



A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Sunset Review

Arizona Department of Veterans' Services and Arizona Veterans' Service Advisory Commission—

Sunset Factors

September • 2011
REPORT NO. 11-10



Debra K. Davenport
Auditor General

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September 27, 2011

Members of the Arizona Legislature

The Honorable Janice K. Brewer, Governor

Col. Joey Strickland, Director
Arizona Department of Veterans' Services

Ms. Terrie Gent, Chair
Arizona Veterans' Service Advisory Commission

Transmitted herewith is a report of the Auditor General, *A Sunset Review of the Arizona Department of Veterans' Services and the Arizona Veterans' Service Advisory Commission*. This report is in response to a November 3, 2009, resolution of the Joint Legislative Audit Committee and was conducted as part of the Sunset Review process prescribed in Arizona Revised Statutes §41-2951 et seq.

As outlined in its response, the Arizona Department of Veterans' Services plans to implement all of the recommendations directed to it. The Arizona Veterans' Service Advisory Commission did not provide a response to the report.

My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on September 28, 2011.

Sincerely,

Debbie Davenport
Auditor General

Attachment

cc: Arizona Veterans' Service Advisory Commission Members

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INTRODUCTION

Scope and Objectives

The Office of the Auditor General has conducted a sunset review of the Arizona Department of Veterans' Services (Department) and the Arizona Veterans' Service Advisory Commission (Commission) pursuant to a November 3, 2009, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes (A.R.S.) §49-2951 et seq.

This report includes responses to the sunset factors specified in A.R.S. §41-2954 for both the Department and the Commission and is the last of four reports on the Department. The other reports were performance audits of the Department's fiduciary program, the Veteran Home, and the Veterans' Donations Fund and the Military Family Relief Fund.

Department and Commission serve Arizona veterans and their families

Department and Commission mission and history

The Department's mission is to enrich and honor Arizona's veterans and their families through education, advocacy, and service. Arizona has approximately 557,000 veterans who may be eligible for federal and state benefits (see textbox). Arizona has provided services to Arizona veterans since 1925, when it created the position of Veterans' Service Officer. This position was abolished in 1951 and replaced by the Arizona Veterans' Service Commission. In 1973, the Commission was integrated into the Department of Economic Security. Primarily at the request of various veterans' organizations, the Governor reestablished the Commission as a separate agency in 1982. In 1999, the Legislature separated the Commission from the agency by making the

Veterans in Arizona, as of September 30, 2010¹

Total veterans: 557,000

Age distribution:

- Under 40 71,000
- 40-64 247,000
- 65 and over 239,000

Period served:²

- WWII 55,000
- Korea 69,000
- Vietnam era 180,000
- Gulf War 138,000
- Peacetime 140,000

¹ Numbers represent projections for September 2010 from the U.S. Department of Veterans Affairs, rounded to the nearest 1,000.

² Period served numbers do not add up to the total number of veterans because many veterans served in more than one period.

Source: Auditor General staff analysis of U.S. Department of Veterans Affairs official estimates and projection of the veteran population, obtained from <http://www.va.gov/VETDATA/Demographics/Demographics.asp>.

Commission an advisory body and creating a separate Department headed by a governor-appointed director.

The Commission acts as an advisory body to the department director and to the Governor. The Commission does not act in an oversight or regulatory capacity. Its mission is to promote public awareness and enhance the well-being of past and present Arizona service members and their families. The Commission consists of nine voluntary members selected by the Governor from nominations submitted by state veterans' service organizations. The Commission does not receive funding, but receives administrative support from the Department.

The Department is one of several organizations that provides services to Arizona's approximately 557,000 veterans and their dependents. For example, the U.S. Department of Veterans Affairs (VA) operates medical facilities nation-wide to care for veterans and provides financial and other assistance to qualified veterans, such as disability compensation, pensions, education, and burial benefits. Additionally, some veterans' service organizations, such as the Veterans of Foreign Wars and Disabled American Veterans, accept power of attorney for individual veterans, supporting the veteran's benefits claims both with the VA and throughout the VA's appeals process.

Department organization and staffing

The Department has five divisions and reported 356.3 authorized full-time equivalent (FTE) positions as of June 30, 2011, 74.8 of which were not filled. The Department's five divisions are:

- **Veteran Home (247 FTEs, 44.5 vacancies)**—The Veteran Home (Home), located in Phoenix, is a 200-bed facility providing nursing and rehabilitative care in 150 long-term care beds, a 25-bed specialty care unit for Alzheimer's and dementia residents, and a 25-bed sub-acute unit for short-term care rehabilitation. People eligible to stay at the Home include honorably released veterans, their spouses, and parents whose children died while serving in the U.S. Armed Forces. Although the Home is statutorily required to operate as a self-sustaining facility, for the first three quarters of fiscal year 2011, the Home's average occupancy rate was 87 percent, which is slightly below its break-even census of 177 residents. The Home receives revenues from Medicaid, the VA, private sources, and Medicare. However, the Home was not self-sustaining in fiscal years 2008 through 2010 and received State General Fund subsidies to help pay for costs (see Report No. 11-06 for more information).
- **Veterans' Services Division (53 FTEs, 16 vacancies)**—This division provides information and assistance to Arizona veterans and their families regarding state and federal benefits earned by honorable service in the U.S. Armed Forces. The

Department has established 18 offices throughout Arizona to provide this assistance to Arizona veterans. At these offices, veterans benefits counselors help veterans develop and file claims for disability, pension, insurance, burial, education, home loan, social security, and other social services benefits. As of March 2011, the Department had helped secure approximately \$275 million in annual federal benefits for Arizona veterans.

- **Administration (29.3 FTEs, 6.3 vacancies)**—The Department’s administration includes internal support services as well as two units that provide federally funded services external to the agency. The internal support services include financial services, information technology, and human resources. The two units that provide external services are: (1) the state approving agency, which approves educational programs for veterans who are using GI Bill benefits to pay for their education, and (2) the Troops to Teachers program, which helps eligible military personnel transition into new careers as public or charter school teachers.¹
- **Fiduciary Division (25 FTEs, 8 vacancies)**—This division provides services to incapacitated veterans by serving as a court-appointed guardian or conservator and also provides personal representative services for deceased veterans’ estates (see Report No. 11-03 for more information). Individuals eligible for fiduciary services include incapacitated veterans, surviving spouses, and their dependent children. As of March 2011, the division had 256 fiduciary cases.
- **State Veterans’ Cemeteries (2 FTEs, 0 vacancies)**—This division operates a state veterans’ cemetery in Sierra Vista that was opened in 2002. This cemetery provides a burial place for Arizona veterans who were discharged under any conditions other than dishonorable, along with their spouses and some dependents. The Department has applied to the VA for a grant to build additional cemeteries throughout the State.

2009 special investigative report and followup

The Department has made some changes in response to a special investigative report that identified several problems in department operations. In November 2009, the Office of the Auditor General released a special investigative report with findings regarding the Department’s former director, which included misuse of public monies, conflict of interest, and misfeasance.² The former director resigned and later pled guilty to two of the criminal charges brought against him. The Governor appointed the Department’s current director in July 2008.

¹ The GI Bill provides veterans with federally funded financial support for education and housing.

² Office of the Auditor General, Special Investigative Unit. (2009). *Arizona Department of Veterans’ Services: Misuse of public monies, conflict of interest, and misfeasance by the former director*. Phoenix, AZ: Author.

The 2009 report included 8 recommendations regarding actions the Department should take to improve its internal controls (see textbox). Auditors found that the Department has strengthened its controls, although it needs to continue to make improvements in its administration of the Veterans' Donations Fund (donations fund) (see Report No. 11-09 for more information).

Summary of 2009 special investigative report recommendations

1. Institute policies and procedures that effectively oversee management and prevent management override.
2. Ensure and monitor employee compliance with conflict-of-interest statutes.
3. Strengthen employment process by competitively recruiting and hiring employees.
4. Ensure the prudent use of Veterans' Home and Veterans' Donations Fund monies.
5. Seek legal advice prior to making significant donations fund purchases.
6. Follow the State's procurement regulations.
7. Ensure expenditures are processed based on proper documentation.
8. Ensure that all policies and procedures comply with statutes, rules, and Arizona Governors' Executive Orders.

Source: Auditor General staff review of the Office of the Auditor General's 2009 special investigative audit *Arizona Department of Veterans' Services—Misuse of Public Monies, Conflict of Interest, and Misfeasance by the Former Director*.

Department has improved conflict-of-interest and hiring practices—

The 2009 report found that the Department's director appeared to have inappropriately hired his son and his wife in violation of both conflict-of-interest statutes and competitive hiring practices. The report recommended that the Department ensure compliance with conflict-of-interest statutes, including: (1) requiring all employees to periodically disclose potential conflicts of interests, and (2) requiring employees to refrain from participating in department activities that may result in conflicts of interest. The Department has taken several steps to help ensure known conflicts of interest are periodically monitored. For example, to address requirements in A.R.S. §38-503, the Department

requires its employees to complete a disclosure statement upon hire and once a year thereafter (see textbox). The annual disclosure statement requires employees to disclose information regarding potential conflicts of interest. As recommended in the 2009 report, the Department maintains and periodically monitors disclosure statements with a known conflict of interest in a separate file, which is available for public inspection.

The Department's disclosure statement requires employees to disclose information about potential conflicts of interest in three areas:

1. Other outside employment;
2. Potential for gain by employee or employee's relative from any department procurement; and
3. Names of any relatives who are also employed by the Department.

Source: Auditor General staff review of the Department's disclosure statement.

In addition, the Department has developed procedures for staff regarding how to address known conflicts of interest. For example, for those employees who disclose they are also employed outside the Department, procedures require staff to verify that a secondary employment form was approved by both the employee's supervisor as well as the division manager. In addition, for employees who have a relative also employed by the Department, staff monitor human resource records to ensure relatives are not supervising each other. Auditors' review of employee files during the period between January and July 2010 found that department staff had followed these procedures in all 15 files reviewed.

The 2009 report recommended ensuring open competitive practices in the recruitment, selection, and placement of candidates, based on the candidate's knowledge, skills, abilities, qualifications, and overall fitness for the position responsibilities. The Department has established and, for the most part, followed open competitive practices for recruiting, selecting, and placing candidates. Specifically, auditors' review of 12 employee files during the period between January 1 and August 31, 2010, found that, where applicable, the Department followed these practices when hiring 11 of the 12 employees. However, based on a review of an employee's personnel file and the posted position description, auditors determined that one employee did not appear to have the prior experience or qualifications for a position that assumes full responsibility of the operations of the Home in the absence of the Home's administrator.

Department has made improvements regarding some expenditures, but additional improvements for donations fund administration are needed—The 2009 report recommended that public monies from two department funds—the Veterans' Home Fund and donations fund—be used appropriately and that the Department follow the State's procurement regulations when purchasing goods and services. Auditors' review of 20 expenditures from the Veterans' Home Fund, for the period of January 1, 2010 through June 30, 2010, found that the Department appropriately spent these monies. However, auditors' review of donations fund expenditures for the period December 1, 2009 through June 30, 2010, found that 6 of 18 expenditures reviewed did not benefit Arizona veterans, and additional improvements to the Department's administration of the donations fund are needed (see Report No. 11-09 for more information).

Further, auditors' review of applicable expenditures also found that the Department followed procurement code requirements for the purchases of goods and services from these two funds. Procurement code requirements help to ensure that state agencies receive the best possible value for the public money they spend and promote competition among vendors. Of the 38 expenditures that auditors reviewed from these two funds, 8 were procurements for goods and services, to which the procurement code would apply; the other 30 expenditures either fell below the procurement code threshold of \$5,000 or were not procurements, so the procurement code did not apply to these expenditures. Auditors' review of the 8

procurements found that the Department followed procurement code requirements for each expenditure.

However, most of the donations fund expenditures that auditors reviewed were distributed to outside organizations, and these expenditures did not follow applicable statutes. Specifically, auditors reviewed 13 expenditures distributed to outside organizations and found that the Department did not follow the statutes that govern the solicitation and award of grants, which would be the statutes that apply to these types of expenditures. For example, the Department did not ensure fair competition for grant monies by issuing a request for grant applications that described evaluation criteria and their relative importance. As a result, some potential applicants may not have been aware of the availability of the monies, and applicants did not know how applications would be evaluated. Similarly, because the Department did not issue a request that identified the criteria, it could not follow the requirement to evaluate applications solely on the basis of these criteria. This statutory requirement not only helps to ensure fairness, but also helps to ensure that the applications that receive funding represent the best uses of the public monies. As a result, auditors recommended that the Department should develop and implement a formal grant process and develop policies and procedures that comply with A.R.S. §§41-2701 through 41-2706 that govern grant solicitation and award (see Report No. 11-09 for more information).

Department monitors changes in statutory requirements—The 2009 investigative report found that the Department spent more than \$213,000 for the design and construction of a war memorial; however, Arizona Governor Janet Napolitano strictly prohibited the use of any public monies for this memorial in an Executive Order. The 2009 report recommended that the Department should periodically monitor all of its procedures to ensure they align with statutes, rules, and Executive Orders and are being followed. As of August 2010, the Department implemented a process wherein its legislative liaison monitors statutory changes and Executive Orders and prepares a weekly management report highlighting changes that could affect the Department. However, the Department should continue to enhance its efforts to comply with statutory and other requirements. For example, the 2011 performance audit of the Department's fiduciary program found that the Department needs to improve its operations to ensure that the program complies with statutory requirements regarding services to fiduciary clients (see Report No. 11-03). In addition, auditors determined that the Department needs to improve its administration of the donations fund by developing a grant awards process that complies with A.R.S. §41-2701 et seq, unless the Legislature modifies statute to require it to use donations fund monies only to purchase goods and services to benefit veterans (see Report No. 11-09 for more information).

Budget

As illustrated in Table 1 (see page 8), the Department received nearly \$39 million in revenues in fiscal year 2011. The Department's largest source of revenue is charges for resident services at the Veteran Home in Phoenix, which provided nearly 43 percent of the Department's revenues in fiscal year 2011. State General Fund appropriations to the Department totaled approximately \$5.3 million, a reduction of nearly \$11.7 million from fiscal year 2010. Most of this reduction reflects a one-time \$10 million State General Fund appropriation that was provided to the Department in fiscal year 2010 to construct the new Tucson Veteran Home. The Department also received donations and a portion of the fees for several specialized license plates totaling more than \$2.5 million in fiscal year 2011, and other revenue totaling more than \$640,000 in fiscal year 2011, which primarily consisted of fees for its fiduciary program. Finally, the Department received nearly \$13.7 million from the VA, including nearly \$13 million to build the new Tucson Home.

Department expenditures included more than \$16.2 million for personal services and related benefits in fiscal year 2011, which represented a decrease of more than \$575,000 from fiscal year 2010's personal services costs. Most of the Department's personal services costs are for the operation and staffing of the Phoenix Veteran Home. These costs totaled an estimated \$10.9 million in fiscal year 2011. Additionally, the Department spent more than \$19.6 million for buildings, building improvements, and equipment. This amount increased significantly from the fiscal year 2010 expenditure of approximately \$3.35 million because the Department began construction of the Tucson Home. Finally, the Department uses monies for aid to organizations and individuals, including assistance provided through the Military Family Relief Fund and expenditures from the donations fund. Altogether, the Department spent approximately \$1.5 million for aid to organizations and individuals in fiscal year 2011.

Table 1: Schedule of Revenues, Expenditures, and Changes in Fund Balance
Fiscal Years 2009 through 2011
(Unaudited)

	2009	2010	2011
Revenues:			
Charges for services:			
Veteran Home patient services	\$ 12,730,861	\$ 14,970,866	\$ 16,608,085
Other ¹	709,229	919,809	640,067
State General Fund appropriations	7,642,769	16,975,645 ²	5,313,517
Donations	1,553,177	1,190,526	1,281,689
Intergovernmental	1,512,028	2,003,750	13,672,536 ³
Specialized license plates	1,004,956	1,101,718	1,241,055
Other	63,280	86,226	109,496
Total revenues	<u>25,216,300</u>	<u>37,248,540</u>	<u>38,866,445</u>
Expenditures and transfers to the State General Fund:			
Personal services and related benefits	16,799,646	16,795,492	16,217,644
Professional and outside services	1,949,768	1,663,312	1,467,163
Travel	140,178	137,482	160,175
Food	486,858	502,911	515,342
Aid to organizations and individuals ⁴	163,235	864,366	1,500,564
Other operating	3,269,310	3,545,137	3,848,410
Buildings, building improvements, and equipment	442,497	3,350,530	19,614,256 ⁵
Total expenditures	<u>23,251,492</u>	<u>26,859,230</u>	<u>43,323,554</u>
Transfers to the State General Fund ⁶	243,200	121,600	
Total expenditures and transfers to the State General Fund	<u>23,494,692</u>	<u>26,980,830</u>	<u>43,323,554</u>
Net change in fund balance	1,721,608	10,267,710	(4,457,109)
Fund balance, beginning of year	10,316,908	12,038,516	22,306,226
Fund balance, end of year ⁷	<u>\$ 12,038,516</u>	<u>\$ 22,306,226</u>	<u>\$ 17,849,117</u>

¹ Amount is primarily fees for the Department's fiduciary program.

² Amount includes \$10 million of State General Fund appropriations to provide a 35 percent state match to build the new Tucson Veteran Home.

³ Amount increased significantly in fiscal year 2011 because the Department received nearly \$13 million in federal monies to build the new Tucson Veteran Home.

⁴ According to a department official, the Department has increased assistance to soldiers and their families through the Military Family Relief Fund and increased support to nonprofit veteran support organizations since fiscal year 2009 (see Auditor General Report No. 11-09 for more information).

⁵ Amount increased significantly in fiscal year 2011 because the Department began construction of the new Tucson Home.

⁶ Consists of transfers to the State General Fund in accordance with Laws 2009, 1st S.S., Ch. 1, §4, and Ch. 12, §44.

⁷ Ending fund balance includes approximately \$7.8 million and \$1.4 million in fiscal years 2010 and 2011, respectively, which were unexpended State General Fund appropriations for the construction of the new Tucson Home. The remaining ending fund balance is primarily restricted to use for such purposes as operating the Phoenix Veteran Home, providing assistance through the Military Family Relief Fund, and spending donations to benefit Arizona veterans.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2009 through 2011 and AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2009 through 2011.

Sunset Factors

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the factors included in this report in determining whether the Arizona Department of Veterans' Services (Department) should be continued or terminated. Auditors' analysis showed strong performance by the Department with regard to many of these factors, but it also showed a need for changes in two areas:

- The Department should strengthen oversight of benefits-counseling field offices and contractors; and
- The Legislature should consider a statutory change to eliminate the requirement that the Department approve organizations seeking to solicit money in the name of veterans.

In addition to the recommendations in this report, the Department needs to address the recommendations directed to it in the other three audit reports issued as part of this sunset review (see Report Nos. 11-03, 11-06, and 11-09).

Department sunset factor analysis

1. **The objective and purpose in establishing the Department and the extent to which the objective and purpose are met by private enterprises in other states.**

The Department's mission is to enrich and honor Arizona's veterans and their families through education, advocacy, and service. To achieve this mission, the Department provides veterans and their families with the following services: nursing and rehabilitative care delivered in the Veteran Home (Home), benefits counseling and assistance, burial in the State Veterans' cemetery, and fiduciary services. The Department's objective and purpose have been met by private enterprises in other states, to varying extents. For example:

- **Veteran Home**—The Home was established to provide long-term care services and skilled nursing care to eligible veterans, their spouses, and parents whose children died while serving in the U.S. Armed Forces. The Home is a 200-bed facility in Phoenix that was 87 percent occupied through the first three quarters of fiscal year 2011. The Department plans to open a second veterans' home in Tucson in October 2011. All 50 states have one or more veterans' homes. Although veterans can also choose to live in private nursing homes to receive services, department officials stated that many veterans enjoy the company of other veterans at veterans' homes.
- **Benefits counseling and assistance**—The Department provides information and assistance to Arizona veterans and their families regarding state and federal benefits earned by honorable service in the U.S. Armed Forces. Specifically, department counselors help veterans process compensation and pension applications; appeal U.S. Department of Veterans Affairs (VA) decisions; file for survivors' death benefits; apply for aid and housebound benefits; certify claim documents; request military service records; and upgrade military discharges. Auditors determined that 41 other states' veterans' services departments provide benefits-counseling services.¹ However, the form and extent of this assistance varies. For example, Alaska, Michigan, and Utah do not use their own staff to provide benefit-claims assistance, but have contracts with community veterans' service organizations to

¹ In July 2011, auditors spoke with staff members of veterans' services departments in 48 other states and asked several questions, including whether each offered assistance to veterans in filing claims with the VA. Wyoming was excluded because it does not have a veterans' services department.

provide these services. Similar services are also provided by some veterans' service organizations, such as the Veterans of Foreign Wars and Disabled American Veterans. According to the Department, however, many community veterans' service organizations rely on volunteers to offer these services, and the level of expertise, training, and availability of assistance varies by city, county, and state. More veterans use state and local government programs for benefits assistance than other sources. Specifically, according to the National Association of County Veterans Service Officers, between 75 and 90 percent of the claims presented to the VA each year originate in a state or county veterans' office (see Sunset Factor 12, pages 20 through 21, for more information).

- **Veterans' cemetery**—The Southern Arizona Veterans' Memorial Cemetery provides a burial place for veterans in Arizona. According to the VA, 43 states have at least one state veterans' cemetery, and 39 states have at least one national veterans' cemetery. Although a veteran could choose burial in a private cemetery and receive a headstone and marker at no charge as part of his/her federal veterans' benefits, the Arizona veterans' cemetery provides a gravesite, marker, and perpetual care at no cost for veterans and for a one-time fee of \$300 for spouses and dependents. The national veterans' cemeteries in the Phoenix and Prescott areas provide similar benefits to veterans but do not charge this one-time fee.
- **Fiduciary services**—The Department's fiduciary program provides services to incapacitated veterans by serving as a court-appointed guardian or conservator, and also provides personal representative services for deceased veterans' estates. Individuals eligible for fiduciary services include incapacitated veterans, surviving spouses, and their dependent children. As of July 2011, Arizona was one of only four states whose veterans' departments provided some form of fiduciary services to veterans throughout the state, with four additional states providing some services, but only to residents of their state veterans' homes.¹ For example, Oregon's veterans' services department provides only conservatorship services to its veterans. Because they would not have access to fiduciary services provided by state veterans' services departments, veterans in most states would need to obtain fiduciary services from other public or private fiduciaries. Arizona has both public and private entities that provide fiduciary services.

¹ Report No. 11-03 stated that Arizona was one of only two states with such a program, but subsequent to that report's publication, auditors obtained information about additional states with fiduciary programs for veterans. Three states—New Mexico, Oregon, and Washington—have limited veterans' fiduciary programs. Further, four additional states—Idaho, Illinois, Mississippi, and Pennsylvania—provide some fiduciary services, but only to residents of their state veterans' homes.

2. **The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.**

The Department has somewhat met its objective and purpose, but it can improve in several areas, including the efficiency with which it provides services to veterans. Specifically:

- **Department has improved the Veteran Home's financial situation, but additional actions needed**—Although required to be self-sustaining, the Home operated at a loss between fiscal years 2008 and 2010 and received State General Fund and Veterans' Donations Fund subsidies to support its operations. The Department has taken steps to improve the Home's financial condition by increasing its average daily occupancy, improving the quality of care at the Home, developing a more balanced payer mix, and reducing operating expenditures. These steps have allowed the Department to improve the Home's occupancy from 75 percent in fiscal year 2009 to 87 percent through the third quarter of fiscal year 2011, which is slightly below the Home's break-even census of 177 residents. The Department also did not receive State General Fund subsidies in fiscal years 2011 and 2012 for the Home. Despite improvements, financial risks remain. As a result, although the Department has increased the Home's cash on hand to \$1.8 million as of April 2011, enough to cover more than 43 days of operations, the Department should continue to increase this cash balance. Additionally, the Department should finalize policies and procedures for monitoring home operations and finances and further reduce its administrative expenditures. Finally, the Department should ensure that the improvements it has made and the implementation of these additional recommendations are applied to the operations of future veterans' homes to help ensure their self-sufficiency (see Report No. 11-06 for more information).
- **Department provides benefits-counseling services to veterans, but needs to improve its oversight of these services**—In 18 offices around the State, the Department provides information and assistance to Arizona veterans and their families regarding state and federal benefits earned by honorable service in the U.S. Armed Forces. Specifically, department counselors help veterans process compensation and pension applications, appeal VA decisions, file for survivors' death benefits, apply for aid and housebound benefits, certify claims documents, request military service records, and upgrade military discharges. Based on VA projections, as of March 2011, the Department had helped secure approximately \$275 million in annual federal benefits for Arizona veterans. However, the Department should better monitor its benefits counselors and the community organizations it contracts with that also provide benefits counseling. Specifically, the Department should:

- **Regularly review benefits-counselor activities**—The Department has established a procedure for visiting its benefits-counseling offices on a quarterly basis to provide training to its benefits counselors and audit claims for accuracy and completeness. However, the Division has not conducted these monitoring visits and audits regularly. As of June 28, 2011, the Department had conducted only three audits since 2009: one in September 2009 of the Phoenix region’s four offices, one in January 2010 of the Tucson region’s four offices, and one in March 2011 of the Chinle office. Therefore, the Department should follow its procedures for conducting audits of its benefits-counseling offices and ensure that the offices address any deficiencies identified.

- **Improve contractor oversight**—If the Department continues to contract with veterans’ services organizations for benefits-counseling services, it should increase its oversight of these contractors. As of July 2011, the Department had contracts with three such organizations, but the Legislature eliminated designated funding for such services beginning with the fiscal year 2012 budget, and according to a department official, the Department had not yet decided whether it would continue these contracts (see Sunset Factor 12, pages 20 through 21, for more information).

The Department’s contracts with these three organizations state that the organizations must supply financial information at prescribed times to the Department, according to requirements established by the Department. However, as of July 2011, the Department had not established these requirements and did not require these organizations to report financial information. If the Department decides to continue contracting for these services, it should establish the requirements and ensure that the contracted organizations provide the financial information the contracts require.

- **Department should consider phasing out fiduciary program or increasing fees and needs to address operational deficiencies**—The Department is authorized but not required to accept court or federal agency appointments to manage the affairs of veterans, their spouses, or dependent children who cannot take care of themselves. Such appointments include conservatorships, where the Department handles a veteran’s financial affairs, or guardianships, where the Department makes personal decisions on behalf of the veteran. However, three factors suggest the Department should consider phasing out its program. First, statutes do not require the Department to provide this service. Second, the Department has had significant operational issues in providing fiduciary services, resulting in enhanced oversight and penalties imposed by the courts. Third,

approximately 50 other private and public entities in the State provide fiduciary services, some of which already have clients who are veterans.

However, if the Department continues its program, it should increase the program's fees. For fiscal years 2009 through 2011, client fees covered between 55 and 60 percent of the Department's fiduciary program costs. State General Fund monies covered the rest, averaging more than \$508,000 annually. Therefore, the Department should develop or adopt a structured approach to evaluate its fees and propose revised fees. This approach should include assessing the efficiency of its operations, developing fees based on relevant costs, capturing and analyzing cost data, and revising the fees it is authorized to revise and proposing revised fees to the Legislature for its consideration.

Regardless of the option it pursues, the Department needs to address several operational problems. Both the Arizona Supreme Court and the Maricopa County Superior Court identified numerous problems during reviews conducted in 2010, and auditors determined that some of these problems continue. These problems have affected the Department's ability to meet its fiduciary responsibilities for managing clients' affairs and have cost the Department more than \$65,000 to address complaints filed with the Arizona Supreme Court's Fiduciary Board. Matters needing improvement include improving the accuracy and completeness of inventory and client records, ensuring the accuracy of court reports, and meeting deadlines for issuing death notifications and other statutorily required reports to superior courts (see Report No. 11-03).

- **Department should improve its administration of the Veterans' Donations Fund (donations fund)**—The donations fund is administered at the discretion of the department director and was established to benefit Arizona veterans. However, a 2009 Office of the Auditor General special investigation found that the Department had inappropriately spent more than \$670,000 in donations fund monies.¹ In December 2009, the Department established a multi-level review process for donations fund expenditures to help ensure the appropriate expenditure of these monies. However, in the Office of the Auditor General's September 2011 performance audit of the donations fund, auditors again identified expenditures of donations fund monies that did not benefit Arizona veterans (see Report No. 11-09). Specifically, auditors reviewed 18 donations fund expenditures totaling more than \$253,000 and determined that although some of these expenditures benefited Arizona veterans, several did not. Additionally, most of the specific expenditures reviewed did not follow applicable state statutes that govern the distribution of public monies to outside organizations. The Department also did not

¹ Office of the Auditor General, Special Investigative Unit. (2009). *Arizona Department of Veterans' Services: Misuse of public monies, conflict of interest, and misfeasance by the former director*. Phoenix, AZ: Author.

document that it obtained legal advice about proposed expenditures as recommended in the Auditor General's 2009 special investigation, and it did not consistently follow the new review process it had adopted.

To better ensure the appropriate use of donations fund monies, the Legislature should consider strengthening existing statutory requirements. Specifically, the Legislature should consider modifying A.R.S.§41-608 to either explicitly authorize the use of donations fund monies to provide grants to nonprofit organizations in compliance with grant solicitation and award statutes, or specify that the Department use donations fund monies itself to benefit Arizona veterans through its own programs, and thus prohibit the use of these monies for grants. Additionally, the Legislature should consider statutory changes that would place additional requirements on the Department for spending donations fund monies (see Sunset Factor 9, pages 18 through 19, for more information).

Regardless of whether the Legislature revises statute, the Department should establish a formal grant process for the distribution of donations fund monies to other veterans' organizations and ensure the new process complies with statutes governing grant solicitation and award.¹ The Department should also require applicants to report to the Department how donations fund monies they received were used and to sign the request form certifying that monies will be used for the requested purpose and that application information is accurate (see Report No. 11-09).

- **Military Family Relief Fund (family relief fund) assists families; additional funding award criteria needed**—The family relief fund was established to assist military service members, veterans, and their family members. The Military Family Relief Fund Advisory Committee (Committee) was established to review applications for financial assistance from the family relief fund and makes award recommendations to the department director. The director can then approve, reject, or alter the Committee's recommendations. The family relief fund had a balance of approximately \$2.6 million as of June 30, 2011, and the Department provided approximately \$450,000 in assistance during fiscal year 2011.

Auditors' review of the family relief fund found that although the Committee has provided assistance to eligible families through its review of applications and recommendations to the department director, there have been some inconsistencies in the Committee's recommendations (see Report No. 11-09). Specifically, auditors identified instances where the Committee recommended applications for assistance based on certain circumstances

¹ The only instance in which strengthened procedures would not be needed is if the Legislature modifies statute to limit the use of donations fund monies to the Department's own programs; in that case, the Department would not need to establish a grant process.

or for certain types of assistance, but then recommended denying similar requests. For example, in August 2010, the Committee recommended helping one applicant pay \$9,017 in student loans and \$983 in credit card debt. However, in December 2010, the Committee recommended denying two other applicants' requests for assistance with such payments, but provided both applicants with other types of assistance. Similarly, the Committee recommended approval for grocery assistance for one applicant, but then recommended denying grocery assistance for another applicant.

The Committee should develop policies and procedures that establish additional criteria for guiding the Committee's decisions. These criteria should address factors the Committee will consider to determine eligibility and list expenses eligible for funding and documentation that applicants must submit to support their applications. The Committee and Department should also document the reasons for its recommendations, establish and implement processes for communicating reasons for award recommendations and denials, and inform applicants of their option to appeal decisions (see Report No. 11-09). According to a committee member and the Department, as of August 2011, the Committee and Department had begun to implement some of these recommendations.

3. The extent to which the Department serves the entire State rather than specific interests.

Through its operations and the services it provides, the Department has generally served veterans throughout the State. Specifically:

- In addition to its 200-bed Veteran Home in Phoenix, the Department is completing construction of a second Veteran Home in Tucson, which it plans to open in October 2011. Construction of the new Tucson Veteran Home was paid for with a VA grant of the lesser of approximately \$17 million, or 65 percent, of this Home's actual construction cost and \$10 million in State General Fund monies. The Department also reported that it has long-range plans to open additional 100- or 120-bed veterans' homes in the Flagstaff, Kingman, and Yuma areas by 2019.
- The Department provides veterans' benefits counseling in 18 offices throughout the State, including offices in Chinle, Kingman, and Yuma. According to the VA, as of March 2011, more than 24,250 veterans and veterans' family members the Department had assisted were receiving federal benefits. As of March 2011, the VA projected that these benefits would total approximately \$275 million annually.
- The Department provided fiduciary services to 256 veterans throughout the State as of March 2011.

- The Department operates a state veterans' cemetery in Sierra Vista that had 2,904 total burials from its October 2002 opening through June 2010. According to a department official, the Department has plans to open additional cemeteries using a standard planning model produced by the VA National Cemetery Administration.

4. The extent to which rules adopted by the Department are consistent with the legislative mandate.

General Counsel for the Auditor General has analyzed the Department's rulemaking statutes and believes that the Department has adopted rules consistent with the legislative mandate. However, if the Department takes certain actions allowed by statute, it will need to develop rules to govern those actions. For example, the Department provides training for department and community benefits counselors such as how to file veterans' benefits claims with the VA. If the Department establishes a fee for its training center's services as allowed by A.R.S. §41-603, the Department will need to establish relevant rules. In addition, if the Department develops additional criteria for approving veterans' education and training programs beyond the criteria in federal regulations, as it plans to do, it will need to develop rules for those criteria.

5. The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Department takes a variety of steps to encourage input from the public before promulgating rules and regulations. First, the Department files rulemaking notices with the Secretary of State's Office for publication in the Arizona Administrative Register. Second, the Department circulates proposed rules to an e-mail list of stakeholders who have expressed an interest in receiving information about the agency. Third, the Department presents proposed rule changes at meetings of two key stakeholder umbrella groups: the Unified Arizona Veterans and the Arizona Veterans' Service Advisory Commission (Commission).

In compliance with open meeting laws, the Department posts Military Family Relief Fund Advisory Committee meeting notices on its Web site, as required by A.R.S. §38-431.02.

The Department engages in additional activities intended to inform the public regarding its actions and their expected impact on the public. According to a department official, the Department issues press releases on a regular basis, and the director and public information officer frequently attend community events where they offer speeches updating the public regarding department activities. For instance, the Department stated that its representatives have

offered presentations at state-wide meetings of the Vietnam Veterans of America, Veterans of Foreign Wars, and the American Legion.

6. The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction.

According to the Department, it has not had to investigate or resolve any complaints that are within its jurisdiction. The audit found that the Department's only regulatory authority is its responsibility as the state approving agency for education and training programs for veterans. Although the Department has a process in place to handle complaints for this area, a department official reported that it has never received a complaint. (See Sunset Factor 11, page 20, for more information regarding the state approving agency for education and training programs for veterans.)

7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

Although there is no provision under the Department's enabling statutes authorizing the Attorney General to prosecute actions, the Attorney General is the legal advisor to the Department and is required to provide legal services to the Department according to A.R.S. §41-192.

8. The extent to which the Department has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

The Department proposed and the Legislature enacted four changes to the Department's enabling statutes in 2009 and 2010. Specifically:

- **Laws 2009, Ch. 111: Enduring Freedom Memorial; public monies**—Allowed monies from the donations fund to be used to complete the Enduring Freedom Memorial.
- **Laws 2009, Ch. 24: Military Family Relief Fund**—Expanded eligibility for assistance from the Military Family Relief Fund by allowing any immediate family member, not just spouses and minor children, to apply for assistance, and allowing assistance to families of service members who were deceased, wounded, or became seriously ill while deployed, instead of restricting assistance to families of service members who were killed or wounded in action. The law also established a \$10,000 limit on assistance to a family and made changes affecting the Military Family Relief Fund Advisory Committee's administrative processes. For instance, the law allows the Committee to establish a chairperson and to establish a subcommittee that can meet in executive session without prior public notice.

- **Laws 2010, Ch. 254: Military Family Relief Fund**—Further altered eligibility for assistance from the Military Family Relief Fund to include only families of Arizona service members deployed after September 11, 2001. The law also gave the Military Family Relief Fund Advisory Committee greater discretion in distributing family relief fund monies. Specifically, although the family relief fund could previously pay only for living expenses for the families of service members, this revision allowed the family relief fund to also pay for other appropriate expenses as determined by the Committee. Another change allowed the Department to hire a family relief fund administrator.
- **Laws 2010, Ch. 208, §3: Military Affairs Commission**—Transferred the authority to acquire real estate, property rights, and related infrastructure for the purpose of preserving or enhancing Arizona military installations from the Department and authorized the Department of Emergency and Military Affairs to make grants for such purposes.

9. The extent to which changes are necessary in the laws of the Department to adequately comply with the factors listed in the sunset law.

The Legislature should consider several changes to the Department’s governing statutes. Specifically, the Legislature should consider:

- **Revising the fees that the Department can charge for the conservatorship services it provides to veterans through its fiduciary program**—In its June 2011 performance audit on the Department’s fiduciary program, the Auditor General recommended two options for this program, including phasing out the program (see Report No. 11-03). If the Department retains its fiduciary program, it should consider taking steps to develop, propose, and revise its fees to more closely reflect its costs for providing fiduciary services. The Department can take these steps when reviewing its guardianship and personal representative fees because statute allows guardians and personal representatives to charge reasonable fees for their services. However, since statute caps the amount that the Department can charge for its conservatorship services, if the Department determines that its conservatorship fees should be increased, legislative action would be required.
- **Strengthening controls over donations fund monies**—Auditors’ review of the donations fund identified several ways statutes could be strengthened to better ensure donations fund monies are spent appropriately (see Report No. 11-09). Specifically, the Legislature should consider:
 - Strengthening existing statutory requirements for the donations fund by modifying A.R.S.§41-608 to either explicitly authorize the use of

donations fund monies to provide grants to nonprofit organizations in compliance with grant solicitation and award statutes, or specify that the Department use donations fund monies itself to benefit Arizona veterans through its own programs, and thus prohibit the use of these monies for grants.

- Placing additional requirements on the donations fund, including eliminating the director's sole discretion to authorize the expenditure of donations fund monies, specifying what donations fund monies may or may not be used for, adding external oversight by a committee such as the Commission, and mandating annual reports by the Department regarding expenditures of donations fund monies be sent to a third party, such as the Commission or Governor (see Report No. 11-09 for more information).
- **Eliminating requirement to approve veterans' organizations**—A.R.S. §41-603(B)(10) requires the Department to approve or disapprove veterans' organizations seeking to solicit money or other support in the State in the name of American veterans. However, the U.S. Supreme Court has determined that laws regulating the solicitation of money by nonprofit organizations violate the First Amendment of the U.S. Constitution, although states can prosecute for fraud. Further, A.R.S. §44-6551 et seq already require persons or organizations that solicit funds for charitable purposes to register and make filings with the Arizona Secretary of State. Therefore, because the Department could not establish meaningful criteria for approving or disapproving organizations, and because laws governing solicitation of donations already exist, the Legislature should consider removing this requirement from statute.

10. The extent to which the termination of the Department would significantly affect the public health, safety, or welfare.

Although terminating the Department would not significantly affect the general public's health, safety, or welfare, it could impact many veterans and their families in the State and may result in the State's having to repay some federal monies. For example, if the Department were terminated and the Home transferred to private interests, residents of the Home could be required to seek alternative arrangements for long-term nursing care and other services provided by the Home. The State would also be required to repay the federal government 65 percent of the value of the Home, up to the amount of the federal subsidy to construct the Home.

Terminating the Department would also affect veterans and their families who receive benefits-counseling from the Department at 18 locations across the State. The Department, like 41 of the 48 other states that auditors surveyed, provides

federal and state benefits-counseling services to veterans. Similar services are also provided by some veterans' service organizations, such as the Veterans of Foreign Wars and the Disabled American Veterans. According to the Department, however, many community veterans service organizations rely on volunteers to offer these services, and the level of expertise, training, and availability of assistance varies by city, county, and state.

The Department also provides fiduciary services to 256 clients as of March 2011, but as reported in the Office of the Auditor General's June 2011 performance audit of the Department's fiduciary program, nearly 50 other public and private entities are licensed to provide fiduciary services in the State (see Report No. 11-03). This report recommended that the Department should consider either gradually phasing out its fiduciary program and transitioning its clients to other providers or increasing fees to cover costs. The report acknowledges that phasing out the program could take several years because, for each client, the Department would need to resign its court appointment and have the court accept the resignation, and to ensure continued service to the client, the court would have to appoint a replacement fiduciary. For clients who could not be transferred, the Department could gradually end its fiduciary program through attrition.

Finally, if the Department were terminated, the State would still be required to maintain the veterans' cemetery or repay the federal monies granted to the State to build the cemetery. According to a VA official, when a state accepts a grant from the VA to build such a cemetery, it agrees to maintain that cemetery indefinitely. If the State does not maintain the veterans' cemetery, it is required to repay all of the grant monies the VA provided.

11. The extent to which the level of the regulation exercised by the Department compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

The audit found that the current level of regulation the Department exercises is appropriate. The Department's only regulatory authority is its responsibility as the state approving agency for education and training programs for veterans. Only programs the Department approves can receive federal GI Bill benefits. There are 419 approved education and training programs in Arizona, including programs such as institutes of higher learning, apprenticeships, and flight schools. The VA provides the funding for this regulatory authority, and federal laws govern program administration and establish criteria for evaluating the educational and training programs. According to the National Association for State Approving Agencies, all states have at least one state approving agency.

12. **The extent to which the Department has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.**

The Department has relied on private contractors to provide a variety of services, including some services at the Home and some veterans' benefits-counseling services. Specifically:

- **Veteran Home contracts**—The majority of the Department's contracts are for services at the Home. According to the Department, its largest contract provides rehabilitation services for the Home's residents, such as physical therapy, with projected expenditures totaling \$500,000 in fiscal year 2011. The Department also has contracts for dietary consulting, hospice services, laundry, nursing services, and maintenance at the Home.

Although the Department manages the Home, some states contract with private companies to manage their veterans' homes. Specifically, 9 of the 49 other states auditors reviewed contracted out management of their veterans' homes.¹ For example, Georgia uses a contractor to manage both of its veterans' homes. In addition, according to a North Carolina State Veterans' Home official, a private contractor manages North Carolina's two state veterans' homes.

- **Veterans' benefits-counseling contracts**—As of July 2011, the Department also maintained contracts with three veterans' services organizations for veterans' benefits-counseling services. These contracts totaled \$29,200 for fiscal year 2011 and were part of a line item established in the Department's budget. However, the Legislature eliminated the dedicated funding for these contracts effective in fiscal year 2012. As of July 2011, the Department had yet to determine whether it would maintain these contracts using some of its unallocated State General Fund appropriation.

Six of the other states auditors surveyed maintain contracts with community veterans service organizations to provide benefits claims assistance to veterans.² For example, Michigan does not have state-employed veterans' service officers, but provides grants to five community organizations, such as the American Legion and Veterans of Foreign Wars, to provide these services to veterans. However, a 2001 audit by the Michigan Office of the Auditor General found that, according to a 1999 VA report, Michigan ranked well below the national average in compensation and pension benefits received, as well as percentage of claims filed.

¹ In addition to the 48 other states that auditors surveyed, auditors reviewed the Web site of the Wyoming Veterans' Home.

² Forty-five of the other states that auditors surveyed provided information about whether or not they maintain such contracts.

This audit did not identify any additional areas where the Department should consider using private contractors.

Sunset Factors

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the following factors in determining whether the Arizona Veterans' Service Advisory Commission (Commission) should be continued or terminated.

Because the Commission is established as an advisory commission, some factors do not apply. For the factors that do apply, auditors' analysis of the Commission's performance found that it needed to address one area related to compliance with the State's open meeting laws, which the Commission addressed during the audit.

Commission sunset factor analysis

1. **The objective and purpose in establishing the Commission and the extent to which the objective and purpose are met by private enterprises in other states.**

The Commission was established in 1951 with the authority to act as a guardian for veterans, provide emergency relief to veterans and their dependents, and disseminate information relating to laws beneficial to veterans and their widows and children. In 1999, the Legislature changed the Commission's role by creating the Arizona Department of Veterans' Services (Department), which provides the services the Commission previously provided. The Commission's responsibility is to provide policy advice to the Governor and department director regarding veterans' issues.

According to a department official, some veterans' services organizations, such as the Veterans of Foreign War and the American Legion, have a presence in each state and provide legislative input at the state level when there is an issue that concerns veterans. However, according to this official, the Commission is the only organization outside of the Department that provides actual advice to policymakers on issues important to veterans in the State of Arizona on a regular basis.

2. **The extent to which the Commission has met its statutory objective and purpose and the efficiency with which it has operated.**

The Commission has generally met its statutory objective and purpose to advise the department director and the Governor regarding veterans' issues. Specifically:

- **Advice to department director**—The Commission has frequently provided advice to the department director. The department director or his personal representative regularly attends commission meetings and consults with the Commission regarding policy matters. For example, at the October 14, 2010, commission meeting, the Commission advised the director regarding cemetery-building priorities and suggested a way the Department might obtain federal funding to assist with necessary maintenance at the Veteran Home.
- **Advice to Governor**—The Commission also provides policy advice to the Governor in the form of advocacy letters. The

Commission has a goal to contact the Governor at least once per year, and met this goal in calendar years 2009, 2010, and 2011. For example, in 2009, the Commission advised the Governor to continue department funding, and in 2010 and 2011, the Commission suggested that the Department should have an in-house attorney.

In addition to its advisory responsibilities, the Commission advocates positions that members believe will benefit Arizona veterans. Specifically, the Commission sends advocacy letters to state lawmakers, government officials, and nongovernmental organizations whose decisions and actions affect Arizona veterans. Between May 2009 and October 2010, the Commission issued nine letters that offered policy advice to these types of groups and individuals. For example, the Commission addressed letters to several state legislators encouraging support for two veteran-related bills, including a bill that sought to expand eligibility for assistance from the Military Family Relief Fund. In another letter, the Commission encouraged the U.S. Department of Veterans Affairs (VA) to conduct oversight of the Troops to Teachers program rather than the U.S. Department of Education.

The Commission's activities have had some impact. For example, according to the Commission, in 2005 it recommended that the Governor initiate a Veterans' Task Force to help Arizona lawmakers create a more coordinated approach to addressing veterans' issues in Arizona. Governor Janet Napolitano convened this task force in 2005, and as of July 2011, several of its recommendations had been implemented. For example, according to the Commission, task force recommendations contributed to the Legislature's decisions to provide funding to increase the number of state veterans benefit counselors and to appropriate state matching funds for a second veterans' home in Tucson. The Tucson Home is expected to open in October 2011.

3. The extent to which the Commission serves the entire state rather than specific interests.

The Commission serves veterans throughout the State. It has generally operated within the public interest in three ways. Specifically, the Commission identifies veterans' issues across the State, promotes public awareness of the needs of the military/veteran community, and attempts to resolve the challenges of individual veterans as they are brought to its attention. For example, the Commission maintains a list of the types of veterans' issues raised at commission meetings and makes this information available as a resource to the Governor, department director, and other agencies. In addition, since 2007, the Commission has also tracked the status of unresolved concerns brought to its attention by members of the public who attend its meetings. For example, one attendee indicated that he/she had difficulty obtaining a response from the VA regarding a benefits claim, and another attendee requested that a veterans'

cemetery be built in Yuma. As of August 2010, 13 of the 14 issues that the Commission tracked had been addressed.

4. The extent to which rules adopted by the Commission are consistent with the legislative mandate.

The Commission does not have authority to promulgate rules and regulations.

5. The extent to which the Commission has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Because the Commission does not have the authority to promulgate rules and regulations, input from the public has not been necessary for this purpose.

In compliance with the State's open meeting laws, the Commission posts public meeting notices at least 24 hours in advance on its Web site and at additional locations, and makes agendas available to the public. As of August 2011, the Commission had conspicuously posted a statement on its Web site indicating where all public notices of its meetings will be posted as required by statute.

6. The extent to which the Commission has been able to investigate and resolve complaints that are within its jurisdiction.

The Commission has no authority to investigate complaints.

7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

The Commission's purpose is to act as an advisor to the Governor and the department director. Therefore, it has no regulatory authority and, consequently, no enforcement powers.

8. The extent to which the Commission has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

According to the Commission, it has not proposed any legislation to revise its enabling statutes in the past 5 years.

9. The extent to which changes are necessary in the laws of the Commission to adequately comply with the factors listed in the sunset law.

The audit did not identify any needed changes to the Commission's statutes.

10. The extent to which the termination of the Commission would significantly affect the public health, safety, or welfare.

Terminating the Commission would not significantly affect the public health, safety, or welfare since the Commission primarily provides policy advice to the Governor and the department director on veterans' issues, and the Department could continue to function without the Commission. However, the Commission has fulfilled its statutory responsibility by advising the Governor and the department director on issues facing veterans. These efforts include encouraging the Governor to address critical department budgetary issues, advocating statutory changes, and providing advice to department leadership. Additionally, commission meetings provide a public forum in which veterans can express their views and concerns while members of the veterans' services community exchange knowledge and ideas.

11. The extent to which the level of the regulation exercised by the Commission compares to other states and is appropriate and whether less or more stringent levels of regulation would be appropriate.

This factor does not apply because the Commission has no regulatory authority.

12. The extent to which the Commission has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

Given its advisory role, the Commission has not used the services of private contractors, nor did this review identify a need for the Commission to use private contractors. In addition, the Commission does not receive any funding, so it does not have the resources to pay private contractors.

APPENDIX A

Methodology

This appendix provides information on the methods auditors used to meet the audit objectives.

This audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Auditor General and staff wish to express appreciation to the Arizona Department of Veterans' Services' (Department) Director, staff, and the Arizona Veterans' Service Advisory Commission (Commission) for their cooperation and assistance throughout this audit.

The Department's and Commission's performance was analyzed in accordance with the statutory sunset factors. Prior work on the Department's fiduciary program (see Report No. 11-03), Veteran Home (Report No. 11-06), and the Veterans' Donations and Military Family Relief Funds (Report No. 11-09) provided information for this report. Auditors also reviewed the Department's Web site; guidelines for the Department's veterans' benefits counselors and the Commission; statutes and session laws; a U.S. Supreme Court case related to regulating the solicitation of money by nonprofit organizations; various reports and documents, including department internal audit reports and contracts; various U.S. Department of Veterans Affairs reports; and the *Fiscal Years 2010-2013 Master List of State Government Programs*.¹ Auditors also reviewed statistical and other information from a variety of veterans' organizations' Web sites.²

In addition, auditors interviewed department management and staff, commission members, and a representative of a national association of local government veterans' services employees; observed four commission meetings between May and November 2010; and reviewed all commission meeting minutes between January and November 2010.

Auditors contacted military and veterans services' department staff in 48 other states and reviewed the Web site for the veterans' home in a 49th state, Wyoming, which does not have a veterans' services department, to determine the extent of each state's efforts to privatize services.

To develop the financial table found in the Introduction of this report, auditors gathered and analyzed information about the Department from the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2009 through 2011, and AFIS Management Information System *Status of General Ledger-Trial Balance* screen for fiscal years 2009 through 2011.

Finally, to follow up on the recommendations from the Office of the Auditor General's November 2009 special investigative report, auditors reviewed various samples, including:³

¹ *Riley v. The National Federation of the Blind*, 487 U.S. 781, 108 S.Ct. 2667 (1988).

² Examples of these Web sites included the U.S. Department of Veterans Affairs, Veterans of Foreign Wars, Disabled American Veterans, National Association of County Veterans Service Officers, and National Association of State Approving Agencies.

³ Office of the Auditor General, Special Investigative Unit. (2009). *Arizona Department of Veterans' Services: Misuse of public monies, conflict of interest, and misfeasance by the former director*. Phoenix, AZ: Author.

- A sample of 11 of the 42 employee files for employees who were hired at the Department between January 1 and June 30, 2010, and 1 employee file from employees hired in August 2010, to determine whether the Department used competitive hiring practices and retained appropriate documentation;
- A sample of 20 of the 5,835 expenditures from the Veterans' Home Fund for the period of January 1, 2010 through June 30, 2010, to determine whether the Department appropriately spent these monies and followed applicable procurement laws for these expenditures; and
- A sample of 17 of 182 expenditures from the Veterans' Donations Fund for the period of January 1, 2010 through June 30, 2010, and 1 Veterans' Donations Fund expenditure made in December 2009, to determine whether the expenditures benefited Arizona veterans as required by statute, followed laws governing use of public monies, and followed department procedures. The sample was also reviewed to determine whether the Department sought legal advice for significant expenditures.

AGENCY RESPONSE

JANICE K. BREWER
GOVERNOR



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September 20, 2011

Debra K. Davenport, Auditor General
Office of the Auditor General
State of Arizona Office of the Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

Dear Ms. Davenport:

This is the Arizona Department of Veterans' Service (ADVS) reply to the sunset audit of the Department. The department concurs with the ultimate conclusion that the Department meets its statutory objectives and purpose, and that termination would negatively impact the vast majority of the nearly 600,000 veterans, their spouses, and dependants throughout Arizona. The department appreciates your review's recognition of our progress over the past few years. The sunset review and performance audits will be helpful tools as the department continues its mission to enrich and honor Arizona's veterans, spouses, and dependants through education, advocacy, and service.

In Reference to Sunset Factor #2 "Regularly review benefits counselor activities", the department agrees to review its procedures of conducting audits of its benefits counselors, conduct the required audits and address deficiencies identified. The Department also agrees with the Auditor General that should it continue to contract with veterans' service organizations for benefits counseling services the department will establish reporting requirements and ensure that contracted organizations provide the financial information required by the contracts.

The department, having replied to the recommendations in the recent performance audit Auditor General Report No.11-06 of the State Veteran Home will not be readdressing those recommendations in this reply. However, concerning report No.11-03, the Fiduciary Program, the Department is proud to point out that since the release of the Fiduciary Performance report, the Department had a status conference in Probate Court on September 1, 2011 (PB 2010-000055) wherein the court finding was as follows:

"THE COURT FINDS that ADVS has made significant improvements in fixing compliance issues since March 16, 2010."

The court informed the Department that it intends to terminate Fiduciary Division probation on November 16, 2011.

As stated in The Department's reply to the Auditors performance report No. 11-09 regarding the Veterans Donation Fund and Military Family Relief Fund, although the auditor did not find clear documentation that several expenditures from the donations fund benefited Arizona veterans, the Department maintains that each indeed did benefit Arizona veterans. For example, because of the use of the donations fund there are now existing veterans' diversion courts in Phoenix and Tucson.

The Department recognizes the statewide need of veterans and looks forward to continuing to work to address their unmet needs, and welcomes future opportunities to work with the members of the Arizona Legislature in regards to the Auditor's recommendations.

Sincerely,

Joey Strickland
Director

Performance Audit Division reports issued within the last 24 months

09-09	Arizona Department of Juvenile Corrections—Suicide Prevention and Violence and Abuse Reduction Efforts	10-L1	Office of Pest Management—Regulation
09-10	Arizona Department of Juvenile Corrections—Sunset Factors	10-09	Arizona Sports and Tourism Authority
09-11	Department of Health Services—Sunset Factors	11-01	Department of Public Safety—Followup on Specific Recommendations from Previous Audits and Sunset Factors
10-01	Office of Pest Management—Restructuring	11-02	Arizona State Board of Nursing
10-02	Department of Public Safety—Photo Enforcement Program	11-03	Arizona Department of Veterans' Services—Fiduciary Program
10-03	Arizona State Lottery Commission and Arizona State Lottery	11-04	Arizona Medical Board
10-04	Department of Agriculture—Food Safety and Quality Assurance Inspection Programs	11-05	Pinal County Transportation Excise Tax
10-05	Arizona Department of Housing	11-06	Arizona Department of Veterans' Services—Veteran Home
10-06	Board of Chiropractic Examiners	11-07	Department of Corrections—Oversight of Security Operations
10-07	Arizona Department of Agriculture—Sunset Factors	11-08	Department of Corrections—Sunset Factors
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Future Performance Audit Division reports

Arizona Board of Regents—Tuition Setting for Arizona Universities

Arizona Board of Regents—Sunset Factors

