

M00F04
AIDS Administration
Department of Health and Mental Hygiene

Operating Budget Data

(\$ in Thousands)

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$5,718	\$5,630	\$5,009	-\$621	-11.0%
Special Fund	106	80	111	31	39.4%
Federal Fund	<u>41,962</u>	<u>48,119</u>	<u>49,235</u>	<u>1,116</u>	<u>2.3%</u>
Total Funds	\$47,786	\$53,828	\$54,355	\$527	1.0%
Contingent & Back of Bill Reductions			-27	-27	
Adjusted Total	\$47,786	\$53,828	\$54,328	\$500	0.9%

- The fiscal 2006 allowance for the AIDS Administration shows little growth over fiscal 2005, \$500,000 (0.9%).
- Sources of fund support do show significant change, with general fund support declining by \$633,000 (11.2%). While the allowance back-fills these reductions with federal funds, there are questions as to if those federal funds are available and, if available, whether such action is permissible.

Personnel Data

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>
Regular Positions	64.00	62.00	58.00	-4.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	64.00	62.00	58.00	-4.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	2.32	4.00%
Positions Vacant as of 12/31/04	9.00	14.52%

Note: Numbers may not sum to total due to rounding.

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- The fiscal 2006 allowance abolishes 4 positions for a general fund saving of \$275,000. These represent all of the general funded positions vacant as of December 31, 2004.

Analysis in Brief

Major Trends

New Reported HIV/AIDS Cases: Over the five-year period from 1999 and 2003, the number of new HIV and AIDS cases reported fell. However, the concentration of HIV/AIDS cases amongst African Americans remains depressingly high.

MADAP Enrollment and Expenditures: In 2004, the Maryland AIDS Drug Assistance Program experienced strong enrollment and expenditure growth.

Issues

Federal Fund Availability: Surpluses Still Abound Despite Program Expansion...But Are Clouds Looming on the Horizon? The AIDS Administration continues to amass significant surpluses in Ryan White Title II funds. While there are some concerns about how long this situation can last, the administration seems to be prepared to be bolder in its use of these surplus funds.

MIPAR Contract: The AIDS Administration contracts with the Maryland Institute for Policy Analysis and Research for professional support throughout the administration's programs. The size and nature of that contract raises numerous questions.

Recommended Actions

Funds

1. Add language authorizing the creation of federally funded positions in the AIDS Administration and reducing general fund support in the Department of Health and Mental Hygiene administrative functions on the basis of anticipated federal fund indirect cost recoveries.
2. Add language withholding funds pending the submission of a report detailing the AIDS Administration's proposals to spend-down its federal fund surplus.

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3.	Delete funds for a replacement van.	\$ 14,802
4.	Delete general fund support for contractual assistance provided by the Maryland Institute for Policy Analysis and Research.	112,000
5.	Reduce federal funds used to offset general fund reductions.	302,000
	Total Reductions	\$ 428,802

Updates

Expansion of Insurance Coverage for Persons with HIV/AIDS through the Maryland Health Insurance Program: Fiscal 2005 budget bill language urged the AIDS Administration to expand access to health insurance for persons with HIV/AIDS through the Maryland Health Insurance Program. The status of that effort is provided.

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Department of Health and Mental Hygiene

Operating Budget Analysis

Program Description

The AIDS Administration was established in 1987 to provide the Department of Health and Mental Hygiene (DHMH) and the State with expert scientific and public health leadership to combat the spread of HIV. The mission of the AIDS Administration is to decrease disability and death due to AIDS by reducing transmission of HIV and to help Marylanders already infected live longer and better lives. This is to be accomplished by monitoring the spread of the epidemic and its impact on populations within the State, controlling the spread of HIV infection in Maryland, and reducing morbidity and mortality associated with HIV. The key functions of the AIDS Administration are:

- executive oversight of the mission of the administration;
- planning, developing, and evaluating programs;
- supporting programs statewide for treatment and support services to ensure that people with HIV infection have access to the medical and support services needed to live with their disease, notably the Maryland AIDS Drug Assistance Program and two insurance assistance programs (one federal funded and one general funded);
- supporting programs statewide for prevention and education to reduce the likelihood of transmission by giving people the information they need to adopt behaviors which will prevent them from becoming infected; and
- surveillance to track HIV and AIDS.

The AIDS Administration consults and coordinates its work with the 24 local health departments. Each local health department has counseling and testing sites where free tests and consultations are available. The administration also funds clinical activities for the diagnosis and evaluation of patients with HIV.

Performance Analysis: Managing for Results

Based on data through September 2004, there are currently an estimated 27,621 Marylanders living with HIV or AIDS (15,147 with HIV and 12,474 with AIDS). As shown in **Exhibit 1**, most of the people living with HIV/AIDS are concentrated in Baltimore City, Prince George's County, or the prison system. The data for the period ending September 2004 shows little change in distribution of persons living with HIV/AIDS from the prior year.

Exhibit 1
Spatial Distribution of Persons Living with HIV/AIDS
As Reported through September 2004

	HIV		AIDS	
	<u>No.</u>	<u>% of Total</u>	<u>No.</u>	<u>% of Total</u>
Baltimore City	7,803	52%	5,958	48%
Prince George's County	1,994	13%	2,187	18%
Corrections	1,829	12%	870	7%
Baltimore County	997	7%	867	7%
Montgomery County	943	6%	1,126	9%
Remainder of State	1,581	10%	1,466	12%

Source: Department of Legislative Services; AIDS Administration

The issue of the correctional population with HIV/AIDS is an interesting one. As shown in Exhibit 1, the corrections system has the third largest concentration of persons living with HIV and the fourth largest concentration of persons living with AIDS. A 2004 publication from the U.S. Department of Justice's Office of Justice Programs noted that in 2001 3.5% of Maryland inmates were known to be positive for HIV. Only New York, Rhode Island, and Florida had higher rates. For confirmed AIDS cases, the figure was 0.9% of the inmate population, higher than all but five other states.

The treatment for persons with HIV/AIDS is a significant cost to the corrections system. In fiscal 2004, according to the Department of Public Safety and Correctional Services, the State spent over \$7.5 million for the treatment of HIV/AIDS, most of this on medications. This represented approximately 10% of the department's medical contract expenditures. Given the concentration of persons with HIV/AIDS in the corrections system and the expenses associated with that population, minimizing the spread of HIV/AIDS while persons are in the corrections system and upon their release is clearly important.

According to the AIDS Administration, there are 28 prevention projects focused on the corrections system with total expenditures of over \$2.2 million. Unlike at least 11 other states, Maryland has no mandatory testing for HIV/AIDS. Opponents of mandatory testing point to studies which conclude that voluntary testing combined with education and prevention programming is more effective in changing patterns of behavior than mandatory testing. Similarly, there is some evidence that in those states with mandatory testing, there is not only a stigma associated with HIV/AIDS but also that there are differing privileges and other assignments associated with a status of HIV/AIDS.

Additionally, it is interesting to note that while virtually all correctional facilities nationwide prohibit sexual intercourse inside those facilities, a number of facilities have responded to concerns

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about the transmission of HIV/AIDS and sexually transmitted diseases (STDs) by making condoms available in prisons. Vermont, Mississippi, and the District of Columbia either provide condoms or allow the purchase of condoms from the prison commissary. Advocates of condom distribution point to Canada, where condoms have been available to inmates since 1992, and where there been no reports of safety or security issues as a result. Opponents note that this practice condones illicit sexual behavior and exposes the State to potential liability for sexual assaults or other incidents. However, no research has been undertaken in those facilities where condoms are available to demonstrate the effectiveness of condom distribution in reducing the transmission of STDs and/or HIV/AIDS. Indeed, the *American Journal of Public Health* noted that such a study would be very difficult to do.

Exhibit 2 details trends in new reported cases in HIV and AIDS in Maryland. The exhibit illustrates that new reported HIV cases, as measured over the five-year period 1999 through 2003, show an average annual decline of 4.5%. New reported AIDS cases fall by an annual average of 1.9% over the same period. With the advent of new drug therapies, new reported AIDS cases which were running at about 2,300 per year in the mid-1990s fell steadily through 2000. Since then, the number of new reported AIDS cases appears to be approaching stasis.

Exhibit 2
New Reported HIV/AIDS Cases
Calendar 1999 – 2003

	<u>CY 1999</u>	<u>CY 2000</u>	<u>CY 2001</u>	<u>CY 2002</u>	<u>CY 2003</u>	<u>% Change</u> <u>CY 1999-2003</u>
New Reported HIV Cases	2,377	2,395	2,359	2,200	1,976	-4.5
New Reported AIDS Cases	1,556	1,436	1,546	1,434	1,443	-1.9

Note: 2003 data based on reporting through September 30, 2004; 1999 through 2002 data as reported in The Maryland 2004 HIV/AIDS Annual Report.

Source: AIDS Administration

Compared to national data, the rate of Maryland's new reported AIDS cases remains significantly above the national average. The federal Centers for Disease Control and Prevention (CDC) data reports that nationally there were 15.0 new AIDS cases per 100,000 population in 2003 compared to the Maryland average of 28.5 per 100,000 population. Only New York and the District of Columbia have higher rates. Maryland's AIDS population continues to show some striking differences to the nation as a whole in terms of exposure categories. Specifically, for new AIDS cases reported in 2003:

- Nationally the leading exposure category to AIDS, 35%, is men having sex with men. In Maryland this category provides only 18.5% of reported AIDS cases. The Maryland number has

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been stable for some time, reflecting the fact that, as noted immediately below, the transmission of AIDS has been through a very different route. However, it appears that national statistics are gradually changing towards those of Maryland.

- For Maryland, the leading exposure category to AIDS, 43.3% of all reported AIDS cases, is injection drug use followed closely by heterosexual contact with persons with or at risk for HIV (35.7%). Nationally, these figures are 16% and 19%, respectively.
- Nationally, 49.4% of all AIDS cases were among African Americans, compared to 84% in Maryland.

Key Program Caseloads

The major health services programs offered by the AIDS Administration are the Maryland AIDS Drug Assistance Program (MADAP) and two insurance programs MADAP-Plus and the Maryland AIDS Insurance Assistance Program (MAIAP). MADAP and MADAP-Plus are federal funded programs, while MAIAP is supported through general funds.

MADAP is the largest program run by the AIDS Administration. MADAP assists persons diagnosed with HIV/AIDS who meet certain income eligibility criteria (above 116% and below 500% of the federal poverty level (FPL) or \$10,800 to \$46,550 for a single person) with HIV/AIDS-related drug costs. Clients are certified eligible for MADAP for a one-year period, after which time they may reapply for certification.

As shown in **Exhibit 3**, MADAP enrollment increased sharply in fiscal 2004, 8.5% over fiscal 2003. Enrollment in the first half of fiscal 2005 has been even stronger. As shown in **Exhibit 4**, enrollment at the end of calendar 2004 is 16.5% higher than reported for fiscal 2004.

As also shown in Exhibit 4, the number of people using the program on a monthly basis has not grown as sharply as enrollment but still grew by 8% in 2004. Indeed, as a percentage of enrollees utilization has actually fallen, continuing a recent trend. CDC revised treatment guidelines recommending less aggressive treatment regimens was the suggested explanation for this trend. It will be interesting to see if this pattern changes with recent reports on the importance of maintaining full adherence to drug treatment regimens as the best way to prevent the mutation of HIV and the development of drug resistance, and also new CDC guidelines recommending the use of antiretroviral drugs to prevent HIV infection after exposure to HIV through sexual intercourse, sexual assault, injection drug use, or accidents.

Exhibit 3
Program Data Selected Enrollment Trends
Fiscal 2000-2004

	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>Avg. Annual % Change FY 00 – 04</u>	<u>% Change FY 03 – 04</u>
MADAP Enrollees	1,975	2,123	2,196	2,252	2,444	5.5%	8.5%
MADAP-Plus Enrollees	62	142	100	85	90	9.8%	5.9%
MAIAP Enrollees	237	247	215	194	200	-4.2%	3.1%

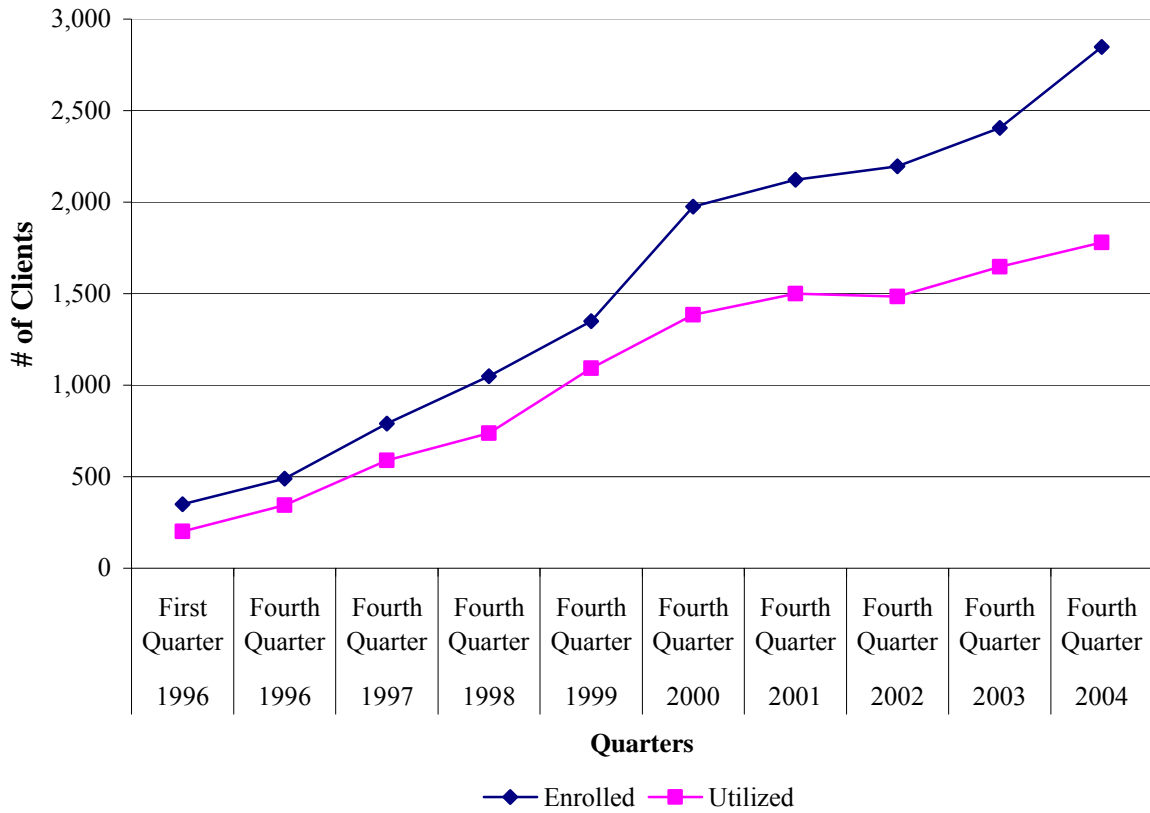
Beginning July 2000 MADAP data includes Transitional Assistance Program enrollment.

MADAP-Plus and MAIAP enrollment is average monthly enrollment in that fiscal year.

Source: Department of Legislative Services; AIDS Administration

As shown in **Exhibit 5**, increased utilization helped push expenditures up markedly in 2004 compared to 2003. Per client average monthly costs jump by \$272 from 2003 to 2004; average monthly expenditures are up by almost \$630,000. However, the biggest factor behind this jump relates to the increased use of more expensive drugs. For example, Fuzeon, the first in a new class of anti-HIV drugs, costs \$22,000 per year, per client.

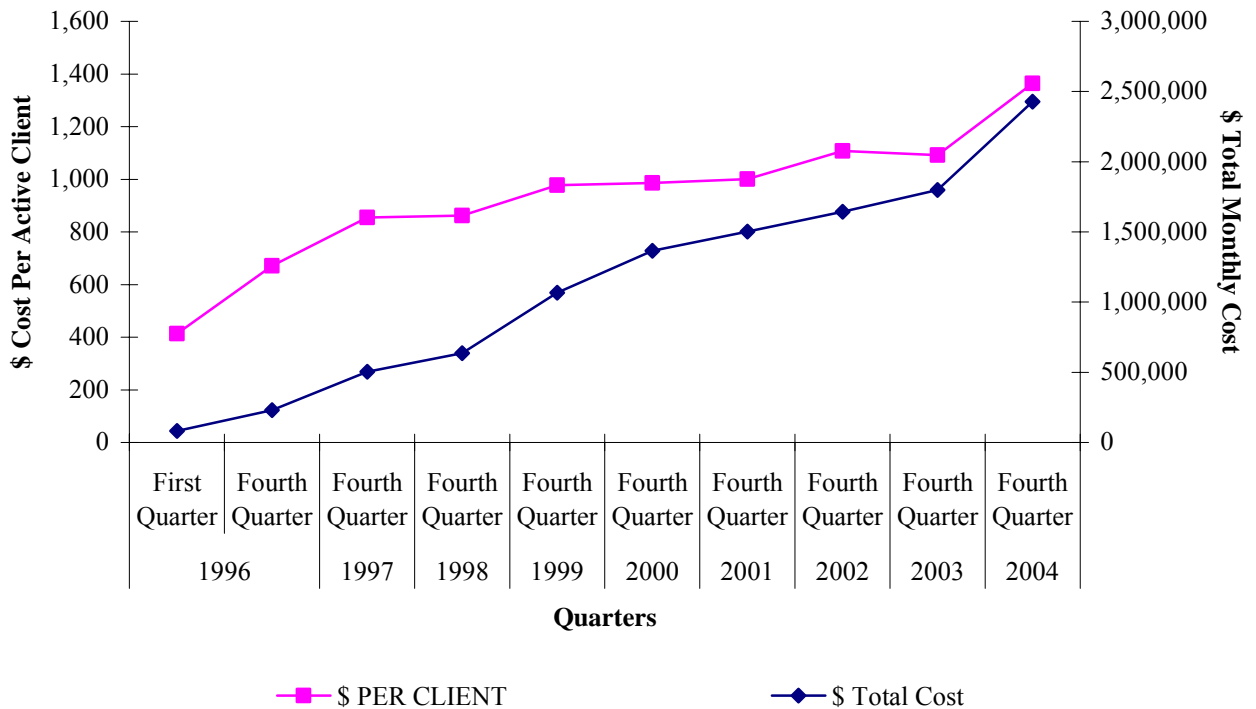
Exhibit 4
MADAP Monthly Enrollment and Utilization Trends
Calendar 1996 – 2004*



* Data are three-month averages for the fourth quarter of each year except 1996 when the first and fourth quarters are shown.

Source: Department of Legislative Services; AIDS Administration

Exhibit 5
MADAP Monthly Spending Trends
Calendar 1996 – 2004*



*Data are three-month averages for the fourth quarter of each year except 1996 when the first and fourth quarters are shown.

Source: Department of Legislative Services; AIDS Administration

Following the increase in eligibility limits promulgated by the AIDS Administration in 2004, MADAP has the nation’s most expansive eligibility requirements alongside extremely generous drug coverage (as reported in the *National ADAP Monitoring Project*, May 2004). The administration has also avoided the experience of at least 13 other states which as of December 2004 reported having at least one program restriction such as capped enrollment, limited antiretroviral access, reduced formularies, expenditure caps, and cost-sharing. Nine states had waiting lists.

Exhibit 3 also details MADAP-Plus and MAIAP enrollment. MAIAP maintains employer-based health insurance for individuals testing positive for HIV who can no longer work due to their illness. Eligibility requirements include a diagnosis of HIV, an inability to work, and incomes below 300% of FPL. Program enrollment is capped at 450, but as shown in Exhibit 3, actual enrollment is much

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lower. MAIAP was due to sunset in 2002, but Chapter 30, Acts of 2002 extended the program until 2010.

MADAP-Plus complements MAIAP in that it targets persons at risk of losing private health insurance but who are not eligible for MAIAP. The upper income limit is the same as that for MADAP. Maryland is one of 22 states that uses federal ADAP dollars for insurance premium assistance. However, enrollment in this program has failed to live up to expectations. The 300 average monthly enrollment that was originally hoped for has never materialized and the caseload appears to be leveling out at an average monthly enrollment of 100.

Governor's Proposed Budget

The Governor's fiscal 2006 allowance for the AIDS Administration is \$500,000 above the fiscal 2005 working appropriation. The most significant change in the budget relates to fund swaps. Specifically, as shown in **Exhibit 6**, general funds fall by \$633,000 in fiscal 2006 over fiscal 2005, but federal funds increase by over \$1.1 million. The key general fund reductions are savings from 4 FTE positions that have yet to be determined (\$275,000) plus cuts in two areas:

- **Health Services.** The State currently spends just over \$1.7 million in State funds for a variety of program such as case management through local health departments as well as pediatric, and women, children, and youth services through the University of Maryland. The allowance cuts \$150,000.
- **Education/Prevention.** The State currently spends just over \$779,000 in State funds for education and prevention programming targeting high risk persons. Also funded under this program is the Baltimore City needle exchange program that funds the controlled distribution of clean needles and drug treatment slots specifically targeted at the users of the needle exchange program thereby attacking the target group most susceptible to HIV/AIDS infection in Maryland: the injection drug user. Most of this education/prevention funding is directed through local health departments although \$67,000 is used in the Division of Parole and Probation. The allowance cuts \$152,000. The administration indicates that the reduction will limit the number of drug treatment slots associated with the needle exchange program.

In each case, the reduction in State funds for these programs is back-filled with federal funds. However, this back-filling is problematic for the following reasons:

- The \$150,000 reduction to health services is back-filled with federal Ryan White Title II funds. This seems to clearly contradict federal statute governing Title II funding that prohibits supplantation.
- The \$152,000 reduction to education/prevention programming is back-filled with CDC prevention dollars. While there are no explicit restrictions in terms of supplantation, the administration indicates that it is fully spending its CDC grant and does not anticipate additional funding being available in fiscal 2006 to back-fill the general fund reductions.

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- While the administration hopes to find other federal funds to back-fill general fund reductions, cuts associated with the needle exchange program may not be so easily restored. Federal funds are expressly prohibited from supporting needle exchange activities. While federal prevention funds can be used to pay for substance abuse treatment slots associated with the needle exchange program, clients using those slots would have to be HIV positive and many are not (indeed, the primary purpose of the program is to help injection drug users avoid HIV/AIDS).

It is the case that the administration has had some general fund reductions in the past for which it has been able to eventually back-fill with federal funds. However, the implication in the allowance that those funds are readily available is disingenuous. **Given the specter of supplantation and the fact that the federal grant support is apparently not available to support the level of funding proposed for prevention/education funding, DLS recommends reducing the federal fund appropriation by \$302,000.**

Other federal fund increases in the fiscal 2006 allowance are more conventional: increases in funding to support MADAP and MADAP-Plus, as well as a new federal grant to investigate how high-risk populations utilize the internet to make connections that can lead to unsafe sexual encounters. In year one, the focus will be men having sex with men; in year two, injection drug users; and in year three, high-risk heterosexuals.

Maintenance of Effort/Matching Requirements

It should be noted that federal Title II funds which comprise the bulk of the administration's federal fund support (70%) come with specific maintenance of effort and matching requirements. Maintenance of effort requirements involve the State maintaining spending on HIV-related activities at a level at least equal to spending by the State for the one-year period preceding the fiscal year for which the State is applying to receive a grant. Maryland must spend \$1 of State funds for every \$2 of federal funds claimed. For this match DHMH includes spending in other areas of the department as well as the corrections system. DHMH has submitted documentation indicating that it will meet both maintenance of effort and matching requirements in fiscal 2006 although they did note that the match was becoming more difficult to attain.

Exhibit 6
Governor's Proposed Budget
AIDS Administration
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Total
2005 Working Appropriation	\$5,630	\$80	\$48,119	\$53,828
2006 Governor's Allowance	5,009	111	49,235	54,355
Contingent & Back of Bill Reductions	<u>-12</u>	<u>0</u>	<u>-14</u>	<u>-27</u>
Adjusted Allowance	4,997	111	49,220	54,328
Amount Change	-\$633	\$31	\$1,102	\$500
Percent Change	-11.2%	39.4%	2.3%	0.9%

Where It Goes:

Personnel Expenses	-226	
Increments and other compensation.....		\$82
Retirement contributions.....		37
Other fringe benefit adjustments.....		14
Employee and retiree health insurance		-84
Savings from as yet to be determined abolished positions (4 FTEs).....		-275
Surveillance Activities	-36	
Web-based HIV risk behavior surveillance (FF).....		136
HIV/AIDS surveillance activities in Baltimore City (FF).....		-172
Health Services	748	
MADAP/MADAP-Plus (FF).....		748
Health services provided according to priorities established between the consortia (local health departments, providers, community-based organizations, and clients) and the AIDS Administration (FF).....		150
Variety of health services to persons with HIV/AIDS (GF).....		-150
Prevention/Education Activities	0	
Prevention, education, counseling and testing activities (FF).....		152
Prevention, education, counseling and testing activities (GF).....		-152
Other		14
Total Changes		\$500

Note: Numbers may not sum to total due to rounding.

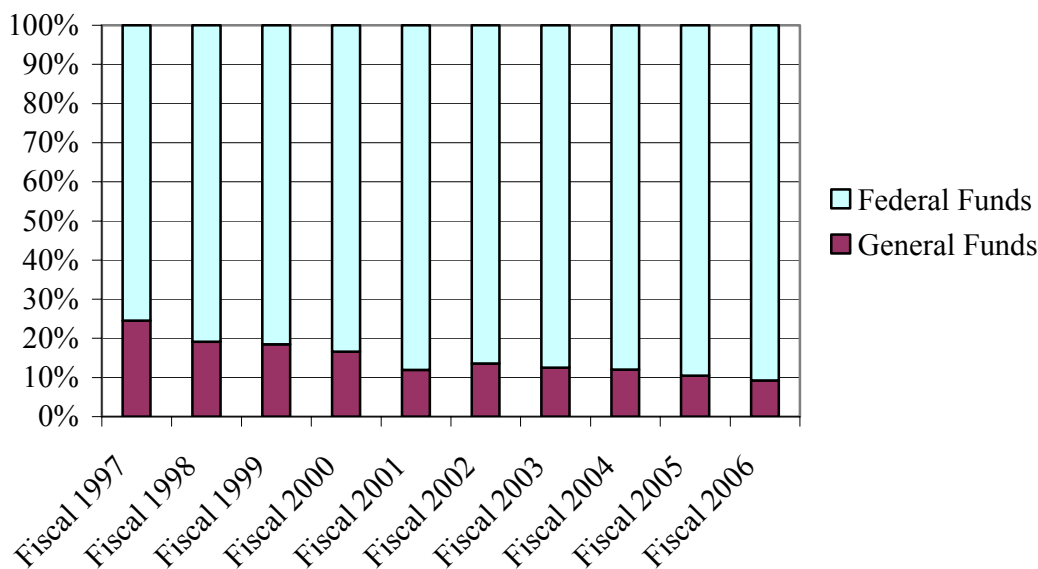
Issues

1. Federal Fund Availability: Surpluses Still Abound Despite Program Expansion...But Are Clouds Looming on the Horizon?

Riding the Federal Fund Train

Federal fund availability has always been the mainstay of the AIDS Administration, and increasingly so. As shown in **Exhibit 7**, 91% of the proposed fiscal 2006 budget is derived from federal funds. Indeed, looking at funding over a ten-year period reveals that general fund support is essentially flat. General fund growth between fiscal 1997 and fiscal 2002 has been offset by reductions since then. That total budget growth between fiscal 1997 and fiscal 2006 has averaged 11% annually is a reflection of the 14% annual average increase in federal funds.

Exhibit 7
Growing Federal Fund Support for the Aids Administration
Fiscal 1997 to 2006



Source: Department of Legislative Services; Department of Health and Mental Hygiene

Surpluses of Ryan White Title II Funds

As noted above in the discussion of federal fund utilization in the fiscal 2006 allowance, federal funds come with strings both in terms of attainment but also in terms of strict programmatic requirements. While the State has maximized its expenditures of education/prevention funding, it has

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struggled to spend its Ryan White Title II funds. Title II funds are distributed by a formula that has at its heart the number of living AIDS cases. Maryland has the ninth-highest population of persons living with AIDS. Title II funds have certain ear-marks including:

- no more than 10% of funds received may be spent on planning and evaluation activities;
- no more than 10% of funds received may be spent on administration;
- combined spending on planning/evaluation and administrative activities may not exceed 15% of funds received;
- a percentage of the grant must be spent on services to infants, children, and women with HIV according to the percentage of infants, children, and women with AIDS; and
- approximately 72% of Title II funds are earmarked for ADAP programs.

A significant surplus in Title II funds was detailed in the fiscal 2005 budget analysis. At that time DLS suggested several ways to prudently spend down the fund balance while noting that the State expenditure of Title II funds did seem to be increasing to match attainment. It was anticipated that there would be some increase in the amount of funds carried over from fiscal 2003 to fiscal 2004 (a combination of funds reserved for the following fiscal year based on the timing of the receipt of federal funds as well as unspent year-end balances), but that carry-over would fall between fiscal 2004 and fiscal 2005.

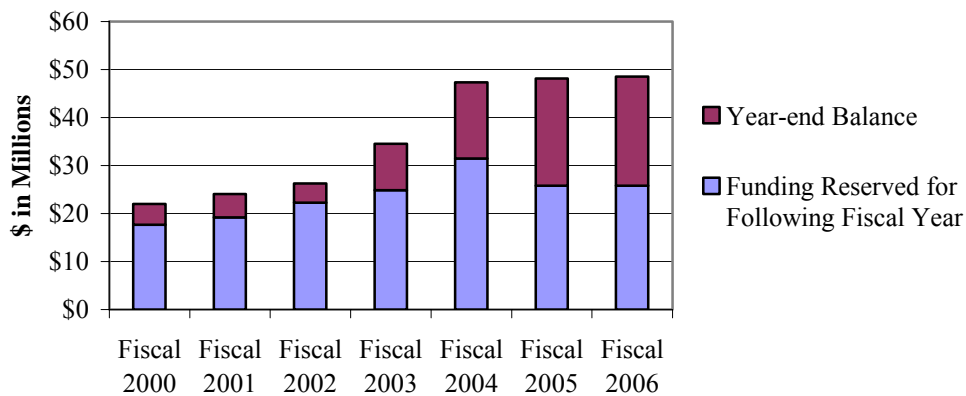
At the urging of the legislature, the administration proceeded to take a number of actions to try and accelerate spending. For example, regulatory changes expanded eligibility of MADAP and MADAP-Plus from 400% of FPL to 500% as well as eased the approval process for adding drugs to the administration's formulary. The administration also began working with the Maryland Health Insurance Program (MHIP) to expand insurance coverage for persons with HIV/AIDS (see the Updates section for more detail).

However, as shown in **Exhibit 8**, carry-over jumped dramatically from fiscal 2003 to fiscal 2004, and far from declining, the carry-over from fiscal 2004 to fiscal 2005 and again to fiscal 2006 is increasing, predominantly in the year-end balance. There a number of reasons given for this:

- Attainment levels have been much higher than anticipated. This is especially true for fiscal 2004, with the administration receiving over \$13 million above the anticipated attainment level.
- Carry-over fund balances include rebates on drug expenditures. The more that is spent on drugs, the larger the rebates. The administration participates in the federal 340B program, a program that allows ADAP's to effectively access steep drug price discounts.

- Insufficient provider capacity in some areas limits the ability to expand the provision of health services. For example, the administration notes that developing dental services has been a major problem.

Exhibit 8
Ryan White Title II Funds
Year-end Balances and Reserved Future Funding
Fiscal 2000 – 2006



Source: Department of Legislative Services; Department of Health and Mental Hygiene

Looming Clouds?

In an environment where general fund support is unlikely to increase in the near future, it is understandable that the administration should be a little cautious about expanding programs. Further, there are factors that could impact the State's ability to attain as much federal funds as it currently does:

- There are indications from the federal government, although at this point nothing is in writing, that fund balances carried over from one year to the next may not exceed 25% of the State award. It is not clear whether or not this would include rebates. Still, with a fund balance approaching \$16 million at the end of fiscal 2004 and an estimated attainment of \$34 million, this could mean the loss of \$7 to \$7.5 million.
- The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act Amendment of 2000 required the use of HIV reported case data to determine formula grant awards beginning in federal fiscal 2005 or, if it was determined that these data were insufficiently reliable to determine the grants, the Secretary of the U.S. Department of Health and Human Services could postpone the use of this data until federal fiscal 2007. An Institute of Medicine report concluded that the HIV

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case data was insufficiently accurate for use in formula determination and it has not gone into place. However, Maryland could lose a significant amount of funding if HIV data replaced AIDS data as the basis for formula distribution. However, the administration believes that use of HIV data will not occur in the next five years.

- There are general concerns that if attempts to redress the federal budget deficit are taken seriously, then the impact on federal domestic spending could be severe.

In addition, MADAP expenditures have rather dramatically increased in the past year and it is clearly important to maintain the services offered by that program.

Proposals to Spend Down the Federal Fund Surplus

Even so, the extent of the fund balance has prompted the administration to develop plans to spend down funds although these are not reflected in the fiscal 2006 allowance. In developing these plans, the administration has had to be mindful about the source of the fund balance, with an estimated 75% of that balance being earmarked, and thus restricted, to ADAP-related expenditures. The proposals also include some one-time expenditures. Proposals, with estimated costs, include:

- Building on the pilot program initiated by the legislature in fiscal 2005 budget bill language to assist uninsured MADAP clients with MHIP application and enrollment (\$2.4 million, 500 clients).
- A statewide campaign to identify HIV infected persons currently not in care in order to link them to care (\$2 million).
- Development of an electronic claims billing system for MADAP-Plus clients to pay medical office visit co-pays (\$250,000).
- Assisting persons with HIV who are enrolled in the Maryland Pharmacy Assistance Program with co-pays (\$120,000).

The administration should be prepared to elaborate on efforts to utilize surplus federal funds. DLS recommends withholding general funds pending the submission of a report detailing how the administration intends to utilize available federal funds and any progress towards implementation of those proposals.

2. MIPAR Contract

In fiscal 2005, the AIDS Administration has 62 FTE authorized employees. However, the administration has a significant interagency agreement with the Maryland Institute for Policy Analysis and Research (MIPAR) at the University of Maryland, Baltimore County to provide administrative and technical support services for virtually every aspect of the AIDS Administration's

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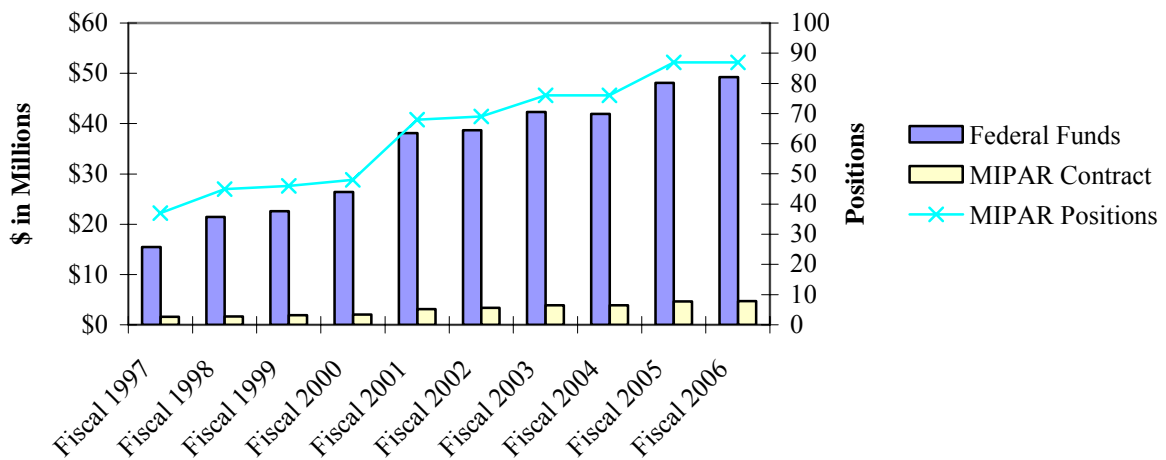
policies. In fiscal 2005, the value of that contract is a maximum of \$4,650,740 with potential employment of up to 87. In fiscal 2006, the contract value rises to \$4,739,104 but the employment level stays the same.

Interagency agreements between executive departments and institutions of higher education are neither new nor unusual. DHMH indicates that it has had such agreements for at least 30 years. The University System of Maryland recently reported to DLS almost 450 such agreements. However, the agreement between the AIDS Administration and MIPAR is notable for the following reasons:

- The size of the contract. The MIPAR contract is the largest single agreement currently entered into with a university.
- The 87 employees currently authorized under the contract is also the largest number currently authorized through an interagency agreement and is higher than the number of authorized State employees in the administration.
- MIPAR employees report directly to the AIDS Administrator and not the contractor.
- MIPAR employees work side-by-side with State employees, performing similar if not identical tasks to State employees. Pay and job requirements are also broadly similar.
- In reporting on its federal grants, MIPAR employees are reported as State contract employees.
- The bulk of the current contract (\$4,478,303, 96.3%) is supported by federal funds. This does not change in fiscal 2006.

The administration has contracted with MIPAR for many years. However, the size of the contract has grown significantly over the years. As shown in **Exhibit 9**, the growth in the size of the contract and the number of employees appears closely related to the increase in federal funds (federal funds being the primary driver of the administration's budget).

Exhibit 9
AIDS Administration Federal Fund and MIPAR Contract Growth
Fiscal 1997 – 2006



Source: Department of Legislative Services; AIDS Administration

The original rationale for the MIPAR contract is apparently lost in the mists of time. However, the administration has persisted with the use of the MIPAR contract, arguing that it did not want to create large numbers of contractual employees with no benefits. Indeed, it has been unsuccessful in creating even limited numbers of additional regular positions.

Resistance to making the MIPAR employees State contractual employees is due to the administration’s concern that as MIPAR employees they receive some limited benefits which they would lose as contractual employees (see **Exhibit 10**). The Administration argues that the loss of even these limited benefits would lead to increased difficulty in hiring staff and even higher turnover rates than that currently experienced (35%). Interestingly, in an attempt to reduce turnover among MIPAR employees, the administration had contemplated providing significant salary enhancements within the fiscal 2006 contract (\$3,000 to \$5,000) to employees who utilize the additional salary to purchase health insurance.

Exhibit 10
MIPAR Employee Benefits Versus State Contractual and Regular Positions

<u>MIPAR Employees Benefits Over State Contractual Employees</u>	<u>State Regular Employees Over MIPAR Employees</u>
13 paid vacation days per annum (number does not increase with length of service)	Health and other insurance subsidies*
6 paid personal days per annum	Retirement benefits
All State holidays	Deferred compensation match**
Up to 15 days paid sick leave per annum	Classified employee protections
	Increased vacation days with length of service

* Prior to fiscal 2005, all MIPAR employees received \$1,402 per annum in lieu of health insurance. No enhancement was provided in fiscal 2005. The AIDS Administration has proposed providing up to \$5,000 in salary enhancement to individual employees if the employees purchase health insurance.

** State employees last received the deferred compensation match in fiscal 2003. Funding was cut for this match in fiscal 2004, 2005, and 2006.

Source: Department of Legislative Services; AIDS Administration

However, the continued use of this contract is not without a cost. The MIPAR contract includes a 14% university overhead cost, or up to \$571,144 in fiscal 2005.

DLS's concerns with the MIPAR contract are numerous:

- Given the fact that the MIPAR employees work side-by-side with State employees and have similar qualifications, the typical justification for interagency agreements between executive branch agencies and academic institutions — the level of expertise brought by the university to the contract — does not apply in this case.
- Given that MIPAR employees work at the direction of the AIDS Administrator and not MIPAR, there is little offered by MIPAR in return for the significant overhead contribution required by the contract.

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- That State and MIPAR employees work side-by-side in similar positions but with significantly different benefit packages raises the issue of equity between employees.
- Similarly, the MIPAR contract creates a class of contractual employee that, as shown above in Exhibit 10, has benefits ordinary contractual employees do not. While the AIDS Administration does not employ contractual employees, this difference raises equity issues more generally. The possibility that the administration would add significant salary enhancements for MIPAR employees purchasing health insurance reduces equity issues within the administration, but compounds it in comparison to other contractual employees.
- The MIPAR contract has allowed the administration to increase staffing despite recently imposed position caps and the hiring freeze. While the contract clearly was not entered into to specifically bypass those efforts at limiting the State workforce, it certainly allowed the administration to do so.

Based on DLS's review of the MIPAR contract, four options appear possible:

- Authorize the AIDS Administration to create a certain number of regular positions for existing MIPAR employees. The cost of adding regular positions can easily be absorbed by eliminating the 14% university overhead expense, reducing the number of positions created to reflect only currently filled positions (74 positions), and utilizing available federal funds.

It should also be noted that DHMH can increase its own indirect cost recoveries from the federal government if these positions are created, potentially saving State general funds.

- Require the AIDS Administration to create State contractual positions. However, State experience with the use of contractual employees for ongoing work is poor. Further, the administration already has high turnover rates under the MIPAR contract even though some limited benefits are available to those employees compared to State contractual employees.
- Require the AIDS Administration to go through the normal procurement process to contract for the administrative and technical support currently provided through the MIPAR contract.
- Retain the *status quo*.

DLS recommends:

- **Adopting back-of-the-bill language authorizing the AIDS Administration to create 74 FTE regular positions.**
- **Establishing legislative intent that priority for filling the newly created positions is given to employees currently on the existing MIPAR contract.**

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- **Reducing general fund support in the DHMH Administration budget by \$1 million to recognize federal indirect cost recoveries.**
- **Deleting general fund support associated with the MIPAR contract (\$112,000).**

Recommended Actions

1. Add the following language:

SECTION XX. AND BE IT FURTHER ENACTED, That notwithstanding any other provision of this bill, the AIDS Administration may create up to 74 full-time equivalent (FTE) federally funded regular positions in lieu of contracting with the Maryland Institute of Policy Analysis and Research for the provision of professional support. In filling these positions, it is the intent of the General Assembly that priority be given to persons presently employed under the administration's current contract with the Maryland Institute of Policy and Research.

Further provided that a reduction of \$1,000,000 in general funds is made in this budget for the Deputy Secretary for Operations, Executive Direction (M00C01.01) in the Department of Health and Mental Hygiene.

Explanation: The AIDS Administration contracts with the Maryland Institute of Policy Analysis and Research (MIPAR) for professional support. Over 96% of the contract is federally funded. Those employees are contract employees receiving no benefits even though they work alongside State employees performing similar tasks and are under the direct supervision of the AIDS Administrator. The language authorizes the AIDS Administration to create up to 74 FTE federal funded FTE regular positions and expresses legislative intent that those positions be filled by MIPAR employees currently working under contract with the AIDS Administration. Sufficient federal funding exists to support the costs associated with the benefits for the proposed positions. By creating these positions, the Department of Health and Mental Hygiene will be able to recover an estimated additional \$1 million in federal indirect cost recoveries to offset the reduction in general funds.

2. Add the following language:

. provided that \$100,000 of the appropriation may not be expended until the administration submits a report detailing proposals to appropriately spend down its surplus federal funds. The report shall include out-year estimates of the surplus in federal funds, program proposals, as well as any progress in the implementation of these programs. The report shall be submitted by December 1, 2005 and the budget committees shall have 45 days from the receipt of the report to review and comment.

Explanation: Despite efforts to expand program eligibility and create new program options for persons with HIV/AIDS, the AIDS Administration continues to accumulate significant surpluses in federal funds. The administration has broadly outlined various proposals to spend down this surplus. The language establishes a reporting requirement for the administration to provide more detail on its proposals and progress in implementing these proposals as well as a review and comment period.

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Information Request	Author	Due Date
Proposals to reduce federal fund surplus	AIDS Administration	December 1, 2005

	<u>Amount Reduction</u>	
3. Delete funds for a replacement van. The van to be replaced has reached the appropriate mileage limits and is considered in poor condition. The department notes that AIDS Administration employees avoid using the van and rely on their own vehicles thereby incurring mileage reimbursement. However, there is little evidence of excessive reimbursement or a reduction in funding provided for that reimbursement in the fiscal 2006 allowance.	\$ 14,802	GF
4. Delete general fund support for contractual assistance provided by the Maryland Institute for Policy Analysis and Research (MIPAR). General funds support less than 3% of the value of the contract between the AIDS Administration and MIPAR. This reduction will not materially impact the contract.	112,000	GF
5. Reduce federal funds used to offset general fund reductions. Back-filling these reductions with federal funds poses problems due to specific federal funding limitations associated with the particular source of federal funds involved and also (for half of this reduction) because there is no evidence that the administration will attain the level of federal funds required to offset the general fund reduction. If the AIDS Administration is able to back-fill these reductions with federal funds, it can do so by budget amendment after demonstrating that the federal government is both willing to allow the funds to be spent as proposed and also that the federal funds are actually available.	302,000	FF
Total Reductions	\$ 428,802	
Total General Fund Reductions	\$ 126,802	
Total Federal Fund Reductions	\$ 302,000	

Analysis of the FY 2006 Maryland Executive Budget, 2005

Updates

1. Expansion of Insurance Coverage for Persons with HIV/AIDS through the Maryland Health Insurance Program

Chapter 429, Acts of 2004 (the fiscal 2005 budget bill) included language added by the General Assembly to establish a pilot program to expand insurance coverage for persons with HIV/AIDS through the Maryland Health Insurance Program (MHIP). MHIP was designed by the General Assembly to provide access to affordable, comprehensive health benefits for clients whose medical conditions make them otherwise uninsurable. As designed, the program had some impediments that prevented persons with HIV/AIDS from enrolling. The intent of the language was to develop a pilot program that removed these impediments in order to improve access to insurance for a group that finds insurance very difficult to obtain. The language included two separate reporting requirements.

The initial report on the development of the pilot program identified the greatest barriers to enrollment in MHIP for persons with HIV/AIDS as the six-month pre-existing condition clause and the inclusion of AIDS, but not HIV, in the list of specific qualifying medical conditions. The MHIP board voted to make program modifications to temporarily eliminate the pre-existing clause for 13 months (beginning June 1, 2004 through June 30, 2005) and add an HIV-positive status to the list of specific medical conditions.

The AIDS Administration and MHIP program are currently developing systems to track clients that enroll in the pilot program. However, at this time there are no estimates of the number of additional clients that have enrolled in the MHIP program or the dollars expended. An evaluation of the pilot program is due to the General Assembly by November 1, 2005.

Current and Prior Year Budgets

Current and Prior Year Budgets AIDS Administration (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2004					
Legislative Appropriation	\$6,046	\$158	\$42,051	\$0	\$48,256
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-63	0	0	0	-63
Cost Containment	-264	0	0	0	-264
Reversions and Cancellations	0	-53	-89	0	-142
Actual Expenditures	\$5,718	\$106	\$41,962	\$0	\$47,786
Fiscal 2005					
Legislative Appropriation	\$5,668	\$80	\$48,119	\$0	53,867
Budget Amendments	-38	0	0	0	-38
Working Appropriation	\$5,630	\$80	\$48,119	\$0	\$53,828

Note: Numbers may not sum to total due to rounding.

Fiscal 2004

The fiscal 2004 legislative appropriation for the AIDS Administration was reduced by \$470,000 as follows:

- The largest reduction was to general funds, \$327,000. Of this, \$264,000 was cost containment approved by the Board of Public Works. Specifically, this reduction consisted of \$60,000 in administrative savings and \$204,000 in a fund swap involving the substitution of federal funds for two general fund-supported positions and various prevention activities.
- Special fund cancellations totaled \$53,000.
- Federal fund cancellations totaled \$89,000.

Fiscal 2005

To date, the fiscal 2005 legislative appropriation has been reduced by \$38,000, all general funds. This reduction is due to a combination of a \$21,000 increase representing the administration's share of the fiscal 2005 cost-of-living adjustment originally budgeted in the Department of Budget and Management that was more than offset by a \$59,000 decrease due to the realignment of salaries in the department following the elimination of positions at the beginning of fiscal 2005.

Audit Findings

Audit Period for Last Audit:	February 7, 2001 through April 13, 2004
Issue Date:	November 4, 2004
Number of Findings:	4
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	n/a

- Finding 1:** The administration did not adequately segregate duties over the processing of payments to pharmacies and insurance carriers. The administration concurred with the finding and recommendation.
- Finding 2:** The administration had not established procedures to ensure that pharmacies were paid only for prescriptions filled and provided to clients. The administration concurred with the finding and recommendation.
- Finding 3:** The administration did not adequately monitor disbursements made by a contractor or adequately oversee compliance with contract requirements. Additionally, certain contract terms did not fully protect the State's interest. The administration concurred with the finding and recommendation.
- Finding 4:** Internal control over cash receipts was inadequate. The administration concurred with the finding and recommendation.

**Object/Fund Difference Report
DHMH – AIDS Administration**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	64.00	62.00	58.00	-4.00	-6.5%
Total Positions	64.00	62.00	58.00	-4.00	-6.5%
Objects					
01 Salaries and Wages	\$ 3,764,962	\$ 3,943,222	\$ 3,717,691	-\$ 225,531	-5.7%
03 Communication	54,372	90,053	98,924	8,871	9.9%
04 Travel	38,355	95,544	94,724	-820	-0.9%
07 Motor Vehicles	9,431	9,838	25,852	16,014	162.8%
08 Contractual Services	24,667,842	24,863,125	24,857,706	-5,419	0%
09 Supplies & Materials	19,122,746	24,746,438	25,477,923	731,485	3.0%
10 Equip - Replacement	13,632	0	0	0	0.0%
11 Equip - Additional	82,349	0	0	0	0.0%
13 Fixed Charges	32,323	80,134	82,184	2,050	2.6%
Total Objects	\$ 47,786,012	\$ 53,828,354	\$ 54,355,004	\$ 526,650	1.0%
Funds					
01 General Fund	\$ 5,718,272	\$ 5,629,871	\$ 5,009,267	-\$ 620,604	-11.0%
03 Special Fund	105,925	79,682	111,052	31,370	39.4%
05 Federal Fund	41,961,815	48,118,801	49,234,685	1,115,884	2.3%
Total Funds	\$ 47,786,012	\$ 53,828,354	\$ 54,355,004	\$ 526,650	1.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal Summary
DHMH – AIDS Administration**

<u>Program/Unit</u>	<u>FY04 Actual</u>	<u>FY05 Wrk Approp</u>	<u>FY06 Allowance</u>	<u>Change</u>	<u>FY05 - FY06 % Change</u>
01 AIDS Administration	\$ 47,786,012	\$ 53,828,354	\$ 54,355,004	\$ 526,650	1.0%
Total Expenditures	\$ 47,786,012	\$ 53,828,354	\$ 54,355,004	\$ 526,650	1.0%
General Fund	\$ 5,718,272	\$ 5,629,871	\$ 5,009,267	-\$ 620,604	-11.0%
Special Fund	105,925	79,682	111,052	31,370	39.4%
Federal Fund	41,961,815	48,118,801	49,234,685	1,115,884	2.3%
Total Appropriations	\$ 47,786,012	\$ 53,828,354	\$ 54,355,004	\$ 526,650	1.0%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal 2006 Cost Containment Actions
As Submitted by the Agency
Estimated Fiscal 2006 Savings
Compared to Fiscal 1005**

<u>Cost Saving Action/Efficiency Measure</u>	<u>Program Code</u>	<u>Sub-Program Code</u>	<u>General Funds</u>	<u>Impact of Action</u>
AIDS Maximize payments from other revenue sources	MOOF0401	Various	306,878	See note

Note: This action anticipates an increase in available federal grant funds to support health services, drug treatment, and education and prevention activities