

Arizona Department of Agriculture

Department did not comply with all statutory conflict-of-interest requirements and effectively safeguard its IT systems and sensitive data

Performance Audit and
Sunset Review

September 2020
Report 20-108

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





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September 30, 2020

Members of the Arizona Legislature

The Honorable Doug Ducey, Governor

Mr. Mark Killian, Director
Arizona Department of Agriculture

Transmitted herewith is the Auditor General's report, *A Performance Audit and Sunset Review of the Arizona Department of Agriculture*. This report is in response to a September 14, 2016, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the sunset review process prescribed in Arizona Revised Statutes §41-2951 et seq. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona Department of Agriculture agrees with all the findings and plans to implement or implement in a different manner all the recommendations.

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

Sincerely,

Lindsey Perry, CPA, CFE
Auditor General

Arizona Department of Agriculture

Department did not comply with all statutory conflict-of-interest requirements and effectively safeguard its IT systems and sensitive data

Audit purpose

To determine whether the Department complied with statutory conflict-of-interest requirements and information technology (IT) security requirements and best practices; and provide responses to the statutory sunset factors.

Key findings

- Department did not comply with several statutory conflict-of-interest requirements and best practices, such as ensuring that all council/committee members complete conflict-of-interest disclosure forms, requiring employees and council/committee members to complete or update disclosure forms annually, or maintaining the statutorily required special disclosure file.
- Noncompliance with statutory and Department conflict-of-interest requirements, as well as best practices, increased the risk of employees and council/committee members not disclosing substantial interests.
- Department did not perform key IT security requirements, including conducting an annual IT security risk assessment of its IT systems, incorporating IT security requirements into its web application development, managing its web application accounts to ensure only appropriate and authorized access to its applications, and ensuring vulnerability scanning of its IT systems was consistently performed.
- Department has not established an adequate IT security governance structure to help ensure that its IT systems and sensitive data are adequately safeguarded.
- Department-supported councils and committees did not always comply with various provisions of the State's open meeting laws.

Key recommendations

The Department should:

- Comply with statutory conflict-of-interest requirements and best practices.
- Update and implement its policies and procedures to comply with the State's conflict-of-interest requirements and best practices.
- Conduct an annual risk assessment of its IT systems, incorporate security requirements into its web application development, appropriately manage web application accounts, and continue to ensure that vulnerability scans of its IT systems are performed.
- Develop and implement an IT security governance framework.
- Ensure that the various councils and committees it supports comply with all State open meeting law provisions.



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This is the third of 3 performance audit reports released as a part of the sunset review of the Arizona Department of Agriculture (Department). The first report (Report 20-102) focused on the Department's Agricultural Laboratory. The second report (Report 20-107) addressed 2 of the Department's key regulatory responsibilities: licensing applicants in accordance with statutory and administrative rule requirements and inspecting regulated individuals, devices, and establishments in accordance with recommended practices and credible industry standards. This report also assessed whether the Department retained public records in accordance with State requirements. The third report addresses the statutory sunset factors and includes findings on the Department's conflict of interest and information technology (IT) security practices.

Mission and purpose

The Department's mission is "to support and promote Arizona agriculture in a way that encourages farming, ranching and agribusiness, protects the well-being of people, plants, animals and the environment while safeguarding commerce, consumers and natural resources." The Department's responsibilities include:

- Regulating agricultural production and processing within the State, educating industry to foster compliance with regulations, promoting the general welfare of the agricultural community, and protecting public health and safety.
- Issuing more than 70 different types of agricultural licenses and registrations. In calendar year 2019, the Department reported issuing more than 2,800 total licenses, including over 1,700 pest management licenses, 470 weights and measures services licenses, and 350 industrial hemp program licenses (see textbox for definitions of common licenses).
- Inspecting food products such as meat, poultry, and dairy; nonfood products such as animal feeds, fertilizers, and pesticides; and commercial weighing devices, fueling devices, and fuel products. According to the Department, in fiscal year 2019, it performed more than 5,000 on-site meat and poultry inspections, 1,500 dairy inspections, and 10,000 inspections of commercial weighing devices, fueling devices, and fuel products (See Auditor General Report 20-107 for more information on the Department's inspection activities).

Common Department licenses

Certified applicator—Licensed individual who provides pest management services.

Industrial hemp grower—Licensed individual involved in the growing of industrial hemp.

Public weighmaster—Licensed individual responsible for weighing goods and items for the purpose of a sale, such as gasoline and produce products.

Source: Auditor General staff review of Arizona Revised Statutes.

Organization, division responsibilities, and staffing

As of September 1, 2020, the Department reported having 249.25 filled full-time equivalent (FTE) positions and 45 vacancies assigned to its various divisions and programs. The Department comprises the following 6 divisions:

- **Animal Services Division (66.75 FTEs, 7.75 vacancies)**—The Animal Services Division (ASD) is responsible for enforcing laws concerning livestock movement, sale, import, and transport. ASD also responds to complaints and conducts investigations into livestock abuse, neglect, and theft. Finally, ASD

conducts food quality and safety inspections of meat and dairy products produced in the State and egg products produced in or imported to the State.

- **Citrus, Fruit, and Vegetable Division (39 FTEs, 26.25 vacancies)**—The Citrus, Fruit, and Vegetable Division (CFV) manages food safety inspection programs under a cooperative agreement with the U.S. Department of Agriculture (USDA). This includes inspections of citrus, fruits, and vegetables at marketplaces and at shipping points along the U.S.-Mexico border to ensure that produce products are safe for consumption. Additionally, CFV provides produce safety training and outreach programs to citrus, fruit, and vegetable producers on safety standards established by the U.S. Food and Drug Administration’s (FDA) Food Safety Modernization Act, which includes requirements for agricultural water quality and worker hygiene, to help reduce citrus, fruit, and vegetables’ exposure to bacteria. Through a cooperative agreement with the USDA, CFV also manages a third-party audit program in which federally licensed Department inspectors perform audits of citrus, fruit, and vegetable producers to assess their product handling practices.
- **Environmental Services Division (12.5 FTEs, 3 vacancies)**—The Environmental Services Division (ESD) has 4 primary responsibilities. First, it issues feed, fertilizer, and seed dealer and labeler licenses. Second, in coordination with the Lab, ESD conducts marketplace inspections of nonfood products, such as animal feed, to verify the accuracy of label statements and product guarantees to help ensure product quality for customers. Third, ESD’s pesticide compliance area is responsible for protecting the public, agricultural workers, and pesticide handlers by conducting field inspections and investigating complaints of pesticide misuse to help ensure that farmers use agricultural pesticides according to federal and State laws. Fourth, ESD provides training to agricultural pesticide applicators on how to apply pesticides safely and properly.
- **Pest Management Division (18 FTEs, 2 vacancies)**—The Pest Management Division (PMD) is responsible for regulating the use, disposal, and storage of structural pesticides and monitoring the application of these pesticides in nonagricultural areas, such as schools, businesses, and personal residences. PMD licenses structural pest control companies and their employees, and investigates complaints made against those licensees.
- **Plant Services Division (60 FTEs, 3 vacancies)**—The Plant Services Division (PSD) is responsible for protecting the public and agricultural industry in Arizona from the introduction of agricultural pests, such as Asian Citrus Psyllids.¹ Agricultural pests can increase industry production costs, reduce the quality of products, and threaten demand for Arizona products. To help prevent the introduction and spread of unwanted pests, PSD is responsible for identifying the need for external and internal quarantines and enforcing the quarantines. According to the Department, external quarantines help prevent the introduction of hazardous plant pests into the State and internal quarantines help prevent the spread of regulated plant pests of concern within the State (see textbox for examples of the Director’s administrative orders for external and internal quarantines). PSD also oversees the State’s Industrial Hemp Program, which licenses qualified applicants to grow and process industrial hemp.² PSD began issuing industrial hemp licenses on May 31, 2019.
- **Weights and Measures Services Division (24 FTEs, 1 vacancy)**—The Weights and Measures Services Division (WMSD) is responsible for protecting consumers and businesses and promoting equity in the marketplace by licensing

Examples of administrative orders

- In October 2019, the Director issued an internal quarantine on certain plants being transported from different areas within the State to prevent plant exposure to Karnal bunt, a fungal disease that affects wheat plants.
- In October 2018, the Director issued an external quarantine of pecans, walnuts, and other agricultural products coming from New Mexico to prevent pest exposure to State pecan trees.

Source: Auditor General staff review of the Department’s website.

¹ Asian Citrus Psyllids are destructive pests that target citrus plants.

² A.R.S. §3-311(7) defines industrial hemp as the plant cannabis sativa L. and any part of such a plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths percent on a dry-weight basis.

and testing commercial measurement devices. According to the Department, WMSD licenses and inspects commercial devices that weigh, measure, or count to determine the cost of goods in the marketplace. WMSD also manages the State Metrology Laboratory, which calibrates commercial measurement devices to ensure the devices meet federal weight and measurement standards. Additionally, WMSD administers 2 air quality programs—the Gasoline Vapor Recovery program and the Cleaner Burning Gasoline program—aimed at reducing pollution by controlling the amount of gasoline vapors that are released into the air and providing cleaner gasoline formulations in certain areas with air quality regulations.

In addition, the Department operates 3 programs and works with 12 councils and committees that support the Department’s mission (see Appendix A, pages a-1 through a-2, for more information on the Department’s councils and committees). The 3 programs are:

- **Administrative Services Program (12 FTEs, 0 vacancies)**—This program, which includes the Office of the Director, is responsible for budgeting, legal services, legislative services, public information, rules, and strategic planning. The Office of the Director has also issued administrative orders in some instances that immediately or significantly impact the agricultural industry or the public, such as quarantines (see textbox on page 2 for examples).
- **Agriculture Consultation and Training Program (6.5 FTEs, 0 vacancies)**—This program is responsible for increasing voluntary compliance with and awareness of regulatory requirements and providing education to the agricultural community on pesticide safety, air quality, and agricultural conservation.
- **State Agricultural Laboratory (10.5 FTEs, 2 vacancies)**—The State Agricultural Laboratory (Lab) conducts food safety testing of meat and dairy products; analyzes agricultural products for harmful chemicals, diseases, and bacteria; and tests and compares fertilizer, feed, and pesticides to their labels (see Auditor General Report 20-102 for more information on the Lab).

Revenues and expenditures

As shown in Table 1 on page 4, the Department has various revenue sources, including fees charged for licenses and inspections; the State General Fund; and intergovernmental revenues, such as federal grants, to cover program expenditures. For fiscal year 2020, the Department’s net revenues totaled more than \$30 million, while its expenditures and transfers totaled more than \$28.3 million. Most of the Department’s expenditures were for payroll and related benefits and other operating costs, such as rent, telecommunication charges, software support, and office supplies.

Table 1
Schedule of revenues, expenditures, transfers, and changes in fund balances
Fiscal years 2018 through 2020
(Unaudited)

	2018	2019	2020
Revenues			
Licenses, fees, and permits	\$13,010,908	\$12,035,975	\$15,449,375
State General Fund appropriations	9,516,352	10,075,258	10,358,980
Other fund appropriations ¹	1,716,512	1,720,212	1,900,176
Intergovernmental, including federal grants	5,261,699	6,159,793	5,449,580
Sales and charges for services	475,545	283,719	300,557
Fines, forfeitures, and penalties	258,764	368,346	392,661
Publications and reproductions ²	202,451	3,402	1,693
Earnings on investments	155,026	225,511	196,086
Restricted donations	18,016		
Other revenues ³	72,279	1,459,514	239,940
Refunds	3,115	43,893	22,481
Total gross revenues	30,690,667	32,375,623	34,311,529
Credit card fees	(73,346)	(71,344)	(73,304)
Remittances to the State General Fund ⁴	(4,119,697)	(3,944,385)	(4,036,308)
Remittances to the Air Quality Fund	(1,923)		(27,764)
Total net revenues	26,495,701	28,359,894	30,174,153
Expenditures and transfers			
Payroll and related benefits	17,116,047	18,224,496	18,489,555
Professional and outside services	1,978,872	1,916,978	2,601,533
Travel	1,300,282	1,526,633	1,454,214
Aid to organizations and individuals	1,110,624	1,499,909	1,415,739
Other operating costs ⁵	3,717,418	3,893,017	3,557,739
Capital equipment	195,804	437,436	562,213
Non-capital equipment	406,563	324,853	281,612
Total expenditures	25,825,610	27,823,322	28,362,605
Transfers to the Arizona Department of Administration	21,061		598
Transfers to the Arizona Department of Transportation		16,472	
Transfers to the Arizona Office of the Governor		5,133	
Transfers to the Arizona Department of Public Safety		1,100	
Total expenditures and transfers	25,846,671	27,846,027	28,363,203
Net change in fund balances	649,030	513,867	1,810,950
Fund balances, beginning of year	11,023,529	11,672,559	12,186,426
Fund balances, end of year	\$11,672,559	\$12,186,426	\$13,997,376

¹ The Department received more than \$1.4 million annually in fiscal years 2018 through 2020 from the Air Quality Fund to be used for operating costs, as required by Laws 2017, Ch. 305, §11; Laws 2018, Ch. 276, §9; and Laws 2019, Ch. 263, §11. In fiscal year 2020, the Department received an additional \$150,000 from the Air Quality Fund to conduct a feasibility study to replace or upgrade its information systems. The Department received more than \$275,000 annually in fiscal years 2018 and 2019 and more than \$300,000 in fiscal year 2020 from the Nuclear Emergency Management Fund for programs relating to offsite nuclear emergency response plans, as required by Laws 2017, Ch. 43, §3, and Laws 2019, Ch. 24, §1. The Nuclear Emergency Management Fund comprises monies collected from commercial nuclear generating stations and is used to respond to potential emergencies resulting from failures at nuclear generating stations.

² In fiscal year 2018, the Department received a one-time payment of nearly \$200,000 to provide Arizona leafy greens food safety training kits to Arizona farms.

³ The Department received \$1.4 million in fiscal year 2019 and more than \$186,000 in fiscal year 2020 from the California Pistachio Research Board to operate the Navel Orangeworm Sterile Insect Rearing Project, which is a program to produce sterile insects to help reduce pest populations.

⁴ Amounts consist of various revenue sources, including those required by statute to be remitted to the State General Fund. For example, statute requires meat inspection fees, feed lot operator license fees, and fees charged for testing weights, measures, meters, and other devices to be remitted to the State General Fund.

⁵ Other operating costs comprise various expenditures such as building rent, book subscriptions and publications, telecommunication charges, software support and maintenance, office supplies, and conference registration and attendance fees.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Transaction File* for fiscal years 2018 through 2020, the *State of Arizona Financial Report* for fiscal years 2018 and 2019, and Department-provided information.



Department did not comply with some conflict-of-interest requirements

Statute addresses conflicts of interest for public agency employees and public officers

Arizona law requires employees of public agencies and public officers to avoid conflicts of interest that might influence or affect their official conduct. To determine whether a conflict of interest exists, employees/public officers must first evaluate whether they or a relative has a “substantial interest” in (1) any contract, sale, purchase, or service to the public agency or (2) any decision of the public agency.

If an employee/public officer or a relative has a substantial interest, the employee/public officer is required to fully disclose the interest and refrain from voting upon or otherwise participating in the matter.^{1,2} The interest must be disclosed in the public agency’s official records, either through a signed document or the agency’s official minutes. In addition, A.R.S. §38-509 requires public agencies to maintain a special file of all documents necessary to memorialize all disclosures of substantial interest and to make this file available for public inspection.

Key terms

- **Substantial interest**—Any direct or indirect monetary or ownership interest that is not hypothetical and is not defined in statute as a “remote interest.”
- **Remote interest**—Any of several specific categories of interest defined in statute that are exempt from the conflict-of-interest requirements. For example, an employee or public officer may participate in a decision that indirectly affects a relative who is an employee or an officer of another public agency or political subdivision, as long as the decision does not confer a direct economic benefit or detriment to the relative.

Source: Auditor General staff review of A.R.S. §38-502 and the Arizona Agency Handbook. Arizona Office of the Attorney General. (2018). *Arizona agency handbook*. Phoenix, AZ. Retrieved 4/9/2019 from <https://www.azag.gov/outreach/publications/agency-handbook>.

Finally, conflict-of-interest best practices recommend that disclosure statements be updated annually and that agencies develop a formal remediation process to ensure that identified conflicts are appropriately addressed.

Department has not complied with several statutory and Department conflict-of-interest requirements as well as best practices

The Department did not comply with several statutory and Department conflict-of-interest requirements as well as best practices related to its conflict-of-interest disclosure form and process. Specifically:

- **Some council and committee members did not complete a disclosure form**—Statute and Department policy require all employees and public officers to disclose conflicts of interest. However, we requested

¹ See A.R.S. §§38-502 and 38-503(A) and (B).

² A.R.S. §38-502(8) defines “public officer” as all elected or appointed officers of a public agency established by charter, ordinance, resolution, State constitution, or statute. According to the Arizona Agency Handbook, public officers include directors of State agencies and members of State boards, commissions, and committees—whether paid or unpaid.

conflict-of-interest disclosure forms for 6 Department employees and 4 council and committee members in May 2020 and found that although all 6 employees had filled out a disclosure form, 3 of the 4 council and committee members had not.³

- **Disclosure forms did not address all required forms of disclosure**—The disclosure forms used by the Department—a State form provided by the Arizona Department of Administration State Personnel System for employees and a separate Department form for public officers—require employees and public officers to disclose any substantial financial interest; however, these forms did not require disclosure of substantial interest in Department decisions, as required by statute.⁴ In June 2020, the Arizona Department of Administration updated its disclosure form to include decision-making disclosures and to require an affirmative statement indicating whether or not a conflict exists. The Department reported it planned to start using the updated disclosure form in July 2020. In addition, the Department reported that it planned to update its disclosure form for public officers to include decision-making disclosures.
- **Disclosure forms were not updated annually**—Department employees and public officers did not complete or update disclosure forms on an annual basis. According to the Department, it required new employees to complete the form only at the time of their hire with the State and any time there was a change, as determined by the employee. In addition, although the Department’s policy required council and committee members to disclose conflicts of interest, it did not require them to update their disclosure form when there was a change.
- **Lacked a special disclosure file and a remediation process to address disclosed conflicts**—The Department housed completed disclosure forms in each individual employee’s personnel file instead of in a special disclosure file for storing substantial interest disclosures for public access, as required by statute and Department policy.⁵ The Department reported that it started the process of compiling and storing disclosure forms in a separate file in March 2020 to meet conflict-of-interest requirements. In addition, the Department had not established a formal process to review and remediate disclosed conflicts.

Noncompliance increases risk of employee and council and committee members nondisclosure

The Department’s noncompliance with statutory and Department conflict-of-interest requirements, as well as best practices, increased the risk that Department employees and public officers would not disclose substantial interests. For example, by not requiring all council and committee members to complete a disclosure form and by not requiring that these public officers and Department employees complete or update disclosure forms annually, the Department cannot ensure that all public officers and employees disclosed substantial interests, as required by statute. Consequently, the Department may be unaware of potential conflicts and the need to take action to mitigate those conflicts. Further, because the Department used forms that did not address substantial interest disclosures related to Department decisions, the Department could not ensure that employees and council and committee members disclosed both financial and decision-making substantial interests.

Finally, because the Department did not store substantial interest disclosures in a special file as required by statute, the Department lacked a method to (1) track which and how many employees disclosed an interest and (2) make this information available in response to public requests.

³ Our judgmental sample included 5 Department inspectors, 4 council or committee members, and 1 associate director.

⁴ A.R.S. §38-503.

⁵ A.R.S. §38-509.

Department staff were unaware of some conflict-of-interest requirements and Department's policy was not comprehensive

Various factors contributed to the noncompliance noted previously. Specifically:

- Department staff reported that they were unaware of several conflict-of-interest requirements in statute and Department policy, such as the need for a special disclosure file, and the requirement that employees and public officers, including council and committee members, disclose substantial interests for both financial and decision-making matters. In addition, the Department reported that it did not provide conflict-of-interest training to employees and was not aware whether training was provided to its public officers.
- Although the Department developed a conflict-of-interest policy, it lacked some key conflict-of-interest best practices, such as requiring all employees and public officers to update their disclosure form annually, or specifying a process for remediating disclosed conflicts.

Recommendations

The Department should:

1. Comply with statutory conflict-of-interest requirements and best practices, including:
 - a. Ensuring all employees and public officers complete an annual conflict-of-interest disclosure form.
 - b. Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.
 - c. Storing all substantial interest disclosures in a special file.
 - d. Establishing a process to review and remediate disclosed conflicts.
2. Update and implement its policies and procedures to comply with all the State's conflict-of-interest requirements and best practices.
3. Develop and implement periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and public officers on how the State's conflict-of-interest requirements relate to their unique program, function, or responsibilities.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement or implement in a different manner the recommendations.



Department did not effectively safeguard its IT systems and sensitive data

Department responsible for safeguarding its IT systems and data

The Department relies on its IT systems and the data contained therein to help meet its regulatory responsibilities. For example, the Department uses IT systems to process applications for various types of agriculture licenses and registrations. Some applicants are required to submit personal identifying information (PII), such as names, mailing addresses, social security numbers, and proof of lawful presence in the United States to obtain a license. Statute requires State agencies to establish reasonable procedures to ensure that PII they collect or obtain is secure.⁶ In addition, the Arizona Department of Administration's Strategic Enterprise Technology Office (ASET) policies and credible industry standards, such as those developed by the National Institute of Standards and Technology (NIST), further specify agencies' various responsibilities to safeguard IT systems and data.⁷ For example, ASET policies require and NIST standards recommend that agencies safeguard their IT systems and data by developing and implementing an IT security governance structure, including an IT security strategic plan, policies and procedures, and performing risk management activities.

Department did not perform key IT security requirements, placing its IT systems and data at risk for loss, misuse, or inappropriate disclosure

The Department has not performed several key IT-related security requirements, jeopardizing the integrity of its IT systems and data. Specifically, the Department:

- **Has not performed an IT security risk assessment, as required by ASET policy**—A risk assessment is a structured process that an agency should use to identify IT system risks within their organization. These risks include weak IT security practices, outdated IT systems, or not having a plan for restoring IT systems following a disaster. As part of performing a risk assessment, an agency should manage and prioritize risks that are identified and determine what steps are needed to minimize these risks, such as implementing stronger security controls or establishing milestones for corrective actions. ASET requires agencies to conduct an IT security risk assessment annually, or any time significant changes to IT systems are made, to identify potential weaknesses or risks and assess the potential harm these weaknesses or risks pose, such as the unauthorized access, use, or destruction of agency IT systems and the information they contain. However, without an effective IT risk assessment process, the Department may not be able to adequately identify and mitigate weaknesses or risks to protect sensitive data or critical IT systems.

⁶ A.R.S. §18-522.

⁷ Bowen, P., Hash, J., & Wilson, M. (2006). *NIST Special Publication 800-100: Information security handbook: A guide for managers*. Gaithersburg, MD: National Institute of Standards and Technology. Retrieved 3/18/19 from <https://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-100.pdf>.

- **Has not incorporated IT security requirements into its web application development**—

ASET requires State agencies to use secure coding standards when developing web applications (see textbox for definition). In addition, credible industry standards indicate that incorporating additional security components into the web application development process is more cost-effective and secure than applying security fixes after such applications have been implemented. However, the Department's development of its web applications has not included the following ASET requirements or credible industry standards:

A **web application** is a software program or IT system that is accessed by an end user to perform a transaction with a web browser over a network such as the internet. An external web application is accessible from any user device connected to the internet and could be more susceptible to attack.

Source: Auditor General staff analysis of IT definitions from various sources.

- **Gathering security requirements**—Security requirements should include classifying data in the application according to its level of confidentiality and defining how the web application will comply with all relevant regulations and standards related to this data. Doing so helps ensure applications are developed securely to better protect against potential vulnerabilities.
- **Using up-to-date secure coding standards**—Secure coding standards are the steps that should be followed when developing a web application to prevent common coding vulnerabilities, such as checking for improper access to help ensure users cannot act outside of their intended permissions and attackers cannot gain access to sensitive data.
- **Performing threat modeling**—Threat modeling involves defining how the application works, exploring potential vulnerabilities and threats by thinking of possible ways a malicious actor would attack the application, and then developing mitigating controls for each of the realistic threats identified.
- **Reviewing source code**—Source code review is the process of manually checking the source code of a web application for security issues that may not be detected with any other form of analysis or testing.

By not performing these steps, the Department could compromise its IT security. In fact, we performed web application scanning on 5 Department web applications and identified common security vulnerabilities within each application that could potentially be exploited to access sensitive information, interrupt access to the application, or execute malicious code that would affect the confidentiality, integrity, or availability of the Department's IT systems and data. We reported these concerns to the Department in April 2019; however, as of April 2020, the Department reported it had yet to implement changes to its web application development practices.

- **Did not adequately manage web application accounts to ensure only appropriate and authorized access to its applications, as required by ASET policy and recommended by credible industry standards**—ASET policies require and credible industry standards recommend limiting access to sensitive information to only those staff who use this information to perform their job duties and that agencies perform specific account management practices to help safeguard information (see textbox, page 10). However, our review of 5 web applications identified one web application that allowed 38 Department accounts to view licensee social security numbers and account passwords.⁸ According to the Department, 11 of these 38 accounts do not need access to licensee social security numbers and 2 accounts do not need access to licensee passwords.⁹ We also identified several other account management issues, such as accounts belonging to terminated employees and administrator accounts that the Department did not know existed.¹⁰ Administrator accounts enable users to manage and modify IT systems. We also reported these concerns

⁸ These Department accounts included both employee accounts and a service account not assigned to an individual employee.

⁹ According to the Department, social security numbers were intentionally made to be viewable for identity verification purposes during the application process. Additionally, the Department reported passwords were made visible so staff could provide licensees with forgotten passwords due to system limitations for automating this process.

¹⁰ We identified accounts belonging to employees who had been terminated between 20 days and approximately 3 years ago.

to the Department in April and December 2019. As of April 2020, the Department reported it planned to use ASET services for its account management. Additionally, in June 2020, the Department reported it was planning to develop a password reset feature so that staff did not need to access licensee passwords.

Poor account management practices may allow former employees to access Department information. Additionally, poor account management practices may allow employees to inappropriately access or alter information, or perform other tasks, that are unrelated to their assigned job duties.

- **Did not ensure vulnerability scanning was consistently performed, as required by ASET**—Vulnerability scanning is a process to identify flaws or weaknesses in an IT system’s security procedures, design, or implementation that could result in a security breach or a violation of the system’s security policy. The Department had not consistently performed vulnerability scans on its IT systems. Department staff reported that they assumed ASET had been performing vulnerability scanning for the Department; however, during the audit, we learned that ASET had not been performing vulnerability scanning at the Department. By not performing these scans, the Department was not able to effectively identify and address flaws in its IT systems. In April 2019, the Department reported it met with ASET to initiate the process of performing vulnerability scans. Since October 2019, ASET has been performing monthly vulnerability scans for the Department.

- **Has not required contractors that have access to or use its IT systems to complete security awareness training**—ASET and credible industry standards indicate that security awareness training is a necessary control for ensuring staff and contractors understand the risks associated with IT security, the importance of complying with IT security policies and procedures, and their responsibilities for maintaining IT security. ASET and credible industry standards also require that compliance with security awareness training requirements be monitored. Although not established in policy, the Department reported that it requires staff to complete annual security awareness training. In addition, the Department monitors and tracks staff completion of security awareness training using a spreadsheet. However, it has not similarly required and monitored contractor compliance with its security awareness training requirements. By not ensuring that all individuals that access and use Department IT systems have completed security awareness training, these individuals may not understand the risks associated with IT security and their responsibilities for maintaining this security.

Required/recommended web application account management practices:

- Remove account access immediately for any terminated employees.
- Employ the principle of least privilege by providing the minimal permissions necessary to users to accomplish assigned tasks.
- Specify authorized users of the information system, and access authorizations and other attributes for each account.
- Document individuals’ separations of duties.
- Define agency information system access authorizations to support separation of duties.

Source: Auditor General staff review of ASET policies and procedures and credible industry standards.

Department has not established an adequate IT security governance structure

According to the Department, because of resource limitations, it has prioritized day-to-day IT systems operations over IT security and as a result, has not developed and implemented an IT security governance structure to help ensure that its IT systems and sensitive data are adequately safeguarded (see textbox on page 11 for key components of IT security governance). IT security governance is the system by which an organization directs and controls IT security and is foundational for establishing an effective IT security program. In December 2019, an independent consultant completed an assessment of the Department’s IT systems and noted some concerns regarding the Department’s available IT support resources and identified areas that could be modernized or improved, including areas related to the Department’s IT security governance structure. The consultant also

indicated that the Department would require additional funding to fully implement its recommendations. Absent an IT security governance structure, the Department:

- **Has not developed and implemented IT security policies, procedures, or written guidance for any IT security processes**—Without IT security policies and procedures, the Department’s IT staff have not operated with specific requirements to help guide their work or specify their roles and responsibilities, such as ensuring the Department is performing IT security risk assessments, developing secure web applications, and managing web application accounts. Additionally, and as previously mentioned, although the Department reported that it requires its staff to complete annual security awareness training, it has not established nor documented this requirement in its policy and procedures. Further, as mentioned previously, it also has not established nor documented in its policy and procedures such a requirement for contractors that have access to or use its IT systems. Department staff reported that although a previous IT manager had drafted IT policies and procedures, he left the Department in 2018 prior to finalizing and implementing them. As of May 2020, the Department reported that it was planning to review these draft IT security policies and procedures to assess their adequacy and to make modifications as needed.
- **Has not established a formal or written interagency service agreement with ASET**—Although ASET provides some IT services to the Department, such as vulnerability scanning, the Department has not entered into a written interagency service agreement with ASET, nor has it internally documented which services the Department receives from ASET.
- **Has not developed and included performance measures for the IT security-related goals and objectives in its strategic plan**—Although the Department’s strategic plans for fiscal years 2020 and 2021 include IT security goals and objectives, such as updating older online licensing applications to align with newer security standards, they do not include performance measures to assess and monitor its progress toward meeting these goals and objectives. By not assessing its performance against defined performance measures, the Department cannot effectively determine whether it is achieving its IT security goals and objectives. For example, for the Department’s strategic plan goal to update online licensing applications, the Department could establish performance measures to clearly identify when and how it plans to update older online applications and to assess which applications have been updated.

Key components of IT security governance:

Policies and procedures to define standards, roles, and responsibilities—ASET requires State agencies to develop and document a comprehensive set of policies, procedures, and standards that support the agency’s IT mission. NIST indicates that IT security policies are an essential component of information security governance because without policies, governance has no substance and rules to enforce.¹ As such, IT security policies should describe how those charged with governance will guide the management and protection of IT systems and data and outline the minimum information security controls that should be implemented across the institution, repercussions for policy noncompliance, and how policies and IT security controls should be communicated to those responsible for implementing them. Furthermore, IT security policies should define staff roles and responsibilities and establish requirements and behaviors agency users are expected to follow.

IT security strategic plan—ASET requires State agencies to develop an IT security strategic plan. Credible industry standards state that IT security strategic plans should establish institutional IT security initiatives and contain a mission, goals, and objectives aligned with the institution’s overall mission. Additionally, the strategic plan should include performance measures to assess progress toward achieving the IT security objectives.

¹ Bowen, Hash, & Wilson, 2006.

Source: Auditor General staff review of ASET policies and procedures and credible industry standards.

Recommendations

The Department should:

4. Conduct an annual risk assessment of its IT systems to evaluate, document, and prioritize the areas in its IT systems with the highest security risks, as required by ASET. As part of this effort, the Department should use the information obtained from risk assessments to address identified risks.
5. Incorporate security requirements prescribed by ASET and recommended by credible industry standards into its web application development to address potential vulnerabilities and help ensure its web applications are secure.
6. Appropriately manage web application accounts in accordance with ASET policies and recommended credible industry practices.
7. Continue to ensure that vulnerability scans of its IT systems are performed.
8. Ensure that contractors using its IT systems complete annual IT security awareness training.
9. Develop and implement an IT security governance framework, as required by ASET policy and recommended by credible industry standards, that includes the following:
 - a. Reviewing, modifying as needed, and implementing its draft IT security policies and procedures. As part of this process, the Department should ensure that its policies and procedures:
 - Describe how those charged with IT security governance will safeguard IT systems and data, such as ensuring annual risk assessments are performed.
 - Define staff roles and responsibilities.
 - Address ASET requirements and credible industry standards for web application development, such as gathering security requirements, using secure coding standards, performing threat modeling, and reviewing source code.
 - Require that user account access and account privileges be reviewed periodically.
 - Require that accounts for terminated employees be disabled or removed as soon after the employee leaves as is practical.
 - Require that all sensitive data be accessible only to those who need it to perform their job duties.
 - Require that all staff and contractors who have access to or use its IT systems complete annual security awareness training and establish processes for tracking compliance with this requirement.
 - b. Working with ASET to define and document the scope of IT security services that ASET provides and ensure that ASET provides these services.
 - c. Incorporating IT security performance measures into its strategic plan and using the measures to monitor progress toward achieving its IT security-related goals and objectives.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.



Pursuant to A.R.S. §41-2954(D), the legislative committees of reference shall consider but not be limited to the following factors in determining the need for continuation or termination of the Department. This sunset factor analysis includes additional findings and recommendations not discussed earlier in the report. The Department should also address the recommendations included in the other 2 performance audit reports we issued as a part of this sunset review (see Auditor General Reports 20-102 and 20-107).

Sunset factor 1: The objective and purpose in establishing the Department and the extent to which the objective and purpose are met by private enterprises in other states.

The Department was established on January 1, 1991, to consolidate 4 smaller State agencies: the Arizona Commission of Agriculture and Horticulture, the Arizona Livestock Board, the State Egg Inspection Board, and the State Dairy Commissioner, into a single department for the purpose of providing a uniform and coordinated agricultural program and policy within Arizona. The Department's mission is "to support and promote Arizona agriculture in a way that encourages farming, ranching and agribusiness, protects the well-being of people, plants, animals and the environment while safeguarding commerce, consumers and natural resources."

To accomplish its mission, the Department performs 4 central functions:

- **Licensing**—The Department issues approximately 70 different agriculture-related licenses, registrations, and renewals. These include licenses for meat and poultry slaughtering, pesticide applicators, and milk producers and distributors.
- **Inspections**—The Department inspects food products including meat, poultry, dairy, eggs, and fresh produce for food safety and quality. The Department is also responsible for conducting nonfood product inspections for feeds, fertilizers, pesticides, and seed to ensure the products' quality and labeling accuracy, and inspecting commercial weighing devices to ensure they meet federal weight and measurement standards. Additionally, the Department verifies that gasoline and vapor controls meet specified standards to protect air quality.
- **Laboratory testing**—The Lab conducts food safety testing of meat and dairy products; analyzes agricultural products for pesticides, drug, and antibiotic residues; and compares the contents of some consumer products, such as fertilizers and animal feed, to their labels.
- **Complaint handling**—The Department investigates complaints it receives from the public and other government entities, as well as concerns it identifies on its own initiative. These include complaints of unlicensed pest management activities, pesticide misuse, or fuel pumps dispensing inaccurate volumes. In addition, the Department is responsible for initiating investigations concerning possible violations of native plant laws and occurrences of animal diseases that constitute a threat to the livestock or meat and poultry industries.

We did not identify any states that met the Department's objective and purpose through private enterprise.

Sunset factor 2: The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.

The Department could better meet its statutory objective and purpose and/or improve its efficiency in the following areas:

- **Department did not effectively perform 2 key regulatory responsibilities and failed to retain public records**—Our review of 90 initial and renewal license applications the Department received during calendar year 2018 found that although the Department generally issued these licenses in a timely manner, it did not ensure that all license applicants met all requirements, including obtaining and reviewing statutorily required fingerprint-based criminal history background checks. Additionally, the Department divisions we reviewed did not conduct internally coordinated, risk-based inspections and assigned inspectors other responsibilities, resulting in duplicated effort, unnecessary travel and the inefficient use of inspectors' time. Finally, the Department did not retain all required public records related to its licensing and inspection activities. We recommended that the Department require the regulatory divisions we reviewed to develop and implement internally coordinated risk-based, data-driven inspection approaches along with implementing oversight and monitoring of inspection activities and inspectors' performance, work with its Assistant Attorney General to determine what action the Department should take regarding licenses it issued without obtaining required fingerprint-based criminal history background checks, issue licenses only to applicants who meet all requirements, and maintain records of its licensing and inspection activities as required by State public records laws (see Auditor General Report 20-107).
- **Department did not track costs of specific Lab services, limiting its ability to appropriately allocate costs and set fees**—The Department did not track all of the costs associated with each of the Lab's various testing services and, as a result, did not have the information needed to ensure costs are appropriately allocated to its various funding sources. Without this cost information, the Department cannot determine whether monies from these funding sources fully cover the cost of the associated tests. In addition, it cannot determine the extent to which some of the Lab's funding sources, such as the State General Fund, may be subsidizing testing costs. We recommended that the Department develop a formal process for tracking all costs associated with lab testing services, including direct and indirect costs, ensuring its testing services are as efficient as possible, and comparing the cost of its lab testing services with its various funding sources, including fees, to accurately determine the extent to which these funding sources and fees cover the costs of the associated testing services (see Auditor General Report 20-102).
- **Department did not comply with the State's accounting policies and procedures regarding capital assets**—The Department did not have sufficient internal controls in place to properly safeguard and report its capital assets. Specifically, the Department did not maintain records to support when it last performed a physical inventory of its capital assets listing in the State's accounting system; and did not maintain clear, accurate, and complete information for its capital assets, including asset categories and locations. Additionally, for 11 of 25 capital assets tested, the Department did not remove disposed or transferred capital assets from the State's accounting system within the time frame required by the State of Arizona Accounting Manual (SAAM).^{11,12} By not having effective internal controls, the Department's capital assets are exposed to loss, theft, or misuse.
- **Department has not developed policies and procedures for some areas as required by SAAM**—The Department has not developed specific policies and procedures for 3 areas where SAAM requires agencies to have more specific internal policies and procedures—handling cash receipts, reimbursing employees' travel expenses, and administering purchasing cards (p-cards). For instance, the Department has not developed policies and procedures for employees who accept cash payments offsite, such as inspectors who collect fees during inspections, request reimbursement of certain out-of-State travel expenses, or use a p-card to purchase goods or services as part of their job duties. Written policies and procedures help employees better

¹¹ We reviewed 15 of the 425 capital assets and 10 of the 39 capital asset additions the Department reported as of March 31, 2019.

¹² SAAM is the principal policy publication of the General Accounting Office, Arizona Department of Administration.

understand their duties and responsibilities regarding the use and management of public monies, and can help mitigate against assets being lost, stolen, or misused.

- **Department did not effectively safeguard its IT systems and sensitive data**—The Department has not performed or implemented some key State IT security requirements, such as conducting an annual risk assessment to evaluate, document, prioritize, and address the areas in the Department's IT systems with the highest security risks, incorporating security requirements into the Department's web applications, or reviewing active web application accounts to ensure appropriate user access to IT systems and information. We recommended that the Department review, modify, and implement policies and procedures to help ensure it has an adequate IT security governance framework and to help ensure its IT systems and sensitive data are protected (see Finding 2, pages 8 through 12).

We also identified areas where the Department has taken steps to improve its operations or has adhered to State requirements. Specifically:

- **Department adhered to State requirements to relocate the State Agricultural Laboratory**—Our review of the Department's process for relocating the Lab from 2 State-owned buildings in the City of Phoenix to space in a privately owned technology center in the City of Chandler in June 2019 found that the Department adhered to the various State requirements for relocation, such as working with the State's real estate broker and reporting various relocation information, decisions, and costs to the Joint Committee on Capital Review. The Lab was relocated because one of the State-owned buildings in the City of Phoenix that housed the majority of the lab was scheduled for demolition by the Arizona Department of Administration (see Auditor General Report 20-102).
- **Department reduced time frame to issue livestock brands**—Statute requires that range livestock owners in Arizona adopt and record a brand for livestock to help identify ownership.¹³ Livestock owners are required to submit new brand design proposals to the Department for review to ensure that the brand design does not conflict with existing brands. After review, the Department then posts the proposed brand in the public notice of proposed brands for 30 days. During the 30-day period, individuals may protest a proposed brand design if it conflicts with or is similar to an existing brand. If no one protests the brand, the applying livestock owner is issued the brand design. Prior to 2016, the Department took an average of 278 days to issue brands to livestock owners. However, beginning in 2016, the Department streamlined the brand review and issuing process by allowing applicants to submit more proposed brand designs for review and by prioritizing the review of brands with designs similar to existing brands. As a result of these changes, the Department reduced the time frame for reviewing and issuing brands to an average of 46 days from July 2019 through May 2020, which includes the 30-day public notice period.
- **Some Department staff take home State vehicles for job duties, and the Department is developing take-home vehicle policies and procedures and has processes for monitoring vehicle use**—To help achieve its mission, Department staff conduct various agricultural inspections throughout the State and provide emergency response to agricultural incidents. To help perform these functions, the Department allows some staff to take State fleet vehicles home if they are on-call while at their home, such as when providing emergency response to agricultural incidents, or if their home has been assigned as their work duty post. As of January 2020, 54 Department staff, or approximately 21 percent of all Department staff, had been approved for take-home vehicles.¹⁴ The Department is developing policies and procedures for using State take-home vehicles, but has not finalized them. According to the Department and Arizona Department of Transportation (ADOT) staff, the Department has been working with ADOT to develop take-home vehicle policies and procedures to incorporate the guidelines ADOT and the Governor's Fleet Council are developing for approving and monitoring take-home vehicles, such as ensuring that all new take-home vehicle request forms are submitted to ADOT for review and that all take-home vehicle approvals are renewed and submitted

¹³ A.R.S. §3-1261.

¹⁴ From this total, 38 staff work for the Animal Services Division (ASD), 15 for the Weights and Measures Services Division (WMSD), and 1 for the Citrus, Fruits, and Vegetables Division (CFV).

to ADOT for review annually.¹⁵ In addition, each Department division that assigns take-home vehicles had processes for monitoring the use of these vehicles. These processes ranged from some staff submitting monthly or weekly travel activity and mileage reports for review, to other staff, such as egg inspectors and WMSD inspectors, being required to use phone- and web-based applications that assign inspection routes. These web-based applications enable administrative staff to monitor staff travel and locations, and view reported mileage via a web-based interface.

Recommendations

The Department should:

10. Conduct an annual physical inventory of its capital assets and maintain clear, accurate, and complete information for its capital assets in the State's accounting system so that the capital assets can be easily identified during annual physical inventory.
11. Remove assets that have been disposed or transferred from the State's accounting system within the SAAM required time frame.
12. Develop policies and procedures for all areas required by the SAAM, including policies and procedures for handling cash payments, administering and using p-cards, and requesting reimbursement for travel expenses, including lodging and meals.
13. Continue to work with ADOT to ensure that the Department's take-home vehicle policies and procedures incorporate the requirements from the finalized State-wide guidelines.

Department response: As outlined in its [response](#), the Department agrees with the findings and will implement the recommendations.

Sunset factor 3: The extent to which the Department serves the entire State rather than specific interests.

The Department provides services and performs regulatory activities throughout the State. According to the Department's fiscal year 2019 Annual Report, it performed the following activities:

- Conducted daily unannounced inspections of each of Arizona's 26 State-inspected meat and poultry plants.
- Performed approximately 5,100 on-site food safety inspections.
- Analyzed 727 food safety samples for harmful bacteria including e-coli, salmonella, and listeria.
- Conducted 199 dairy processing plant inspections and 235 dairy farm inspections.
- Conducted 1,345 egg and egg product inspections at producers, dealers, wholesalers, and retailers.

Additionally, members of the public throughout the State can apply for approximately 70 types of new/renewal licenses on the Department's website, including licenses for meat and poultry slaughtering, pesticide applicators, and milk producers and distributors (for more information about the Department's licensing and inspection activities, see Auditor General report 20-107).

However, we found that the Department did not comply with some conflict-of-interest statutory requirements and best practices, such as maintaining a special file for substantial interest disclosures, establishing a process to review and remediate disclosed conflicts, ensuring all council and committee members complete disclosure forms, requiring employees and public officers to annually update or complete conflict-of-interest disclosure forms, and requiring employees and public officers to disclose both financial and decision-making conflicts of interest. We recommended that the Department revise its conflict-of-interest policies and process to comply with conflict-of-interest statutory requirements and best practices (see Finding 1, pages 5 through 7) .

¹⁵ According to ADOT staff, as of June 2020, development of these guidelines had been put on hold due to the COVID-19 pandemic.

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

Our review of the Department's statutes and rules found that the Department has adopted rules when statutorily required to do so. A.R.S. §41-1056 requires each State agency to review all its rules to determine whether its rules should be amended or repealed and report the results of this review and a proposed course of action to the Governor's Regulatory Review Council (GRRC) at least once every 5 years. During 2019, the Department completed 5-year rule reviews related to the following divisions or functions—PSD, ESD, and Administration—and identified some PSD and ESD rules that required revisions. The Department has since revised some PSD rules, such as removing rules regulating the movement of certain commodities possibly infested with pink bollworm because this pest has been declared eradicated by the USDA. The Department also revised rules to better reflect current Department practices, such as the Department no longer conducting agricultural inspections at the State's ports of entry. Finally, the Department reported that it has begun revising some ESD rules, such as clarifying some license testing requirements. The Department did not identify any Administration rules requiring revisions.

Sunset Factor 5. The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

The Department has provided opportunities for public input before adopting its rules. Specifically, for 6 rulemakings the Department undertook from calendar years 2017 through 2019, the Department provided opportunities for public comment, and it received comments regarding 4 rulemakings. In addition, the Department was exempt from the rulemaking process for 15 rulemakings related to revising or continuing licensing and registration fees.¹⁶ Despite this exemption, the Department reported that it allowed for input at many of its public meetings where changes to fees were discussed and it also solicited input from industry groups. For example, the Department's Advisory Council allowed public comment at its June 2020 meeting where changes to licensing and inspection fees were discussed.

We observed 13 public meetings for 9 committees and councils and found that the Department's compliance with various provisions of the State's open meeting laws was mixed.^{17,18} For example, the councils' and committees' meeting notices and agendas contained all the required elements, including the dates, times, and locations of the meetings. However, we identified 1 instance when the meeting minutes were not available within 3 working days, and 2 instances when the agenda and notice were not posted 24 hours in advance, as required by statute. Additionally, as of August 2020, the Department did not include the statutorily required disclosure statement on its website indicating where all public meeting notices will be physically posted for 7 of its 12 councils and committees.

Recommendations

The Department should:

14. Ensure that it posts meeting notices and agendas on its website and at the Department at least 24 hours before public meetings for all the councils and committees it supports and make council and committee meeting minutes or a recording of these public meetings available for public inspection within 3 working days following a meeting.

¹⁶ Since fiscal year 2009, the Legislature has granted the Department an exemption from the rulemaking process for increasing, decreasing, or continuing fees.

¹⁷ We observed 13 public meetings held between February 2019 and June 2020. Specifically, we attended public meetings for the Animal Services Division Advisory Committee; the Pesticide Advisory Committee; the Citrus, Fruit, and Vegetable Advisory Committee; the Arizona Department of Agriculture Advisory Council; the Food and Agriculture Policy Advisory Committee; the Weights and Measures Services Division Advisory Council; and the Industrial Hemp Advisory Council. We also attended public meetings for 2 committees that are no longer active as of July 2020—the Industrial Hemp Program Rules Committee and the Statewide Brand Advisory Committee.

¹⁸ A.R.S. §§38-431 et seq. contains the State's open meeting laws.

15. Include a disclosure statement on its website stating where all public meeting notices for all councils and committees will be posted.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.

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

The Department has authority to investigate and resolve complaints involving several aspects of its regulatory responsibilities. The Department reported it primarily receives consumer complaints related to its environmental services, pest management, and weights and measures services regulatory responsibilities. Our review of a sample of 57 complaints that included a variety of allegations such as unlicensed pesticide activity, pesticide misuse, and incorrect fuel pricing at gas stations found that the Department:¹⁹

- **Investigated most complaints we reviewed in a timely manner—**The Department investigated 55 of the 57 complaints within 180 days.²⁰ The Department took 267 and 318 days to investigate and adjudicate 2 PMD complaints. For both complaints, the Department substantiated violations of business record issues, such as the licensee failing to display the registered business name and license number on its advertisements, and issued both licensees a warning and civil penalty. According to the Department, the complaint that took 267 days was delayed for several reasons, including working with the licensee to ensure that its website was corrected before closing the complaint. The Department reported that the complaint that took 318 days was accidentally misfiled with the closed cases by Department staff, which caused the complaint resolution process to unnecessarily stop for a period of time.²¹

Additionally, although the Department resolved WMSD complaints in a timely manner overall, 2 of 19 WMSD complaints we reviewed had delayed investigations. Specifically, WMSD policy requires that inspectors perform an onsite inspection of the licensee within 10 days of being assigned the complaint. However, according to the Department, 1 complaint involving discrepancies in pricing at a grocery store took 13 days to perform because the inspection needed to occur on the specific day that a sales event with the questioned pricing was scheduled. It took the Department 41 days to inspect a large water dispenser that was allegedly not dispensing correctly because, according to Department staff, a large piece of Department machinery used to assess dispensed volumes had to be moved across the State, thereby delaying the inspection.^{22,23}

- **Followed its complaint-handling policies and procedures for most complaints we reviewed—**Department staff generally followed the processes established in Department policies to investigate the complaints we reviewed, such as performing onsite inspections, conducting interviews of individuals involved, and completing inspector reports. However, Department staff did not consistently notify the licensee and/or complainant of the status of the complaint investigation as required. For example, statute requires ESD to notify complainants who submit complaints regarding pesticide control of the progress, status, and disposition of their complaint. According to the Department, its policy requires complainants to be notified at the start and end of the complaint and that monthly status update letters be sent to the complainant to address this requirement. Although complainants received letters at the start and end of their complaint

¹⁹ We selected random and judgmental samples of 57 complaints received by ESD, PMD, and WMSD. We reviewed all 57 complaints for timeliness and 29 of the 57 complaints for adequacy of the complaint-handling process. See Appendix B, pages b-1 through b-2, for more information about these samples.

²⁰ Our Office has determined that Arizona agencies should investigate and adjudicate complaints within 180 days of receiving them.

²¹ We were unable to determine how long the complaint resolution process was stopped because there is no date information available for when the case was misfiled.

²² After transporting the machinery, the dispenser was tested, and the violation was confirmed. The owner recalibrated the dispenser while the inspector was onsite, and upon retesting, the dispenser was determined to be dispensing an accurate volume.

²³ The Department took 76 days to investigate and adjudicate this complaint and the licensee was issued a civil penalty.

investigations in each of the 3 pesticide control cases we reviewed, only 1 out of the 3 pesticide complainants received monthly update letters as required by Department policy.

- **Appropriately issued discipline**—For the complaints that resulted in discipline, the Department took disciplinary action in line with statute or rule based on the substantiated complaint allegations. For example, the Department took disciplinary action consistent with statutory requirements for the 5 PMD complaints that had substantiated allegations of unlicensed activity by issuing cease and desist orders and civil penalties.²⁴ Additionally, for the 19 WMSD complaints we reviewed, the Department identified minor violations during several onsite inspections and required that the business owner address these violations while the inspector was present, such as repairing a small fuel leak in a pump nozzle and fixing incorrectly priced consumer goods. For the complaint previously discussed where the Department determined that a licensee was overcharging customers for the amount of water dispensed at a water filling station, the Department issued the licensee a \$300 civil penalty for this violation, consistent with rule requirements.²⁵

However, during calendar years 2015 through 2019, the Department received, but did not investigate, at least 11 complaints related to medical marijuana dispensary products sold by weight. The Department reported it did not investigate these complaints because it believes it lacks the authority to enter medical marijuana dispensaries. Instead, the Department reported that it referred these complaints to the Arizona Department of Health Services (ADHS), which is responsible for regulating Arizona medical marijuana dispensaries. The Department reported it does not follow up with ADHS about the disposition or resolution of the referred complaints. We recommended that the Department work with its Assistant Attorney General to ensure that it inspects licensed scales and packaged products by weight at medical marijuana dispensaries, which would help ensure the accuracy of these scales and packaged products (see Auditor General Report 20-107).

Recommendations

The Department should:

16. Ensure that all complaints are investigated and resolved in a timely manner.
17. Notify complainants about the status of complaint investigations, as required by Department policy.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendations.

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

A.R.S. §3-103(F) allows the Department to hire its own legal counsel. However, the Department has an agreement with the Attorney General's Office to provide legal counsel for the Department. In addition, the Department, the Attorney General, and/or the county attorneys have authority under Department statutes to bring action or prosecute a wide variety of agriculture-related unlawful actions. For example:

- The Department has the authority to bring an action in the applicable county superior court against any person who knowingly transports or causes the transportation of crop pests or crop diseases into the State. The court may assess a civil penalty of up to \$5,000 for each violation.
- The Department is responsible for receiving complaints regarding agricultural pesticide misuse, such as over-spraying pesticides and spraying pesticides without a valid license. The Department reported it consults with the Attorney General's Office on these pesticide complaints and can impose penalties of up to \$10,000 for each serious violation.

²⁴ A.R.S. §3-3603(B)(11).

²⁵ A.A.C. R3-7-104(F)(11).

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

According to the Department, there are no deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

Sunset Factor 9. The extent to which changes are necessary in the laws of the Department to adequately comply with the factors listed in this sunset law.

We identified 1 statutory change that will enable the Department to better protect public health and safety. Specifically, the Department issues licenses to certified and qualified applicators who provide pest management services. Although the Department has statutory authority to obtain criminal history background checks for qualified applicator license applicants, it does not have statutory authority to obtain criminal history background checks for certified applicator license applicants.²⁶ Additionally, the Department issues many more licenses to certified applicators than qualified applicators and certified applicators are more likely to perform pest management services in and around homes, schools, and businesses than qualified applicators. We recommended that the Legislature consider revising statute to authorize the Department to obtain criminal history background checks for certified applicator license applicants, similar to qualified applicator license applicants (see Auditor General Report 20-107).

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

Terminating the Department would harm the public health, safety, and welfare of Arizona residents if its responsibilities were not transferred to another entity. For example, the Department monitors the safety and production of many food products, including milk, meat, eggs, fruits, and vegetables. The Department licenses food manufacturers and inspects their farms and slaughterhouses and tests food samples to ensure that the food being produced is safe from harmful pesticides, antibiotics, and diseases. The Department also performs inspections at marketplaces to ensure that fertilizer, feed, and pesticide products are compliant with their labels and that weight and measuring devices, such as scales and fuel devices, are accurate. Additionally, the Department monitors pesticide use through safety inspections and provides safety training to individuals who handle pesticides to ensure that pesticides are applied safely and do not affect the public's health.

In addition, terminating the Department would likely require that some of its responsibilities be transferred to another State or federal agency. The Department has several cooperative agreements with the USDA, the United States Environmental Protection Agency (EPA), and the FDA to administer various agricultural and environmental inspection and enforcement programs. For example, the Department has an agreement with the USDA to operate an egg inspection program and an agreement with the EPA to operate a pesticide compliance and enforcement program.

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

The level of regulation exercised by the Department appears appropriate and is generally similar to the level of regulation exercised by agricultural agencies in 4 other states that we judgmentally selected and contacted—Idaho, Nevada, Texas, and Utah. Specifically, Arizona and the 4 other states regulate similar areas, including fruit, vegetables, eggs, and seed production. Arizona and these 4 other states also regulate weight and measuring devices and monitor plant health. However, we identified some differences in regulatory structure and level of regulation. For example:

- **Regulatory organizational structure**—Although each state we contacted has a state agricultural agency that is responsible for regulating the agricultural industry, some of the Department's regulatory responsibilities are overseen by various agencies in other states. For example, Texas has an Animal Health Commission that

²⁶ A.R.S. §3-3614(C).

is responsible for overseeing livestock and animal health. Additionally, the Texas Department of State Health Services is responsible for regulating the milk and dairy industry in that state.

- **Meat and poultry inspection program**—Idaho and Nevada do not have their own state meat and poultry inspection programs, unlike Arizona, Texas, and Utah. The USDA requires states that have their own meat and poultry inspection programs to maintain specific standards, such as product sampling standards. The USDA performs annual proficiency reviews of these state inspection programs to ensure they are meeting these standards. However, if a state opts out of having a meat and poultry inspection program, the USDA will perform the inspections, which is what occurs in Idaho and Nevada. During our 2010 performance audit of the Department, our Office recommended that the Department consider transferring responsibility for its meat and poultry inspection program to the USDA as a potential way of saving taxpayer monies (see Auditor General Report No. 10-04). According to the Department, it consulted with industry members about transferring meat and poultry responsibilities to the USDA in 2010. However, the Department and industry members agreed that the Department should maintain responsibility over the program because they believed the State provides more expedient and efficient customer service. As of August 2020, the Department reported that it continues to believe that it is in the best position to conduct meat and poultry inspections in Arizona.
- **Livestock self-inspection**—Unlike Arizona, none of the 4 states we contacted reported having a self-inspection program for livestock. Arizona has a self-inspection program for livestock owners to report livestock brand information to the Department to verify ownership. As part of this program, livestock owners are required to provide descriptions of the livestock and brands to the Department. Self-inspection is used to document ownership of livestock and is required when livestock changes ownership or is moved to an auction, slaughterhouse, or feedlot in or out of the State. In calendar year 2018, more than 800,000 livestock animals were reported by livestock owners using self-inspection. As required by statute, the Department monitors the self-inspection program through periodic reviews of self-inspection records to verify the origin, shipment, or sale of livestock.²⁷ In all 4 states we contacted, state livestock inspectors conduct these types of brand inspections.
- **USDA Industrial Hemp Program**—The 2014 federal Farm Bill allowed states to establish their own pilot programs to allow for the production and research of industrial hemp, and the 2018 federal Farm Bill removed hemp from the Controlled Substances Act and allowed hemp to be considered as an agricultural product. The USDA is the federal regulatory agency responsible for overseeing hemp production in the U.S. and established national standards for state agricultural agencies to follow in regulating industrial hemp production, including testing and disposal method standards. Statutes passed in 2018 allowed for the production of hemp in Arizona for commercial purposes under a pilot program and designated the Department as the State agency responsible for its regulation.²⁸ Like Arizona, Texas enacted legislation to allow for the production of hemp for commercial purposes. In contrast, Nevada and Utah enacted legislation to allow for the production of hemp for research purposes, allowing the state's agricultural department and institutions of higher education to grow industrial hemp for research purposes. As of April 2020, Idaho had not enacted any legislation that allows for hemp production.

Sunset Factor 12. The extent to which the Department has used private contractors in the performance of its duties as compared to other states and how more effective use of private contractors could be accomplished.

The Department uses private contractors for various functions, such as disposing of and transporting unused pesticides and pesticide containers and analyzing fuel quality samples. The Department also contracts with the University of Arizona to provide technical support in specialized areas dealing with viruses, diseases, and other pest threats. For example, the University of Arizona tests citrus leaf and insect samples for the presence of citrus greening disease.²⁹ Additionally, the Department contracts with the University of Arizona to test for harmful

²⁷ A.R.S. §3-1203(D).

²⁸ A.R.S. §§3-311 through 3-320.

²⁹ Citrus greening disease is a serious plant disease that is spread by infected insects and is deadly to citrus plants.

diseases in plants collected during Department inspections. We compared the Department's use of contractors to state agricultural agencies in Idaho, Nevada, Texas, and Utah and found the following:

- Similar to Arizona, Idaho uses contractors for the transportation and disposal of unused pesticides and pesticide containers.
- Nevada reported that it has used contractors for creating training videos for farmers and farm workers on food safety standards and best practices.
- Texas reported using contractors for various purposes, including administering exams for its agricultural pesticide and structural pest control programs.
- Utah reported that it does not use contractors.

We did not identify any additional areas where the Department should consider using private contractors.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 17 recommendations to the Department

The Department should:

1. Comply with statutory conflict-of-interest requirements and best practices, including:
 - a. Ensuring all employees and public officers complete an annual conflict-of-interest disclosure form.
 - b. Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts of interest.
 - c. Storing all substantial interest disclosures in a special file.
 - d. Establishing a process to review and remediate disclosed conflicts (see Finding 1, pages 5 through 7, for more information).
2. Update and implement its policies and procedures to comply with all the State's conflict-of-interest requirements and best practices (see Finding 1, pages 5 through 7, for more information).
3. Develop and implement periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and public officers on how the State's conflict-of-interest requirements relate to their unique program, function, or responsibilities (see Finding 1, pages 5 through 7, for more information).
4. Conduct an annual risk assessment of its IT systems to evaluate, document, and prioritize the areas in its IT systems with the highest security risks, as required by ASET. As part of this effort, the Department should use the information obtained from risk assessments to address identified risks (see Finding 2, pages 8 through 12, for more information).
5. Incorporate security requirements prescribed by ASET and recommended by credible industry standards into its web application development to address potential vulnerabilities and help ensure its web applications are secure (see Finding 2, pages 8 through 12, for more information).
6. Appropriately manage web application accounts in accordance with ASET policies and recommended credible industry practices (see Finding 2, pages 8 through 12, for more information).
7. Continue to ensure that vulnerability scans of its IT systems are performed (see Finding 2, pages 8 through 12, for more information).
8. Ensure that contractors using its IT systems complete annual IT security awareness training (see Finding 2, pages 8 through 12, for more information).
9. Develop and implement an IT security governance framework, as required by ASET policy and recommended by credible industry standards, that includes the following:
 - a. Reviewing, modifying as needed, and implementing its draft IT security policies and procedures. As part of this process, the Department should ensure that its policies and procedures:

- Describe how those charged with IT security governance will safeguard IT systems and data, such as ensuring annual risk assessments are performed.
 - Define staff roles and responsibilities.
 - Address ASET requirements and credible industry standards for web application development, such as gathering security requirements, using secure coding standards, performing threat modeling, and reviewing source code.
 - Require that user account access and account privileges be reviewed periodically.
 - Require that accounts for terminated employees be disabled or removed as soon after the employee leaves as is practical.
 - Require that all sensitive data be accessible only to those who need it to perform their job duties.
 - Require that all staff and contractors who have access to or use its IT systems complete annual security awareness training and establish processes for tracking compliance with this requirement.
- b. Working with ASET to define and document the scope of IT security services that ASET provides and ensure that ASET provides these services.
 - c. Incorporating IT security performance measures into its strategic plan and using the measures to monitor progress toward achieving its IT security-related goals and objectives (see Finding 2, pages 8 through 12, for more information).
10. Conduct an annual physical inventory of its capital assets and maintain clear, accurate, and complete information for its capital assets in the State's accounting system so that the capital assets can be easily identified during annual physical inventory (see Sunset Factor 2, pages 14 through 16, for more information).
 11. Remove assets that have been disposed or transferred from the State's accounting system within the SAAM required time frame (see Sunset Factor 2, pages 14 through 16, for more information).
 12. Develop policies and procedures for all areas required by the SAAM, including policies and procedures for handling cash payments, managing p-card uses, and monitoring employees' travel expenses (see Sunset Factor 2, pages 14 through 16, for more information).
 13. Continue to work with ADOT to ensure that the Department's take-home vehicle policies and procedures incorporate the requirements from the finalized State-wide guidelines (see Sunset Factor 2, pages 14 through 16, for more information).
 14. Ensure that it posts meeting notices and agendas on its website and at the Department at least 24 hours before public meetings for all the councils and committees it supports and make council and committee meeting minutes or a recording of these public meetings available for public inspection within 3 working days following a meeting (see Sunset Factor 5, pages 17 through 18, for more information).
 15. Include a disclosure statement on its website stating where all public meeting notices for all councils and committees will be posted (see Sunset Factor 5, pages 17 through 18, for more information).
 16. Ensure that all complaints are investigated and resolved in a timely manner (see Sunset Factor 6, pages 18 through 19, for more information).
 17. Notify complainants about the status of complaint investigations, as required by Department policy (see Sunset Factor 6, pages 18 through 19, for more information).



Department boards, councils, and committees

The Department works with a board and several councils and committees established in statute or by the Director that provide input and recommendations to the Department.^{30,31} Specifically:

5 Governor-appointed councils and 1 board

- **Department of Agriculture Advisory Council**—Council members represent various agricultural industries in the State, including cattle and crop industries. This council is responsible for reviewing agricultural policies and helping to formulate the Department’s administrative rules and budget.
- **Citrus, Fruit, and Vegetable Advisory Council**—Council members represent citrus, fruit, and vegetable producers. This council supports the CFV division by overseeing quality inspections and food safety audits of Arizona’s produce industry.
- **Arizona Iceberg Lettuce Research Council**—Council members represent iceberg lettuce producers. This council reviews research proposals to improve the production and handling of iceberg lettuce.
- **Arizona Citrus Research Council**—Council members represent citrus producers in the State. This council authorizes and provides funding to independent citrus research and development programs to support the citrus industry in Arizona.
- **Arizona Grain Research and Promotion Council**—Council members represent grain producers in the State. This council provides research projects and development programs to improve grain production, reduce freshwater consumption, and develop new grain varieties.
- **Arizona Employment Relations Board**—Council members represent agricultural employers, agricultural labor representatives, and the public. This council was developed to oversee agricultural labor organizations to ensure that agricultural employees can collectively bargain in a way that is fair and equitable.

6 Director-appointed councils and committees

- **Animal Services Division Advisory Council**—Council members represent different livestock and animal industries in the State and support ASD by making recommendations to the Department regarding the administration and implementation of various ASD programs.
- **Arizona Leafy Greens Food Safety Committee**—Committee members represent shippers of lettuce and other leafy greens and are appointed by the Director and members of the produce industry. This committee oversees the Arizona Leafy Greens Marketing Agreement, a food safety program established to protect the public from contaminated leafy greens.
- **Industrial Hemp Advisory Council**—Council members represent the industrial hemp and agricultural industries and the public. This council advises the Department on Industrial Hemp Program expenditures.

³⁰ A.R.S. §3-106 grants the Director authority to appoint ad hoc advisory committees to assist the Department.

³¹ A.R.S. §3-105 grants the Director authority to appoint advisory councils for the Department’s different divisions.

- **Pesticide Advisory Committee**—Committee members represent various industries, State agencies, universities, and health organizations and advise the Department on pesticide and pesticide use rules.
- **Pest Management Advisory Council**—Council members represent the pest management industry and the public. This council supports PMD by reviewing policies and laws related to the pest management industry and assists the Department in developing the Pest Management Division’s budget.
- **Weights and Measures Services Division Advisory Council**—Council members represent the various industries regulated by WMSD, such as grocery stores and gas stations. This council supports WMSD by reviewing the Department’s regulation of commercial measurement devices and making recommendations to the Department, such as increasing inspections in underserved markets.



Objectives, scope, and methodology

The Office of the Auditor General has conducted a performance audit and sunset review of the Department pursuant to a September 14, 2016, resolution of the Joint Legislative Audit Committee. This sunset review was conducted as part of the sunset review process prescribed in A.R.S. §41-2951 et seq. This report addresses the statutory sunset factors and includes a review of the Department's processes for disclosing conflicts of interest, protecting IT systems and data, adopting rules, holding public meetings, and handling complaints.

We used various methods to review the issues in this performance audit and sunset review. These methods included interviewing Department staff, reviewing Department statutes and rules and Department-provided information, including policies and procedures; and website information. In addition, we used the following specific methods to meet the audit's objectives:

- To assess the Department's compliance with the State's conflict-of-interest law requirements and alignment with best practices, we reviewed statutes, best practices, the Arizona Department of Administration's *State Personnel Employee Handbook*, chapter 8 of the Arizona Agency Handbook, and the conflict-of-interest forms used by the Department.
- To evaluate the Department's compliance with the State's IT security requirements and credible industry standards, between February 2019 and April 2019, we reviewed 5 of 20 Department web applications to assess whether the Department's web application development and account management processes adhered to ASET requirements and credible industry standards. Additionally, we conducted interviews with Department staff between November 2018 and July 2020 to assess whether the Department had processes for performing risk assessments and vulnerability scanning, as well as for ensuring Department staff and contractors complied with IT security awareness training requirements. We also conducted interviews with ASET staff and reviewed the Department's fiscal years 2020 and 2021 IT strategic plans.
- To determine whether the Department had processes for monitoring take-home vehicles, we interviewed Department and Arizona Department of Transportation staff and reviewed the Department's draft policies and procedures for take-home vehicles. We also reviewed the Governor's Fleet Council draft State-wide policies and procedures and monitoring documentation submitted between January and March 2020 for a judgmental sample of 13 of the 54 Department staff assigned take-home vehicles.
- To assess the Department's compliance with the State's open meeting law requirements, we attended and reviewed the notices, agendas, and meeting minutes for 13 council and committee meetings held between February 2019 and June 2020. In addition, we reviewed the Department's website to determine if the Department had required disclosure statements for all the councils and committees.
- To assess the Department's complaint-handling processes we reviewed various random and judgmental samples of complaints the Department received pertaining to regulatory activities performed by 3 Department divisions—ESD, PMD, and WMSD. Specifically, we selected a judgmental sample of 13 of 27 ESD complaints, a random sample of 15 of 39 PMD complaints not initiated as a part of the Department's inspection process, and a random sample of 14 of 1,059 WMSD complaints received during calendar year 2018 for review. We also selected an additional 15 complaints comprising a judgmental sample of 5 of 10 ESD complaints and a random sample of 5 of 521 WMSD complaints received during the first half of fiscal year 2020, and a random sample of 5 of the 36 PMD complaints not initiated as a part of the Department's inspection process that were received between May 2019 and April 2020 for review. In total, we assessed the Department's complaint-

handling timeliness for all 57 complaints and its complaint-handling and disciplinary processes for 29 of the 57 complaints.

- To compare the Department's regulatory activities and use of private contractors with other states, we reviewed the Department's contracts and website, information from the National Association of State Departments of Agriculture, and selected 4 states—Idaho, Nevada, Utah, and Texas—for comparison.³² We reviewed these states' websites to gather information about their regulatory responsibilities and contacted staff in these 4 states to learn more about their use of contracted services and level of regulation.
- To obtain information for the report's Introduction, we reviewed the Department's website, the Department's fiscal year 2019 annual report and Department staffing, budget, and financial documentation. We also reviewed information from the USDA. Additionally, we compiled and analyzed information from the AFIS *Accounting Event Transaction File* for fiscal years 2018 through 2020 and the State of Arizona Financial Report for fiscal years 2018 and 2019.
- To assess the Department's internal controls related to cash receipts, cash disbursements, and payroll, we reviewed the Department's payroll expenditures from July 1, 2017 to March 31, 2019. Additionally, we reviewed a sample of 40 cash receipt transactions recorded from July 1, 2017 to March 31, 2019, in the AFIS *Accounting Event Transaction File*. Finally, we reviewed a sample of 15 capital assets from the Department's fixed asset report and 10 capital asset additions and 10 capital asset disposals recorded in AFIS from July 1, 2017 to March 31, 2019.
- Our work on internal controls also included reviewing the Department's policies and processes for handling complaints; disclosing conflicts of interest; and complying with State IT security or credible industry standards. Conclusions on this work are included in Findings 1 and 2, and in our responses to the statutory sunset factors. Our work included reviewing the following components and associated principles of internal controls: Control environment, including the establishment of an organizational structure, the assignment of responsibility and delegation of authority to achieve an entity's objectives; risk assessment, including identifying, analyzing and responding to risks; control activities, including the design of control activities, design activities for information systems, and implementing control activities through policies; and monitoring, including performing monitoring activities and elevating issues and remediating deficiencies.

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We conducted this sunset review and performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We express our appreciation to the Department for its cooperation and assistance throughout the audit.

³² We judgmentally selected these states based on their geographic location and the composition of their agricultural industry.

DEPARTMENT RESPONSE

DOUGLAS A. DUCEY
Governor



MARK W. KILLIAN
Director

Arizona Department of Agriculture

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(602) 542-0990 FAX (602) 542-5420

September 24, 2020

Lindsey Perry
Auditor General
2910 North 44th Street, Suite 410
Phoenix, AZ 85018

Dear Ms. Perry:

I have reviewed the revised preliminary report draft of the performance audit and sunset review of the Arizona Department of Agriculture. Enclosed is the Department's written response to the report.

Respectfully,

Mark W. Killian
Director

Finding 1: Department did not comply with some conflict-of-interest requirements

Recommendation 1: The Department should comply with statutory conflict-of-interest requirements and best practices, including:

Recommendation 1a: Ensuring all employees and public officers complete an annual conflict-of-interest disclosure form.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will send an email annually to all employees and members of the various councils with the conflict-of-interest statutes attached and a copy of the conflict-of-interest disclosure form and ask them to declare any new possible conflicts from the prior year. The conflict-of-interest disclosure form will be sent out on a calendar year.

Recommendation 1b: Using a conflict-of-interest disclosure form that addresses both financial and decision-making conflicts-of-interest.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department has adopted the new ADOA form for the annual disclosure form. New hires complete the form online.

Recommendation 1c: Storing all substantial interest disclosures in a special file.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department already has established a separate file for disclosure statements.

Recommendation 1d: Establishing a process to review and remediate disclosed conflicts.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Human Resources will work with senior staff to establish a process to review disclosure forms.

Recommendation 2: The Department should update and implement its policies and procedures to comply with all the State's conflict-of-interest requirements and best practices.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Human Resources will review established policies and update where needed to comply with State requirements.

Recommendation 3: The Department should develop and implement periodic training on its conflict-of-interest requirements, process, and form, including providing training to all employees and public officers on how the State's conflict-of-interest requirements relate to their unique program, function, or responsibilities.

Department Response: The finding of the Auditor General is agreed to and a different method of dealing with the finding will be implemented.

Response explanation: Since the Department has only one Human Resources person, the Department will determine the best course of action to ensure that all individuals are aware of the issues within their program that may be considered a conflict-of-interest according to State statute.

Finding 2: Department did not effectively safeguard its IT systems and sensitive data

Recommendation 4: The Department should conduct an annual risk assessment of its IT systems to evaluate, document, and prioritize the areas in its IT systems with the highest security risks, as required by ASET. As part of this effort, the Department should use the information obtained from risk assessments to address identified risks.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will work with ADOA-ASET to determine the best practices for annual IT security risk assessment. While the Department has not been following a formal process, it has been making a major effort to improve security and reduce risk to its IT infrastructure with guidance from ADOA-ASET.

Recommendation 5: The Department should incorporate security requirements prescribed by ASET and recommended by credible industry standards into its web application development to address potential vulnerabilities and help ensure its web applications are secure.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department agrees to incorporate security requirements as best it can. The Department does not have the resources in manpower, budget, and often time, to perform the due diligence it would prefer to undertake. Third-party experts have performed penetration testing on these applications and they had not found credible evidence to suggest the Department's applications are vulnerable to external attack. An independent study by the Nerdy, commissioned by ADOA, found that the Department is understaffed, but its processes were sound given the circumstances. It recommended a budget of just under \$16 million spent over five years to completely modernize the Department. Without additional resources, IT is forced to deal with issues as they arise just to keep the systems operational. The Department often doesn't get to pick and choose which projects to focus on. However, IT does operate using modern tools and platforms starting with a secure, proven infrastructure. At this point in time, most new applications involve porting code from older platforms onto the new platforms without fundamentally changing how they were constructed. Security and reliability is improved feature by

feature as needed by the customers. Once the migration to a modern platform has been completed, the Department will be able to take a more standard approach to unifying, securing and implementing new development.

Recommendation 6: The Department should appropriately manage web application accounts in accordance with ASET policies and recommended credible industry practices.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: As part of the Department's migration to new servers, it is given the opportunity to revise and simplify the security structure used by its applications. The Department will implement a quarterly audit of user accounts.

Recommendation 7: The Department should continue to ensure that vulnerability scans of its IT systems are performed.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Scans, which are performed by ADOA-ASET, are supposed to occur every two weeks. The Department reviews the results monthly.

Recommendation 8: The Department should ensure that contractors using its IT systems complete annual IT security awareness training.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Contractors will take IT security awareness training upon the start of their contract and annually thereafter.

Recommendation 9: The Department should develop and implement an IT security governance framework, as required by ASET policy and recommended by credible industry standards, that includes the following:

Recommendation 9a: Reviewing, modifying as needed, and implementing its draft IT security policies and procedures. As part of this process, the Department should ensure that its policies and procedures:

- Describe how those charged with IT security governance will safeguard IT systems and data, such as ensuring annual risk assessments are performed.
- Define staff roles and responsibilities.
- Address ASET requirements and credible industry standards for web application development, such as gathering security requirements, using secure coding standards, performing threat modeling, and reviewing source code.
- Require that user account access and account privileges be reviewed periodically.
- Require that accounts for terminated employees be disabled or removed as soon after the employee leaves as is practical.

- Require that all sensitive data be accessible only to those who need it to perform their job duties.
- Require that all staff and contractors who have access to or use its IT systems complete annual security awareness training and establish processes for tracking compliance with this requirement.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will continue to review and implement Department and State policies to bring the Department up-to-date with guidance from ADOA-ASET.

Recommendation 9b: Working with ASET to define and document the scope of IT security services that ASET provides and ensure that ASET provides these services.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will work with its Engagement Manager to ensure it knows of and understands the ADOA-ASET services they provide in the form of a Service Agreement.

Recommendation 9c: Incorporating IT security performance measures into its strategic plan and using the measures to monitor progress toward achieving its IT security-related goals and objectives.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will expand its current IT security performance measures to fully implement this recommendation.

Sunset Factor 2: The extent to which the Department has met its statutory objective and purpose and the efficiency with which it has operated.

Recommendation 10: The Department should conduct an annual physical inventory of its capital assets and maintain clear, accurate, and complete information for its capital assets in the State's accounting system so that the capital assets can be easily identified during annual physical inventory.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department is in the process of updating its fixed and memo asset records in AFIS in order to have complete information needed to conduct a valid physical inventory.

Recommendation 11: The Department should remove assets that have been disposed or transferred from the State's accounting system within the SAAM required time frame.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department is in the process of removing assets that previously have been disposed of and will keep current with removals going forward.

Recommendation 12: The Department should develop policies and procedures for all areas required by the SAAM, including policies and procedures for handling cash payments, administering and using p-cards, and requesting reimbursement for travel expenses, including lodging and meals.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department always has strived to stay within policies set forth in SAAM and did not realize that internal policies also were a necessity. Internal policies will be created on the aforementioned subjects.

Recommendation 13: The Department should continue to work with ADOT to ensure that the Department's take-home vehicle policies and procedures incorporate the requirements from the finalized State-wide guidelines.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will follow ADOT guidelines.

Sunset Factor 5: The extent to which the Department has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Recommendation 14: The Department should ensure that it posts meeting notices and agendas on its website and at the Department at least 24 hours before public meetings for all the councils and committees it supports and make council and committee meeting minutes or a recording of these public meetings available for public inspection within 3 working days following a meeting.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will remind all employees that staff the councils and committees of all of the above public meeting requirements.

Recommendation 15: The Department should include a disclosure statement on its website stating where all public meeting notices for all councils and committees will be posted.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will post on its website disclosure statements for the Citrus, Fruit and Vegetable Advisory Council, Animal Services Division Council, Arizona Leafy Greens Food Safety Committee, Industrial Hemp Advisory Council, Pesticide Advisory Committee, Pest Management Division Council, and Weights and Measures Services Division Council.

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

Recommendation 16: The Department should ensure that all complaints are investigated and resolved in a timely manner.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: With one exception, the Department will work to ensure that all complaints are investigated and resolved in a timely manner. The Sunset Review report stated that the Department did not investigate the complaints it received related to medical marijuana because it believed that it lacked the authority to enter medical marijuana facilities. The Department will work with licensed scale owners and other stakeholders to identify a way for these scales to be inspected.

Recommendation 17: The Department should notify complainants about the status of complaint investigations, as required by Department policy.

Department Response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: The Department will notify complainants about the status of complaint investigation.

