

State of Arizona Office of the Auditor General

PERFORMANCE AUDIT

ARIZONA DEPARTMENT OF TRANSPORTATION

**HIGHWAY PLANNING
AND
ENGINEERING FUNCTIONS**

Report to the Arizona Legislature

By Douglas R. Norton

Auditor General

May 1997

Report No. 97-9



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AUDITOR GENERAL

**STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL**

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May 22, 1997

Members of the Arizona Legislature

The Honorable Fife Symington, Governor

Mr. Larry S. Bonine, Director
Arizona Department of Transportation

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Department of Transportation's highway planning and engineering functions. This report is in response to a May 30, 1995, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957.

This is the second in a series of reports to be issued on the Arizona Department of Transportation. The report addresses ADOT's efforts to plan, design, and obtain the right-of-way for future highway projects. Although ADOT recently expanded its efforts to obtain input from its stakeholders and the public, these stakeholders report that they still know little about how ADOT actually decides which projects to construct. This problem could be alleviated if ADOT made greater use of criteria and data when selecting projects for construction.

Additionally, several improvements are needed in ADOT's Right-of-Way Unit. First, ADOT often pays more than is necessary to relocate persons who are required to move because of a highway project. Second, ADOT lacks a systematic method for identifying and selling excess lands. Finally, ADOT needs to ensure consultants are effectively used within the Right-of-Way Unit.

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

This report will be released to the public on May 23, 1997.

Sincerely,

Douglas R. Norton
Auditor General

Enclosure

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Arizona Department of Transportation's highway planning and engineering functions, pursuant to a May 30, 1995, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957 and is the second of four audits of the Department.

The Arizona Department of Transportation's (ADOT) mission is to provide a transportation system that meets the needs of Arizona's citizens. ADOT's Intermodal Transportation Division has primary responsibility for this function. The Division manages and maintains the State's approximately 6,000-mile interstate and state highway system. Specific Division duties reviewed during this audit include planning for future highway projects, designing highways, and obtaining the land necessary for highway projects (right-of-way).

ADOT Needs To Improve Its Transportation Planning Process (See pages 7 through 13)

ADOT needs to refine its transportation planning processes to better ensure that Arizona has a sound transportation system. Recently, ADOT significantly expanded its efforts to obtain input from its stakeholders regarding transportation projects. However, many of these stakeholders, including State Transportation Board members, district engineers, and local government representatives, are still concerned that they know little about ADOT's decision-making process for selecting projects for construction. This may result from ADOT not prioritizing or explicitly considering criteria such as safety factors or user benefits, or using data such as pavement conditions or traffic congestion when selecting projects for its five-year construction plan.¹ Further, ADOT is not effectively conducting comprehensive long-range planning, nor linking plans to long-range goals.

To improve its transportation planning process, ADOT should consider adopting a number of planning techniques identified by its consultants, other states, and transportation experts. For example, ADOT should develop a project rating system for prioritizing projects, and create a more detailed long-term plan that includes funding projections.

¹ ADOT annually develops a Five-year Transportation Facilities Construction Program which sets forth the expenditures for the transportation projects ADOT will construct in the next five years.

ADOT Makes Excessive Relocation Assistance Payments (See pages 15 through 20)

ADOT spends more money than is necessary to relocate people who are required to move because of highway projects. In the majority of cases reviewed, ADOT's relocation payments exceeded the statutory maximum. State law provides for the owner of a property ADOT acquires to be paid the property's full market value plus up to a maximum of \$22,500 for relocation assistance. ADOT may also pay up to \$5,250 in relocation assistance to those renting homes that it acquires. However, renters of houses ADOT acquires received an average of \$13,000 toward the rent for a new property. High payments result, in part, because ADOT staff improperly apply federal and state relocation assistance regulations. For example, relocation assistance payments are largely based on the price of a comparable property. Despite regulations stating that the "most nearly representative" of three comparable properties should be used, ADOT always uses the most expensive property to calculate payments. Additionally, ADOT inappropriately calculates payments for moving costs. In one instance ADOT based its payment on moving the equivalent of 21.5 rooms of property, even though the house was a two-bedroom house.

These problems may result from insufficient staff training and management oversight. ADOT does not provide its employees mandatory training in determining relocation assistance benefits, and management does not review all relocation assistance calculations.

ADOT Should Develop a Formal Process for Identifying and Disposing of Unneeded Property (See pages 21 through 24)

ADOT recently disposed of property acquired but subsequently not needed for a highway project for nearly \$5.9 million. ADOT has sold approximately 133 properties and an additional 366 properties await sale. Despite these efforts, there may be many excess properties that remain unidentified because ADOT lacks a formalized inventory process. One ADOT staff member estimates several hundred additional excess properties exist in Maricopa County alone. To ensure all excess land is identified, ADOT should inventory all land it currently owns, and develop policies that detail specific staff responsibilities for identifying excess properties, as well as guidelines for determining when properties are no longer needed and should be sold.

**ADOT Needs to Take Steps
To Ensure It Uses Right-of-Way
Consultants Efficiently
(See pages 25 through 28)**

ADOT's Right-of-Way unit contracts with the private sector for several important functions, including property appraisals, negotiations to acquire property, and demolitions prior to highway construction. Although ADOT spent over \$4.3 million in fiscal year 1995-96 for these contracted services, Right-of-Way management fails to collect all the necessary data to determine whether cost savings result from these privatization efforts. Further, ADOT exercises poor oversight of the consultants. ADOT staff perform multiple reviews of consultants' work, sometimes duplicating prior reviews, yet fail to document formal evaluations of the consultants. ADOT should collect data to determine the cost-effectiveness of using consultants, determine if the current level of consultant oversight is appropriate, and increase efforts to document problems with consultant performance.

**ADOT Should Not Provide Staff for the
Pima Association of Governments
Transportation Planning Office
(See pages 29 through 30)**

ADOT should cease staffing the Pima Association of Governments (PAG) transportation planning office. ADOT has assigned 14 of its transportation planning positions to PAG, costing more than \$500,000 each year; however, it does not assign staff to any of the State's other regional transportation planning agencies. In fact, ADOT previously had, but discontinued in 1992, a similar arrangement with the Maricopa Association of Governments.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Arizona Department of Transportation's highway planning and engineering functions, pursuant to a May 29, 1995, resolution of the Joint Legislative Audit Committee. This audit was conducted as part of the Sunset review set forth in A.R.S. §§41-2951 through 41-2957 and is the second of four audits of the Department.

The Arizona Department of Transportation's (ADOT) mission is to provide a transportation system that meets the needs of Arizona's citizens. To better accomplish this goal, ADOT recently combined the Highways, Transportation Planning, Public Transit, and Aeronautics Divisions into the Intermodal Transportation Division (Division). The Division manages and maintains the State's approximately 6,000-mile interstate and state highway system and oversees the location, design, construction, and maintenance of new highways and facilities. This audit focuses on the Planning and Engineering section within the Division, which determines the location, timing, and design of highway projects, and obtains the land necessary for highway projects (right-of-way).

Highway Planning, Design, and Land Acquisition

ADOT maintains and expands the State's transportation system by annually recommending a specific plan for constructing state roads. Planning for system expansion becomes critical when demands outpace revenues, a situation Arizona currently faces. In fact, ADOT estimates that Arizona's transportation needs will exceed anticipated revenues by \$9 billion over the next 10 years. To formalize its plans, A.R.S. §§28-111 and 28-1825 require ADOT to develop a Five-Year Transportation Facilities Construction Program (Five-Year Program), setting forth the estimated expenditures by project for engineering, right-of-way, and construction. Each year, ADOT updates the Five-Year Program, including a new fifth year and making necessary budgetary and scheduling adjustments.

The Department then presents the program to the State Transportation Board for final approval. A.R.S. §28-302 establishes a seven-member Board appointed by the Governor for six-year terms. Six Board members represent transportation districts defined in statute, while one member represents the entire State. The Board is responsible for establishing policies and the relative weights given to criteria that guide development of the Five-Year Program. The Board is also responsible for awarding all construction contracts for transportation facilities.

Once approved, ADOT staff or engineering consultants design the specific projects in the Five-Year Program and obtain the necessary land for construction. The Division's Planning and Engineering section has primary responsibility for these functions. Section staff and contractors design the roadway and any structures along the highway such as bridges or overpasses, as well as the signs, striping, and lighting for each highway segment. To enable ADOT to purchase land needed to build the highway project, the section's Right-of-Way unit appraises needed property, purchases it from the current owner, and manages it until the property is needed for construction.

Staffing and Budget

Highway planning, design, and right-of-way functions are carried out by 592 full-time equivalent (FTE) appropriated positions within the Intermodal Transportation Division. The Division's remaining 1,231 appropriated FTE positions for fiscal year 1996-97 are responsible for other functions, such as highway maintenance and construction.

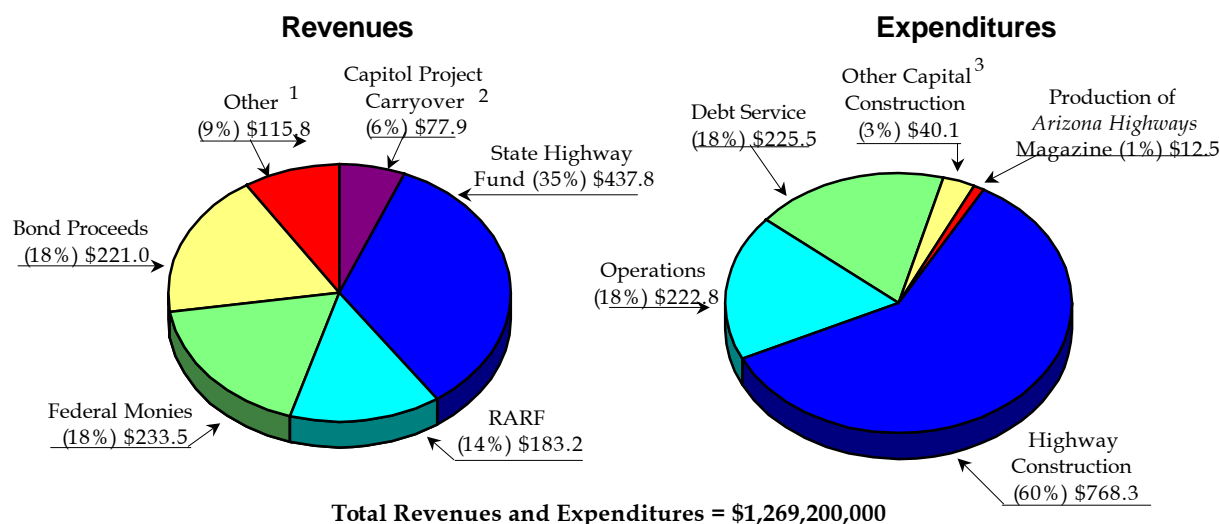
ADOT supplements its Planning and Engineering staff with consultants who assist with highway design and other engineering functions, such as developing right-of-way plans and surveying land. As of September 1996, ADOT had 226 active engineering contracts with 96 consultant firms working on 2,060 projects. These contracts, some of which extend over several years, represent over \$350 million. Additionally, the Planning and Engineering Section also contracts for other types of assistance, such as appraisal services, process improvement studies, or staff training.

As shown in Figure 1 (see page 3), ADOT expects to receive more than \$1.2 billion in revenues in fiscal year 1996-97, the majority of which supports highway construction. ADOT estimates it will receive \$437.7 million for the State Highway Fund, ADOT's portion of the Highway User Revenue Fund. This money is obtained from motor fuels taxes, motor vehicle taxes, registration fees, and other taxes and fees. The remaining major revenue sources include a Maricopa County sales tax, federal monies, and bond proceeds. ADOT should receive approximately \$183.2 million this fiscal year in additional revenue from the Regional Area Road Fund (RARF) for highway projects completed in Maricopa County. RARF revenue is generated by a half-cent sales tax imposed in Maricopa County from 1985 through 2005 that is to be used specifically for transportation projects. ADOT also expects to receive Federal Highway Trust Fund monies to develop and maintain certain highways. Finally, the Transportation Board plans to issue bonds to complete or accelerate highway construction unless other funding sources generate more revenue than anticipated.

Figure 1 (see page 3) further shows that ADOT expends a majority of its revenues constructing highway projects. ADOT's Transportation Facilities Construction Program includes expenditures of \$768 million for highway projects in fiscal year 1996-97. Further, \$114.8 million of the \$188.8 million in ADOT revenues the Legislature appropriated for operating expenses goes to the Intermodal Transportation Division. The Motor Vehicle Division and other administrative units receive the remainder of the appropriation for their operations.

Figure 1

**Arizona Department of Transportation
Estimated Percentages of Sources and Uses
of Budgeted Revenues
Year Ending June 30, 1997
(Expressed in Millions of Dollars)**



¹ Other revenues include monies from the Enterprise Fund, the State Aviation Fund, and the Vehicle License Tax.

² Capital project carryover includes nonreverting funds received and obligated in fiscal year 1995-96, but not spent before the end of the year.

³ Other capital construction expenditures include aviation projects and acquisition or renovation of nonhighway capital investments.

Source: ADOT's fiscal year 1996-97 budget as prepared by ADOT's Administrative Services Division.

Follow-up to Previous Auditor General Report

As part of the current audit, concerns identified in the Office of the Auditor General's 1990 performance audit of ADOT's Highway Design Process were revisited. The report (Auditor General Report 90-3) recommended that ADOT strengthen its design review process for constructing highways. Design reviews are scheduled at various stages in the design process to ensure the road can be constructed as intended and that it will function safely

and efficiently when built. ADOT concurred with the recommendation and began strengthening its design review process by developing the *Highway Development Process Manual*. The manual provides a uniform review process for all highway design projects, including guidelines for each design review stage.

However, following the policies in the new manual did not entirely resolve the problems resulting from inadequately reviewed designs. A 1993 internal ADOT study found that on most projects, different individuals are responsible for the project during each phase from project initiation through construction. This leaves no one individual responsible for ensuring each project is adequately reviewed and approved changes are implemented. To further alleviate this problem, ADOT is implementing a comprehensive project management process, and now assigns a project manager who is responsible for ensuring each project is adequately reviewed, completed on time, and within budget. When fully implemented, managers will provide oversight from the initial design through one year after construction on each project. A separate audit of ADOT's construction program will assess the impact of the design process on construction costs and timeliness.

Scope and Methodology

This audit focused on ADOT's efforts to plan, design, and obtain the right-of-way for Arizona's future highway projects. Regarding highway planning, this audit reviewed ADOT's planning process for highway projects funded with State Highway Fund monies (ADOT's portion of HURF monies). A separate audit will assess ADOT's management performance in planning and constructing the MAG Regional Freeway System.

Several methods were used to study the issues addressed in this audit, including:

- Interviewing individuals involved in the transportation planning and decision-making processes, including all seven State Transportation Board members, local government transportation planning representatives, ADOT's district engineers, and ADOT planning staff;
- Attending 13 internal ADOT committee meetings held to prioritize and discuss transportation projects, as well as 4 Board meetings;
- Reviewing recent internal ADOT studies, surveys, and reports regarding planning and right-of-way functions and ADOT's documentation regarding the extent and cost of consultant use;
- Surveying all 102 staff within the Right-of-Way unit to identify the amount of time ADOT employees spend reviewing and monitoring consultants' work compared to completing tasks in-house;¹

¹ Responses were received from 94 percent of Right-of-Way staff.

- Conducting a review of literature, including journal articles and reports from other states, regarding transportation planning and the privatization of government functions;
- Surveying 14 other states' Departments of Transportation and the Federal Highway Administration regarding their highway planning and right-of-way management practices;¹ and
- Reviewing 46 randomly selected files detailing ADOT's relocation of persons living in properties ADOT purchased. Thirty relocations on the Squaw Peak Parkway project from Thunderbird Road to Bell Road and all 16 relocations for a 1995-1996 highway widening project at Interstate 10 and Baseline Road were reviewed.

This report presents findings and recommendations in five areas. ADOT needs to:

- Develop a process for selecting future highway projects that relies on criteria and data, and is better linked to long-range planning;
- Reduce expenditures for relocating persons who are displaced due to highway projects by more closely following federal and state laws;
- Develop a formal process for identifying and disposing of property purchased but not needed for highway projects;
- More effectively use consultants in the Right-of-Way unit by collecting data to ensure cost savings result, avoiding duplication of oversight efforts, and evaluating consultant performance; and
- Cease providing staff for the Pima Association of Governments transportation planning group.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the State Transportation Board, the Director of ADOT, the State Engineer, and the Deputy State Engineer for Planning and Engineering and their staff for their cooperation and assistance throughout the audit.

¹ The 14 states contacted were identified as using best practices in transportation planning and engineering, or were similar to Arizona in transportation-related characteristics (i.e., total lane miles, total highway expenditures), or were states that border Arizona. States contacted were: Alabama, California, Colorado, Florida, Georgia, Indiana, Kentucky, Minnesota, Missouri, New Mexico, North Carolina, Texas, Utah, and Washington.

FINDING I

ADOT NEEDS TO IMPROVE ITS TRANSPORTATION PLANNING PROCESS

ADOT needs to refine its transportation planning process to ensure that Arizona develops a sound transportation system for the future. Recently, ADOT significantly expanded its outreach efforts, obtaining additional input from key stakeholders and the public. However, many of these people remain uninformed as to how ADOT selects projects for construction. This may result from ADOT's failure to adequately consider criteria and data when making decisions. Contributing to this problem, ADOT also lacks specific long-term goals to guide the development of its construction program.

ADOT's Current Transportation Programming Process

ADOT currently uses a multi-phase annual programming process to select projects for construction. Each year, ADOT district engineers, representing nine regional districts, work with regional planning organizations, individual local governments, and the general public to identify various transportation projects they believe need to be initiated. The district engineers submit prioritized lists of potential projects to ADOT's central office staff. The central office staff also identify potential projects. The lists are then submitted to ADOT's Program Development Committee (Committee), a nine-member internal committee which plays a key role in developing the Five-Year Transportation Facilities Construction Program (Five-Year Program). The Committee reviews these lists of projects and recommends projects for further evaluation to determine their feasibility, estimated costs, and anticipated schedules.¹ It also annually recommends which evaluated projects should be placed into the Five-Year Program. The Priority Planning Committee, a statutorily created committee chaired by the Deputy Director, reviews the recommendations of the Program Development Committee before they are submitted to the State Transportation Board for final approval.² The approved Five-Year Program then serves as ADOT's schedule for designing, obtaining the right-of-way, and constructing highway projects.

¹ The nine-member committee includes the deputy state engineers for Planning and Engineering and Operations, a representative of the Transportation Planning Group, and six ADOT assistant state engineers. Three staff members from the Planning Group, the State Engineer's Group, and Finance also assist the Committee.

² The Priority Planning Committee includes representatives from the Intermodal, Operations, Aeronautics, and Administrative Services Divisions appointed by the Director.

Confusion over Process Remains Despite Recent Improvements

While ADOT has taken steps to gather more input for developing its Five-Year Program, its decision-making process remains unclear. Despite additional outreach efforts, external groups still lack a complete understanding of how and why ADOT selects projects for construction. By making programming decisions without explicitly using detailed criteria or data, ADOT cannot adequately explain or justify its major construction project selections to its stakeholders.

ADOT more actively involving stakeholders and the public—ADOT has taken steps to better solicit public input during the Five-Year Program’s development. First, ADOT recently began coordinating three statewide meetings a year with regional and local transportation planners to discuss the programming process. Second, ADOT has held 11 regional focus sessions with local government officials to update attendees on ADOT’s priorities and processes and to discuss the transportation issues that are important in that region. These meetings are held directly before or after Transportation Board meetings which are held at a different location around the State each month. Third, the Program Development Committee visits the districts and regional planning organizations to explain ADOT’s time frame and process for selecting projects for assessment and construction and to discuss the projects most important to each district. Finally, ADOT continually obtains input through monthly Transportation Board meetings and three public hearings held prior to the adoption of the Five-Year Program.

Key stakeholders still lack understanding of decision process—Despite these efforts, various internal and external groups have labeled ADOT’s Program Development Committee a “black box” because it makes decisions without providing feedback to external groups. For example, although districts and local governments submit prioritized lists of projects to the Committee, the Committee does not adequately explain how it uses the lists, or why it selects certain projects for initial evaluation or the Five-Year Program. Also, for those groups responsible for overseeing and approving the Committee’s recommendations, the Committee does not provide sufficient information as to how and why it developed its priorities.

These stakeholders characterize ADOT’s current planning process as confusing, and as a result they may have a limited impact on transportation decisions despite being key figures in maintaining and improving the State’s transportation system. The following concerns were expressed.

- **State Transportation Board Members** Board members, who according to statute are ultimately responsible for selecting state transportation projects, have consistently expressed concern with their limited role in ADOT’s decision-making processes. This appears to be a long-standing problem. For example, a 1982 Office of the Auditor

General report (Report No. 82-4) found that “the Department of Transportation does not provide sufficient information to the Transportation Board to enable the Board to make well-informed decisions. The Board does not have adequate program options and alternatives and lacks information on the impact of program policies.”

Most current Board members indicated that the problems described in the 1982 report still exist. For example, one Board member stated that ADOT central staff make programming decisions in isolation and have too much control over the transportation decision-making process. Another Board member said that Board members are not presented with enough information and alternatives in time to make any meaningful suggestions or changes.

- **Local interests** ADOT district engineers and local government representatives expressed frustration with ADOT's current planning processes. One district engineer stated that a “black hole” mentality exists within ADOT's central office staff, evidenced by a lack of feedback between these staff and the districts. Another stated that no one within central ADOT can explain how programming decisions are made. Planners from one local organization stated that the process is shrouded in mystery: no one knows how ADOT prioritizes and selects projects.

Failure to define and consider criteria and data contributes to frustration—This frustration is understandable given the Program Development Committee's failure to explicitly consider criteria and data or use a formalized process when making decisions. During observations of ten Committee meetings, instead of discussing criteria or data when selecting projects, the Committee appeared to make subjective decisions regarding transportation projects. This results from several flaws in the Committee's decision-making process.

- First, while the Committee has adopted criteria provided in A.R.S. §28-111 and added a few additional criteria, it has still not defined the criteria, assigned relative weights to show which are the most important to consider, or determined how they will use the criteria to make decisions. Criteria listed in statute for prioritizing transportation projects include safety, user benefits, land use, and projects' useful life expectancy, and ADOT's additional criteria include congestion and access.
- Second, the criteria are not discussed when members recommend funding allocations or projects for inclusion in the Program. While the committee members have years of experience, the failure to lay out the criteria as they relate to each project prevents meaningful discussion of different views and makes explaining their decisions to others in terms of the criteria difficult.

- Finally, until just recently, no minutes were taken to document the Committee's discussions and decisions. Thus, even general discussions about projects are not recorded and cannot be accurately related to persons outside the Committee.

ADOT also inadequately uses data generated from Arizona's six transportation management information systems to make decisions about major construction projects. These systems provide data on pavement conditions, traffic congestion, road safety, public transportation, and bridge status that are used to identify certain projects for construction. While ADOT is still developing some of these systems, others already produce relevant data that the Committee could also use to help prioritize major construction projects.

Problems observed during Committee meetings include the following:

- **Making funding recommendations** The Committee did not use formulas or cost-benefit analyses to recommend allocations for various types of transportation projects, such as major construction, minor construction, and pavement preservation. Instead, the Committee based its allocation recommendations on historical funding amounts and members' judgment.
- **Recommending projects for construction** The Committee prioritized and selected projects for its recommended Five-Year Program without explicitly considering criteria, data, or cost-benefit analysis. As a result, some projects may be selected that are not as important as others. For example, the Committee chose a \$6 million project for the 1998-2002 Five-Year Program that was promoted by a Board member, despite unanimously agreeing that the project is not important and is certainly not a high priority.
- **Recommending other projects for funding** Additionally, the Committee made recommendations to fund or increase funding for rockfall containment projects and improvements to the Freeway Management System, ports-of-entry, and pavement conditions without considering any data or criteria.¹ In the case of the Freeway Management System, ADOT has already authorized \$87 million worth of projects in previous Five-Year Programs. The System must be built incrementally, but cannot provide its full benefit until it is completed, which will cost another \$226 million. However, the Committee has not prioritized the System as compared to other projects and has decided to include only a minimal amount of funding for freeway management system projects in the 1998 update to the Five-Year Program. ADOT needs to determine the system's priority to ensure that millions in state revenues are not expended on a project that may never be completed.

¹ The Freeway Management System is an automated system designed to monitor and control traffic flow on freeways. The system includes ramp meters, traffic counters, freeway counters, and electronic road signs.

ADOT needs to adopt a more data-driven method for making decisions—ADOT should develop a decision-making process based on criteria and data. To help develop such a process, ADOT contracted with a consulting firm to identify quantitative methods for making planning decisions. In fact, the consulting firm has already made 24 specific recommendations regarding how ADOT can refine its decision-making process. The consultant recommends that ADOT refine a project rating system for prioritizing projects, incorporate data generated from management systems into the decision-making process, and track decisions to ensure that projects meet performance standards. However, ADOT has not implemented these recommendations.

Other states have developed decision-making processes based on criteria and data to make justifiable decisions. For example, Ohio has a planning process that relies heavily on data and performance measures. Data used for decision-making includes transportation efficiency measured by traffic volume compared to road capacity, average daily traffic counts, vehicle classification, safety, and economic development factors. Washington has developed a sophisticated system for using performance measures to make trade-off decisions. Several other states, such as Colorado, Missouri, New Jersey, Texas, and Wisconsin, also use technical data and criteria to make transportation decisions.

Further, Utah conducted a study to identify improvements to its procedures for selecting and funding highway projects. The study recommended adopting a data analysis model that uses criteria and optimization techniques to make transportation decisions. According to the authors of a *Transportation Research Record* article, this model is “an extremely useful decision model for prioritizing and programming transportation projects.” The intent of the model is not to “replace expert judgment but rather to aid and enhance that judgment.”

ADOT Needs to Better Ensure That Programming Decisions Are Tied to Long-Range Goals

In addition to increasing the use of criteria and data, ADOT should make programming decisions based on well-defined long-range goals for the State’s transportation system. Currently, ADOT does not explicitly link project decisions to long-range transportation priorities. This occurs because ADOT, in conjunction with the State Transportation Board, has not specifically defined the State’s long-range transportation goals in terms of funding allocations and project selection priorities. ADOT should create a more detailed long-range plan that includes well-defined goals and priorities.

Planning decisions are not adequately linked to long-range goals—The Project Development Committee fails to explicitly link planning decisions to long-range priorities for the State’s transportation system. Although Arizona has a 20-year Transportation Plan, the Committee rarely refers to it when making decisions. The 20-Year Plan is a general policy document that provides information on the status and future needs of the State’s

transportation system. Though the plan is not project-specific or cost-constrained, it still contains valuable information for making short-range decisions. For example, the Plan identifies 14 priority corridors broad geographic bands that provide important transportation connections between parts of the State. One such corridor is between Tucson and Phoenix, which includes Interstate 10, the Southern Pacific rail service, and Amtrak. According to the Plan, the “protection and development of these corridors should be included in the planning and performance criteria for State modal plans and regional and local transportation plans.”

ADOT needs to improve long-range planning—ADOT, in conjunction with the State Transportation Board, needs to go beyond the current 20-Year Plan and better define its long-term goals and priorities. Specifically, ADOT needs to include funding allocations and specific projects in its plans. Without clearly defined future plans based on good revenue forecasts, stakeholders at all levels of government cannot adequately plan for the State's unmet transportation needs. Also, without effectively linking specific decisions for the Five-Year Program to long-range goals and priorities, limited resources may be expended for projects that are not as important as others in meeting the State's future transportation needs.

Currently, ADOT has an internal committee examining ways to create a more detailed long-range plan; however, the group has just started this process. ADOT may want to consider looking at other states that have comprehensive long-range planning mechanisms that are directly linked to short-range planning decisions. For example,

- Utah has two components in its long-range plan that are used to make planning decisions. One is a financial forecast for the next 20 years. The other contains a listing of all future projects needed for the State's transportation system, including those that cannot be built with existing revenues. Transportation regions and state decision-makers use this information to make project selections and funding decisions. For example, Utah found other revenue sources to build a \$1 billion construction project that could not be funded with existing resources.
- Washington's long-range plan contains long-term objectives and options for meeting those objectives. State rules require that no projects can be selected for construction that are not identified as a solution in the long-range plan.

Further, experts suggest that in order for states to conduct effective long-range planning, they must create a preliminary estimate of costs for such items as capital projects, operations, and maintenance in a proposed plan. Next, states should forecast potential revenue by funding source for both the short and long term, which enables states to identify shortfalls and either modify the plan or develop new revenue sources. Finally, states should allocate resources after consensus on the plan has been reached.

Recommendations

1. ADOT should adopt a method that makes greater use of data and criteria for making programming decisions. ADOT should begin by determining the relative weights of its current criteria. Also, ADOT should consider implementing the recommendations and approaches identified by its consultants.
2. ADOT should continue its efforts to expand the involvement of its district engineers, regional transportation planning groups, and the public in its transportation planning and programming processes.
3. ADOT should continue its efforts to create a detailed long-range plan that includes an accurate long-term financial forecast and a listing of needed transportation projects, including those that cannot be funded with current revenues.
4. ADOT should better link short-range programming decisions to long-range priorities by explicitly considering ADOT's long-term transportation priorities and goals when developing recommendations for projects and funding allocations for the Five-Year Program.

FINDING II

ADOT MAKES EXCESSIVE RELOCATION ASSISTANCE PAYMENTS

ADOT often pays more than is necessary to relocate persons who are required to move because of a highway project. Some ADOT practices not only result in excessive payments, but also violate federal and state law. To address these problems, ADOT needs to better train its staff and maintain more accurate data on relocation assistance payments.

ADOT Required by Law to Provide Relocation Assistance

When ADOT buys property it needs for a highway, state laws require ADOT to pay the owner the property's market value, which is determined by an appraisal. A.R.S. §28-1842 also requires ADOT to provide relocation assistance to those who are required to move because of a highway project. Relocation assistance is intended to minimize the impact of a highway project on those who are displaced, and ensure property owners are treated fairly and consistently. Federal relocation assistance regulations include policies for implementing this program. ADOT has adopted the federal relocation regulations in its administrative code and operating manual, which apply to both state-funded and federally funded projects.

Relocation assistance pays a person who owns and occupies a property the difference between the price ADOT pays for the home and the price of a comparable dwelling currently available on the market. These payments are known as price differential payments. If the resident is renting the property, ADOT must pay the difference between the monthly rent and utilities of the property being acquired and the monthly rent and utilities of a comparable property, for 42 months. ADOT must also compensate all displaced persons for moving costs and pay owner-occupants for other expenses, such as closing costs on a replacement property and any increased mortgage interest costs. In fiscal year 1996, ADOT relocated 487 residences and businesses, at a total cost of approximately \$7,102,400. Federal monies constituted \$1.2 million of the total amount.

ADOT Makes Excessive Relocation Payments

Although the regulations are meant to ensure fair compensation, ADOT often makes payments that exceed the statutory maximum. These large payments result from improper relocation practices, some of which violate federal and state law.

A study by the Federal Highway Administration found that some of ADOT's relocation assistance practices are improper. This 1995 study, requested by ADOT, identified numerous problems with ADOT's practices. A review of relocation assistance payment files during this audit confirmed that ADOT still does not properly apply numerous regulations. These practices not only cause excessive payments, but they also put federal funding at risk because the federal government can recover monies spent in violation of the regulations. For example, the Federal Highway Administration recently recovered \$1 million for violations by the Massachusetts Department of Transportation.

Payments often exceed statutory limits—Payments exceeding statutory limits were common in the files reviewed during the audit. A.R.S. §§28-1844 and 28-1846 provide that price differential payments cannot exceed \$22,500 and rental assistance payments cannot exceed \$5,250 unless the construction project will be delayed because comparable dwellings could not be located. However, as shown in Table 1 (see page 17), ADOT's average rental assistance payment was more than double the statutory maximum. Price differential payments also frequently exceeded the limits.

Improper procedures cause excessive payments—Several improper ADOT procedures lead to high payments. ADOT incorrectly applies the regulations in six areas:

- **Inappropriately using “last resort” provision** As previously noted, A.R.S. §28-1851 allows payments exceeding the limits to be made when a highway construction project “cannot proceed on a timely basis because comparable replacement dwellings are not available and the head of the displacing agency determines that the dwellings cannot otherwise be made available.” However, it appears that ADOT simply employs this “last resort” provision whenever an agent calculates a payment that exceeds the statutory limits, regardless of when construction will commence. Construction on the Squaw Peak segment studied was not scheduled to begin for 6 to 12 months after payments were made using the last resort provision. However, according to ADOT management, acquisition of all necessary properties can occur up to 4 months prior to the planned start of construction without delaying the construction schedule.

In those instances where Right-of-Way staff do not locate a comparable dwelling that will result in a statutorily allowed payment, Right-of-Way management should postpone determining the assistance payment and search further for acceptable properties. Additional properties may become available, resulting in a reduced payment. In fact, in one file reviewed, searching for additional comparable dwellings saved ADOT \$5,900. The “last resort” provision should be reserved for use when construction is imminent.

Not searching for additional properties may result in ADOT selecting properties for relocation assistance calculations that are superior to the houses acquired. For example, ADOT acquired a property renting for \$500 a month. It was a 1,021-square-foot, two-bedroom, one-bath house with a carport, built in 1969. The house used for the payment

calculation was a three-bedroom, two-bath house with 1,316 square feet, a two-car garage, and a spa, built in 1988. It rented for \$900 a month, which resulted in a rental assistance payment of \$16,800.

Table 1

**Arizona Department of Transportation
Right-of-Way Division
Relocation Payments and Percentage
Exceeding Statutory Maximum
for Selected Highway Projects
Year Ended June 30, 1996**

	Price Differential Payments (\$22,500 Statutory Maximum)		Rental Assistance Payments (\$5,250 Statutory Maximum)	
	Squaw Peak Highway	Interstate 10	Squaw Peak Highway	Interstate 10
Number of payments reviewed	18	11	12	5
Payment range	\$7,400 to \$25,236	\$12,500 to \$27,500	\$6,300 to \$20,840	\$5,250 to \$16,800
Average payment	\$17,950	\$19,900	\$13,725	\$11,970
Percentage of payments exceeding maximum	44%	45%	100%	80%

Source: Auditor General staff analysis of 46 ADOT Right-of-Way relocation assistance files.

- **Basing payments on most expensive comparable property** Price differential and rental assistance payments are based on the price of a comparable property. For both renters and owner-occupiers, ADOT searches for homes similar to the property to be acquired. A displaced person does not have to purchase or rent any of the properties ADOT finds; the properties are simply used to calculate the relocation payment. The regulations require that three comparable homes should be located, if available, and the payment should be based on the one that is “most nearly representative” of the home acquired.

ADOT, however, calculates every price differential and rental assistance payment by using the most expensive of the three comparable homes. Not only does this practice violate the regulations, it causes many payments to be thousands of dollars more than

necessary. If, for example, ADOT had used the mid-priced comparable property in each of the 46 cases reviewed for this audit, the State would have saved \$106,096 on these payments alone. Using the lowest-priced property would have saved \$257,697.

In one file reviewed, ADOT paid \$31,500 for an 894-square-foot, 2 -bedroom house in Tucson. The lowest-priced comparable dwelling the agent found was a three-bedroom, two-bath house with 1,172 square feet and an asking price of \$63,000. However, the most expensive property was used, with a price of \$73,500.

In another case, the property ADOT acquired rented for \$750 a month. One of the three comparable properties also rented for \$750 a month. However, the agent used the most expensive of the three comparable properties: a new house with better features, renting for \$1,000 a month. As a result, ADOT paid \$11,970 in rental assistance when it could have paid for only the moving costs.

Of the 10 states surveyed, all use the most comparable property, whether it is the least or most expensive property, for payment calculations.¹

- **Failing to adjust asking prices of comparable properties** In making the price differential calculation, ADOT uses the asking price of the comparable properties, without taking into consideration that the price of a home is generally negotiable. The regulations require an adjustment to be made to the asking price of comparable properties, as justified by local market conditions. To fulfill this requirement, California generally makes a 3 to 5 percent adjustment, Utah usually adjusts between 1 and 3 percent, and Alabama adjusts approximately 5 percent. The City of Phoenix generally finds that actual selling prices for homes are 4 to 5 percent lower than asking prices in the Phoenix area. By making this adjustment, ADOT would have saved \$110,635 to \$138,294 on the 29 price differential payments in the files reviewed.
- **Improperly determining moving cost payments** In addition to the price differential or rental assistance payment, ADOT must pay for moving costs. There are two moving cost options available to displaced persons: a payment for actual moving costs, determined from commercial moving bids, or a fixed payment, based on the number of rooms in the dwelling acquired.

Although it appears that ADOT paid the appropriate amounts when it based payments on actual moving costs, ADOT often made improper determinations of fixed payments. In 36 of the 46 cases reviewed, moving cost payments were based on fixed payments. Fixed payments are calculated by using a schedule the Federal Highway Administration approved that specifies a payment based on the number of rooms in a house. A room should be counted as one room, and a bathroom not counted, unless

¹ States surveyed regarding right-of-way practices include Alabama, California, Colorado, Florida, Kentucky, Missouri, New Mexico, North Carolina, Utah, and Washington.

it contains an excessive amount of personal property. Additionally, when a room is used for storage purposes it can count as more than one room. However, the room counts in the files reviewed were often excessive. For example, agents counted 21.5 rooms of property in a two-bedroom, 1,047-square-foot house, and 29 rooms in a three-bedroom, 1,092-square-foot house, resulting in payments of \$2,400 and \$3,200, respectively. In several files, bedrooms or living rooms were counted as at least two rooms, and bathrooms counted as a room.

- **Inappropriately using low-income method for renters** Some excessive payments also result from ADOT's improper use of an income-based method for calculating payments. Problems were identified in two of the five cases reviewed using this method. Regulations provide that ADOT must pay renters the difference between the rent and utilities of a comparable rental and the lower of either a) the rent and utilities the renter had been paying, or b) 30 percent of the renter's gross monthly income. This difference is then multiplied by 42 months to calculate the total payment made to the renter. According to the Federal Highway Administration, the renter is responsible for providing income documentation. The regulations state that if a person does not provide appropriate evidence of income, the income method should not be used for the payment calculation. However, in one case the renter produced only a handwritten tax return from the previous year, with no W-2 forms. In another case, a renter provided a tax return for the previous year to document her income. She told the Right-of-Way agent that her annual income was low because she did not start her present job until August of that year. Thus, it represented only five months' pay. Although the renter continued to have the same monthly income as that which she had during the last 5 months of the preceding year, the agent determined her current monthly income by dividing the total income for the preceding year by 12 months instead of 5 months. This significantly understated the renter's current monthly income. The agent then used this amount to calculate a rental assistance payment of \$16,217. When asked about this case, the agent's supervisor stated that the agent's calculations improperly understated monthly income.
- **Paying unnecessarily for features the comparable property lacked** ADOT also unnecessarily increases price differential payments by improperly applying another relocation requirement. The regulations provide that a price differential should be increased by an appropriate amount if the site of the comparable property lacks a "major exterior attribute" of the property acquired, such as a swimming pool or a significant lot size difference. ADOT paid for features in 17 cases reviewed. However, in 10 of these cases, ADOT paid for features that are not "major exterior attributes," such as fireplaces, barbecues, wood stoves, solar water heaters, and ceiling fans. Federal Highway Administration officials have stated that an agency should not pay for these types of features.

Additional Factors Contribute To Improper Procedures

Right-of-Way agents' failure to properly apply the regulations may result from two additional factors. First, training and oversight regarding relocation assistance seems to be lacking. Second, poor data systems provide insufficient management information.

Management has not taken steps to ensure compliance with regulations—Failure to properly apply the regulations may result from insufficient training. ADOT does not provide its staff or consultants with mandatory training in determining relocation assistance benefits. The federal government provides relocation assistance training through the National Highway Institute, but ADOT employees and consultants have not attended these classes. The courses include a basic relocation class, an advanced class, and business relocation classes. Each class costs approximately \$1,000 per day. A percentage of the federal revenues ADOT is provided for the construction budget can be used for such training costs.

Further, a Right-of-Way management practice and a lack of accurate data contribute to ADOT's failure to ensure compliance with the regulations. First, management reviews payment calculations prepared by staff agents, but does not review the work of consultants employed to supplement staff. Consultant calculations are reviewed by staff agents. ADOT management should review both staff and consultant calculations. Second, ADOT lacks accurate relocation assistance data. In 30 percent of the files reviewed, there was a discrepancy between actual payments and the amounts listed in the database that tracks all acquisition and relocation activity. The lack of oversight and accurate data make it difficult for managers to detect payments that exceed limits.

Recommendations

1. ADOT should provide more formal training to agents to improve their compliance with regulations.
2. ADOT should more closely adhere to regulations in the following areas when calculating relocation assistance payments:
 - a. Use the price of the most comparable dwelling to calculate price differential and rental assistance payments;
 - b. Adjust the asking prices of comparable dwellings to reflect the difference in the local market between asking and selling prices;
 - c. For fixed moving cost payments, create guidelines for determining the number of rooms in a property to ensure reasonable and consistent payments;
 - d. Apply the last resort provision only when necessary to allow a project to continue, and document in the file justification for the decision;
 - e. Use the low-income method for making a rental assistance calculation only when sufficient proof of low income is provided; and
 - f. Make adjustments only when the site of a comparable property lacks a “major exterior attribute” of the acquired property.

FINDING III

ADOT SHOULD DEVELOP A FORMAL PROCESS FOR IDENTIFYING AND DISPOSING OF UNNEEDED PROPERTY

While ADOT has begun selling some unneeded properties, it has not established a plan for identifying excess properties. ADOT has taken steps to eliminate properties no longer needed, selling several million dollars' worth of land. In addition, ADOT's method of identifying properties may leave many excess properties uninventoried. ADOT needs to implement policies and procedures to better identify and sell properties as soon as they are no longer necessary for highway projects.

ADOT defines excess property as parcels of land in surplus of transportation needs. Excess property results from two basic sources. First, ADOT often purchases land that will not be needed for construction, but will be damaged in the construction process. Rather than leaving a landowner with a damaged piece of property, ADOT purchases the extra land. In addition, changes during a project's design and construction phase can result in pieces of land that are no longer needed. ADOT is sometimes left with valuable pieces of property. However, the remaining lands are often small parcels of little value. Regardless of the parcel's value, ADOT is responsible for maintaining the land.

Federal regulations require that states reimburse the federal government for excess property, purchased in whole or part with federal monies, two years after the highway is open to the public or when ADOT makes its final request for federal monies for right-of-way purchases, whichever comes first. However, if the property is valued at less than \$2,000, the agency does not have to reimburse the federal government. An agency can decide to keep excess lands, but it still must remit to the federal government the properties' fair market value.

ADOT Actively Selling Excess Properties

ADOT has made significant efforts to reduce its excess property inventory. In part due to legislative interest, ADOT hired two consultants to research properties no longer needed, prepare such properties for eventual sale, and update the excess property inventory. These efforts have already resulted in large monetary returns. At the time of the audit, ADOT had auctioned off 133 parcels, for \$5.9 million. Prices paid for parcels ranged from \$500 to \$895,000. To date, ADOT has identified an additional 366 excess properties. Currently,

these parcels are in various stages of the disposal process, including 96 parcels ready for sale. While no estimates exist for the fair market value of all 366 parcels, the 96 parcels ready have been appraised at over \$3 million.

ADOT Lacks Systematic Mechanism for Identifying and Selling Excess Property

While ADOT has made progress selling properties previously identified, it does not know how many more parcels of excess property it owns, and it lacks the policies and procedures needed to track and dispose of excess lands. Because ADOT does not maintain an inventory of its properties, its personnel sometimes learn that the Department owns a parcel only when someone calls to inquire about purchasing it. In order to meet federal requirements and maintain an up-to-date inventory, ADOT will need to develop an inventory of all property and then develop policies assigning responsibility for identifying excess lands. ADOT also needs to spell out the criteria for determining when excess property should be sold.

ADOT unaware of all the properties it owns—ADOT needs to develop an inventory of all its properties. Currently, ADOT relies on several mechanisms to identify land it owns. Although ADOT has hired consultants to catalog its lands, the consultants rely on old, often incomplete right-of-way plans. Additionally, ADOT learns of properties through calls from the general public. While it is difficult to determine how many properties exist, one ADOT staff member estimates that there are several hundred additional properties in Maricopa County alone.

Policies are needed to guide disposition process—In addition to developing and maintaining a current inventory of properties, ADOT needs to develop a clear policy designating responsibility for identifying excess properties. Current policies indicate that when excess property is identified, district engineers should submit disposal forms to the Right-of-Way unit and other groups within ADOT. However, the policies do not indicate who among the district staff should identify potentially excess property or how to make the determination that a parcel is surplus. ADOT staff have suggested that project managers should be responsible for identifying excess properties. Project managers are involved with projects from the beginning to end stages of construction, making them uniquely qualified to identify land that may not be needed.

The lack of guidelines for determining when property should be sold also hinders ADOT's ability to dispose of excess property. After a property has been identified as surplus, its sale must be approved by various units within ADOT, such as statewide project management and the materials unit. Because there are no written policies dictating when a property should be sold, each unit has individual discretion as to what should be kept. Internal reports suggest obtaining these approvals causes a significant time lag in selling

the land. On several occasions, it took over one year for the units to sign off on the disposal form.

Finally, complicating the decision to keep or sell the land is the low value of some properties. In some cases, it would cost more to sell a property than it is worth. One ADOT estimate found that it costs approximately \$5,000 to sell a piece of land. This estimate included the cost of researching the property's title, developing a legal description, conducting an appraisal, and efforts made to sell the property. However, some properties already sold were worth less than \$5,000. In these cases, ADOT has two options that may reduce or eliminate selling costs. According to A.R.S. §28-1865, ADOT may dispose of the properties worth less than \$1,000, by quitclaim deed to the adjoining property owners without formally trying to sell the property. ADOT also has the option of paying property owners for damages instead of purchasing land that will be damaged by its projects. ADOT may need to include in its guidelines for selling properties alternate strategies for dealing with properties of little or no value.

ADOT Could Adopt Ideas from Other States

To better track property in the future, ADOT should take additional steps to identify and sell excess property. While developing its policies, ADOT should consider methods implemented in other states to address this problem. Other states also experience difficulties identifying and selling their excess land. Interviews with right-of-way staff in other states revealed that some excess land is not identified for some time after construction, and often only after public inquiries. However, a few states have found more proactive ways to accomplish this task. Officials representing these states discussed the necessity of having the transportation department emphasize the importance of reducing excess land inventory. ADOT should consider some of the following methods to aid in its reduction of excess lands:

- **Complete inventories** Other states, such as Colorado, have established databases with complete listings of all department-owned properties.
- **Periodic review of properties** Both the Washington and Colorado Departments of Transportation require systematic reviews of inventory to determine excess land that can be sold. Currently, Colorado's Department requires that each region annually evaluate their properties, including newly completed construction projects, to determine whether or not any properties should be sold. In fact, Colorado law requires the state transportation commission to inventory excess lands.
- **Committees determine which properties are excess** The California Department of Transportation has a property retention committee charged with determining which properties are excess, and if those excess lands should be sold. If the committee

determines a property should be kept, it must prove to the Department why the land is still needed.

Recommendations

1. ADOT should expand the excess property inventory currently being developed to include all land ADOT owns. In addition, ADOT should develop procedures to ensure that the property inventory is updated as each new property is acquired.
2. ADOT should develop policies pertaining to excess properties. These policies should:
 - Define staff responsibilities for identifying properties that may be excess, and
 - Provide guidelines for determining when properties should be sold that take into account the properties' varying values, specifically those of little value.

FINDING IV

ADOT NEEDS TO TAKE STEPS TO ENSURE IT USES RIGHT-OF-WAY CONSULTANTS EFFICIENTLY

ADOT's Right-of-Way Unit contracts with private companies for several important functions. However, ADOT may not be effectively using its consultants. ADOT decided to privatize many of these functions without determining whether cost savings would result and still fails to collect adequate information to ensure cost savings continue. Further, the Right-of-Way unit may be duplicating its consultant oversight efforts and fails to adequately evaluate consultant performance.

Consultant Use within ADOT's Right-of-Way Unit

The ADOT Right-of-Way unit purchases properties for Arizona highways and other transportation projects, and manages lands needed for future transportation projects. Currently, there are eight different sections within the Right-of-Way Unit, including administration. Staff within these sections are responsible for preparing plans and deeds for needed properties, purchasing properties, providing relocation assistance to landowners, and managing and selling properties. ADOT also contracts with the private sector for a significant portion of its property management, acquisitions, plans, titles, and appraisal functions. The unit currently uses a total of 38 on-call consulting firms, in addition to dozens of private maintenance contractors, such as plumbers, carpenters, and painters, to work on properties until they are needed for a highway project. In fiscal year 1995-96, consultant contracts amounted to approximately \$13 million.¹

Limited Data Available To Determine Cost Savings

Right-of-Way management cannot determine if its use of consultants is cost-effective. According to Right-of-Way management, many previous privatization decisions were not

¹ \$4.3 million of the \$13 million is used for conducting appraisals, right-of-way planning, title searches, and property management. The remaining \$8.8 million is used for the testing and removal of hazardous waste on acquired properties, maintenance of properties, and demolition of properties prior to construction.

based on an analysis of cost savings, but instead on external recommendations and reductions in ADOT staff. Right-of-Way staffing has decreased by 30 percent in the last 5 years due to a Project SLIM study (process improvement studies sponsored by the Governor's Office), that recommended eliminating 18 positions, numerous Right-of-Way reorganizations, and retiring staff. At the same time, workloads increased. As staffing levels have decreased, the unit began relying more heavily on consultants. Managers indicated they needed to contract with the private sector for additional assistance.

However, ADOT fails to track all the necessary data to evaluate whether privatization attempts have been cost-effective. Although both Arizona's and the federal government's privatization policies suggest comparing costs to complete a function in-house versus the private sector, ADOT lacks complete cost comparison data between ADOT staff and current consultants. While the unit has salary information for both in-house staff and consultants, there is limited information available on overhead and other indirect costs needed to determine the cost of completing a function in-house. Additionally, the Right-of-Way unit does not track the amount of time staff spend overseeing consultants, which is an important component of the cost to privatize a function. Interviews with Right-of-Way managers revealed that developing an in-depth cost comparison is a long-term goal; however, this information is not currently tracked.

ADOT Could Improve Its Management of Consultant Contracts

In addition to collecting more data to evaluate its privatization decisions, ADOT needs to better manage the consultants they are currently using. ADOT should determine if the level of oversight it gives consultants is appropriate. Also, Right-of-Way managers and staff need to increase their efforts to document problems with consultants.

Significant time spent overseeing consultants—Right-of-way staff appear to be spending a significant amount of time monitoring and reviewing the work of consultants. A survey of Right-of-Way staff was conducted to determine the amount of time spent reviewing and managing consultants. Staff were asked to estimate the amount of time they spend overseeing consultants or reviewing their work. Staff indicated spending an average of 33 percent of their time monitoring consultants. Units that relied heavily on the work of consultants indicated spending a greater percentage of their time reviewing consultants' work. Their remaining time at work is spent completing other assigned tasks. Yet, in some situations, ADOT staff reported that they re-inspected the work of consultants already supervised by employees in other right-of-way sections. For example, project management staff reported that they review and modify the work of consultants who develop right-of-way plans. However, staff within the plans unit already monitor these consultants. Similarly, staff in several units review appraisal reports and title reports completed by private fee appraisers and private title companies, respectively. This confirms a 1993

internal study that also found a large amount of duplication in the Right-of-Way unit in the form of employees validating and checking previously gathered data.

ADOT should take steps to determine if the number of staff needed to review consultants' work is appropriate and if oversight efforts are duplicated. As part of this effort, ADOT should consider developing a time code for staff to use that will track the time they spend reviewing consultants' work.

ADOT needs to document consultant performance—Additionally, Right-of-Way staff fail to adequately document consultants' performance through formal evaluations. Throughout the audit, managers expressed frustration with the level of consultant error and other problems with consultants that ranged from inadequate quality to an inability to complete work according to the contract schedule. However, none of the sections that use consultants have formal processes for evaluating their consultants at least annually. Only one group within the Right-of-Way unit appears to perform any evaluations, and these reviews are completed only once every two to three years. Yet, evaluations provide critical information to ensure consultants achieve the standards set in their contracts. In fact, according to the American Association of State Highway and Transportation Officials guidelines, agencies should evaluate consultants at pre-established points for each contract. Further, the evaluations should “consider formal technical reviews, quality and timeliness of work, and administrative relationships between the consultant and the agency.”¹

Other groups within ADOT are required to perform annual evaluations of consultants. For example, the engineering consulting group, which hires consultants for various ADOT units such as design or bridges, requires that all consultants receive a yearly evaluation from their supervisor. The Right-of-Way unit should begin conducting yearly evaluations of all consultants. This will provide the unit with documentation of any problem areas that need to be addressed.

The Right-of-Way unit also needs to work with the ADOT procurement group in identifying any problems with consultants. Procurement staff should be notified of any problem areas since they have the ability to negotiate with or remove poorly performing consultants. Further, some of the problems encountered with consultants might be alleviated through clearer communication of ADOT standards in the contract negotiation stage, or redefining the contract scope.

¹ American Association of State Highway and Transportation Officials *Guidelines for Preconstruction Engineering Management*, published in September 1991.

Recommendations

1. ADOT should continue its efforts to collect the financial data necessary to evaluate privatization attempts. This would include data on the direct and indirect costs of completing specific tasks in-house and the costs associated with managing consultants.
2. ADOT Right-of-Way management should determine whether the current level of consultant oversight is necessary. Specifically, they should determine if the number of staff reviewing consultants' work is appropriate and if staff are duplicating oversight efforts. To assist in this evaluation, ADOT should consider establishing a separate time reporting code to track staff time spent reviewing and monitoring consultants.
3. The Right-of-Way group should conduct performance evaluations of all consultants at least annually.

FINDING V

ADOT SHOULD NOT PROVIDE STAFF FOR THE PIMA ASSOCIATION OF GOVERNMENTS TRANSPORTATION PLANNING ORGANIZATION

ADOT should cease staffing the Pima Association of Governments (PAG) Metropolitan Planning Organization. Currently, ADOT employees serve as PAG regional transportation planners. However, ADOT does not provide this service to any of the State's other regional planning organizations.

PAG is one of four Metropolitan Planning Organizations (MPOs) in Arizona. Federal law requires urban areas with populations of over 50,000 to form MPOs through an intergovernmental agreement between the Governor and at least 75 percent of the local governments within the region. MPOs are responsible for a number of regional functions, including transportation planning. Specifically, they must create annual regional transportation improvement programs and long-range transportation plans. Each MPO employs transportation planners to develop these plans. However, PAG only employs 3 staff, while 14 ADOT employees perform PAG's remaining planning functions.

Using ADOT Employees for PAG Regional Transportation Planning Activities Is Inappropriate

Providing state employees to PAG for regional transportation planning activities is costly and inequitable. The policy is costly because in fiscal year 1996-97, the salaries of state employees serving as regional transportation planners for PAG amounted to \$525,655. The policy is inequitable because ADOT has not provided planners for any of the State's other regional transportation planning organizations since 1992. In 1991, Peat Marwick, a consulting firm, examined the relationship between ADOT and the Maricopa Association of Governments' (MAG) Transportation Planning Office. At the time, ADOT employees served as MAG transportation planners. The report recommended that ADOT cease providing employees for this function since the arrangement "... raised certain questions about the group's ability to serve the needs of two different organizations. . . ." and further stated that the staff's "dual reporting responsibilities left it with an uncertain sense of accountability." ADOT formally stopped providing state employees for MAG's regional transportation planning activities in 1992.

Nationally, state departments of transportation do not staff MPOs or other types of regional planning groups. None of the 13 states contacted provide state employees for regional transportation planning activities.

Recommendation

ADOT should not provide planning staff for the Pima Association of Governments Transportation Planning Office.

Agency Response

**ARIZONA DEPARTMENT OF TRANSPORTATION
RESPONSE TO AUDITOR GENERAL PERFORMANCE
AUDIT OF HIGHWAY PLANNING AND ENGINEERING FUNCTIONS**

Summary of Significant Issues

The Arizona Department of Transportation (ADOT) would like to thank the Auditor General and his staff for the opportunity to comment on the highway planning and engineering audit. In general, we concur with the majority of the recommendations contained within the audit since they involve continued improvements in processes that are critical to our mission. However, the following summary seeks to clarify certain statements made within the audit report that we believe do not fully reflect reality or could be misconstrued.

**ADOT Has Been Working Extensively
to Improve the Planning Process**

The current process used to develop and update the Five Year Program for State Highway Construction is extensive, comprehensive, and provides numerous opportunities for input by all stakeholders, including the public. The involvement of local governments, district engineers and citizens is critical in the development of the Five Year Highway Construction Program. These stakeholders submit prioritized projects that are key inputs in developing the program. ADOT also continues to work to increase communication with these stakeholders, which will result in continuing improvement of the planning process.

The State Transportation Board's input is vital to the success of the planning process. The Board held extensive public hearings in Phoenix, Flagstaff and Tucson in the month of April to review the Tentative Five Year Program. Comments were received from individual citizens, as well as from representatives of numerous local governments and regional planning agencies, including the Central Arizona Association of Governments (CAAG), Western Arizona Council of Governments (WACOG), Northern Arizona Council of Governments (NACOG), Flagstaff Metropolitan Planning Authority (FMPO), and Pima Association of Governments (PAG). All expressed support for the improvements ADOT has made in the planning process.

The State Transportation Board's oversight role has never been stronger. Several Board members objected, in writing, to the Auditor General's assertion that the Board does not receive sufficient information from ADOT staff.

Jerry Williams of Clifton, a Board member since 1995, stated in a letter to the Auditor General that, "Few times in my extensive professional life have I been exposed to as much information as I have from ADOT staff." Mr. Williams went on to say that "To indicate that we do not have information and input is totally in error."

Vice Chairman Jack Husted of Springerville, a Board member since 1993, wrote “The tone of the report leads the reader to believe that the transportation board members lack the necessary information to make meaningful decisions. I take exception to that thought”

John Hudson of Yuma, a Board member since 1994, wrote that, “...ADOT has changed the planning procedures so that Board members are included in the process up front.” Mr. Hudson further stated that “At any time a member has a question regarding an item on the agenda that may not be fully explained in the information received, the appropriate staff member will be called to get his/her question answered before the meeting.”

The auditors’ recommendation that ADOT adopt a project rating system to prioritize projects shows a lack of understanding of the complexities of developing a transportation program. It would be extremely difficult, if not impossible, to develop an objective rating system to prioritize ADOT’s diverse and multi-faceted projects. Such a system would have to compare and rate such diverse projects as pavement preservation, construction of MVD ports, major highway construction, and rockfall containment. This would be akin to the Legislature and Governor creating objective criteria to compare education funding to environmental funding or to medical treatment for the poor. It is highly unlikely that the Governor or legislators could or would attempt to develop such a system. ADOT relies extensively on data to evaluate individual projects, but will continue to rely on the professional expertise of its veteran staff as well.

The auditors’ assumptions regarding funding of the Freeway Management System also exhibits a basic misunderstanding of the project. Contrary to the auditors’ findings, it will not be necessary to complete the entire project before the State begins to receive any benefits from FMS. In fact, extensive benefits already are accruing from the \$87.0 million that has been invested to date. Surveillance cameras have been installed along 29 miles of Maricopa County freeways to monitor trouble spots. Loop detectors have been installed to monitor the flow of traffic, ramp meters to control traffic, and message boards are being used to relay important information to the traveling public. These devices increase the capacity of the freeways and are far more cost effective than building additional traffic lanes. The media have found the FMS to be a valuable tool and the public continually accesses the information provided by FMS on the ADOT Internet site. Furthermore, ADOT is *not* required to spend an additional \$226 million on the system, as asserted by the auditors. Future expansion of the FMS will be evaluated on a continual basis and will have to compete with other statewide needs for funding.

The Right of Way Program Continues to Meet Its Mission in a Fair, Legal and Responsible Manner

The mission of the Right of Way group is a difficult one. The majority of the group's work currently is in Maricopa County in support of one of the largest ongoing public works projects in the United States, the development of the Regional Freeway System. Acquisition of right of way for construction projects requires not only the uprooting and relocation of individuals, but sometimes entire neighborhoods. After the residents have been relocated, the houses must be demolished and utility systems must be removed and reconstructed before any construction can begin. To expect that this can be done in a corridor as extensive as the Squaw Peak, which involved 487 residences, in a four month period as the Auditor General suggests is ludicrous. The Department certainly feels comfortable that it is within our statutory authority to rely on "last resort" 6-12 months from construction.

There is some evidence that ADOT's use of the "last resort" language of the law to purchase many properties results in marginally higher costs. However, when the impact of relocation on individual lives and the community at large is taken into consideration, not to mention the positive benefits of the resulting freeways, the additional costs are justified.

In response to the auditors' criticism of the agency's handling of relocation assistance, it should be noted that ADOT can either pay professional movers or a fixed payment to individual homeowners based on Federal Highway Administration approved guidelines. In general, ADOT has found that providing a fixed payment to individual homeowners rather than paying for a commercial mover is more cost effective.

The instance cited by the auditors in which the relocation payment for a family with a two-bedroom home was calculated at 21.5 rooms of furniture requires clarification. It should be pointed out that ***a room is defined on the basis of personal items that have to be moved.*** In this particular case, the residence had the equivalent of 8.5 rooms of items in the front and back yards alone. This included automobiles and other personal belongings that required relocation. In total, ADOT paid the resident \$2,400 to have the items relocated. Based on commercial mover guidelines, the Department calculated the minimum costs to be \$2,500. We also examined three other files that were reviewed by the Auditor General and in each instance, the commercial mover bid was higher (in one instance by 30 percent).

Finally, the auditors' finding regarding excess right of way land requires further explanation. ADOT acknowledges that it has been unable to fully inventory all it owns. Although such an inventory would be good information, it has been impossible to obtain because of a variety of historical problems, including poor record keeping in past years. ADOT would be more than willing to attempt to identify the cost of creating such an inventory and will allow the Legislature and Governor to determine funding importance.

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ARIZONA DEPARTMENT OF TRANSPORTATION

206 South Seventeenth Avenue - Phoenix, Arizona 85007-3213
Phone: (602) 255-7226 - FAX: (602) 255-6941



FIFE SYMINGTON
Governor

LARRY S. BONINE
Director

May 16, 1997

Douglas R. Norton
Auditor General
Office of the Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ 85018

Dear Mr. Norton:

Enclosed is the Arizona Department of Transportation response to the performance audit of highway planning and engineering functions.

At the April 2, 1997 exit conference with your staff, we expressed significant concern regarding the content and tone of your March 19, 1997 draft report. Although some changes have been made to the report as result of our discussion, we continue to have significant concerns regarding its content and tone. Our response includes these concerns and addressees your recommendations.

Although we disagree with certain aspects of your report, we appreciate the courteousness and patience of your staff.

Sincerely,

Larry S. Bonine

Enclosure

ARIZONA DEPARTMENT OF TRANSPORTATION
RESPONSE TO AUDITOR GENERAL PERFORMANCE
AUDIT OF HIGHWAY PLANNING AND ENGINEERING FUNCTIONS

ADOT's response is organized to address each finding and the headings and subheadings are all in the same order as in the report.

FINDING I - ADOT NEEDS TO IMPROVE ITS TRANSPORTATION PLANNING PROCESS

As discussed in more detail in following paragraphs, ADOT does not concur that many key stakeholders involved in the Five-Year Program development process lack an understanding of the process. ADOT further does not concur that criteria and data are not used in the decision-making process, nor that ADOT lacks long-term goals to guide the development of its construction program.

Confusion Over Process Remains Despite Recent Improvements

Transportation Board members, district engineers and regional planning agencies all are very familiar with and support the ADOT's existing planning process. That is especially true of the process implemented in the fall to develop the tentative program for Fiscal Years 1998-02. A comprehensive description of the current program can be found in the Additional Information section. Comments regarding use of an explicit data decision-making process appear later, consolidated under the appropriate heading.

ADOT More Actively Involving Stakeholders and the Public - This paragraph summarizes much of the planning process, but ignores the multiple working meetings initiated by ADOT with regional planning staffs even before projects are submitted to the districts for their review. Those meetings begin in May, even before the previous year's tentative program is submitted to the board for final action. The schedule of this year's meetings already has been prepared by ADOT staff.

Key Stakeholders Still Lack Understanding of Decision Process - Testimony taken during three public hearings held by the State Transportation Board in April indicated that key stakeholders, board members, district engineers, and the general public understand and support ADOT's existing decision-making process. No testimony indicated confusion or a lack of understanding on the part of the board, other key stakeholders or the general public.

Contrary to the Auditor General's findings, testimony taken during the public hearings indicated a good understanding of the process and an appreciation for the rapport that has been established between ADOT and local and regional planning agencies who participate in the decision-making process

An overwhelming majority of witnesses who testified during the April hearings thanked the board, their district engineers and ADOT management for opening up the planning process. Unsolicited testimony to that effect came from:

Maxine Leather - Executive Director, CAAG (Flagstaff hearing)
Dave Barber - Deputy Director, WACOG (Flagstaff hearing)
Chris Fester - NACOG (Flagstaff hearing)
Tom Swanson - Executive Director, PAG (Tucson Hearing)
Dean Giles - CAAG (Tucson Hearing)

- **State Transportation Board Members** - ADOT and a majority of State Transportation Board members disagree entirely with the auditors' assertion that problems pointed out in a 1982 report still exist or that staff members make decisions without board input. In fact, most current Board members do not feel that way at all. Attached are letters from four current board members who take strong exception to the auditors' findings regarding the board's role in the planning process. If there are Board members who feel otherwise, they have not expressed those views to ADOT management.
- **Local Interests** - In view of the strong support a number of elected officials and their senior staff members have expressed recently for ADOT's planning and programming process, the only thing "shrouded in mystery," to quote the audit report, is the identity of the "local interests" who are not supportive of the process.

Failure to Define and Consider Criteria and Data Contributes to Frustration - The report fails to identify anyone who continues to be frustrated by ADOT's programming process. Participants in the regional "focus groups" held in conjunction with the Transportation Board's monthly meetings seem to have little trouble understanding the system and generally are appreciative of the opportunity to provide their input.

As stated in the audit report, criteria used to select ADOT projects is defined in statute. In addition, the criteria has been explained during more than a dozen public presentations throughout the state and further amplified by State Transportation Board policies.

The central issue addressed by the audit report is the use of an "objective" data-driven ranking process for project selection recommendations. The report states that the Project Development Committee does not discuss criteria or data and that it makes decisions without a formalized

process. Although the auditors' assert that this process has resulted in a flawed decision-making process, nowhere in the report is there a single single example of a flawed PDC recommendation.

The auditors fail to recognize the complexity of the criteria and data issues faced by ADOT in setting its priorities. These issues involve a wide variety of potential projects in virtually every part of the state. The projects often involve totally different physical and traffic conditions and provide widely differing services to the public.

Any formalized, objective system of ranking or prioritizing projects would have to include a quantifiable statement of "public utility vs. cost" for each project compared to all other similar products as well as each "sub-program" within the total program. That would involve literally tens of thousands of decisions that would have to be made to create the data base.

ADOT consistently and explicitly uses data to guide program decisions in the pavement preservation and bridge programs. ADOT also used for the first time this year a ranking analysis to prioritize competing traffic interchange improvement needs. Submissions for the district scoping list receive a quantitative ranking using basic transportation criteria. But those projects also are ranked by the sponsoring district engineer and his or her planning staffs. It is interesting to note that the objective ranking system for the scoping lists did not match local recommendations. That is a strong indication that the objective ranking system needs some review.

Nearly two years ago, ADOT retained a consultant to help develop and implement an improved programing process. Among other things, the consultant was asked to analyze the feasibility of using some sort of quantitative ranking system. ADOT currently uses quantitative data decision systems in areas when similar types of projects are being compared. But no such system is implemented unless it can be shown that it will be cost effective. The consultant's effort continues to be monitored. In the meantime, ADOT will continue to use data decision systems where feasible, and rely on the judgment of its district engineers, regional planning agencies and the state's transportation community as well as the individual experience of the Project Development Committee, Project Planning Committee and State Transportation Board.

The collective experience of the Program Development Committee last fall was 210 years. At least one member of the committee was personally familiar with each potential project, either through previous work within the corridor or pre-design studies. A pedantic discussion of individual criteria attributes for each of the projects under consideration might have satisfied the "score sheet" interests of an auditor, but otherwise would not have been especially useful.

Regarding the flaws in PDC decision-making process outlined in the audit report, it is the opinion of ADOT that selection criteria is published and used by all members of the Committee and staff; that nothing prevents meaningful discussion of different views nor is there difficulty in explaining decisions to others in criteria terms. ADOT agrees that improved minutes would assist in review of PDC work.

ADOT is further criticized for not adequately using data from the six management systems, even though several of these (e.g. congestion management and transit) are not even intended to work with each other fully across the statewide system. Data that is available from these systems, particularly the pavement and bridge systems, is consistently used now.

In regard to other areas of concern to the auditors:

- **Making Funding Recommendations** - As already discussed in depth, when ADOT has available to it formulas or sophisticated data-driven systems analyses tools which can reliably assist in decisions regarding allocations between projects and/or sub-programs, and which are cost-effective to install and operate, they will be used. Review of this issue continues using the consultant who was retained in 1995.
- **Recommending Projects for Construction** - According to the auditors, board members have little input into the planning process. But, at the same time, the Project Development Committee is criticized because it responded to the specific input of a single board member. The project in question was downsized from the original request and was supported by the district engineer. Because the ultimate authority for project selection is the State Transportation Board, it is entirely appropriate for individual board members to voice their concerns about projects in the regions they represent to the district engineers or ADOT staff.
- **Recommending Other Projects for Funding** - ADOT disagrees strongly with the auditors' assertions regarding Freeway Management System projects. Contrary to the report, the system does not have to be completed before any benefits are realized from it. In fact, significant benefits already are being realized from the system, which ultimately could significantly increase the capacity of Arizona's freeways by improving their efficiency and thus reducing the demand for construction of new freeway lanes. Secondly, for clarity, the Project Development Committee has taken the present view that use of statewide funds for future work of this nature would be of low priority.

ADOT NEEDS TO BETTER ENSURE THAT PLANNING DECISIONS ARE TIED TO LONG RANGE GOALS

ADOT concurs with this statement. Over a year ago, ADOT agreed, at the request of the Maricopa Association of Governments and Pima Association of Governments, to develop and publish a 20-year, line-item listing of recommended projects. The first five years of the plan would be ADOT's update annual Five Year Program. The remaining 15 years of projects would constitute a long-term, line-item plan that is to be published in August.

The 14 priority corridors cited in this paragraph are, in fact, a foundation block of policy that guides current Program recommendations. In addition to those corridors, Arizona's long-standing cooperative planning relationship with the Mexican state of Sonora, current discussions with the State of Nevada (including discussions between the two Governors) to finally develop a bridge across the Colorado River near Hoover Dam, and on-going studies such as the Western

Trade and Transportation Network (WTTN) are all examples of active long-range planning work which relates to current project recommendations.

FINAL ADOT COMMENT

The intent of Finding I appears to be to convince the reader that the ADOT staff, management and the State Transportation Board are making bad programming recommendations and decisions. However, the report fails to provide any evidence to support that conclusion. It is the rarest of events for testimony at a public hearing to recommend substituting one project for another because of a programming error. There are lots of requests for additional projects, but virtually no complaints have been fielded about the validity of ADOT's project selection

Audit Report Recommendations:

The Auditor General's recommendations are as follows:

- 1. ADOT should adopt a method that makes greater use of data and criteria for making programming decisions. ADOT should begin by determining the relative weights of its current criteria. Also, ADOT should consider implementing the recommendations and approaches identified by its consultants.*
- 2. ADOT should continue its efforts to expand the involvement of its district engineers, regional transportation planning groups, and the public in its transportation planning and programming processes.*
- 3. ADOT should continue its efforts to create a detailed long-range plan that includes an accurate long-term financial forecast and a listing of needed transportation projects, including those that cannot be funded with current revenues.*
- 4. ADOT should better link short-range programming decisions to long-range priorities by explicitly considering ADOT's long-term transportation priorities and goals when developing recommendations for projects and funding allocations for the Five-Year Program.*

As previously discussed the Department is pursuing all areas identified in the above recommendations. The Department is committed to working with all transportation stakeholders to improve the State's transportation system.

FINDING II - ADOT MAKES EXCESSIVE RELOCATION ASSISTANCE PAYMENTS

This finding summarizes the auditor's conclusions as to what "is necessary to relocate persons," and is contrary to ADOT experience. The subject addresses the relocation of the families or individuals from their personal residences, frequently an issue of major personal impact. In this area, experience tempers the application of regulations "by the book". Experience has helped ADOT develop a reasonable process for the taking of private property for public use under the threat of eminent domain. ADOT cannot unilaterally dictate final terms of the taking; that is subject to final review by the courts where differences may exist. We have learned by years of experience that having the positive attitude expressed in the terms used in the Federal regulation, "equal or better," makes the situation much more palatable for both sides. As such, we have developed our current procedures that reflect input from the public, legislature, and management, including guidance from FHWA.

First, we do not believe there are any violations of State or Federal law as stated in the audit. In fact, most of the "laws" cited in the report are really quotes from 49 Code of Federal Regulations Part 24 which begins by stating in Part 24.7:

"The Federal agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part."

In addition, the auditor's conclusion that the Arizona Administrative Code referencing prior Federal Regulations creates a legal tie between State Law and the current Federal Regulation is contrary to advice received from the Attorney General. The Attorney General has advised that there is not a legally binding requirement on State funded projects to follow current Federal Regulations. State Law is to be followed.

The audit references a memo from the local FHWA Right of Way representative indicating areas in conflict with CFR 49. This letter analysis was prepared at ADOT's request as part of an interagency work improvement team. We are always looking at our processes to insure compliance and potential for improvements. The local FHWA Right of Way Specialist and author of the memo indicates he has not been further interviewed as part of the audit process except possibly for a few brief questions. FHWA has a major oversight role in this subject but apparently has had little input to this audit. As part of our continuing working relationship with FHWA, their personnel have inspected our procedure manuals, individual relocation files, accounting records and project status on a continuing basis. Since we have had continuing inspections from various levels of FHWA staff over the years and have never been cited for noncompliance on any issue since 1986 it would appear there is a concurrence with our procedures.

This audit finding reflects an attitude of reducing costs to the State regardless of the personal hardship it places on the public affected by purchase of their property for freeway construction. The Department, on the other hand, has taken the position of reasonableness leaning in the favor of the residential property owner.

To the extent there has been an administrative failure in the ADOT process, that failure is not one of violation of law, but written documentation. Understandings and agreements over time have become procedures without adequate records of documentation. Most of the issues cited in the audit came into effect in the current Code of Federal Regulations in 1989. Our procedures have been consistent since then and we believe that our procedures were recognized by FHWA and concurred in through their review and oversight process. We need to clearly document in writing that concurrence by waiver.

ADOT Required by Law to Provide Relocation Assistance

The auditor's conclusion that the existing Arizona Administrative Code references to obsolete Federal Regulations creates a legal tie between State Law and the current Federal Regulation is contrary to advice received from the Attorney General. The Attorney General has advised that there is not a legally binding requirement on State funded projects to follow current Federal Regulations. State Law is to be followed.

ADOT Makes Excessive Relocation Payments

The 1995 "study" by FHWA reference was performed at ADOT's request to provide input for a process improvement. The "study" does not direct ADOT to change any practice. ADOT has not received a Federal citation of any kind in Right of Way since 1986. The Massachusetts example is irrelevant to Arizona, nor do the amounts involved in the ADOT audit findings approach the Massachusetts amount. Federal funding is not at risk on State funded projects.

Payments Often Exceed Statutory Limits - ARS 28-1851 addresses discretion to exceed limits set in the noted Statutes. The term "cannot exceed" is conditioned by this Statute to allow the Department to meet construction dates. This is an area where there is a need to understand the right-of-way acquisition timing problem related to building freeways in an urban area. To conclude that all the residential property owners on a project could wait until 3-4 months before construction is unrealistic. It is hard enough to purchase all the necessary right of way within 12-18 months of planned freeway construction. You have to be very sympathetic to the property owners who are forced to sell their homes and move. FHWA uses the term "extortion" to describe a process holding property owners hostage to replacement of their homes while trying to reduce the amount of the relocation benefit for an unreasonable period or expectation of predicting the real estate market.

Improper Procedures Cause Excessive Payments - These are not incorrect applications of the regulation. Management has in its authority the right to make decisions when not precluded by law. Where there may be a disagreement as to action taken, that is a matter of opinion, not law.

- **Inappropriately Using “Last Resort” Provision** - Acquisition of Right of Way in the Squaw Peak corridor displaced nearly 500 homes and created the need to use last resort housing payments. With that many buyers placed in the market, a seller’s market was created. Market prices already rising in a recovering economy were forced up quickly. Our relocatees required adequate funds to compete in the market we created.

In the process of highway development a period of 12-18 months is considered "imminent for construction." To delay offers and force the property owners to wait for funds to move and then require them to find a new home and move in 2-3 months would be an irrational hardship. To apply that to the large number of residents as in the Squaw Peak corridor would have created a mass protest to public officials and legislators. Such harsh treatment as recommended can only occur in isolated cases where the Department must react to an emergency. The “ADOT Management” that has reviewed this report does not concur that acquisition of properties, certainly in the volumes required for the ADOT program, can wait until 4 months before scheduled construction.

It must be understood that in a corridor such as Squaw Peak Freeway corridor, which is much of the subject in this audit, pre-construction clearance involves more than simply acquiring title to the houses that are in the way. After that happens, and the residents are physically gone, the houses must be demolished and the entire utility systems serving the neighborhood have to be removed and reconstructed before the ultimate freeway project can be advertised and awarded. All properties in the affected area must be ADOT property prior to this work being done.

There are an additional multitude of overall project development issues including neighborhood impacts, environmental review, historic preservation, negotiation of neighborhood amenities (landscaping, sound walls, detour routes, etc.) that are involved at the same time. All of these issues can’t be left until the last minute to resolve. ADOT management judgment is that the 12-18 month point prior to planned construction is a reasonable point for right-of-way to consider that construction is "imminent" and to exercise whatever negotiation flexibility is available to acquire the property with minimal impact to the project and to the owners whose properties are being taken.

When appraisals have been completed, we must proceed to make offers and provide relocation assistance quickly. We have to work within the market as it exists at that time. When large numbers - - 487 residences in the Squaw Peak corridor alone - - are acquired in a short period and the market is forced to absorb them, the availability of housing decreases and the cost rises under simple concepts of supply and demand. We also found significant numbers of properties renting below market value while replacement properties commanded

current market value. That is what happened on Squaw Peak. The environment largely created by our highway project resulted in the need to make last resort payments.

- **Basing Payments on Most Expensive Comparable Property** - Providing equal or better housing has always been the theme of the Federal Regulations since their inception. Specific waiver by FHWA is covered in 49 CFR 24.7. Management has made a conscious decision to conduct business using three comparables when available and to use the highest value. It is not logical to present to a property owner a comparable property they cannot purchase (per 49 CFR 24.2) “within the financial means of the displaced person”. The determination of “most comparable” is highly subjective. Experience has shown that property owners usually do not agree with our selections even using the highest of three comparables. ADOT does need to improve its documentation with FHWA when a waiver is required.

Calculations of savings based on the difference between high and medium priced comparables is not appropriate. ADOT does not make the final determination of price acceptable to the seller. The process is a two party negotiation, which ends up in court if the parties do not agree.

- **Failing to Adjust Asking Prices of Comparable Properties** - Adjustment of the asking price requires that the agency provide staff/consultant advisory services concerning negotiations to the seller (49 CFR Part 24 Appendix A). ADOT has decided because of limited staff resource and market Realtor services that are available to sellers not to provide such services. We believe in the long run the costs to determine appropriate reductions across the broad real estate market in Arizona, plus the cost in personnel and equipment to provide negotiation services do not justify the benefit savings in price adjustment.

This determination is stated as “number of rooms of furniture”. As such it leaves discretion when an actual room or area contains more than a normal “room of furniture”. Use of the current procedure is not “improper”. We do agree that the documentation of the decisions made by our field agents should be improved to leave no doubt regarding the basis for their count after the fact..

- **Inappropriately Using Low-Income Method for Renters** - Even in the example given there is no “improper use of an income-based method”. In the example you note that a “handwritten tax return” was used as a basis for showing income. This does not criticize the method of calculation - only the adequacy of the documentation. We believe an IRS document is adequate legal proof of income, however your suggestion for attaching supporting W-2 and other forms is a good improvement to the documentation.
- **Paying Unnecessarily for Features the Comparable Property Lacked** - No comment - we will reinforce this policy.

Additional Factors Contribute to Improper Procedures

The language used here infers nothing is ever done right and there is no management oversight. Nothing is further from the truth. While improvements in every organization are possible, the status of compliance with regulations is fundamentally excellent.

Management Has Not Taken Steps to Insure Compliance With Regulations - We agree that there are good available courses that should be funded for our employees, if budget is provided. Management, in fact, regularly reviews project acquisition and disposal work to ensure compliance with the applicable laws and regulations. What appears to be noted throughout this finding are isolated issues or a judgmental disagreement.

The report also states that “ADOT Management” is it that should review both staff and consultant calculations. Part of management’s responsibility is to ensure adequate process controls. Staff Right of Way agents are fully competent to review consultant work.

ADOT concurs that the data base has limitations, but it is the best that can be provided given the mixture of funding, staffing and workload at this time. Staff is working on improvements to the system, which should be in place next year.

AUDIT REPORT RECOMMENDATIONS

The Auditor General's recommendations are as follows:

1. *ADOT should provide more formal training to agents to improve their compliance with regulations.*
2. *ADOT should more closely adhere to the regulations in the following areas when calculating relocation assistance payments.*
 - a. *Use the price most comparable dwelling to calculate price differential and rental payment assistance;*
 - b. *Adjust the asking prices of comparable dwellings to reflect the difference in the local market between asking and selling price;*
 - c. *For fixed moving cost payments, create guidelines for determining the number of rooms in a property to ensure reasonable and consistent payments;*
 - d. *Apply the last resort provision only when necessary to allow a project to continue, and document in the file justification for the decision;*
 - e. *Use the low-income method for making a rental assistance calculation only when sufficient proof of low income is provided; and*
 - f. *Make adjustments only when the site of a comparable property lacks a “major exterior attribute” of the acquired property.*

ADOT fully supports the finding that continued training is essential. In response to the audit, ADOT will re-evaluate current policies and procedures to assess areas requiring further clarification. One general deficiency repeated in several recommendations that will be addressed by ADOT is improved documentation and retention of records. We believe all of the procedures cited in the audit were consciously reasoned conclusions between ADOT and FHWA.

ADOT does believe that some of the recommendations contain flaws that will make implementation difficult. In response to finding 2b, ADOT would agree that in fact properties often sell for less than the listing price. The problem with this recommendation is in the inconsistent nature of that determined difference. There is no percentage that will stand over time for a variety of types of property that can be fairly applied on a consistent basis. Fluctuations between buyer and seller markets, marketability, condition, appearance, amenities, price ranges, location and supply/demand make it difficult if not impossible to come to a sound conclusion of the amount to deduct from a relocatee benefit.

FINDING III - ADOT SHOULD DEVELOP A FORMAL PROCESS FOR IDENTIFYING AND DISPOSING OF UNNEEDED PROPERTY

AUDIT REPORT RECOMMENDATIONS

The Auditor General's recommendations are as follows:

1. *ADOT should expand the excess property inventory currently being developed to include all land ADOT owns. In addition, ADOT should develop procedures to ensure that the property inventory is updated as each new property is acquired.*
2. *ADOT should develop policies pertaining to excess properties. These policies should:*
 - *Define staff responsibilities for identifying properties that may be excess, and*
 - *Provide guidelines for determining when properties should be sold that take into account the properties' varying values, specifically those of little value.*

ADOT concurs with the recommendations. We are continuing to improve documentation of excess land and we will keep adding to our inventory. We will only proceed in the overall process to the extent that it is cost-effective." ADOT will develop the necessary policies regarding excess properties.

FINDING IV - ADOT NEEDS TO TAKE STEPS TO ENSURE IT USES RIGHT-OF-WAY CONSULTANTS EFFICIENTLY

Significant Time Spent Overseeing Consultants - There is a difference between the need for each person in the chain of activities to review and understand the product they are receiving

Significant Time Spent Overseeing Consultants - There is a difference between the need for each person in the chain of activities to review and understand the product they are receiving (and its impact on their subject area) and the task of reviewing and monitoring consultants for quality control. Specific individuals are assigned the task of reviewing work of staff and consultants as required by regulations or to facilitate good control. Review and revision will remain necessary to ensure the product reaching the public is appropriate.

RECOMMENDATIONS

- 1. ADOT should continue its efforts to collect the financial data necessary to evaluate privatization attempts. This would include data on the direct and indirect costs of completing specific tasks in-house and the costs associated with managing consultants.*
- 2. ADOT Right of Way Management should determine whether the current level of consultant oversight is necessary. Specifically, they should determine if the number of staff reviewing consultants' work is appropriate and if staff are duplicating oversight efforts. To assist in this evaluation, ADOT should consider establishing a separate time reporting code to track staff time spent reviewing and monitoring consultants.*
- 3. The Right of Way group should conduct performance evaluations of all consultants at least annually.*

ADOT agrees with the recommendations and will implement.

TRANSPORTATION FINDING V - ADOT SHOULD NOT PROVIDE STAFF FOR THE PIMA ASSOCIATION OF GOVERNMENTS PLANNING ORGANIZATION

ADOT agrees with the recommendations and will submit a budget item to the Governor and the Legislature for implementation.

ADDITIONAL INFORMATION

STAFFING AND BUDGET

The audit report continues to understate the full ITD staffing figures. The 592 persons shown for Planning and Engineering is about right, but the total Division FTE strength including maintenance and construction, currently totals about 2732, not 1823 (592 + 1231).

ADOT'S CURRENT TRANSPORTATION PROGRAMMING PROCESS

ADOT uses a multi-phase annual programming process to select projects for construction. The process starts with ADOT Planning staff individually visiting the ADOT district engineers and regional COG/MPO planning staffs in May, which is prior to the State Transportation Board final action on the previous year's update in June. This provides local discussion forums facilitating local recommendations for the next Program update, anticipating current expected Program approval actions by the Board. Through the Summer the local district engineers work with their regional planning organizations, individual local governments, and the general public to identify various transportation projects they believe need to be initiated or existing projects which they believe should be emphasized for priority attention by ADOT and the Board during the next cycle.

DISTRICT REQUESTS FOR SCOPING APPROVAL

Projects are not recommended for placement in the State 5-year Program until they have received formal technical scoping study to clarify the intended scope of the project, evaluate potential environmental and agency interface issues, and develop a valid cost estimate. The first step in the programming process then, is to recommend for Board approval those projects recommended for formal scoping study during the next year. During the Summer, the districts prepare a listing of those projects for which they request scoping approval, numerically rating those projects in accordance with the ADOT priority programming project rating handbook. The district engineer also shows his/her relative priority ranking for the list, and the relative priority ranking preference of the local COG/MPO. Usually these lists are very similar. One must remember that COG/MPO jurisdictional boundaries are not identical with ADOT district boundaries, so the lists cannot precisely match. After the districts have submitted their scoping requests, staff from ADOT pre-design prepare an estimate of the scoping study costs for each requested project.

DEVELOPMENT OF THE POOL OF PROGRAMMABLE PROJECTS

Scoping study for approved projects is performed by ADOT either with its own staff or consultant engineer assistance. The result is a documented report for each project which has been coordinated with ADOT headquarters staff and the applicable district engineer. The district engineer keeps his/her local planning representatives informed as to status and content of the project, and all involved staffs have become very familiar with the project, its anticipated

cost, potential design issues, as well as the expected service benefits to be provided if the project is funded and constructed. The pool of candidate programmable projects consists of all projects which have received scoping study and which have not yet been approved for insertion in the 5-year Program. During the Summer consultation period, ADOT, district and local planning staff meetings include discussion of recommendations of which eligible scoped projects should be considered for program selection.

FALL PROGRAM DEVELOPMENT COMMITTEE REVIEW

Each Fall, the ADOT Program Development Committee (PDC) reviews the district recommended scoping selection list that has been submitted and the pool of programmable projects for recommendation for program selection. The PDC is a nine-member internal ADOT committee consisting of senior planning and engineering managers, assisted by staff from the Intermodal Division and Finance office. In the Fall of 1996, the PDC held three regional meetings (Phoenix, Flagstaff and Tucson) to allow direct discussion with the regional district engineers, COG/MPO, or other interested staff members so that recommendations by the PDC would be based upon the most direct input possible from the affected regions. Some of these meetings also included representatives of local cities, counties, BIA and DPS. The intent is to convene the most knowledgeable discussion of regional state highway issues possible.

SELECTION OF PROJECTS TO BE SCOPED

During these regional meetings, each district/COG/MPO prioritized scoping list is reviewed in detail. Some of the presentations included slides of the subject roadway, overhead display of geometric or traffic issues, and/or documented local reports of the problems involved. Open, informed, in-depth discussion by all participants results.

After the three regional meetings have been held, the PDC meets to discuss the scoping requests and to finalize its recommendation for which projects should be proposed for scoping study. Those recommendations are reported back to the requesting districts.

SELECTION OF PROJECTS TO BE PROGRAMMED FROM THE POOL

The projects which have received scoping review have available considerable documentation regarding the scope, impacts, costs, etc. ADOT and district staffs are familiar with the issues which have been studied for each project. A total inventory of candidate programmable projects is prepared by staff. Prior to the three regional meetings, the PDC prepares a "strawman" preliminary selection of these projects for the next updated Program, and brings that list to the three regional meetings for open discussion. It is emphasized that this "strawman" is simply a starting point for comment from those persons representing the region. This discussion occurs during the same meeting as the scoping list discussion, and is equally open and informed.

After the three regional meetings, the PDC convenes and discusses the comments received from the affected regions and, based on those discussions, finalizes its recommendations for program selection.

REVIEW AND APPROVAL ACTION AFTER PUBLICATION OF THE PDC RECOMMENDATIONS

The PDC recommendations are forwarded to the ADOT Priority Planning Committee (PPC), a statutorily created committee chaired by the Deputy Director. Meetings of the PPC must be publicly posted and held in accordance with the state open meeting law. The PDC recommendations are presented to the PPC and discussed. Input from public attendees is specifically requested, and the PDC recommendations are public information. This discussion occurs approximately November or December. The PPC can revise the recommendations, request additional study, and/or approve.

During 1996, the preliminary tentative program was first provided to the State Transportation Board in December as a status report and publication to all affected agencies for information. The PPC acts in January or February to approve its recommended tentative 5-yr Program and Scoping List and forwards them officially to the Board for action. The draft tentative program was also discussed during a Board study session in January, 1997. The Transportation Board accepted the Tentative 5-yr Program at its February 1997 Board meeting for the purpose of review and public comment. Three specific Public Hearings are scheduled by the Board each year receive further public testimony regarding the proposed program in April at Phoenix, Flagstaff and Tucson.

After those Hearings have been held, the transcript is reviewed and program adjustments considered by the PDC and PPC. Depending upon the results, a Board study session might be convened to discuss possible change. The PPC will ultimately review and forward its recommended Program for final Board approval at its June meeting. The next year's programming cycle will have already started at the staff level in May across the state.

Following official Board action, written responses are forwarded to all persons testifying before the Board and/or providing written comments. In 1996 those letters carried the signature of the Board chairman.

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Arizona Department of Transportation

206 S. 17th Avenue • Phoenix, Arizona 85007-3213



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Larry S. Bonine
Director

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April 25, 1997

Douglas R. Norton, Auditor General
Office of the Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ 85018

Dear Auditor General Norton:

After reviewing the draft regarding the Department of Transportation, I have strong, mixed feelings. Let me describe them.

On Wednesday night, I went to Mammoth, Arizona with the mayor and city manager of Casa Grande as well as a Coolidge city council member. I had been invited as dinner speaker of the Central Arizona Association of Governments, the COG for Pinal and Gila counties. Present were all levels of local officials, including supervisors, council persons, mayors, city and town managers. This was the sixth year I have represented these people on the ADOT board.

All were effusive in their praise of improvements of us at ADOT, from the board level down to the maintenance. The district engineer and his staff had made many improvements, not only on the major 5-year plan projects, but many minor projects scheduled, which pleased them. Also I had been invited to meet with mayors of some of the "Copper Corridor" communities and I assured them I would attend. Although there is not enough budget to give everyone everything, the pitcher was half full instead of half empty.

Many of those criticizing ADOT evidently don't know the process. Literally years of work have gone into the prioritizing process. Projects have been working up the ladder from local governments to lists of the COG, under the close scrutiny of the district engineers. This process goes on continually, and those involved have been weighing some of these projects for years, seeing them rise up the ladder. Only a neophyte would think that projects can be completely juggled by the board or anyone else at the last minute in April.

During my five plus years on the board, I have attended dozens of public meetings around the state, mostly in my three county district, often driving at night over dangerous, mountain roads. Usually there were more ADOT staff there than public, 3 to 1 for instance.

ADOT is improving. Too much of our time is presiding over scarcity, a multi-billion dollar shortfall. Staff has been reduced. The board

has an opportunity to be more effective but it has to get out on the grass roots level to raise its level of participation.

I realize that the process is not perfect, but it is improving. Our staff is intelligent, responsive, and honest.

As a general criticism of the document, I would say the critics are looking through the wrong end of the telescope and not talking to the people who are involved in the successful portions.

There are always nay sayers. ADOT is turning the corner. If you have any doubts, please call Lionel Ruiz, a Pinal County supervisor who had some of the same opinions a few years ago, but now sees movement towards great improvement.

We are all learning to improve.

Sincerely yours,

Donovan M. Kramer Sr.

Donovan M. Kramer Sr.
Chairman
Transportation Board
Arizona Department of Transportation

DMK/ps

Copy to: Governor Fife Symington
Larry Bonine, Director, Arizona Dept. of Transportation
Mary Peters, Deputy Director, Arizona Dept. of Transportation



Arizona Department of Transportation

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May 16, 1997

Auditor General
2910 N 44th Street, Suite 410
Phoenix, Arizona 85018

To Whom It May Concern:

I have read the draft of the Auditor General report on the ADOT planning process. The tone of the report leads the reader to believe that the transportation board members lack the necessary information to make meaningful decisions. I take exception to that thought.

I believe that all board members have ample opportunity to be as involved as they wish in the planning process. As laymen, sometimes the information provided can seem technical and a little overwhelming, however each board member has a choice to be involved and prepared as he or she chooses. I think that in the past the process might not have been as responsive, but in recent years the staff has worked well with the board members to serve the state fairly.

I have watched the planning process open up and evolve as I have voiced my concerns. I am not always happy with the outcome, but I am confident that I can have an impact. I may not always be able to impact individual projects but I do have a voice on the policies and the process. Perhaps things may not progress at the speed in which I would like, but I have seen tremendous progress.

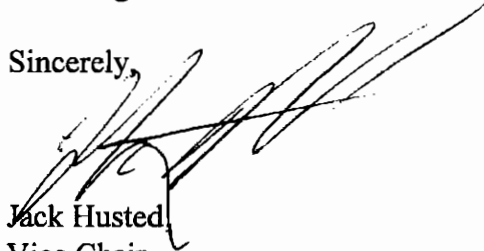
As an example, the State Transportation Board provides a platform that encourages financial participation. That participation can and should factor in on the project's opportunity to be included in the five year program.

The representation of our Board is statewide and through our insistence of traveling around the state, we can truly represent this state fairly. I can honestly say it is a tough battle to offset the sheer size and voice of the Phoenix Metropolitan area but I am very proud of the Board's commitment to fair representation throughout the state.

Page 2

I agree that our planning process needs to continue to be fine tuned, but heaven forbid we yield to a more political process. That instead of fine tuning, would simply provide marching orders.

Sincerely,



Jack Husted
Vice Chair



Arizona Department of Transportation

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May 16, 1997

To Whom It May Concern:

I have read the recent Auditor General Report on ADOT's planning and engineering functions. Most findings in this report appear to be based on data that is 2 to 5 years old.

Regarding the statement that ADOT needs to open its process to more meaningful public involvement: three years ago, the planning process perhaps looked as if it were being conducted in a "black box". In fact, it really never was, because representatives of the MPOs and COGs were invited to meet with the planners in Phoenix, as were the district engineers. As of the last year, the process was changed so that now the planners go out to the engineering districts and meet with the DEs, representatives of the MPOs, COGs and other interested stakeholders such as engineers of counties, cities and towns.

Two years ago, the statements regarding the feeling of exclusion by State Transportation Board members was somewhat valid. During the past two years, however, the Director of ADOT has changed the planning procedures so that Board members are included in the process up front. There is a great deal of coordination between Board members and most of the District Engineers, and the Board now approves the "Scoping List". These are the projects that are the most likely to become candidates for inclusion in the 5-year program.

The Board members receive a copy of the agenda usually a week before a meeting. Contained in the agenda is a great deal of detailed information on each item the Board will be asked to approve. In instances where an item might vary from the routine, members receive additional back-up information by FAX. At any time a member has a question regarding an item on the agenda that may not be fully explained in the information received, the appropriate staff member will be called to get his/her question answered before the meeting. This seems a much more reasonable approach than to save all questions for the meeting and send the staff member scrambling for the answers that may have to be provided later.

Obviously, I think the report is factually incorrect in these areas.

John Hudson
Member, Arizona State Transportation Board

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May 16, 1997

Douglas R. Norton
Auditor General
2910 N. 44th Street, Suite 410
Phoenix, AZ 85018

Dear Mr. Norton:

I have recently had occasion to review your Audit regarding the Department of Transportation's planning and engineering functions. As expected the report is very professional, well constructed document that speaks well of your staff. I would request this opportunity to review certain points with you where we differ in opinion. I am well into my third year as a member of this Transportation Board and consider myself fully cognizant of my duties.

Transportation Board members are appointed public servants. They serve without compensation and expend considerable time in the execution of their duties. Most Board members are not technical professionals. It therefore follows that, once appointed, the learning curve is significant. If your staff is quoting new board members (one or two years) it is certainly possible that the member has not progressed significantly along the curve.

Few times in my extensive professional life have I been exposed to as much information as I have from the ADOT staff. Exposing an individual to information does not indicate absorption. This is not a problem of the current Board. Each member regularly seeks facts about the present concerns. The facts have always been freely provided. In addition to the monthly Board meetings, we hold regular study sessions to increase our knowledge.

It is the responsibility of each member to establish a relationship with our District Engineers, ADOT staff, local governments, and the public we serve. The Board constantly seeks to enhance these relationships. From these relationships come the knowledge to make competent decisions. We consider ourselves a Team totally committed to improving transportation in Arizona.

To indicate that we do not have information and input is totally in error. I feel that you should further investigate these findings. I am certain that further study will resolve these issues.

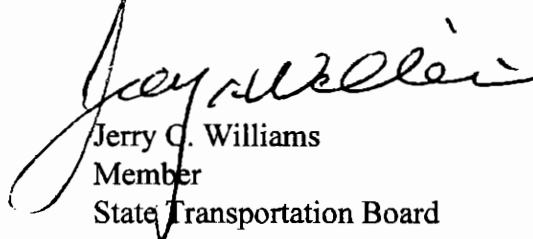
Your comments concerning the lack of stakeholder input are misinformed. ADOT staff and the Board members are constantly reviewing input from all areas of the state. The majority of a Board member's time is absorbed by this process. Some methods are formal and some are informal. A partial list of the formal opportunities are:

- Statewide public hearings (3 per year)
- COG input
- MPO input
- Local public meetings
- Focus groups
- Surveys

Additionally, each Board member encourages contact with local government and the general public. We publicize our telephone and FAX numbers. Each member expends considerable time in these pursuits. The turnover in elected officials results in constant re-education requirements. Board members, District Engineers and staff people constantly strive to meet these needs.

There are other sections of the report where we do not agree. This is not the forum to discuss these difficult issues. I am willing to make myself available to discuss them further. There is no doubt that we can improve our business. The Board and the ADOT staff are dedicated to this goal. I do appreciate this opportunity to express my views.

Respectfully Yours,



Jerry C. Williams
Member
State Transportation Board