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December 30, 2015

The Honorable Judy Burges, Chair
Joint Legislative Audit Committee

The Honorable John Allen, Vice Chair
Joint Legislative Audit Committee

Dear Senator Burges and Representative Allen:

Our Office has recently completed an initial followup of the Arizona Office of Administrative Hearings regarding the implementation status of the 16 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in September 2014 (Auditor General Report No. 14-104). As the attached grid indicates:

- 8 have been implemented, and
- 8 are in the process of being implemented.

Our Office will conduct a 24-month followup with the Arizona Office of Administrative Hearings on the status of those recommendations that have not yet been fully implemented.

Sincerely,

Dale Chapman, Director
Performance Audit Division

DC:ss
Attachment

cc: Gregory Hanchett, Director
Arizona Office of Administrative Hearings

Arizona Office of Administrative Hearings

Auditor General Report No. 14-104

Initial Follow-Up Report

Recommendation	Status/Additional Explanation
Finding 1: Office should enhance controls for ensuring fair, independent, and timely hearings	
<p>1.1 To further enhance its policies and procedures for ensuring that it provides fair and independent hearings, the Office should:</p> <ul style="list-style-type: none"> a. Develop and implement written policies and procedures for: <ul style="list-style-type: none"> o Periodically analyzing agencies' responses to hearing decisions to identify trends in judge error or bias that might warrant further review and/or action; o Providing additional guidance on judges' ethical behavior to include conflicts of interest, participation in outside activities, and other activities the NAALJ model code of ethics covers that are relevant to the Office's judges; and o All informal procedures it has established, such as informing hearing participants that they have the right to appeal a decision. b. Add evaluation questions relating to decision fairness, clarity, and timeliness; review the timing of when it solicits evaluation feedback; and consider developing an electronic evaluation that either supplements or replaces the paper evaluation. 	<p>Implemented at 12 months</p> <p>Implemented at 12 months</p>
<p>1.2 To comply with A.R.S. §41-1092.01, the Office should develop and implement formal training programs for agencies and its judges. These training programs should:</p> <ul style="list-style-type: none"> a. Include topics related to ensuring fair and independent hearings; b. Include policies for judge training that specify minimum training requirements, guidelines for appropriate training received from outside sources, and procedures for ensuring that judges receive the required training; and c. Identify potential training topics for judges based on information obtained through some of its oversight and feedback procedures, such as supervisory review of judges, external feedback on the Office's performance, and review of agency responses to judges' decisions. 	<p>Implemented at 12 months</p> <p>Implemented at 12 months</p> <p>Implemented at 12 months</p>

Recommendation

Status/Additional Explanation

1.3 To ensure that it complies with statutory time frames for holding hearings, the Office should schedule hearings more than 60 days after the hearing request only when it receives documentation showing that all case parties have agreed to a later date, unless a party shows good cause for a postponement or in cases where it has held a prehearing conference, and it should make such decisions on a case-by-case basis. The Office should also use its case management system to track cases that exceed the 60-day requirement and the reasons for the exceedances. Additionally, in order to ensure that nonagency parties do not face undue or unfair burdens, the Office should pay particular attention to meeting the 60-day requirement in cases involving appealable agency actions.

Implemented at 12 months

Although auditors reported that several Arizona Health Care Cost Containment System (AHCCCS) cases exceeded the 60-day requirement, while conducting work for this followup, auditors determined that A.R.S. §36-2903.01 exempts AHCCCS cases from the 60-day requirement. As a result, this recommendation does not apply to AHCCCS cases.

Finding 2: Office should align rate-setting method with best practices

2.1 To further align its rate-setting method with best practices, the Office should develop and implement a cost-based rate-setting method that sets rates for at least 1 year at a time. In developing the method, the Office should:

- a. Examine the appropriate allocation of direct and indirect costs to its rates;
- b. Develop rates using average costs;
- c. Set its rates high enough to generate sufficient revenues during periods of high demand to build up enough cash reserves to covers its expenditures during periods of low demand; and
- d. Continue seeking to reduce costs as much as possible.

Implemented at 12 months

Implementation in process

The Office is in the process of implementing new rates for fiscal year 2016 based on the prior year's average costs. It believes these new rates will result in more equitable charges to agencies. Auditors will follow up at 24 months to determine if the revised rates are more equitably covering its costs.

Implementation in process

The Office is in the process of implementing new rates for fiscal year 2016 (see recommendation 2.1b). Auditors will follow up at 24 months to determine if the new rates generate sufficient revenues during periods of high demand to build up enough cash reserves to covers its expenditures during periods of low demand.

Implementation in process

The Office has implemented some changes that allowed it to reduce costs. For example, it eliminated two administrative law judge positions and is working to eliminate office space that is vacant. It also reported that it will continue to look for other ways to reduce costs. Auditors will follow up at 24 months to determine if the Office has further reduced its costs.

Recommendation

Status/Additional Explanation

2.2 To ensure a consistent rate-setting method, the Office should develop and implement formal, written rate-setting policies and procedures that include a requirement and procedures for the periodic review of rates. Additionally, when developing these policies and procedures, the Office should solicit input from agencies and publicize its policies, procedures, and rates on its Web site.

Implementation in process

The Office has drafted some rate-setting policies and procedures and publicized these draft policies and procedures on its Web site. However, the draft policies and procedures do not include specific guidance for its staff regarding rate-setting, such as what documents should be prepared during monthly billing cycles and where information should be obtained to appropriately prepare billings, and the Office has yet to solicit input from agencies regarding the draft policies and procedures.

2.3 To address the State General Fund appropriation shortfall, the Office should:

a. Develop and implement written policies and procedures to periodically review the funding status of agencies. The Office should design its policies and procedures to allow it to identify any agencies it has been treating as State General Fund-supported agencies that may no longer receive State General Fund support and to negotiate inter-agency service agreements with them if it determines it has the authority to do so;

Implemented at 12 months

b. Once it has implemented a cost-based rate-setting method and can more accurately quantify the cost of services it provides to agencies the State General Fund supports, work with the Legislature to clarify how the Office should make up any continued shortfall between its State General Fund appropriation and the cost of services it provides to agencies the State General Fund supports; and

Implementation in process

Although the Office has taken steps to work with the Legislature to address the shortfall in its State General Fund appropriation, it has yet to collect sufficient data to accurately quantify the costs of services it provides to agencies the State General Fund supports and determine the extent of the shortfall.

c. Work with the Arizona Department of Fire, Building and Life Safety to ensure that its fee for condominium and planned community association hearings is sufficient to cover the cost of services the Office bills, or work with the Legislature to change the way the fee for these hearings is determined.

Implementation in process

The Office worked with the Arizona Department of Fire, Building and Life Safety to increase the fee for condominium and planned community association hearings from \$550 to \$750. However, the Office reported that this new fee is still not sufficient to cover the Office's costs and that the Office will continue to work with the Arizona Department of Fire, Building and Life Safety to further increase the fee. The Office also proposed legislation to allow it to set the filing fee for these cases, but this legislation did not pass.

Recommendation**Status/Additional Explanation****Sunset Factor #2: The extent to which the Office has met its statutory objective and purpose and the efficiency with which it has operated.**

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1. The Office should continue implementing its revised cash-handling and disbursement procedures and its new policy for employee use of purchasing cards.

Implementation in process

The Office has implemented policies and procedures for cash-handling and disbursement and employee use of purchasing cards. Generally, the Office has followed its new policies and procedures; however, in August 2015, the State implemented a new accounting system. The Office will need to update its policies and procedures to reflect the changes in the new accounting system. Therefore, auditors will follow up at 24 months to determine if the Office has implemented revised policies and procedures.

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2. The Office should develop and implement policies and procedures to guide its procurement activities to help ensure these activities comply with procurement laws and regulations.

Implementation in process

The Office has developed procurement policies and procedures that are generally appropriate; however, since the audit was issued, it has not conducted a competitive procurement process and instead has primarily used state-contracted vendors. Consequently, auditors were unable to assess the Office's implementation of and compliance with its policies and procedures. Therefore, auditors will follow up at 24 months to assess the Office's compliance with its procurement policies and procedures.
