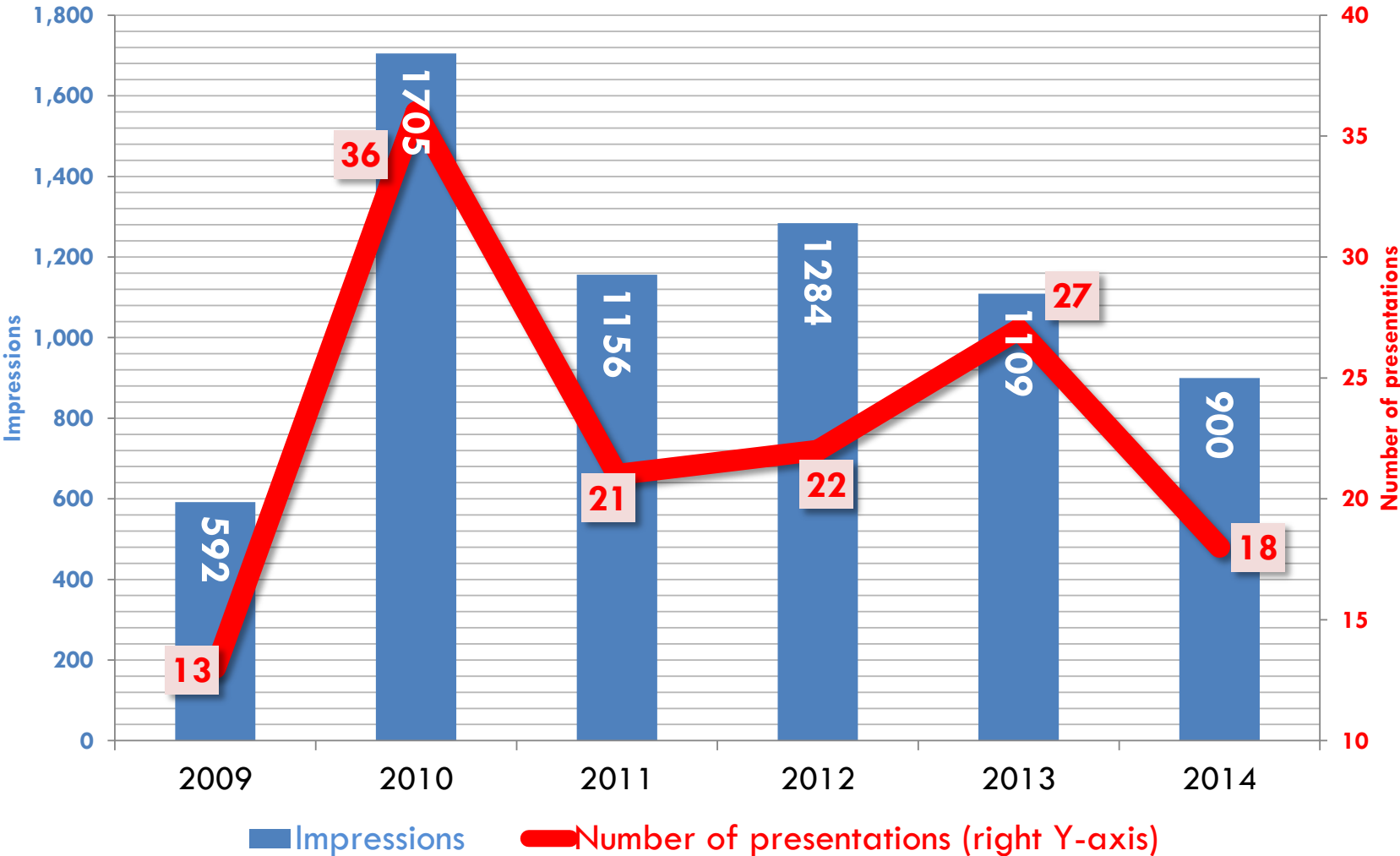
(All professions, active/inactive/emeritus status)



Business Registrations by FY



Communications Corps Results by FY



ACTION ITEMS/ITEMS OF INTEREST ASSIGNED AT TBAE BOARD MEETINGS
(August 21, 2014 Board Meeting)

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
1.	One	Ms. Odell asked for an update at each Board meeting on whether the four Corpus Christi Independent School District respondents have taken their required Continuing Education classes in Ethics.	INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Ongoing Sep 24	The Board, through letter of 5/19/14, notified the four respondents that they must submit a certificate of completion of 2 hours of professional ethics training by 5/15/2015. They were also notified of a course approved by the Board. Staff in legal and investigations have in place a monitoring process, “compliance follow-up” in which we monitor compliance with these non-monetary sanctions. As of this date, none of the four respondents have reported taking the required Ethics courses. We will provide another update at the Oct 20 Board meeting. As of September 24, none of the Corpus Christi respondents have reported completion of the continuing education requirement set forth in the board orders.	Jack Stamps
2.	One	Have a social media presence	ITEM ON OCT 20 BOARD AGENDA	Oct 20	Social media plan to be presented to the Board (information)	Glenn Garry
3.	One	Correct the May 15 Board approved Minutes	Minutes were corrected immediately after the August 21 Board meeting INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Aug 22	Correction: Delete reference to PowerPoint by dead architect Page 15 changed “UT-Austin” to “UT-Arlington” Page 15 changed “Snowden” to “Snøhetta”	Scott Gibson Glenda Best
4.	One	Bert recommended using the PDF version of the Board notebook on the TBAE Website.	Board electronic notebooks are published on the agency Website prior to each Board meeting. INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Oct 20	Glenda will survey the Board members as to their preference: electronic or printed version of the Board notebook.	Glenda Best
5.	One	The Customer Service Survey results should be published in the next issue of the newsletter.	Newsletter to explain 20K threshold is in statute, not staff discretion.	Oct 20	In draft form	Glenn Garry Scott Gibson

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
			INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA			
6.	One	Mr. Edwards asked that the Action Item report should be distributed to Board members whenever it is updated prior to inclusion in the Board notebooks. These updates would allow members to stay abreast of the actions and also serve as reminders.	INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Ongoing	The updates to this action report will be distributed prior to Board notebook distribution.	Glenda Best
7.	One	Send list serve announcing Cathy Hendricks' retirement effective August 31, 2014.	List serve message approved by retiring executive director and the executive team INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Sep 3	List serve sent on Tuesday, September 3, 2014	Glenn Garry
8.	One	Ms. Debra Dockery recommended that a full three-page story regarding Cathy Hendricks' 20 year service to the TBAE published in the next edition of the TBAE newsletter. Bert suggested including contact information for those who have questions.	INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Next publication	Story is being developed and will be published in the next issue of the newsletter.	Executive Team
9.	One	The Board approved the Executive Director Recruitment and Placement Plan. The Board Chair recommended that Step 1-3 should be completed by the October 20 Board meeting	ITEM IS POSTED ON OCT 20 BOARD AGENDA	Oct 20	The job description first review by the Board will be completed on Monday, September 15 and redistributed for final review on Monday, September 29.	Glenda Best Christine Brister
10.	Three	At the Rules committee meeting held on July 25, Mr. Edwards asked that we modify the case summary template to include sanctions precedent over 4 years.	Programming database to show chart of sanction history ITEM FOR POSTING ON JAN 22 BOARD AGENDA	Jan 22	The Rules Committee asked for a sample template – not sure when or what it could look like. However, we targeted the Jan 22 Board meeting date to develop and present a template.	Glenn Garry Dale Dornfeld
11.	Three	Davis: program agency database to track the number of small businesses registered by TBAE; definition of a “small business”	Programming issue ITEM FOR POSTING ON JAN 22 BOARD AGENDA	Jan 22	Statutory guidance or model definitions: §2006.001, Government Code Micro-business defined as business has not more than 20 employees. “Small business” is fewer than 100 employees or less than \$6 million in annual gross receipts.	Scott Gibson Dale Dornfeld
12.	Three	Develop process/procedure for crafting agency strategic plan, initiated by Board member/ stakeholder input. Procedure will include greater Board direction as policy-setting body.	INFORMATION/UPDATE – NOT CURRENTLY ON BOARD AGENDA	Jan 22	Staff is in the process of developing a process, including a Board workshop scheduled for 2015.	Glenn Garry Glenda Best

13.		After much discussion to the line item on "Printing" in the proposed FY15 Budget, the Board recommended proposal to amend rule to eliminate postcard renewal reminders and require email-only reminders.	ITEM ON OCT 20 BOARD AGENDA	Oct 20	Draft proposed amendments for Board consideration/referral to Rules Committee Communication to registrants that the renewal reminder mail-outs will cease. Renewal postcard cost analysis: 1. Cost for batch of 18,000 renewal postcards: \$1,013.66 (annual cost) 2. Cost for printing addresses on renewal card \$1,176.42 3. Cost for mailing renewal cards (Permit 363) - \$6,239.60 Total cost: \$8,429.68	Scott Gibson
14.	Three	Cease issuing plastic pocket cards as a cost saving measure.	Staff to provide a cost analysis to reproduce and mail pocket cards ITEM ON OCT 20 BOARD AGENDA	Oct 20	Pocket card cost analysis: 1. Cost of 1000 new pocket cards: \$1991.90 (every 18 months) \$1,440.76 (annual cost) 2. Cost for printing the names & registration number on pocket cards: \$370.20 3. Cost for postage on pocket cards (regular mail): \$374.40 Total cost: \$2,185.36 A total of 668 free pocket cards mailed to new registrants for FY14: \$0 Revenue fee for replacement cards: 56 x \$5 = \$280	Glenn Garry Mary Helmcamp
15.	Three	Add discussion of Rule 1.217 – Construction observation Rule to next Rules Committee agenda.	Some incongruity with common practice noted. ITEM FOR POSTING ON FUTURE BOARD AGENDA	Unspecified	Will add to next agenda	Scott Gibson
16.	Three	On July 25, 2014, the Rules Committee tabled Rule 1.52, relating to the Architectural Registration Examination Financial Assistance Fund (AREFAF) and possibly amends Rule 7.10 to assess a fee upon architectural registration and renewal of architectural registration to provide funding for financial assistance to qualified applicants to cover the cost of the examination.	Rules Committee ITEM FOR POSTING ON FUTURE RULES COMMITTEE AGENDA	Unspecified		Scott Gibson Chad Davis

ACTION ITEMS/ITEMS OF INTEREST ASSIGNED AT TBAE BOARD MEETINGS

(May 15, 2014 Board Meeting)

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
1.	One	<p>Mr. Anastos noted there had been Board discussion to create a Legislative Committee. Make this an agenda item for the August 21 Board meeting.</p> <p>Mr. Vidaurri asked the Executive Director to research the requirements of the old Legislative Committee, the authority of the committee and what the charge of the committee was.</p>	<p>Staff to layout expectations for such a committee and to look into the records from when the last legislative committee was created and determine what the Board delegated to it. He asked if it is a requirement to have a local person on the Board to be available on short notice to testify at committee hearings before the legislature</p> <p>Review past minutes. Identify what context exists about past established committees.</p>	Aug 21	<p>Staff researched Board activities from 1997 to present and no Legislative Committee with definitive charges was established.</p> <ol style="list-style-type: none"> 1. The executive director believes that it is beneficial to have a Board member present/available at Legislative hearings. However, due to spontaneous hearings and legislative requests, it would be prudent to consider assigning Board members who can respond instantaneously to these requests. Also, the executive director can keep these members apprised daily, of any legislative matters pertaining to the TBAE by teleconferencing. 2. Board to delegate to the committee the following tasks: 3. Receive input from professional associations, agency staff and others regarding prospective changes to laws enforced by board 4. Receive advice from staff regarding appropriate board position in light of context – how laws read currently, how enforced currently, arguments raised in court, and positions regarding laws and underlying public policy as stated to oversight agencies 5. Report recommendations to the full board regarding findings and recommended position on board's laws and the public policy underlying those laws. <p>The ultimate underlying goal for the Committee is to gather data regarding filed or proposed legislation and the positions of the different</p>	<p>Executive Team Cathy Hendricks Scott Gibson Glenda Best</p>

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
					<p>stakeholders who have an interest in the Board's jurisdiction. Based upon that input, the Committee is to develop and recommend a rational, fact-based, unified position of the Board on matters that will or may come before the legislature. The purpose of the committee (and the Board's position) is not to endorse or advocate for any professional society's or stakeholder's interest but to articulate the public policy interest to be served by the Board's position. This will serve as a guiding principle/directive to agency staff and board members who may be called upon to testify at legislative hearings. To be clear: neither the committee nor the board should endorse a bill, endorse a position in opposition to a bill, or engage in politics. In fact, the board and the committee should avoid the appearance of doing so. The board should make abstract statements of policy guided by its enabling legislation and mission statement.</p> <p>A Legislative Committee appointed by the Board at the August 21, 2014 Board meeting. Legislative Committee members are: Chuck Anastos Chad Davis Sonya Odell Chase Bearden Debra Dockery – Alternate</p>	
2.	One	1. The Chair, Mr. Vidaurri, directed staff to determine if other states have an Architect Registration Examination Financial Assistance Fund (AREFAF) to defray the costs of the Architectural Registration Program. Check other states for similar scholarship programs.	This action is a continuation of the May 15 Scholarship Fund report to the Board on the pros and cons breakdown for continuing the AREFAF scholarship fund initially assigned at the February 13 Board meeting.	Aug 21	A survey to other jurisdictions to report on relating to the AREFAF scholarship program was distributed immediately after the May 15 Board meeting. The responses are included in this report.	Mary Helmcamp Glenda Best

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
		2. Mr. Anastos asked staff to report to the Rules Committee if it takes a lot of resources to maintain the scholarship program and to provide information to the committee regarding the cost to the agency to administer the scholarship program.			No additional human resources needed to administer the scholarship program. The agency currently administers approximately 120 manned hours annually (40 hours for 3 application periods).	
3.	One	The Chair delegated possible renewal surcharges to the Rules Committee for consideration and report to the Board.	General Counsel to include on the Rules Committee agenda for the Rules committee meeting on July 25	Aug 21	Item 9, Rules Committee meeting agenda. Report from the Rules Committee to the full Board on Aug 21.	Scott Gibson Rules Committee
4.	One	Ms. Dockery asked that Rules and/or the possible Legislative Committee to discuss the sealing issues brought up in the Mike Chase enforcement case.	Should the penalties be higher and more significant for this type of infraction (see penalty matrix) The General Counsel brought the issue forward to the Rules Committee in July.	Aug 21	Item 6, Rules Committee agenda -Review Penalty Matrix. Report from the Rules Committee to the full Board on August 21.	Scott Gibson Rules Committee
5.	One	Item 8 on the May 15 Board meeting agenda: " <i>Committee Report on the Executive Director Performance Goals and Revised Performance Evaluation</i> " was converted from an action item to an information item. The Chair charged the Board and the Executive Director to review and present this item at the Aug 21 Board meeting.	Deferred for Board approval at the Aug 21 Board meeting.	Aug 21	The Executive Director discussed her concerns and made her recommendations to the ED Performance Review Committee on July 24, 2014. The Board with the Executive Director reviewed the revised performance appraisal instrument with the Performance Review Committee. The ED's concerns were addressed regarding the performance management process, competencies and policy and procedures. The Committee will provide an update to the full Board on Aug 21.	ED Performance Review Committee Cathy Hendricks Glenda Best Christine Brister Scott Gibson
6.	One	During the budget review, Mr. Davis stated that the state of Texas should pay at least the salaries of agency personnel dedicated to the collection of administrative penalties. The state gets the benefit of the administrative penalties imposed on the Board; it should at least allow the agency to recoup the cost expended to collect those penalties.	This requires a legislative change. The executive director should determine a course of action to bring this action forward during the 84 th Legislative session that begins January 2015. Proposed to the Sunset Commission	Aug 21	Recouping administrative cost requires a statutory change. Refer to Item #1 regarding Legislative Committee. Requires Legislature to change the SDSI Act.	Cathy Hendricks Scott Gibson

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
		Attempt to recover the \$510K payment to General Revenue (GR)	during their review in 2013.		The Sunset Advisory Commission tasked the SDSI agencies to share ideas about SDSI in order for the commission to conduct a study as directed by the 84 th Legislature in House Bill 1675. The Sunset Commission letter, Jun 5, 2014 and the agency's response are included under 3F on the Board agenda.	
7.	One	Rules Committee question regarding SB162. "What is an auxiliary of a branch of the Service"? Does it include the National Guard	Staff to research	Aug 21	General Counsel to research – Bill analysis has no information	Scott Gibson
8.	Two	Rules Committee question regarding SB162. "Is NCARB, NCIDQ, and CLARB establishing standards or identifying the specific military coursework and experience that should count toward licensure"? Do they or are they planning to specify the number of hours of credit for each course/training/experience?"	Staff to research	Oct 20	<p>Registration Department to verify with NCARB/NCIDQ/CLARB</p> <p>CLARB is listening to our Members on this issue as well as researching how related organizations (e.g. NCARB and NCEES) and their Boards (a number of which regulate two or all three disciplines) are responding to the broad desire to expedite professional licensing for military members and their spouses.</p> <p>While the interest and activity levels from profession to profession seem to vary, we are seeing a couple of trends:</p> <ul style="list-style-type: none"> • <u>Expediting qualified applicants.</u> Essentially this involves extending "comity" to those licensed in another jurisdiction and streamlining the processing of applications for initial or reciprocal licensure—moving them to the front of the line if you will. • <u>Advancing the concept of "substantial equivalency."</u> As you probably know, NCARB is offering some model language to support Boards as they create/modify rules to comply with new legislation on expedited licensing such as http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.55.htm. My understanding is that this approach is gaining some 	Mary Helmcamp

Item #	Priority	Action Description	Action Details	Due Date	Status	Action Owner
					<p>traction. On its face, this would seem to support the integrity of a defensible licensure standard and minimize the risk of loss of mobility. We note that the emphasis here is on the candidate's demonstration of qualification to the Board.</p> <p>The question of what specific military education/training and experience would be commensurate with that of the civilian sector is an interesting one and presents some challenging questions and potentially broad implications. We do not currently define these equivalencies and would need to do some additional research, thinking, and conversation with our Membership before charting a different course.</p> <p>NCARB: Work that is approved by a registered architect or that specifically align with the three experience settings are eligible for IDP credit - currently (to my knowledge) there are no more specific plans or opportunities.</p>	


ACTION ITEMS/ITEMS OF INTEREST ASSIGNED AT TBAE BOARD MEETING
(February 12-13, 2014 Board Meeting)

Priority	Action Description	Action Details	Due Date	Status	Action Owner
One	Employee representation at the NCARB Regional Summit in San Antonio, March 6-9, 2014.	Convergence of all NCARB's Regions into one summit meeting annually. Registration is required for attendees; spoke with Cathy, she did not ask staff to attend.	Done	Jack/Mary will attend the Region3 portion of the meeting on Friday, June 7, 2014	Glenda
One	Include the link to the SEE report on the TBAE Website in the next agency Update/Report to the Board	Glenda to place report on the Board's section of the Website.	Early April Done	Link sent to IT on Mar 25 to upload on Website.	Glenda Christine Matthew
One	Provide an analysis of number of registrants paying late fees since the rate was lowered compared to what happened a year ago.	Include in EDs report at the May 15, 2014 Board agenda item.	May 15	Mary will provide data and analysis to Glenda	Ken/Mary
One	Three-person (later expanded to four, to include one public member) to the ED performance Review Committee (Chase Bearden). One of each profession, plus public member.	Initial meeting to convene. Sonya Odell is named Chair of that committee May 15 Board agenda item	May 15	Alfred asked the ED Goal setting committee to continue to move forward with developing goals. He asked Ms. Odell, Chair of the committee to coordinate with the committee and staff on the when and where. He also asked her to have a set of proposed goals ready for approval at the next board meeting.	Sonya Odell Debra Dockery Chad Davis Chase Bearden
One	iPad-friendly Board notebooks. No more paper books. PDFs must be editable with note-taking capability. "Annotate PDF" and "Board Pack" were specific apps mentioned. Let's try PDF-only but have "backup" printouts available at meeting. Last word was: Give the Board some options (software/app and process) next time.	Include in EDs report at the May 15, 2014 Board agenda item.	May 15	IT and Executive continue researching application for the May 2014 Board notebook. Ops team agreed to report the various software packages available for each platform providing basic PDF Annotation FreeWare for the Board's approval	Glenda, Dale IT
One	Dockery has some email/list-serve problems we need to look into.	On Thursday, March 13, Glenda addressed the issue with the IT manager to research the list serve problem the Vice-Chair is encountering.	Mar 14	IT identified the problem and successfully corrected the error and confirmation received from the Vice-Chair that she successfully received the trial list serve message on Friday, March 14 at 2:06 pm	Glenda Dale/Julio IT

Priority	Action Description	Action Details	Due Date	Status	Action Owner
One	Add additional section to existing Operating Budget to report enforcement penalties (revenue) transferred to GR.	Develop a reporting page to capture the enforcement penalties transferred to GR. Also, it would be advantageous to show our initial GR transfers as well. Include in EDs report at the May 15, 2014 Board agenda item.	May 15 Done & Ongoing	Develop pie charts for all transferred funds to GR. Update will be presented under the ED's report at the May 15 Board meeting	Ken/Glenda
One	Pros and cons breakdown for continuing scholarship fund at next Board meeting	May 15 Board agenda item for discussion. Other issues were discussed at the May 15 Board meeting and additional action items are included for action at the Aug 21 Board meeting. (Items are added below to the May 15 action item list.	May 15 Done	Agenda item for the May 15 Board meeting	Board
One	Email Board members the new rule (or law) regarding Board meetings by videoconferencing or teleconferencing.		Done	Email sent on Friday, February 14, 2014 regarding videoconferencing which was amended during the 2013 session.	Scott
One	Compare registrant trends (Page 44, Individual Registrations by FY – all professions) compare to any available national data	Include in EDs report at the May 15, 2014 Board agenda item.	May 15 Done	Present comparison at the May 15 – ED's report on trending	Mary/Glenn
One	Do a survey of other states about what their CE requirement is for the initial registration period. What effect would any rule change have on reciprocity?	Rules Committee meeting	Jul 25	Report to the Rules Committee. Review the model rule	Rules Committee
Three	Presentation to Texas Municipal League (TML). Point is to go "above" the BOs to get their attention.	Communications manager filed application with TML for presentation	In progress	Include in the ED's report	Jack/Glenn
Two	Presentation to BOs and city managers of the ten largest cities, for starters. Focus will be HB 2284. Jack notes that this is partially in motion already.		Oct 20	Four-hour block at the BOAT conference in August 2014	Jack
Three	Blue Sky Discussion – Reevaluate sealing rules and other practice rules in light of BIM and other evolutions in practice.	Will require extensive practitioner input and careful consideration by Board Would be prudent for Rules Committee workshop	TBD	Pending more specific Board direction – Currently is a Blue Sky Item	Board
Three	Blue Sky Discussion: Make our Website mobile-friendly; develop apps for mobile devices	Create a comprehensive plan to mobilize our Website	In progress	This is a work in progress	Cathy Hendricks/IT

Priority	Action Description	Action Details	Due Date	Status	Action Owner
	Sync up ED performance reviews with the Survey of Employee Engagement (SEE) results in the future.	Note: SEE is done bi-annually not annually.	Jan 2016	Would provide SEE results to the ED Performance Review Committee bi-annually	ED Performance Review Committee

BOARD “BLUE SKY” DISCUSSION ITEMS AND/OR BOARD GOVERNANCE AREAS OF INTEREST

Item #	Action Description	Initial Action Details	Comments	Board Action/ Decision
1.	Blue Sky Issue: Have one Board meeting a year in other geographical locations rotating throughout Texas. Idea expressed to maybe convene at a TxA convention.	“Blue Sky” discussion. May be a logistical and financial constraint to convene Board meetings outside of Austin.		
2.	Blue Sky Issue: CLARB is looking for a champion for the concept of “welfare.”	CLARB’s Welfare document is the outline for TBAE CE rules. The rules track the document extensively.	<p>The agency received the CLARB welfare regulation pilot project for consideration. It was determined that While this is an interesting concept I do not feel that our Board is currently in the position to commit the time, focus, and resources to such a pilot program at this</p>  <p>CLARB welfare regulation pilot project.</p>	No further action required.
3.	Blue Sky Issue: Encourage interns to register ASAP.	Discussion proposed offering incentives to encourage registration (“carrots and not just the stick”)	Pending further Board consideration	
4.	Blue Sky Issue: Have a “blue sky” section (information item) on ALL Board agendas	Capture the Board’s brainstorm items on this list and include in the Appendix portion of the Board notebook.	<p>Use the brainstorming ideas as part of the Board Workshop held annually.</p> <p>Chapter VIIA, 2014 Open Meetings Handbook states, “Notice must be sufficient to apprise the general public of the subjects to be considered during the meeting. . . Generalized terms such as ‘old business,’ ‘new business,’ ‘regular or routine business,’ and ‘other business’ are not proper terms to give notice of a meeting because they do not inform the public of its subject matter.” (See pages 24-26, 2014 Open Meetings Handbook)</p>	

Item #	Action Description	Initial Action Details	Comments	Board Action/ Decision
5.	Blue Sky Issue: adhere to quarterly meeting schedule even on legislative years.	May be problematic due to unforeseen legislative committee hearings. New Board members are appointed usually at the end of legislative session.		
6.	Blue Sky Issue: Reestablish the Legislative Committee	This item is now converted to an action item for staff feedback.		

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS (TBAE)
JOB DESCRIPTION
EXECUTIVE DIRECTOR**

State Job Title	Executive Director	Functional Job Title	Executive Director
Classification/Grade	Exempt	FLSA Status	Exempt
Reports to	TBAE Board Members	Division	Executive Administration
Approval Date		Revision Date	

GENERAL DESCRIPTION

The Executive Director is chief executive officer and the administrative head of the Texas Board of Architectural Examiners, responsible for administering the administrative rules and state policy in support of the Texas Occupations Code Chapters 1051 Architecture, 1052 Landscape Architecture, and 1053 Interior Design and statewide continuity of operations. The Executive Director reports to the Board of Directors and is responsible on a daily basis for the TBAE's consistent achievement of its mission and financial objectives, including but not limited to overseeing all aspects of financial and program management, strategic planning, staff leadership, policy development, human resource management, fiscal management, management of activities related to statutory duties of the Board, and performing any other duties as assigned. Responsibilities include, but are not limited to, those specific duties assigned by the Board through its Chair, as generally described below. The Executive Director performs highly advanced (senior-level) policy administration and managerial work. The Executive Director works under minimal supervision with extensive latitude for the use of initiative and independent judgment. The position requires annual personal financial disclosure pursuant to Chapter 572, Texas Government Code.

ESSENTIAL JOB FUNCTIONS

Leadership/Management

1. Works with the Board of Directors to prepare an agency Strategic Plan, oversees the goals/objectives accomplishments, and reports results to the Board on a quarterly basis.
2. The strategic plan shall guide the agency operations and decisions to meet the operational and financial goals.
3. Ensures ongoing excellence, rigorous program evaluation, and consistent quality of finance, administration, communications, and systems; recommends timelines and resources needed to achieve strategic goals.
4. Sees that an effective management team, with appropriate provision for succession, is in place.
5. Develops, maintains, and supports a strong Board; participates with the Board in developing a vision and strategic plan to guide the agency with strategic direction.
6. Ensures effective systems to track progress, and regularly evaluates program components, so as to measure successes that can be effectively communicated to the Board, the Legislature, and stakeholders.
7. Identifies, assesses, and informs the Board of Directors of internal and external issues that affect the agency.
8. Acts as a professional advisor to the Board on all aspects of the agency's activities.

Communications

1. Develops a communication strategy for all audiences. Following this strategy, as approved by the Board, communicates in person and via telephone on a regular basis with registrants across the state to learn about the issues, promote the agency, and to learn of potential problems to prepare an action plan for the Board's review.
2. Communicates on a regular basis with the Board Chair.
3. Directs and participates in an outreach team to deliver relevant messages to practitioners of architecture, landscape architecture, and interior design; students and the education community; candidates for licensure; and the public.
4. Represents the agency to professional organizations, registrants, and legislative committees in a professional manner.
5. Effective language and presentation skills to address large and small groups, both public and private, in a professional manner.
6. Consults with the Chair on a regular basis and before responding to inquiries that may be controversial or unclear.
7. Provides accurate and appropriate information. Uses discretion in committing Board and agency resources and in presenting Board and agency position.
8. Keeps abreast of state and international trends and developments in the built environment, both internal and external, and government policies, programs, and procedures affecting the practice of architecture, interior design, or landscape architecture and/or Board activities.
9. Meets with and provides relevant information to oversight bodies as requested and as necessary.
10. Directs production and requirements of newsletter, emails, and Web site.
11. Communicates effectively in legislative hearings, meetings, and other functions.

Board/Government Relations

1. Confers with Board Members, legislators, staff, and internal and external agency officials and staff to discuss issues, coordinate activities, and resolve problems, anticipating customer needs to facilitate appropriate solutions.
2. Develops and maintains effective working relationships and handles complaints.
3. Fosters good working relationships and collaborative arrangements with professional societies and associations, the Legislature, and oversight agencies to help achieve the goals of the agency.
4. Provides information and advice to state agencies and the general public regarding agency activities and responsibilities.
5. Behaves ethically, understanding ethical behavior and business practices, and ensuring that his or her behavior and that of others is consistent with these standards and aligns with the values of the agency.
6. Interacts and works cooperatively with other SDSI agencies.

Agency Administration

1. Coordination with external organizations; i.e., national testing organizations, professional membership organizations, university and professional development institutions, both nationally and statewide, and other state licensing boards.
2. Coordination of planning, development, and operation of fee structures and collection procedures for registration, examination, continuing education, regulation, and enforcement of professional practices.
3. Manage TBAE's statutory requirements to provide registration, regulation, and enforcement for the protection of the health, safety, and welfare of the public.
4. Responsible for agency administration; provides leadership to the agency staff; and ensures staff conducts its duties in a manner that is ethical, respectful, courteous, and quality oriented.
5. Responsible for the hiring/dismissal, management, and training of agency staff.
6. Ensures effective fiscal accountability, accuracy of agency documents, and adherence to the state laws and regulations.
7. Demonstrates effective management, leadership skills, and independent judgment in conducting the work of the agency, facilitating a work environment that is conducive to open communications, problem solving, and team building.
8. Requires minimal supervision by the Board in managing agency business and staff issues.
9. Responsible for the financial well-being of the agency, the presentation of programs to the Board to accomplish financial goals, and the implementation of Board-approved actions.
10. Responsible for the adherence to SDSI agency guidelines and to other state-mandated regulations of the agency.

MINIMUM QUALIFICATIONS

Graduation from an accredited four year college or university.

A degree or major focus of study in architecture, landscape architecture, or interior design is preferred but not required.

A degree or major focus of study in Business, Management, Finance, or equivalent is highly desirable.

Advanced professional certification or study in the field of association management/leadership is highly desirable.

A minimum of 12 years' experience in agency/business management or equivalent.

KNOWLEDGE, SKILLS & ABILITIES (KSAs)

1. Knowledge of local, state, and federal laws and regulations; of business and management principles involved in strategic planning, resource allocation, and leadership techniques; of accounting, budgeting and financial principles; and of the principles and practices of public administration and management.
2. Exceptional skill in effective oral and written communication.
3. Knowledge of significant trends and business analysis.
4. Proven ability in successfully developing staff, with the ability to manage a diverse workforce.
5. Ability to direct and organize program activities; to establish program goals and objectives that support the strategic plan; to identify problems, evaluate alternatives, and implement effective solutions; to direct the development and implementation of agency policies and procedures; to prepare concise reports; to make presentations and testify at hearings before the Legislature; to communicate effectively; and to plan, assign, and supervise the work of others.
6. Ability to represent the Board at meetings of state professional groups and at annual meetings of national and regional associations of other architectural/landscape architectural/interior design registration boards.
7. Ability to act as liaison between TBAE and the National Council of Architectural Registration Boards (NCARB), the Council of Landscape Architectural Registration Boards (CLARB), and the Council for Interior Design Qualification (CIDQ) to improve standardized procedures.
8. Knowledge of the Texas Open Meetings Act, the Texas Open Records Act, the Administrative Procedures Act (APA), Governmental Fund Accounting, Judicial and Legislative Process, and the State Budget Process.
9. Ability to receive and positively respond to constructive feedback.
10. Ability to handle stressful situations.
11. Ability to provide excellent customer service.
12. Understanding of the scope, requirements, and knowledge base of each of the three professions regulated by the agency.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to walk; stand; climb stairs; sit; use hands to use or handle office tools and equipment, including telephone and computer; and reach with hands and arms. The employee is occasionally required to stoop, kneel, or crouch. The employee must occasionally lift and/or move up to 15 pounds. Specific vision abilities required by this job include ability to adjust focus for work with computers and peripheral vision and depth perception for driving.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work environment is non-smoking. While performing the duties of this job, the employee is constantly exposed to computer and telephone equipment, telephone and printer noise, busy environment with many interruptions and is occasionally exposed to outside weather conditions. The noise level is usually moderate. Extensive travel may be required for outreach programs, meetings, and training.

SCHEDULE

Work hours Monday through Friday from 8:00 a.m. – 5:00 pm. May be required to work additional hours including evenings or weekends.

Employee Signature

Date

Chairman of the Board Signature

Date

BOARD APPROVED EXECUTIVE DIRECTOR (ED) RECRUITMENT AND PLACEMENT PLAN

PHASE ONE

STEP 1: Review and revise current Job Description

Staff Responsibility	Board Responsibility										
<ol style="list-style-type: none"> 1. Provides the Board with: <ol style="list-style-type: none"> a. current job description b. job description template c. sample ED job descriptions d. sample job vacancy notices 2. Provides technical support to the Board in the development of the job description. 3. Reviews job description to ensure compliance with Equal Employment Opportunity (EEO) guidelines. 	<ol style="list-style-type: none"> 1. Board develops a draft job description to be reviewed and approved by the Board. 2. Board Chair approves and signs revised job description. 3. Develops timeline for filling vacancy. <table border="0" style="margin-left: 20px;"> <tr> <td>Nov 1-30</td> <td>Vacancy announcement posted</td> </tr> <tr> <td>Dec 15</td> <td>Screened applications to full Board</td> </tr> <tr> <td>Jan 22</td> <td>Board determines top candidates for interview</td> </tr> <tr> <td>Feb</td> <td>Board develops and approves interview questions</td> </tr> <tr> <td>Feb</td> <td>Board convenes to conduct interviews</td> </tr> </table> 	Nov 1-30	Vacancy announcement posted	Dec 15	Screened applications to full Board	Jan 22	Board determines top candidates for interview	Feb	Board develops and approves interview questions	Feb	Board convenes to conduct interviews
Nov 1-30	Vacancy announcement posted										
Dec 15	Screened applications to full Board										
Jan 22	Board determines top candidates for interview										
Feb	Board develops and approves interview questions										
Feb	Board convenes to conduct interviews										

STEP 2: Budget Verification with approved Personnel Action Form/Compensation Range

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Provides the Board with current salary information and salary range 2. Prepares the Personnel Action Form for signature 	<ol style="list-style-type: none"> 1. Determines compensation for vacancy announcement 2. Chair approves and signs Personnel Action Form

STEP 3: Vacancy Announcement & Identify Candidate Sources

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Provides the Board with template for vacancy announcement. 2. Prepares the vacancy announcement using the Board's approved job description with other instructions. 3. Reviews vacancy announcement for compliance with EEO standards 4. Posts vacancy announcement on Texas Workforce Commission WorkinTexas.com for a minimum of 10 days. Vacancy announcement is targeted to US veterans for the first 24 hours. 5. Posts to additional sites as directed by the committee. 	<ol style="list-style-type: none"> 1. Develops and approves vacancy announcement using approved job description. May wish to highlight specific experience or knowledge, skills or abilities. 2. Determine closing date of vacancy announcement 3. Applicants are required to apply with a State of Texas Application for employment. 4. May require a writing sample, cover letter and resume. 5. Designates additional sites to advertise position (TBAE ListServe, NCARB, AIA, CLARB, CIDQ, etc.) Considers cost associated with search sites

STEP 4: Application

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Staff receives completed State of Texas Applications for Employment. 2. Applications received in person, via email, USPS mail or fax. 3. Applications are logged in and EEO data is compiled for reporting purposes. 	<p>Receive status updates and other information upon request.</p>

STEP 5: Develop Interview Questions and Screening & Selection Criteria

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Screens each application for minimum qualifications, preferred qualifications and flags those claiming Veterans Preference. An individual who qualifies for a veterans' employment preference is entitled to a preference in employment over other applicants who do not have a greater qualification for the same position. A veteran is defined as an individual who served in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard or in an auxiliary service of one of those branches of the U.S. Armed Forces 2. Sort applications by "Qualified", "Not Qualified" and "Needs Additional Review" by the Board. 3. Forwards ALL applications to the Board members based on timeframe set by the Board. 4. Provides the Board with sample questions for approval. 5. Reviews questions to ensure compliance with EEO guidelines. 	<ol style="list-style-type: none"> 1. Determines how often to receive screened applications. 2. Reviews all applications received from staff. May confer with staff regarding reasons for "Qualified" or "Not Qualified" status. 3. Decides on the number of candidates to interview, ranging from three to five candidates. If the number of qualified candidates exceeds the Board's number, the Board may choose to do further application screening or conduct telephonic interviews. Veterans Preference status can be considered at this stage. 4. If applicant pool is not acceptable to the Board, the process can be re-initiated from Step 3. 5. Develops interview questions based on job requirements and Knowledge Skill and Ability (KSA's). 6. Approves interview questions. 7. The Board interviews the top candidates.

PHASE TWO

STEP 6: Interviews

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Incorporates Board questions into template. 2. Coordinates interview dates and time with the Board. 3. Schedules interviews with candidates and Board. 4. Provides Board with schedule. 5. Prepares all interview forms for the Board 6. Maintains all documentation related to selection process, all documents are subject to open records requests. 	<ol style="list-style-type: none"> 1. Interviews are conducted in closed session. Candidates are interviewed individually based on the timeline scheduled for each interview session. 2. Meeting will be posted. 3. Records candidates' responses during the interviews on forms provided by staff. All candidates are asked the same questions. Board members may ask follow up questions.

STEP 7: Selection & Background Check

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Verifies work history and education. 2. Conducts criminal history check. If clear, proceed with offer. Negative criminal history check requires consultation with the General Counsel and Board. (Conviction of a crime is not necessarily a cause for rejection). 3. Prepares PAF for Chair's signature with recommended start date as the 1st or 15th of the month for payroll purposes. 	<ol style="list-style-type: none"> 1. Makes selection based on interview and experience. 2. The full Board makes motion on selection in open meeting. Motion includes start date and compensation. (Contingent on successful background and criminal history check). 3. If selected candidate declines or no suitable candidate is found, the Board may decide to interview additional applicants from the current pool and/or re-post and re-initiate process at Step 3.

STEP 8: Hiring Package & Notifications

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Finalizes job offer with candidate in writing. 2. Sends "not selected" letters to candidates who were interviewed. 3. Communication of new executive director to various stakeholders and leaders of state government. 	<ol style="list-style-type: none"> 1. Plans for introduction of new ED to staff and various stakeholders. 2. Provides guidance on communication and announcement of the new executive director.

STEP 9: On-Boarding

Staff Responsibility	Board Responsibility
<ol style="list-style-type: none"> 1. Orientation: ensures completion of new hire package (W-4, Federal Employment Eligibility Form I-9, Direct Deposit form), enrollment in Texas Government Employee Benefits Program (insurance and retirement plans). 2. Reviews and acknowledge receipt of various state government documents. 3. Reviews internal housekeeping items 4. Assigns deadline for completion of mandatory new hire EEO Training. 5. Payroll documents sent to Payroll for processing. 6. Arrange for department briefings. 7. Close out hiring process and ensure all documents are filed in the Official Personnel Folder. 	<ol style="list-style-type: none"> 1. Orientation with the Board conducted within 90 days of hire. 2. Reviews the job description with the ED. Both the ED and the Chair sign to acknowledge review. 3. Signed Job Description returned to staff and placed in ED's official personnel folder. 4. Sets expectations and priorities 5. Develops goals for the ED evaluation over the initial review period.

Summary of Proposed Rules Rules 1.69, 3.69, and 5.79 – Continuing Education – Initial Period upon Registration or Reinstatement

Current Rule

The current Continuing Education rules were drafted when the educational reporting period coincided with the registration renewal period. The rules provided an exemption for the initial period of registration which is the time between registration and the end of the registrant's birth month – almost always a period shorter than a year. Thereafter, the registrant would report on her or his completion of continuing education upon renewing registration at the end of each registration period. The exemption ensured each initial registrant would have one full year to complete continuing education requirements. There are no exemptions for the initial registration period of a person who reinstates registration.

Since the adoption of the Continuing Education rules, the Board has modified the continuing education reporting period so that it no longer coincides with the registration renewal period. Upon renewal, each registrant confirms whether he or she completed the continuing education requirements for the immediately preceding calendar year. An initial registrant, upon his or her first renewal, may not have been registered for much, if any, of the preceding calendar year. The exemption for the "initial period of registration" does the registrant little or no good because the exemption does not coincide with the continuing education reporting period.

Similarly, a recently reinstated registrant, upon first renewal of registration, may not have been registered for much, if any, of the preceding calendar year.

The continuing education reporting requirement assumes registration during the entire calendar year preceding the renewal of registration. For initial registrants and reinstated registrants, that assumption is usually incorrect. The registrant must certify compliance with continuing education requirements during a period which may predate registration and therefore the application of the requirement to the registrant.

Proposed Rules

The rules as amended would create an exemption for the period beginning upon the date of initial registration or the date of reinstatement of registration (as applicable) through the next December 31st following that date. The rules would shift the period of exemption to coincide with the period for which the registrant is to report continuing education compliance i.e. the calendar year preceding the date of registration renewal. The proposed rules were published in the September 19, 2014 edition of the *Texas Register*. To date, the agency has received no public comment.

Note

The draft amendments are similar to the rules in other jurisdictions which generally create a continuing education exemption for first-time registrants. The exemptions coincide with the continuing education reporting periods. However, there is little consistency from state to state on the length of the reporting periods or the frequency for reporting on continuing education compliance.

RULE §1.69 Continuing Education Requirements

1 (f) An Architect may be exempt from continuing education requirements for any of the following
2 reasons:

3 (1) An Architect shall be exempt upon initial registration and upon reinstatement of registration
4 through December 31st of the calendar year of his/her initial or reinstated registration [~~for his/her~~
5 ~~initial registration period~~];
6

RULE §3.69 Continuing Education Requirements

7 (f) A Landscape Architect may be exempt from continuing education requirements for any of the
8 following reasons:

9 (1) A Landscape Architect shall be exempt upon initial registration and upon reinstatement of
10 registration through December 31st of the calendar year of his/her initial or reinstated registration
11 [~~for his/her initial registration period~~];
12

RULE §5.79 Continuing Education Requirements

13 (f) A Registered Interior Designer may be exempt from continuing education requirements for
14 any of the following reasons:

15 (1) A Registered Interior Designer shall be exempt upon initial registration and upon
16 reinstatement of registration through December 31st of the calendar year of his/her initial or
17 reinstated registration [~~for his/her initial registration period~~];

Continuing Education Enabling Law

§ 1051.356. Continuing Education.

(a) The board shall recognize, prepare, or administer continuing education programs for its certificate holders. A certificate holder must participate in the programs to the extent required by the board to keep the person's certificate of registration.

(b) The continuing education programs:

(1) must include courses relating to sustainable or energy-efficient design standards; and

(2) may include courses relating to:

(A) health, safety, or welfare; or

(B) barrier-free design.

(b-1) As part of a certificate holder's continuing education requirements for each annual registration period, the board by rule shall require the certificate holder to complete at least one hour of continuing education relating to sustainable or energy-efficient design standards.

(c) The board may recognize the continuing education programs of:

(1) a nationally acknowledged organization involved in providing, recording, or approving postgraduate education; and

(2) any other sponsoring organization or individual whose presentation is approved by the board as qualifying in design or construction health, safety, or welfare.

(d) A person is exempt from the continuing education requirements of this section if the person is, as of September 1, 1999, engaged in teaching the subject matter for which the person is registered under this subtitle as a full-time faculty member or other permanent employee of an institution of higher education, as defined by Section 61.003, Education Code.

Summary of Proposed Rules

Military Service

Background – Senate Bill 162 relating to military spouses and licensing of military personnel was passed by the 83rd Legislature in 2013. The bill amends Chapter 55, Texas Occupations Code, to require reciprocal registration of applications for licensure filed by spouses of active-duty military personnel. The pertinent requirements in the bill apply to all regulatory boards and the issuance of all licenses.

The bill requires licensing boards to issue a license to a military spouse applicant as soon as practicable after the application is filed. The bill also includes provisions requiring boards to issue notice of impending license renewals to licensees who are military spouses. It also mandates that the term of licensure shall be for the period established by law or agency rule or 12 months, whichever is longer.

The bill also requires licensing boards to give credit for verifiable military service, training or education to applicants who are military personnel or veterans. The credit may apply toward fulfilling education or experience requirements but not examination requirements. The requirement does not apply if the applicant holds a restricted license from another jurisdiction or has an unacceptable criminal history under the laws enforced by the licensing board.

Licensing boards are required to adopt rules to implement the requirements relating to (1) licensing military spouses and (2) licensing military service members and veterans. (A third set of requirements under Section 4 of the bill apply only to the Texas Commission of Law Enforcement and does not require any action by TBAE.)

Proposed Rules – The proposed amendments to rules 1.22/3.22/5.32 require expedited treatment of applications for reciprocal registration from military spouses. The rules would require those applications be given priority over applications filed by applicants who are not military spouses. Current rules already comply with the bill's requirements regarding notice of registration renewal and the 12-month renewal period.

Proposed rules 1.29/3.29/5.39 are new rules which require the Board to give credit for military service, training or education when considering the registration applications of military personnel or military veterans. The requirement to grant credit for military experience and education would not apply if the applicant has a restricted license from another jurisdiction or an unacceptable criminal history record.

The proposed amendments and new rules were published in the September 19, 2014, edition of the *Texas Register*. To date, the agency has not received public comment.

RULE §1.22 Registration by Reciprocal Transfer

1 (a) A person may apply for architectural registration by reciprocal transfer if the person holds an
2 architectural registration that is active and in good standing in another jurisdiction and the other
3 jurisdiction:

4 (1) has licensing or registration requirements substantially equivalent to Texas registration
5 requirements; or

6 (2) has entered into a reciprocity agreement with the Board that has been approved by the
7 Governor of Texas.

8 (b) In order to obtain architectural registration by reciprocal transfer, an Applicant must
9 demonstrate the following:

10 (1) the Applicant has:

11 (A) successfully completed the Architect Registration Examination (ARE) or another
12 architectural registration examination which the National Council of Architectural Registration
13 Boards (NCARB) has approved as conforming to NCARB's examination standards; and

14 (B) successfully completed the requirements of the Intern Development Program (IDP) or
15 acquired at least three years of acceptable architectural experience following registration in
16 another jurisdiction; or

17 (2) the Applicant has been given Council Certification by NCARB and such Council
18 Certification is not currently in an expired or revoked status.

19 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing of an
20 application for architectural registration by reciprocal transfer, if the Applicant is a military
21 spouses and shall give priority to the application of military spouses over other Applicants.

22 (d)[(e)] An Applicant for architectural registration by reciprocal transfer must remit the required
23 registration fee to the Board within 60 days after the date of the tentative approval letter sent to
24 the Applicant by the Board.

25

RULE §3.22 Registration by Reciprocal Transfer

26 (a) A person may apply for landscape architectural registration by reciprocal transfer if the
27 person holds a landscape architectural registration that is active and in good standing in another
28 jurisdiction and the other jurisdiction:

29 (1) has licensing or registration requirements substantially equivalent to Texas registration
30 requirements; or

1 (2) has entered into a reciprocity agreement with the Board that has been approved by the
2 Governor of Texas.

3 (b) In order to obtain landscape architectural registration by reciprocal transfer, an Applicant
4 must demonstrate the following:

5 (1) the Applicant has:

6 (A) successfully completed the Landscape Architect Registration Examination (LARE) or
7 another landscape architectural registration examination which the Council of Landscape
8 Architectural Registration Boards (CLARB) has approved as conforming to CLARB's
9 examination standards or as being acceptable in lieu of the LARE; and

10 (B) acquired at least two (2) years of acceptable landscape architectural experience following
11 registration in another jurisdiction; or

12 (2) the Applicant currently holds a Council Certificate from CLARB that is in good standing.

13 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing of an
14 application for landscape architectural registration by reciprocal transfer, if the Applicant is a
15 military spouse and shall give priority to the application of military spouses over other
16 Applicants.

17 ~~(d)~~ An Applicant for landscape architectural registration by reciprocal transfer must remit
18 the required registration fee to the Board within sixty (60) days after the date of the tentative
19 approval letter sent to the Applicant by the Board.

RULE §5.32 Registration by Reciprocal Transfer

20 (a) A person may apply for Interior Design registration by reciprocal transfer if the person holds
21 an interior design registration that is active and in good standing in another jurisdiction and the
22 other jurisdiction:

23 (1) has licensing or registration requirements substantially equivalent to Texas registration
24 requirements; or

25 (2) has entered into a reciprocity agreement with the Board that has been approved by the
26 Governor of Texas.

27 (b) In order to obtain Interior Design registration by reciprocal transfer, an Applicant must
28 demonstrate that the Applicant has:

29 (1) successfully completed the NCIDQ examination or another Interior Design registration
30 examination which the National Council for Interior Design Qualification (NCIDQ) has

1 approved as conforming to NCIDQ's examination standards or as being acceptable in lieu of the
2 NCIDQ examination; and

3 (2) acquired at least two years of acceptable Interior Design experience following registration in
4 another jurisdiction.

5 (c) Pursuant to §55.005, Texas Occupations Code, the Board shall expedite the processing of an
6 application for Interior Design registration by reciprocal transfer, if the Applicant is a military
7 spouse and shall give priority to the application of military spouses over other Applicants.

8 (d)[(e)] An Applicant for Interior Design registration by reciprocal transfer must remit the
9 required registration fee to the Board within 60 days after the date of the tentative approval letter
10 sent to the Applicant by the Board.

Rule §1.29 Credit for Military Service

1 (a) Definitions.

2 (1) "Military service member" means a person who is currently serving in the armed forces
3 of the United States, in a reserve component of the armed forces of the United States,
4 including the National Guard, or in the state military service of any state.

5 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
6 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of those
7 branches of the armed forces.

8 (b) Registration eligibility requirements for applicants with military experience.

9 (1) Verified military service, training, or education will be credited toward the registration
10 requirements, other than an examination requirement, of an Applicant who is a military
11 service member or military veteran.

12 (2) This subsection does not apply if the Applicant holds a restricted registration issued by
13 another jurisdiction or has an unacceptable criminal history.

14 **Rule §3.29 Credit for Military Service**

15 (a) Definitions.

16 (1) "Military service member" means a person who is currently serving in the armed forces
17 of the United States, in a reserve component of the armed forces of the United States,
18 including the National Guard, or in the state military service of any state.

19 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
20 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of those
21 branches of the armed forces.

22 (b) Registration eligibility requirements for Applicants with military experience.

23 (1) Verified military service, training, or education will be credited toward the registration
24 requirements, other than an examination requirement, of an Applicant who is a military
25 service member or military veteran.

26 (2) This subsection does not apply if the Applicant holds a restricted registration issued by
27 another jurisdiction or has an unacceptable criminal history.

Rule §5.39 Credit for Military Service

1 (a) Definitions.

2 (1) "Military service member" means a person who is currently serving in the armed forces
3 of the United States, in a reserve component of the armed forces of the United States,
4 including the National Guard, or in the state military service of any state.

5 (2) "Military veteran" means a person who has served in the Army, Navy, Air Force,
6 Marine Corps, or Coast Guard of the United States, or in an auxiliary service of one of those
7 branches of the armed forces.

8 (b) Registration eligibility requirements for Applicants with military experience.

9 (1) Verified military service, training, or education will be credited toward the registration
10 requirements, other than an examination requirement, of an Applicant who is a military
11 service member or military veteran.

12 (2) This subsection does not apply if the Applicant holds a restricted registration issued by
13 another jurisdiction or has an unacceptable criminal history.

AN ACT

1 relating to the occupational licensing of spouses of members of the military and the eligibility
2 requirements for certain occupational licenses issued to applicants with military experience.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. The heading to Chapter 55, Occupations Code, is amended to read as
5 follows:

6 CHAPTER 55. LICENSING OF MILITARY SERVICE MEMBERS, MILITARY
7 VETERANS, [~~LICENSE WHILE ON MILITARY DUTY~~] AND [~~FOR~~] MILITARY
8 SPOUSES [~~SPOUSE~~]

9 SECTION 2. Section 55.001, Occupations Code, is amended by adding
10 Subdivisions (1-a), (1-b), and (1-c) to read as follows: (1-a) "Military service member"
11 means a person who is currently serving in the armed forces of the United States, in a
12 reserve component of the armed forces of the United States, including the National
13 Guard, or in the state military service of any state.

14 (1-b) "Military spouse" means a person who is married to a military service
15 member who is currently on active duty.

16 (1-c) "Military veteran" means a person who has served in the army, navy, air force,
17 marine corps, or coast guard of the United States, or in an auxiliary service of one of those
18 branches of the armed forces.

19 SECTION 3. Chapter 55, Occupations Code, is amended by adding Sections 55.005,
20 55.006, and 55.007 to read as follows:

1 Sec. 55.005. EXPEDITED LICENSE PROCEDURE FOR MILITARY SPOUSES.

2 (a) A state agency that issues a license shall, as soon as practicable after a military spouse
3 files an application for a license:

4 (1) process the application; and

5 (2) issue a license to a qualified military spouse applicant who holds a current
6 license issued by another jurisdiction that has licensing requirements that are
7 substantially equivalent to the licensing requirements in this state.

8 (b) A license issued under this section may not be a provisional license and
9 must confer the same rights, privileges, and responsibilities as a license not issued
10 under this section.

11 Sec. 55.006. RENEWAL OF EXPEDITED LICENSE ISSUED TO

12 MILITARY SPOUSE. (a) As soon as practicable after a state agency issues a license under
13 Section 55.005, the state agency shall determine the requirements for the license holder to
14 renew the license.

15 (b) The state agency shall notify the license holder of the requirements for renewing
16 the license in writing or by electronic means.

17 (c) A license issued under Section 55.005 has the term established by law or state
18 agency rule, or a term of 12 months from the date the license is issued, whichever term is
19 longer.

20 Sec. 55.007. LICENSE ELIGIBILITY REQUIREMENTS FOR

21 APPLICANTS WITH MILITARY EXPERIENCE. (a) Notwithstanding any other law, a
22 state agency that issues a license shall, with respect to an applicant who is a military service
23 member or military veteran, credit verified military service, training, or education toward the
24 licensing requirements, other than an examination requirement, for a license issued by the

1 state agency.

2 (b) The state agency shall adopt rules necessary to
3 implement this section.

4 (c) Rules adopted under this section may not apply to an applicant who:

5 (1) holds a restricted license issued by another jurisdiction; or

6 (2) has an unacceptable criminal history according to the law applicable to the
7 state agency.

8 SECTION 4. Subchapter G, Chapter 1701, Occupations Code, is
9 amended by adding Section 1701.315 to read as follows:

10 Sec. 1701.315. LICENSE REQUIREMENTS FOR PERSONS WITH MILITARY SPECIAL
11 FORCES TRAINING. (a) In this section, "special forces" means a special forces component
12 of the United States armed forces, including:

13 (1) the United States Army Special Forces;

14 (2) the United States Navy SEALs;

15 (3) the United States Air force Para-rescue;

16 (4) the United States Marine Corps Force Reconnaissance; and

17 (5) any other component of the United States Special Operations Command approved by
18 the commission.

19 (b) The commission shall adopt rules to allow an applicant to qualify to take an examination
20 described by Section 1701.304 if the applicant:

21 (1) has served in the special forces;

22 (2) has successfully completed a special forces training course and provides to the
23 commission documentation verifying completion of the course;

24 (3) completes a supplemental peace officer training course; and

1 (4) completes any other training required by the commission after the commission has
2 reviewed the applicant's military training.

3 (c) Commission rules adopted under Subsection (b) shall include rules:

4 (1) to determine acceptable forms of documentation that satisfy the requirements of
5 Subsection (b);

6 (2) under which the commission may waive any other license requirement for an
7 applicant described by Subsection (b) based on other relevant military training the applicant
8 has received, as determined by the commission, including intelligence or medical training;
9 and

10 (3) to establish an expedited application process for an applicant described by
11 Subsection (b).

12 (d) The commission shall review the content of the training course for each
13 special forces component described by Subsection (a) and in adopting rules under
14 Subsection (b) specify the training requirements an applicant who has completed that
15 training course must complete and the training requirements from which an applicant
16 who has completed that training course is exempt.

17 SECTION 5. (a) Sections 55.005, 55.006, and 55.007, Occupations Code, as added by
18 this Act, apply only to an application for a license filed with a state agency as defined by
19 Section 55.001, Occupations Code, on or after March 1, 2014. An application for a license
20 filed before March 1, 2014, is governed by the law in effect immediately before the effective
21 date of this Act, and that law is continued in effect for that purpose.

1 (b) Each state agency as defined by Section 55.001, Occupations Code, shall adopt
2 rules under Sections 55.005, 55.006, and 55.007, Occupations Code, as added by this Act,
3 not later than January 1, 2014.

4 (c) Section 1701.315, Occupations Code, as added by this Act, applies only to an
5 application for a license filed with the Commission on Law Enforcement Officer Standards
6 and Education on or after March 1, 2014. An application for a license filed before March 1,
7 2014, is governed by the law in effect immediately before the effective date of this Act, and
8 that law is continued in effect for that purpose.

9 (d) The Commission on Law Enforcement Officer Standards and Education shall
10 adopt rules under Section 1701.315, Occupations Code, as added by this Act, not later than
11 January 1, 2014.

12 SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of
13 all the members elected to each house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary for immediate effect, this Act
15 takes effect September 1, 2013.

Summary of Proposed Amendments Penalty Matrix

1 **Current Rule**

2 The Penalty matrix is compiled within Rules 1.232/3.232/5.242, titled “Board
3 Responsibilities.” The matrix specifies a disciplinary action to be applied for listed
4 violations of laws enforced by the Board. Paragraph (k) of rules note that an Administrative
5 Law Judge or the Board may deviate from the sanction listed in the matrix if warranted under
6 the circumstances of a particular case. In addition, the amount of the administrative penalty
7 to be imposed is determined by reference to the administrative penalty schedule (Rules
8 1.177/3.177/5.187 attached as reference documents). The references to the offenses or
9 violations listed in the matrix often refer to the title of the rule violated which does not give
10 clear note of the sanction at issue. Over time, many of the cross-references in the matrix have
11 become incorrect as the rules listed have been amended or renumbered. Finally, the Board
12 has in certain cases expressed the opinion that a different sanction should apply to certain
13 offenses.

14 **Proposed Amendments**

15 The proposed amendments more specifically describe the conduct for which a sanction is
16 imposed. For example, a category of offenses currently identified as “failure to uphold
17 responsibilities to the profession” or “dishonest practices” would refer to specific conduct
18 such as offering something of value in exchange for public work or conspiring to violate a
19 law enforced by the Board. Several obsolete or incorrect cross-references to rule numbers
20 are corrected. The amendments modify sanctions for conduct which the Board has indicated
21 should receive a more severe penalty have been updated in an effort to reflect those
22 directives. Also, the specific administrative penalty amounts for continuing education
23 violations would be listed in the penalty matrix. The specified penalty amounts are
24 consistently applied by the Board. The amendments would give notice of the exact sanctions
25 that would apply for continuing education violations.

26 The proposed amendments were published in the September 19, 2014, edition of the *Texas*
27 *Register*. To date, the agency has received no public comment.

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§1.62	Administrative penalty or reprimand
<u>Unlawful practice of architecture while registration is on emeritus status</u>	§1.67(b)	<u>Administrative penalty and cease and desist order</u>
Practice of architecture while registration is inactive	§1.68	Administrative penalty <u>and</u> cease and desist order
Failure to fulfill mandatory continuing education requirements	§1.69	Administrative penalty or suspension
<u>Failure to timely complete required continuing education program hours</u>	§1.69(b)	<u>Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses</u>
<u>Falsely reporting compliance with mandatory continuing education requirements</u>	§1.69(g)	<u>Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses</u>
Failure to use appropriate seal or signature	§1.102 §1.104(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§1.103[(a), (d), (f), (h)(2), (i)] §1.105[(a)(4)] §1.122(c),(e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents issued for purposes other than regulatory approval, permitting or construction as required	§1.103(b)	Administrative penalty or reprimand
<u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”</u>	§1.104(a) and (b) §1.122(c) and (e)	<u>Suspension or revocation</u>
<u>Failure to take reasonable steps to notify sealing Architect of intent to modify that architect’s sealed documents</u>	§1.104(d)	<u>Administrative penalty or reprimand</u>
<u>Failure to indicate modifications or additions to a document prepared by another Architect</u>	§1.104(b) and (d)	<u>Suspension, administrative penalty, or reprimand</u>
Removal of seal after issuance of documents	§1.104(e)	Administrative penalty or

		reprimand
Failure to maintain a document for 10 years as required	§1.103(g) §1.105(b) §1.122(d)	Administrative penalty or reprimand
[Failure to notify the original design professional as required]	[§1.103(h)(1)]	[Administrative penalty or reprimand]
[Sealing a document prepared by a person not working under the respondent's Supervision and Control ("plan stamping")]	[§1.103(h)(3) §1.104(a)]	[Suspension or revocation]
Unauthorized use of a seal <u>or a copy or replica of a seal</u> or <u>unauthorized modification of a document</u>	§1.104(b) <u>and (c)</u>	Administrative penalty, [or] reprimand, <u>or suspension</u>
Violation of requirements regarding prototypical design	§1.105 [(a)(1), (2), (3), (5)]	Administrative penalty, reprimand, or suspension
Failure to provide Statement of Jurisdiction	§1.106	Administrative penalty or reprimand
Failure to enter into a written agreement of association when required	§1.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§1.122(c)	Suspension, [or] revocation, <u>or refusal to renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§1.122(e)	Suspension, [or] revocation, <u>or refusal renew registration</u>
Failure of a firm, business entity, or association to register	§1.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide architecture	§1.124(c)	Administrative penalty, reprimand, or suspension
Offering or rendering the Practice of Architecture by and through a firm, business entity or association that is not duly registered	§1.124 §1.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	§1.142	Suspension, [or] revocation, <u>or refusal to renew registration</u>
Recklessness	§1.143	Suspension, [or] revocation, <u>or refusal to renew registration</u>

Dishonest practice	§1.144(a), (c)	Suspension [or] revocation, or <u>refusal to renew registration</u>
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work</u> [Dishonest practice]	§1.144(b)	<u>Suspension, or revocation, and payment of restitution</u> [Administrative penalty or reprimand]
Conflict of interest	§1.145	Suspension, [or] revocation, or <u>refusal to renew registration</u>
<u>Participating in a plan, scheme or arrangement to violate the Act or rules of the Board</u> [Failure to uphold responsibilities to the architectural profession]	§1.146(a)	<u>Administrative penalty, suspension, [Suspension or]</u> revocation, or <u>refusal to renew registration</u>
<u>Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused architectural seal</u> [uphold responsibilities to the architectural profession]	§1.146(b), (c)	Administrative penalty or reprimand
<u>Submission of a competitive bid in violation of the Professional Services Procurement Act</u>	§1.147	<u>Suspension or revocation</u>
<u>Disclosure of fee information inconsistent</u> [Failure to act in a manner consistent] with the Professional Services Procurement Act	§1.147	<u>Administrative penalty or reprimand</u>
<u>Disclosure of information with the intent to indirectly disclose fee information</u>	§1.147	<u>Suspension or revocation</u>
Unauthorized practice or use of title "architect"	§1.123 §1.148	<u>Administrative penalty, [Suspension, revocation, or] denial of registration, or refusal to renew, reinstate, or reactivate registration</u>
Criminal conviction	§1.149	Suspension or revocation
<u>Gross incompetence caused by substance abuse</u>	§1.150	<u>Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety</u>
<u>Violation by Applicant regarding unlawful use title "architect", unlawful practice, or criminal convictions</u>	§1.148 §1.149 §1.151	Reprimand, administrative penalty, suspension, rejection, denial of right to reapply, or <u>probationary initial registration</u>

Failure to submit a document as required by the Architectural Barriers Act	§1.170	Reprimand or administrative penalty
Failure to respond to a Board inquiry	§1.171	Administrative penalty
<u>Unregistered person engaging in construction observation for a nonexempt building</u>	§1.217	<u>Administrative penalty, reprimand, denial registration or refusal to renew, reinstate, or reactivate registration</u>
<u>Failure to report course of action likely to have material adverse effect on safe use of building or failure to refuse to consent to the course of action</u>	§1.216	<u>Suspension, revocation or refusal to renew registration</u>

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§3.62	Administrative penalty or reprimand
<u>Unlawful practice of landscape architecture while registration is on emeritus status</u>	§3.67(b)	<u>Administrative penalty and cease and desist order</u>
Practice of landscape architecture while registration is inactive	§3.68	Administrative penalty
Failure to fulfill mandatory continuing education requirements	§3.69	Administrative penalty or suspension
<u>Failure to timely complete required continuing education program hours</u>	§3.69(b)	<u>Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses</u>
<u>Falsely reporting compliance with mandatory continuing education requirements</u>	§3.69(g)	<u>Administrative penalty of \$700; subject to higher penalties or suspension for second or subsequent offenses</u>
Failure to use appropriate seal or signature	§3.102 §3.104(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§3.103[(a), (d), (f), (h)(2), (i)] §3.105 §3.122(c), (e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents issued for purposes other than regulatory approval, <u>permitting or construction</u> as required	§3.103(b)	Administrative penalty or reprimand
<u>Sealing or authorizing the sealing of a document prepared by another without Supervision and Control or Responsible Charge – “plan stamping”</u>	§3.104(a) and (b) §3.122(c) and (e)	<u>Suspension or revocation</u>
<u>Failure to take reasonable steps to notify sealing Landscape Architect or intent to modify that Landscape Architect’s sealed documents</u>	§3.104(d)	<u>Administrative penalty or reprimand</u>
<u>Failure to indicate modifications or additions to a document prepared by another Landscape Architect</u>	§1.104(e)	<u>Administrative penalty or reprimand</u>

Removal of seal after issuance of documents	§3.104(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§3.103(g) §3.105(b) §3.122(d)	Administrative penalty or reprimand
[Failure to notify the original design professional as required]	[§3.103(h)(1)]	[Administrative penalty or reprimand]
[Sealing a document prepared by a person not working under the respondent's Supervision and Control]	[§3.103(h)(3) §3.104(a)]	[Suspension or revocation]
Unauthorized use of a seal <u>or a copy of a seal</u> or <u>unauthorized</u> modification of a document	§3.104(b) and (c)	Administrative penalty, [or] reprimand <u>or suspension</u>
Violation of requirements regarding <u>prototypical design</u>	§3.105	<u>Administrative penalty, reprimand or suspension</u>
Failure to provide Statement of Jurisdiction	§3.105	Administrative penalty or reprimand
Failure to report a course of action taken against the respondent's advice as required	§3.106(d) [§3.105(b)]	[Administrative penalty, reprimand, or suspension] <u>Suspension, revocation or refusal to renew registration</u>
Failure to enter into a written agreement of association when required	§3.122	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§3.122(c)	Suspension, [or] revocation, <u>or refusal to renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§3.122(e)	Suspension, [or] revocation, <u>or refusal to renew registration</u>
Failure of a firm, business entity, or association to register	§3.124(a) and (b)	Administrative penalty, cease and desist order, or both
Failure to timely notify the Board upon dissolution of a business entity or association of loss of lawful authority to offer or provide landscape architecture	§3.124(c)	Administrative penalty, reprimand, or suspension
Offering or rendering Landscape Architecture by and through a firm, business entity or association that is not duly registered	§3.124 §3.146(a)(2)(B)	Administrative penalty, cease and desist order, or both
Gross incompetency	§3.142	Suspension, [or] revocation, <u>or refusal to renew</u>

		<u>registration</u>
Recklessness	§3.143	Suspension, or revocation, or refusal to renew <u>registration</u>
Dishonest practice	§3.144(a), (c)	Suspension or revocation, or refusal to renew <u>registration</u>
<u>Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work</u> [Dishonest practice]	§3.144(b)	<u>Suspension or revocation and payment of restitution</u> [Administrative penalty or reprimand]
Conflict of interest	§3.145	Suspension, or revocation, or refusal to renew <u>registration</u>
<u>Participating in a plans, scheme or arrangement to violate the Act or the rules of the Board</u> [Failure to uphold responsibilities to the landscape architectural profession]	§3.146(a)	<u>Administrative penalty, suspension, [Suspension or]</u> revocation, or refusal to renew <u>registration</u>
<u>Failure to provide information regarding an Applicant upon request; failure to report lost, stolen or misused landscape architectural seal</u> uphold responsibilities to the landscape architectural profession	§3.146(b), (c)	Administrative penalty or reprimand
<u>Submission of a competitive bid in violation of the Professional Services Procurement Act</u>	§3.147	<u>Suspension or revocation</u>
<u>Disclosure of fee information inconsistent</u> [Failure to act in a manner consistent] with the Professional Services Procurement Act	§3.147	Administrative penalty or reprimand
<u>Disclosure of information with the intent to indirectly disclose fee information</u>	§3.147	<u>Suspension or revocation</u>
Unauthorized practice or use of title "landscape architect"	§3.123 §3.148	<u>Administrative penalty, denial of registration, or refusal to renew, reinstate, or reactivate registration</u> [Suspension, revocation, or denial]
Criminal conviction	§3.149	Suspension or revocation
<u>Gross incompetence caused by substance abuse</u>	§1.150	<u>Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety</u>

Violation by Applicant <u>regarding unlawful of title “landscape architect”, unlawful practice, or criminal convictions</u>	§3.148 §3.149 §3.151	Reprimand, administrative penalty, suspension, rejection, denial of right to reapply, <u>or probationary initial registration</u>
Failure to submit a document as required by the Architectural Barriers Act	§3.170	Reprimand or administrative penalty
Failure to respond to a Board inquiry	§3.171	Administrative penalty

Violation	Rule(s) Cited	Recommended Penalty
Unauthorized duplication of certificate of registration or failure to display certificate of registration as required	§5.72	Administrative penalty or reprimand
Using the title “Registered Interior Designer” while on emeritus status	§5.77(b)	Administrative penalty and cease and desist order
Practice of Interior Design while registration is inactive	§5.78	Administrative penalty and cease and desist order
Failure to fulfill mandatory continuing education requirements	§5.79	Administrative penalty or suspension
Failure to timely complete required continuing education program hours	§5.79(b)	Administrative penalty of \$500; subject to higher penalties or suspension for second or subsequent offenses
Falsely reporting compliance with mandatory continuing education requirements	§5.79(g)	Administrative penalty of \$700; subject to higher penalties for second or subsequent offenses
Failure to use appropriate seal or signature	§5.112 §5.114(c)	Administrative penalty or reprimand
Failure to seal documents [or insert statement in lieu of seal as required]	§5.113[(a) and (b)] §5.132(c) and (e)	Administrative penalty or reprimand
Failure to mark [incomplete] documents issued for purposes other than regulatory approval, permitting or construction as required	§5.113(b)	Administrative penalty or reprimand
Sealing or authorizing the sealing of a document prepared by another without Supervision and Control	§5.114(a) and (b) §5.132(c) and (e)	Suspension or revocation
Failure to take reasonable steps to notify sealing Registered Interior Designer of intent to modify sealed documents	§5.114(d)	Administrative penalty or reprimand
Failure to indicate modifications to or portion of document prepared by Registered Interior Designer	§5.114(b) and (d)	Suspension, administrative penalty or reprimand
Removal of seal after issuance of documents	§5.114(e)	Administrative penalty or reprimand
Failure to maintain a document for 10 years as required	§5.113(c) §5.132(d)	Administrative penalty or reprimand
[Failure to make reasonable efforts to notify	[§5.114(d)]	[Administrative penalty or

the original design professional as required]		reprimand]
[Sealing a document prepared by a person not working under the respondent's Supervision and Control]	§5.114(a)]	[Suspension or revocation]
Unauthorized use of a seal <u>or a copy of a seal</u> or <u>unauthorized</u> modification of a document	§5.114(b) and (c)	Administrative penalty, [ø] <u>reprimand, or suspension</u>
Failure to provide Statement of Jurisdiction	§5.115(a)	Administrative penalty or reprimand
Failure to report a course of action taken against the respondent's advice as required	§5.115(d) [(b)]	[Administrative penalty, reprimand, or suspension] <u>Suspension, revocation or refusal to renew registration</u>
Failure to enter into a written agreement of association when required	§5.132	Administrative penalty or reprimand
Failure to exercise Supervision and Control over the preparation of a document as required	§5.132(c)	Suspension, [ø] <u>revocation, or refusal to renew registration</u>
Failure to exercise Responsible Charge over the preparation of a document as required	§5.132(e)	Suspension, [ø] <u>revocation, or refusal to renew registration</u>
Failure of a firm, business entity, or association to register	§5.134(a) and (b)	Administrative penalty or reprimand
Failure to timely notify the Board upon dissolution of a business entity or association or upon loss of the entity or association to use the title "registered interior designer"	§5.134(c)	Administrative penalty, cease and desist order, or both
Representing firm, business entity or association which is not registered as Registered Interior Designer firm	§5.134	Administrative penalty, cease and desist order, or both
Gross incompetency	§5.152	Suspension, [ø] <u>revocation, or refusal to renew registration</u>
Recklessness	§5.153	Suspension, [ø] <u>revocation, or refusal to renew registration</u>
Dishonest practice	§5.154(a), (c)	Suspension, [ø] <u>revocation, or refusal to renew registration</u>
Offering, soliciting or receiving anything or any service as an inducement to be awarded publicly funded work [Dishonest practice]	§5.154(b)	<u>Suspension or revocation and payment of restitution</u> [Administrative penalty or

		reprimand]
Conflict of interest	§5.155	Suspension, or revocation or refusal to renew registration
Participating in a plan, scheme, or arrangement to violate the Act or rules of the Board [Failure to uphold responsibilities to the Interior Design profession]	§5.156(a)	Administrative penalty, suspension, [Suspension or] revocation, or refusal to renew registration
Failure to provide information regarding an Applicant upon request; failure to report lost, stolen, or misused registered interior design seal [uphold responsibilities to the Interior Design profession]	§5.156(b), (c)	Administrative penalty or reprimand
Unauthorized practice or use of title "registered interior designer"	§5.133 §5.157	Administrative penalty, [Suspension, revocation, or] denial of registration, or refusal to renew, reinstate, or reactive registration
Criminal conviction	§5.158	Suspension or revocation
Gross incompetency caused by substance abuse	§5.159	Indefinite suspension until respondent demonstrates terminating suspension will not imperil public safety
Violation by Applicant regarding unlawful use of the title "registered interior designer, unlawful practice or criminal convictions	§5.157 §5.158 §5.160	Reprimand, administrative penalty, suspension, rejection, denial of right to reapply, or probationary initial registration
Failure to submit a document as required by the Architectural Barriers Act	§5.180	Reprimand or administrative penalty
Failure to respond to a Board inquiry	§5.181	Administrative penalty

RULE §1.177 Administrative Penalty Schedule

1 If the Board determines that an administrative penalty is the appropriate sanction for a violation
2 of any of the statutory provisions or rules enforced by the Board, the following guidelines shall
3 be applied to guide the Board's assessment of an appropriate administrative penalty:

4 (1) The Board shall consider the following factors to determine whether the violation is minor,
5 moderate, or major:

6 (A) Seriousness of misconduct and efforts to correct the ground for sanction:

7 (i) Minor--the respondent has demonstrated that he/she was unaware that his/her conduct was
8 prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted
9 from the conduct or the respondent has demonstrated that there were significant extenuating
10 circumstances or intervening causes for the violation; and the respondent has demonstrated that
11 he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the
12 health or safety of the public.

13 (ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or
14 practice normally followed by a reasonably prudent person under the same or similar
15 circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

16 (iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat
17 to the health or safety of the public and the respondent, after being notified of the alleged
18 violation intentionally refused or failed to take prompt and remedial action.

19 (B) Economic harm:

20 (i) Minor--there was no apparent economic damage to property or monetary loss to the
21 project owner or other involved persons and entities.

22 (ii) Moderate--economic damage to property or monetary harm to other persons or entities
23 did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

24 (iii) Major--economic damage to property or economic injury to other persons or entities
25 exceeded \$1,000.

26 (C) Sanction history:

27 (i) Minor--the respondent has not previously received a written warning, advisory notice or
28 been subject to other enforcement proceedings from the Board.

1 (ii) Moderate--the respondent was previously subject to an order of the Board or other
2 enforcement proceedings which resulted in a finding of a violation of the laws or rules over
3 which the TBAE has jurisdiction.

4 (iii) Major--the respondent has received at least two prior written notices or has been subject
5 to two disciplinary actions for violation of the rules and laws over which the TBAE has
6 jurisdiction.

7 (2) After determining whether the violation is minor, moderate, or major, the Board shall
8 impose an administrative penalty as follows:

9 (A) Minor violations--if the violation is minor in every category described in paragraph (1) of
10 this section, an administrative penalty of not more than \$500 shall be imposed.

11 (B) Moderate violations--if the violation is moderate in any category described in paragraph
12 (1) of this section, an administrative penalty of not more than \$2,000 shall be imposed.

13 (C) Major violations--if the violation is major in any category described in paragraph (1) of
14 this section or if the Board determines that the facts of the case indicate a higher penalty is
15 necessary in order to deter similar misconduct in the future, an administrative penalty of not
16 more than \$5,000 shall be imposed.

17 (D) Because of the threat to human health, safety and well-being which necessarily arises out
18 of a Nonregistrant preparing and issuing architectural plans and specifications the Board
19 possesses a compelling interest in ensuring that architectural plans and specifications are
20 prepared and issued only by a registered architect or by a person who is working under the active
21 and documented Supervision and Control of a registered Architect when required by law. If the
22 evidence establishes that Architectural plans and specifications for a project that is not exempt
23 from the Architects' Practice Act were prepared by a person who is not registered to engage in
24 the Practice of Architecture and was not working under the active and documented Supervision
25 and Control of an Architect the violation shall be presumed to be a major violation and each
26 sheet of architectural plans or separate section of the specifications shall be considered a separate
27 violation for purposes of calculating and imposing administrative penalties.

28 (E) Because of the threat to human health, safety and welfare which necessarily arises from
29 Nonregistrants engaging in the Practice of Architecture the Board has a compelling interest in
30 ensuring that only those persons who are registered to engage in the Practice of Architecture or
31 whose work is conducted under the active and documented Supervision and Control of a

1 registered architect engage in the Practice of Architecture. If the evidence establishes that an
2 Architect has sealed architectural plans and separately numbered section of the specifications
3 without having exercised active and documented Supervision and Control of the Nonregistrants's
4 activities the Board shall presume such conduct by the sealing architect to be a major violation
5 and each sheet of architectural plans or separate section of the specifications shall be considered
6 a separate violation for purposes of calculating and imposing administrative penalties.

7 (F) The agency is responsible for protecting the public's health, safety and welfare by
8 interpreting and enforcing the Architects' Practice Act. In fulfilling this statutory duty the Board
9 depends upon, and expects, that Registrants and Applicants will provide complete, truthful and
10 accurate information to the Board upon request. This prompt and accurate provision of
11 information is essential to protecting the public's health, safety and welfare.

12 (G) An Architect, Candidate, or Applicant who fails, without good cause, to provide
13 information to the Board under provision of §1.171 of this subchapter (relating to Responding to
14 Request for Information) is presumed to be interfering with and preventing the Board from
15 fulfilling its responsibilities. For these reasons a violation of §1.171 of this subchapter shall be
16 considered a moderate violation if a complete response is not received within 30 days after
17 receipt of the Board's written inquiry. Any further delay constitutes a major violation. Each 15
18 day delay thereafter shall be considered a separate violation of these rules.

19 (3) In order to determine the appropriate amount in a penalty range described in paragraph (2)
20 of this section, the Board shall consider the factors described in paragraph (1) of this section.

21 (4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described
22 in this section.

RULE §3.177 Administrative Penalty Schedule

23 If the Board determines that an administrative penalty is the appropriate sanction for a violation
24 of any of the statutory provisions or rules enforced by the Board, the following guidelines shall
25 be applied to guide the Board's assessment of an appropriate administrative penalty:

26 (1) The Board shall consider the following factors to determine whether the violation is minor,
27 moderate, or major:

28 (A) Seriousness of misconduct and efforts to correct the ground for sanction:

1 (i) Minor--the respondent had demonstrated that he/she was unable that his/her conduct was
2 prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted
3 from the conduct or the respondent has demonstrated that there were significant extenuating
4 circumstances or intervening causes for the violation; and the respondent has demonstrated that
5 he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the
6 health or safety of the public.

7 (ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or
8 practice normally followed by a reasonably prudent person under the same or similar
9 circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

10 (iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat
11 to the health or safety of the public and the respondent, after being notified of the alleged
12 violation intentionally refused or failed to take prompt and remedial action.

13 (B) Economic harm:

14 (i) Minor--there was no apparent economic damage to property or monetary loss to the
15 project owner or other involved persons and entities.

16 (ii) Moderate--economic damage to property or monetary harm to other persons or entities
17 did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

18 (iii) Major--economic damage to property or economic injury to other persons or entities
19 exceeded \$1,000.

20 (C) Sanction history:

21 (i) Minor--the respondent has not previously received a written warning, advisory notice or
22 been subject to other enforcement proceedings from the Board.

23 (ii) Moderate--the respondent was previously subject to an order of the Board or other
24 enforcement proceedings which resulted in a finding of a violation of the laws or rules over
25 which the TBAE has jurisdiction.

26 (iii) Major--the respondent has received at least two prior written notices or has been subject
27 to two disciplinary actions for violation of the rules and laws over which the TBAE has
28 jurisdiction.

29 (2) After determining whether the violation is minor, moderate, or major, the Board shall
30 impose an administrative penalty as follows:

1 (A) Minor violations--if the violation is minor in every category described in paragraph (1) of
2 this section, an administrative penalty of not more than \$500 shall be imposed.

3 (B) Moderate violations--if the violation is moderate in any category described in paragraph
4 (1) of this section, an administrative penalty or not more than \$2,000 shall be imposed.

5 (C) Major violations--if the violation is major in any category described in paragraph (1) of
6 this section or if the Board determines that the facts of the case indicate a higher penalty is
7 necessary in order to deter similar misconduct in the future, an administrative penalty of not
8 more than \$5,000 shall be imposed.

9 (D) Because of the threat to human health, safety and well-being which necessarily arises out
10 of a Nonregistrant preparing and issuing landscape architectural plans and specifications the
11 Board possesses a compelling interest in ensuring that landscape architectural plans and
12 specifications are prepared and issued only by registered landscape architect or by a person who
13 is working under the active and documented Supervision and Control of a registered Landscape
14 Architect when required by law. If the evidence establishes that Landscape Architectural plans
15 and specifications for a project that is not exempt from the Landscape Architects' Practice Act
16 were prepared by a person who is not registered to engage in the Practice of Landscape
17 Architecture and was not working under the active and documented Supervision and Control of a
18 Landscape Architect the violation shall be presumed to be a major violation and each sheet of
19 architectural plans or separate section of the specifications shall be considered a separate section
20 of the specifications shall be considered a separate violation for purposes of calculating and
21 imposing administrative penalties.

22 (E) Because of the threat to human health, safety and welfare which necessarily arises from
23 Nonregistrants engaging in the Practice of Landscape Architecture the Board has a compelling
24 interest in ensuring that only those persons who are registered to engage in the Practice of
25 Landscape Architecture or whose work is conducted under the active and documented
26 Supervision and Control of a registered Landscape Architect engage in the Practice of Landscape
27 Architecture. If the evidence establishes that a Landscape Architect has sealed landscape
28 architectural plans and separately numbered section of the specifications without having
29 exercised active and documented Supervision and Control of the Nonregistrants's activities the
30 Board shall presume such conduct by the sealing landscape architect to be a major violation and

1 each sheet of landscape architectural plans or separate section of the specifications shall be
2 considered a separate violation for purposes of calculating and imposing administrative penalties.

3 (F) The agency is responsible for protecting the public's health, safety and welfare by
4 interpreting and enforcing the Landscape Architects' Practice Act. In fulfilling this statutory duty
5 the Board depends upon, and expects, that Registrants and Applicants will provide complete,
6 truthful and accurate information to the Board upon request. This prompt and accurate provision
7 of information is essential to protecting the public's health, safety and welfare.

8 (G) A Landscape Architect, Candidate, or Applicant who fails, without good cause, to provide
9 information to the Board under the provision of §3.171 of this subchapter (relating to
10 Responding to Request for Information) is presumed to be interfering with and preventing the
11 Board from fulfilling its responsibilities. For these reasons a violation of §3.171 of this
12 subchapter shall be considered a moderate violation if a complete response is not received within
13 30 days after receipt of the Board's written inquiry. Any further delay constitutes a major
14 violation. Each 15 day delay thereafter shall be considered a separate violation of these rules.

15 (3) In order to determine the appropriate amount in a penalty range described in paragraph (2)
16 of this section, the Board shall consider the factors described in paragraph (1) of this section.

17 (4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described
18 in this section.

RULE §5.187 Administrative Penalty Schedule

20 If the Board determines that an administrative penalty is the appropriate sanction for a violation
21 of any of the statutory provisions or rules enforced by the Board, the following guidelines shall
22 be applied to guide the Board's assessment of an appropriate administrative penalty:

23 (1) The Board shall consider the following factors to determine whether the violation is minor,
24 moderate, or major:

25 (A) Seriousness of misconduct and efforts to correct the ground for sanction:

26 (i) Minor--the respondent has demonstrated that he/she was unaware that his/her conduct was
27 prohibited and unaware that the conduct was reasonably likely to cause the harm that resulted
28 from the conduct or the respondent has demonstrated that there were significant extenuating
29 circumstances or intervening causes for the violation; and the respondent has demonstrated that

1 he/she provided a satisfactory remedy that alleviated or eliminated any harm or threat to the
2 health or safety of the public.

3 (ii) Moderate--the violation shows that the respondent knowingly disregarded a standard or
4 practice normally followed by a reasonably prudent person under the same or similar
5 circumstances. A violation of a Board order shall constitute, at a minimum, a moderate violation.

6 (iii) Major--the conduct demonstrates gross negligence or recklessness or resulted in a threat
7 to the health or safety of the public and the respondent, after being notified of the alleged
8 violation intentionally refused or failed to take prompt and remedial action.

9 (B) Economic harm:

10 (i) Minor--there was no apparent economic damage to property or monetary loss to the
11 project owner or other involved persons and entities.

12 (ii) Moderate--economic damage to property or monetary harm to other persons or entities
13 did not exceed \$1,000, or damage exceeding \$1,000 was reasonably unforeseeable.

14 (iii) Major--economic damage to property or economic injury to other persons or entities
15 exceeded \$1,000.

16 (C) Sanction history:

17 (i) Minor--the respondent has not previously received a written warning, advisory notice or
18 been subject to other enforcement proceedings from the Board.

19 (ii) Moderate--the respondent was previously subject to an order of the Board or other
20 enforcement proceedings which resulted in a finding of a violation of the laws or rules over
21 which the TBAE has jurisdiction.

22 (iii) Major--the respondent has received at least two prior written notices or has been subject
23 to two disciplinary actions for violation of the rules and laws over which the TBAE has
24 jurisdiction.

25 (2) After determining whether the violation is minor, moderate, or major, the Board shall
26 impose an administrative penalty as follows:

27 (A) Minor violations--if the violation is minor in every category described in paragraph (1) of
28 this section, an administrative penalty of not more than \$500 shall be imposed.

29 (B) Moderate violations--if the violation is moderate in any category described in paragraph
30 (1) of this section, an administrative penalty of not more than \$2,000 shall be imposed.

1 (C) Major violations--if the violation is major in any category described in paragraph (1) of
2 this section or if the Board determines that the facts of the case indicate a higher penalty is
3 necessary in order to deter similar misconduct in the future, an administrative penalty of not
4 more than \$5,000 shall be imposed.

5 (D) Because of the threat to human health, safety and well-being which necessarily arises from
6 a Nonregistrant representing himself or herself to be registered as a Registered Interior Designer
7 the Board possesses a compelling interest in ensuring that only those persons who are permitted
8 by statute and rule to use the title "registered interior designer" do so. If the evidence establishes
9 that a person not registered as a Registered Interior Designer has represented himself or herself
10 as a registrant, the violation shall be classified as a major violation and each sheet of Interior
11 Design plans or separate section of the specifications shall be considered a separate violation for
12 purposes of calculating and imposing administrative penalties.

13 (E) The agency is responsible for protecting the public's health, safety and welfare by
14 interpreting and enforcing the Interior Designers' Registration Law. In fulfilling this statutory
15 duty the Board depends upon, and expects, that Registrants, Candidates and Applicants will
16 provide complete, truthful and accurate information to the Board upon request. This prompt and
17 accurate provision of information is essential to protecting the public's health, safety and welfare.

18 (F) A Registered Interior Designer, a Candidate, or an Applicant who fails, without good
19 cause, to provide information to the Board under §5.181 of this subchapter (relating to
20 Responding to Request for Information) is presumed to be interfering with and preventing the
21 Board from fulfilling its responsibilities. For these reasons a violation of §5.181 of this
22 subchapter shall be considered a moderate violation if a complete response is not received within
23 30 days after the violation. Any further delay constitutes a major violation. Each 15 day delay
24 thereafter shall be considered a separate violation of these rules.

25 (3) In order to determine the appropriate amount in a penalty range described in paragraph (2)
26 of this section, the Board shall consider the factors described in paragraph (1) of this section.

27 (4) If the facts of a case are unique or unusual, the Board may suspend the guidelines described
28 in this section.

Summary of Draft Amendments
Regarding
Professional Services Procurement Act

Current Law

Section 1051. 203, Texas Occupations Code, generally prohibits the Board from regulating commercial speech, except to restrict false, misleading or deceptive practices. The law prohibits the Board from adopting rules which restrict competitive bidding. However, a portion of the law requires the Board to adopt rules to prohibit its registrants from submitting a competitive bid to a governmental entity and from soliciting a competitive bid on behalf of a governmental entity, if the Professional Services Procurement Act (the Act) bars the governmental entity from awarding a contract on the basis of competitive bidding.

The Professional Services Procurement Act lists both architecture and landscape architecture as “professional services”. Governmental entities may not select a provider of either professional service on the basis of competitive bids. However, the Act implements that prohibition differently for architectural services than it does for landscape architectural services.

The Act specifies a two-step process for the procurement of architectural services (along with engineering and land surveying services). A governmental entity must first select the most highly qualified provider of architectural services on the basis of demonstrated competence and qualifications and then attempt to negotiate a fair and reasonable price with the selected provider. For the selection of a provider of landscape architectural services (along with all other professional services), the Act requires a governmental entity to make the selection and award on the basis of demonstrated competence and qualifications to perform the services for a fair and reasonable price. There is no specified sequence of selection followed by negotiation for awarding a contract to a landscape architect.

The Board has adopted rules restricting architects and landscape architects from submitting a competitive bid to, or soliciting a competitive on behalf of, a governmental entity in accordance with the Act. The rules also bar architects and landscape architects from providing information relating to fees for a professional service until after selection on the basis of competence and qualifications.

Proposed Amendments

The proposed rule defines the term “competitive bid” for purposes of implementing the Act. As defined, a competitive bid includes information which discloses a fee for architectural services. The definition includes information from which the fee may be extrapolated or indirectly determined.

The draft amendments make the rules more closely align with the rules of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying. The amendments also clarify the current restriction on the disclosure of any information “related to the monetary cost of a professional service” which is broad enough and vague enough to be construed in an inconsistent or overbroad manner.

Upon the recommendation of the Rules Committee, the Board proposed the repeal of Rule 3.147 which imposes the fee disclosure restriction upon providers of landscape architectural services.

The proposed amendment to Rule 1.147, applying to architects, and the repeal of Rule 3.147, regarding landscape architects, were published in the September 19, 2014, edition of the *Texas Register*. To date, the agency has received no public comment regarding either proposed change.

§ 1.147. Professional Services Procurement Act

1 An Architect shall neither submit a competitive bid to nor solicit a competitive bid on behalf of
2 any governmental entity that is prohibited by the Professional Services Procurement Act,
3 Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract
4 on the basis of competitive bids. For purposes of this Section, the term “competitive bid” means
5 information which specifies the fee charged by an Architect for a professional service, including
6 information from which such fee may be extrapolated or indirectly determined. An Architect
7 may disclose to a governmental entity [~~submit information related to~~] the fee for [~~monetary cost~~
8 ~~of~~] a professional service, including information found in a fee schedule, only after the
9 governmental entity has selected the Architect on the basis of demonstrated competence and
10 qualifications pursuant to the Professional Services Procurement Act.
11

REPEAL §3.147 Professional Services Procurement Act

12 A Landscape Architect shall neither submit a competitive bid to nor solicit a competitive bid on
13 behalf of any governmental entity that is prohibited by the Professional Services Procurement
14 Act, Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a
15 contract on the basis of competitive bids. A Landscape Architect may submit information related
16 to the monetary cost of a professional service, including information found in a fee schedule,
17 only after the governmental entity has selected the Landscape Architect on the basis of
18 demonstrated competence and qualifications pursuant to the Professional Services Procurement
19 Act.

TBAE LAWS REGARDING PSPA

V.T.C.A., Occupations Code § 1051.203

§ 1051.203. Rules Restricting Advertising or Competitive Bidding

- (a) The board may not adopt rules restricting advertising or competitive bidding by a certificate holder except to prohibit false, misleading, or deceptive practices.
- (b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:
 - (1) restricts the use of any advertising medium;
 - (2) restricts the use of a certificate holder's personal appearance or voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the certificate holder; or
 - (4) restricts the certificate holder's advertisement under a trade name.
- (c) The board shall adopt rules to prevent a person regulated by the board from submitting a competitive bid to, or soliciting a competitive bid on behalf of, a governmental entity that is prohibited by Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract on the basis of competitive bids.

PROFESSIONAL SERVICES PROCUREMENT ACT

V.T.C.A., Government Code § 2254.001
§ 2254.001. Short Title

This subchapter may be cited as the Professional Services Procurement Act.

V.T.C.A., Government Code § 2254.002
§ 2254.002. Definitions

In this subchapter:

(1) “Governmental entity” means:

- (A) a state agency or department;
- (B) a district, authority, county, municipality, or other political subdivision of the state;
- (C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
- (D) a publicly owned utility.

(2) “Professional services” means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;

PROFESSIONAL SERVICES PROCUREMENT ACT

- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

V.T.C.A., Government Code § 2254.003 § 2254.003. Selection of Provider; Fees

(a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

V.T.C.A., Government Code § 2254.004 § 2254.004. Contract for Professional Services of Architect, Engineer, or Surveyor

(a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

- (1) formally end negotiations with that provider;
- (2) select the next most highly qualified provider; and
- (3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

PROFESSIONAL SERVICES PROCUREMENT ACT

§ 2254.005. Void Contract

A contract entered into or an arrangement made in violation of this subchapter is void as against public policy.

V.T.C.A., Government Code § 2254.007

§ 2254.007. Declaratory or Injunctive Relief

(a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by [Section 2151.002](#). In this subsection, “state agency” includes the Texas Building and Procurement Commission.

Summary of Proposed Amendments
Regarding
Intent in Dishonest Practices Rules

Current Rules

The Board's rules prohibiting dishonest conduct specifically include an element of intent. In order to prove a violation of a dishonest practices rule, the agency must prove an act or assertion was made, or withheld, with the intent to defraud, deceive or create a misleading impression. The architectural rules regarding dishonest practices also include a prohibition upon knowingly making a false statement when testifying as an expert witness.

Although these offenses carry an element of intent or knowledge, the rules do not define the level of, or nature of, the respondent's culpable mental state when acting to deceive. This ambiguity does not provide notice to agency registrants regarding the nature of the conduct, including culpable mental states, for which the Board may impose a sanction. It also does not give the agency, which prosecutes violations of the rules, or administrative law judges, who propose decisions in those prosecutions, adequate guidance on the elements which must be proved in order to establish a violation. The rules also prohibit registrants from giving goods or services to a governmental entity in an effort to be awarded publicly funded work. Registrants have contacted the agency regarding the extent to which this rule applies regarding trivial services or items of minimal value.

Proposed Amendments

The proposed amendments create a definition of the term "intent" for purposes of the dishonest practices rules. As defined, "intent" may be established by the nature of the conduct or the reasonable result of the conduct. The definitions create an objective standard of intent based upon what may reasonably be inferred from the conduct in question. The intent of a registrant to defraud, deceive, or create a misleading impression may be established if a reasonable person would reasonably conclude that the registrant wanted deception or a misleading impression to result from the conduct. The rule is also amended to note that intent may be established by circumstantial

evidence. The evidence regarding the circumstances of respondent's actions, assertions, and lack of actions or assertions may establish respondent's conscious intent to bring about the fraud, deception or misleading impression.

The terms "knowing" and "knowledge" are likewise defined by reference to an objective standard based upon reasonableness. As amended, an architect would act knowingly or with knowledge if a reasonably prudent architect would be aware of the nature of the action or the likely result of the action.

The definitions for "intent" and "knowing" or "knowledge" are based upon statutory guidance from the Texas Penal Code regarding culpable mental states. A copy of relevant provision is included for reference.

The proposed amendments also modify the rules to clarify that a registrant may not give a governmental entity anything or any service of significant value during the government's procurement process. The proposed amendments define the term "significant value" as a value which would create or appear to create an obligation on the governmental entity's part to award work to the registrant who gave the thing or service to the governmental entity. The definition for the term is substantively identical to the definition of "benefit of any substantial nature" used the Board's Rules 1.145, 3.145 and 5.155 regarding conflicts of interest.

The proposed amendments were published in the September 19, 2014, edition of the *Texas Register*. To date, the agency has not received public comment.

RULE §1.144 Dishonest Practice

1 (a) An Architect may not directly or indirectly perform an act, omit an act or allow an omission,
2 make an assertion, or otherwise engage in a practice with the intent to:

3 (1) defraud;

4 (2) deceive; or

5 (3) create a misleading impression.

6 (b) An Architect may not advertise in a manner which is false, misleading, or deceptive.

7 (c) An Architect may not directly or indirectly solicit, offer, give, or receive anything or any
8 service of significant value as an inducement or reward to secure any specific publicly funded
9 architectural work. An Architect may not give architectural plans, design services, pre-bond
10 referendum services, or any other goods or services of significant value to a governmental entity
11 in response to a request for qualifications, a request for proposals, or otherwise during the
12 process to select an Architect to render publicly funded architectural work. The term “significant
13 value” means any act, article, money, or other material consideration which is of such value or
14 proportion that its offer or acceptance would affect the governmental entity’s selection of an
15 Architect or would create the appearance of an obligation or bias on the part of the governmental
16 entity to select the Architect to perform the architectural work.

17 (d) An Architect serving as an expert witness is subject to discipline for committing a dishonest
18 practice upon a finding by a court of law that the Architect:

19 (1) rendered testimony the Architect has actual knowledge is false; or

20 (2) agreed to receive payment contingent upon giving testimony that expresses a particular
21 opinion.

22 (e) For purposes of this Section, an Architect’s conduct is intentional, or with intent, if the nature
23 of the conduct or a reasonable result of the conduct demonstrates a conscious objective or desire
24 to engage in the conduct or cause the result. An Architect’s conduct is knowing or with
25 knowledge, with respect to the nature of the conduct or to circumstances surrounding the conduct
26 when a reasonably prudent Architect in the same or similar circumstances would be aware of the
27 nature of the conduct or that the circumstances exist. An Architect acts knowingly, or with
28 knowledge, with respect to a result of the Architect’s conduct when a reasonably prudent

1 Architect would be aware of the conduct and the conduct is reasonably certain to cause the
2 result. An Architect’s intent or knowledge may be established by circumstantial evidence.

RULE §3.144 Dishonest Practice

3 (a) A Landscape Architect may not directly or indirectly perform an act, omit an act or allow an
4 omission, make an assertion, or otherwise engage in a practice with the intent to:

5 (1) defraud;

6 (2) deceive; or

7 (3) create a misleading impression.

8 (b) A Landscape Architect may not advertise in a manner which is false, misleading, or
9 deceptive.

10 (c) A Landscape Architect may not directly or indirectly solicit, offer, give, or receive anything
11 or any service of significant value as an inducement or reward to secure any specific publicly
12 funded landscape architectural work. A Landscape Architect may not give landscape
13 architectural plans, design services, pre-bond referendum services, or any other goods or services
14 of significant value to a governmental entity in response to a request for qualifications, a request
15 for proposals, or otherwise during the process to select a Landscape Architect to render publicly
16 funded landscape architectural work. The term “significant value” is defined to mean any act,
17 article, money, or other material consideration which is of such value or proportion that its offer
18 or acceptance would affect the governmental entity’s selection of a Landscape Architect or
19 would create the appearance of an obligation or bias on the part of the governmental entity to
20 select the Landscape Architect to perform the landscape architectural work.

21 (d) For purposes of this Section, a Landscape Architect’s conduct is intentional, or with intent, if
22 the nature of the conduct or a reasonable result of the conduct demonstrates a conscious
23 objective or desire to engage in the conduct or cause the result. A Landscape Architect’s intent or
24 knowledge may be established by circumstantial evidence.

RULE §5.154 Dishonest Practice

25 (a) A Registered Interior Designer may not directly or indirectly perform an act, omit an act or
26 allow an omission, make an assertion, or otherwise engage in a practice with the intent to:

27 (1) defraud;

1 (2) deceive; or

2 (3) create a misleading impression.

3 (b) A Registered Interior Designer may not advertise in a manner which is false, misleading, or
4 deceptive.

5 (c) A Registered Interior Designer may not directly or indirectly solicit, offer, give, or receive
6 anything or any service of significant value as an inducement or reward to secure any specific
7 publicly funded Interior Design work. A Registered Interior Designer may not give Interior
8 Design plans, design services, pre-bond referendum services, or any other goods or services of
9 significant value to a governmental entity in response to a request for qualifications, a request for
10 proposals, or otherwise during the process to select a Registered Interior Designer to render
11 publicly funded Interior Design work. The term “significant value” is defined to mean any act,
12 article, money, or other material consideration which is of such value or proportion that its offer
13 or acceptance would affect the governmental entity’s selection of a Registered Interior Designer
14 or would create the appearance of an obligation or bias on the part of the governmental entity to
15 select the Registered Interior Designer to perform the Interior Design work.

16 (d) For purposes of this Section, a Registered Interior Designer’s conduct is intentional, or with
17 intent, if the nature of the conduct or a reasonable result of the conduct demonstrates a conscious
18 objective or desire to engage in the conduct or cause the result. A Registered Interior Designer’s
19 intent may be established by circumstantial evidence.

PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 6. CULPABILITY GENERALLY

Section. 6.01. REQUIREMENT OF VOLUNTARY ACT OR OMISSION.

(a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession.

(b) Possession is a voluntary act if the possessor knowingly obtains or receives the thing possessed or is aware of his control of the thing for a sufficient time to permit him to terminate his control.

(c) A person who omits to perform an act does not commit an offense unless a law as defined by Section 1.07 provides that the omission is an offense or otherwise provides that he has a duty to perform the act.

Section. 6.02. REQUIREMENT OF CULPABILITY.

(a) Except as provided in Subsection (b), a person does not commit an offense unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.

(c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required under Subsection (b), intent, knowledge, or recklessness suffices to establish criminal responsibility.

(d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:

- (1) intentional;
- (2) knowing;
- (3) reckless;
- (4) criminal negligence.

(e) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

(f) An offense defined by municipal ordinance or by order of a county commissioners court may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the amount authorized by Section 12.23.

Section. 6.03. DEFINITIONS OF CULPABLE MENTAL STATES.

(a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

(c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Section. 6.04. CAUSATION: CONDUCT AND RESULTS.

(a) A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

(b) A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:

- (1) a different offense was committed; or
- (2) a different person or property was injured, harmed, or otherwise affected.

Summary of Proposed Amendments Regarding the “Rolling Clock”

Current Rules

The Board’s current “rolling clock” rules establish a deadline for passing the registration examination for each of the professions regulated by the Board. A candidate must pass all remaining sections of the examination within 5 years after passing a section of the examination. If the candidate fails to pass all sections within that 5-year period, each passing score which pre-dates the moving or “rolling” 5-year period becomes invalid and the candidate must pass that section again.

The rule allows for granting a candidate a single 6-month extension for the birth or adoption of a child during the 5-year period. The provision relating to the granting of an extension differs from the provisions applied by NCARB for extending the 5-year deadline.

Proposed Rules

The proposed amendments would bring the Board’s rule regarding extensions to the “rolling clock” period in line with the standards set by NCARB’s *Certification Guidelines*.

The proposed amendments make the following changes:

- Elimination of the restriction allowing only a single extension;
- Extension granted for serious medical conditions;
- Extension granted for active duty service in the United States armed forces; and
- The extensions for serious health medical conditions and active duty military service would continue for the duration of the medical condition or active duty service.

The extension for the birth or adoption of a child would remain at 6 months.

The proposed rules were published in the September 19, 2014, edition of the *Texas Register*, for public comment. To date, the agency has received none.

RULE §1.43 Reexamination

1 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
2 Each Candidate must pass all sections of the examination within five (5) years after the date the
3 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
4 examination within five (5) years after passing a section of the examination will forfeit credit for
5 the section of the examination passed and must pass that section of the examination again.

6 (b) The Board may grant extensions [~~one extension~~] to the 5-year period for completion of the
7 examination if the [a] Candidate is unable to pass all sections of the examination within that
8 period for the following reasons:

9 (1) The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
10 ~~child~~]-within that 5-year period;

11 (2) The Candidate developed a serious medical condition within that 5-year period; or

12 (3) The Candidate commenced active duty service as a member of the United States military
13 within that 5-year period.

14 (c) [-] A Candidate may receive [~~request~~] an [~~one~~] extension of up to 6 months for the birth or
15 adoption of a child by filing a written application with the Board together with any corroborating
16 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
17 may receive an extension for the period of the serious medical condition or for the period of
18 active duty military service by filing a written application with the Board together with
19 corroborating evidence immediately after the Candidate learns of the medical condition or the
20 commencement of active duty military service. A Candidate shall immediately notify the Board
21 in writing when the medical condition is resolved or active duty military service ends.

RULE §3.43 Reexamination

22 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
23 Each Candidate must pass all sections of the examination within five (5) years after the date the
24 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
25 examination within five (5) years after passing a section of the examination will forfeit credit for
26 the section of the examination passed and must pass that section of the examination again.

27 (b) The Board may grant extensions [~~one extension~~] to the 5-year period for completion of the
28 examination if the [a] Candidate is unable to pass all sections of the examination within that
29 period for the following reasons:

1 (1)The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
2 ~~child]~~ within that 5-year period;

3 (2) The Candidate developed a serious medical condition within that 5-year period; or

4 (3) The Candidate commenced active duty service as a member of the United States military
5 within that 5-year period.

6 (c) [A] Candidate may receive [~~request]~~ an [~~one]~~ extension of up to 6 months for the birth or
7 adoption of a child by filing a written application with the Board together with any corroborating
8 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
9 may receive an extension for the period of the serious medical condition or for the period of
10 active duty military service by filing a written application with the Board together with
11 corroborating evidence immediately after the Candidate learns of the medical condition or the
12 commencement of active duty military service. A Candidate shall immediately notify the Board
13 in writing when the medical condition is resolved or active duty military service ends.

RULE §5.53 Reexamination

14 (a) A Candidate's passing grade for any section of the examination is valid for five (5) years.
15 Each Candidate must pass all sections of the examination within five (5) years after the date the
16 Candidate passes a section of the examination. A Candidate who does not pass all sections of the
17 examination within five (5) years after passing a section of the examination will forfeit credit for
18 the section of the examination passed and must pass that section of the examination again.

19 (b) The Board may grant extensions [~~one extension]~~ to the 5-year period for completion of the
20 examination if the [a] Candidate is unable to pass all sections of the examination within that
21 period for the following reasons:

22 (1) The Candidate gave birth to, or adopted a child [~~because of the adoption or birth of a~~
23 ~~child]~~ within that 5-year period;

24 (2) The Candidate developed a serious medical condition within that 5-year period; or

25 (3) The Candidate commenced active duty service as a member of the United States military
26 within that 5-year period.

27 (c) [A] Candidate may receive [~~request]~~ an [~~one]~~ extension of up to 6 months for the birth or
28 adoption of a child by filing a written application with the Board together with any corroborating
29 evidence immediately after the Candidate learns of the impending adoption or birth. A Candidate
30 may receive an extension for the period of the serious medical condition or for the period of

- 1 active duty military service by filing a written application with the Board together with
- 2 corroborating evidence immediately after the Candidate learns of the medical condition or the
- 3 commencement of active duty military service. A Candidate shall immediately notify the Board
- 4 in writing when the medical condition is resolved or active duty military service ends.

NCARB Rolling Clock vs. Texas Rolling Clock

A rolling clock policy ensures candidates demonstrate competency on the entire domain of the examination within a set of period time.

The NCARB rolling clock policy and the Texas rolling clock policy are very similar. In fact, the NCARB rolling clock is based off what was the already existing Texas rolling clock. Since the Texas rolling clock went into effect more than four years prior to the NCARB rolling clock, the administration of exams for Texas' candidates is out of synch with NCARB data. Exams that would be considered still valid under NCARB's Rolling Clock may not be valid under the Texas rolling clock. After the final implementation of Resolution 2009-2 in July of 2014, the NCARB rolling clock and the Texas rolling clock will be in alignment as to the calculation of expiration dates.

> The NCARB rolling clock policy is also more lenient on the granting of extensions. Texas limits extensions to birth/adoption of a child and only allows 1 per 5-year period. NCARB allows for extensions due to birth/adoption of a child as well as additional extensions related to active military service, serious medical conditions experienced by the candidate, candidate's partner, or candidate's child. NCARB does not limit the number of extensions that can be applied to a division.

	Texas Rolling Clock	NCARB Rolling Clock
Effective Date	February 1, 2002	July 1, 2006
Policy	Each individual division passed is valid for a period of five (5) years after which it will expire if all other divisions are not passed.	Each individual division passed is valid for a period of five (5) years after which it will expire if all other divisions are not passed.
Grandfathered exams	None - all exams taken prior to 2-1-2002 were immediately governed by the Texas rolling clock.	Exams taken prior to 7-1-2006 are grandfathered until 7-1-2014 at which time they will expire if all other divisions are not passed.
Extensions	Birth/adoption of a child <ul style="list-style-type: none"> • 6-month extension • Limited to 1 per 5 year period • • 	Birth/adoption of each child <ul style="list-style-type: none"> • 6-month extension Serious medical condition <ul style="list-style-type: none"> • Length of Impact of condition Active military service <ul style="list-style-type: none"> • Length of Impact of service
Extension Process	Written application and corresponding documentation are required. The request must be submitted and received by the Texas Board prior to the candidate's current rolling clock end date.	A completed Rolling Clock extension request form and supporting documentation are required. The request must be submitted and received by NCARB prior to the candidate's current Rolling Clock end date.

3/27/2014

Summary

Draft Amendments to Rules 1.65(a), 3.65(a) and 5.75(a)

Current Rule/Background

During its meeting on August 21, 2014, the Board discussed the cost of providing renewal notices to registrants by mailing postcards. It is estimated that the cost of purchasing, printing and mailing postcards is roughly \$8,500 per year. The Board directed agency staff to research the Board rules and determine whether renewal reminder notices may be sent to registrants via email in lieu of postal mail.

Current rules 1.65, 3.65 and 5.75, allow the Board to email renewal notices to a registrant only if the registrant requests notice via email. In the absence of an affirmative action by the registrant to request email notification, the Board must provide written notice by some other means. As a practical matter, the only other means of providing written notice is on paper through the mail.

Prospective Rule Amendments

The draft amendments would require the Board to provide renewal notices via email. The amendments would strike references to providing email notices only upon the request of registrants.

Note

The draft amendments would not prohibit other forms of notice. The rule amendments would allow the Board to send notice via mail and email, simultaneously, for a specified period to allow registrants to adjust to receiving notice only via email in subsequent years.

RULE §1.65(a) Annual Renewal Procedure

1 (a) The Board shall send via email an annual registration renewal notice to each Architect. An
2 Architect must notify the Board in writing (e-mail, fax, on the Board's Web site, or by U.S. mail)
3 each time the Architect's email address or mailing address of record changes. The ~~[, and the]~~
4 written notice of the Architect's change of address must be submitted to the Board within thirty
5 (30) days after the effective date of the change of address. ~~[Upon request by an Architect, the~~
6 ~~Board shall send the annual registration renewal notice via e-mail. An Architect who requests~~
7 ~~receipt of the renewal notice via e-mail must notify the Board in writing (U.S. mail, on the~~
8 ~~Board's Web site, e-mail, or fax) each time the Architect's e-mail address of record changes no~~
9 ~~later than thirty (30) days after the effective date of the change of the e-mail address.]~~

RULE §3.65(a) Annual Renewal Procedure

11 (a) The Board shall send via email an annual registration renewal notice to each Landscape
12 Architect. A Landscape Architect must notify the Board in writing (e-mail, fax, on the Board's
13 Web site, or by U.S. mail) each time the Landscape Architect's email address or mailing address
14 of record changes. The ~~[, and the]~~ written notice of the Landscape Architect's change of address
15 must be submitted to the Board within thirty (30) days after the effective date of the change of
16 address. ~~[Upon request by a Landscape Architect, the Board shall send the annual registration~~
17 ~~renewal notice via e-mail. A Landscape Architect who requests receipt of the renewal notice via~~
18 ~~e-mail must notify the Board in writing (U.S. mail, on the Board's Web site, e-mail, or fax) each~~
19 ~~time the Landscape Architect's e-mail address of record changes no later than thirty (30) days~~
20 ~~after the effective date of the change of the e-mail address.]~~

RULE §5.75(a) Annual Renewal Procedure

22 (a) The Board shall send via email an annual registration renewal notice to each Registered
23 Interior Designer. A Registered Interior Designer must notify the Board in writing (e-mail, fax,
24 on the Board's Web site, or by U.S. mail) each time the Registered Interior Designer's email
25 address or mailing address of record changes. The ~~[, and the]~~ written notice of the Registered
26 Interior Designer's change of address must be submitted to the Board within thirty (30) days after
27 the effective date of the change of address. ~~[Upon request by a Registered Interior Designer, the~~
28 ~~Board shall send the annual registration renewal notice via e-mail. A Registered Interior~~

1 ~~Designer who requests receipt of the renewal notice via e-mail must notify the Board in writing~~
2 ~~(U.S. mail, on the Board's Web site, e-mail, or fax) each time the Registered Interior Designer's~~
3 ~~e-mail address of record changes no later than thirty (30) days after the effective date of the~~
4 ~~change of the e-mail address.]~~

Renewal Notice – Statutory Requirement

§1051.352. NOTICE OF EXPIRATION

Not later than the 30th day before the date a person's certificate of registration is scheduled to expire; the board shall send written notice of the impending expiration to the person at the person's last known address according to the records of the board.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	142-14A
Respondent:	Barry R. Bubis
Location of Respondent:	Austin, TX
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Barry R. Bubis (hereafter “Respondent”) is registered as an architect in Texas with registration number 9297.
- On March 17, 2014, he was notified by the Board that he was being audited for compliance with the continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- On April 11, 2014, he responded by submitting a CEPH Log and supporting documentation. A review of the documentation by the Continuing Education Coordinator determined that his continuing education requirements were completed outside of the audit period. However, he subsequently made up the hours and sent the certificates of completion to the Board.

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of his continuing education activities for the period of January 1, 2013 through December 31, 2013, Respondent violated Board rule 1.69(g)(1). The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of their continuing education activities for a period of five (5) years after the end of the registration period for which credit is claimed is **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	154-14A
Respondent:	Virginia E. Carson
Location of Respondent:	Plano, TX
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Virginia E. Carson (hereafter “Respondent”) is registered as an architect in Texas with registration number 13792.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete her continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew her architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of her online renewal that she was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(g). The Board’s standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	148-14A
Respondent:	Thomas Douthitt
Location of Respondent:	Plano, TX
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Thomas Douthitt (hereafter "Respondent") is registered as an architect in Texas with registration number 14683.
- On March 17, 2014, he was notified by the Board that he was being audited for compliance with the continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- On July 9, 2014, he responded by emailing the Continuing Education Coordinator and stated that he had not completed his continuing education for the audit period because he was not practicing architecture.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board's mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(g). The Board's standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	057-14A
Respondent:	Royce J. Hailey
Location of Respondent:	Round Rock, TX
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Royce J. Hailey (hereafter “Respondent”) is registered as an architect in Texas with registration number 17485.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2010 through December 31, 2010.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew his architectural registration.
- During the course of staff’s investigation regarding Respondent’s continuing education credits, Respondent failed to respond to two written requests for information.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 1.69(g). The Board’s standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 1.69(b). The standard administrative penalty assessed for this violation is **\$500.00**.
- By failing to respond to two written requests for information within 30 days of staff’s requests, Respondent violated Board rule 1.171 which requires that an architect answer an inquiry or produce requested documents within 30 days of a request. Each violation is subject to a standard administrative penalty of **\$250.00** totaling **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,700.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	153-14I
Respondent:	Alva Hill Kingham
Location of Respondent:	Nacogdoches, TX
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Alva Hill Kingham (hereafter “Respondent”) is a registered interior designer in Texas with registration number 1565.
- On May 16, 2014, she was notified by the Board that she was being audited for compliance with the continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- On May 23, 2014, she responded by submitting a CEPH Log and supporting documentation. A review of the documentation by the Continuing Education Coordinator determined that a portion of her continuing education records were incomplete.

Applicable Statutory Provisions and Rules:

- By failing to maintain a detailed record of her continuing education activities for the period of January 1, 2013 through December 31, 2013, Respondent violated Board rule 5.79(g)(1). The standard administrative penalty imposed upon a registrant for failing to maintain a detailed record of his or her continuing education activities for a period of five years after the end of the registration period for which credit is claimed is **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$500.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number:	159-14L
Respondent:	Brian C. Rude
Location of Respondent:	Phoenix, AZ
Nature of Violation:	Violation of Continuing Education Requirements
Instrument:	Report and Notice of Violation

Findings:

- Brian C. Rude (hereafter “Respondent”) is registered as a landscape architect in Texas with registration number 2087.
- Based upon the results of a random continuing education audit, it was determined that Respondent failed to complete his continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- In addition to completing the required continuing education hours outside of the continuing education period, Respondent falsely certified completion of CE responsibilities in order to renew her architectural registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of his online renewal that he was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 3.69(g). The Board’s standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 3.69(b). The standard administrative penalty assessed for this violation is **\$500.00**.

Action Recommended by Interim Executive Director:

- The Interim Executive Director recommends an administrative penalty of **\$1,200.00**.

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS
SUMMARY OF PROPOSED
ENFORCEMENT ACTION**

This document is an internal document relating to an uncontested case to be considered by the Texas Board of Architectural Examiners. This document is prepared to inform, advise and assist the Board in addressing this uncontested case.

Case Number: 150-14I
Respondent: Erin L. Sander
Location of Respondent: Dallas, TX
Nature of Violation: Violation of Continuing Education Requirements
Instrument: Report and Notice of Violation

Findings:

- Erin L. Sander (hereafter “Respondent”) is registered as an interior designer in Texas with registration number 10788.
- Based upon the results of a random continuing education audit, it was determined that she failed to timely complete her continuing education requirements for the audit period of January 1, 2013 through December 31, 2013.
- In addition to completing the required continuing education hours outside of the continuing education period, she falsely certified completion of her CE responsibilities in order to renew her interior design registration.

Applicable Statutory Provisions and Rules:

- By indicating at the time of her online renewal that she was in compliance with the Board’s mandatory continuing education requirements, Respondent provided the Board with false information in violation of Board rule 5.79(g). The Board’s standard assessment for providing false information is **\$700.00**.
- By failing to timely complete the required continuing education program hours, Respondent violated Board rule 5.79(b). The standard administrative penalty assessed for this violation is **\$500.00**.

Action Recommended by Executive Director:

- The Executive Director recommends an administrative penalty of **\$1,200.00**.

TBAE Legislative Committee: Duties, Requirements, and Other Useful Information

1. The purposes of the Legislative Committee include:
 - a. To provide guidance to Staff in navigating the 84th Legislature
 - b. To better understand from stakeholders their issues and concerns, and seek their input on issues of common interest with the Board
 - c. To determine roles and discuss logistics for Committee Member involvement in hearings, meetings, etc. during the 84th Legislature
 - d. To review and approve responses to requests for information from the legislative branch (legislators, committees, LBB, TLC, SAO, etc.).
 - e. To report to the Board the activities of the Committee and the nature of the inquiries received and information provided to the Legislature.
2. The Committee will need a Chair, to be appointed by Chairman Vidaurri
3. The Legislative Committee will be bound by all open meetings requirements, just like any other committee (e.g. Rules Committee). That will mean posting meeting agendas, holding meetings publicly, taking meeting minutes, etc.
4. The Committee fulfills the Board's role in serving as an informational resource to the Legislature. The Committee does not advocate for or against legislation.