



State of Arizona
BOARD OF TECHNICAL REGISTRATION

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August 26, 2015

Kimberly Yee
Arizona State Senator
Committee of Reference Co-Chair
Arizona State Senate
1700 W. Washington
Phoenix, AZ 85007

Re: **2015 Sunset Audit Response**

Dear Senator Yee:

On behalf of the Board, I am pleased to submit its response to your April 29, 2015 Sunset Audit questions.

Factor 1: The objective and purpose in establishing the agency and the extent to which the objective and purpose are met by private enterprise in other states.

Response:

The Legislature created the Board of Technical Registration in 1921 to protect the public's health, safety, and welfare by regulating the professions of architecture, engineering, land surveying and assaying. The Legislature added the profession of geology to the Board's jurisdiction in 1956, and the profession of landscape architecture was added in 1968. In 2003, the Legislature added the occupations of Home Inspectors, Drug Laboratory Site Remediation Firms, Supervisors and Workers to the Board's jurisdiction. The Alarm Industry, including agents and firms, was added in 2013.

The Board is a "multi-disciplinary" agency comprised of nine (9) members appointed by the Governor with the expertise and knowledge base to effectively regulate the science and design professionals they represent. The Legislature has mandated that Board members may serve two consecutive three year terms. Three members must be engineers; two members must be architects; one member must be a surveyor, one member must be an assayer or geologist; one member must be a landscape architect; and one member must represent the public.

The Board meets one day each month to review and act upon the qualifications of applicants for registration and certification, and to review and take action upon the investigative reports regarding complaints the public may file against licensees. Importantly, the Board devotes significant time during each meeting to discussing and acting upon policy issues designed to make it more efficient and relevant to the public and its licensed population. Those issues include the drafting of rules and substantive policy issues as well as strategic planning exercises. The Board also devotes time to the training and development of its members to

ensure that they understand their regulatory responsibilities and act upon the matters before them with the appropriate decorum and knowledge.

The Board supports itself financially by collecting licensing and renewal fees from applicants for registration and certification. These fees are split upon receipt: 90% are deposited into the Technical Registration Fund, and 10% are deposited into the State's General Fund. The Board currently operates with a 2 million dollar annual budget.

The Legislature appropriated 24 employees to accomplish the Board's work, processing applications, investigating complaints, and managing its office. Staff is headed by an Executive Director, and although appropriated for 24 employees, it currently employs only 21 people in order to run more "leanly" and efficiently.

As a multi-disciplinary agency, the Board already operates more efficiently, at minimal cost, by comparison to other regulatory boards in Arizona and around the country. Nine different professions and occupations are regulated in Arizona by one agency, this Board, rather than by nine different agencies, saving money and resources while providing the same level of service to the public that independent boards provide.

None of the nine professions the Board regulates are "privately operated" in other states. Recent national case law has demonstrated that privatization of regulation can be exclusionary, protectionist, and self-promoting. Privatization does not protect the public.

Private business or professional associations exist to support five of the Board's registered professions: architecture, engineering, surveying, landscape architecture and geology. These associations are supported by payment of annual dues from their membership. Membership in these associations is voluntary and members are not tested or evaluated for skill, training, and experience, which differs from the objectives of this Board, which thoroughly vets registrants' qualifications. These business and professional associations do not have the power or authority to protect public health, safety and welfare as does this Board.

Despite our differing interests and missions, the Board maintains positive and cooperative relationships with its "stakeholder" associations; working with them to educate potential applicants for registration, to obtain public input on proposed changes to the Board's statutes and rules, and to provide information to their membership about the Board's investigative processes and substantive policies.

The Board also works with National Councils that provide the licensing examinations required for registration as professional architects, engineers, surveyors, geologists and landscape architects. All state Boards that regulate these professions are "members" of these councils to ensure that their applicants for registration have access to the latest national licensing examinations which test for minimal competence to practice those professions safely. Membership in the councils also ensures that Arizona's candidates for registration can qualify for reciprocal registration in other states, jurisdictions, and foreign countries.

The Board was recently selected by the National Council of Landscape Architect Boards to participate in its "Model Board" Pilot Program, designed to assist regulatory boards achieve regulatory excellence by learning to operate more efficiently and to provide relevant services to the public, including licensees. The pilot program should take approximately a year and a half to complete, after which time, the Board will be considered the "Model Multi-Disciplinary Board" for all its counterparts nationally to emulate in the areas of licensing, enforcement, and regulatory efficiency.

The National Councils offer their own "certificates" or "council records" to certain registrants who have educational degrees from select universities for a cost with the idea that

these certificates or records can facilitate registration nationally. This Board accepts certificates and records from applicants for registration but does not require them.

Arizona offers an “alternative path” to registration for its applicants for professional registration. The Board does not require formal or preferred education to become registered to practice in Arizona. However, all applicants for professional registration must demonstrate competency to hold registration by experience and passing the national examinations. Arizona is in the minority of states offering this alternative path to registration, making the obtaining of registration here less burdensome and exclusionary than in other states.

Factor 2: The extent to which the agency has met its statutory objective and purpose and the efficiency with which it has operated.

Response:

The Board has always met its statutory objective and purpose, which is to protect the public by promulgating standards of qualification for people applying for registration and certification, and enforcing standards of practice for those who are registered or certified. The Board enacted rules that detail the requirements for registration or certification. The Board administers several examinations that are not provided by national councils but are required for registration. All of its applicants are required by law to take and pass national examinations to demonstrate competency to practice safely in Arizona. The Board investigates complaints it receives against licensed professionals and against unlicensed individuals deceptively holding themselves out to the public as qualified to practice pursuant to the Board’s statutes and rules.

In June 2013, the Board’s long time Executive Director retired after 31 years of service. The new Executive Director took steps to reorganize the office into three units that more accurately reflect the Board’s purpose: Licensing, Enforcement, and Board Operations. Additional and necessary staff was hired, and policies and procedures were developed to ensure that the Board was meeting licensing time frames and investigating complaints in a timely and efficient manner. Additionally, the Executive Director was directed to improve and increase communication and cooperation with stakeholders and involvement with National Councils. These changes, plus the filling of vacant positions have resolved backlogs in investigations and applications and led to the establishment of procedures to monitor for adherence to time-frame goals.

With regard to Licensing, the Board’s statutes require it to have applications for registration and certification reviewed by volunteer subject matter experts who evaluate the professional credentials of the applicants and make recommendations to grant or deny licensure to the full Board. The Board would consider these recommendations one day a month, at its regularly scheduled meeting. This process was very time-consuming and could result in a delay of approval until subsequent board meetings.

In an attempt to get applicants registered and working in Arizona more expeditiously, the Board worked with Representative Mitchell, who is a certified Home Inspector, to draft a bill last Legislative Session which gave the Board the authority to delegate to its Executive Director the ability to grant registrations and certifications, and authorize candidates to take the required national examinations. That bill passed and became effective on July 3, 2015. Now, many applications can be granted quickly and efficiently, rather than having to wait for a Board vote at its monthly meeting.

In order to expedite the review of the applications by subject matter experts, the Board created an informal Application Review Committee to review the applications for engineering registration and for authorizations to take the national examinations. The Board recruited

members from its “pool” of subject matter experts (registered engineers in good standing who have previously assisted with investigations regarding engineering technical knowledge and skill.) These volunteers come to the Board every week to review the new applicants’ qualifications and make recommendations that can be acted upon by the Executive Director immediately. Now, engineering applicants can submit an application on one day, have their credentials and qualifications reviewed and within a matter of days, and receive their approval for registration to practice in Arizona without waiting for the next scheduled board meeting.

Based upon the success of the Application Review Committee for engineering applications, the Board expanded the program to include Home Inspector applications for certification. Redacted applications are now reviewed by a much larger pool of certified home inspector volunteers. This process facilitates the processing of applications much more quickly than they were just six months ago. The Board may expand the Application Review Committee to include architect applications in 2016.

With regard to Enforcement, the largest impact made to improve how efficiently the Board investigates and resolves complaints was made by hiring capable and qualified investigators and fully staffing the Enforcement unit. In 2013, the Board employed only two investigators and it had complaints from as far back as 2006 open and pending resolution. After hiring an experienced manager, creating policies and procedures, and staffing the unit with four qualified investigators and one support staff, the Enforcement unit resolved all of its old cases and is only investigating complaints from 2014 to the present.

The Board has a significant backlog of complaints (26) awaiting formal hearing. This backlog is a result of staff at the Attorney General’s Office, from which the Board must reportedly obtain all of its legal services, including prosecuting its investigations sent to formal hearing. The Board has, for decades, entered into an Inter-agency Service Agreement with the Attorney General’s Office, to purchase dedicated legal services with the intent that the AG dedicate an attorney to give the Board necessary legal advice and timely prosecute its formal hearing cases. Board staff has met numerous times with the previous Attorney General and the current administration to express its ongoing need to secure timely and competent legal services, and to determine what the staffing problems are and how to resolve them.

The Board has also conducted periodic meetings devoted entirely to strategic planning, to maintain its relevance and improve its efficiency. Its first strategic planning meeting was held on February 11, 2014, and its second meeting was held on July 10, 2015. At its strategic planning meetings, the Board reviews operational issues and sets short-term goals, such as purchasing a new computer system to allow applicants to apply for registration and certification on-line and pay for applications and renewals with credit cards. The Board also sets long-term goals, such as reviewing its rules and making recommendations to update and revise them, as necessary.

The Board has also set the long-term goal of revising its Practice Act, to redefine its scope and refocus its resources on its core registration base: the science and design professionals. It has also discussed the possibility of renaming itself so that the public can better understand its purpose and mission.

It is the Board’s intent to find state agencies better suited to manage several programs that it currently administers. During the 2015 Legislative Session, the Board advocated in support of legislation to move the Drug Lab Program, to ADEQ, which has a much larger knowledge base than the Board does with regard to properties contaminated by the production of methamphetamine. The proposed legislation would also have removed the Board from any role and regulation over the drug lab remediation workers, supervisors, and firms. The Board will work with ADEQ this coming session to effectuate the move of the Program, transferring revenue, rules, and authority over the Program to ADEQ.

The Board advocated in support of legislation to shift the regulation of the Alarm industry to a regulatory entity that has the resources, capability and expertise to proactively serve the public in this field. The Board cannot fulfill the purpose of this measure, given the scope, experience, and focus needed to protect the public against unscrupulous processes.

To that end, the Board has met with the Department of Public Safety, which regulates Security Guards and Private Investigators and conducts the same type of background checks that the Board is required to conduct on alarm industry personnel, to determine whether DPS can assume regulatory responsibility over them. DPS is better configured than the Board to protect the public from unscrupulous alarm industry personnel who are intent on conducting fraud schemes. The Board has much fewer staff and a “reactive” statutory framework; meaning that it reacts to a complaint that is filed; whereas, DPS has “proactive” authority to seek out lawbreakers and has many more law enforcement officers to deter crime.

The Board has also met with representatives from the Registrar of Contractors, with whom it shares regulation of some alarm businesses, to discuss the possibility of ROC assuming responsibility for the entire industry. This concept has support with some of the certified alarm businesses and would eliminate the dual registration requirement.

In summary, the Board has always strived to meet its statutory objective and purpose and has made significant progress in the last two years toward becoming more efficient and relevant to the public and its registrant base.

Factor 3: The extent to which the agency serves the entire state rather than specific interests.

Response:

Based upon its composition as a multi-disciplinary board, this agency cannot cater to specific interests. It must consider the needs of a diverse group of registrants from many different professions and occupations, property owners, regulatory officials, contractors and the general public.

The Board members are themselves from diverse locations around the state: Phoenix, Tucson, and Kingman. Additionally, the members work in diverse professional settings; some work for large firms, some are self-employed and some work for other state agencies. The volunteer professionals who review applications for registration and certification and evaluate the technical knowledge and skill of registrants under Board investigation are located around the State, representing practice in large geographic locales, in smaller municipalities and unincorporated areas.

Board members have represented the Board and its practices at conferences in Tucson, Flagstaff, and around the state. Members also participate in the various National Councils’ committees which puts them in contact with their colleague board members from other states and jurisdictions, working collaboratively with them to update national examinations and other registration requirements, such as internship and experience programs.

Board members and staff work collaboratively with stakeholders, such as the Arizona component of the American Institute of Architects (AIA), the American Council of Engineering Companies of Arizona (ACEC-AZ), and the Association of Landscape Architects of Arizona (ASLA). Board members and staff have lectured and participated in conferences sponsored by these stakeholders throughout the state. These stakeholders have been very supportive of the Board’s efforts to become more relevant and efficient. They have supported the Board’s

attempts to revise its statutes and have used their considerable resources to inform their membership about the changes and improvements taking place at the Board.

For instance, in 2013, the Board received requests to make continuing education for architects and land surveyors a requirement for license renewal. The Board has the authority in its statutes to require its registrants to obtain continuing education credit and provide proof to the Board at the time of registration renewal, but it has never written rules to impose that requirement on its registrants.

The members researched the issue of whether continuing education reduces complaints and improves professional competency to practice safely. It determined that Arizona does not receive more complaints against registrants than did states that require continuing education. In addition, the Board determined that there has been no study or determination made that indicates that CE improves professional practice. The Board also considered the cost to registrants that CE would impose, as well as the impact it would have on Board operations. In order to administer a CE program at the Board, additional staff would be needed, which might require a fee increase to be imposed upon the registrants to support.

The Board conducted a survey of its registrants regarding the issue. 5000 of its registrants responded to questions on the subject. Many remarked that CE only benefits the CE providers (who happen to be the professional associations, for the most part,) and only makes requirements for registration that much more difficult, burdensome and costly. Some responders indicated that they would let their registrations lapse in Arizona if the Board made CE a mandatory requirement for registration renewal.

The Board held several open meetings to discuss the issue of making CE mandatory with the public. After hearing public testimony from registrants, stakeholders and others and having discussion on the issue, the Board voted not to make CE mandatory in Arizona.

In order to reach a broad audience around the State, the Board improved its website in 2014. It has asked its registrants to include email addresses on their renewals and asks for email addresses from new applicants to facilitate communication. The Board began publishing a newsletter in 2014, and has issued press releases to news outlets to inform the public of regulatory and consumer protection concerns from the alarm industry.

In early 2015, the Governor's Office requested that Board staff take part in its LEAN Process to provide information throughout the State regarding its Progressive Discipline system for employees. Staff participated in a three day meeting lasting several days and resulting in the creation of a process to fairly and legally discipline employees that will become State-wide policy, if it hasn't already.

Finally, the Board members receive training regarding their responsibilities as members of the Board and in their responsibilities to the public, including the registrants. Members understand that it is the Board's mission to protect the public, state-wide, and not to promote a particular private agenda while serving on the Board. The Board places a "Call to the Public" on all of its meeting agendas and frequently invites the public to dialog on issues of importance.

Factor 4: The extent to which rules adopted by the agency are consistent with the legislative mandate.

Response:

In 2013, the Governor's Regulatory Review Council (GRR) reviewed all of the Board's rules as required by a mandatory five year rules review and approved them as consistent with the Board's legislative mandate. During the Five Year Rules Review

process, the Board considered whether its rules were relevant and identified one rule that it no longer needed. The Board recommended to GRRC that the non-renewing designation of Architect-In-Training be sunsetted.

The Board explained to GRRC that it had created the designation in decades past because it offers In-Training designations to applicants in the other professions it regulates. The Board, in years past, identified four of the nine professional examinations required for Architect Registration as “in-training” examinations and authorized candidates to pass them in order to receive the AIT designation. However, in 2012, the National Architect Registration Examination (ARE) was revised and all the examination sections were reorganized. The ARE also became computer based, allowing candidates to access any examination they wished to take at any time. The new sections could not be divided into “in-training” sections and applicants stopped applying for the designation. GRRC allowed the AIT designation to sunset in 2013.

In an effort to become more relevant and efficient, the Board has identified other rules it would like to modify. Among the changes the Board would like to make to its rules are plans to revise its time-frames rules to shorten the time it takes to grant applicants authorization to test or to become licensed in Arizona. The Board must also promulgate rules to regulate the Alarm industry if the Board remains the regulator of this industry after the 2016 legislative session. All planned rules changes will be consistent with the Board’s legislative mandate.

Factor 5: The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Response:

The Board appoints members to serve on its Legislation and Rules Committee, which meets quarterly to discuss questions from the public and its registrants regarding practice issues. It is comprised of current and former Board members representing each of the professions it regulates. The Committee hears public comment on proposed substantive policy issues, legislative and rules changes, important in the community that the Board should consider. It makes recommendations to the full Board for action.

The Board always has a “Call to the Public” on each meeting agenda which encourages interaction with the public.

The Board has held special board meetings and invited its stakeholders to discuss the continuing education issue and this Sunset process. Stakeholders have been invited to several meetings to discuss a possible Board sponsored legislation to revise outdated statutes and to hear input regarding finding regulators for the Drug Lab Program and the Alarm Industry. The Board’s stakeholders have also been asked for suggestions to revise the Board’s Rules.

The Board has also worked with the National Councils on rules related issues. Members have contributed to national discussions regarding professional practice trends and helped to revise the Model Rules each Council promulgates for state consideration.

Factor 6: The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.

Response:

The Board has an effective investigation process that involves the use of volunteer subject matter experts. When the Board receives a complaint that involves the technical knowledge and skill of a registrant (Respondent), the Board's statute, A.R.S. § 32-128(E), authorizes the opening of an investigation. The Board's rule, A.A.C. R4-30-120(A), explains that a "pool of volunteers" shall be selected to "provide technical assistance to Board staff in the evaluation and investigation of complaints."

The complaint investigation process allows the Respondent an opportunity to respond to the complaint in writing, an opportunity to present evidence at an Enforcement Advisory Committee meeting, where the pool of volunteers will review the evidence and make a recommendation to the Board about how best to resolve the complaint. The rule also provides Respondents with the opportunity to attend "an informal compliance conference" in an attempt to resolve the complaint informally. A.A.C. R4-30-120(E).

The full Board reviews committee recommendations regarding the disposition of complaint investigations. If a complaint cannot be resolved informally, the Board will forward it to a formal disciplinary hearing, which provides the Respondent with the opportunity to appear and present evidence and testimony before the Board or an independent Administrative Law Judge from the Office of Administrative Hearings before the Board takes any disciplinary action against the license.

In June 2013, staff conducted an audit of open investigations. It was determined that the Board had 96 open investigations; 2 complaints were opened in 2005; 5 complaints were opened in 2006; 2 complaints were opened in 2007; 3 complaints were opened in 2009; 11 complaints were opened in 2010; 12 complaints were opened in 2011; 30 complaints were opened in 2012; and 18 complaints were opened during the first half of 2013.

To process complaints more expeditiously, the Enforcement Unit at the Board is now fully staffed. The Board now employs an Enforcement Manager, with extensive investigative and management experience, four investigators and an administrative assistant.

By June 2015, the Enforcement Unit had resolved all backlogged investigations. The oldest complaint being investigated was a land surveying issue from 2013. As of July 2015, the Board is investigating 12 cases from 2014 and 86 cases from 2015. The number of complaints the Board receives has increased in the past two years, but the Board is better able to investigate and resolve them quickly. In addition, the Board established a compliance process within the Enforcement Unit to ensure that those Respondents the Board has disciplined comply with the Board's orders, which better protects the public.

The Board has sent 26 investigations to the Attorney General's Office for administrative prosecution. Many of those cases have been waiting for prosecution since 2010. In addition to the 10% of funds the Board deposits into the General Fund, some of which is dedicated to the Attorney General's Office, the Board has, for years, entered into an Inter-agency Service Agreement with the AG's Office to ensure that it receives the necessary resources to have its investigations prosecuted. Despite the additional payments specifically dedicated for legal services, the AG's Office has not provided the level of support or assistance required by the Board's operational pace.

This failure to provide timely legal services creates challenges for the public and the Board. Allowing respondents who may have lacked the technical knowledge and skill which resulted in the initial complaint filed at the Board or who are not licensed to

practice Board regulated professions, to remain in practice for extended periods of time without Board oversight, is a serious concern to the Board because it can have a negative impact upon the health, safety and welfare of the public.

The Board must meet the expectations of the public as well as the professionals it regulates. Those who practice have some expectation that complaints against them will be timely resolved. Delays caused by the Board's attorneys undercut the effectiveness and respect for the Board's enforcement function.

The Board has considered not entering into any more ISAs with the AG's Office because it is not getting the necessary service for the extra expense. However, the AG's Office has indicated that without the extra money from the Board, its legal work will not take precedence and will be completed more slowly than it is now.

Factor 7: The extent to which the attorney general or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

Response:

The Attorney General's Office was empowered by the State Constitution to provide advice to the Board and prosecute its investigations. The Board has no independent legislative authority to hire outside counsel, private attorneys, to prosecute its investigations or to provide it legal advice.

When faced with the backlog of investigations awaiting prosecution, the Board considered the possibility of hiring outside counsel but was advised that without the legislative authorization, private counsel could not be retained, and all legal services had to come from the Attorney General's Office. The Board's efforts to work more efficiently are still constrained by the inadequate level of support received from the AG's Office.

Factor 8: The extent to which agencies have addressed deficiencies in their enabling statutes that prevent them from fulfilling their statutory mandate.

Response:

Following the 2013 hiring of its new Executive Director, the Board began to convene Strategic Planning meetings. During these meetings, the Board established short-term operational goals and long-term substantive goals. One of the long-term goals the Board promulgated was its desire to return to its original legislatively mandated mission, to regulate the science and design professions of architecture, engineering, surveying, geology and landscape architecture.

The Home Inspectors are represented at the Board by a legislatively created committee that meets at the Board's office quarterly to consider policy issues relating to the occupation and to review applications for certification. The Drug Lab Remediation community is also represented at the Board by a committee that meets as necessary to consider whether techniques to clean illegal drugs and the concentrations of those drugs need to be amended in rules. The Alarm industry is not represented by a separate committee, but there are no qualifications for certification as an alarm agent, other than to be free of a substantive criminal history. If the Legislature does not see fit to find a better "home" for the Alarm industry, the Board will begin drafting rules in an attempt to regulate the industry and to protect the public.

During its first strategic planning meeting, the Board determined to become proactive in reducing its legislative mandate by finding agencies better able to regulate the Alarm industry and the Drug Lab Program. Discussions to that end were heard at the Legislature during the 2014-2015 Session.

The Board believes that legislation should be enacted to deregulate the Remediation Specialist certification. This certification is a one-time, non-renewing certification that was created by the Legislature in the early 2000's to assist ADEQ with a "brownfields" project, which has since been deregulated. The Board has only had one application for this certification since 2009. There are only 11 certified Remediation Specialists.

In addition, the Board determined that the profession of Assaying should be deregulated. There are only 22 registered Assayers and nearly half of them live and work outside of Arizona. The Board has received only 2 applications in the past 5 years. The low number of registered Assayers cannot maintain a psychometrically valid examination without monetary assistance from the other professions. Deregulation of this profession should not endanger the public because the companies that hire Assayers seem to be able to regulate them based upon the fact that no complaints have been filed with the Board in the past 5 years against them.

With more time to devote to the regulation of the architects, engineers, surveyors, geologists, and landscape architects, the Board could cultivate better and more productive relationships with its stakeholders. It could also devote more of its resources to investigating complaints of unlicensed activities against people who legally cannot practice the professions without being registered. It could more quickly convert the examinations it offers to the Surveyors and the Geological Engineers to computer based exams which would be more convenient for the applicants. The Board would also like to create an Arizona jurisprudence examination, testing applicants on its statutes and rules. These initiatives directly related to the Board's core mission have been delayed due to the regulation of the other occupations.

Factor 9: The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in this subsection.

Response:

The Board has the statutory authority to require the Alarm industry to submit fingerprints for criminal background checks prior to certification, but it does not have this authority to require fingerprint background checks from all of its applicants prior to registration or certification. The Board must rely upon the truthfulness and good character of its applicants and registrants when they answer "background" questions on license and renewal applications. These background questions inquire about whether registrants have been arrested for and/or convicted of any criminal activity that might demonstrate that they lack the good moral character to practice their professions or occupations safely. The Board has learned that some registrants answer the questions falsely to avoid potential disciplinary action or embarrassment.

In order to address this concern in the interim before a statute change can be made, the Board has entered into a contract with LEXIS/NEXIS, a public records search machine. The Board has informed applicants for registration and certification and licensees renewing their registrations or certifications that it will conduct LEXIS/NEXIS checks of public records data bases to confirm their truthful answers to its background questions. Surprisingly, the Board has learned that not all of its applicants answer the questions truthfully.

If the regulation of the Alarm Industry remains with the Board, its statutes will need to be amended in order to make the fingerprinting requirement more efficient and less cumbersome. Now, applicants must submit a fingerprint card to the Board as part of the licensing process. The Board must request a “batch number” from ADOA, because a transfer of the fee for the fingerprint processing between agencies is required. Once the Board receives a batch number for the fingerprints, it submits the fingerprint card to DPS for processing through the FBI database. If the background check is “clear,” the Board issues the applicant a license which is valid for two years. However, current law requires that person to resubmit fingerprints EVERY year, so the Board must process the cards a second time before the license requires renewal or expires.

The Board’s statutes could be amended to allow alarm industry applicants to obtain a fingerprint clearance card through DPS. Applicants would then pay a lower fee for a clearance card that is valid for six years, during which time, evidence of any criminal activity in which they’ve engaged would be provided to the Board for possible disciplinary action. The same result would be achieved at less expense to the public with all the same protection.

Factor 10: The extent to which the termination of the agency would significantly affect the public health, safety or welfare.

Response:

Terminating this agency would have an immediate and adverse impact on public health, safety and welfare on other state and local agencies as well as on members of the general public which rely upon the Board to assure that science and design professionals are competent to practice and adhere to high standards of professional conduct. The science and design professions that the Board regulates require a great deal of knowledge regarding national and state building codes, county and city ordinances.

Unlicensed individuals holding themselves out as able to practice the professions of architecture, engineering, surveying, geology or landscape architecture have not demonstrated that they possess the required knowledge or expertise to design and/or build structures to ensure that the public is protected. Unlicensed individuals may have obtained the education most registrants have, but they may not have been able to demonstrate that they possess the minimum competence to practice safely if they haven’t passed the national and state required exams. Efficient and effective regulation ensures that qualified people provide necessary services safely to the people of Arizona. It also provides for the timely investigation and prosecution of unlicensed and potentially unsafe people. Board regulation protects the public.

Regulation of these professions ensures that capable and qualified people obtain registration to safely design buildings, bridges, roads and streets, ADA accessible parks, conduct accurate boundary surveys and certify the ore that is mined out of Arizona mines, etc. Moreover, with increased attention on the integrity of our infrastructure, regulation helps to ensure the competence of those making judgments about the safety and soundness of existing improvements, and the repairs needed to maintain these improvements. Their judgments impact more than just the economy that is dependent on these improvements.

Regulation of Home Inspectors should be maintained. Home Inspectors provide a service to the public by giving piece of mind to potential home buyers that the largest investment they make is safe. Unlicensed inspectors may not know what the latest

safety codes require in homes. Unlicensed inspectors may not have the expertise to identify potential problems for home buyers and may not be able to properly communicate those concerns in a format that home buyers can understand.

The Board's belief that another regulator should be given the resources and responsibility to oversee the Alarm industry does not mean that the Board supports its deregulation. The Board understands that the industry relies upon trust and is not an industry in which non-rehabilitated convicted felons should be permitted to practice. It should be regulated. Further, the Board supports the regulation of the Alarm Industry in view of the complaints it has received about deceptive and fraudulent practices, particularly by unlicensed people.

Efficient and effective regulation ensures that qualified people provide necessary services safely to the people of Arizona. It also provides for the timely investigation and prosecution of unlicensed and potentially unsafe people. Board regulation protects the public.

Factor 11: The extent to which the level of regulation exercised by the agency compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

Response:

The professions of architecture, engineering, and landscape architecture are regulated throughout all 50 states, Puerto Rico, Guam, and in Canada and Mexico. Surveying is also regulated in all 50 states. Geology is regulated in over 30 states nationally. The level of regulation of these professions in Arizona is appropriate.

Some states that license architects, engineers, surveyors, landscape architects and geologists do not investigate complaints against licensees. Some refer practice-related complaints or complaints alleging unlicensed practice to their criminal charges. Most are not prosecuted. Arizona better protects its citizens by having given the Board the authority to investigate and resolve complaints.

The Board licenses more architects, engineers, surveyors and landscape architects than many other states because it allows for an alternative path to registration that does not mandate postsecondary education. New Mexico and Utah, for instance, only license architects that maintain a certificate with the National Council, NCARB. In order to obtain that certificate from NCARB, the applicant must be a graduate of a specially accredited university. Therefore, those who attend colleges or universities that do not maintain this special accreditation cannot obtain the NCARB certificate and cannot obtain registration in New Mexico or Utah.

There are 600 registered architects in New Mexico, compared with the 6600 registered in Arizona. The Board's licensing requirements are less restrictive than those in New Mexico and Utah. Arizona will register people who have no formal architecture education as long as they can demonstrate their competence to practice safely after working with licensed architects for 8 years and passing the national examination. The same "alternative" path toward registration applies in Arizona to engineers, surveyors, landscape architects, and geologists.

While Assayers exist by profession across the country, Arizona is the only state that registers them. As previously stated, Arizona should consider deregulating them.

Arizona has not mandated continuing education of its architects, engineers, surveyors, geologists, and landscape architects. The Board determined, after much research and public comment that no credible evidence exists to support the idea that required continuing education better protected the public. The Board does not consider more complaints against its science and design professionals than other states that mandate continuing education. Further, it would have to impose higher fees upon its registrants to support the agency's administration of a mandatory continuing education requirement.

The Board has been very proactive in reviewing its statutes, rules, and internal processes to make itself more relevant to the public and more efficient in its work. It has made its investigations more thorough and less time consuming. It processes applications for registration and certification more quickly but with the same required scrutiny. It conducts its own background checks of applicants' criminal history and verifies that those registrants it places on administrative probation comply with the terms of its orders and practice safely.

Factor 12: The extent to which the agency has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

Response:

As explained above, the Board does not regularly use private contractors but does relies upon volunteer registrants to assist it with its review of applicants' credentials for registration and certification, and it relies upon them for review of complaints involving issues of technical knowledge and skill. These volunteers save the Board money that would otherwise be spent to retain their services. Without the volunteer professionals, the Board might have to employ professional architects, engineers, surveyors, geologists, landscape architects, home inspectors, drug lab remediation experts and alarm agents to assist it with its work, at great expense.

Other states that regulate the same professions as stand-alone boards rely upon their board members to assess credentials of applicants and/or review complaints. However, they receive many fewer applications per year than this Board. Many do not have the statutory authority to investigate complaints against their registrants. Other jurisdictions have adopted our model and have begun to use volunteer professionals to review complaints and assist them with complaint resolutions.

It is possible that if the Board were given the authority to hire outside legal counsel, it could convene formal hearings more quickly. More timely prosecution would protect the public from potentially dangerous respondents, those licensed but practicing below standards and those who are not licensed. The Board understands the policy of having the AG serve as the lawyer for state agencies. However, when those services are not provided to enable the Board to fulfill its independent statutory duty, authorizing the use of private contractors for this purpose should be considered.

Factor 13: The extent to which the agency potentially creates unexpected negative consequences that might require additional review by the committee of reference, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

Response:

The Board welcomes the opportunity for review by the Committee of Reference. As stated previously, the Board has been in the process of reviewing its statutes, rules and internal processes for the past two years in an attempt to become more relevant to the public, including its registrants, and efficient in its practices. Board staff has been cross-trained to perform more than one task to ensure that work does not stop if a staff person leaves the Board's employ for any reason.

The Board did an analysis of the fees it charges its registrants for registration and certification by comparing its fees to those charged by surrounding states for the same licenses. The Board learned that its fees are lower than all surrounding states, some significantly lower. In addition, its fees are lower compared with other Arizona agencies that license other professions.

The Board is in the process of purchasing a new computer system to help it process applications more efficiently and provide on-line registration, certification and renewals to its applicants. The proposed new computer system will be comparable to systems in place for a number of other state agencies and will allow the public greater access to the information the Board maintains, such as disciplinary history and registration qualification on registrants. The computer should allow the Board to accept credit card payments for the services it provides to the public

Additional Factors: 1) Identify the problem or the needs that the agency is intended to address.

Response:

The Legislature created the Board in 1921 to regulate the science and design professions in Arizona. The Board's primary mission is to establish and review the qualifications of those seeking registration and certification to determine whether they are safe and competent to practice in Arizona. Once the Board licenses professionals, it is empowered by the Legislature to hear and decide complaints about their practice and to impose discipline against registrants and certificate holders, if necessary, to protect the public from incompetent practice. The Board was also given the authority to investigate complaints against those practicing without being licensed because those people have not demonstrated that they possess the capabilities and qualifications to safely practice.

Additional Factors: 2) State, to the extent practicable, in quantitative and qualitative terms, the objectives of the agency and its anticipated accomplishments.

Response:

The Board intends to work with its stakeholders to update its Practice Act and revise its "time-frames" rules to shorten the time it takes to authorize people to take exams and become licensed. It intends to continue to shorten the time it takes to investigate and resolve complaints. It intends to continue to improve relationships with its stakeholders.

The Board plans to provide the public with the ability to apply for registration and certification and renew those licenses on-line. It plans to provide the public with the ability to pay for Board services with a credit card. It also plans to provide the public with the ability to look up information regarding licensees' qualifications and possible disciplinary history.

Categories and Numbers of Active Board issued Licenses, not including delinquent licenses, as of July 30, 2015.

License Type	Total
Alarm Agents	2424
Alarm Controlling Persons	229
Alarm Controlling Person/Agents	301
Architects	6612
Assayers	22
Drug Lab On-Site Supervisors	10
Drug Lab On-Site Workers	11
Engineers	
• Aeronautical	• 1
• Agricultural	• 37
• Architectural	• 28
• Chemical	• 203
• Civil	• 10381
• Control Systems	• 85
• Electrical	• 2724
• Environmental	• 280
• Fire Protection	• 158
• Geological	• 93
• Geophysical	• 3
• Highway	• 2
• Industrial	• 33
• Mechanical	• 2736
• Metallurgical	• 30
• Mining	• 126
• Nuclear	• 16
• Petroleum	• 5
• Sanitary	• 84
• Structural	• 1841
Total:	• 18866
Engineers In-Training	8007
Geologists	958
Geologists In-Training	467
Home Inspectors	738
Landscape Architects	785
Landscape Architects In-Training	182
Land Surveyors	1630
Land Surveyors In-Training	464
Remediation Specialists	11
Grand Total:	41717

Additional Factors: 3) Identify any other agencies having similar, conflicted or duplicative objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.

Response:

There is no other agency in the State that regulates the science and design professionals. However, there are some agencies that regulate industries similar to the occupations the Board regulates.

For example:

- ADEQ regulates firms that remediate contamination. It could assume the responsibility for the Drug Lab Program, as explained above.
- The Department of Public Safety regulates Security Guards and Private Investigators by checking qualifications for certification and responding to complaints about their performance. It might be a logical choice to better regulate the Alarm Industry.
- The Registrar of Contractors licenses Low Voltage Contractors, a license that some alarm firms maintain if they install alarm detection devices. Not all alarm firms install detection devices, however, ROC may be a “better” agency to regulate the Alarm industry than the Board. ROC does not license individuals; it only licenses construction firms.
- The Real Estate Department might be a better suited agency to regulate Home Inspectors, since their work is tied to the sale of property.
- The Department of Financial Institutions might be an agency better suited to regulating the Home Inspectors than the Board. That agency just assumed responsibility for the Appraisers’ Board. The appraisal of property values has some similar characteristics to the inspection of property conditions.

Additional Factors: 4) Assess the consequences of eliminating the agency or of consolidating it with another agency.

Response:

If the Board is consolidated with another agency, an overuse of limited resources will occur. If the Board is eliminated no entity will exist in the state to determine the qualifications of those who wish to practice the professions and occupations it regulates. Individuals seeking registration as engineers, for example, must demonstrate 8 years of engineering education and/or experience under the supervision of other registered engineers in order to qualify for registration. Then they must pass two rigorous national examinations before they can be registered. The practice of engineering nationally demands these standards.

If the Board is eliminated there will not be an entity that can determine whether those individuals who currently hold licenses possess the necessary qualifications to practice safely in Arizona. Science and design professionals will also be hindered in their efforts to do business in other jurisdictions. If they are not licensed in Arizona, they could not qualify for licensure by comity or reciprocity in other states, which would not serve the best interests of Arizona based firms.

Similarly, if the Board is eliminated, there will be no entity to ensure that practice standards are adhered to and national safety codes are followed. Allowing unlicensed or incompetent individuals to design and build public works projects, such as roads and streets, schools, public buildings, bridges, retaining walls, water treatment plants, nuclear power plants, and all types of private projects, could result in catastrophe and public harm on a grand scale.