

D16A06
Secretary of State

Operating Budget Data

(\$ in Thousands)

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$2,158	\$2,091	\$2,206	\$114	5.5%
Contingent & Back of Bill Reductions	0	0	-15	-15	
Adjusted General Fund	\$2,158	\$2,091	\$2,190	\$99	4.7%
Special Fund	379	567	568	0	0.1%
Adjusted Special Fund	\$379	\$567	\$568	\$0	0.1%
Adjusted Grand Total	\$2,537	\$2,659	\$2,758	\$99	3.7%

- The fiscal 2010 allowance increases by \$99,291, or 3.7%, when funds are adjusted for contingent and across-the-board reductions.
- Personnel expenditures increase by \$118,900, mostly due to a reduction in turnover expectancy and pay-as-you-go retiree and health insurance costs.
- Printing expenditures increase by \$51,133, or 18%, due to costs associated with printing the *Maryland Register* and *Code of Maryland Regulations*.

Personnel Data

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>
Regular Positions	31.50	29.50	28.50	-1.00
Contractual FTEs	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>0.00</u>
Total Personnel	32.50	30.50	29.50	-1.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.86	3.00%
Positions and Percentage Vacant as of 12/31/08	1.00	3.39%

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

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- The allowance abolishes a managerial position within the Address Confidentiality Program.
- Turnover expectancy is reduced from 5.64 to 3.00%.

Analysis in Brief

Major Trends

Charity Registrations Exceed Expectations: The office revises out-year estimates upward, as charity registration continues to surpass projections.

Address Confidentiality Program Participants Increase Significantly: The number of program enrollees increased by 91, or 175%, in fiscal 2008.

Issues

Special Fund Revenue Balance Will Likely Be Depleted by Fiscal 2011: The 2008 *Joint Chairmen's Report* included committee narrative requiring the office to submit a report on the use of the nonlapsing special fund created to pay the costs of publishing and distributing the products of the Division of State Documents. Based on the division's fiscal 2010 revenue projection, even under the most conservative scenario, the Department of Legislative Services (DLS) projects that the division will need an additional \$204,000 in general funds to sustain its current level of operations. **The office should comment on the current status of the nonlapsing special fund. The office should also comment on what efforts it has taken to curtail spending within the division.**

Relocation of the Charitable Organizations Division: The Charitable Organizations Division is responsible for registering, regulating, and renewing charitable organizations, professional solicitors, and fundraising counsels doing business in Maryland. According to the office, approximately 20%, or \$555,000, of its total budget is related to performing responsibilities delegated to the office under the Maryland Solicitations Act. While the registration of charitable organizations is an important function of the office, it appears to be an auxiliary function to that of the office's constitutional responsibility of preserving the record of all official acts and proceedings. Given the fact that a fair amount of the Charitable Organization's responsibilities seem to be compliance oriented, perhaps this function would be well-suited for the Office of the Comptroller's Compliance Division. While the Secretary of State's most recent audit response suggests that due to staff reductions, it is a continuing challenge to keep up with the office's increasing workload, the Secretary of State maintains a proactive approach to finding unregistered charities. Recent discussions between DLS and the Office of the Comptroller have indicated that the office may have the in-house capacity to assume this responsibility with existing resources. However, additional research is warranted regarding the duties and responsibilities of the Charitable Organizations Division before a final determination can be made. **DLS recommends that that Secretary of State and the Office of the Comptroller conduct a joint study of the feasibility of transferring the responsibility of the Charitable Organizations Division to the Comptroller's Office. In the event that it is determined that the responsibilities of the division can be assumed by the Office of the Comptroller at a cost savings to the State,**

legislation should be submitted transferring the responsibilities of the division to the Office of the Comptroller.

Recommended Actions

	<u>Funds</u>
1. Reduce general funds for turnover expectancy to better reflect current vacancy rate.	\$ 7,500
2. Delete the increase in out-of-state travel expenses.	4,000
3. Reduce funding for Sister States Program.	2,000
Total Reductions	\$ 13,500

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Operating Budget Analysis

Program Description

The Secretary of State attests to the Governor's signature on all public papers and documents; certifies documents for interstate and international transactions; registers trademarks, service marks, and insignia; administers the Notary Public laws; administers Special Police Commissions; and represents the State of Maryland and the Executive Department in intergovernmental and international affairs. The office also processes extraditions and maintains a docket on pardons. The Charitable Giving Information Program, a component of the Charities and Legal Services Division, registers, regulates, investigates, and informs the public about charitable organizations and professional solicitors. The office also administers the Address Confidentiality Program for victims of domestic violence in Maryland. The Division of State Documents compiles and publishes all of the State's administrative regulations in the *Maryland Register* and *Code of Maryland Regulations*. Through these activities, the Secretary of State addresses the need for:

- strengthening and enhancing Maryland's role and influence in international affairs;
- obtaining accurate financial information from charitable organizations required to register with the Office of the Secretary of State;
- utilizing technology to increase citizen access to information; and
- promoting public access to State government regulations.

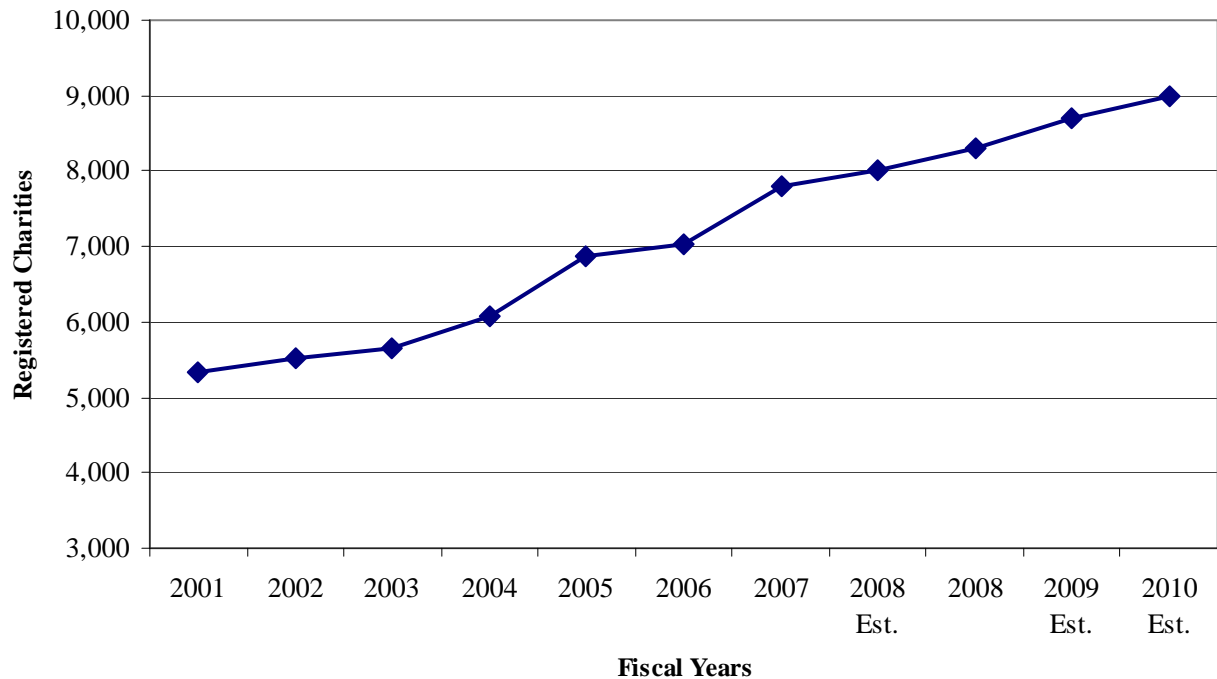
Performance Analysis: Managing for Results

Charity Registrations Exceed Expectations

The Secretary of State is responsible for the registration of all charities within the State that solicit donations from citizens. The office's responsibilities include the review of a charitable organization's financial and governing documents as well as the review of all fundraising contracts.

For the last several years, the office has undertaken a proactive approach to finding unregistered charities and educating such organizations on the State's registration requirements. This effort has led to a significant increase in charity registrations. In fact, registrations are exceeding estimated numbers. The office had expected registrations of 8,000 in fiscal 2008, as shown in **Exhibit 1**. However, actual registrations reached 8,302, approximately 4% more than expected. In response, the office has revised its fiscal 2009 estimate upward by 450 registrations, or 5%.

Exhibit 1
Number of Registered Charities
Fiscal 2001-2010



Source: Secretary of State

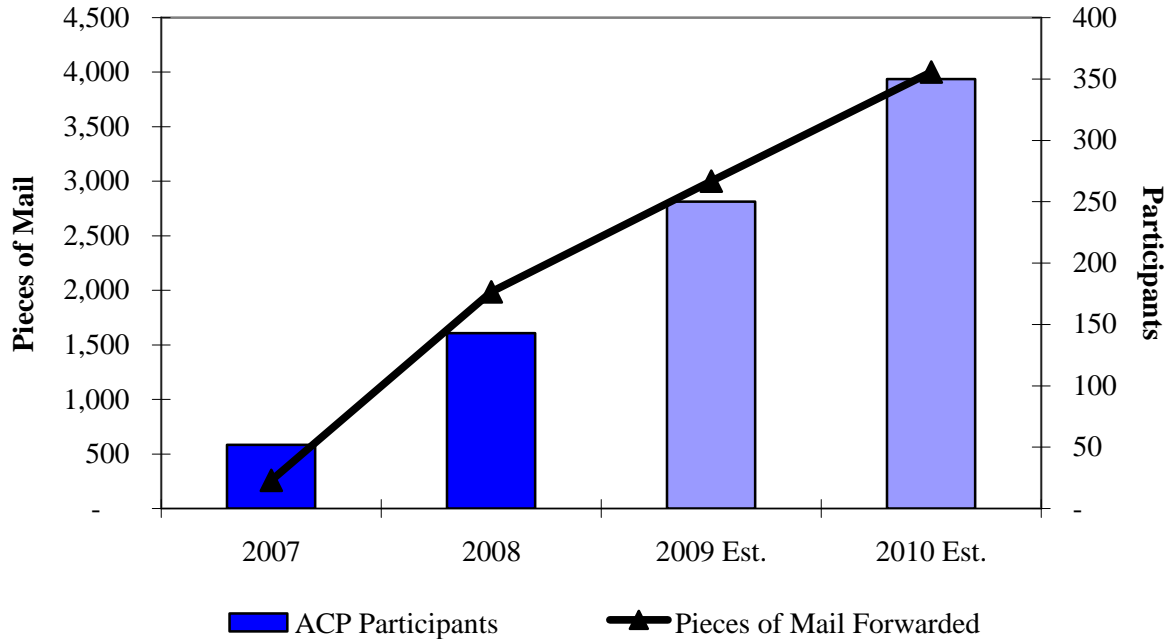
As previously mentioned, part of the office’s responsibilities include the review of charitable organizations’ financial statements for compliance with the Maryland Solicitations Act. While the number of financial statements reviewed by the office is a component of its Managing for Results (MFR) submission, this performance measure would be of greater value were it to include a timeliness measure. According to the office, once an inconsistency is detected, the office strives to review the financial statement immediately, but in any event, within 10 days from the date that the inconsistency was discovered. **The office should consider revising its MFR data to include a timeliness goal for reviewing financial statements.**

Address Confidentiality Program Participants Increase Significantly

Chapter 374 of 2006 created the Address Confidentiality Program (ACP) requiring the Secretary of State to establish a system where State and local agencies may respond to requests for public records without disclosing the location of a domestic violence victim. The program allows a victim to use a substitute address in place of an actual address when interacting with State or local agencies.

As shown in **Exhibit 2**, the number of program enrollees increased by 91, or 175%, in fiscal 2008. Additionally, the office forwarded over 1,900 pieces of mail to program participants in fiscal 2008 as compared to 257 pieces of mail in fiscal 2007. As a cost containment measure, the fiscal 2010 allowance abolishes the manager position responsible for overseeing ACP. According to the office, the ACP manager is responsible for most of the daily operations of the program, including the daily pick-up and sorting of ACP client mail. The office reports that these duties will be reassigned to existing staff members that are familiar with the program’s requirements. **The office should comment on whether its out-year estimates for the program are reasonable given the loss of the program’s manager and the resulting reallocation of staff resources.**

Exhibit 2
Address Confidentiality Program
Fiscal 2007-2010



ACP: Address Confidentiality Program

Source: Secretary of State

Fiscal 2009 Actions

Impact of Cost Containment

Fiscal 2009 cost containment efforts resulted in a general fund savings of \$204,962. Cost savings were realized as the result of across-the-board reductions in areas such as health insurance, travel, and Other Post Employment Benefits (OPEB); management efficiencies; a one-time hiring freeze; and a fund swap, which increased the use of special funds within the Division of State Documents.

Proposed Budget

As shown in **Exhibit 3**, the fiscal 2010 allowance increases by \$99,291, or 3.7%, when funds are adjusted for contingent and Back of the Bill reductions. The increase is primarily attributed to (1) a \$118,900 net increase in personnel expenditures due to pay-as-you-go employee and retiree health insurance costs, a reduction in turnover from 5.64 to 3.00%, and the elimination of the program manager within the ACP; (2) a \$51,133 increase in printing expenses due to costs associated with printing the *Maryland Register* and *Code of Maryland Regulations*; and (3) various operating reductions in areas such as postage and office supplies.

Impact of Cost Containment

The fiscal 2010 allowance abolishes a managerial position within the ACP, a cost savings of \$66,104. The office reports that the duties of the manager will be reassigned to existing staff members that are familiar with the program's requirements.

Section 23 of the fiscal 2010 budget bill reduces funding for contractual employees by \$4,738, or 4.3%, below the fiscal 2009 working appropriation. Additionally, the budget bill includes a \$10,523 contingency reduction for deferred compensation.

**Exhibit 3
Proposed Budget
Secretary of State
(\$ in Thousands)**

How Much It Grows:	General Fund	Special Fund	Total
2009 Working Appropriation	\$2,091	\$567	\$2,659
2010 Allowance	<u>2,206</u>	<u>568</u>	<u>2,773</u>
Amount Change	\$114	\$0	\$115
Percent Change	5.5%	0.1%	4.3%
 Contingent Reductions	 -\$15	 \$0	 -\$15
Adjusted Change	\$99	\$0	\$99
Adjusted Percent Change	4.7%	0.1%	3.7%

Where It Goes:

Personnel Expenses

Address Confidentiality Program manager.....	-\$66
Employee and retiree health insurance pay-as-you-go costs	62
Employees’ retirement	20
Increments.....	7
Reduction of Other Post Employment Benefits’ unfunded liability	-7
Deferred compensation (after reducing fiscal 2010 for contingent reductions).....	-11
Turnover adjustments.....	46

Other Changes

Across-the board reduction in contractual employee services	-5
Division of State Documents printing costs.....	51
Travel for staff conferences	4
Replacement server	6
Office supplies	1
Reduced office equipment	-8
Postage	-1

Total	\$99
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Note: Numbers may not sum to total due to rounding.

Issues

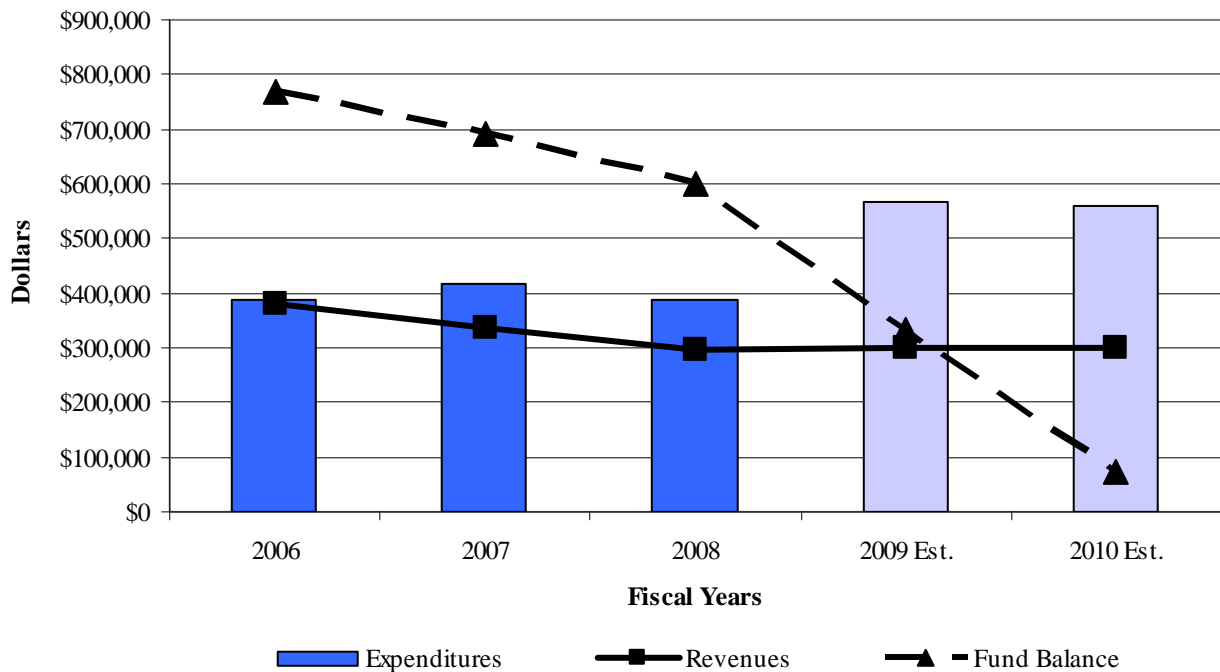
1. Special Fund Revenue Balance Will Likely Be Depleted by Fiscal 2011

The 2008 *Joint Chairmen’s Report* included committee narrative requiring the office to submit a report on the use of the nonlapsing special fund created to pay the costs of publishing and distributing the products of the Division of State Documents. On January 15, 2009, the office submitted the required report to the budget committees outlining its findings, summarized below.

Special Fund Revenues Decline as Expenditures Rise

Exhibit 4 shows that fee collections from the *Code of Maryland Regulations* (COMAR) and the *Maryland Register* have declined by 12.00% annually since fiscal 2006. In this same time frame, Division of State Documents expenditures have grown by approximately 0.01% annually. Despite what appears to be a significant spike in the division’s fiscal 2009 expenditures, the majority of the increase was the result of a distortion in health and OPEB.

Exhibit 4
Secretary of State
Special Fund Revenue and Expenditure History
Fiscal 2006-2010



Source: Secretary of State; Department of Legislative Services

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According to the report, special fund revenues began to decline following the enactment of legislation (Chapter 668 of 1999) requiring the division to provide free online access to COMAR and the *Maryland Register*. The office reports that special fund income was further hampered by Chapter 515 of 2004, which eliminated another special fund revenue source for the division – *The Maryland Contract Weekly*. According to the report, prior to 2006, when the division ceased publishing the *Maryland Contract Weekly*, annual fee collections exceeded annual expenditures.

The fiscal 2010 allowance includes \$567,619 in special funds for the division’s operations. Based on the division’s fiscal 2010 revenue projection, even under the most conservative scenario (*i.e.*, revenues and expenditure remain constant), the Department of Legislative Services (DLS) projects that the division will need an additional \$204,000 in general funds to sustain its current level of operations (see **Exhibit 5**).

The office should comment on the current status of the nonlapsing special fund. The office should also comment on what efforts it has taken to curtail spending within the division.

Exhibit 5
Secretary of State
Special Fund Balance
Fiscal 2006-2011

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009 Est.</u>	<u>2010 Est.</u>	<u>2011 Est.</u>
Beginning Balance	\$775,669	\$769,596	\$691,035	\$598,635	\$331,432	\$63,813
Revenues	381,406	337,024	295,020	300,000	300,000	300,000
Expenditures	387,479	415,585	387,420	567,203	567,619	567,619
Ending Balance	\$769,596	\$691,035	\$598,635	\$331,432	\$63,813	-\$203,806

Source: Secretary of State; Department of Legislative Services

2. Relocation of the Charitable Organizations Division

The Charitable Organizations Division is responsible for registering, regulating, and renewing charitable organizations¹, professional solicitors, and fundraising counsel doing business in Maryland. This includes the review of charitable organizations’ financial and governing documents, as well as the review of all fundraising contracts. Additionally, pursuant to Section 6-201 of the Business Regulation Article, the division is also responsible for administering the Charitable Giving Program. The program, which is largely comprised of a toll-free line and the production of charitable

¹ State law defines a “charitable organization” as a person that (1) holds him- or herself out to be benevolent, educational, human, religious, or philanthropic; and (2) solicits or receives charitable contributions from the public. Charitable organizations also include ambulance, fire fighting, fraternal, rescue, or any police or other law enforcement organization when it solicits charitable contributions from the public.

giving literature, is designed to increase the public's awareness regarding charitable giving and to provide a forum for reporting suspected violations of the charitable law.

According to the office, approximately 20% of its overall budget, which includes six employees, is related to performing responsibilities delegated to the office under the Maryland Solicitations Act. Other functions of the division also include the regulation and investigation of more than 8,500 registered charities and over 300 professional fundraisers.

While the registration of charitable organizations is an important function of the office, it appears to be an auxiliary function to that of the office's constitutional responsibility of preserving the record of all official acts and proceedings. Given the fact that a fair amount of the Charitable Organization's responsibilities seem to be compliance oriented, perhaps this function would be well-suited for the Office of the Comptroller's Compliance Division.

The Office of the Comptroller's Compliance Division

The Compliance Division is responsible for the enforcement of all tax laws administered by the Comptroller as well as the administration of the Uniform Disposition of Unclaimed Property. The division's primary functions include auditing and collecting various business and personal income taxes, as well as levying of tax assessments.

Possible Consolidation and General Fund Savings

While the Secretary of State's most recent audit response suggests that due to staff reductions, it is a continuing challenge to keep up with the office's increasing workload, the Secretary of State maintains a proactive approach to finding unregistered charities. Recent discussions between DLS and the Office of the Comptroller have indicated that the office may have the in-house capacity to assume this responsibility with existing resources. However, additional research is warranted regarding the duties and responsibilities of the Charitable Organizations Division before a final determination can be made.

Due to the bifurcated responsibilities of several of the individuals working within the office's Charitable Organizations Division, it is difficult to provide an exact estimate of the administrative efficiencies that would result if the division's responsibilities were assumed by the Office of the Comptroller. Based on the information received from the Secretary of State, DLS estimates that cost savings would amount to approximately 20%, or \$555,000, of the Secretary of State's total expenditures.

DLS recommends that that Secretary of State and the Office of the Comptroller confer over the feasibility of transferring the responsibility of the Charitable Organizations Division to the Comptroller's Office. In the event that it is determined that the responsibilities of the division can be assumed by the Office of the Comptroller at a cost savings to the State, legislation should be submitted transferring the responsibilities of the division to the Office of the Comptroller.

Recommended Actions

	<u>Amount Reduction</u>	
1. Reduce general funds for turnover expectancy to better reflect current vacancy rate. This action increases the turnover rate to 3.4%.	\$ 7,500	GF
2. Delete the increase in out-of-state travel expenses. This reduction will return budgeted expenditures to fiscal 2009 working appropriation levels.	4,000	GF
3. Reduce funding for Sister States Program. This program is not a core function of the office.	2,000	GF
Total General Fund Reductions	\$ 13,500	

Current and Prior Year Budgets

Current and Prior Year Budgets Secretary of State (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2008					
Legislative Appropriation	\$2,270	\$455	\$0	\$0	\$2,725
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	36	1	0	0	37
Cost Containment	-70	0	0	0	-70
Reversions and Cancellations	-79	-76	0	0	-155
Actual Expenditures	\$2,157	\$380	\$0	\$0	\$2,537
Fiscal 2009					
Legislative Appropriation	\$2,261	\$510	\$0	\$0	\$2,771
Cost Containment	-205	57	0	0	-148
Budget Amendments	35	0	0	0	35
Working Appropriation	\$2,091	\$567	\$0	\$0	\$2,658

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

Fiscal 2008

In fiscal 2008, the general fund appropriation decreased by approximately \$113,000. This decrease was the net result of a \$36,000 cost-of-living adjustment (COLA) and a \$70,000 reduction in salaries and wages due to cost containment actions taken by the Board of Public Works (BPW). General fund savings were primarily achieved by abolishing an administrative officer and contractual employee position. Additionally, there was a general fund reversion of approximately \$79,000 due to employee vacancies.

The office's special fund appropriation increased by \$600 due to a COLA that was centrally budgeted within the Department of Budget and Management. The office also cancelled approximately \$76,000 in special funds, leaving actual expenditures below the original appropriation.

Fiscal 2009

In fiscal 2009, the total budget for the office decreased by approximately \$113,000. The general fund appropriation decreased by a net \$170,000 due to a \$35,000 COLA and cost containment reductions taken by BPW. Cost savings were realized as the result of across-the-board reductions in areas such as health insurance, travel, and OPEB; management efficiencies; a one-time hiring freeze; and a fund swap, which increased use of special funds within the Division of State Documents.

Audit Findings

Audit Period for Last Audit:	September 23, 2005 – March 5, 2008
Issue Date:	October 2008
Number of Findings:	2
Number of Repeat Findings:	2
% of Repeat Findings:	100%
Rating: (if applicable)	n/a

Finding 1: Certain charities were incorrectly listed on the office’s web site as being in good standing.

Finding 2: The office failed to implement procedures to identify all foundations affiliated with State agencies.

*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
Secretary of State**

<u>Object/Fund</u>	<u>FY08 Actual</u>	<u>FY09 Working Appropriation</u>	<u>FY10 Allowance</u>	<u>FY09 - FY10 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	31.50	29.50	28.50	-1.00	-3.4%
02 Contractual	1.00	1.00	1.00	0	0%
Total Positions	32.50	30.50	29.50	-1.00	-3.3%
Objects					
01 Salaries and Wages	\$ 1,929,873	\$ 2,060,665	\$ 2,157,523	\$ 96,858	4.7%
02 Technical and Spec. Fees	29,971	51,606	54,107	2,501	4.8%
03 Communication	95,050	100,113	86,887	-13,226	-13.2%
04 Travel	25,847	13,000	16,500	3,500	26.9%
07 Motor Vehicles	1,693	8,900	7,870	-1,030	-11.6%
08 Contractual Services	363,428	341,158	382,291	41,133	12.1%
09 Supplies and Materials	56,903	43,200	33,900	-9,300	-21.5%
10 Equipment – Replacement	9,664	18,000	15,000	-3,000	-16.7%
11 Equipment – Additional	8,975	6,000	4,500	-1,500	-25.0%
13 Fixed Charges	15,784	16,040	14,656	-1,384	-8.6%
Total Objects	\$ 2,537,188	\$ 2,658,682	\$ 2,773,234	\$ 114,552	4.3%
Funds					
01 General Fund	\$ 2,157,783	\$ 2,091,479	\$ 2,205,615	\$ 114,136	5.5%
03 Special Fund	379,405	567,203	567,619	416	0.1%
Total Funds	\$ 2,537,188	\$ 2,658,682	\$ 2,773,234	\$ 114,552	4.3%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.

**Fiscal Summary
Secretary of State**

<u>Program/Unit</u>	<u>FY08 Actual</u>	<u>FY09 Wrk Approp</u>	<u>FY10 Allowance</u>	<u>Change</u>	<u>FY09 - FY10 % Change</u>
1000 Office of the Secretary of State	\$ 1,159,055	\$ 1,218,658	\$ 1,317,700	\$ 99,042	8.1%
2000 Division of State Documents	1,262,015	1,334,675	1,279,869	-54,806	-4.1%
3000 International Affairs	116,118	105,349	175,665	70,316	66.7%
Total Expenditures	\$ 2,537,188	\$ 2,658,682	\$ 2,773,234	\$ 114,552	4.3%
General Fund	\$ 2,157,783	\$ 2,091,479	\$ 2,205,615	\$ 114,136	5.5%
Special Fund	379,405	567,203	567,619	416	0.1%
Total Appropriations	\$ 2,537,188	\$ 2,658,682	\$ 2,773,234	\$ 114,552	4.3%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.