

# **STATE OF NORTH CAROLINA**

## **NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS FINANCIAL RELATED AUDIT MAY 2013**

**OFFICE OF THE STATE AUDITOR**

**BETH A. WOOD, CPA**

**STATE AUDITOR**

**NORTH CAROLINA LICENSING BOARD FOR GENERAL CONTRACTORS**

**FINANCIAL RELATED AUDIT**

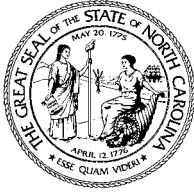
**MAY 2013**

**CLEVE PAUL, BOARD CHAIR**

**ADMINISTRATIVE OFFICERS**

**MARK D. SELPH, SECRETARY TREASURER**

**NANCY G. ROUTH, ASSOCIATE SECRETARY-TREASURER**



Beth A. Wood, CPA  
State Auditor

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## AUDITOR'S TRANSMITTAL

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May 15, 2013

The Honorable Pat McCrory, Governor  
The General Assembly of North Carolina  
North Carolina Licensing Board for General Contractors  
Mark D. Selph, Secretary-Treasurer

This report presents the results of our financial related audit at the North Carolina Licensing Board for General Contractors. Our work was performed by authority of Article 5A of Chapter 147 of the *North Carolina General Statutes* and was conducted in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

The results of our audit disclosed deficiencies in internal control or instances of noncompliance or other matters that are considered reportable under *Government Auditing Standards*.

These items are described in the *Audit Findings and Responses* section of this report.

*North Carolina General Statutes* require the State Auditor to make audit reports available to the public. Copies of audit reports issued by the Office of the State Auditor may be obtained through one of the options listed in the back of this report.

A handwritten signature in cursive script that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

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## BACKGROUND

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As authorized by Article 5A of Chapter 147 of the *North Carolina General Statutes*, we have conducted a financial related audit at the North Carolina Licensing Board for General Contractors. There were no special circumstances that caused us to conduct the audit, but rather it was performed as part of our effort to periodically examine and report on the financial practices of state agencies and institutions.

In 1925, the North Carolina General Assembly established the authority of the North Carolina Licensing Board for General Contractors, amending Chapter 318 of the Public Laws, designed for the purpose of safeguarding life, health and property and to promote public welfare. The licensing statutes that govern the North Carolina Licensing Board for General Contractors prescribe certain standards for persons, firms and corporations who enter into contracts for construction work in this state. The Licensing Board is comprised of nine members serving 5-year staggered terms. The Board employs 16 full-time persons. The practice act providing specific regulatory authority over general contractors is found under *North Carolina General Statute 87, Article 1*. The purpose of the Board is to regulate the practice of general contracting in North Carolina by evaluating licensure applications for specific criteria by granting licenses to qualified contractors. The Board also imposes disciplinary action in appropriate cases, by suspending or revoking the licenses of general contractors who violate provisions of the Board's disciplinary statute.

The Board receives no state funding to conduct its operations. Rather, the Board is receipt-supported, being funded entirely by application, examination and licensing fees charged to contractors from North Carolina and other states. North Carolina laws define general contractors as persons, firms or corporations who enter into construction projects costing \$30,000 or more.

The Homeowners Recovery Fund was established as a special account of the Board. It is designed to be a last resort for homeowners seeking to recover losses incurred as a result of the actions of dishonest or incompetent general contractors. Claimants must have pursued every other avenue for recovery prior to seeking assistance from the Homeowners Recovery Fund. The practice act providing specific regulator authority over the Homeowners Recovery Fund is found under *North Carolina General Statute 87, Article 1a*.

## AUDIT SCOPE AND OBJECTIVES

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The general objective of this financial related audit was to identify improvements needed in internal control over selected fiscal matters. Management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that relevant objectives are achieved. Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate. Our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion.

The Board operates on a calendar year and our audit scope covered the period of January 1, 2012 through November 30, 2012.

During our audit, we considered internal control related to the following accounts and control objectives:

Cash and Investments – This caption includes cash in checking and money market accounts. On November 30, 2011 the Board had approximately \$3,137,936 in the Operating Fund and \$220,824 in the Homeowners Recovery Fund in cash and investments.

We examined internal controls designed to ensure that the Board properly accounts for and safeguards these assets and that funds were deposited in accordance with *North Carolina General Statute 147-77*, which requires daily deposits of monies received.

License Renewal Fees – This caption includes revenue collected for annual contractor license renewals. The Board collected approximately \$2,396,025 for these fees during the 2012 calendar year.

We examined internal controls to ensure that revenue was collected for valid license renewals in accordance with *North Carolina General Statute 87-10(e)*. A certificate of license shall expire on the December 31 following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewals may be affected any time during the month of January without reexamination, by the payment of a fee to the secretary of the Board. Renewal applications shall be accompanied by evidence of continued financial responsibility satisfactory to the Board. Renewal applications received by the Board after January shall be accompanied by a late payment fee of \$10 for each month or part after January.

Homeowner Recovery Fund Fees – This caption includes revenue collected from city and town inspection departments to reimburse homeowners who have suffered a reimbursable loss in constructing or altering a single family residential dwelling unit. The Board collected approximately \$338,260 for these fees during the 2012 calendar year.

## AUDIT SCOPE AND OBJECTIVES (CONTINUED)

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We examined internal controls to ensure that revenue was collected in accordance with *North Carolina General Statute 87-15.6*. Whenever a general contractor applies for the issuance of a permit for the construction of any new or the alteration of any existing single-family residential dwelling unit, a city or county building inspector collects a \$10 fee from the general contractor for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward nine dollars of each fee collected to the board on a quarterly basis and the city or county may retain one dollar.

*General Operations* – The Board is subject to regulatory requirements established in *North Carolina General Statutes 93B – Occupational Licensing Boards and Chapter 87, Article 1 - General Contractors and Article 1A – Homeowners Recovery Fund*. We examined internal controls designed to ensure that the Board met these requirements.

- In accordance with *North Carolina General Statute 93B-2(a)*, no later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, and the Joint Regulatory Reform Committee an annual report.
- In accordance with *North Carolina General Statute 93B-2(b)*, no later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Regulatory Reform Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.
- In accordance with *North Carolina General Statute 93B-3*, each occupational licensing board shall prepare a register of all persons currently licensed by the board and shall supplement said register annually by listing the changes made in it by reason of new licenses issued, licenses revoked or suspended, death, or any other cause.
- In accordance with *North Carolina General Statute 93B-4*, each occupational licensing board with a budget of at least \$50,000 shall conduct an annual financial audit of its operations and provide a copy to the State Auditor.
- In accordance with *North Carolina General Statute 93B-5(g)*, within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training on the statutes governing the board and rules adopted by the board as well as the following State laws, in order to better understand the obligations and limitations of a State Agency:
  1. Chapter 150B, The Administrative Procedures Act.
  2. Chapter 132, the Public Records Law.
  3. Article 33C of Chapter 143, The Open Meetings Act.
  4. Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.

## AUDIT SCOPE AND OBJECTIVES (CONCLUDED)

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5. Chapter 138A, The State Government Ethics Act.
  6. Chapter 120C, Lobbying.
- In accordance with *North Carolina General Statute 87-7*, the secretary-treasurer shall keep a record of the proceedings of the said Board and shall receive and account for all monies derived from the operation of this article. Any funds remaining in the hands of the secretary-treasurer to the credit of the Board after the expenses of the Board for the current year have been paid shall be paid over to the Greater University of North Carolina for use of the School of Engineering through the North Carolina Engineering Foundation. The Board has the right, however, to retain at least 10 percent of the total expense it incurs for a year's operations to meet any emergency that may arise.
  - In accordance with *North Carolina General Statute 87-8*, on or before the last day of March of each year the Board shall submit to the Governor a report of its transactions for the preceding year, and shall file with the Secretary of State a copy of the report, together with a complete statement of receipts and expenditures of the Board, attested by the affidavits of the chairman and secretary, a copy of the roster of licensed general contractors.
  - In accordance with *North Carolina General Statute 87-15.7*, the Board shall submit annually a report to the State Treasurer accounting for all monies credited and expended from the Homeowners Recovery fund.



## METHODOLOGY

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To accomplish our audit objectives, we gained an understanding of internal control over matters described in the *Audit Scope and Objectives* section of this report and evaluated the design of the internal control. We then performed further audit procedures consisting of tests of control effectiveness and/or substantive procedures that provide evidence about our audit objectives. Specifically, we performed procedures such as interviewing personnel, observing operations, reviewing policies, analyzing accounting records, and examining documentation supporting recorded transactions and balances. Whenever sampling was used, we applied a nonstatistical approach but chose sample sizes comparable to those that would have been determined statistically. As a result, we were able to project our results to the population but not quantify the sampling risk.

As a basis for evaluating internal control, we applied the internal control guidance contained in professional auditing standards. As discussed in the standards, internal control consists of five interrelated components, which are (1) control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (5) monitoring.

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

## RESULTS AND CONCLUSIONS

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The results of our audit disclosed instances of noncompliance or other matters that are considered reportable under generally accepted government auditing standards. These items are described in the *Audit Findings and Responses* section of this report. Management's responses are presented after each audit finding. We did not audit the responses, and accordingly, we express no opinion on them.

## AUDIT FINDINGS AND RESPONSES

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### 1. NONCOMPLIANCE WITH *NORTH CAROLINA GENERAL STATUTES*

The North Carolina Licensing Board for General Contractors (Board) did not comply with *North Carolina General Statutes* for submission of an annual report to the State Treasurer. In addition, the Board did not ensure that board members received training required by *North Carolina General Statutes*. As a result, the State Treasurer was not advised of the Board's activity and board members were not provided training on state policy, procedure, and law. Specifically, we noted the following noncompliance:

- The Board did not submit an annual report for the period ended December 31, 2011 to the State Treasurer that accounts for all of the monies credited to and expended from the Homeowners Recovery Fund as required by *North Carolina General Statute 87-15.7*. Although the submission of the annual report is required by *General Statute*, according to Board personnel, the State Treasurer did not pursue the filing of the report. Board personnel stated that this report has not been submitted to, nor requested by, the State Treasurer in many years.
- The Board did not ensure that board members received all of the training required in *North Carolina General Statute 93B-5(g)*. There is no record that Board members received training on Chapter 150B, Administrative Procedure Act, Chapter 132, the Public Records Law, Article 33C of Chapter 143, the Open Meetings Act, or Articles 31 and 31A of Chapter 143 the State Tort Claims Act, and the Defense of State Employees Law, as required by the statute. Training is required within six months of each board member's initial appointment and at least once every two calendar years thereafter.

*Recommendation:* The Board should implement procedures to ensure that it complies with applicable *North Carolina General Statutes*. If any laws are considered to no longer serve a useful purpose or if the intent of such laws is unknown, the Board should seek out appropriate parties, including the *North Carolina General Assembly* to make changes in the laws.

An agency designated in statutes to provide some oversight through receiving certain reports should seek to have the laws amended if such laws have run their course. While the Office of the State Treasurer is designated in statutes to provide oversight through receiving an annual report, if they feel the law has run its course, the Treasurer's Office should seek to have the law amended.

*Board Response:* After preparation and submittal of the initial Homeowners Recovery Fund audited financial statements (for fye December 31, 1994 & 1995), the Board did not submit audited financial statements in succeeding years to the State Treasurer as required by G.S. §87-15.7. The Board will follow the recommendation of the State Auditor and implement procedures to seek out appropriate legislative personnel to amend the Board's

## AUDIT FINDINGS AND RESPONSES (CONTINUED)

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laws and governing statutes if the intent of these laws is unknown or found to be of no useful purpose.

As of April 9, 2013, all but one Board member had received training pursuant to “requirements contained in Chapter 138A and Chapter 120C of the General Statutes.” While Board members were partially out of compliance since they were due training on GS 93B-5 items (1) through (4), all but one Board member was in compliance with statutory requirements of paragraphs (5) and (6).

As of April 10, 2013, all Board members were up-to-date on all statutorily required training. This information can be confirmed with the State Ethics Commission and by reviewing the minutes of the Board’s April 10, 2013 meeting. To assist Board members in maintaining compliance with these statutory requirements in the future, Board counsel will track training dates of Board members and update the Board at each annual meeting. Additionally, Board counsel will monitor compliance of any newly-appointed members to ensure training compliance within six months of appointment.

### 2. CONTRACT WITH EXAM ADMINISTRATOR NOT RENEWED

The Board did not renew its contract with Psychological Services, Inc. (PSI) annually, and thus, PSI provided services to the Board without a valid contract for the period May 1, 2011 through January 4, 2013. The Board contracts with PSI to administer examinations for licensure of general contractors. Without a valid contract, the Board is at risk for disputes regarding the roles, responsibilities, and expectations of both parties.

The Board certifies that applicants are eligible to take the licensure examination and contracts with PSI to administer the licensure examination. Applicants pay the examination fee directly to PSI when they have been determined eligible by the Board. Once the examination is completed, PSI provides the results to the Board for licensure determination.

Two contract addendums, addendum #4 for the period of May 1, 2011 through April 30, 2012 and addendum #5 for the period of May 1, 2012 through April 20, 2013, were signed on January 4, 2013 when we brought this matter to the attention of management. Approximately \$165,000 was paid to PSI by exam applicants for examination fees during calendar years 2011 and 2012.

*Recommendation:* The Board should make sure that all contracts for services are valid prior to referring eligible candidates to PSI for examination.

*Board Response:* The North Carolina Licensing Board for General Contractors is an autonomous occupational licensing board and receives no state funds; rather, its operations are actually supported by renewal and licensing fees charged to contractors. As the Audit Finding states, “Approximately \$165,000 was paid to PSI for examination fees during calendar years 2011 and 2012.” Beginning with Contract Addendum #1, as of

## **AUDIT FINDINGS AND RESPONSES (CONCLUDED)**

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April 4, 2006, and by dint of enabling legislation (NCGS §87-10) ratified in August 2005, PSI or a provider may collect exam fees directly from candidates. Examination candidates paid approximately \$165,000 directly to PSI for examination fees during said period. The Board and PSI on February 11, 2013 entered into Addendum #6, thereby renewing the contract for examination administration through April 2014. The Board will strictly follow the auditor's recommendation in the future to ensure that all contracts are valid prior to receiving services.

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## ORDERING INFORMATION

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This audit required 681 audit hours at an approximate cost of \$49,032.