

Report on the

**Board of Heating, Air Conditioning
and Refrigeration Contractors
State of Alabama
Montgomery, Alabama**

October 1, 2017 through September 30, 2019

Filed: June 26, 2020



**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:

An examination was conducted on the Board of Heating, Air Conditioning and Refrigeration Contractors, Montgomery, Alabama, for the period October 1, 2017 through September 30, 2019, by Examiners Daniel Dupree and Ashley L. Allen. I, Daniel Dupree, served as Examiner-in-Charge on the engagement, and under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results and findings of the examination.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Daniel Dupree', is written over a light blue horizontal line.

Daniel Dupree
Examiner of Public Accounts

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SUMMARY

**Board of Heating, Air Conditioning and Refrigeration Contractors
October 1, 2017 through September 30, 2019**

The Board of Heating, Air Conditioning and Refrigeration Contractors (the “Board”) examines and certifies qualified contractors who have the knowledge and ability to install or service and repair heating, air conditioning or refrigeration systems in Alabama. The Board operates under the authority of the *Code of Alabama 1975*, Sections 34-31-18 through 34-31-35.

This report presents the results of an examination of the Board and a review of compliance by the Board 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. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Board properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Board. Our examination included determining compliance by the Board 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 Board 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 they are summarized below.

CURRENT FINDINGS

- 2019-01 Relates to the Board charging a fee that is not authorized by statute.
- 2019-02 Relates to the Board not verifying an employee's employment eligibility through E-Verify by the third business day.

UNRESOLVED PRIOR FINDING

- 2017-01 Relates to the Board not submitting board members vacancies to the Secretary of State in a timely manner.

Board members and the Executive Director were invited to an exit conference held on May 14, 2020. Individuals in attendance were: Jeffrey Becraft, Executive Director, along with Daniel Dupree and Ashley Allen from the Department of Examiners of Public Accounts.



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COMMENTS

**Board of Heating, Air Conditioning and Refrigeration Contractors
October 1, 2017 through September 30, 2019**

The Board of Heating, Air Conditioning and Refrigeration Contractors (the “Board”) operates under the authority of the *Code of Alabama 1975*, Sections 34-31-18 through 34-31-35. The Board examines and certifies contractor applicants who demonstrate the knowledge and ability to install or service and repair heating, air conditioning or refrigeration systems.

The Board has twelve members consisting of the following:

- Three certified heating and air conditioning contractors.
- Three certified heating and air conditioning or refrigeration contractors.
- One licensed professional engineer.
- One trade representative of an equipment manufacturer or supplier.
- One trade representative of the service or repair parts industry.
- One representative of a county or local inspection services department.
- Two consumers from the public at large.

Four members are appointed by the Governor; three members are appointed by the Lieutenant Governor; four members are appointed by the Speaker of the House of Representatives; and one member is appointed by the President Pro-Tempore of the Senate. Members serve four-year staggered terms and are subject to confirmation by the Senate.

The Board employs an Executive Director within the unclassified service of the State’s Merit System. The Executive Director is appointed by and serves at the pleasure of the Board.

The Board operates from Special Revenue Fund 0411 maintained in the State Treasury. The Board’s operating funds are derived from fees collected by the Board in carrying out its statutory mission. The Board is subject to the State’s normal budget process. Unexpended balances of up to 25% of the Board’s budget from the previous fiscal year may be retained in the Board’s fund at year-end.

The *Code of Alabama 1975*, Section 34-31-20(c), requires that any funds in excess of this amount at year-end must be paid into the 501(c)(3) nonprofit Alabama Home Builders Foundation to be used exclusively for classroom training tools at educational facilities that provide heating, air conditioning, and/or refrigeration curriculums to include any program approved or accredited by the State of Alabama, United States federal government, or any state or federal governmental agency or Board. If, at any time, the Alabama Home Builders Foundation should lose its nonprofit status, those funds shall be transferred to the State General Fund. The Board's unexpended balances did not exceed the threshold during the examination period.

The Board owned nonconsumable personal property consisting of automobiles, office furniture, computers and equipment. Nonconsumable personal property in the custody of the Board was compared with the property records maintained by the Property Inventory Control Division of the State Auditor's Office. No discrepancies were found.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-01	<p><u>Finding:</u></p> <p>The Board adopted an administrative rule to charge apprentices a \$50 late registration fee. The fee is not authorized by the Board’s statute.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-31-32(b) states: “The board may, at its discretion, impose late penalties on those certified contractors who fail to renew certificates by December 31 of each year.” The apprentice does not meet the definition of a certified contractor.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-31-18(2) defines an apprentice as: “A person other than a certified heating, air conditioning, or refrigeration contractor, who is engaged in learning and assisting in the installation, service, or repair of a heating, air conditioning, or refrigeration system and working under the direct supervision of a certified heating, air conditioning, or refrigeration contractor, and who has successfully fulfilled the voluntary registration requirements of the board and has been duly registered by the board as such for the current year.”</p> <p>The Attorney General’s Office has opined that fees that are not authorized by statute cannot be charged.</p> <p><u>Recommendation:</u></p> <p>The Board should discontinue charging the unauthorized fee and amend the administrative rule to remove the fee.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-02	<p><u>Finding:</u> The Board did not verify an employee’s employment eligibility through E-Verify by the third business day after the employee started work for pay. The employee’s employment eligibility was verified sixty-two business days after the employee started work.</p> <p>The <i>Code of Alabama 1975</i>, Section 31-13-15(b) states, “Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, according to federal statutes and regulations governing E-Verify, shall verify the employment eligibility of the employee through E-Verify. A business entity or employer that uses E-Verify to verify the work authorization of an employee shall not be deemed to have violated this section with respect to the employment of that employee.”</p> <p>Furthermore, the <i>E-Verify User Manual, Section 2.2</i> states, “E-Verify cases must be created no later than the third business day after the employee starts work for pay.”</p> <p><u>Recommendation:</u> The Board should verify the employment eligibility of all employees through E-Verify within three business days after the employees start work for pay.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

UNRESOLVED PRIOR FINDING

Ref. No.	Finding/Noncompliance
2017-01	<p><u>Finding:</u> The Board did not notify the Secretary of State of vacancies as a result of the expiration of terms for three board members at least forty-five days before their terms expired. The Board submitted a notice September 2017 for a member whose term expired December 2015, and for two members whose terms expired June 2017.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-14-17(d)(1) provides that, “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>Current Status:</u> The Board did not notify the Secretary of State of a vacancy as a result of the expiration of the term for a board member at least forty-five days before the term expired. The Board submitted a notice August 7, 2019 for a member whose term expired June 30, 2019, thirty-eight days after the term expired.</p> <p><u>Recommendation:</u> It is again recommended that the Board should post notification of vacancies to the Secretary of State’s website at least 45 days before the expiration of a Board member’s term.</p>

Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2017 through September 30, 2019

	2018-2019	2017-2018
<u>Receipts</u>		
Heating and Air Conditioning Contractors	\$ 686,245.00	\$ 667,577.50
Professional or Occupational Exam Fees	53,100.00	57,900.00
Professional or Occupational Registration Fees	9,400.00	8,450.00
Continuing Education Provider, Education Course, Instructor Fees	3,425.00	2,125.00
Professional/Occupational Board Penalties and Other Fines	166,287.50	177,412.00
Bad Check Penalties	60.00	
Prior Year Refunds	5,162.32	
Salvage Equipment or Other Property	197.32	50.42
Refrigeration Contractors	238,772.50	242,890.00
Heating and Air Conditioning Apprentice	1,500.00	1,375.00
Refrigeration Apprentice	600.00	525.00
Total	1,164,749.64	1,158,304.92
<u>Disbursements</u>		
Personnel Costs	463,581.29	543,334.90
Employee Benefits	197,236.11	200,438.99
In-State Travel	31,838.42	21,260.18
Out-of-State Travel	13,692.88	11,896.87
Repairs and Maintenance	1,691.38	5,913.66
Rentals and Leases	96,199.44	67,932.67
Utilities and Communication	32,589.04	53,669.57
Professional Services	150,521.60	131,717.07
Supplies, Materials, and Operating Expenses	70,486.44	98,398.25
Transportation Equipment Operation	22,096.94	29,213.31
Transportation Equipment Purchases	87,309.51	34,058.00
Other Equipment Purchased	43,757.68	27,049.66
Total	1,211,000.73	1,224,883.13
(Deficiency) of Receipts Over Disbursements	(46,251.09)	(66,578.21)
Cash Balances at Beginning of Year	258,831.22	325,409.43
Cash Balances at End of Year	212,580.13	258,831.22
Reserve for Unpaid Obligations	(103,797.96)	(78,918.26)
Unobligated Cash Balances at Year-End	\$ 108,782.17	\$ 179,912.96

