

Alabama State Board of Auctioneers

Functional Analysis & Records Disposition Authority

**Presented to the
State Records Commission
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Functional and Organizational Analysis of the Alabama State Board of Auctioneers

Sources of Information

Representative of the Board of Auctioneers

Code of Alabama 1975, Sections 34-4-1 through 34-4-7 (Auctioneers License Act – Article 1: General Provisions); 34-4-20 through 34-4-32 (Auctioneers License Act – Article 2: Licenses); 34-4-50 through 34-4-54 (Auctioneers License Act – Article 3: Board of Auctioneers)

Code of Alabama 1975, Section 41-20-3 (Sunset Law)

Code of Alabama 1975, Sections 41-22-1 through 41-22-27 (Administrative Procedures Act)

Alabama Administrative Code, Chapters 150-X-1-.01 through 150-X-1-.15

Alabama Government Manual (1998)

Government Records Division, State Agency Files (1985-ongoing)

Historical Context

The earliest recorded history of the auction profession can be found during the days of the Romans. The profession is still alive today and becomes the main method of selling all types of real and personal property. In Alabama, the profession was not regulated until the state legislature established the Board of Auctioneers in 1973.

Agency Organization

The board consists of seven members appointed by the governor. Each member of the board must have been a resident and citizen of Alabama for at least five years. Members also must be of good character, licensed by the board, and actively engaged in the auction business for at least five years prior to the appointment. They serve five-year staggered terms of office, but no member may serve more than two consecutive terms. The board elects a chairman, vice-chairman, and a secretary. The board meets in January, April, July, and October each year. Three members of the board constitute a quorum. The board contracts with the management firm of Warren & Company to handle the board's business. In addition, the board hires two part-time investigators to respond to complaints. The board appoints an employee of Warren & Company to function as the executive director. An organizational chart is attached.

Agency Function and Subfunctions

The mandated function of the Board of Auctioneers is to examine and license applicants as auctioneers and apprentice auctioneers, and to supervise the profession and practices of auctioneering. The board is one of the agencies primarily involved in carrying out the Regulatory function of Alabama government. In the performance of its mandated function, the board may

engage in the following subfunctions:

- **Promulgating Rules and Regulations.** In accordance with the Code of Alabama, Section 34-4-50 (c), the board has the authority to “make bylaws, rules, and regulations not inconsistent with this chapter (Auctioneer License Act) or other general laws of the state.” This subfunction encompasses activities pertaining to the establishment and promulgation of rules, regulations, and procedures by the board for carrying out its duties and responsibilities.
- **Licensing.** Any person desiring to enter into the auction business must first apply for a license as an apprentice auctioneer. Each applicant must be a citizen of the United States and at least 18 years old. The applicant must also take and pass a written examination given by the board to ensure his or her qualifications. Once licensed, the applicant must secure employment with a licensed auctioneer in order to be licensed as an auctioneer.

As a qualified applicant for an auctioneer’s license, a person must be a citizen of the United States, at least 19 years of age; must have completed a prescribed course of study (85 credit hours) at an accredited auctioneering school approved by the board; must have served one year as an apprentice auctioneer under a licensed auctioneer in the state; must have been the principal auctioneer in at least five auctions of either real or personal property during the one-year employment; and must have a recommendation from the employing auctioneer. The applicant must also take an examination and pay the required fees before being licensed. For an applicant who has not completed the required course of study, s/he must serve two years as an apprentice and have been the principal auctioneer in at least ten auctions of real or personal property.

All license holders must meet the annual continuing education requirements in order to renew their licenses annually. Licensees who are 65 years of age or older are exempt from the continuing education requirement. If a licensee fails to renew his or her license 60 days after the deadline, he must resubmit the application, take the examination, and pay the required fees for a new license.

- **Approving Auctioneer Schools and Continuing Education Course Providers.** In accordance with the Alabama Administrative Code, Chapter 150-X-1-.14, the board has the authority to review and approve schools of auctioneering and continuing education course providers. In order to be approved as an auctioneer school, a school must first file an application with the board. In addition to classroom training, the school must be able to provide the students with hands-on experience at real auction activities. In light of the required course training, a minimum number of faculty (five instructors) is mandated by the board for any school seeking approval. The board issues a certificate to each school upon approval. All licensees are required to obtain eight (8) hours of continuing education biannually

from courses taught by approved schools or individual instructors. Every instructor applying to teach continuing education courses must obtain approval by the board. The applicant must possess one of the following qualifications: (1) bachelor's degree in the proper academic field ; (2) a valid teaching certificate in the field of instruction; (3) five years full-time experience in a profession in the applicable field; or (4) any combination of at least five years of experience and study relevant to the profession of auctioneering. Just as in the case of auctioneer schools, all approved continuing education instructors are required to renew their applications every year.

- **Enforcing.** Under the authority of Code of Alabama, Section 34-4-29, the board may, upon its own motion or upon a complaint in writing by any person, investigate the actions of any licensee and hold a hearing on the complaint. If the board determines that the licensee is guilty under the provisions of the Auctioneer License Act, his or her license may be suspended or revoked. In addition, the board may levy and collect administrative fines for violations of the act.

- **Administering Internal Operations.** A significant portion of the agency's work includes general administrative, financial, and personnel activities performed to support the programmatic areas of the agency.

Managing the Agency: Activities include internal office management activities common to most government agencies such as corresponding and communicating; scheduling; meeting; documenting policy and procedures; reporting; litigating; drafting, promoting, or tracking legislation; publicizing and providing information; managing records; and managing information systems and technology.

Managing Finances: Activities include budgeting (preparing and reviewing a budget package, submitting the budget package to the state Finance Department; documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; assisting in the audit process; investing; and issuing bonds.

Analysis of Record Keeping System and Records Appraisal of the Alabama State Board of Auctioneers

Agency Record Keeping System

The Alabama State Board of Auctioneers' contracted management firm operates a hybrid system composed of a computer system and paper record-keeping.

Records Appraisal

The following is a discussion of the two major categories of records created and/or maintained by the Alabama State Board of Auctioneers: Temporary Records and Permanent Records.

I. Temporary Records. Temporary records should be held for what is considered their active life and be disposed of once all fiscal, legal, and administrative requirements have been met. Some of the temporary records created by the Alabama State Board of Auctioneers are discussed below.

- **Auctioneers' Licensure Files.** When an applicant becomes a licensed auctioneer, the board creates a file for the individual. The files are used for tracking of licensees and reference by the board. All licenses expire on September 30 each year and can be renewed upon payment of the license fees. If a licensee elects not to renew his or her license within sixty (60) days after the expiration date, the licensee must take all steps required for a new license. Therefore once the licensee becomes inactive, the file becomes less useful. If necessary, documentation of an individual's license can be found in the minutes of the board and the annual roster. Because of the administrative needs and audit requirement, the agency recommends that licensure files be retained for five (5) years after the file becomes inactive.

- **Investigation Files.** In accordance with the Code of Alabama, Section 34-4-29, the board may investigate, upon its own motion or in response to a complaint in writing, the actions of any auctioneer or apprentice auctioneer for possible violations of the board's rules and regulations. This series may contain complaints, investigation reports, hearing records, and other related materials. The retention recommendation corresponds to that of the Auctioneer Licensure Files (five years after the licensee becomes inactive). Summarized information is also captured in the board's meeting minutes.

II. Permanent Records. The Government Records Division recommends the following records as permanent.

Promulgating Rules and Regulations

- **Minutes of the Board.** The meeting minutes of the board document the decisions and actions of the board including the approval or denial of requests for licensure. These records provide important information and documentation of the board's actions that may not be found elsewhere. (RDA page 3-2) **(Bibliographic Title: Meeting Minutes)**
- **Published Rules and Regulations.** The board publishes and updates this booklet periodically for public distribution. Included are excerpts from the Code of Alabama and the board's administrative code. This publication should be retained because it documents all professional rules and procedures governing the practice of auctioneering in Alabama. (RDA page 3-2) **(Bibliographic Title: State Publications)**

Licensing

- **Rosters of Licensees.** Code of Alabama, Section 34-4-22, mandates the board to "keep a register of all applicants for license, showing for each application, name, place of business, place of residence and whether the license was granted or refused." The roster of licensees, published every two years, is created partially to fulfill the Code requirement. Information on the roster includes license number, name, mailing address, telephone and fax numbers, e-mail address, web site, and congressional district. Both licensed auctioneers and apprentices are listed on the roster. The roster provides documentation of the profession of auctioneering and should be preserved permanently. (RDA page 3-2) **(Bibliographic Title: Rosters of Licensees)**
- **Newsletters.** The newsletter, ASBA Newline, is published twice a year to communicate with licensees and the general public about new or possible changes in rules and procedures, disciplinary actions, calendar of events, and other matters of interest. All issues need to be kept permanently as a part of the board's efforts in fulfilling its mandate. (RDA page 3-2) **(Bibliographic Title: State Publications)**
- **Examination Questions.** In accordance with the Code of Alabama, Section 34-4-21(c), any person who applies for a license either as an apprentice auctioneer or an auctioneer must take a written examination to determine his or her qualifications. The examination for an auctioneer's license is of a more exacting nature and scope than the examination for an apprentice auctioneer. Examination questions are designed to test the applicant's knowledge of ethics; arithmetic; land economics; statutes relating to auctions; and fundamentals of auctioneering (contracts, preparation of settlement statements, and bid calling). The examination questions should be kept as a part of the permanent documentation because they reflect the board's efforts in maintaining the established

standards for the profession of auctioneering. (RDA page 3-2) (**Bibliographic Title: Examination Questions**)

Approving Auctioneer Schools and Continuing Education Course Providers

- Records documenting this subfunction are found in the agency's web sites.

Enforcing

- Records documenting this subfunction are found in the agency's minutes of the board as described in the Promulgating Rules and Regulations subfunction above.

Administering Internal Operations

- **Web Sites.** The board has a website at: www.auctioneer.state.al.us. Information on the web includes a list of board members, staff data, rules and regulations, related laws, application procedures, complaint forms, calendars of events, education providers, and newsletters. The website can also be used to search licensed auctioneers/apprentice auctioneer either by last name or license number. The disposition statement calls for retaining a "snap shot" of complete web site information annually or as often as significant changes are made to the site (RDA page 3-4).

Permanent Records List

Alabama State Board of Auctioneers

Promulgating Rules and Regulations:

1. Minutes of the Board
2. Published Rules and Regulations

Licensing:

1. Rosters of Licensees
2. Newsletters
3. Examination Questions

Administering Internal Operations

1. Web Sites

Alabama State Board of Auctioneers Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975, Sections 41-13-5 and 41-13-20 through 21. It was compiled by the Government Records Division, Alabama Department of Archives and History (ADAH), which serves as the commission's staff in cooperation with representatives of the Alabama State Board of Auctioneers. The RDA lists records created and maintained by the Alabama State Board of Auctioneers in carrying out its mandated functions and activities. It establishes retention periods and disposition instructions for those records and provides the legal authority for the Alabama State Board of Auctioneers to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and made available to members of the public. Records must also be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975, Sections 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the ADAH Government Records Division at (334) 242-4452.

Explanation of Records Requirements

- This RDA supersedes any previous records disposition schedules governing the retention of the Alabama State Board of Auctioneers' records. Copies of superseded schedules are no longer valid and should be discarded.
- The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.
- Some temporary records listed under the Administering Internal Operations subfunction of this RDA represent duplicate copies of records listed for long-term or permanent retention in the RDAs of other agencies.
- Certain records and records-related materials need not be retained as records under the disposition requirements in this RDA. Such materials include: (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document government activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes that may include, *but are not limited to*, telephone call-back

messages, drafts of ordinary documents not needed for their evidential value, copies of material sent for information purposes but not needed by the receiving office for future business, and internal communications about social activities. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Alabama State Board of Auctioneers and lists the groups of records created and/or maintained by the board as a result of activities and transactions performed in carrying out these subfunctions. The board may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular quarterly meetings.

■ Promulgating Rules and Regulations

MINUTES OF THE BOARD

Disposition: PERMANENT RECORD.

PUBLISHED RULES AND REGULATIONS

Disposition: PERMANENT RECORD.

Register of Administrative Rules

Disposition: Retain in Office (Code of Alabama 1975, Sections 41-22-6).

Administrative Rule Files

Disposition: Temporary Record. Retain for useful life.

■ Licensing

ROSTERS OF LICENSEES

Disposition: PERMANENT RECORD.

NEWSLETTERS

Disposition: PERMANENT RECORD.

EXAMINATION QUESTIONS

Disposition: PERMANENT RECORD.

Apprentice Licensure Files

Disposition: Temporary Record.

If the apprentice becomes a licensed auctioneer, merge the file to the individual's Auctioneer Licensure Files.

If the apprentice never becomes licensed, retain 5 years after the apprentice's license becomes inactive.

Auctioneer Licensure Files

Disposition: Temporary Record. Retain 5 years after the licensee becomes inactive.

Auctioneer Licensure Database

Disposition: Temporary Record. Retain until superseded or obsolete.

Unused Pre-numbered Blank Licenses

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

■ **Approving Auctioneer Schools and Continuing Education Course Providers**

Auctioneer School Application Files

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Continuing Education Course Provider Application Files

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

■ **Enforcing**

Investigation Files

Disposition: Temporary Record. Retain 5 years after the licensee becomes inactive.

■ **Administering Internal Operations**

Managing the Agency:

Sunset Committee Review Records

Disposition: Temporary Record. Retain until completion of subsequent sunset review.

Appointment Letters

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the term expired.

Requests for Information

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Routine Correspondence

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Mailing Lists

Disposition: Temporary Record. Retain for useful life.

Administrative Reference Files

Disposition: Temporary Record. Retain for useful life.

Records documenting the implementation of the agency's RDA (copies of transmittals forms to Archives or State Records Center, evidence of obsolete records destroyed, and annual reports to the State Records Commission)

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Copy of RDA

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the RDA is superseded.

WEB SITES

Disposition: PERMANENT RECORD. RETAIN A "SNAP SHOT" OF COMPLETE WEB SITE INFORMATION ANNUALLY OR AS OFTEN AS SIGNIFICANT CHANGES ARE MADE TO THE SITE.

System Documentation (hardware/software manuals and diskettes, warranties, Y2K records)

Disposition: Temporary Record. Retain documentation of former system 3 years after the end of the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

Managing Finances:

Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Records of original entry such as journals, registers, and ledgers; and records of funds deposited outside the state treasury

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries
Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

Records documenting contracts for services or personal property
Disposition: Temporary Record. Retain 6 years after expiration of the contract.

Records documenting the bid process, including requests for proposals and unsuccessful responses
Disposition: Retain in office (Code of Alabama 1975, Sections 41-16-20 to 41-16-24).

Agency Audit Reports
Disposition: Temporary Record. Retain 6 years after end of the fiscal year in which the records were created.

The following records were created by the board over time, but, as a result of the contract between the board and Warren and Company, all office space and furniture are provided by Warren and Company. No new records have been created since 1996.

Managing Properties, Facilities, and Resources:

Semiannual Inventory Lists (created prior to 1995)
Disposition: Destroy.

Agency Copies of Transfer of State Property Forms (SD-1) (created prior to 1995)
Disposition: Destroy.

Approval of Records Disposition Authority

By signing this agreement the Alabama State Board of Auctioneers acknowledges its responsibilities for the proper management of its records and agrees to abide by the implementation guidelines listed below:

- The Alabama State Board of Auctioneers will designate a managerial position as the agency records officer. This position is responsible for ensuring the development of quality record keeping systems that meet the business and legal needs of the board, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, submitting an annual report on records management activities to the State Records Commission in April of each year, and ensuring the regular implementation of the agency's approved RDA.
- Permanent records in the Alabama State Board of Auctioneers' custody will be maintained under proper intellectual control and in an environment that will ensure their

physical order and preservation.

- Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA’s provisions, no record should be destroyed that is necessary to comply with requirements of the state Sunset Act, audit requirements, or any legal notice or subpoena.
- The board should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records’ permanent preservation and accessibility.
- The Alabama State Board of Auctioneers agrees to allow the staff of the State Records Commission or the Examiners of Public Accounts to examine the condition of the permanent records maintained in the custody of the board and to inspect records destruction documentation. Government Records Division archivists are available to train the board’s staff in RDA implementation and otherwise assist the agency in implementing its records management program.

This records disposition authority is hereby adopted.

By: _____ Date: _____
Paula McCaleb, Executive Director
Alabama State Board of Auctioneers

By: _____ Date: _____
Edwin C. Bridges, Chairman
State Records Commission