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Instructions

Provisions of the New Mexico Sunset Act (12-9-19 NMSA 1978) require the Legislative Finance Committee (LFC) to schedule public hearings to receive testimony and determine if boards and commissions scheduled for sunset should be recommended for extension or be allowed to terminate.

Please complete the following agency self-evaluation report and return it to the LFC. Your department is responsible for demonstrating a public need for continuation of regulatory authority and recommending necessary amendments to enabling statutes that would improve operational efficiency. You may add or remove additional rows in any of the tables or replace the tables with your own charts and information where appropriate. We would appreciate your analysis, recommendation, and completed questionnaires by June 30, 2016. Contact LFC analyst, Sunny Liu, with any questions about this report.

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I. Agency Contact Information

A. Please fill in the following chart.

Table 1: Key Agency Contacts

Position Title	Name	Address	Telephone & Fax Numbers	Email Address
Director	Enrique Knell	P.O. Box 25101, 87504	505-670-6730	Enrique.knell@state.nm.us
Deputy Director	Kathy Ortiz	P.O. Box 25101, 87504	505-476-4642	kathy.ortiz1@state.nm.us
Team Leader	Anita Villegas	P.O. Box 25101 Santa Fe, NM	505-476-4762	Anita.villegas@state.nm.us
Board Administrator	John Francis	Same	505-476-4664	John.francis@state.nm.us

II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives and key functions.

The purpose of the Private Investigations Act is to regulate Private Investigators, Private Investigations Managers, Private Investigation Companies, Private Patrol Operators, Private Patrol Operations Managers, Security Guards and Polygraph Examiners. Each of these are highly specialized professions that protect life and property and seek to prevent and reduce crimes against the public. The Board is advisory, which adopts and enforces the rules and regulations necessary to carry out the provisions of the Private Investigations Act, including establishing professional ethical standards.

MISSION STATEMENT:

The mission of the Private Investigations Advisory Board is to provide the efficient delivery of licensing, and regulatory services, to protect life, property, and prevent and reduce crimes against the public while encouraging business activity, and to ensure that licensed security and investigative professionals are qualified to practice.

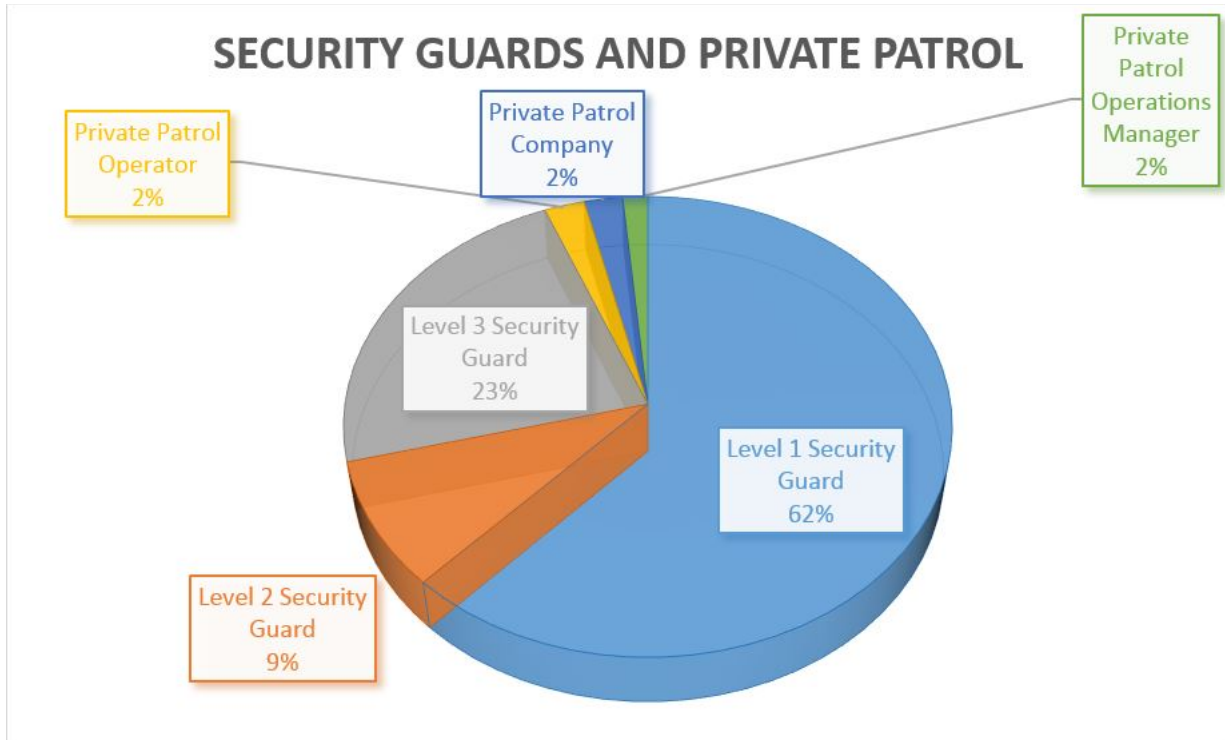
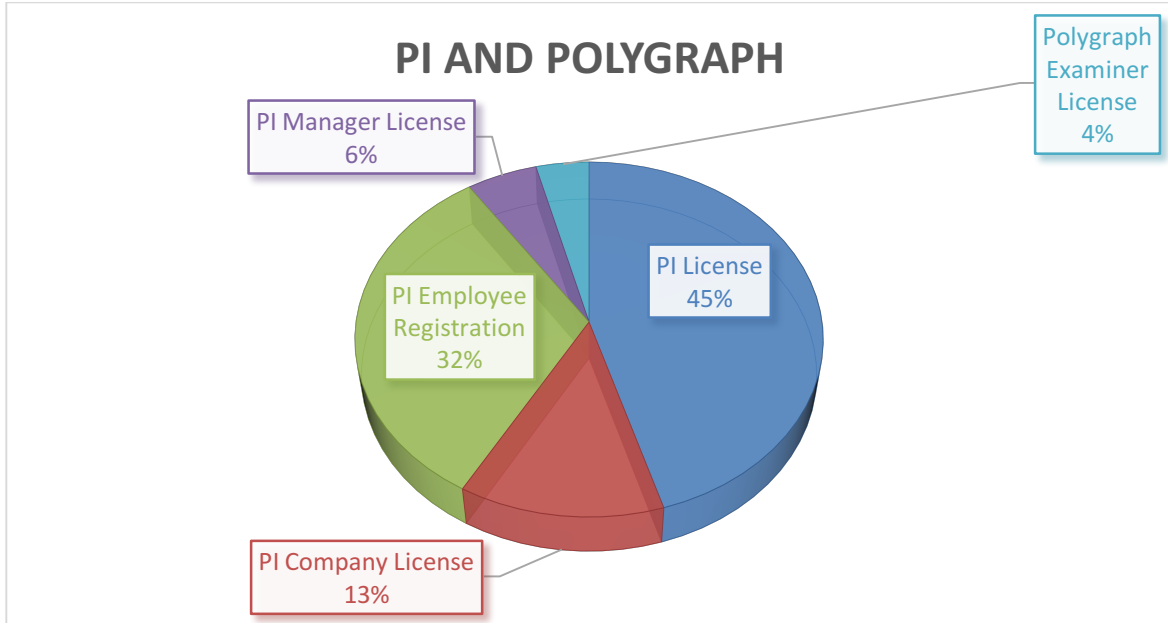
B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes, as demand for private security and investigations continues to grow in New Mexico, the opportunity for unlicensed activity increases. The primary function of the Private Investigations Act is to set standards to protect the public from unlicensed operators and companies that provide services by untrained and inexperienced practitioners. Meeting standards of the Act ensures licensed and registered individuals and companies are professional and competent.

C. Describe who or what this agency affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The Private Investigations Advisory Board affects the safety and security of business's and the general public in New Mexico. Anyone in need of security, investigative or polygraph services is eligible for use of entities regulated by the PI Act. See Attachment A

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D. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

The PI Board provided initial or renewal licenses and registrations to 4002 individual and company applicants for FY 16 to present. Totals for FY14 and FY15 are 2468 and 2652 respectively. The PI Board continues to meet the increasing licensing needs of the industry with no increase in staff or resources. The dedicated staff of the PI Board follows written procedures and guidelines to efficiently process all incoming

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applications to meet our target of issuing licenses within 3 days of receipt. Completed applications received by the Board are currently being processed within 2 days.

E. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

The Private Investigations Act reflects our mission and objectives. However, the State of NM could provide additional tools to more effectively administer the law. Enforcement resources and authorities are needed to perform all of the functions of the Act and to ensure compliance with the Act and supporting rules. Currently, RLD has redirected resources in the form of Inspectors to help the PI Board with regular inspections. While this is working as a short-term solutions, other insperctions, like barber shops, salons, funeral homes, and body art establishments, are inspected less frequently.

F. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies? If applicable, briefly discuss any memorandums of understanding, interagency agreements, or

The NM PI Board is the only state or federal agency that regulates the licensing and registration of security personnel, private investigations personnel, and polygraphists for the State of New Mexico. The PI Board does allow PIs from other states to continue investigations that have originated in their state. Upon review of out-of-state investigators credentials and approval by Board staff, they are allowed 30 days to complete their investigation in New Mexico.

G. Interagency contracts. None

H. In general, how do other states carry out similar functions?

Most others states have laws and rules that regulate security and investigations. Details on how rules and regulations are applied vary, but their objectives are similar.

I. What key obstacles impair your agency's ability to achieve its objectives?

The Private Investigations Advisory Board does not have an investigative arm for enforcement of its rules. Enforcement of unlicensed activity is infrequent and violators are not concerned that they will be caught and subjected to disciplinary actions and penalties. RLD has mounted a concerted effort to identify unlicensed activity, particularly among security guards.

J. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).

None

K. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;

The Regulation is needed to protect the public from untrained, unlicensed or incompetent private law enforcement practitioners. Many of these practitioners carry weapons in the course of their duty, and often come into contact with children. The Board requires background checks for these positions, and has denied applications to individuals seeking to work as security guards or private investigators despite a background with violent felonies, etc.

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- initial and continuing requirements for licensure, registration, or certificate applicants;

Initial registration for security guards requires training by board approved instructors. Licensing for Private Investigators and Private Patrol Operators require 6,000 hours and 4,000 hours respectively, of experience in the prior 5 years. Polygraphist require formal training and probationary experience. Registrants and licensees require proof continuing education at each license or registration renewal.

- the scope of, and procedures for, inspections or audits of regulated entities;

The PI Board has limited ability to check for compliance and to investigate complaints of noncompliance. The compliance section provides some support when time permits. A key issue is that our inspectors only have the ability to inspect a security guard company facility. That means we can basically only audit their paperwork. It would be useful if inspectors had the ability to show up at actual job sites (like a grocery store, a carnival, a movie theatre) to perform spot inspections and ensure that the guards working those posts are properly licensed and not working outside of their scope. For example, a Security Guard I should not be carrying a weapon. The PI Board and inspectors working on their behalf do not have statutory authority to conduct such inspections.

- follow-up activities conducted when non-compliance is identified;

Investigations are conducted by the compliance section to confirm noncompliance. When non-compliance is discovered and can be documented, a case is brought before the PI Board to determine if actions such as license revocation, suspension, termination, or possible fines are appropriate.

- sanctions available to the agency to ensure compliance;

Revocation or suspension of license or registration requires extensive legal and procedural actions.

- the number and types of complaints received for the past three fiscal years;

(See Attachment B)

- procedures for handling consumer/public complaints against regulated entities;

Investigations are conducted by the Boards and Commissions compliance section; recommendations for action are made to the PI Board; the Board makes requests a Notice of Contemplated Action that is sent to the Attorney General's Office

- issues surrounding enforcement of unregulated activity, if applicable.

Often, unlicensed activity is brought to our attention without a formal complaint. When we receive those complaints we investigate using the inspectors from other boards. We receive information about trade PPOs hiring people to act as security guards carrying firearms without being licensed and with no training. This creates a high risk to those who hire the companies and to the general public that comes in contact with them.

L. What are your agency's biggest opportunities for improvement in the future? Are these included in your agency's strategic plan?

The following have been identified on the PI Board Strategic Plan:

- The biggest opportunity for improvement would be a full time investigative resource to provide enforcement of the PI Act and to increase compliance with the act.
- Online licensing and renewal would assist with the increased need for resources to keep up with increasing application numbers.

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M. In the following chart, provide information regarding your agency’s key performance measures including outcome, input, efficiency, and explanatory measures.

Table 2: Key Performance Measures

No.	Performance Measure	FY15 Actual	FY16 Actual	FY16 Target	FY17 Target
1	Percent of phone calls and emails returned within 24 hours and respond to written correspondence within three days of receipt	75%	78%	80%	N/A
2	Percent of initial applications and renewals processed within 3 days of receipt of completed application.	99%	95%	90%	99%
3	Percent of complaints logged and processed within two days of receipt of written complaint, then investigated and presented at next board compliance meeting or not later than four months from receipt of complaint.	97%	93%	80%	99%
4	Percent of board meeting agendas available to the public posted to the website at least seventy-two hours prior to the meeting, and draft minutes shall be prepared and posted to the website within ten working days after the meeting	N/A	N/A	N/A	99%
5					
6					

N. If applicable, explain why certain targets for key performance measures were not met.

In FY15 performance measure No. 1 was not met due to the high volume of calls from applicants inquiring about issues on their background checks, fee increases and licensing requirements.

O. Provide a timeline of your agency’s history and key events, including:

- the date your agency was established;

The Private Investigations Advisory Board was established in 1965

- the original purpose and responsibilities of your agency;

The Private Investigations Advisory Board was created to provide the efficient delivery of licensing, and regulatory services, to protect life, property, and prevent and reduce crimes against the public while encouraging business activity, and to ensure that licensed security and investigative professionals are qualified to practice.

- major changes in responsibilities or statutory authority;

There have been no major changes in responsibilities or authority.

- changes to your policymaking body’s name or composition;

The policy making body remains the same, cited as the “Private Investigations Act” with a board composition of 4 professional members and 1 public member.

- significant changes in state/federal legislation, attorney general opinions, or funding;

Effective July 1, 2013, HB180 was created to allow expedited occupational and professional licensing of military service members, spouses of military service members and veterans who are licensed in another jurisdiction. This resulted in creation and adoption of a new part to Title 16, Chapter 48, NMAC.

- significant state/federal litigation that specifically affects your agency’s operations;

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None

- key changes in your agency’s organization (e.g., a major reorganization of the agency’s divisions or program areas).

None

Table 3: Agency History and Major Events (see Attachment B)

Year	Major Event
	See ATTACHMENT C

III. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

Table 4: Policymaking Body

Member Name	Term/Appointment Dates/Appointed by (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	City
Christopher Martinez	RLD Superintendent	Private Patrol Operator Member	Albuquerque
Tony Garley	RLD Superintendent	Private Investigator Member	Albuquerque
Diane Dosal	RLD Superintendent	Public Member	Albuquerque
Christine Frank	RLD Superintendent	Polygraph Member	Cedar Crest

B. Describe the primary role and responsibilities of your policymaking body.

Responsibilities of the policymaking body are to assist in the conduct of the examination process for licensees and registrants and to assist the department in other matters as requested by the superintendent or provided for in rules of the department.

C. How is the chair selected?

Annually, the chair is nominated by the Board members and voted on.

D. Please list all vacant positions and the date of vacancy.

The Board currently has a vacancy for Private Investigator Member

E. List any special circumstances or unique features about your policymaking body or its responsibilities. State if there are any specific requirements for public or professional members.

The Board is an Advisory Board. Final approval of any Board action requires approval by the RLD Superintendent.

Professional members of the Board must be licensed for the profession they represent i.e. 2 private investigators, 1 private patrol operator, 1 polygraph examiner and 1 public member.

F. In general, how often does your policymaking body meet? How many times did it meet in the current fiscal year? How many times did it meet in the previous fiscal year?

In FY16 there were three board meetings and one rule hearing. The number of meetings varies, three is about average.

G. What type of training do members of your agency’s policymaking body receive?

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All new board appointees, both public and professional, receive a Board Member manual that contains information on the duties and responsibilities of the Board. The manual contains the Board’s statutes, rules and regulations, the Open Meetings Resolution and the Open Meetings Act, the Uniform Licensing Act, the Mileage and Per Diem Act and other laws pertinent to licensing, regulation, and board operations.

H. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

The role of the policymaking body (the PI Board) is to assist in the conduct of the examination process for licensees and registrants and to assist the department in other matters as requested by the superintendent or provided for in rules of the department.

The PI Board staff’s role is enforce and administer the provisions of the Private Investigations Act to: keep records of each individual license; establish professional ethical standards; adopt rules regarding licensing, adopt rules regarding registration; establish minimum training and educational standards; establish continuing education requirements; establishing and operating a branch office; create a policy on reciprocity; provide permits for special events; and conduct background investigations.

I. What information is regularly presented to your policymaking body to keep them informed of your agency’s performance?

The PI Board web site is regularly updated with proposed rule makings and policy changes. Board members are advised of current operations and performance at each Board meeting.

J. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The Board intakes information from the public in several ways. Each meeting allows for public comment at which time members of the public may address the Board directly with concerns. More in-depth presentations can be made in front of the Board by requesting to be placed on the board meeting agenda. The public may also contact the Board Office with any concerns via mail, email, or telephone. Concerns from the public can be routed to the most appropriate location (i.e. compliance section will address complaints, general comments or suggestions may be reviewed by the board administrator, technical questions may be forwarded to the Board Chair, etc.). The input from the public is constantly incorporated into the operation of the Board and addressed with the greatest level of care and concern.

K. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

Table 5: Subcommittees and Advisory Committees

Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
Compliance Committee	One member selected by Board	Makes recommendations to the Board for disciplinary actions	Private Investigations Act, Section 61-27B-6(B) NMSA 1978

IV. Funding

A. Provide a brief description of your agency’s funding.

The Board of PI Services funding is from “other state funds”. This board does not receive any general funds.

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The Board is self-supported by revenues collected from application, licensure, renewal, administrative, miscellaneous, and penalty fees. Historically, the Board has established fees to provide sufficient revenues to meet operational requirements and to maintain at least one year’s operating budget in the Board’s cash fund. The number of projected new licenses issued is used to analyze budgetary needs. Then the number of renewals anticipated is used to calculate the remainder of the projected budgetary needs. In FY2106 the Board had a negative fund balance of \$100,000. Fees were changed and the fund is now in the black.

B. Please fill in the following chart.

Table 6: Agency Budget Summary (dollars in thousands)

Category	FY15 Actual	FY16 Actual	FY17 Budget	FY18 Projected
SOURCES				
General Fund Transfers				
Other Transfers				
Other Revenues	145.2	215.2	256.1	256.1
Fund Balance	72.8	97.9		
SOURCES TOTAL	300.3	313.1	256.1	256.1
USES				
Personal Services and Employee Benefits	191.5			
Contractual Services	0.0			
Other Costs	26.5	15.1	23.3	23.3
Other Financing Sources (overhead)		298.0	232.8	232.8
TOTAL USES	218.0	313.1	256.1	256.1
FTE				
Permanent	3.7	3.7	3.7	3.7
Term				
Temporary				
TOTAL FTE POSITIONS	3.7	3.7	3.7	3.7

C. If you receive funds from multiple federal programs, show the types of federal funding sources.

N/A

Table 8: Federal Funds/Other Grants

Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
N/A				
TOTAL				

D. If applicable, provide detailed information on fees collected by your agency.

Table 9: Fee Revenue

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (i.e., Fund Name)
<i>(See ATTACHEMENT D)</i>				

E. If fees are set by your agency, provide detailed information on how fees are determined. Include a description of any proposed changes to agency fee and revenue structure.

Fees are set pursuant to statute at 61-27B-20 NMSA 1978.

F. If contracted expenditures are made through this program, please provide:

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- a short summary of the general purpose of the contracts;

None

- the expenditure amount for the latest fiscal year;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

G. If applicable, provide a projection of ending cash balances for the latest fiscal year. If cash balances represent more than 5 percent of recurring appropriations, state reasons for this condition and any planned uses for remaining cash balances.

The projected current fund balance as of June 30, 2016 is negative fund balance of \$99,938.

In 2016, the board was operating in a negative fund balance, the agency completed a fee analysis and determined that all fees should be increased to the maximum to provide sufficient revenues to meet operational requirements and to maintain at least one year’s operating budget in the Board’s cash fund. That was accomplished and the fund is now solvent.

V. Organization

A. Provide an organizational chart that includes major programs and divisions, showing the number of FTE in each program or division. Details should include, if possible, department heads with subordinates and actual FTE with budgeted FTE. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field or regional offices are used, if applicable.

See ATTACHMENT E-2

B. Please fill in the following chart.

Table 10: Agency FTE and Vacancies

	FY15 Actual	FY16 Actual	FY17 Budget	FY18 Projected
Budgeted FTE Positions	3.7	3.7	3.7	3.7
Number of Actual FTE as of June 30	3.7	3.7	3.7	3.7
Annual Vacancy Savings (in dollars)				

C. If applicable, fill in the chart below listing field or regional offices.

Table 11: FTE by Location

Headquarters, Region, or Field Office	Location	Co-Location? Yes/No	Number of Budgeted FTE (latest fiscal year)	Number of Actual FTE as of June 1 (latest fiscal year)
(None)				

D. List each of your agency’s key programs or functions, along with expenditures and FTE by program.

Table 12: List of Program FTE and Expenditures

Key Function/Strategy	Number of Budgeted FTE (latest fiscal year)	Number of Actual FTE as of June 1 (latest fiscal year)	Actual Expenditures
<i>(see Attachment F)</i>			

VI. Major Issues

The purpose of this section is to briefly describe any potential issues raised by your agency, the Legislature, or stakeholders that Sunset could help address through changes in statute to improve your agency’s operations and service delivery. Inclusion of an issue does not indicate support, or opposition, for the issue. Instead, this section is intended to give the Sunset Review committee a basic understanding of the issues so staff can collect more information during our detailed research on your agency.

Some questions to ask in preparing this section may include: (1) How can your agency do a better job in meeting the needs of customers or in achieving agency goals? (2) What barriers exist that limit your agency’s ability to get the job done? Emphasis should be given to issues appropriate for resolution through changes in state law. Issues related to funding or actions by other governmental entities (federal, local, quasigovernmental, etc.) may be included, but the Sunset Review committee has no authority in the appropriations process or with other units of government. If these types of issues are included, the focus should be on solutions which can be enacted in state law. This section contains the following three components.

A. Brief Description of Issue:

There is exists state-wide noncompliance with licensing requirements for security guards and private patrol companies.

B. Discussion. Include enough information to give context for the issue. Information helpful in building context includes:

- What specific problems or concerns are involved in this issue?

Unlicensed security companies hire people to act as security guards without being licensed and with little or no training. Some of these unlicensed guards carry firearms with no qualifications to do so. This creates a risk to those who hire the companies and to the general public that comes in contact with them.

- Who does this issue affect?

The safety and security of the New Mexico public.

- What is the agency’s role related to the issue?

The PI Board provides licensing standards for security guards and companies that employ them.

- Mention any previous legislative action related to the issue.

None

C. Possible Solutions and Impact. Provide potential recommendations to solve the problem. Feel

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free to add a more detailed discussion of each proposed solution, including:

Provide PI Board with dedicated investigative person to check on compliance of companies and security guards within the State. RLD currently diverts resources from other boards to assist with this important job.

- How will the proposed solution fix the problem or issue?

When those that perform unlicensed security activities are caught and penalized, the rate of unlicensed activity will decrease substantially.

- How will the proposed change impact any entities or interest groups?

Security companies that operate in compliance with the rules will be very supportive of enforcement activities. It’s difficult for them to compete with companies that don’t pay licensing fees, require training for guards, provide insurance coverage, and pay lower wages.

- How will your agency’s performance be impacted by the proposed change?

Licensing with enforcement will make the rules much more effective in providing professional security service to business and the public. Rules without penalty are only suggestions to those with little or no respect for laws and rules.

- What are the benefits and possible drawbacks of the recommended change?

A major benefit is a more professional security industry.

- What is the fiscal impact of the proposed change?

An additional FTE and in-state travel expenses would be required for the PI Board staff.

Complete this section for **each** issue. Copy and paste components A through C as many times as needed to discuss each issue.

VII. Other Contacts

A. Fill in the following chart with updated information on individuals or groups with an interest in your agency.

Table 15: Other Contacts

Group or Association Name/ Contact Person	Physical Address	Telephone Number	Email Address

VIII. Agency Comments

Provide any information needed to gain a preliminary understanding of your agency.