

**ATTESTATION REPORT
OF THE
NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS**

JULY 1, 2016, THROUGH JUNE 30, 2017

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Issued on August 15, 2017

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Audit Staff Working On This Examination

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NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

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NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

BACKGROUND

The Board of Examiners for Professional Engineers and Architects (Board) was created by the Legislature in 1937. In 1997, legislation changed the name to the Board of Engineers and Architects. The Board consists of eight members appointed by the Governor to five-year terms. Four of the eight are professional engineers, three are architects, and one is a public member. An architecture faculty member and an engineering faculty member from the University of Nebraska serve as members. Board members must be U.S. citizens who have lived in Nebraska for at least a year. Architect and professional engineer members must be licensed and active in their respective fields for at least 10 years, and they must have been in charge of architecture or engineering work for at least 5 of those years. The Board meets approximately 10 times a year, and members are paid \$100 a day when conducting Board business.

The purpose of the Board is to enforce and administer the laws regulating professional engineers and architects by processing applications, administering examinations to applicants, and licensing engineers and architects. The Board also investigates any complaints against engineers and architects to ensure the statutory code of practice is not violated.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

KEY OFFICIALS AND AGENCY CONTACT INFORMATION

Nebraska Board of Engineers and Architects Board Members

<u>Name</u>	<u>Title</u>	<u>Term Ending</u>
Krista L. Kester	Chairperson – Public Member	February 2018
Jennifer A. Klein	Vice-Chair – Professional Engineer	February 2020
Lenora A. Isom	Secretary – Architect	February 2021
Jan L. Bostelman	Board Member – Professional Engineer	February 2022
Mark S. Champion	Board Member – Architect	February 2019
Michael J. Conzett	Board Member – Professional Engineer	February 2018
Thomas S. Laging	Education Member – Architect	February 2019
Randall D. Peters	Education Member – Professional Engineer	February 2020

Nebraska Board of Engineers and Architects Executive Management

<u>Name</u>	<u>Title</u>
Jon Wilbeck	Executive Director

Nebraska Board of Engineers and Architects
215 Centennial Mall South, Ste. 400
P.O. Box 95165
Lincoln, NE 68509
ea.nebraska.gov

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

COMMENT AND RECOMMENDATION

During our examination of the Nebraska Board of Engineers and Architects (Board), we noted a certain deficiency and other operational matters that are presented here.

This comment and recommendation is intended to improve the internal control over financial reporting or result in operational efficiencies in the following area:

Inappropriate Severance Pay

The Board paid a terminated employee \$476 for 31.75 hours of services never rendered. The employee terminated on June 6, 2017, but was paid for services, that were not performed, through June 11, 2017, when the payroll period ended. In addition, the employee also earned 1.46 hours of vacation and 1.46 hours sick leave for the 31.75 hours she was paid for but did not work. This also resulted in the State paying \$72 more in FICA and retirement contributions.

	Amount Due	Amount Paid	Overpayment
Gross Pay	\$595	\$1,071	\$476
Net Pay	\$532	\$927	\$395
State Contributions	\$92	\$164	\$72

Article III, § 19, of the Nebraska Constitution states the following, in relevant part:

The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered

The Nebraska Supreme Court has explained the meaning of “extra compensation” for purposes of Article III, § 19, as follows:

A payment of compensation to a public servant constitutes extra compensation whenever there is no legal obligation to pay such compensation.

Myers v. Nebraska Equal Opportunity Com'n, 255 Neb. 156, 163, 582 N.W.2d 362, 367 (1998) (quoting *Matter of Mullane v. McKenzie*, 269 N.Y. 369, 377, 199 N.E. 624, 627 (1936)).

Elaborating upon the function of the prohibition in Article III, § 19, the Nebraska Attorney General (Attorney General) has made the following observation:

[T]he purpose of state constitutional provisions such as Art. III, § 19 which prohibit extra compensation to public employees after services are rendered is to prevent payments in the nature of gratuities for past services.

Op. Att’y Gen. No. 95063 (Aug. 9, 1995). More succinctly yet, the Attorney General has stated regarding Article III, § 19, “Nebraska law generally requires work be performed in order for payment to be received.” Op. Att’y Gen. No. 95071 (Sept. 13, 1995).

In the previously referenced Op. Att’y Gen. 95063, the Attorney General has drawn a distinction between an unconstitutional gratuity prohibited by Article III, § 19, and a permissible settlement agreement, as follows:

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

COMMENT AND RECOMMENDATION

(Continued)

Inappropriate Severance Pay (Concluded)

[A] payment to a state employee upon his or her termination for which the state receives nothing would constitute a gratuity forbidden by Art. III, § 19. For example, if a state employee voluntarily retires after 50 years of service and receives a payment of \$ 25,000 solely for his long and faithful service, such a payment could be characterized as a gratuity and would clearly be improper. Similarly, if an employee voluntarily resigns in a situation where there is no controversy and receives a payment from the State which is actually a "severance," such a payment would be improper. On the other hand, a payment to a state employee upon termination as a result of the legitimate "settlement" of a personnel matter which includes the resolution of potential litigation and/or the resolution of difficult personnel problems involving actual legal disputes is not a gratuity since the State would receive something for its money, e.g., a release from potential liability and closure of legal disputes which impaired the ability of the state agency to function.

In that same opinion, the Attorney General pointed out that indicia of a constitutionally permissible settlement include, among other things, "some potential legal liability for the agency growing out of the termination." Additionally, any such valid settlement should be evinced by both a written "agreement between the parties which includes some recitals as to the reasons for the state's determination to settle" and "an unconditional release from the employee wherein the employee releases the State from any liability arising out of the actions surrounding his or her termination in exchange for the settlement payment."

The former employee was not required to provide anything of value in exchange for the extra compensation. Likewise, given the evident lack of any potential legal liability on the part of the Board for the employee's termination, the additional funds cannot be viewed as proper consideration for a valid settlement agreement. Consequently, a violation of Article III, § 19, appears to have occurred.

We recommend the Board refrain from making payments that risk running afoul of Article III, § 19. Because a constitutional violation may have taken place, we are forwarding this information to the Attorney General for further review.

Board's Response: Our diligence in researching the payment's legality included reviewing the current labor contract between the State of Nebraska and NAPE/AFSCME as well as reviewing state policies and guidelines including the Classified System Personnel Rules. The Board found no information in those documents addressing situations such as this. The payroll for the pay period in which the payment was made was also reviewed and approved by DAS Accounting. Consequently, the Board had mistakenly assumed this practice – while admittedly not routine – was allowed, being unaware of constitutional provisions addressing a matter such as this. If any of the documents reviewed had explicitly prohibited this practice, the Board certainly would not have acted in the manner that it did.

In the Board's view, the de minimis payment was 1) an appropriate response to a difficult personnel matter, and 2) made to ease the terminated employee's transition from state employment. The payment was not made with ill intent or willful disregard of the law. The Board will ensure that payments of this nature do not occur again.

COMMENT AND RECOMMENDATION

(Concluded)

It should be noted that this report is critical in nature, containing only our comment and recommendation on the area noted for improvement and does not include our observations on any accounting strengths of the Board.

Draft copies of this report were furnished to the Board to provide its management with an opportunity to review and to respond to the comment and recommendation contained herein. The formal response received has been incorporated into this report. A response that indicates corrective action has been taken was not verified at this time, but it will be verified in the next examination.



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Board of Engineers and Architects
Lincoln, Nebraska

We have examined the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Nebraska Board of Engineers and Architects (Board) for the fiscal year ended June 30, 2017. The Board's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balances based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is based on the accounting system and procedures set forth in Note 1, in all material respects. An examination involves performing procedures to obtain evidence about the Schedule of Revenues, Expenditures, and Changes in Fund Balances. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

In our opinion, the Schedule of Revenues, Expenditures, and Changes in Fund Balances for the fiscal year ended June 30, 2017, is based on the accounting system and procedures prescribed by the State of Nebraska's Director of the Department of Administrative Services, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies and material weaknesses in internal control; instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the subject matter or an assertion about the subject matter and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement; and abuse that has a material effect on the subject matter or an assertion about the subject matter of the examination engagement. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balances or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed no findings that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, the Board, others within the Board, and the appropriate Federal and regulatory agencies, and it is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

A handwritten signature in black ink, appearing to read "C. J. Janssen", with a long horizontal flourish extending to the right.

Charlie Janssen
Auditor of Public Accounts
Lincoln, Nebraska

August 8, 2017

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES
For the Fiscal Year Ended June 30, 2017

	Engineers and Architects Regulation Cash Fund 28510	Common School Fund 61270	Totals (Memorandum Only)
REVENUES:			
Sales & Charges	\$ 645,521	\$ -	\$ 645,521
Miscellaneous	26,635	2,000	28,635
TOTAL REVENUES	<u>672,156</u>	<u>2,000</u>	<u>674,156</u>
EXPENDITURES:			
Personal Services	432,145	-	432,145
Operating	260,810	-	260,810
Travel	14,191	-	14,191
Capital Outlay	4,051	-	4,051
TOTAL EXPENDITURES	<u>711,197</u>	<u>-</u>	<u>711,197</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	<u>(39,041)</u>	<u>2,000</u>	<u>(37,041)</u>
OTHER FINANCING SOURCES (USES):			
Sales of Assets	283	-	283
Deposit to/from Common Fund	-	(2,000)	(2,000)
TOTAL OTHER FINANCING SOURCES (USES)	<u>283</u>	<u>(2,000)</u>	<u>(1,717)</u>
Net Change in Fund Balances	(38,758)	-	(38,758)
FUND BALANCES, July 1, 2016	<u>1,043,523</u>	<u>-</u>	<u>1,043,523</u>
FUND BALANCES, June 30, 2017	<u>\$ 1,004,765</u>	<u>\$ -</u>	<u>\$ 1,004,765</u>
FUND BALANCES CONSIST OF:			
General Cash	\$ 1,010,030	\$ -	\$ 1,010,030
Deposits with Vendors	1,164	-	1,164
Due to Vendors	(6,429)	-	(6,429)
TOTAL FUND BALANCES	<u>\$ 1,004,765</u>	<u>\$ -</u>	<u>\$ 1,004,765</u>

The accompanying notes are an integral part of the schedule.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

NOTES TO THE SCHEDULE

For the Fiscal Year Ended June 30, 2017

1. Criteria

The accounting policies of the Nebraska Board of Engineers and Architects (Board) are on the basis of accounting, as prescribed by the State of Nebraska Department of Administrative Services (DAS).

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2014), the duties of the State of Nebraska's Director of the Department of Administrative Services (DAS) include the following:

The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2014), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public.

The financial information used to prepare the Schedule of Revenues, Expenditures, and Changes in Fund Balances was obtained directly from the general ledger and fund balance information maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned, regardless of the timing of related cash flows. State Accounting does not require the Board to record all accounts receivable and related revenues in EnterpriseOne; as such, the Board's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payable posted in the general ledger as of June 30, 2017, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of June 30, 2017, **does not** include amounts for goods and services received before June 30, 2017, which had not been posted to the general ledger as of June 30, 2017.

The Board had no accounts receivable at June 30, 2017. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The following fund types are established by the State and used by the Board:

20000 – Cash Funds – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

NOTES TO THE SCHEDULE

(Continued)

1. **Criteria** (Concluded)

60000 – Trust Funds – account for assets held by the State in a trustee capacity. Expenditures are made in accordance with the terms of the trust.

The following major revenue account classifications are established by State Accounting and used by the Board:

Sales & Charges – Income derived from compensation for services rendered and charges for various licenses, permits, and fees.

Miscellaneous – Revenue from sources not covered by other major categories, such as investment income.

The following major expenditure account classifications are established by State Accounting and used by the Board:

Personal Services – Salaries, wages, and related employee benefits provided for all persons employed by the Board.

Operating – Expenditures directly related to a program's primary service activities.

Travel – All travel expenses for any State officer, employee, or member of any commission, council, committee, or board of the State.

Capital Outlay – Expenditures that result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

Other significant accounting classifications and procedures established by State Accounting and used by the Board include the following:

Assets – Resources owned or held by a government that have monetary value. Assets include cash accounts, deposits with vendors, and receivable accounts. Accounts receivable are recorded as an increase to revenues resulting in an increase to the fund balance on the schedule. Cash accounts and deposits with vendors are also included in the fund balance and are reported as recorded in the general ledger.

Liabilities – Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures, resulting in a decrease to the fund balance.

Other Financing Sources – Proceeds of fixed asset dispositions.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

NOTES TO THE SCHEDULE

(Continued)

2. Reporting Entity

The Nebraska Board of Engineers and Architects (Board) is a State agency established under and governed by the laws of the State of Nebraska. As such, the Board is exempt from State and Federal income taxes. The schedule includes all funds of the Board included in the general ledger.

The Board is part of the primary government for the State of Nebraska.

3. Totals

The Totals “Memorandum Only” column represents an aggregation of individual account balances. The column is presented for overview informational purposes and does not present consolidated financial information because interfund balances and transactions have not been eliminated.

4. General Cash

General cash accounts are under the control of the State Treasurer or other administrative bodies, as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State’s Investment Council, which maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool.

5. Capital Assets

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress, and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Comprehensive Annual Financial Report (CAFR). In addition, the Board takes an annual inventory, recording in the State Accounting System all equipment that has a cost of \$1,500 or more at the date of acquisition.

For the CAFR, the State requires the Board to value all capital assets at cost where historical records are available and at estimated historical cost where no historical records exist. Donated capital assets are valued at their estimated fair market value on the date received. Generally, equipment that has a cost of \$5,000 or more at the date of acquisition and has an expected useful life of more than one year is capitalized. Depreciation expenses are reported in the CAFR in the funds used to acquire or construct them for the State of Nebraska. The cost of normal maintenance and repairs that does not add to the value of the asset or extend the asset’s life is not capitalized.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS

NOTES TO THE SCHEDULE
(Concluded)

5. Capital Assets (Concluded)

Equipment is depreciated in the CAFR using the straight-line method with estimated useful lives of 3 to 10 years.

Capital asset activity of the Board recorded in the State Accounting System for the fiscal year ended June 30, 2017, was as follows:

	<u>Beginning Balance</u>	<u>Increases</u>	<u>Decreases</u>	<u>Ending Balance</u>
Capital Assets:				
Equipment	\$ 45,831	\$ 4,051	\$ -	\$ 49,882
Less accumulated depreciation for:				
Equipment				<u>43,397</u>
Total capital assets, net of depreciation:				<u><u>\$ 6,485</u></u>

6. Deposits To/From Common Funds

Neb. Rev. Stat. § 81-3444(4) (Cum. Supp. 2016) requires civil penalties imposed and collected by the Board for violations of the Engineers and Architects Regulation Act or any rules or regulations to be “remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.” This is accomplished by depositing such civil penalties to the Common School Fund (61270). Total deposits to/from common funds for the fiscal year ended June 30, 2017, were \$2,000.

7. Subsequent Event

In May 2017 the Governor approved Legislative Bill 331 (2017), which required the Board to transfer \$300,000 from the Engineers and Architects Regulation Fund to the State’s General Fund. In July 2017, the Board posted a journal entry to complete this transfer.

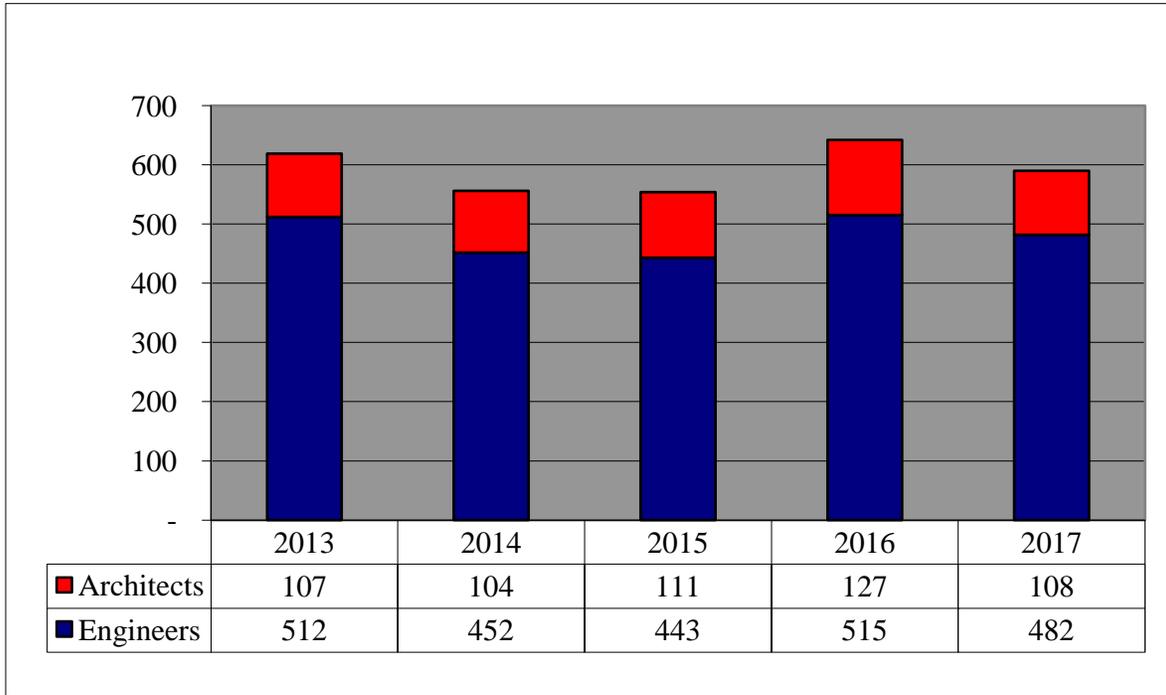
SUPPLEMENTARY INFORMATION

Our examination was conducted for the purpose of forming an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Supplementary information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, and, accordingly, we express no opinion on it.

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS
NEW LICENSES ISSUED

Exhibit A

For Fiscal Years Ended June 30, 2013, through 2017

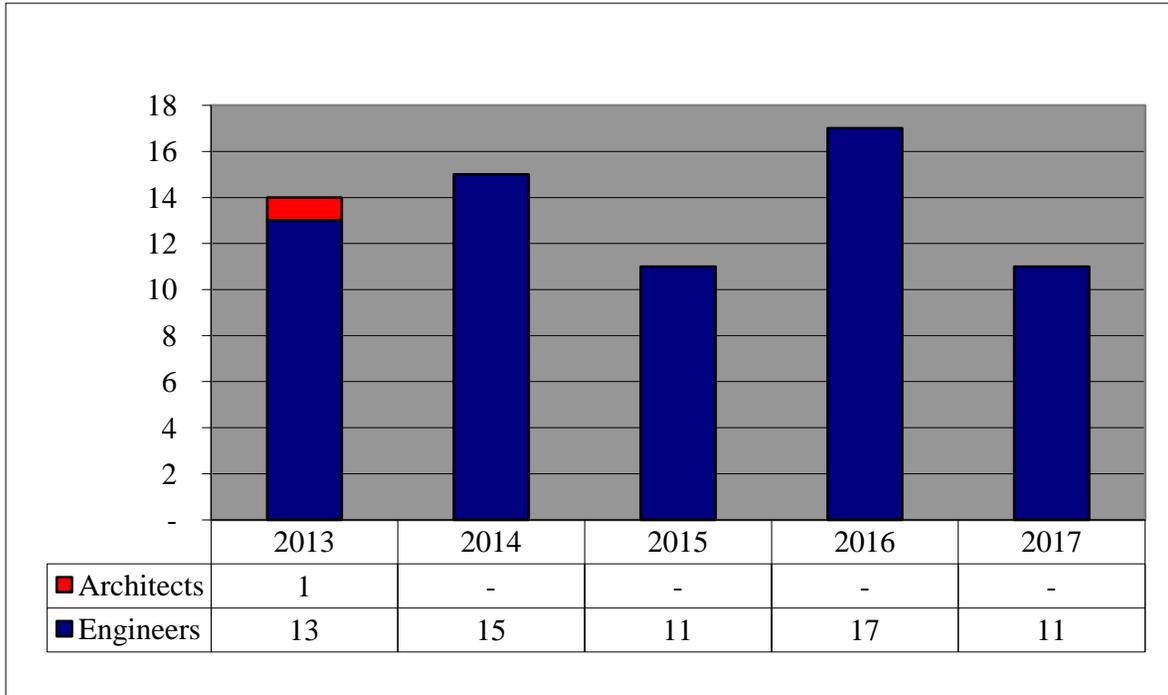


Source: Nebraska Board of Engineers and Architects License Database

**NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS
LICENSE REINSTATEMENTS**

Exhibit B

For Fiscal Years Ended June 30, 2013, through 2017

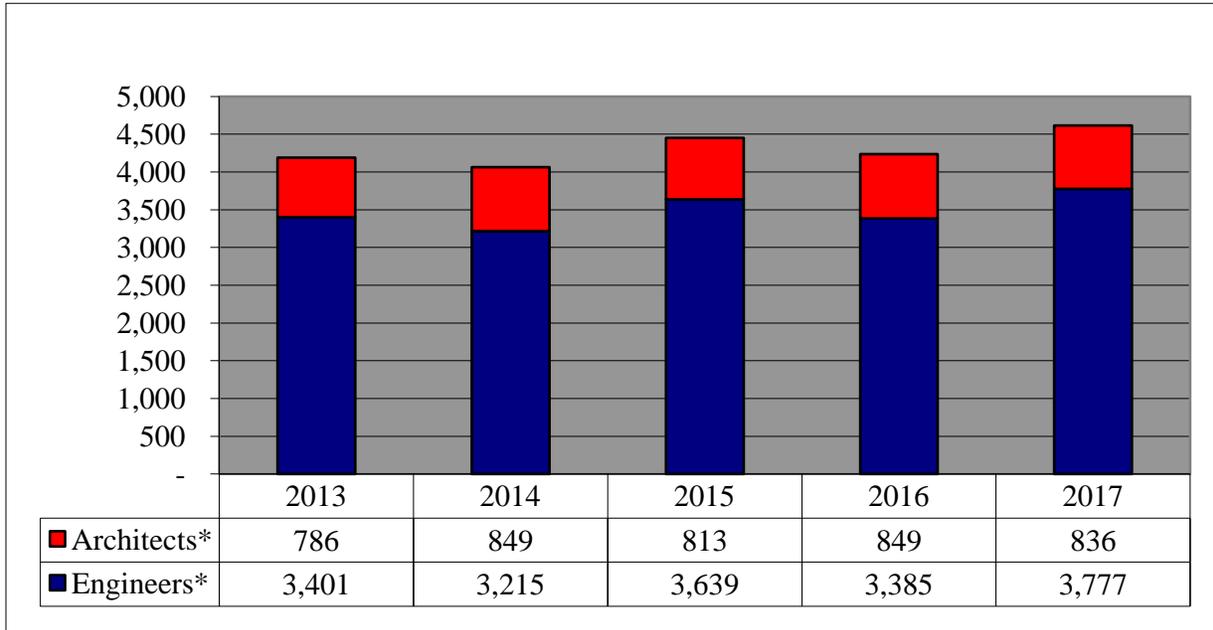


Source: Nebraska Board of Engineers and Architects License Database

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS
LICENSE RENEWALS*

Exhibit C

For Fiscal Years Ended June 30, 2013, through 2017

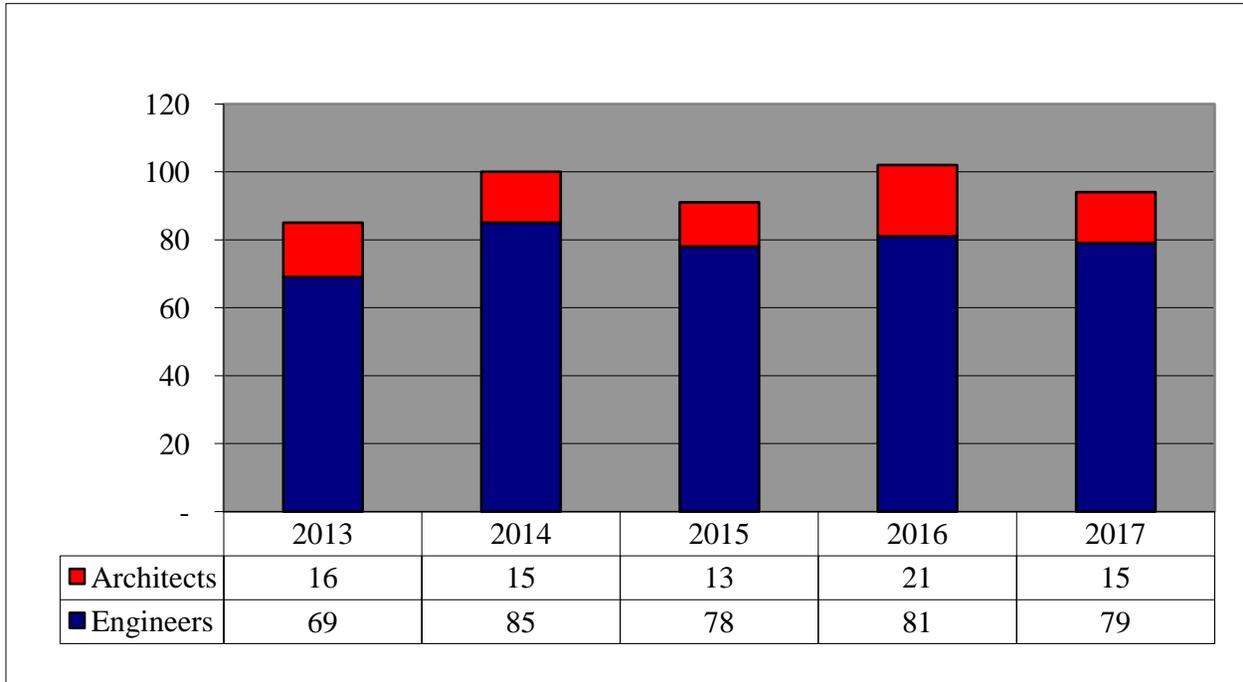


*Note: License expiration is based upon the first letter of the last name with A-K expiring in odd numbered years and L-Z in even numbered years.

Source: Nebraska Board of Engineers and Architects License Database

NEW EMERITUS STATUS**

For Fiscal Years Ended June 30, 2013, through 2017

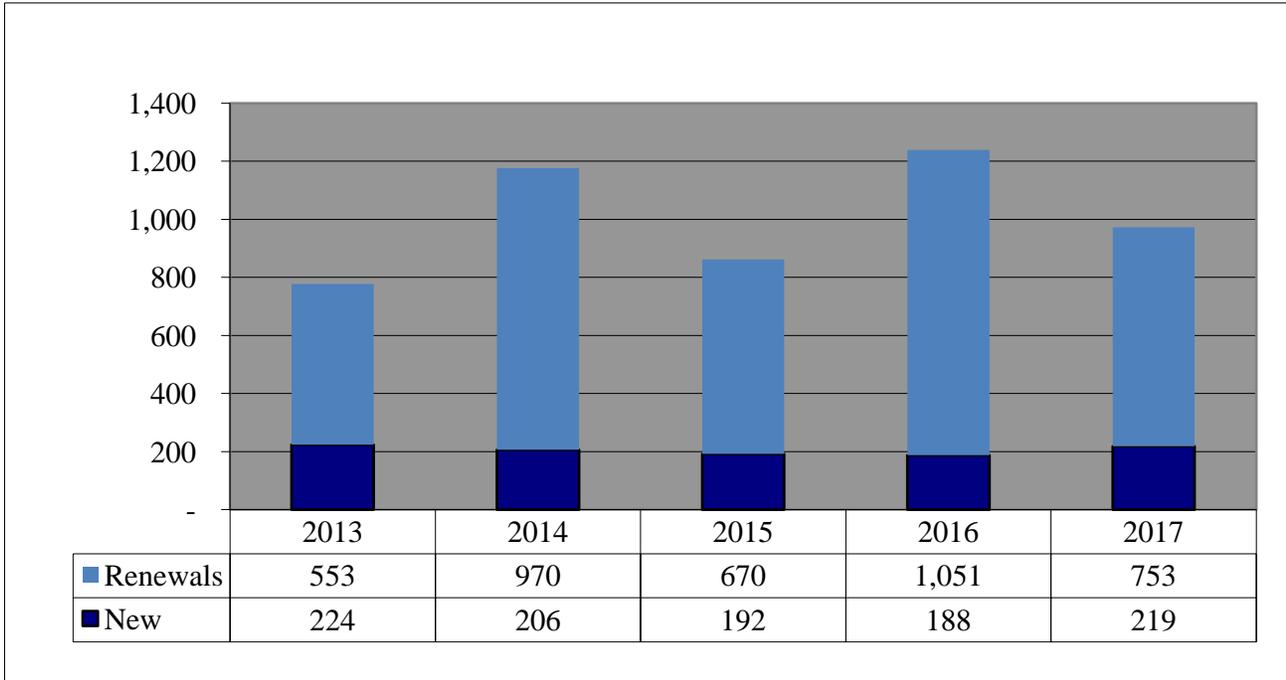


**Note: Non-practicing engineers and architects may request Emeritus status which allows them to use the honorary title of their profession but do not have a current active license.

Source: Nebraska Board of Engineers and Architects License Database

NEBRASKA BOARD OF ENGINEERS AND ARCHITECTS
CERTIFICATES OF AUTHORIZATION***
 For Fiscal Years Ended June 30, 2013, through 2017

Exhibit E



***Note: Certificates of Authorization are valid for two years and are issued to organizations employing licensed architects or professional engineers.

Source: Nebraska Board of Engineers and Architects License Database