

Report on the

**Department of Veterans' Affairs
State of Alabama
Montgomery, Alabama**

October 1, 2014 through September 30, 2017

Filed: January 4, 2019



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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Honorable Rachel Laurie Riddle
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, I submit this report on the results of the examination of the Department of Veterans' Affairs for the period October 1, 2014 through September 30, 2017.

Sworn to and subscribed before me this
the 19 day of December, 2018.

Kelly D. Matthews
Notary Public

Respectfully submitted,

E. Christine Kilpatrick
Examiner of Public Accounts

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Department of
Examiners of Public Accounts

SUMMARY

**Department of Veterans' Affairs
October 1, 2014 through September 30, 2017**

The Department of Veterans' Affairs (the "Department") operates under the authority of the *Code of Alabama 1975*, Sections 31-5-1 through 31-5-14, 31-5A-1 through 31-5A-11, 31-6-1 through 31-6-17, and 31-7-1 through 31-7-5. The purpose of the Department is to assist veterans of any war of the United States in presenting and pursuing claims against the United States arising from war service. The Department also helps establish the veterans' rights to privileges, preferences, care, or compensation provided for by the laws of the United States or of the State of Alabama, when veterans request assistance.

This report presents the results of an examination of the Department and a review of compliance by the Department with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Department properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Department. Our examination included determining compliance by the Department with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Department accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and are summarized below.

CURRENT FINDINGS

- 2017-01 Relates to incorrect leave progression start dates for two employees.
- 2017-02 Relates to two board members receiving compensation they were not entitled to receive.
- 2017-03 Relates to the Board not posting vacancy notices to the Secretary of State's website in a timely manner.
- 2017-04 Relates to notices for two meetings not being posted to the Secretary of State's website as required by the Alabama Open Meetings Act.

Board members and the Commissioner were invited to an exit conference held on November 7, 2018. Individuals in attendance were Michael E. Northcutt, Acting Commissioner; and Dixie Black, Accounting Manager; along with Robin Hutcheson, Audit Manager, and E. Christine Kilpatrick, Examiner, from the Department of Examiners of Public Accounts.



Department of
Examiners of Public Accounts

COMMENTS

**Department of Veterans' Affairs
October 1, 2014 through September 30, 2017**

The Department of Veterans' Affairs (the "Department") operates under the authority of the *Code of Alabama 1975*, Sections 31-5-1 through 31-5-14, 31-5A-1 through 31-5A-11, 31-6-1 through 31-6-17, and 31-7-1 through 31-7-5. The purpose of the Department is to assist veterans of any war of the United States in presenting and pursuing claims against the United States arising from war service. The Department also helps establish the veterans' rights to privileges, preferences, care, or compensation provided for by the laws of the United States or of the State of Alabama, when veterans request assistance.

The Department operates under the direction of the State Board of Veterans' Affairs (the "Board"). During the period examined, the Board consisted of the Governor, who served as Chairman, and 16 representatives of veterans' organizations. Representatives serve four-year terms beginning on the date of appointment by the Governor. Representatives are selected from the memberships of the following organizations:

- Alabama Department of the American Legion
- United Spanish-American War Veterans
- Veterans of Foreign Wars
- Disabled American Veterans
- Veterans of WWI of the USA, Incorporated
- Vietnam Veterans of America
- American Veterans (AMVETS)
- Military Order of the Purple Heart
- American Ex-Prisoners of War, Incorporated
- Alabama Alliance of the Military Officers Association of America, Inc.
- Marine Corps League

There is one representative from each organization for every 7,500 resident members or fraction thereof on July 1 of the year in which appointments are made.

The director (State Service Commissioner) is appointed by the Board and serves as executive officer for the Department of Veterans' Affairs. The Commissioner is appointed to a four-year term. As of September 30, 2017, the Department employed 118 staff members.

In addition to its Montgomery offices, the Department operates 56 field offices located throughout the State and one cemetery. The Veterans Service Offices' primary function is to assist veterans, their dependents, and survivors in the application and processing of claims for benefits and entitlements from the U. S. Department of Veterans Affairs. The cemetery, located in Spanish Fort, was dedicated in December 2012 and began interments April 2013.

As of August 31, 2018, the cemetery had interred 1,337 veterans, 259 veterans' spouses, and 9 veterans' dependent children.

The Department also operates four veterans care facilities as authorized by the *Code of Alabama 1975*, Section 31-5A-1 through 31-5A-11. The facilities include the Bill Nichols State Veterans Home in Alexander City; Floyd E. "Tut" Fann State Veterans Home in Huntsville; William F. Green State Veterans Home in Bay Minette; and Colonel Robert L. Howard State Veterans Home in Pell City. The *Code of Alabama 1975*, Section 31-5A-4 requires the Department to contract with a non-governmental entity to operate the State veterans' homes. The Department currently contracts with HMR of Alabama, Inc. as its contractor to operate the four facilities. One contract is for the first three facilities, which ends June 30, 2019. The contract for the newest facility in Pell City ends February 28, 2022. The contractor fee is paid from Federal per diem collected from the U. S. Department of Veterans Affairs, State per diem paid by the State Department of Veterans' Affairs, and fees paid by facility residents. The Department places representatives at each facility to monitor contract compliance.

The Department operates from the General Fund, Education Trust Fund, and two Special Revenue Funds maintained in the State Treasury.

- **Fund 0100** – The Department of Veterans' Affairs General Fund account is used to account for the general operations of the Department. Operating funds are provided by appropriated allotments from the General Fund.
- **Fund 0200** – The Department of Veterans' Affairs Education Trust Fund account reimburses state-supported technical colleges, junior colleges, colleges and universities for tuition, instruction fees, and book charges to which dependents of eligible veterans are entitled. Operating funds are provided by appropriated allotments from the Education Trust Fund.
- **Fund 0395** – The Department of Veterans' Affairs Special Revenue Fund is used to provide for the upkeep and management of the Department's four veterans' care facilities. Funding sources include federal grants, contributions, interest income, and bed lease/rentals as well as State income tax check-offs and donations. Unexpended balances at year-end remain on hand and are appropriated and reappropriated until expended.
- **Fund 0931** – The Department of Veterans' Affairs Veterans' Assistance Fund is used to assist veteran residents of the Department's veterans' care facilities and operate the cemetery. Operating funds are provided by transfers from Fund 0323, the Confederate Pension Fund, ad valorem taxes, Federal reimbursements for construction, vanity tag revenue and salvaged equipment proceeds as well as receipts for interment cost of veterans' spouses and dependent children.

The Department owned non-consumable personal property consisting of automobiles, office furniture, computers and equipment. A comparison was done of non-consumable personal property in the custody of the Department with property records maintained by the Property Inventory Division of the State Auditor's Office. No discrepancies were noted.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2017

Ref. No.	Finding/Noncompliance
2017-01	<p><u>Finding:</u> The Department did not compute and verify the service dates for two employees correctly. As a result, the employees' leave progression start dates were incorrectly entered into the Government Human Resource System.</p> <p>According to the <i>State of Alabama Personnel Manual</i>, "Each agency is responsible for computing and verifying the leave progression start dates for all employees, including those who transfer into the agency". Service credit is given for the amount of time worked.</p> <p><u>Recommendation:</u> The Department should compute and verify employees' service dates to ensure that leave progression start dates are accurate before they are entered into the Government Human Resource System.</p>
2017-02	<p><u>Finding:</u> Board members are paid \$25 per day for each day spent in active service of the Board. One member, who was also an employee of a state university, received \$25 compensation pay. One member, who was also an employee of a state agency, received a total of \$100 compensation pay. As employees of a state university and a state agency, the members were not entitled to the \$25 per day according to the <i>Code of Alabama 1975</i>, Section 36-6-3 and <i>Attorney General Opinion</i> 2010-061.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-6-3 provides that "Wherever the duties of more than one office, position or employment shall be filled, performed or discharged by one officer or employee, such officer or employee shall only receive the salary named for the highest paid office, position or employment so filled, performed or discharged."</p> <p><i>Attorney General Opinion</i> 2010-061 states, "A person appointed to serve on the Board of Funeral Service, who is employed as a faculty member in a state junior college system, does not hold two offices of profit. Although a person may serve in the stated positions simultaneously, that person may only receive compensation at the rate named for the highest paying position."</p> <p><u>Recommendation:</u> The Department should verify the employment status of Board members to ensure that members are not paid for two positions of profit and that members only receive the salary for the highest paid office, position or employment.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2017

Ref. No.	Finding/Noncompliance
2017-03	<p><u>Finding:</u> The Department did not notify the Secretary of State of vacancies occurring as a result of the expiration of the terms of two Board members at least 45 days before the terms expired. The Department posted vacancies on August 13, 2018 for two members whose terms expired September 30, 2017 and November 24, 2017.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-14-17 (d) (1) states “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy scheduled to occur on the board as a result of the expiration of a term at least 45 days before the vacancy occurs.”</p> <p><u>Recommendation:</u> The Department should notify the Secretary of State of vacancies occurring as a result of the expiration of members’ terms at least 45 days before the terms expire.</p>
2017-04	<p><u>Finding:</u> The Department did not post notices for two meetings held on July 8, 2016 and July 7, 2017, to the Secretary of State’s website as required by the Alabama Open Meetings Act.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25A-3(b) states, “Unless otherwise specified by law directly applicable to the governmental body, notice of a meeting, as defined in Section 36-25A-2(6)a.2. and 3. as well as meetings called pursuant to Section 11-43-50 shall be posted as soon as practicable after the meeting is called and in no event less than 24 hours before the meeting is scheduled to begin, unless such notice (i) is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property; or (ii) relates to a meeting to be held solely to accept the resignation of a public official or employee. In such situations, notice shall be given as soon as practical, but in no case less than one hour before the meeting is to begin. At the same time general notice is given, special notice shall be directed to any person who has registered to receive direct notices pursuant to the provisions of subsection (a)(6).”</p> <p><u>Recommendation:</u> The Department should post notices of meetings to the Secretary of State's website as required by the <i>Code of Alabama 1975</i>, Section 36-25A-3(b).</p>

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Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2014 through September 30, 2017

	2016-2017	2015-2016	2014-2015
Receipts			
General Fund Allotments	\$ 1,841,731.00	\$ 1,787,449.00	\$ 1,769,364.00
Education Trust Fund Allotments	74,263,813.00	58,308,323.00	55,171,599.00
Nongovernmental Operating Contributions	32,791.00	34,163.00	23,730.00
Federal Operating Reimbursements	33,010,750.91	31,100,851.45	29,395,291.57
Transfer from Confederate Pension Fund	36,482,404.23	35,126,691.10	33,428,366.74
Salvage Equipment Proceeds	1,073.90	28.24	925.62
Bed Lease Rental Income	1,027,839.96	1,027,839.96	1,027,839.96
Insurance Recoveries	48,709.22		2,332.91
Miscellaneous Tags	30,542.07	22,294.01	16,752.12
Federal Capital Reimbursements	3,379,567.52		2,497,498.15
Interment Fee	27,750.00	15,750.00	13,500.00
Interest Income	14,063.58	4,702.85	4,393.25
Total	150,161,036.39	127,428,092.61	123,351,593.32
Disbursements			
Personnel Costs	4,216,930.44	4,121,448.26	4,198,395.35
Employee Benefits	2,019,766.97	1,928,697.39	1,843,546.81
Travel In-State	114,885.70	89,452.56	125,019.00
Travel Out-of-State	196.24	4,659.88	6,052.16
Repairs and Maintenance	352,213.29	113,914.32	257,232.48
Rentals and Leases	241,149.24	241,344.69	346,507.00
Utilities and Communication	96,572.43	101,435.69	100,590.99
Professional Services	53,631,923.30	50,617,504.56	49,074,966.48
Supplies, Materials and Operating Expenses	275,684.55	263,545.72	347,802.71
Transportation Equipment Operations	21,454.74	22,393.59	26,712.48
Grants and Benefits	73,004,810.08	56,810,939.61	56,619,260.13
Capital Outlay	132,670.90	948,725.11	4,031,363.35
Transportation Equipment Purchases	71,859.45	16,798.15	26,480.00
Other Equipment Purchases	971,688.37	252,129.62	293,811.76
General Fund Reversion	590,025.49	608,734.45	481,797.39
Education Trust Fund Reversion	7,111.07	3,922.20	4,818.85
Total	135,748,942.26	116,145,645.80	117,784,356.94
Excess (Deficiency) of Receipts Over Disbursements	14,412,094.13	11,282,446.81	5,567,236.38
Cash Balances at Beginning of Year	135,321,658.81	124,039,212.00	118,471,975.62
Cash Balances at End of Year	149,733,752.94	135,321,658.81	124,039,212.00
Reserve for Unpaid Obligations	(19,492,160.73)	(22,746,655.48)	(60,304,422.25)
Available Cash Balances at Year-End	\$ 130,241,592.21	\$ 112,575,003.33	\$ 63,734,789.75

Board Members and Official
October 1, 2014 through September 30, 2017

Board Members		Term Expires
Hon. Kay Ivey	Chairman	Ex-Officio
Hon. Robert Bentley	Ex-Officio	2017
Hon. Willis Frazier	Member	2017
Hon. Chad Richmond	Member	2017
Hon. Deborah Walker	Member	2017
Hon. Donald Fisher	Member	2020
Hon. John New	Member	2020
Hon. Val Obregon	Member	2020
Hon. Charles Stephens	Member	2020
Hon. Jeffery Brown	Member	(Deceased)
Hon. Patrick Downing	Member	2019
Hon. Ken Rollins	Member	2019
Hon. Carol Toms	Member	2019
Hon. Wayne Dial	Member	2017
Hon. James Graves (1)	Member	2017
Hon. Dee Hardin	Member	2017
Hon. Seymour Lichtenfeld	Member	2017
Hon. Sandra Thompson	Member	2017
Hon. William Wyatt	Member	2017
Hon. Johnny Waller	Member	2016

Board Members and Official
October 1, 2014 through September 30, 2017

Official

Rear Admiral W. Clyde Marsh

State Service Commissioner
Department of Veterans' Affairs
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(1) Resigned May 15, 2017