



A REPORT  
TO THE  
ARIZONA LEGISLATURE

Performance Audit Division

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Sunset Review

# Arizona Department of Transportation—Sunset Factors

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September • 2015  
Report No. 15-114



**Debra K. Davenport**  
Auditor General

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September 28, 2015

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. John Halikowski, Director  
Arizona Department of Transportation

Transmitted herewith is a report of the Auditor General, *A Sunset Review of the Arizona Department of Transportation*. This report is in response to an October 3, 2013, 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 Transportation agrees with all of the findings and plans to implement all of the recommendations.

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

Sincerely,

Debbie Davenport  
Auditor General

Attachment

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## INTRODUCTION

### Scope and Objectives

The Office of the Auditor General has conducted a sunset review of the Arizona Department of Transportation (Department) pursuant to an October 3, 2013, 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.) §41-2951 et seq.

This sunset review report is the last in a series of three reports on the Department. The first report addressed various aspects of the Department's Motor Vehicle Division (MVD), including field office customer service, administration of the Ignition Interlock Program, and oversight of authorized third-party offices (see Report No. 15-104). The second report examined issues surrounding the Department's transportation revenues and various options for addressing its revenue needs (see Report No. 15-113).

## Department manages the State's transportation system

### Mission and purpose

A.R.S. §28-331 established the Department to manage the State's transportation system. The Department is responsible for collecting transportation-related revenues and for planning, constructing, and maintaining the State's multimodal transportation system. A major component of the agency is the MVD, which provides title, registration, and driver-license services to the general public throughout the State. In addition, the Department issues development grants to public airports for improvement projects, and owns and maintains the Grand Canyon National Park Airport. The Department's mission is to provide a safe, efficient, cost-effective transportation system.

### Organization and staffing

The Department consists of five divisions: Motor Vehicle, Intermodal Transportation, Multimodal Planning, Enforcement and Compliance, and Administrative Services. As of June 2015, the Department reported having a total of 4,548 appropriated full-time equivalent (FTE) positions, of which 447 were vacant. The Department's divisions, reported staffing, and responsibilities are as follows:

- **MVD (919 filled positions; 131 vacancies)**—MVD provides various services to the public, including issuing driver licenses, vehicle and nonairline aircraft registrations, and vehicle titles. MVD is also responsible for overseeing professional driver training, commercial driver and vehicle services, traffic schools, and administering Arizona's Ignition Interlock Program for drivers who have been convicted of driving under the influence. MVD offers these services through a variety of means, including MVD field offices and authorized third-party offices that are located throughout the State, as well as online through ServiceArizona.<sup>1</sup> Some services, such as vehicle registration renewal, are also available by automated phone system and mail. In addition, MVD provides information to the public through call centers.<sup>2</sup>

<sup>1</sup> The Department had 49 MVD field offices located throughout the State as of August 2014, and according to MVD management, as of October 2014, it contracted with third parties to operate 161 third-party offices throughout the State.

<sup>2</sup> Call centers allow callers to speak with and receive information from customer service representatives. For example, callers may request help regarding what documents they need to obtain a salvage title and the cost of the transaction.

- **Intermodal Transportation (1,894 filled positions; 238 vacancies)**—The Intermodal Transportation Division (ITD) is responsible for the design, construction, and maintenance of a quality highway system. In conjunction with the Department's Multimodal Planning Division, the ITD helps to develop the Five-Year Transportation Facilities Construction Program (5-year construction program) for highways and airports. The 5-year construction program is revised each year to reflect the completion of projects, addition of new projects, and changes in scheduling for underway projects. The Department designs the construction projects either in-house or through outside consultants and uses contractors to construct the projects. The Department generally performs highway maintenance duties using in-house staff, but will use contractors for projects that require specialized equipment or are time- or labor-intensive, such as repairing guard rails.

The state engineer oversees the ITD and the Department's Multimodal Planning Division, as well as smaller groups related to these divisions, including resource management, technical training, major projects, and project partnering administration. The ITD consists of two groups related to construction—development and operations. The development group is responsible for designing projects; obtaining environmental, right-of-way, and utility clearances; and contracting, whereas the operations group is responsible for construction and maintenance. The Department has divided the State into ten districts, all of which are overseen by the operations group, and administers its construction and maintenance projects through these districts.<sup>1</sup> Each construction district is overseen by a district engineer and is composed of individual physical office sites, called field offices, located throughout the district. Each field office is overseen by a resident engineer who is responsible for ensuring that construction contracts are being followed. According to the Department, resident engineers typically oversee two or more construction projects simultaneously. Further, projects have field inspectors who inspect the project for various construction items, such as asphalt, concrete, and traffic control to help ensure that construction conforms to contract requirements, as well as a project supervisor, who is a lead field inspector, and is typically assigned to oversee one project at a time. (See Sunset Factor 2, pages 8 through 9, for additional information about these staff positions.)

- **Multimodal Planning (77 filled positions; 8 vacancies)**—The Multimodal Planning Division (MPD) is responsible for the planning of the state-wide transportation system, including highways and airports, in coordination with local and regional planning agencies such as the Maricopa Association of Governments (MAG) and the Pima Association of Governments (PAG). MPD produces the 5-year construction program through which the Arizona State Transportation Board (see page 3) establishes the program planning priorities for highways and airports. The Division also supports state-wide public transit planning, administers federal grants for transit planning in rural and metropolitan areas, and performs state regulatory safety oversight for the light rail system in Maricopa County.
- **Enforcement and Compliance (309 filled positions; 31 vacancies)**—The Enforcement and Compliance Division (ECD) is responsible for commercial vehicle enforcement, including compliance with commercial vehicle size, weight, and permit requirements. It

<sup>1</sup> The ten districts are composed of three urban districts—two in Phoenix and one in Tucson—and seven rural districts. Because of its size, Phoenix has two districts, one for construction and one for maintenance, while the other districts combine both construction and maintenance functions into one physical location.

employs certified peace officers to enforce transportation-related laws and regulations. ECD's Executive Hearing Office conducts administrative hearings involving driving-under-the-influence-related offenses and driver license suspension/revocation.<sup>1</sup> It also oversees the Department's Office of the Inspector General (OIG). The OIG conducts fraud investigations involving Arizona titles, vehicle registrations, and driver licenses, and investigates violations involving licensed and unlicensed vehicle dealer operations.

- **Administrative Services and Department Operations (902 filled positions; 39 vacancies)**—The Administrative Services Division and Department Operations provide overall coordination, management, and support functions for the Department. Some of the services and support functions provided include: human resources, financial management, audit, community relations, employee development, safety and health, procurement, information technology, facilities maintenance, planning and budgeting, light fleet and heavy equipment repair/maintenance, and management of the Grand Canyon National Park Airport.

In addition, the Arizona State Transportation Board (Board), which comprises seven governor-appointed members (see textbox), has several responsibilities related to the State's transportation system and serves in an advisory capacity to the Department's Director. The Board works with the Department to develop a long-range transportation plan in cooperation with government entities, stakeholders, and the general public. The long range plan serves as the basis for the annually adopted 5-year construction program that guides airport and highway project selection. Other statutory board duties include establishing a complete system of state highway routes, awarding construction contracts, monitoring the status of construction projects, and determining priority program planning for airport and highway projects. The Board is also charged with adopting uniform transportation planning practices, transportation system performance measures, and data collection standards to be used by the Department. Finally, the Board has exclusive authority for issuing revenue bonds for financing transportation improvements throughout the State. In fiscal year 2014, debt proceeds represented 10 percent of the Department's transportation funding sources, and the Department had a total of approximately \$2.96 billion in outstanding debt principal.

### Arizona State Transportation Board membership

The State is divided into six transportation districts composed of one to four counties each. One member is appointed from each district to a 6-year term, except that districts with a population of 2.2 million or more have two members appointed (As of 2015 and based on the most recent census data, only one district has 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.

<sup>1</sup> According to the Department, an Executive Hearing Office hearing is a civil administrative proceeding concerning the suspension/revocation of a driver license or driving privileges. It does not determine if an individual is guilty of a criminal act, such as driving while impaired by alcohol or drugs. The criminal trial and the Executive Hearing Office proceeding are separate and distinct. The outcome of one will not affect the other. If an individual wishes to contest the suspension/revocation of their driver license, they must appear at a hearing before an administrative law judge.

## Department revenues and expenditures

The Department receives almost no State General Fund monies but receives revenue from several sources to build and operate the State's transportation system and pay for other related expenses.<sup>1</sup> As shown in Table 1 (see page 5), revenue sources include vehicle registration, title, and license taxes and fees; fuel and motor carrier taxes and fees; transportation excise taxes; and federal aid for reimbursements of construction expenditures. The Department's revenues totaled approximately \$2.8 billion in fiscal year 2014, the last year for which audited financial information was available, and the Department estimated that its revenues totaled more than \$2.9 billion in fiscal year 2015. A considerable portion of the Department's revenues—an estimated \$1.3 billion in fiscal year 2015—are distributed to counties, cities, and other state agencies for transportation-related expenditures. Other expenditures include capital expenditures for real property or infrastructure (i.e., roads and bridges), principal and interest payments for debt financing, highway and highway maintenance expenses, and department operations. The Department's expenditures and distributions totaled approximately \$2.9 billion in fiscal year 2014, and an estimated \$3.2 billion in fiscal year 2015.

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<sup>1</sup> The Department reported that it receives \$50,400 from the State General Fund as the state match for a federal transit grant to help pay for the State Safety Oversight Program Manager's salary.



**Table 1: Schedule of revenues, expenditures, and changes in fund balance  
Fiscal years 2012 through 2015  
(In thousands)  
(Unaudited)**

	2012 (Actual)	2013 (Actual)	2014 (Actual)	2015 (Estimate)
<b>Revenues</b>				
Vehicle registration, title, licenses, and related taxes and fees	\$ 1,010,548	\$ 1,032,846	\$ 1,085,166	\$ 1,091,194
Fuel and motor carrier taxes and fees	700,620	708,062	714,852	718,823
Reimbursement of construction expenditures—federal aid	770,900	653,236	536,192	683,994
Transportation excise taxes	216,281	227,800	243,787	245,141
Other federal grants and reimbursements	157,436	165,939	148,902	149,729
Other	45,798	36,302	64,086	64,442
Total revenues	<u>2,901,583</u>	<u>2,824,185</u>	<u>2,792,985</u>	<u>2,953,323</u>
<b>Expenditures</b>				
Administration	80,628	190,606	92,966	141,785
Highway and highway maintenance	254,138	186,968	261,768	333,925
Motor vehicle	114,327	105,462	109,553	113,800
Distributions to counties, cities, and other state agencies	1,309,986	1,287,271	1,282,281	1,284,775
Debt service principal and interest, and related bond costs	336,593	305,395	357,138	417,600
Noncapital, including asset preservation	286,217	200,637	223,572	250,000
Capital outlay	701,657	715,714	563,428	640,000
Total expenditures	<u>3,083,546</u>	<u>2,992,053</u>	<u>2,890,706</u>	<u>3,181,885</u>
<b>Other financing sources</b>				
Sale of capital assets and insurance recoveries	3,633	3,314	3,228	3,270
Debt and capital lease issuances	269,001	261,003	42,366	54,044
Net debt issuance-related	30,250	38,163		
Total other financing sources	<u>302,884</u>	<u>302,480</u>	<u>45,594</u>	<u>57,314</u>
Net change in fund balance	120,921	134,612	(52,127)	(171,248)
Fund balance, beginning of year	<u>1,086,102</u>	<u>1,207,023</u>	<u>1,341,635</u>	<u>1,289,508</u>
Fund balance, end of year <sup>1</sup>	<u>\$ 1,207,023</u>	<u>\$ 1,341,635</u>	<u>\$ 1,289,508</u>	<u>\$ 1,118,260</u>

<sup>1</sup> Most of the Department's fund balance is subject to external restrictions on how the Department can spend the monies. Specifically, for fiscal years 2012 through 2015, approximately \$1 billion of the fund balance each year was or was estimated to be legally restricted by various restrictions placed on the monies such as those established by voter initiatives or court orders.

Source: Auditor General staff analysis of the Department's *Comprehensive Annual Financial Report* for fiscal years 2012 through 2014 and department-prepared estimates for fiscal year 2015.



## SUNSET FACTORS

# Sunset factor analysis

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the following factors in determining whether to continue or terminate the Arizona Department of Transportation (Department).

Auditors' analysis of the sunset factors found satisfactory performance by the Department with regard to many of these factors. However, the Department should enhance some of its contract oversight controls, begin requiring fingerprint background checks for some of its staff, and develop two rules that are required by statute (see pages 22 through 23 for a list of recommendations).

In addition to the recommendations in this report, the Department should address the recommendations directed to it in the Motor Vehicle Division audit report issued as part of this sunset review (see Report No. 15-104). Although auditors issued another report on transportation revenues as part of this sunset review, the recommendation from that report was directed to the Legislature and not to the Department (see Report No. 15-113).

### 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 Legislature established the Department in 1974 to provide for an integrated and balanced state transportation system, and the Department is statutorily charged under A.R.S. Title 28 with planning, developing, designing, constructing, maintaining, and operating the State's transportation system. The Department was preceded by the Arizona Highway Department, which was established in 1927. The Department's mission is to provide a safe, efficient, cost-effective transportation system. Statute outlines the Department's main duties, which include registering motor vehicles and aircraft; licensing drivers; collecting revenues; and planning for, coordinating, designing, constructing, maintaining, and operating the State's multimodal transportation system.

All 50 states have a state transportation agency. A comparison of Arizona to seven western states found that these states' transportation agencies have a similar purpose and mission as the Department.<sup>1</sup> Auditors did not identify any states that met the Department's objective and purpose through private enterprises.

### 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 generally met its statutory objective and purpose, but can improve in some areas. The Department was responsible for more than 21,000 travel lane miles in the State in fiscal year 2014 according to the Department's *Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2014*. The Department regularly measures road conditions, such as pavement cracking and smoothness, and most lanes measured were in good or fair condition as of calendar year 2014.<sup>2</sup> Additionally, the Department reported that it completed nearly 150 transportation-related construction projects in fiscal year 2014.

Auditors identified two areas where the Department can enhance its operations. First, although the Department has established fairly comprehensive controls to oversee its construction projects, it should enhance some of these controls to further improve its oversight. Second, the Department should conduct fingerprint background checks for MVD

<sup>1</sup> The seven states were California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington.

<sup>2</sup> The Department measures outer lanes for pavement smoothness and samples outer lanes to visually assess pavement cracking.

employees who process mail-in vehicle registration renewals (mail-in renewals) similar to the fingerprint background checks it performs for its other customer service representatives. Specifically:

- **Department has several construction project oversight controls but should enhance these controls in some areas**—The Department uses contractors for its construction projects and has several controls in place to monitor construction contracts, but it should enhance its controls in three areas. The Department’s controls help it ensure that construction projects meet contractual requirements, including the standard specifications and special provisions, and monitor projects’ schedules and budgets. The Department’s contract-monitoring controls include policies and procedures that guide contractor oversight to help ensure these specifications and provisions are met, direct supervision of contractors, and collection of project data. Additionally, internal quality assurance reviews and construction audits, as well as external oversight from the Federal Highway Administration (FHWA), help the Department ensure the appropriate implementation of its control activities. Further, the Department has a lessons-learned process to identify improvements for future projects. However, auditors identified three areas where the Department should enhance its controls. The controls and, where relevant, the steps the Department should take to enhance them are presented below:
  - **Policies and procedures to oversee construction projects (no needed improvements identified)**—The Department has created policy and procedure manuals for construction and materials, as well as standard construction specifications that provide guidance to department staff regarding actions to take during various situations when overseeing contractors and construction projects. These policies and procedures help explain how a construction project should be executed based on the nature of the work and materials used, the quality standards that materials must meet, and acceptable equipment and methods of measurement for materials testing. For example, the construction manual dictates which level of management can approve supplemental agreements based on the dollar value of the modification.<sup>1</sup> Additionally, the materials-testing manual specifies where to obtain a material sample, such as asphalt; how much to sample; and detailed steps about how to obtain the sample.
  - **Direct supervision of contractors (no needed improvements identified)**—Each construction project is directly overseen by a resident engineer, a project supervisor, and field inspectors (see Introduction, page 2, for more information). The resident engineer and the project supervisor help administer the construction contract and oversee the contractors, whereas field inspectors conduct daily inspections and document the contractors’ work and progress in an electronic daily diary. To help ensure that contractors are meeting all project specifications, field inspectors use checklists called quantlists to assess compliance with the

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<sup>1</sup> Supplemental agreements are modifications to the contract that detail changes made to the contract and why the change is necessary. For example, supplemental agreements may be needed if the design plans need to be changed because the project site’s condition was inaccurately described or if the contractor needs an additional quantity of some materials or additional contract time.

contract.<sup>1</sup> For example, a concrete pipe quantlist would require a field inspector to check the concrete pipe for cracks, ensure it is the correct diameter, and ensure it is placed in conformance with the contract plans. Daily diary entries include information such as a description and quantity of the work performed, materials used, reasons for any delays in construction work, and any problems/discussions between the inspector and the contractor. Daily diary entries are reviewed and approved by either the resident engineer or the project supervisor and are used to determine how much the contractor should be paid each month based on the amount of work completed.

- **Collection of construction project data (improvements underway and additional improvements needed)**—One of the Department's information technology (IT) systems, Field Office Automation System (FAST), contains data for every construction project, including the start and end date, the construction time frame and budget specified in the contract and amount used to date, the construction district, the name of the contractor, the payments made to the contractor, supplemental agreements, and other information. Department staff reviews this information to help manage projects. For example, department management uses this information to help determine if a project will likely go over its contracted budget and/or schedule. Further, FAST is capable of running reports to show information for multiple projects. For example, the Department produces a FAST report to show the number and dollar amount of projects completed during the previous month, as well as year to date, and presents this information to the State Transportation Board at its monthly meetings.

Additionally, according to the Department, in 2015, the Department began regularly reviewing data from multiple projects to determine the number of change orders, which is a specific type of supplemental agreement, the reasons for them, and how many projects were completed on time without an extension.<sup>2</sup> According to the Department's data, there were over 900 change orders in calendar year 2014, resulting in construction project increases of nearly \$24 million, and nearly 600 change orders from January 2015 through July 2015, resulting in construction project increases of more than \$12 million. Additionally, the Department identified that it completed 50 percent of construction projects on time without a time extension in fiscal year 2013 and 53 percent in fiscal year 2014.

These actions indicate that the Department is taking steps toward implementing more comprehensive reviews by looking at data from multiple projects as well as over time. According to best practices for project management, organizations should carefully examine program components, such as project data, as a way to obtain feedback on the overall program, indicate areas for improvement, and help plan for the program's future.<sup>3</sup> Therefore, the Department should continue its efforts to comprehensively review project data, and department officials should determine if there is additional

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<sup>1</sup> Quantlists identify the standard specifications for various construction project processes, such as placing concrete pipe, pouring asphalt mixtures, and controlling traffic in the work zone, and explain the requirements for compliance with each standard specification. The quantlists used during an inspection depend on the work specified in the project's contract and the work that the contractor is completing at the time of inspection.

<sup>2</sup> Change orders are used to make changes that are more than \$10,000, change the amount or type of work, and add contract time. The Department plans to review this information and establish a baseline during 2015 so it can set goals for these measures in 2016.

<sup>3</sup> Project Management Institute Staff, (Ed.). (2008). *Guide to the project management body of knowledge (PMBOK Guide)*, (4th ed.). Project Management Institute: Newtown Square, PA.

project data that would be useful to review and create reports to show this information. Further, the Department should determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified. For example, trends in project data might indicate the need for modifications to the Department's processes, such as reviewing project design plans and estimating projects' construction costs, or revisions to policies and procedures.

- **Internal quality assurance (QA) reviews (improvements needed)**—The Department's Construction Operations Section conducts on-site reviews of construction projects to provide an independent check and ensure that the contractor is complying with the contract and that department staff are ensuring compliance with the contract. For example, a Construction Operations reviewer could inspect the asphalt, concrete, or bridges to ensure these conform to the contract specifications. Construction Operations reviewers use one or more quantlists to conduct their quality assurance reviews depending on the work being performed during the on-site review. After the review, the resident engineer provides a response stating how he/she addressed any issues found during the review, including instructing the contractor to correct issues or justifying why an item did not conform to the contract. The Construction Operations Section reviews the response and issues a final QA report to the applicable district engineer. Department managers review the QA reports, and some stated that they can identify potential trends in areas of noncompliance based on this review. According to a department staff member, the Construction Operations Section is expected to inform department officials of potential trends so that the Department can take action to address the trend.

However, similar to the project data, the Department should implement comprehensive reviews of the QA review report findings. Historically, the Department has not saved the QA reviews' results in its quantlist software application because of its limitations, which has affected the Department's ability to comprehensively review QA report findings for trends. As of August 2015, the quantlist software application was separate from the PEN software application, which is used for daily diary entries by field inspectors. According to the Department, it plans to implement a new software application in December 2015, called PEN5, which will incorporate the quantlist software application within PEN, and allow the quantlist application to interact with and correlate the QA report findings for the applicable projects within FAST. According to a department staff member, the PEN5 software application will allow the Department to generate reports to show QA report findings.

Regular comprehensive reviews of QA report findings from multiple projects at once would allow department officials to obtain feedback on the overall program and identify trends with specific types of projects, districts, or contractors. This would allow the Department to focus where it should provide additional oversight or training to staff, identify high-performing construction districts whose practices could be applied across construction districts, and identify common problems,

such as unclear contract specifications. Additionally, it could help department officials determine if staff are complying with department policies and procedures and are administering construction projects consistently across the State. Therefore, as the Department implements the new PEN5 software application, it should improve its use of internal QA reports by determining what QA report data would be beneficial to review, ensuring this information is entered into its PEN5 software application, and creating reports to show this information. Then, similar to the review of project data, the Department should determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified.

- **Internal construction audits (no needed improvements identified)**—The Department's Office of Audit and Analysis (OAA) conducts audits of in-progress construction projects that focus on compliance with applicable department policies and procedures and state and federal regulations. Between July 2013 and May 2015, the OAA conducted 15 construction audits. The OAA issues a report showing the audit results, including any findings and recommendations, and includes a response from the resident engineer to show how the construction field office plans to implement the recommendations. Similar to the QA reports, department officials stated that they can identify potential trends in common areas of noncompliance based on their review of individual internal audit reports. The OAA reviews the implementation status for audit recommendations during an annual followup conducted at the end of each fiscal year and issues an internal report with the statuses. Additionally, in fiscal year 2013, the OAA began providing ITD officials with a list of common construction audit findings for their review that it updates after each audit.

According to OAA officials, most audit findings are minor, and the Department takes action to correct them. Department officials also reported taking action to address common findings. For example, one common audit finding from audits conducted between June 2013 and April 2015 was that subcontractors started work prior to being authorized, which meant that the Department lacked assurance that the prime contractor had subcontracted with prequalified companies and had not subcontracted a greater percentage of the contract than was allowed. According to department officials, the Department modified the process of entering subcontractor information into the Department's system in order to help address this common audit finding. Specifically, the Department reported that it waits to complete the date field in its system until the subcontractors are authorized, rather than using the date that the Department received the request, so that department staff supervising the project will be able to more clearly see when the subcontractors have been authorized.

- **FHWA oversight (no needed improvements identified)**—The FHWA provides some oversight of the Department to ensure it is effectively and efficiently using federal monies for construction projects. Specifically, the FHWA reviews and approves the policies and procedures in the Department's construction manual, materials manual, and the standard construction specifications. Further, in 2012, the FHWA completed its first Annual Construction Report of the Department, which involved reviewing a sample of department construction projects receiving federal monies for

compliance with various federal requirements. The Annual Construction Report is intended to help the Department strengthen its administration of construction projects. The report lists areas in which the Department is doing well, makes recommendations to address any noncompliant areas, and/or identifies areas for improvement. The Department provides a response regarding how it will address any findings and recommendations, and the FHWA follows up on the findings and recommendations during its next annual audit. In the 2012, 2013, and draft 2014 reports, the FHWA found that the Department had a robust and comprehensive construction administration program, but identified a few areas that the Department could strengthen in order to ensure rigorous compliance with federal requirements and continue federal-aid eligibility. Further, the reports indicated that the Department was taking action to address the findings and recommendations identified.

- **Lessons-learned process (improvements needed)**—Lessons learned refers to a collaborative process where project participants identify successes and areas for improvement that can be applied to future projects. According to best practices for project management, lessons learned should identify successes and cite these as examples that can be repeated in future projects. Additionally, the lessons-learned process should identify areas for improvement by describing the project's problems or reasons for variances and how they were corrected, and recording the results to share with future program participants.<sup>1</sup> The Department developed some guidance and criteria for conducting lessons-learned meetings in response to a 2012 FHWA Annual Construction Report finding that stated that the Department's design teams missed value-added opportunities. Specifically, the FHWA identified four projects from the sample of ten construction projects it reviewed that missed opportunities during design to address constructability concerns or manage potential loss of federal-aid eligibility.<sup>2</sup> The FHWA recommended that the Department evaluate how project designs, such as the condition of the project site, impact construction projects' scope, schedule, and budget to identify problem areas and solutions to use during future designs.

The Department's lessons-learned guidance states that it will conduct quarterly lessons-learned meetings and will choose projects that were completed in the last quarter based on the final payment to the contractor compared to the bid amount, the total supplemental agreement amount, and if the project had time extensions. Further, in its response to the FHWA finding, the Department stated that it was developing a database within which to store the lessons-learned meeting results for designers to use in the future.

The Department's guidance includes many of the components cited by best practices for lessons learned, and according to department management, it has been a useful process. However, the Department is not following its guidance

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<sup>1</sup> Project Management Institute Staff (Ed.). (2007). *Construction extension to the PMBOK guide*, (3rd ed.). Project Management Institute: Newtown Square, PA.; and PMI, 2008.

<sup>2</sup> The FHWA reviewed approximately 5 percent of the Department's federal-aid projects from the total list of active construction projects.



for conducting the lessons-learned meetings. Specifically, according to department officials, the Department is choosing projects that cost more than \$20 million rather than projects based on the final payment to the contractor compared to the bid amount. Additionally, department officials stated that the Department is choosing projects that are common because they have aspects that are relatable to most meeting attendees and projects that had aspects that went very well or very poorly. Although these types of projects could be beneficial to review, the Department is not following its guidance to select projects with time extensions for lessons-learned meetings. Further, the Department is holding meetings haphazardly instead of on a quarterly basis as indicated in its guidance. Finally, the Department is storing the lessons-learned presentations on a shared computer drive rather than in a database that would be available for future designers to review and use when designing projects as its response stated it would do. Therefore, the Department should take steps to follow best practices as well as its established guidance and criteria for lessons-learned meetings to help ensure that it does not miss opportunities to improve its construction program. This should include holding lessons-learned meetings on a regular basis; incorporating the successes and areas for improvement into future projects, such as through design policy and procedures changes, staff training, or additional reviews of design plans; storing lessons-learned documents in its planned database; and ensuring future program participants know where they are located.

- **Department should conduct fingerprint background checks for prospective MVD employees who process mail-in vehicle registration renewals**—Although the Department requires fingerprint background checks for its customer service representatives (CSRs) who work at its MVD field offices, it does not conduct these background checks for the CSRs who process mail-in renewals. The Department has the statutory authority to perform fingerprint background checks for applicants seeking employment as a new hire or any department employee seeking a transfer, reclassification, or reassignment to a different position. The Department requires many of its CSRs to receive fingerprint background checks and reported these background checks are necessary because CSRs have access to confidential information and requiring fingerprint background checks for prospective employees helps it to hire qualified applicants. However, the Department does not perform fingerprint background checks for the mail-in renewal CSR position. MVD had nine employees working in the mail-in renewal area, including seven CSRs who collectively processed a daily average of 1,722 renewals and nearly \$285,100 in revenue in June 2015. Because of the volume of confidential information and revenue handled by its mail-in renewal CSRs, the Department should begin implementing fingerprint background checks for mail-in renewal CSR position applicants. Further, the Department does not have a policy prescribing which of its staff positions should receive a fingerprint background check prior to performing position duties. Therefore, the Department should develop and implement a policy that specifies which of its employee positions will be required to complete fingerprint background checks and the rationale for this requirement.

Additionally, the performance audits completed as part of the Department's sunset review identified areas for improvement within MVD and presented information regarding transportation revenues and potential options for addressing its revenue needs. Specifically:

- **MVD should improve its operations in three areas**—As reported in the Office of the Auditor General’s Report No. 15-104, auditors found that the Department can operate MVD more effectively and efficiently by improving the customer service at its field offices, better administering Arizona’s Ignition Interlock Program, and improving its oversight of two aspects of authorized third-party offices. Specifically:
  - **Improve the quality of customer service provided in its field offices**—MVD field offices conducted in-person transactions for nearly 2.8 million customers between July 2013 and April 2014. However, MVD does not consistently provide a good customer service experience at its field offices. For example, some customers’ waits are long, MVD’s data system does not capture all portions of customers’ wait time, customers may not be able to complete transactions on the first visit, and the offices and customer service representatives vary in service quality. Government offices should provide quality customer service, similar to the private sector.<sup>1</sup> Therefore, MVD should take steps to improve the quality of customer service in its field offices, including better assessing the customer service experience. For example, MVD should consider reestablishing its mystery shopper program to assess the customer service experience and should improve the response rate of its customer satisfaction survey, improve wait-time data collection, and then use this information to reassess and set new customer service goals. Based on its customer service experience assessment, MVD should then develop and implement a comprehensive customer service plan that will lead to a better customer service experience and address problems that it identifies. This plan should include shifting customers away from field offices, improving queue management, and better ensuring that customers are able to complete their transactions on the first visit. Finally, MVD should assess its existing resources and determine how best to allocate them to implement its customer service plan (see Report No. 15-104, Finding 1, for more information).
  - **Better administer the Ignition Interlock Program**—The purpose of the Ignition Interlock Program is to increase public safety by limiting the driving access of program participants who have been convicted of driving under the influence of alcohol, drugs, or any driver-impairing substance.<sup>2</sup> Although MVD oversees manufacturers and installers of ignition interlock devices by certifying these companies, conducting inspections, and investigating complaints, it can improve its inspections and complaint-handling efforts. First, MVD reported that it conducts on-site inspections prior to certifying installers and may conduct periodic inspections thereafter. However, MVD lacks statutory authority to conduct periodic inspections without permission from the installer, and therefore, as of April 2015, must obtain consent from the installer prior to conducting the inspection. Additionally, the inspection checklists MVD inspectors use lack specific guidance regarding how often MVD inspectors should verify installer compliance with rules

<sup>1</sup> Two presidential executive orders, issued in 1993 and 2011, communicate that government agencies should provide customer service at a level similar to the best of the private sector. Further, a January 2015 Governor’s executive order stated that Arizona state agencies should promote customer service-oriented principles for the people they serve.

<sup>2</sup> An ignition interlock device is put on a participant’s car to detect alcohol on the participant’s breath and, if alcohol is detected, it can either prevent the car from starting or record a violation if the car is already running. Participants in the Ignition Interlock Program must pay for device installation, pay a monthly fee to maintain the device, and report to the certified installer to periodically upload the device’s records, which are forwarded to MVD to review and, if necessary, take action against the participant.

and do not list all the rules that inspectors should verify. Further, various weaknesses in the complaint process have prevented MVD from using complaints as a tool for obtaining participant feedback and improving the Ignition Interlock Program. Therefore, MVD should develop and implement policies and procedures for inspecting ignition interlock device installers and improve its complaint-handling process, including the information it provides to the public about the complaint process.

The Legislature should also consider revising statute to improve Arizona's Ignition Interlock Program. First, the Legislature should consider providing MVD with statutory authority to conduct periodic inspections of ignition interlock device installers without consent. Additionally, as of April 2015, A.R.S. §§28-366 and 28-1465 authorize the Department to adopt rules necessary for the Ignition Interlock Program's administration and enforcement, including issuing civil penalties against ignition interlock device installers or manufacturers who fail to properly report ignition interlock data. However, statutes do not provide the Department with other disciplinary options ranging from letters of concern and probation to suspension or revocation of an installer's or manufacturer's certification. Although the Department indicated that it prefers to work with certified installers and manufacturers to address any instances of noncompliance and has rarely needed disciplinary authority, it may lack sufficient disciplinary authority to enforce compliance should the need arise. Therefore, the Legislature should consider revising statute to expand and specify the Department's disciplinary authority to address certified installers' and manufacturers' statutory and rule noncompliance (see Report No. 15-104, Finding 2, for more information).

- **Continue with its plans to improve two aspects of its authorized third-party (third-party) offices oversight**—MVD uses several methods to oversee contracted third-party offices, where MVD-certified processors rather than MVD employees provide services, and should continue with its plans to improve two areas of this oversight. Specifically, MVD should modify its oversight regarding processor transaction accuracy to enable it to differentiate between serious and minor errors. This would allow MVD to better identify the frequency of serious processing errors as well as third parties with patterns of serious errors. After identifying third parties with consistent serious errors, MVD should take corrective action such as requiring training, probation, or suspension of the processor or the third party's authority to perform MVD transactions. Additionally, the Department should provide payment reconciliation reports that it receives from third parties to MVD on a monthly rather than quarterly basis so that MVD can more quickly identify incorrect payment amounts from third parties and follow up as needed (see Report No. 15-104, Finding 3, for more information).
- **Legislature should consider task force to study options to address the Department's transportation revenue needs for a safe, efficient, and cost-effective transportation system**—Auditors also examined issues surrounding the Department's transportation revenues (see Report No. 15-113). Although this report did not make any recommendations to the Department, it recommended that the Legislature consider creating a task force to study and recommend policy options to address the Department's transportation revenue needs. Transportation revenues are necessary for maintaining and expanding the transportation system in order to reduce costs, promote safety, address congestion,

and provide economic opportunities for the State, but the Department's projected transportation revenues do not meet estimated needs. According to department projections, it will need approximately \$88.9 billion between fiscal years 2010 and 2035 to meet minimum acceptable conditions for the state transportation system, including acceptable pavement, bridge, and traffic congestion conditions. However, the Department has projected that transportation revenues will total \$26.2 billion over the same 25-year period, a shortfall of \$62.7 billion.<sup>1</sup> Similar to other states, Arizona relies heavily on federal and state fuel tax revenues to finance transportation projects. Yet, federal and state fuel tax revenues have diminished in purchasing power over time. Simultaneously, these revenues have been relatively flat since the 2000s, and federal aid has been appropriated for shorter periods of time. The Department reported that, as a result, it has had to scale back on planned transportation projects throughout the State. Areas of the State without regional transportation financing sources—such as a county transportation excise tax—are more affected by the anticipated lack of revenues.

Other states have taken actions to address their transportation revenue needs using various revenue-generating options, such as altering the fuel tax, replacing the fuel tax with a vehicle miles traveled tax, creating alternative fuel vehicle fees, and dedicating sales tax and/or general fund money to transportation. Some states implemented these options after establishing a task force to research and recommend ways to increase transportation revenues in their states. The Legislature should consider creating a similar task force. If established, the legislation forming the task force should identify the task force's membership, which should include appropriate stakeholders, its overall purpose and expected outcomes, and deadlines for reporting recommendations to the Legislature.

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

The Department has served the entire State by planning, designing, constructing, and maintaining a state-wide transportation system. According to the Department's *Comprehensive Annual Financial Report for the fiscal year ended June 30, 2014*, the State's highway system had more than 21,000 travel lane miles in fiscal year 2014. According to the Department, it conducts road and bridge inspections to address any potential deficiencies to ensure roads and bridges throughout the State are safe. Based on data the Department collected, the majority of lanes measured for pavement smoothness and cracking were in good or fair condition in calendar year 2014.

Additionally, the Department operates a 24-hour Traffic Operations Center and Intelligent Transportation Systems to help manage congestion on freeways and to inform motorists of highway conditions throughout the State. Further, the State Transportation Board (Board) advertises for and hears public comment at its public hearings prior to approving the Department's Five-Year Transportation Facilities Construction Program (5-year construction

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<sup>1</sup> The Department reported that, as of August 2015, it had begun updating its long-range transportation plan and that the revenue and need projections will likely change. However, the Department anticipates that there will still be a considerable shortfall between projected revenues and needs, and that the shortfall may be larger than it projected in 2010.

program). The 5-year construction program is composed of numerous individual highway, transit, and airport construction projects throughout the State and is revised annually to reflect project completions, new project additions, and changes in scheduling for ongoing projects. The Board holds public meetings across the State where citizens can attend, speak at, and listen to the board meeting.

Finally, as of August 2014, the Department operated 49 MVD field offices across the State where customers can conduct transactions such as obtaining a driver license and registering and titling a vehicle. In addition to field offices, customers can conduct many MVD transactions online at ServiceArizona or at privately owned authorized third-party offices.

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

General Counsel for the Office of the Auditor General has reviewed the Department's rule-making statutes and believes that, in general, the Department's rules are consistent with the legislative mandate. However, the Department has not developed two rules required by statute. Specifically, A.R.S. §28-4537 requires rules that govern the enforcement and administration of dealer and manufacturer license plates, and A.R.S. §28-5639(C) requires rules that establish the evidence that a motor fuel supplier must provide to receive an uncollectable fuel tax credit.<sup>1,2</sup> However, because of a moratorium on state agencies' rulemaking, the Department should determine whether and when it can proceed with a rulemaking to establish these required rules.

**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 has encouraged public input on its rules and informed the public of the expected impact of proposed changes to its rules, as required by statute. For example, in 2013, when it sought to amend its rules regarding permits for oversize and overweight vehicles to ensure the rules were clear, concise, and understandable, it followed statutory requirements for notifying the public, accepting written comments, and holding oral proceedings. Specifically, the Department publicized its intentions through its notice of proposed rulemaking, which included contact information for questions, provided an opportunity for written comment, and gave notice of a scheduled oral proceeding for public comment. The final rulemaking notice supplied information on the comments it had received and how the Department responded to the comments.

Additionally, the Department is in compliance with A.R.S. §41-1091.01, which requires agencies to post on their Web site (1) the full text, or the Web site address and location of the full text, of each rule in use; (2) each substantive policy statement in use, including the full text, if practicable; and (3) a notice that the substantive policy statement is advisory only.

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<sup>1</sup> Statute defines "dealer" as a new, used, or wholesale motor vehicle dealer.

<sup>2</sup> Statute allows motor fuel tax suppliers to receive a credit when the tax has become uncollectable, i.e., when an eligible purchaser fails to make a timely payment of the amount of tax due. Statute further requires the Department to establish rules regarding the type of evidence a supplier should provide to receive the credit.

Auditors also assessed the Board's and Priority Planning Advisory Committee's (PPAC) compliance with various provisions of the State's open meeting law.<sup>1</sup> Both the Board and the PPAC generally complied with the State's opening meeting law requirements, such as posting notices and agendas at least 24 hours before the meetings and having minutes available within 3 working days of the meetings, with only one exception that was subsequently addressed.<sup>2</sup>

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

The Department has sufficient authority to investigate and resolve complaints that are within its jurisdiction. The Department's Office of Inspector General (OIG) is responsible for investigating complaints or criminal violations involving fraud with an Arizona motor vehicle title, vehicle registration, or driver license, as well as violations involving licensed and unlicensed vehicle dealers. The OIG works with numerous state and federal law enforcement agencies to investigate fraudulent government documents and credentials. Joint agency investigations have resulted in numerous criminal charges and arrests of those involved in illegal activities. In calendar year 2014, the OIG reported opening 822 investigations involving driver license and vehicle title fraud and 921 investigation cases involving vehicle dealers.

In addition, the Department has a process to handle inquiries and complaints from its customers. Specifically, the Department reported that its Communications Office (Office) is responsible for receiving, routing, and resolving customer inquiries and complaints. Customers can submit inquiries and complaints by phone, written correspondence, or using a form on the Department's Web site. The Office receives general questions about highway maintenance and construction projects, suggestions for roadway and traffic control improvements, and complaints regarding various issues, including inoperative freeway lights, potholes, and wrong-way drivers. In calendar year 2014, the Office reported addressing approximately 4,000 inquiries submitted on the Department's Web site and entered into its constituent-services tracking system. In addition, the Office handles more than 5,000 phone calls annually. According to the Office, an estimated 30 percent of all inquiries—regardless of how they are received—are complaints. The Office, upon receiving a complaint, determines where to direct the complaint internally for a response and then communicates the response back to the customer. According to the Department, the majority of complaints are responded to within 2 working days with the goal of resolving all issues within 10 working days.

MVD also receives citizen inquiries and complaints. Customers are able to submit inquiries and complaints through multiple sources such as the MVD Director's Office, MVD field offices, MVD call centers, ServiceArizona, and MVDinfo, which is MVD's on-line customer

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<sup>1</sup> The Board has several responsibilities related to the State's transportation system and serves in an advisory capacity to the Department's Director. The PPAC is responsible for updating and preparing the 5-year construction program.

<sup>2</sup> The board meeting on January 27, 2015, actually consisted of two meetings, the board meeting and a study session meeting. The Board properly noticed the board meeting and the study session and also provided the agenda for the board meeting at least 24 hours in advance of the meeting. However, the agenda for the study session portion of the meeting was not available until the board meeting. Therefore, the Board did not comply with the notice requirement for this particular meeting. However, auditors observed that after this meeting, all notices and agendas auditors checked for the Board and the PPAC were posted in accordance with the State's open meeting law.

inquiry system. MVD reported complaints are most commonly related to customer service or MVD's inability to complete a transaction because of statutory requirements. The receiving customer service representative will either respond to an inquiry or escalate it to a supervisor or manager for resolution, when necessary. Inquiries or complaints that are not resolved within the receiving unit are assigned to the MVD Director's Office. The MVD Director's Office reported using a delegation-tracking process that assigns MVD subject-matter experts to research and respond to inquiries, typically in 10 days or less.

**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.**

According to A.R.S. §28-333, the Attorney General has the authority to prosecute all actions pursuant to Title 28 (Transportation). The Attorney General's Transportation Section (Section) represents the Department in the areas of eminent domain litigation, property damage claims, construction contracts, procurement contracts, vehicle license suspensions, driver license revocations and appeals, and personnel matters. In addition, the Tax Unit within the Section represents the Department in tax matters.

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

According to department officials, the Department's enabling statutes contain no deficiencies that prevent it from fulfilling its statutory mandate. However, the Department's enabling statutes have undergone several changes since 2009 that have expanded the Department's duties and authorities. Specifically:

- **Laws 2015, Ch. 294**—This legislation added A.R.S. §28-413, which permits the department director to issue driver licenses pursuant to a reciprocal driver license agreement, and A.R.S. §28-3175, which allows the Department to issue a Voluntary Travel Identification that complies with federal regulations and can be used to enter federal facilities and board commercial airlines.
- **Laws 2013, Ch. 129**—This legislation added statutes governing traffic survival schools. In addition, the legislation requires third-party driver license providers to perform the driver license skills and written testing and process the driver license.<sup>1</sup>
- **Laws 2013, Ch. 73**—This legislation added A.R.S. §28-4423, which requires notice that the sale of vehicles to the public by licensed wholesale dealers is prohibited. This legislation also added A.R.S. §28-4503, which permits the cancellation of the license of a motor vehicle dealer who has gone out of business, and also provides more requirements on dealer license plates.
- **Laws 2012, Ch. 210**—This legislation added A.R.S. §28-7704.01, which prescribes the evaluation criteria for public-private partnerships (P3s) for highway projects, and A.R.S. §28-7751 et seq., which governs toll collection and enforcement.

<sup>1</sup> The Department reported that as a result of this legislation, the number of third-party driver license providers has increased from 3 to 17 locations, and MVD plans to have a total of 20 third-party driver license locations by the end of calendar year 2015.

- **Laws 2011, Ch. 190**—This legislation added A.R.S. §28-376, which permits the department director to obtain criminal history record information regarding applicants for employment, and clarified A.R.S. §28-5101 to allow the negotiation of compensation and utilization of profits in a written agreement with third-party electronic service partners.
- **Laws 2010, Ch. 202**—This legislation amended A.R.S. §32-2352 to authorize the Department to contract with a private company (through competitive bid process) to oversee Arizona’s Traffic Survival Schools.<sup>1</sup>
- **Laws 2009, Ch. 141**—This legislation added A.R.S. §28-7701 et seq. regarding the use of P3s to finance, design, build, and maintain Arizona highway projects.

**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.**

In the Office of the Auditor Generals’ MVD audit report (Report No. 15-104), auditors identified two statutory changes the Legislature should consider regarding the Department’s MVD Ignition Interlock Program. Specifically, the Legislature should consider revising statute to expand and specify the Department’s disciplinary authority to address certified installers’ and manufacturers’ statutory and rule noncompliance. In addition, the Legislature should consider providing MVD with statutory authority to conduct periodic inspections of ignition interlock device installers. As of April 2015, MVD lacks statutory authority to conduct periodic inspections without permission from the installer and must obtain the installer’s consent prior to conducting the inspection (see Sunset Factor 2, pages 14 through 15, for more details regarding these recommendations).

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

Termination of the Department would harm the public safety and welfare if its functions were not transferred to another agency. The Department’s role is to provide a safe, efficient, and cost-effective state-wide transportation system. It accomplishes this by constructing and maintaining Arizona’s transportation infrastructure, including roads and bridges; licensing drivers and registering passenger and commercial vehicles, as well as aircraft; performing long-range multimodal transportation planning to help meet transportation needs throughout the State; and contributing to the development of the State’s federally required Strategic Highway Safety Plan, which provides a comprehensive framework for reducing fatalities and serious injuries on public roadways. These functions help protect the public from harm. Federal law also requires state transportation departments to adequately maintain the transportation projects funded by federal monies. If the Department were terminated, alternatives would be needed for most of the Department’s duties, including planning, constructing, maintaining, and operating the State’s transportation infrastructure, including highways, bridges, and airports.

<sup>1</sup> According to the Department, a private company has been performing this oversight since February 2013.



**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 Department has limited regulatory authority and exercises this authority through two of its divisions: the Motor Vehicle Division (MVD) and the Enforcement and Compliance Division (ECD). Both divisions appear to provide an appropriate level of regulation when compared to other states. Specifically:

- MVD regulates motor vehicles through some form of driver and vehicle licensing, and, as of July 2014, there were nearly 5 million licensed drivers in the State. All 50 states provide similar regulation through some form of driver and vehicle licensing. Auditors reviewed driver license regulation in seven western states—California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington—and determined that Arizona has similar requirements for obtaining a driver license as these states. Further, MVD’s Aircraft Registration Unit licenses aircraft dealers and registers nonairline aircraft. Department staff reported that, like Arizona, most states provide some form of aircraft regulation.
- The ECD is responsible for commercial vehicle enforcement, including ensuring commercial vehicle weight, registration, and permits comply with federal and state regulations. The FHWA requires each state to enforce vehicle size and weight laws to discourage violations and provide a safe driving environment as well as prevent premature deterioration of the highway pavement and structures.

**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 is one of the foremost users of private consultants and contractors among Arizona state agencies. The Department’s contract expenditures for fiscal year 2014 totaled nearly \$896 million. The Department has used private contractors for services such as highway project planning, project design, project management, roadway construction, project inspection, highway maintenance, and supplemental services.<sup>1</sup> Auditors contacted transportation departments in seven western states—California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington—and found that the Department generally used contractors for similar services as the transportation agencies in these states. For example, three of the seven states reported using P3 contracts to finance additional transportation projects. P3 contracts allow for greater private sector participation in delivering and financing transportation projects. A.R.S. §28-7705 authorizes the Department to use P3 contracts, and the Department has several P3 projects either planned or in process, including maintenance and operation of rest areas through a sponsorship and advertising program; relocation and consolidation of the Department’s offices in Flagstaff; and the design, construction, and 30-year maintenance of the Loop 202 South Mountain Freeway Project in the Phoenix Metropolitan Area.

<sup>1</sup> According to a department official, supplemental services are contracts with outside consultants who provide technical expertise that the Department needs on various projects or can be contracts to perform some of the duties of vacant department employee positions.

In addition, the Department has made extensive use of authorized third-party contractors to perform many of its MVD customer service functions, including performing title and registration transactions. As of October 2014, the Department reported it had contracted with a total of 103 authorized third-party companies that provide MVD services at 161 locations throughout Arizona. Additionally, the Department has contracted with the same third party since 1996 to provide its online MVD service system, ServiceArizona. This e-government program provides services through the Internet, Internet kiosks, and an interactive voice-recognition system. ServiceArizona's online services include vehicle registration renewal, duplicate driver license, change of address, and voter registration. During fiscal year 2014, approximately 20 percent of MVD's 17 million service transactions were completed through third-party offices, and approximately 53 percent were completed through ServiceArizona. Third-party contracts for motor vehicle services are used to some extent in all seven western states auditors contacted.

Finally, in June 2014, MVD began outsourcing its production of driver license and identification cards to a third-party contractor. Customers seeking a new driver license or identification card must visit an MVD field office or authorized third-party office in person to be photographed and provide proof of identity. Then, completed driver license and identification card applications are sent to the contractor's central card production facility in California where the physical cards are produced and mailed directly to the customers. According to MVD, it determined that central production and issuance of these forms of identity would reduce the risk of theft and fraud, as well as reduce costs associated with operating and maintaining card printers at field offices.

Auditors did not identify any other opportunities for the Department to use private contractors.

## Recommendations:

1. The Department should continue its efforts to comprehensively review construction project data, determine if there is additional project data that would be useful to review, and create reports to show this information. The Department should also determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified (see Sunset Factor 2, pages 9 through 10, for more information).
2. As the Department implements its new PEN5 software application, it should improve its use of quality assurance (QA) reports by determining what QA report data would be beneficial to review, ensuring this information is entered into its PEN5 software application, and creating reports to show this information. The Department should also determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified (see Sunset Factor 2, pages 10 through 11, for more information).
3. The Department should take steps to follow best practices as well as its established guidance and criteria for lessons-learned meetings to help ensure that it does not miss

opportunities to improve its construction program. This should include holding lessons-learned meetings on a regular basis; incorporating the successes and areas for improvement into future projects, such as through design policy and procedures changes, staff training, or additional reviews of design plans; storing lessons-learned documents in its planned database; and ensuring future program participants know where they are located (see Sunset Factor 2, pages 12 through 13, for more information).

4. The Department should develop and implement a policy that specifies which of its employee positions will be required to complete fingerprint background checks and the rationale for this requirement. Because of the volume of confidential information and revenue handled by the customer service representatives who process mail-in vehicle registration renewals, these policies should include a requirement to begin fingerprinting prospective employees who are hired for this position (see Sunset Factor 2, page 13, for more information).
5. Because of the existing moratorium on state agencies' rulemaking, the Department should determine whether and when it can proceed with a rulemaking to establish rules that (1) govern the enforcement and administration of dealer and manufacturer license plates, as required by A.R.S. §28-4537, and (2) establish the evidence that a motor fuel supplier must provide to receive an uncollectable fuel tax credit, as required by A.R.S. §28-5639(C) (see Sunset Factor 4, page 17, for more information).

## APPENDIX A

## Methodology

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

This sunset review 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.

During the audit, auditors identified an additional finding related to department operations. Because of the sensitive nature of the information identified, this finding was communicated in a separate letter report to the Department Director.

The Auditor General and staff express appreciation to the Arizona Department of Transportation's (Department) Director and staff for their cooperation and assistance throughout the audit.

The Department's performance was analyzed in accordance with the statutory sunset factors. Auditors used various methods to address the sunset factors. These methods included gathering information on the Department's statutory duties and responsibilities, staff and vacancies, revenues and expenditures, and contracts. Auditors also reviewed applicable federal regulations, statutes, and rules; policies and procedures; department documentation and information from the Department's Web site; and information from the Arizona Governor's Office of Strategic Planning and Budgeting's *Fiscal Years 2014-2016 Master List of State Government Programs*. In addition, auditors interviewed department management and staff.

Additionally, performance audit work related to the Department's Motor Vehicle Division (see Auditor General Report No. 15-104) and transportation revenues (see Auditor General Report No. 15-113) provided information for this report.

Auditors also used the following additional methods:

- To assess the Department's construction contract oversight, auditors reviewed various department controls, including staff supervision of contractors, internal quality assurance reviews, internal construction audits, and the lessons-learned process. Auditors also obtained information about the Federal Highway Administration's oversight of the Department, including reviewing the 2012, 2013, and draft 2014 Federal Highway Administration Annual Construction Reports of the Department. In addition, auditors reviewed the Department's collection and use of construction project data in its Field Office Automation System. Finally, auditors reviewed best practices for project management from the *Guide to the Project Management Body of Knowledge* (PMBOK) and the *Construction Extension to the PMBOK Guide*.<sup>1</sup>
- To assess the Department's compliance with the State's open meeting law requirements, auditors tested six public meetings of the Arizona State Transportation Board and the Priority Planning Advisory Committee held between January and April 2015. Specifically, auditors reviewed information on the Department's Web site and examined meeting documents, including notices, agendas, and minutes. Additionally, auditors attended and observed five of these six meetings.
- To compare the Department's regulatory activities with other states, auditors reviewed driver license regulation in seven western states—California,

<sup>1</sup> Project Management Institute Staff (Ed.). (2008). *Guide to the project management body of knowledge (PMBOK Guide)*, (4th ed.). Project Management Institute: Newtown Square, PA; and Project Management Institute Staff (Ed.). (2007). *Construction extension to the PMBOK guide*, (3rd ed.). Project Management Institute: Newtown Square, PA.

Colorado, Nevada, New Mexico, Oregon, Utah, and Washington—and information from the Federal Highway Administration and the U.S. Department of Transportation Federal Motor Carrier Safety Administration Web sites.

- To assess the Department's use of private contractors, auditors compiled and analyzed unaudited expenditure data from the Arizona Financial Information System (AFIS) to determine the estimated amount of state and federal monies the Department spent on goods and services in fiscal year 2014. To compare the Department's use of contractors with other states, auditors conducted interviews with officials/staff from transportation departments in the seven western states mentioned previously.
- To obtain information for the report Introduction, auditors reviewed, compiled, and analyzed information from the Department's *Comprehensive Annual Financial Report* for fiscal years 2012 through 2014 and department-prepared estimates for fiscal year 2015.
- Auditors' work on internal controls focused on the Department's controls for monitoring construction contracts. Conclusions on this work are included in Sunset Factor 2, pages 8 through 13. Computerized system information was not significant to auditors' objective; therefore, auditors did not conduct test work on information system controls.

# AGENCY RESPONSE

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Director's Office

Douglas A. Ducey, Governor  
John S. Halikowski, Director  
Scott Omer, Deputy Director for Operations  
Kevin Biesty, Deputy Director for Policy  
Dallas Hammit, Deputy Director for Transportation

September 24, 2015

Ms. Debbie Davenport  
Auditor General  
2910 North 44<sup>th</sup> Street #410  
Phoenix, AZ 85018

Dear Ms. Davenport:

Please find below the Arizona Department of Transportation's (ADOT) response to the revised preliminary draft as requested in your letter dated September 16, 2015.

### STATE SUNSET FACTORS

#### **FINDING #1**

(See Sunset Factor 2, pages 9 through 10 for more information)

#### **Collection of Construction Project Data (Improvements underway and additional improvements are needed):**

One of the Department's Information Technology (IT) systems Field Office Automation System (FAST), contains data for every construction project, including the start and end date, the construction time frame and budget specified in the contract and amount used to date, the construction district, the name of the contractor, the payments made to the contractor, supplemental agreements, and other information. This information is reviewed by the department staff to help manage projects.

#### **AUDIT RECOMMENDATIONS**

The Department should continue its efforts to comprehensively review construction project data, determine if there is additional project data that would be useful to review, and create reports to show this information. The Department should also determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified.

#### **AGENCY RESPONSE**

***The finding of the Auditor General is agreed to and will be implemented.*** The Intermodal Transportation Division through the Assistant State Engineer for Construction will produce an annual report detailing the number of supplemental agreements (change orders, force accounts and other), and the reasons for those supplemental agreements. The report will be presented to the State Engineer's office, including the State Engineer, ITD Division Director, Deputy State Engineer for Operations, Deputy State Engineer for Contracts and Deputy State Engineer for Project Delivery. The report will include recommendations for improvement and possible changes in the development process. The Deputy State Engineer for Project Delivery and Deputy State Engineer for Contracts will respond to each recommendation explaining how the recommendation will be incorporated or why it is not practical.

## **FINDING #2**

(See Sunset Factor #2, pages 10 through 11 for more information)

### **Internal Quality Assurance (QA) Reviews (improvements needed):**

The Department's Construction Operations Section conducts on-site reviews of construction projects to provide an independent check and ensure that the contractor is complying with the contract and that department staff are ensuring compliance with the contract.

### **AUDIT RECOMMENDATIONS**

As the Department implements its new PEN5 software application, it should improve its use of quality assurance (QA) reports, by determining what QA report data would be beneficial to review, ensuring this information is entered into its PEN5 software application, and creating reports to show this information. The Department should also determine which department officials should review the reports, the frequency of these reviews, and what actions to take when needed improvements to the construction program are identified.

### **AGENCY RESPONSE**

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

The Intermodal Transportation Division through the Construction Operations Manager will review QUANTLIST trends on a quarterly basis and identify needs for improvement in a report to the Assistant State Engineer for Construction & Materials. The Assistant State Engineer for Construction & Materials will review this report and determine what actions should be taken. At least twice a year, the Construction & Materials Group will provide a summary of trends and needed improvements to be presented to the Resident Engineers, District Engineers, State Engineers Office, and if appropriate the Contracting community. On an annual basis, the Construction & Materials Group will incorporate these data into a review of the construction program.

The PEN5 software application will be ready for Phase I roll out in October (diaries portion of the application) and for Phase II rollout in December (QUANTLIST and reporting portion of the application). The roll out will be in stages to insure that there are no significant bugs in the application. The first state of roll out will be to one Unit (San Tan Field Office) for one payment cycle, then to a full District (Phoenix Construction District) for one payment cycle, then to full statewide implementation assuming no significant issues. Roll out may be delayed because the application is dependent on PC Refresh because current computer system will not support the application.

The new application will enable reporting functions that were previously not available. Specifically, it will be possible to report on trends in the results for specific attributes. This will enable the Construction & Materials group to monitor QUANTLIST trends. For example, if a specific attribute has consistently low conformance, it will be possible to determine if it is a statewide trend or only in certain areas of the state and take appropriate action. Once trends are identified, the Construction & Materials Group will review the attributes to determine whether it is a specification issue, a training issue, or a combination of both. Because the reporting function is new, there are likely other useful trends that can be identified and used to monitor and improve the construction program.



### **FINDING #3**

(See Sunset Factor #2, pages 12 through 13 for more information)

#### **Lessons Learned Process (improvements needed):**

Lessons learned refers to a collaborative process where project participants identify successes and areas for improvement that can be applied to future projects. According to best practices for project management, lessons learned should identify successes and cite these as examples that can be repeated in future projects. Additionally, the lessons-learned process should identify areas for improvement by describing the project's problems or reasons for variances and how they were corrected, and recording the results to share with future program participants.

#### **AUDIT RECOMMENDATIONS**

The Department should take steps to follow best practices as well as its established guidance and criteria for lessons-learned meetings to help ensure that it does not miss opportunities to improve its construction program. This should include holding lessons-learned meetings on a regular basis; incorporating the successes and areas for improvement into future projects, such as through design policy and procedural changes, staff training, or additional reviews of design plans; storing lessons-learned documents in its planned database; and ensuring future programs participants know where they are located.

#### **AGENCY RESPONSE:**

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

The Intermodal Transportation Division through the Deputy State Engineer for Project Delivery and the Assistant State Engineer for Project Management will on a semi annual basis review projects completed during the previous 6 months. The review will focus on projects that have large quantity over or under runs and change orders where design errors or omissions were the cause of the supplemental agreements. Once projects are selected, the project manager, resident engineer, and assistant state engineer for construction will meet and determine the cause and recommend a solution to the State Engineers Office to prevent this from occurring in the future.

#### **FINDING #4**

(See Sunset Factor #2, page 13 for more information)

#### **Department should conduct fingerprint background checks for prospective MVD employees who process vehicle registration mail-in renewals:**

Although the Department requires fingerprint background checks for its customer service representatives (CSRs) who work at its MVD field offices, it does not conduct these background checks for the CSRs who process mail-in renewals. The Department has the statutory authority to perform fingerprint background checks for applicants seeking employment as a new hire or any department employee seeking a transfer, reclassification, or reassignment to a different position. The Department requires many of its CSRs to receive fingerprint background checks.

#### **AUDIT RECOMMENDATIONS**

The Department should develop and implement a policy that specifies which of its employee positions will be required to complete fingerprint background checks and the rationale for this requirement. Because of the volume of confidential information and revenue handled by the customer service representatives (CSRs) who process mail-in vehicle registration renewals, these policies should include a requirement to begin fingerprinting prospective employees who are hired for this position.

#### **AGENCY RESPONSE**

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

The agency will review current policies and will establish which classifications are subject to fingerprint background checks.

**FINDING #5**

(See Sunset Factor #4, page 17 for more information)

**The extent to which rules adopted by the Department are consistent with the legislative mandate:**

General Counsel for the Office of Auditor General has reviewed the Department's rule-making statutes and believes that, in general, the Department has not developed the two rules as required by statute. Specifically, A.R.S. 28-4537 requires rules that govern the enforcement and administration of dealer and manufacturer license plates, and A.R.S. 28-5639 (C) requires rules that establish the evidence that a motor fuel supplier must provide to receive an uncollectable fuel tax credit. However, because of a moratorium on state agencies' rule-making, the Department should determine whether and when it can proceed with a rule-making to establish these required rules.

**AUDIT RECOMMENDATIONS**

Because of the existing moratorium on state agencies' rule-making, the Department should determine whether and when it can proceed with a rule-making to establish rules that (1) govern the enforcement and administration of dealer and manufacturer license plates, as required by A.R.S. 28-4537, and (2) establish the evidence that a motor fuel supplier must provide to receive an uncollectable fuel tax credit, as required by A.R.S. 28-5639 (C).

**AGENCY RESPONSE**

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

However, since there is a moratorium on rule-making, the Department is unable to establish rules until the moratorium is lifted.

Sincerely,

John S. Halikowski  
ADOT Director

## Performance Audit Division reports issued within the last 18 months

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<b>14-102</b>	Gila County Transportation Excise Tax
<b>14-103</b>	Arizona State Board of Dental Examiners
<b>14-104</b>	Arizona Office of Administrative Hearings
<b>14-105</b>	Arizona Board of Executive Clemency
<b>14-106</b>	State of Arizona Naturopathic Physicians Medical Board
<b>14-107</b>	Arizona Department of Child Safety—Children Support Services—Emergency and Residential Placements
<b>14-108</b>	Arizona Department of Administration—Arizona State Purchasing Cooperative Program
<b>15-101</b>	Arizona Department of Child Safety—Child Abuse or Neglect Reports, Substantiation Rate, and Office of Child Welfare Investigations
<b>15-102</b>	Arizona Department of Administration—State-wide Procurement
<b>15-103</b>	Arizona Medical Board—Licensing and Registration Processes
<b>15-104</b>	Arizona Department of Transportation—Motor Vehicle Division
<b>15-105</b>	Arizona Department of Revenue—Use of Information Technology
<b>15-CR1</b>	Independent Review—Arizona’s Child Safety System and the Arizona Department of Child Safety
<b>15-CR1SUPP</b>	Supplemental Report to the Independent Review—Arizona’s Child Safety System and the Arizona Department of Child Safety
<b>15-106</b>	Arizona State Retirement System
<b>15-CR2</b>	Independent Operational Review of the Arizona State Retirement System’s Investment Strategies, Alternative Asset Investment Procedures, and Fees Paid to External Investment Managers
<b>15-107</b>	Arizona Sports and Tourism Authority
<b>15-108</b>	Arizona Department of Administration—Personnel Reform Implementation
<b>15-109</b>	Arizona Department of Administration—Sunset Factors
<b>15-110</b>	Arizona Foster Care Review Board
<b>15-111</b>	Public Safety Personnel Retirement System
<b>15-CR3</b>	Independent Operational Review of the Public Safety Personnel Retirement System Investment Strategies, Alternative Asset Investment Procedures, and Fees Paid to External Investment Managers
<b>15-112</b>	Arizona Commerce Authority
<b>15-113</b>	Arizona Department of Transportation—Transportation Revenues

## Future Performance Audit Division reports

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Arizona Radiation Regulatory Agency, Arizona Radiation Regulatory Hearing Board, and Medical Radiologic Technology Board of Examiners