



A REPORT
TO THE
ARIZONA LEGISLATURE

Performance Audit Division

Sunset Review

Arizona Department of Transportation

Motor Vehicle Division—
Sunset Factors

SEPTEMBER • 2004
REPORT NO. 04 – 11



Debra K. Davenport
Auditor General

The **Auditor General** is appointed by the Joint Legislative Audit Committee, a bipartisan committee composed of five senators and five representatives. Her mission is to provide independent and impartial information and specific recommendations to improve the operations of state and local government entities. To this end, she provides financial audits and accounting services to the State and political subdivisions, investigates possible misuse of public monies, and conducts performance audits of school districts, state agencies, and the programs they administer.

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AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

September 30, 2004

Members of the Arizona Legislature

The Honorable Janet Napolitano, Governor

Mr. Victor Mendez, Director
Arizona Department of Transportation

Transmitted herewith is a report of the Auditor General, A Sunset Review of the Arizona Department of Transportation, Motor Vehicle Division. This report is in response to a November 20, 2002, resolution of the Joint Legislative Audit Committee and was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. This is the third and final report to be issued on the Department.

As outlined in its response, the Arizona Department of Transportation plans to implement the recommendation.

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

This report will be released to the public on October 1, 2004.

Sincerely,

Debbie Davenport
Auditor General

Enclosure

PROGRAM FACT SHEET

Arizona Department of Transportation—Motor Vehicle Division Customer Services Program

Services:

Customer Services is the largest of the three programs in the Motor Vehicle Division (MVD) of the Arizona Department of Transportation (ADOT). Customer Services carries out its efforts through four major subprograms:

- **Customer Service**—Provides services to the public at 60 field offices state-wide in areas such as vehicle titling and registration, driver's license services, and motor vehicle records provision.
- **Motor Carrier and Tax Services**—Collects fuel taxes, accounts for and distributes Highway User Revenue Fund (HURF) monies, provides testing and issuance of commercial driver's licenses, completes fleet and interstate motor carrier registrations, and administers the International Fuel Tax Agreement.
- **Competitive Government Partnerships (CGP)**—Oversees functions related to private sector third-party providers of MVD services ranging from vehicle inspections to the e-government program known as ServiceArizona, licenses motor vehicle dealers and driving schools, oversees Renew-by-Mail, and provides record sales to commercial and government entities.
- **Division Operational Support Services (DOSS)**—Has diverse responsibilities supporting division-wide functions such as MVD records management; employee training; and policy and rule writing. DOSS also operates five customer information call centers, including two call centers based in Phoenix and Tucson that employ MVD personnel, and three call centers that use inmate workers.

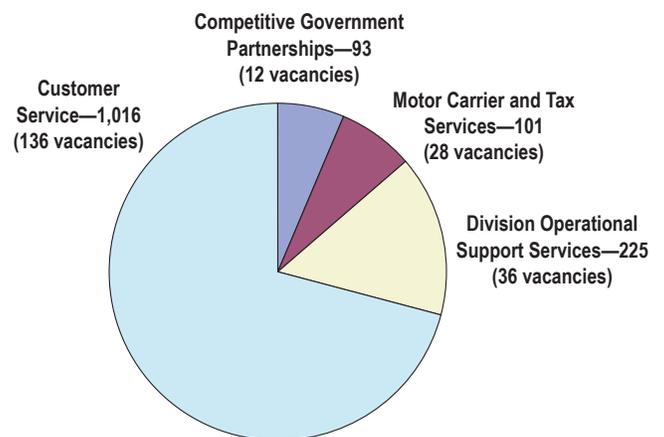
Facilities

All four subprograms have their main administrative offices in the main state-owned MVD administration building at 1801 W. Jefferson in Phoenix. Additionally, although most field offices are located in state-owned buildings around the State, MVD leases building space for several of the offices. For example:

- The Customer Services subprogram provides services at 60 field offices, 33 of which are state-owned. MVD leases 13 offices from the private or government sector at a total

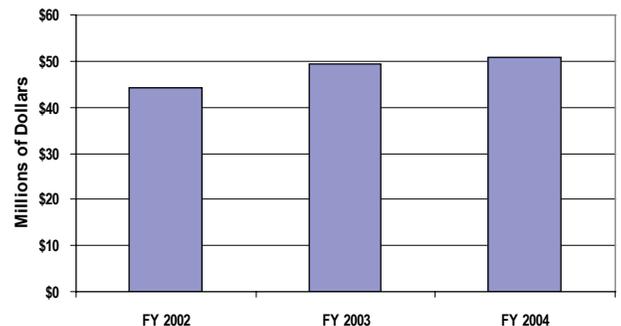
Program staffing:

1,435 positions with 212 vacancies as of July 8, 2004.



Program expenditures:

\$50.9 million (fiscal year 2004)



annual cost of \$145,660. Another 13 offices cost MVD less than \$200 a year to lease or have waived leases. One field office is located in a facility that ADOT leases for multi-division uses.

- Motor Carrier and Tax Services Commercial Driver's License operations share building space in 10 of the Customer Services offices state-wide.

Equipment:

In addition to office furniture and equipment, Customer Service has the following unique equipment:

- A computerized monitoring system named Q-matic installed at 32 customer service field offices. The Q-matic system allows staff to monitor customer wait times, transaction times at a customer service window, and the type of transaction, such as driver's license or vehicle registration renewal.
- A recorder that records conversations between customers and service representatives at both the prison call centers and the MVD office call centers.
- Two reader boards at the prison call centers that show the current hold-time for customers to speak to MVD staff customer representatives.
- Computer software that allows MVD staff to view third party providers' mainframe sessions; for example, to assist them with transactions.

Mission:

To provide exemplary motor vehicle and driver's license customer services and improve motor vehicle-related products, services, and revenue collection through effective application of private and public sector resources.

Program goals:

1. To improve customer service.
2. To promote the efficient generation, collection, and management of revenues to meet public needs.
3. To increase the use of electronic service delivery.
4. To promote public safety and protection through regulation, licensing, and the administration of transportation laws.

Adequacy of performance measures:

Customer Services' performance measures appear well aligned with its goals. It has established over 160 measures and tracks 16 key measures for the 4 subprograms. These key measures provide information to MVD management on service outputs, program results or outcomes, quality, and efficiency. For example, Customer Services has developed a quality measure to assess customer satisfaction with field office services and an efficiency measure to track the average time for customer visits to field offices.

Source: Auditor General staff compilation of unaudited information obtained from MVD's Strategic Plan, Director's update for March 2004; lease reports; equipment inventory; and other information provided by MVD.

PROGRAM FACT SHEET

Arizona Department of Transportation—Motor Vehicle Division Enforcement Services Program

Services:

Enforcement Services is one of three programs in the Motor Vehicle Division (MVD) of the Arizona Department of Transportation (ADOT). It utilizes certified peace officers to enforce transportation-related laws and regulations. To carry out its functions, Enforcement Services:

- Checks commercial vehicles at fixed ports of entry to the State and through mobile enforcement for compliance, weight, and safety laws, including laws relating to the transportation of hazardous materials.
- Inspects vehicles to ensure their legality.
- Identifies stolen vehicles and vehicle parts.

Facilities:

Enforcement services has regional administrative offices as well as state-wide field offices and ports of entry. For example:

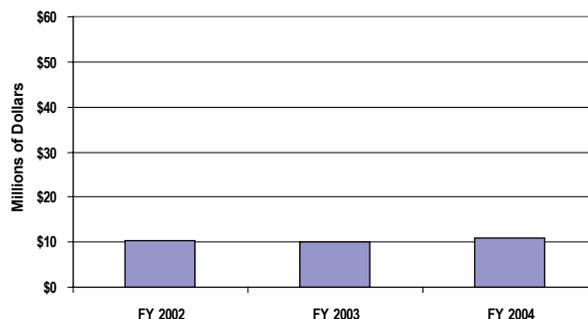
- It has its main administrative office at the state-owned MVD building at 1801 W. Jefferson in Phoenix, a southern regional office at a state-owned building at 1225 N. 25th Avenue in Phoenix, and a northern regional office in Flagstaff in privately leased space for \$28,481 per year.
- It has 43 field offices state-wide, including 40 in state-owned buildings and 3 in privately leased building space. Fifteen offices share building space with Customer Service field offices, including the three under lease.
- Twenty-two of the field offices are fixed ports-of-entry offices (POEs). Six POEs are International Border Ports with Mexico: Douglas, Lukeville, Naco, Nogales, San Luis, and Sasabe.

Program staffing:

301 positions with 87 vacancies as of July 8, 2004.

Program expenditures:

\$10.9 million (fiscal year 2004)



Equipment:

In addition to standard office equipment, Enforcement Services reports the following equipment, which is unique to its MVD mission.

- Forty-five hand-held radios and 90 mobile radios distributed state-wide.
- Forty-eight 40 caliber semi-automatic weapons and 48 bullet-proof vests, purchased for officers working in high-risk areas, such as the International Border Ports.
- A total of 114 vehicles, including 71 automobiles and SUVs and 43 trucks.
- Three mobile enforcement trailers.
- Seventy-six scales, including 18 used at ports of entry and 58 used for field inspections.

Mission:

To accomplish mandated enforcement and regulatory responsibilities and provide a system that ensures public safety.

Program goals:

1. To promote public safety and protection through regulation, licensing, and the administration of transportation laws.
2. To promote the efficient generation, collection, and management of revenues to meet public needs.

Adequacy of performance measures:

Enforcement Services' 82 performance measures are generally well-aligned with its goals. Additionally, it has established input, output, quality, efficiency, and outcome measures that provide information on effectiveness as well as on program activity and workload.

Source: Auditor General staff compilation of unaudited information obtained from MVD's Strategic Plan, Director's update for March 2004; lease reports; equipment inventory; and other information provided by MVD.

PROGRAM FACT SHEET

Arizona Department of Transportation—Motor Vehicle Division Support Services Program

Services:

Support Services is one of three programs in the Motor Vehicle Division (MVD) of the Arizona Department of Transportation (ADOT). Support Services has four subprograms:

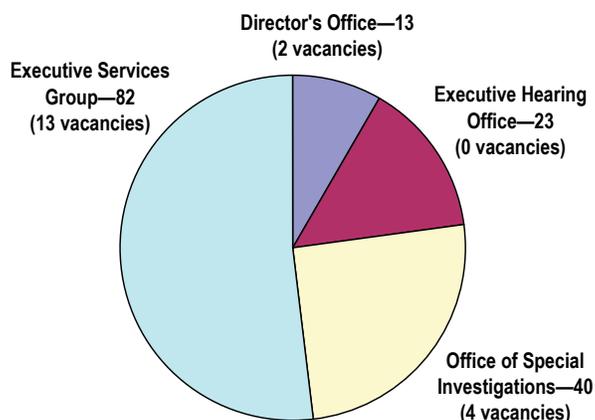
- **Director's Office**—Provides leadership and assistance in legislative, government, public information, and community relations; constituent services; information systems support; and organizational development.
- **Executive Services Group**—Provides management support throughout the division in areas such as strategic planning and budgeting, facility planning and management, and other administrative functions.
- **Executive Hearing Office**—Hears requests related to driver's license suspension and revocation, auto dealer-related violations, motor carrier safety and tax issues, and other areas. Approximately three-quarters of all hearings are related to Driving Under the Influence (DUI).
- **Office of Special Investigations (OSI)**—Investigates cases of possible ADOT employee misconduct, complaints against car dealers and title services, and complaints of odometer, title, and driver's license fraud. OSI also performs background investigations for ADOT peace officer applicants, customer service representative applicants, and other applicants on request.

Facilities:

MVD pays \$211,717 annually to lease program space at two adjacent buildings located in Phoenix at 3737 and 3877 North 7th Street. Support Services also has offices in the main MVD administration building at 1801 W. Jefferson in Phoenix, and two other state-owned buildings in Phoenix and Peoria.

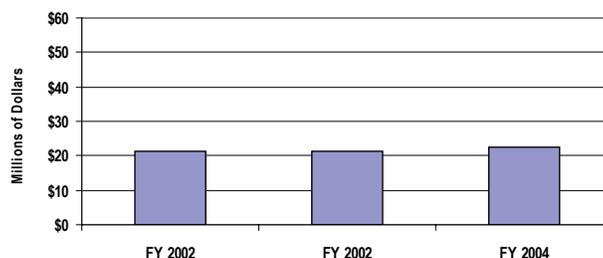
Program staffing:

158 positions with 19 vacancies as of July 8, 2004.



Program expenditures:

\$22.6 million (fiscal year 2004)



Equipment:

In addition to standard office equipment, Support Services' Office of Special Investigations has the following equipment: a camera system used to produce undercover driver's licenses, 13 mobile radios, and 24 state-owned vehicles.

Mission:

To support the Motor Vehicle Division in its provision of services.

Program goals:

1. To promote public safety and protection through regulation, licensing, and the administration of transportation laws.
2. To improve customer service.
3. To promote safety and security in the workplace.

Adequacy of performance measures:

Support Services has developed a total of 72 performance measures to support its three goals, including input, output, outcome, efficiency, and quality measures. The measures are reasonably aligned with the goals for these subprograms. For example:

- The Executive Services Group collects workplace injury data for all division programs, and 12 of its measures focus on injury incidence rates.
- The Executive Hearing Office's 14 measures focus on processing administrative law hearings for DUI-related offenses.
- The Office of Special Investigation's measures pertain to processing dealer investigation and internal affairs cases, and reducing the number of dealers repeatedly violating motor vehicle laws.

However, the Support Services program could add more quality measures. For example, the Office of Special Investigations should consider adding a quality measure such as the percentage of dealer violation cases submitted to the Executive Hearing Office that result in decisions to suspend or revoke the dealer's license.

Source: Auditor General staff compilation of unaudited information obtained from MVD's Strategic Plan, Director's update for March 2004; lease reports; equipment inventory; and other information provided by MVD.

TABLE OF CONTENTS



Introduction & Background

1

Sunset Factors

5

Agency Response

♦

INTRODUCTION & BACKGROUND

The Office of the Auditor General has prepared an evaluation of the Arizona Department of Transportation Motor Vehicle Division (MVD) using the 12 criteria in Arizona's sunset law. The analysis of the 12 sunset factors was conducted pursuant to Arizona Revised Statutes (A.R.S.) §41-3005.13 and prepared as a part of the sunset review set forth in A.R.S. §41-2951 et seq.

MVD organization

MVD is divided into three programs as described below, and as of July 8, 2004, had 1,894 positions funded with state-appropriated monies.¹

- **Customer Services (1,223 filled positions; 212 vacancies)**—The Customer Services program was appropriated \$50.9 million for fiscal year 2004 and consists of the following four subprograms:
 - ◆ **Customer Service (880 filled positions; 136 vacancies)**—Within this subprogram, MVD has 60 field offices established throughout the State that provide a variety of services to the public, including issuing driver's licenses, vehicle registrations, permits, and vehicle titles, and collecting driver's license and registration fees.
 - ◆ **Motor Carrier and Tax Services (73 filled positions; 28 vacancies)**—Responsibilities of the Motor Carrier and Tax Services subprogram include collecting gasoline and use fuel taxes and issuing fuel tax refunds to eligible claimants, accounting for and distributing the Highway User Revenue Fund (HURF) and other related revenues, identifying fuel tax evasion activities, helping to ensure motor carrier safety by overseeing medical reviews of commercial and noncommercial drivers, registering interstate motor carriers, issuing commercial driver's licenses, and administering the International Fuel Tax Agreement (IFTA).

¹ This total does not include an additional 47 positions funded with federal and nonappropriated monies.

- ◆ **Competitive Government Partnerships (81 filled positions; 12 vacancies)**—According to MVD, this subprogram oversees 488 contractors that have agreements to provide MVD services to the public and businesses, such as vehicle titles and registrations, driver's license exams, and vehicle inspections. Additionally, this subprogram oversees transactions conducted via the Internet through a dedicated Web site; licenses and oversees 424 professional driving schools, traffic survival schools, and driver education programs; and licenses the over 3,800 motor vehicle dealers in the State. Finally, Competitive Government Partnerships provides record sales to 87 commercial and 150 government agencies/departments, and oversees the Renew-by-Mail Unit, which processes vehicle registration renewals.
- ◆ **Division Operational Support Services (189 filled positions; 36 vacancies)**—Responsibilities of this subprogram include MVD policies and rule writing, public information call center operations, records management, and MVD's technical training.
- **Motor Vehicle Enforcement Services (214 filled positions; 87 vacancies)**—Motor Vehicle Enforcement Services was appropriated \$10.9 million for fiscal year 2004. The program enforces transportation-related laws and regulations at both mobile and fixed port-of-entry checkpoints. Currently, MVD maintains 22 ports of entry on highways at Arizona's borders. Port operations include enforcing commercial vehicle compliance with weight, size, and safety laws, including hazardous material requirements. In addition, this program enforces vehicle registration compliance, conducts vehicle inspections to verify vehicle identification numbers against ownership documentation and the vehicle, and helps to identify stolen vehicles.
- **Motor Vehicle Support Services (139 filled positions; 19 vacancies)**—Support Services was appropriated \$22.6 million for fiscal year 2004, and consists of the following:
 - ◆ **Director's Office (11 filled positions; 2 vacancies)**—The Director's Office provides leadership and assistance in legislative, government, public information, and community relations, information systems support, and organizational development.
 - ◆ **Executive Services Group (69 filled positions; 13 vacancies)**—This Group provides various support services, including budgeting, purchasing, personnel services, facility management, procurement, and strategic planning.

- ◆ **Executive Hearing Office (23 filled positions; no vacancies)**—The Executive Hearing Office conducts administrative hearings on issues such as DUI offenses, motor vehicle titles, dealer licenses, and motor carrier safety.
- ◆ **Office of Special Investigations (36 filled positions; 4 vacancies)**—This Office investigates cases of possible ADOT employee misconduct, complaints against car dealers and title services, and complaints of odometer, title, and driver's license fraud. According to MVD officials, the Office also performs background investigations for ADOT peace officer applicants, customer service representative applicants, and other applicants on request.

Scope and methodology

MVD's performance was analyzed in accordance with the 12 statutory sunset factors. Audit work in the following areas provided a basis for response to the sunset factors:

- Revenue, Collections, and Selected Enforcement Functions (Report No. 04-09).
- Information Technology and E-government Services (Report No. 04-10).

Auditors also relied on information obtained from MVD officials, the Governor's Regulatory Review Council, the Secretary of State, and the Office of the Attorney General.

SUNSET FACTORS

In accordance with A.R.S. §41-2954, the Legislature should consider the following 12 factors in determining whether the Division of Motor Vehicles of the Arizona Department of Transportation (MVD) should be continued or terminated. The evidence assembled under these 12 factors indicates the continued need for MVD. However, two performance audits identified opportunities for MVD to improve operations in several ways.

1. The objective and purpose in establishing the Motor Vehicle Division.

The Department of Transportation (Department) was established pursuant to Laws 1973, Chapter 146 (A.R.S. §28-101 et seq) when the Highway and Aeronautics Departments were abolished and ADOT was set up as a single department with six divisions, including the Motor Vehicle Division (MVD).

MVD's purpose, as described in its mission statement, is to "support Arizona through licensing, vehicle credentialing, revenue collection, safety programs, and by promoting compliance with transportation laws." MVD carries out its purpose by issuing licenses to all Arizona drivers, including commercial driver's licenses; registering vehicles; collecting fuel taxes and managing debt collections; overseeing third parties who perform some MVD functions such as vehicle inspections; enforcing statutes regarding compliance with Arizona vehicle title registration, size, and weight; and regulating the transportation of hazardous materials.

2. The effectiveness with which MVD has met its objective and purpose and the efficiency with which it is operated.

MVD has generally operated effectively and efficiently in performing its functions. For example, it issued over 1 million driver's licenses in fiscal year 2003, and its records showed more than 4.3 million vehicles registered as of June 30, 2004. Further, ADOT reports that MVD collected over \$1.56 billion for fiscal year 2004, including vehicle license tax, gas and use fuel taxes, motor carrier taxes, and motor vehicle license and registration fees. Additionally, MVD has developed effective programs for customers, such as its e-government program, ServiceArizona, which allows customers to do transactions online.

Auditors found that MVD can perform more cost-effectively in some areas. For example:

- Report No. 04-09 found that MVD can use a more cost-effective approach to administering its Vehicle Registration Compliance Program. For example, automated letters generated from new driver's license lists were the most successful and cost-effective method in helping to enforce compliance with Arizona's vehicle registration law. Tips received from a citizen hotline and the use of peace officers to identify and cite noncompliant vehicles yielded fewer results and were less cost-effective. MVD should build on the success of its automated letter approach by using its title and registration system to automatically send letters to vehicle owners who do not renew their vehicle registrations.
- Report No. 04-09 also found that MVD can improve its current fee structure to be more cost-effective, and it has recently formed a working group to do so. MVD has authority to assess more than 350 different fees for the services it provides, and fees assessed by MVD generated over \$150 million for the State in fiscal year 2003. MVD's fees are either established in statute or administrative rule. However, until recently, MVD did not have a process in place to periodically review these fees. Some fees appear outdated or too low to cover the cost of providing the associated service. For example, vehicle title fees, which have remained at \$4 for over 30 years, may not reflect processing costs. In January 2004, MVD formed an internal working group to begin reviewing the fees. The group should take steps to prioritize, review, and systematically evaluate MVD's fees. Additionally, the group will also need to collect cost, revenue, and other data pertaining to the fees it has prioritized for its review.

3. The extent to which MVD has operated in the public interest.

MVD has operated in the public interest in many of its activities. For example:

- MVD's driver licensing and vehicle registration regulations serve the public interest. MVD licenses drivers and may revoke or suspend a driver's license if an individual is determined to be an unsafe driver. Additionally, MVD performs vehicle inspections and requires identification information for titling and registering out-of-state vehicles in an effort to detect stolen vehicles or vehicle parts. In addition, MVD is the primary source of vehicle information to law enforcement agencies, other government entities, motor carrier and vehicle dealer industries, the news media, and the general public.

- MVD has also provided customer service programs that allow customers to complete their transactions without visiting field offices. For example, MVD has authorized third-party organizations and businesses to perform some MVD transactions such as vehicle inspections and licensing and title services. One of these third-party providers is IBM Corporation, which works in partnership with and under the auspices of MVD to jointly operate MVD's e-government program ServiceArizona. ServiceArizona allows customers to perform many transactions over the Internet and using Internet kiosks, and some using interactive voice recognition (IVR). MVD also has a Renew-by-Mail program, which Arizona residents can use to renew their vehicle registrations. (See Auditor General Report No. 04-10, Finding 2 for information on ServiceArizona.)
- MVD's Web site also provides information to the public on its activities and regulations, which includes links to ServiceArizona, FAQs regarding requirements for licensing and registration, the location of and schedules for Arizona field offices, and the explanation of the "plate stays with owner" program.

Although MVD has served the public interest in many ways, auditors identified several other areas in which the agency could operate more fully in the public interest. Specifically:

- **Better protection of its data**—ADOT should take steps to ensure that MVD's information systems and data are secured. ADOT has many data users who have access to MVD data as part of their jobs. ADOT controls access to MVD and other ADOT data through user accounts, and as of March 2004 there were nearly 4,500 such accounts. According to ADOT officials, approximately 3,000 users had access to MVD data as of July 2004. Some of these accounts are for MVD employees, while others are for state, county, and local agencies involved in law enforcement, parking enforcement, or other functions that use MVD information as permitted by state and federal statute. Altogether, there are about 8 million inquiries or transactions per week into MVD systems. However, MVD's data may be at risk because the ADOT Information Technology Group and MVD lack adequate security controls, such as controlling access to systems and information, controlling the implementation of program changes, and formulating policies and procedures for an entity-wide information security program. (See Auditor General Report No. 04-10, Finding 1.)
- **Policies and procedures to ensure that fuel tax refunds are accurate**—Auditor General Report No. 04-09 found that MVD needs to improve its processes for reviewing and issuing fuel tax refunds to help ensure that claimants receive accurate amounts. According to statute, some suppliers and users are eligible for refunds of fuel taxes for various specified reasons.

For example, they may be eligible for refunds because they do not use the fuel on public roadways. During fiscal year 2003, MVD collected nearly \$649 million in fuel taxes and provided more than 6,600 refunds totaling over \$23 million. However, auditors found that some refund amounts are not correct or are not supported by sufficient documentation. (See Auditor General Report No. 04-09, Finding 2.)

- **More timely and predictable service**—A review of MVD's automated wait time information indicated that customers visiting field offices generally waited an average of about 14 minutes to be served. However, auditors found that customers frequently had problems contacting MVD employees at public information call centers, and that some field offices had long waits for service. For example, when auditors called the Phoenix and Tucson information numbers over a 7-week period from March to May 2004, the Phoenix number was busy 67 percent of the time, and the Tucson number was busy about 45 percent of the time. Auditors who remained on the line to speak to a representative during the last 3 weeks of that period held for an average of about 22.5 minutes. Further, some field office customers, mainly in the Phoenix and Tucson areas, had to wait up to 60 minutes or longer to be served. (See Auditor General Report No. 04-10, Introduction and Background.)

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

According to the Governor's Regulatory Review Council (GRRC), 39 statutes require MVD to adopt rules. However, MVD has not adopted rules for 18 of these statutes:

- **A.R.S. §28-4537**—States that the director shall prescribe rules for the enforcement and administration of statutes relating to dealer and manufacturer license plates.
- **A.R.S. §28-2513(3)**—States that the director shall adopt necessary rules to provide for any tag, decal, plate, or other device in lieu of a license plate to be attached to a moped to indicate that the moped is properly registered.
- **A.R.S. §28-2356(l)**—States that the director shall adopt rules necessary to administer the statute, which pertains to the transfer of a license plate to another vehicle.

MVD reports that it is in the process of developing rules for 11 of these statutes, and that the remaining 7 need to be reviewed to determine if any are obsolete or if MVD should also adopt rules for them.

In addition, the GRRC review identified 63 statutes in which administrative rules are not specifically required, but would be helpful in order to provide better guidance to help comply with the statute. However, GRRC's review found that although MVD had developed rules for 21 of these statutes, MVD had not developed rules for 42. For example:

- **A.R.S. §28-5104(A)**—States that a person applying to be an authorized third party shall submit a bond in a form “approved by the director.”
- **A.R.S. §28-2008**—States that a person can obtain a duplicate certificate of title, registration permit, or license plate by “furnishing information satisfactory to the department.”

5. The extent to which the agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.

MVD notifies the public when it writes new rules and regulations, and makes policy changes, although it needs to ensure that one of its three advisory councils complies with open meeting law provisions.

MVD provides notification to the public, as well as opportunities for public comment in its rulemaking procedures. ADOT's Administrative Rules Unit, which develops rules for MVD and other divisions, provides information on the ADOT Web site about the public comment process. Additionally, the unit responds to internal agency or external requests for public hearings, which are received during a 30-day period for public comment. For example, the unit informs the public that a hearing has been requested by publishing a notice of the request in the online Arizona Register at the Secretary of State's Office. The unit publishes a separate notice on the actual hearing date and time with the Secretary of State's Office 4 weeks prior to the hearing.

In addition, MVD has developed a detailed process for providing information to the public about policy changes, including posting information on policy changes on its Web site and sending notices to organizations or groups. For example, it took the following actions when it changed its vehicle plate policy in 2001 to have the plate remain with the owner:

- Posted information about the change on its Web site.
- Sent brochures and inserts on the change to MVD staff and third-party providers.

- Sent brochures, inserts, and posters on the change to organizations such as the Arizona Department of Insurance, Chamber of Commerce offices, and others.
- Held press conferences for MVD management to announce the change.
- Developed a video to run on city cable channels and to distribute to MVD field offices, Arizona auto dealerships, DPS, and other organizations.

Although MVD informs the public of its proposed rules and policy changes, it can improve public notification by ensuring that it notifies the Secretary of State of meeting notices for one of its three advisory councils, as required by A.R.S. §28-431. ADOT/MVD has three councils or boards: the Medical Advisory Board, License Plate Commission, and Overdimensional Permit Advisory Council. MVD has notified the Secretary of State's Office where meeting notices for the first two boards will be posted, as required by statute. However, it has not sent such a notification regarding the Overdimensional Permit Advisory Council meetings, and should do so. In addition, it has delegated responsibility to the Council's chairman, a private sector member, to send meeting announcements to a distribution list of interested parties. By statute this task is assigned to ADOT or one of its divisions, and therefore ADOT or MVD should send out these announcements.

6. The extent to which the agency has been able to investigate and resolve complaints within its jurisdiction.

MVD has sufficient authority to investigate and resolve complaints against licensees in its jurisdiction. The Office of Special Investigations (OSI) is responsible for investigating complaints or criminal violations involving new or used auto dealers, auto recyclers, and other businesses regulated by MVD. As an example, customers will call to complain about a dealer's failure to provide a vehicle's title. OSI has the authority to issue a cease-and-desist order and to pursue court action to restrain or enjoin the licensee from continuing the violation. Auditor analysis of MVD's fiscal year 2003 licensee database indicates that OSI issued 190 cease-and-desist orders and 24 citations in fiscal year 2003. Additionally, OSI may request that the MVD Executive Hearing Office schedule a hearing if the licensee does not stop the violation. MVD hearing officers have the authority to revoke or suspend licenses or to issue civil penalties up to \$3,000. MVD records indicate that the Executive Hearing Office revoked 3 dealer licenses and 1 title company license, issued 3 dealer license suspensions, and imposed 1 civil penalty during fiscal year 2003. Additionally, the Office ordered 12 full vehicle titles issued to customers. Finally, the Office canceled 1 vehicle inspector third-party agreement and suspended another, and MVD issued a cease-and-desist order that was later voided after the licensee came into compliance.

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

The Attorney General has the authority to prosecute cases that MVD brings. According to MVD management, MVD usually refers criminal cases regarding employee misconduct and others that involve auto dealers, such as odometer fraud, to the Attorney General's Office. However, MVD and the Attorney General report that the Attorney General may not accept MVD cases because it lacks resources. Additionally, MVD reported that the Attorney General did not accept any MVD cases in the first 8 months of calendar year 2003.

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

MVD requested changes to its statutes during both the 2003 and 2004 legislative session to clarify or bring them into compliance with changes in mandates or federal laws. However, auditors found that MVD statutes on releasing driver motor vehicle records are still not in complete compliance with federal statutes on driver privacy protection.

- **Laws 2004, Chapter 324, §§4 and 5**—Amended §§28-3103 and 28-3223 by bringing some statutory requirements into line with the federal Patriot Act and the federal Motor Carrier Safety Improvement Act of 1999. The change to A.R.S. §28-3223 established a 5-year renewal requirement for hazardous materials (HAZMAT) licenses to conform with Patriot Act mandates, and this renewal requirement also applies to all commercial driver's licenses. Additionally, the amendment to A.R.S. §28-3103 provided authority for background checks on HAZMAT licenses in accordance with federal procedures required by the Patriot Act and skill testing for school bus drivers as required by the Motor Carrier Safety Improvement Act.
- **Laws 2003, Chapter 258, §1**—Amended A.R.S. §28-450(A) by allowing the release of driver information to agents of government agencies, law enforcement, the courts, and other entities to conform more closely to the federal Drivers' Privacy Protection Act (DPPA). In addition, Laws 2003, Chapter 258, §3 amended A.R.S. §28-2051(A), which changed the signature requirements on a title application from all owner signatures to one signature when there has been no legal change in ownership. This move was to enhance customer service by not requiring that all owner signatures be on the application before applying for Arizona registration.
- **Laws 2003, Chapter 191, §§2, 8, and 9**—Clarified language in several statutes. For example, Section 2 deleted the definition of "mobile medical clinic" in A.R.S. §28-4301 because the term had been removed earlier

during a 2000 legislative session, and also amended the definition of “used motor vehicle dealer” in A.R.S. §28-4301 to conform to the definition in A.R.S. §44-1261. In addition, Laws 2003, Chapter 191, §8 amended A.R.S. §28-5109 to change verbiage referencing mailing from “certified” to “regular delivery.” Finally, Laws 2003, Chapter 191, §9 added A.R.S. §32-2394, which allows the director to issue a cease-and-desist order for a professional drivers’ training school. Although MVD is required to regulate professional drivers’ training schools, it previously had no authority to enforce regulations until the statutory change.

Although the Legislature has made several changes to bring statutes into compliance or clarify them, it has not changed A.R.S. §§28-449, 28-450, 28-452, or other statutes involving the release of driver information to be in compliance with some provisions of the federal DPPA law. Except for exemptions covered in DPPA and added to A.R.S. §28-450 in 2003 to cover law enforcement and other entities, Arizona statutes do not conform to certain provisions of DPPA. Specifically, DPPA requires a state to have a driver’s consent before it can release or sell the driver’s personal information. MVD has changed its policies and developed a driver consent form. However, the Legislature should consider changing the actual statutes to be in compliance with DPPA. According to MVD officials, the Legislature has asked MVD to work with it to prepare a bill for DPPA changes.

9. The extent to which changes are necessary in the laws of the agency to adequately comply with the factors listed in the sunset laws.

The Office of the Auditor General’s two performance audits did not identify any needed statutory changes. However, as noted in sunset factor 8, the Legislature is working with MVD to amend Arizona statutes to ensure that state laws that deal with the release of a driver’s personal information conform to the federal Drivers’ Privacy Protection Act.

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

The termination of this agency would harm the public safety and welfare due to the service, enforcement, and revenue collection functions performed by MVD.

- MVD’s requirements for licensing drivers, issuing auto titles, and registering cars help keep unsafe drivers off the road and ensure stolen vehicles and vehicle parts are identified.
- MVD’s enforcement of laws governing the licensing of commercial drivers helps to ensure that they have the necessary skill to operate commercial vehicles, such as large trucks.

- MVD provides various commercial vehicle enforcement services that work closely with federal and state agencies to help ensure the safe movement of commercial vehicle traffic traveling on Arizona's highways, including ensuring that commercial vehicles are in safe operating condition.
- Finally, MVD is a major collector of state revenues, which ADOT reported at over \$1.56 billion in fiscal year 2004.

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

MVD provides an appropriate level of regulation. Arizona, like all states, has regulations for licensing drivers, vehicle registration, and related services, although in some states vehicle registration is administered at the county level.

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

MVD has made extensive use of private contractors as an additional resource to perform some of its functions.

- MVD reports that it has authorized 488 third-party organizations and businesses to provide services similar to those of field offices, such as licensing drivers, vehicle title and registration services, and some vehicle inspections. One third party, IBM Corporation, works in partnership with and under the auspices of MVD to jointly operate ServiceArizona, the e-government program established in 1997 to provide services via the Internet, Internet kiosks, and an interactive voice recognition system.
- MVD also hires contractors to serve as computer system programmers. These programmers work with MVD's business analysts in a group called Custom Systems Solutions to maintain all MVD computer programming.
- Additionally, MVD contracts with Arizona Correctional Industries of the Department of Corrections for inmate workers. For example, inmate call center workers at the Arizona State Prison Complex—Perryville in Goodyear, and Arizona State Prison Complex—Tucson answer general questions on licensing or registration over the phone. Inmate workers at Perryville also help process Renew-by-Mail applications.

The audits did not identify additional opportunities for MVD to use private contractors.

AGENCY RESPONSE



Arizona Department of Transportation
Office of the Director

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Janet Napolitano
Governor

Victor M. Mendez
Director

Debra Brisk
Deputy Director

September 22, 2004

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

Dear Ms. Davenport:

The Arizona Department of Transportation extends its thanks to you and your staff for the professionalism displayed during the Sunset Review of the Arizona Department of Transportation, Motor Vehicle Division.

In response to the review, the Department plans to implement the recommendation as follows:

- **Sunset Factors, Item 5: The extent to which the agency has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

The recommendation of the Auditor General is agreed to and will be implemented. Meetings that must comply with Open Meeting laws will be properly noticed.

Sincerely,

Victor M. Mendez
Director



Performance Audit Division reports issued within the last 24 months

02-11	Department of Health Services—Health Start Program	04-L1	Letter Report—Arizona Board of Medical Examiners
02-12	HB2003 Children’s Behavioral Health Services Monies	04-L2	Letter Report—Gila County Transportation Excise Tax
02-13	Department of Health Services—Office of Long Term Care	04-01	Arizona Tourism and Sports Authority
03-L1	Competitive Electric Metering, Meter Reading, and Billing and Collections	04-02	Department of Economic Security—Welfare Programs
03-01	Government Information Technology Agency—State-wide Technology Contracting Issues	04-03	Behavioral Health Services’ HB2003 Funding for Adults with Serious Mental Illness
03-02	Registrar of Contractors	04-04	Department of Emergency and Military Affairs and State Emergency Council
03-03	Water Infrastructure Finance Authority	04-05	Department of Environmental Quality—Water Quality Division
03-04	State Board of Funeral Directors and Embalmers	04-06	Department of Environmental Quality—Waste Programs Division
03-05	Department of Economic Security—Child Protective Services—Foster Care Placement Stability and Foster Parent Communication	04-07	Department of Environmental Quality—Air Quality Division
03-06	Arizona Board of Appraisal	04-08	Department of Environmental Quality—Sunset Factors
03-07	Arizona Board for Charter Schools	04-09	Arizona Department of Transportation, Motor Vehicle Division—State Revenue Collection Functions
03-08	Arizona Department of Commerce	04-10	Arizona Department of Transportation, Motor Vehicle Division—Information Security and E-government Services
03-09	Department of Economic Security—Division of Children, Youth and Families Child Protective Services—Caseloads and Training		

Future Performance Audit Division reports

Department of Economic Security—Unemployment Insurance