



# ARIZONA REGISTRAR OF CONTRACTORS



1700 W. Washington St. Suite 105 • Phoenix AZ 85007-2812 • 602-542-1525 • AZ Toll Free 877-692-9762 • Fax 602-542-1599

Janice Brewer, Governor

William A. Mundell, Director

7/15/2013

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

Dear Ms. Davenport:

Please find the Registrar of Contractor's response to your agency's performance audit and sunset review. The Registrar of Contractors appreciates the diligence and hard work of the Auditor General's staff in completing this performance audit, as well as their consideration of agency feedback throughout the audit process.

**Finding 1:** ROC should consistently ensure that complaints are adequately resolved

***Response:** Finding 1 states that the ROC should ensure that complaints are adequately resolved prior to closing them. The audit recognizes that since at least 1988, the ROC has used a unique complaint resolution process where unlike other regulatory agencies the complainant often acts as the moving party, rather than the agency. As discussed in the audit, the ROC allows a complainant to close their case for reasons such as the issues having been resolved, having received a monetary settlement, or having received a promise to complete repairs. Regardless of the reasons, it is important to recognize that complaints were closed after the person who filed the complaint showed a desire to discontinue the case.*

*The agency agrees that improvements can be made in the complaint-handling process. The agency also believes this audit contains good recommendations for continual improvement.*

**Recommendations:**

1.1 The ROC should develop and implement policies and procedures to better ensure that complaints are adequately addressed prior to closing them. These policies and procedures should:

- a. Specify under what circumstances complaints should be closed based on written documentation from the contractor or complainant and/or verbal statements by the complainant indicating that corrective action had been taken;

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

- b. Specify under what circumstances complaints should not be closed until ROC inspectors conduct follow-up inspections to verify that work has been properly completed; and

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

c. Specify the steps the ROC will take if corrective action was not properly completed.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

1.2 The ROC should develop and implement policies and procedures to guide its use of consent agreements to discipline licensed contractors when appropriate. These policies and procedures should:

a. Consider not only the nature of the violation and/or the repeat nature of the violation, but also mitigating and aggravating factors, such as whether the licensed contractor addressed workmanship problems in a timely manner; and

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Specify that if licensed contractors who have substantiated violations decide not to enter into a consent agreement, the ROC should proceed with its complaint-handling process by referring these cases to OAH.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

1.3 The ROC should develop and implement policies and procedures for escalating discipline for contractors with prior complaints that resulted in substantiated violations, to ensure that licensees with multiple substantiated complaints or a history of substantiated complaints receive appropriate discipline.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

1.4 The ROC should develop and implement guidelines for determining whether complaints received fall within the statutory 2-year time limit for ROC jurisdiction.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

**Finding 2:** ROC should streamline complaint-resolution process

***Response:** Finding 2 recommends the agency streamline the complaint-resolution process. The agency agrees that speeding up the complaint-resolution process is a vital goal. The agency has been making improvements in the complaint resolution process for several years. For example:*

<i>Measure</i>	<i>Reference in Audit (FY 2011)</i>	<i>Most Recent 6 Months</i>
<i>Imposing Discipline</i>	<i>148 days (1 case)</i>	<i>48 days (median of 286 cases)</i>
<i>Issuing Citation</i>	<i>68-129 days (7 cases)</i>	<i>44 days (median of 286 cases)</i>

*While the significant progress has been made, the agency believes even the current timeframes can be reduced by implementing additional changes such as those discussed in this audit.*

Recommendations:

2.1 The ROC should expedite complaint resolution by encouraging contractors to address concerns more quickly. Specifically, the ROC should:

- a. Request a statutory change that would allow it to charge fees to cover the costs of processing the complaint if poor workmanship is not repaired prior to issuing a citation;

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

- b. Develop and implement a mechanism to identify and track costs associated with processing specific complaints if statute is changed to give the ROC permission to charge these costs to contractors; and

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

- c. Charge licensed contractors who are found to have committed a violation the costs for processing valid complaints if statute is changed to give the ROC permission to do so.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2.2 The ROC should use complaint-management reports from its data system, develop and implement new reports, or develop and implement other mechanisms, as appropriate, to track and monitor open complaints.

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2.3 The ROC should develop and implement time frames for resolving complaints and for completing the key steps in its complaint-handling process. The time frames that the ROC should develop and implement include, but should not be limited to:

- a. Time frames for issuing citations;

***Response:** The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Time frames for issuing suspensions or revocation orders in cases where contractors do not respond to citations; and

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2.4 The ROC should modify its complaint-handling process to help ensure complaints are resolved within the time frame it establishes.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2.5 The ROC should develop and implement policies and procedures to ensure that licensee discipline is entered into its data system in a timely manner.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

**Finding 3:** Problems with data system hamper ROC's ability to perform core functions

***Response:*** *Finding 3 discusses the agency computer system known as ROCIMS. During the past several years the agency has worked diligently to resolve various issues with ROCIMS. These efforts have resulted in (a) failed attempts, (b) new, unanticipated problems, and (c) relatively minimal efficiency gains for the effort put forth. In light of this experience, the agency has concluded that additional efforts to fix ROCIMS would be an inefficient use of agency resources.*

**Recommendations:**

3.1 Regardless of whether the ROC decides to correct or replace ROCIMS, it should:

a. Continue with its efforts to fix the incorrect data in ROCIMS;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Provide training on data correction efforts and allocate time for its staff to identify and update all records that are incorrect;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

c. Test to ensure that the data has been corrected; and

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

d. Develop and implement practices to ensure that the data remains accurate and complete.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

3.2 To ensure that its business practices are aligned efficiently with ROCIMS or a replacement system, the ROC should:

a. Analyze and document its applicable business practices;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Where appropriate, redesign its business practices to most efficiently meet its operational requirements and align applicable forms and business procedures with ROCIMS or a replacement system;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

c. Develop and implement policies and procedures to document any revised business practices; and

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

d. Communicate the changes to appropriate staff, including providing training where needed.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

3.3 To better ensure that its staff understand and are able to use and maintain ROCIMS or a replacement system, the ROC should provide its staff with training relevant to their use of and responsibilities for the system by:

a. Developing a training plan for system users and IT staff that includes who will be trained and what they will be taught, and when training will occur;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Training staff according to the plan;

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

c. Training new staff as they begin using the system; and

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

d. Providing training to address changes to the system as it occurs.

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

3.4 Regardless of whether the ROC decides to correct or replace ROCIMS, to ensure that its system is appropriately managed and maintained, the ROC should:

a. Improve project planning and oversight by developing, implementing, and periodically updating a project management plan;

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

b. Develop and implement a systematic, accountable, and documented process for testing and applying updates; and

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

c. Install updates after they have been properly evaluated and tested.

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

3.5 To better ensure the security of information within ROCIMS or a replacement system, the ROC should plan for, incorporate, and use appropriate security controls.

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

3.6 If the ROC replaces ROCIMS with a new system, it should follow the formal system development lifecycle methodology that it adopted during the course of the audit.

*Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

## **Sunset Factors: #2.**

### **Recommendations:**

2a The ROC should develop and implement policies and procedures to refund fees to applicants whose licenses were issued or denied outside of the ROC's 60-day time frame.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2b The ROC should work with its Attorney General representative to determine whether it needs to refund fees to applicants from previous years whose licenses were issued or denied outside of the time frame.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

*Where an application is not acted upon within 60 days, A.R.S. § 41-1077 requires the agency “refund to the applicant all fees charged for reviewing and acting on the application for the license.” These fees are commonly known as “application fees.” Application fees are commonly understood to be distinct from “license fees.” The one pays for processing the application and the other pays for the actual license. Unfortunately, ROC statutes do not clearly distinguish between application fees and license fees. A.R.S. § 32-1126 subsection (A) begins by stating the “**license fees** prescribed by this chapter shall be...” (emphasis added). In listing the specific fees, subsection (A), paragraph (1) then states “**application fees** for an original biennial license” (emphasis added). Only one fee amount is listed, not separate “application fees” and “license fees.” Consequently, statute does not clearly distinguish between application and license fees. Rule does not clarify the fee amount, but furthers the same confusion. Without clarity, for example, the agency is unsure whether the entire \$890 charged for a general commercial contracting license is the license fee, or what portion of this amount is the application fee. If the entire amount is a license fee, no refund would be required by statute. If a portion of the amount is an application fee, only that portion would be required to be refunded. The agency agrees that guidance from its attorney general may add some clarity to this issue.*

2c The ROC should develop and implement a method for providing additional complaint information to the public including information about the type of complaint and how the ROC resolved the complaint.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

2d The ROC should develop and implement policies and procedures to guide the ROC’s call center customer service representatives in providing information to the public.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

9a The ROC should seek a statutory change that would allow exceptions, such as for situations in which homeowner safety is at risk or the contractor has already gone out of business, that will enable it to better protect the public.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

*The agency sought this narrow health/safety exemption during the Fifty-first Legislature, First Regular Session (2013), but this language was removed from and not included in the final version of House Bill 2176.*

9b The ROC should seek a statutory change to modify the statute that limits the Recovery Fund's administrative expenses from 10 percent of the fund balance to 14 percent of the prior year revenues.

***Response:*** *The finding of the Auditor General is agreed to and the audit recommendation will be implemented.*

On behalf of the Registrar of Contractors, I thank you and your staff for their professionalism during the audit process.

Sincerely,

William Mundell, Director  
Registrar of Contractors