

Cabinet and Governor Appointed Agencies' Performance Audit Action Item(s) & Status

Reassessing Implementation of the Regulatory Fairness Act

(See also [cabinet agency response](#) for full context to Washington State Auditor's Office (SAO) [report](#), November 2020)

Multiple state agencies and the Governor's Office of Regulatory Innovation and Assistance (ORIA) were included in this performance audit.

SAO Recommendations (Rec) to ORIA:

1. Help facilitate the sharing of summary data among agencies, such as through data-sharing agreements, where feasible.
2. Serve as a repository for and make available sharable data and information relevant to the specific sectors of small businesses in Washington's economy to help agencies more easily conduct the numerous calculations required in the Act.
3. Work with agencies and the Code Reviser to explore opportunities for improving the CR-102 form's instructions and clarity. Examples include: improving instructions about submitting an SBEIS, and clarifying allowable exemptions.
4. Expand assistance focused specifically on helping agencies apply exemptions to their proposed rules.

The table below shows the current status of action items the agency initiated to address issues identified in the performance audit report. Please see the [cabinet agency response](#) for additional context and any additional steps already taken.

For an explanation of the columns below, [see the legend](#).

Issue/ Rec	Status	Action Steps	Lead Agency	Due Date	Current Resources?	Budget Impact?	Legislation Required?	Notes
Rec. 1-4	Complete	Work with regulatory agencies to produce an inventory of the scope of data each agency retains regarding the businesses they regulate, and their current regulatory framework for data sharing.	ORIA	3/21 08/04	Yes	No	No	2023 update: There are several challenges with data-sharing agreements. A framework would need consistency and becomes expensive to maintain collect and maintain information while protecting privacy, security, accessibility issues, and the management of this data. Overall, the expense would outweigh the benefits of producing these agreements and the upkeep that goes with them. ORIA has developed specific tools that facilitate data sharing and help agencies conduct the calculations

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								<p>required in the Act in a cost-effective manner. These tools include the Minor-Cost Calculator, State Master Contracts and by maintaining a community of practice made up of agency rulemaking staff.</p> <p>The minor cost calculator calculates the cost of an agency rule for a small business to determine if a Small Business Economic Impact Statement (SBEIS) and/or cost mitigation is required. The calculator can be easily found on the ORIA website.</p> <p>State Master Contracts are used to assist agencies by providing contracts with two different firms. These contracts help state agencies complete an SBEIS when required as part of the rulemaking process. Having this resource available is important as many agencies do not have the internal capacity to complete an SBEIS.</p> <p>A community of practice made up of rulemaking staff supports continual communication among agencies. This communication occurs through RFA trainings and quarterly meetings. Materials on the ORIA website are continually updated so the information is current and accessible agency staff.</p>

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								2022: ORIA, under new leadership, is currently evaluating the best strategy for helping to facilitate the sharing of summary data among agencies.
Rec. 1-4	Complete	Work with the Office of the Chief Information Officer to develop options to create an administrative infrastructure for economic data that addresses privacy, security, and accessibility issues.	ORIA	3/21 08/04	Yes	No	No	<p>ORIA has worked with the former and current State CIOs and determined that a significant legislative appropriation would be needed to achieve this action step. The state has more significant IT priorities that are higher priority and critical to managing state operations.</p> <p>The use of tools such as the Minor-Cost Calculator and interagency collaboration will achieve the facilitation of data sharing across agencies at a reasonable cost.</p>
Rec. 1-4	Completed	Gather input from regulatory agencies on CR-102 form challenges.	ORIA	5/21	Yes	No	No	
Rec. 1-4	Completed	Meet with the Office of the Code Reviser to discuss the SAO audit recommendation, relay agency feedback, and determine the Code Reviser's interest in making changes. <i>By June 1, 2021.</i>	ORIA	6/21 6/22	Yes	No	No	<p>ORIA solicited feedback from agencies on the CR-102 form from Jun. to Sep. 2021. On Sep. 1, 2021, ORIA met with the Code Revisor to relay agency feedback. ORIA and the Code Revisor collaborated through Jun. 2022, on ways to improve the form's instructions and clarity. On Jun. 23, 2022, the Code Revisor formally presented information to agencies about its</p>

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								newly updated CR-102 form at an ORIA-hosted event. The Code Revisor officially launched its new form in Jul. 2022.
Rec. 1-4	Completed	Meet with the Attorney General's Office to explore options for working in partnership on compliance improvement solutions.	ORIA	1/21	Yes	No	No	Former ORIA Leadership met with the Attorney General's Office in Jan. 2021.
Rec. 1-4	Completed	Develop an overview-level training for agencies on RFA exemptions.	ORIA	7/21 3/22	Yes	No	No	The training was a successful partnership between ORIA and the AG's office. The AG's office delivered the training to agencies on Mar. 2, 2022, after having initially met with ORIA on Nov. 3, 2021, to discuss the challenges agencies have when applying RFA exemptions.
Rec. 1-4	Not Started	Develop a funding decision package for resources needed to implement audit recommendations and submit it to the governor for consideration.	ORIA	9/21 9/23				ORIA will implement this action step if needed.