



A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Sunset Review

Arizona Department of Transportation—

Sunset Factors

JULY • 2007
REPORT NO. 07-04



Debra K. Davenport
Auditor General

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AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

July 18, 2007

Members of the Arizona Legislature

The Honorable Janet Napolitano, Governor

Mr. Victor Mendez, Director
Arizona Department of Transportation

Transmitted herewith is a report of the Auditor General, a Sunset Review of the Arizona Department of Transportation (ADOT). This report is in response to a May 22, 2006, 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.

Included with this report is a written response from ADOT.

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

This report will be released to the public on July 19, 2007.

Sincerely,

Debbie Davenport
Auditor General

Enclosure

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INTRODUCTION & BACKGROUND

The Office of the Auditor General has conducted a review of the Arizona Department of Transportation (ADOT) using the 12 criteria in Arizona's sunset law. The analysis of the 12 sunset factors was conducted pursuant to a May 22, 2006, resolution of the Joint Legislative Audit Committee and prepared as part of the sunset review set forth in Arizona Revised Statutes (A.R.S.) §41-2951 et seq.

This sunset review is the last in a series of three reports on ADOT. The other two reports were performance audits on aspects of construction management and the highway maintenance program. ADOT's Motor Vehicle Division (MVD) has its own sunset date and was separately reviewed through three other audits (see Auditor General Report Nos. 04-09, 04-10, and 04-11).

Organization

By statute, ADOT is divided into six divisions. As of December 27, 2006, ADOT reported that it had 4,691 FTEs, of which 138 positions were vacant.

- **Intermodal Transportation (2,223 FTEs, 89 vacancies)**—This division is responsible for constructing, maintaining, and operating all state-owned highways, including interstates and U.S. routes.
- **Motor Vehicles (1,730 FTEs, 19 vacancies)**—MVD provides various services to the public, including issuing driver's licenses, vehicle registrations, and vehicle titles. MVD oversees private third-party providers of MVD services, including ServiceArizona, which provides MVD's customers a convenient way to complete a wide array of services, primarily through the Internet. In addition, MVD is responsible for motor carrier and tax services, including collecting gasoline and use fuel taxes, accounting for and distributing the Highway User Revenue Fund (HURF) and other related revenues, and registering interstate motor carriers. MVD is also responsible for enforcing transportation-related laws and regulations at port-of-entry checkpoints at Arizona's borders and at mobile checkpoints.

- **Administration (659 FTEs, 19 vacancies)**—This area consists of four groups that provide administrative support services for the other divisions. Specifically:
 - **Transportation Services Group (643 FTEs, 18 vacancies)**—This group includes units responsible for audit and analysis, civil rights, equipment services, financial management, human resources, organization and employee development, procurement, information technology, the *Arizona Highways* magazine, physical plant operations, and health and safety.
 - **Communication and Community Partnerships (13 FTEs, 1 vacancy)**—This group is responsible for government relations, building partnerships, the Adopt-a-Highway litter control program, and for providing various forms of media and public communication services.
 - **Office of the Inspector General (OIG) (1 FTE, 0 vacancies)**—This group was established in 2004 by Executive Order No. 2004-23. This Order requires the OIG to conduct case investigations and audits designed to prevent and deter fraud, abuse, and misconduct in ADOT programs; evaluate the effectiveness and adequacy of program safeguards and controls; make recommendations to ADOT's Director and the Governor's Office on ways to strengthen and improve program procedures and operations; and coordinate with law enforcement agencies and the Governor's Office of Homeland Security. According to ADOT officials, the current Inspector General will retire at the end of June 2007, and the position is under review to determine whether it will be retained or abolished.
 - **Policy and Government Affairs (2 FTEs, 0 vacancies)**—This group was recently formed, according to ADOT officials, and its exact duties are still being defined. At this time, its main duties will be to research and coordinate policy issues impacting the agency; manage local, state, federal, and international government relations; assist with inter-agency coordination; and serve as the primary liaison for the State Transportation Board and the 5-year planning process.
- **Transportation Planning (42 FTEs, 8 vacancies)**—This division is responsible for providing research, plans, and programs to help identify current significant transportation issues in Arizona as well as improve existing systems. According to ADOT, the division is also responsible for developing the 5-Year Transportation Facilities Construction Program.
- **Aeronautics (33 FTEs, 4 vacancies)**—This division administers state monies and accepts federal monies available for airport improvement projects, and produces an annual 5-Year Airport Development Program. The Division licenses aircraft dealers and registers nonairline aircraft within the State. The Division also oversees the administration and operation of the state-owned Grand Canyon National Park Airport and provides other services to encourage and advance the safe and orderly development of aviation in Arizona.

- **Public Transportation Division (4 FTEs, 1 vacancy)**—This division administers several Federal Transit Administration grant programs, provides technical assistance and expertise to local transit agencies and decision-makers, coordinates and funds state transit and rail planning efforts, and sets and monitors light rail system safety standards.

In addition, the State Transportation Board, which comprises seven governor appointees (see textbox), has significant responsibility for the State's transportation system and serves in an advisory capacity to the ADOT Director. The Board is required to develop and adopt a state-wide transportation policy and adopt a long-range plan. In addition, the Board is charged with adopting uniform transportation planning practices, transportation system performance measures, and data collection standards for data collected to report system performance measures. Further, the Board has authority to designate which state routes are included within the state highway system, award construction contracts for transportation facilities, monitor the status of construction projects, and establish policies to guide the development or modification of ADOT's 5-Year Transportation Facilities Construction Program. Finally, the Board has exclusive authority for issuing revenue bonds for financing transportation improvements throughout the State.

State Transportation Board:

- State divided into six transportation districts composed of one to four counties.
- One member appointed per district for a 6-year term, except districts with 2,200,000 or more population have two members appointed (currently only one district with two members).
- Appointees must have been a resident and taxpayer of the county from which they are appointed for at least 5 years prior to their appointment.
- Districts with more than one county will have the appointment rotated among counties.

Source: A.R.S. §§28-301 and 28-302.

Operating budget

ADOT's operating budget, excluding MVD, is an estimated \$340 million for fiscal year 2007 and consists mostly of revenues from the State Highway Fund, as shown in Table 1 (see page 4). ADOT's largest category of operating budget expenditures is employee salaries and benefits, which are expected to total approximately \$181.5 million in fiscal year 2007. The second largest category is other operating expenses, which include various costs such as payments for utilities, traffic control, and maintenance of highways and other state transportation system components. In addition to monies from state and federal sources, ADOT received \$5.9 million in fiscal years 2006 and 2007 from the Maricopa County half-cent transportation excise tax to assist in providing landscape maintenance and litter pickup of the regional freeway system in Maricopa County.¹ ADOT's operating budget does not include monies available for debt service payments or capital expenditures, such as costs of highway construction projects, in the 5-Year Transportation Facilities Construction Program. In addition to its operating budget, for fiscal year 2007, ADOT had \$435.8 million in other nonappropriated monies and \$445.9 million in federal monies.

¹ The Maricopa Association of Governments (MAG) approved \$5.9 million per year, but according to ADOT management, \$200,000 from each year's allocation was returned to MAG for a litter prevention and education program. The remaining \$5.7 million was provided to the Intermodal Transportation Division for regional landscape maintenance, litter control, and sweeping on state highways in Maricopa County.

Table 1: Schedule of Operating Revenues and Expenditures, in Thousands¹
Fiscal Years 2005, 2006, and 2007
(Unaudited)

	2005 (Actual)	2006 (Actual)	2007 (Estimate)
Revenues:			
Appropriations ²			
State Highway Fund	\$261,938.5	\$277,690.6	\$292,277.5
Transportation Department Equipment Fund	34,004.7	35,845.5	38,526.8
State Aviation Fund	1,967.0	2,057.8	2,188.8
Safety Enforcement and Transportation Infrastructure Fund	558.7	558.7	558.7
State General Fund	71.7	76.4	82.9
Transportation excise taxes ³		<u>5,900.0</u>	<u>5,900.0</u>
Total revenues	<u>298,540.6</u>	<u>322,129.0</u>	<u>339,534.7</u>
Expenditures and operating transfers:			
Personal services and related benefits	144,607.6	153,842.2	181,500.8
Professional and outside services	9,869.9	8,853.9	6,909.0
Travel	2,288.0	2,200.4	2,919.8
Other operating ⁴	120,580.6	132,148.4	137,271.2
Equipment	<u>20,975.7</u>	<u>19,684.5</u>	<u>14,296.1</u>
Total expenditures	298,321.8	316,729.4	342,896.9
Operating transfers out ⁵		<u>200.0</u>	<u>200.0</u>
Total expenditures and operating transfers out	<u>\$298,321.8</u>	<u>\$316,929.4</u>	<u>\$343,096.9</u>
Excess (deficiency) of revenues over expenditures and operating transfers out ⁶	<u>\$ 218.8</u>	<u>\$ 5,199.6</u>	<u>\$ (3,562.2)</u>

¹ This table only includes ADOT's operating revenues and expenditures. Consequently, the table does not include debt service payments or capital expenditures such as costs of construction projects included in ADOT's 5-year construction program. It also does not include financial activity of the Motor Vehicle Division (MVD) because MVD was not within the scope of ADOT's sunset review. MVD has a separate sunset review date. In addition, it is presented on a budgetary basis in which expenditures are reported in the budget year incurred.

² Consists of that portion of ADOT's appropriations from each of the listed funds that are used to pay for its operations. These appropriations primarily consist of monies collected from motor vehicle and fuel taxes, charges for services, and licenses and permit fees.

³ Consists of monies from the special half-cent transportation excise tax authorized by voters as Proposition 400 in November 2004, which is allocated by the Maricopa Association of Governments (MAG) for department operations.

⁴ Consists of various costs such as insurance, motor vehicle fuel and parts, telecommunication costs, utilities, landscaping, cable barrier and guardrail repair, rest area maintenance, traffic control, building and land rental, general repair and maintenance, and materials.

⁵ MAG approved \$5.9 million per year (see footnote 3), but according to ADOT management, \$200,000 from each year's allocation was returned to MAG for a litter prevention and education program. The remaining \$5.7 million was provided to the Intermodal Transportation Division for regional landscape maintenance, litter control, and sweeping on state highways in Maricopa County.

⁶ The estimated deficiency of revenues over expenditures for fiscal year 2007 will be funded with unexpended proposition 400 monies carried forward from fiscal year 2006.

Source: Auditor General staff analysis of financial information provided by ADOT for fiscal years 2005, 2006, and 2007.

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Scope and methodology

ADOT's performance was analyzed in accordance with the 12 statutory sunset factors and excluded MVD, which received a sunset review in 2004. Audit work in the following areas provided a basis for response to the sunset factors:

- Aspects of Construction Management (Auditor General Report No. 06-05).
- Highway Maintenance (Auditor General Report No. 07-03).

This report also includes unaudited information obtained from ADOT officials, the Governor's Regulatory Review Council, the Secretary of State, the Office of the Attorney General, the Federal Highway Administration Highway Statistics reports, and ADOT's Web site. Auditors also reviewed applicable state and federal laws and regulations.

The audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to ADOT's Director and staff for their cooperation and assistance throughout the audit.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether ADOT, excluding MVD, should be continued or terminated. The two performance audits identified areas where ADOT has operated effectively and efficiently, as well as opportunities for ADOT to improve operations.

1. The objective and purpose in establishing ADOT.

ADOT was organized in 1974 by combining the Arizona State Highway Department and the Arizona Department of Aeronautics.

ADOT's mission is:

"To provide products and services for a safe, efficient, cost-effective transportation system that links Arizona to the global economy, promotes economic prosperity and demonstrates respect for Arizona's environment and quality of life."

Statutes outline ADOT's main duties, excluding those related to MVD:

- Conduct state-wide transportation system planning, cooperate and coordinate planning with local governments, and establish an annually updated priority program of transportation systems improvements;
- Design and construct transportation facilities in accordance with a priority plan and maintain and operate state highways, state-owned airports, and state public transportation systems;
- Investigate new transportation systems and cooperate with and advise local governments in the development and operation of public transit systems; and
- Administer and implement transportation safety programs in accordance with law.

2. The effectiveness with which ADOT has met its objectives and purposes and the efficiency with which the agency has operated.

ADOT generally operates effectively and efficiently in performing its functions. As of 2005 (most recent available data), ADOT was responsible for 18,503 travel lane miles of roadway, according to the Federal Highway Administration's Highway Statistics report, which was an increase of approximately 8 percent in the number of travel lane miles since 1996. Most of the growth came from lanes added to increase existing road capacity. The state highway system includes interstate highways, U.S. routes, and state routes. ADOT's infrastructure assets, which include bridges as well as roads, were valued at more than \$9 billion in ADOT's 2006 *Comprehensive Annual Financial Report*. According to ADOT, it has accelerated its progress in developing the Maricopa County Regional Freeway system and in 2000 changed the urban freeway construction schedule from 14 to 7½ years, which is now mostly completed. ADOT uses contractors for building highways and employs field inspectors and independent quality assurance inspectors to verify construction quality and compliance with specifications. Finally, ADOT regularly measures pavement smoothness and road quality factors, and overall, these measures showed that Arizona's highway system was in good condition as of 2005 (most recent data available) and had improved since 1995.

Auditors found that ADOT can operate more effectively and efficiently in some areas. For example:

- ADOT Highway Maintenance (Auditor General Report No. 07-03)—To better ensure that the life expectancy, operational efficiency, appearance, and safety of the state highway system are maximized, the Division should develop and implement a more systematic approach for identifying and addressing maintenance needs. It should establish frequency schedules for various maintenance activities, identify all needed maintenance state-wide, and estimate monies and resources required to perform the needed state-wide maintenance. Further, it should provide a prioritization method to ensure that the most important and cost-effective maintenance is performed within resource constraints and provide a systematic method for allocating resources to meet maintenance needs.
- ADOT Aspects of Construction Management (Auditor General Report No. 06-05)—ADOT should optimize its internal resources to reduce consultant usage when appropriate during completion of project design, construction management, and other similar functions. Making greater use of internal resources would help to reduce costs and maintain employee core competency levels. In addition, to better ensure that contractors meet construction standards, ADOT should take steps to improve consistency, documentation, and followup on its inspections.

Finally, ADOT was not completing enough audits of highway design and construction contracts, and was not issuing reports in a timely manner. ADOT reported in January 2007 that it had implemented or was in process of implementing all recommendations made in this audit.

3. The extent to which ADOT has operated within the public interest.

ADOT has operated within the public interest by planning, designing, constructing, and maintaining a state-wide transportation system. According to data from the Federal Highway Administration's Highway Statistics reports, travel lane miles in the highway system increased from 17,407 in 2000 to 18,503 in 2005. In addition, the percentage of roadway miles in good or satisfactory condition, based on measures collected by ADOT, was higher in 2005 than in 1995. ADOT operates a 24-hour Traffic Operations Center and Freeway Management System to help manage congestion on urban freeways and to inform motorists of highway conditions throughout the State.

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

ADOT has an extensive list of administrative codes in Title 17 of the Arizona Administrative Code, which contains rules and regulations for various divisions throughout the agency. In accordance with A.R.S. §41-1056, ADOT reviews its promulgated rules every 5 years to assess consistency with statute.

However, according to the staff of the Governor's Regulatory Review Council (GRRC), ADOT has not promulgated all rules required by 12 statutes. According to ADOT, one of these statutes, A.R.S. §28-1802, is obsolete, and a bill will be introduced in the 2008 legislative session to repeal it. The statute requires the Vehicle Equipment Safety Commission to adopt rules. Another example of a statute where a rule is required but has not been promulgated is A.R.S. §28-367, which requires that the ADOT Director make rules for the application and expenditure of all public transit monies.

In addition, GRRC staff identified nine statutes with discretionary language that allow ADOT to adopt rules as ADOT considers appropriate. ADOT reported that it has initiated the rule-making process for one of these statutes, A.R.S. §28-455(C)(14)(f), which pertains to disclosure of personal information.

5. The extent to which ADOT 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.

ADOT uses several avenues to keep the public informed of its actions. It follows statutory requirements for notifying the public, accepting written comments, and holding oral proceedings.

The State Transportation Board initiates numerous efforts to inform the public of its intentions, and to obtain input prior to final adoption of the 5-Year Transportation Facilities Construction Program, by holding:

- Public monthly State Transportation Board meetings at different locations throughout the State.
- Focus sessions with local government officials to discuss the 5-year program and the Long Range Transportation Plan and to obtain input on regional transportation issues.
- Formal public hearings each year in Tucson, Flagstaff, and Phoenix regarding the proposed 5-year program.

During the audit, ADOT took steps to improve compliance with the Open Meeting Law by providing proper notification to the Secretary of State about where public meeting notices are posted as required by A.R.S. §38-431.02(A)(1). Auditors initially found that three of seven public bodies associated with ADOT and within this audit scope had filed proper notices with the Secretary of State. Three public bodies, the State Transportation Board, the Transportation Enhancement Review Committee, and the Parkways Historic and Scenic Roads Advisory Committee, had filed notices with the Secretary of State, but their filings did not state the location where public notices would be posted. The remaining public body, the Citizen's Transportation Oversight Committee, had not filed a notice with the Secretary of State about where its public meeting notices would be posted. When auditors brought these noncompliance instances to ADOT's attention, ADOT prepared and filed the notices.

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

This factor does not apply because ADOT does not have statutory authority to investigate and resolve complaints except in MVD. Sunset factors for MVD were addressed in a separate report (see Auditor General Report No. 04-11). ADOT is responsible for licensing aircraft dealers, but has no statutory authority to investigate and resolve complaints regarding licensees. According to an Aeronautics Division official, ADOT received one complaint about a licensee between September 2004 and May 2007 and sought advice from the Attorney General's Office, which confirmed that ADOT had no authority to intercede between the complainant and the licensee.

However, ADOT reported that it has a process to handle inquiries and complaints from its customers. Specifically, ADOT reported that its Office of Communication and Community Partnerships' Constituent Services Officer (CSO) is responsible for receiving, routing, and resolving customer complaints

and inquiries. ADOT's CSO reported that he receives general questions, suggestions for improvement, and complaints regarding various issues including litter, debris, graffiti, and potholes. Complaints are received by phone call, e-mail, and written correspondence. The CSO reported that he handles phone calls on a case-by-case basis, resolving the issue, forwarding the call to a specific specialist or expert, or forwarding the call to a division. The CSO prepares weekly reports summarizing phone calls received, which show that during approximately 4 months ending December 14, 2006, his office received approximately 350 phone calls per month. Nearly 13 percent of these calls were complaints. The CSO stated that there are no reports summarizing e-mails and written correspondence, but he believes that these may be incorporated into a new tracking system.

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

The Attorney General has the authority to prosecute all actions pursuant to Title 28 (Transportation) under A.R.S. §28-333. The Attorney General's Transportation Section represents ADOT in routine legal matters such as eminent domain litigation, property damage claims, construction contracts, procurement contracts, vehicle license suspensions, driver's license revocations and appeals, and personnel matters. In addition, the Attorney General's Liability Management Section works with ADOT to handle tort claims and litigation when ADOT is sued by persons injured in highway accidents.

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

According to ADOT officials, ADOT develops a legislative program every year that identifies statutory changes needed to enable it to better fulfill its objectives and mission. For example, over the last 4 years, from 2003 to 2006, ADOT reported that it has supported the following changes to statute:

- **Laws 2003, Chapter 201 (SB 1063)**—Omnibus bill that allowed cities and towns to designate roads as primitive, authorized ADOT's Director to license the name of *Arizona Highways* magazine to a private entity for commercial purposes, and added Indian tribes to the list of entities ADOT can cooperate with to receive full benefits for the State. According to an Attorney General Opinion, this last provision was required to enable ADOT to continue receiving federal grant monies for providing accessible vehicles for the elderly and disabled. The bill also included provisions related to MVD, such as adding new types of specialized license plates.

Design-build—Contractor furnishes design services in addition to construction.

Job-order contracting—Contract is for indefinite quantities of construction, and construction to be performed is specified in job orders issued during the contract.

Construction-manager-at-risk—Construction contract is separate from design contract.

Source: A.R.S. §28-7361.

- **Laws 2004, Chapter 167 (HB 2626)**—Amended A.R.S. §§11-269.03 and 28-334 to allow counties to enter into agreements with ADOT to accelerate right-of-way acquisition, design or construct eligible projects, and advance monies to ADOT pursuant to those agreements. Also, any political subdivision may pledge excise taxes to the repayment on any borrowing to fund the advance. Amendments also allowed ADOT to exchange federal funds with local governments to receive local funds and to include additional federal funds in the exchange to offset matching costs required of local governments to receive full benefits available under federal law.
- **Laws 2005, Chapter 150 (HB 2123)**—Amended A.R.S. §28-7678 to extend the authority of the State Board of Transportation to sell Board Fund Obligations (BFOs), which are nonnegotiable loans, to the Arizona State Treasurer to provide money for the Highway Expansion and Extension Loan Program (HELP) fund, which constitutes the state infrastructure bank, until fiscal year 2020 in a principal amount not more than \$200 million in any one fiscal year and to mature no later than 4 calendar years after BFO date. Amendments also continued the HELP Advisory Committee until 2024. This committee develops for the State Board of Transportation a simplified application form for financial assistance and guidelines for loans and financial assistance. The committee also reviews and makes recommendations on requests for loans and financial assistance. In addition, the committee is required to submit an annual report on the HELP program to the Governor and the Legislature.
- **Laws 2005, Chapter 162 (HB 2579)**—Amended numerous statutes relating to the procurement of professional and construction services. The changes permitted ADOT to continue using design-build projects until December 31, 2025; limited contracts for job-order-contracting construction services to 5 years and a maximum dollar amount per individual job of \$1 million; eliminated the requirement for any state entity using construction-manager-at-risk, design-build, or job-order-contracting to submit an annual report to the Secretary of State; clarified the duties of the contractor selection committee; and provided requirements for preconstruction services and payment to contractors.
- **Laws 2006, Chapter 27 (SB 1024)**—Amended A.R.S. §28-410 to allow ADOT to share pertinent computer programs and Web-based applications with out-of-state agencies, political subdivisions, and tribal governments. For example, an ADOT official stated that in an effort to share best practices in 2006, the Nevada Department of Transportation requested that ADOT share the development of a safety database that assists in tracking workers' compensation. The official also stated that ADOT has often utilized the experience and expertise of other states' departments of transportation in obtaining information or resources regarding best practices.

9. The extent to which changes are necessary in the laws of ADOT to adequately comply with the factors listed in the Sunset Law.

The Legislature has already taken action to address the only area auditors identified during these audits where a statutory change appeared to be needed. Specifically, Laws 2007, Chapter 77, Section 1, increased the limit for projects that can be carried out by in-house crews. A.R.S. §28-6923 required ADOT to obtain outside contractor bids for all construction or reconstruction projects involving an expenditure of \$50,000 or more. A similar statute, A.R.S. §34-201, requires counties, cities, towns, and certain other entities to obtain outside contractor bids for street, road, and bridge work, but set the limit at \$150,000 in fiscal year 1995 with subsequent year limits adjusted according to changes in the GDP price deflator. The 2007 law raised ADOT's limit to \$189,000 with annual increases for inflation starting in fiscal year 2009.

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

Termination of ADOT could harm the public welfare. Federal law requires state transportation departments to adequately maintain transportation improvements funded by federal monies. In addition, if ADOT were terminated, alternatives would be needed for other duties including planning, constructing, maintaining, and operating the State's transportation infrastructure including highways and airports.

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

ADOT has only limited regulatory authority other than in MVD. Sunset factors for MVD were addressed in a separate report (see Auditor General Report No. 04-11).

ADOT's Aeronautics Division licenses aircraft dealers and registers nonairline aircraft. ADOT reported that it exercises an appropriate level of regulation in the areas in which it has been given regulatory authority. ADOT also reported that regulatory activities are continually monitored, and whenever discrepancies are discovered, appropriate corrective actions are taken.

12. The extent to which ADOT has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

ADOT, more than any other state department, extensively uses private consultants and contractors to accomplish its duties. ADOT consultants and contractors provide many types of services, including project design, project management, roadway construction, project inspection, highway maintenance,

and performing duties of vacant employee positions. The audit did not identify any additional opportunities for ADOT to use private contractors. The Governor's Efficiency Review Team reported in June 2005 that ADOT spent more on consultant contracts and used more consulting services than all other state agencies combined. ADOT reported that consultants provide approximately 80 percent of its highway design efforts. According to ADOT, in fiscal year 2006 it paid design consultants \$115 million to assist in project assessments, location studies, administration of projects, and preparation of reports. The total value of active contracts held with design consultants was \$611 million for fiscal year 2006. ADOT also reported that in fiscal year 2006, it made payments totaling \$590.5 million to private contractors in performing highway construction. In addition, the Intermodal Transportation Division paid contractors more than \$17.5 million in fiscal year 2006 to provide highway maintenance services such as median cable barrier repair, rest area maintenance, pavement sweeping, landscape maintenance, and litter pickup.

AGENCY RESPONSE



Arizona Department of Transportation

Office of the Director

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

June 12, 2007

Richard Travis
Deputy Director

Victor M. Mendez
Director

Debbie K. Davenport
Auditor General
2910 North 44th Street
Phoenix, Arizona 85008

Dear Ms. Davenport:

The Arizona Department of Transportation (ADOT) extends its thanks to you and your staff for the professionalism displayed during the Sunset Review of ADOT.

ADOT agrees with all aspects of the Sunset Review, and offers the following amplifications and comments.

Factor 2. The effectiveness with which ADOT has met its objectives and purposes and the efficiency with which the agency has operated.

ADOT is in the process of implementing all of the recommendations from the Highway Maintenance and Aspects of Construction Management audits.

Regarding the use of consultants, ADOT uses a management level process to determine consultant needs based on project schedule, availability of in-house staff and expertise requirements on the project. ADOT uses this process to evaluate the need for consultants on any given project.

Also, ADOT would like to draw a clear distinction between the contractors that are utilized for highway construction versus the consultants that are utilized in the design, development, project management, inspection and testing processes. The Arizona Revised Statutes require ADOT to utilize private contractors to construct the highways.

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

ADOT has formed a committee to review the areas identified by the Auditor General, and will develop such rules as necessary.

We thank you for your extensive efforts on this review.

Sincerely,

Victor M. Mendez

cc: Richard Travis, Deputy Director
John A. Bogert, Chief of Staff
Brian McInnis, Chief Auditor
Division Directors

Performance Audit Division reports issued within the last 24 months

05-05	Department of Economic Security—Service Integration Initiative	06-03	Pinal County Transportation Excise Tax
05-06	Department of Revenue—Audit Division	06-04	Arizona Department of Education—Accountability Programs
05-07	Department of Economic Security—Division of Developmental Disabilities	06-05	Arizona Department of Transportation—Aspects of Construction Management
05-08	Department of Economic Security—Sunset Factors	06-06	Arizona Department of Education—Administration and Allocation of Funds
05-09	Arizona State Retirement System	06-07	Arizona Department of Education—Information Management
05-10	Foster Care Review Board	06-08	Arizona Supreme Court, Administrative Office of the Courts—Information Technology and FARE Program
05-11	Department of Administration—Information Services Division and Telecommunications Program Office	06-09	Department of Health Services—Behavioral Health Services for Adults with Serious Mental Illness in Maricopa County
05-12	Department of Administration—Human Resources Division	07-01	Arizona Board of Fingerprinting
05-13	Department of Administration—Sunset Factors	07-02	Arizona Department of Racing and Arizona Racing Commission
05-14	Department of Revenue—Collections Division	07-03	Arizona Department of Transportation—Highway Maintenance
05-15	Department of Revenue—Business Reengineering/Integrated Tax System		
05-16	Department of Revenue Sunset Factors		
06-01	Governor's Regulatory Review Council		
06-02	Arizona Health Care Cost Containment System—Healthcare Group Program		

Future Performance Audit Division reports

Arizona School Facilities Board

Structural Pest Control Commission