

J00A01
The Secretary's Office
Maryland Department of Transportation

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> |
|--------------------------------------|-------------------------------|--------------------------------|----------------------------------|----------------------------------|--------------------------------------|
| Special Fund | \$61,784 | \$68,033 | \$68,382 | \$349 | 0.5% |
| Contingent & Back of Bill Reductions | 0 | 0 | -134 | -134 | |
| Adjusted Special Fund | \$61,784 | \$68,033 | \$68,248 | \$215 | 0.3% |
| Federal Fund | 7,901 | 8,364 | 8,586 | 222 | 2.6% |
| Adjusted Federal Fund | \$7,901 | \$8,364 | \$8,586 | \$222 | 2.6% |
| Reimbursable Fund | 8 | 0 | 0 | 0 | |
| Adjusted Reimbursable Fund | \$8 | \$0 | \$0 | \$0 | |
| Adjusted Grand Total | \$69,693 | \$76,398 | \$76,834 | \$436 | 0.6% |

- The fiscal 2010 allowance increases by \$436,000 (0.6%) compared to the fiscal 2009 working appropriation. This includes a contingent reduction of \$134,000 for deferred compensation.
- Due to the decline in revenues, several internal cost containment actions totaling \$1.1 million were taken for information technology expenditures in fiscal 2009. When accounting for these actions, as well as the across-the-board actions, the fiscal 2010 allowance grows approximately \$1.6 million (2.1%).
- The largest increase in the fiscal 2010 allowance, outside of health insurance, is the contract cost of supporting and maintaining the department's financial management system.

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

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PAYGO Capital Budget Data

(\$ in Thousands)

| | Fiscal 2008 | Fiscal 2009 | | Fiscal 2010 |
|--------------|----------------------|---------------------------|-----------------------|-------------------------|
| | <u>Actual</u> | <u>Legislative</u> | <u>Working</u> | <u>Allowance</u> |
| Special | \$29,383 | \$22,229 | \$49,523 | \$36,197 |
| Federal | \$0 | \$2,214 | \$1,814 | \$0 |
| Reimbursable | \$39 | \$38 | \$49 | \$0 |
| Total | \$29,422 | \$24,481 | \$51,386 | \$36,197 |

- The fiscal 2009 working appropriation increases by \$26.9 million due to cash flow carry over from fiscal 2008 as well as a number of capital grants being added in fiscal 2009.
- The fiscal 2010 allowance decreases \$15.2 million largely due to spending in system preservation and minor projects decreasing \$12.9 million as a result of several projects and grants ending in fiscal 2009.

Operating and PAYGO Personnel Data

| | <u>FY 08 Actual</u> | <u>FY 09 Working</u> | <u>FY 10 Allowance</u> | <u>FY 09-10 Change</u> |
|------------------------------------|--------------------------------|---------------------------------|-----------------------------------|-----------------------------------|
| Regular Operating Budget Positions | 311.00 | 317.00 | 317.00 | 0.00 |
| Regular PAYGO Budget Positions | <u>17.00</u> | <u>17.00</u> | <u>17.00</u> | <u>0.00</u> |
| Total Regular Positions | 328.00 | 334.00 | 334.00 | 0.00 |
| Operating Budget FTEs | 3.60 | 5.00 | 5.50 | 0.50 |
| PAYGO Budget FTEs | <u>0.60</u> | <u>1.00</u> | <u>1.00</u> | <u>0.00</u> |
| Total FTEs | 4.20 | 6.00 | 6.50 | 0.50 |
| Total Personnel | 332.20 | 340.00 | 340.50 | 0.50 |

Vacancy Data: Regular Positions

| | | |
|---|-------|-------|
| Turnover and Necessary Vacancies, Excluding New Positions | 15.43 | 4.62% |
| Positions and Percentage Vacant as of 12/31/08 | 16.00 | 4.79% |

- The fiscal 2010 allowance does not change compared to the fiscal 2009 allowance for the number of authorized regular positions.
- There is a 0.50 increase in operating budget full-time equivalent (FTE) positions for fiscal 2010 due to 2.0 positions increasing by 0.25 so that each could be a full FTE. One position is a paralegal position, and the other is a daily courier.
- The fiscal 2010 allowance turnover rate is set at 4.62% requiring 15.43 vacant positions. As of January 1, 2009, the agency had 16.0 vacant positions for a vacancy rate of 4.79%. Currently, 1.0 position has been vacant for longer than 12 months.

Analysis in Brief

Major Trends

Departmentwide Vacancy Rate Decreases: The departmentwide vacancy rate decreased to 5.49% in fiscal 2008. Part of this decline is due to 96.5 positions being abolished as directed in Chapter 2 of the 2007 special session. As of January 1, 2009, the Maryland Department of Transportation’s (MDOT) departmentwide vacancy rate is 4.21%. **The Department of Legislative Services (DLS) recommends that the agency discuss what impact the abolishment of vacant positions has had on its operations.**

System Preservation Funding Falls Short of Goal: Due to the economic downturn, the department does not project to meet its \$850 million goal for system preservation funding in fiscal 2009 and 2010. The projected levels of system preservation spending are roughly equal to fiscal 2004 levels. **DLS recommends that the agency discuss what a reduced level of system preservation investment will mean for the transportation network.**

Debt Ratios Fall Outside Prudent Limits: The department tries to maintain a fiscally prudent capital program, and this is measured through two bond coverage ratio tests. In fiscal 2009, the coverage ratio goal is achieved; however, the goal is not projected to be met in fiscal 2010 due to the downturn in revenues and an effort to maintain the capital program.

Issues

Lack of Budget Transparency: Due to the economic downturn, MDOT has needed to make several difficult decisions regarding its capital and operating budgets. The operating budget reductions taken by MDOT are not clear, transparent, or accurately reflected in the Governor’s budget books. Therefore, understanding what budgetary actions have been taken by the department, as well as the full impact on the financial forecast, is not clear. **DLS recommends that MDOT discuss with the committees several issues related to its budget submission and that provisions be added to the Budget Reconciliation and Financing Act of 2009 that would remedy the issues identified.**

Update on Planned Transit-oriented Development Projects: During the 2008 interim, an administrative process for notification regarding transit-oriented development projects was developed between the Secretary’s Office and DLS. As part of that process, an annual report is to be submitted to the budget committees that describes the projects that are being evaluated or constructed. **DLS recommends that the agency discuss with the committees any future projects that may be planned and any additional information regarding these projects that may be relevant to the committees.**

Operating Budget Recommended Actions

| | <u>Funds</u> |
|--|---------------------|
| 1. Add budget bill language reducing the number of public information and communication positions. | |
| 2. Add budget bill language capping the departmentwide operating budget in fiscal 2010 unless deficiency appropriations are processed. | |
| 3. Reduce funds for consultants. | \$ 50,000 |
| 4. Reduce funds for office supplies. | 10,000 |
| 5. Reduce funds for additional assistance. | 89,950 |
| 6. Reduce special payments payroll. | 56,374 |
| 7. Add annual language to cap special fund grants pending budget committee review. | |
| 8. Reduce funds for in-state travel to conferences. | 74,000 |
| 9. Reduce funds for contractual services. | 45,626 |
| Total Reductions | \$ 325,950 |

PAYGO Budget Recommended Actions

1. Concur with Governor’s allowance.

Updates

Update on Public-private Partnerships for I-270 Multi-modal Corridor: Language in the fiscal 2009 budget bill restricted \$1 million in special funds from the Secretary’s Office pending a report on the I-270/Corridor Cities Transitway project and the likelihood of a public-private partnership (P3). The report provided information on the project and indicated that while a P3 is an option for financing the project, additional studies and funding are required to advance highway and transit improvements in the area.

J00A01
The Secretary's Office
Maryland Department of Transportation

Budget Analysis

Program Description

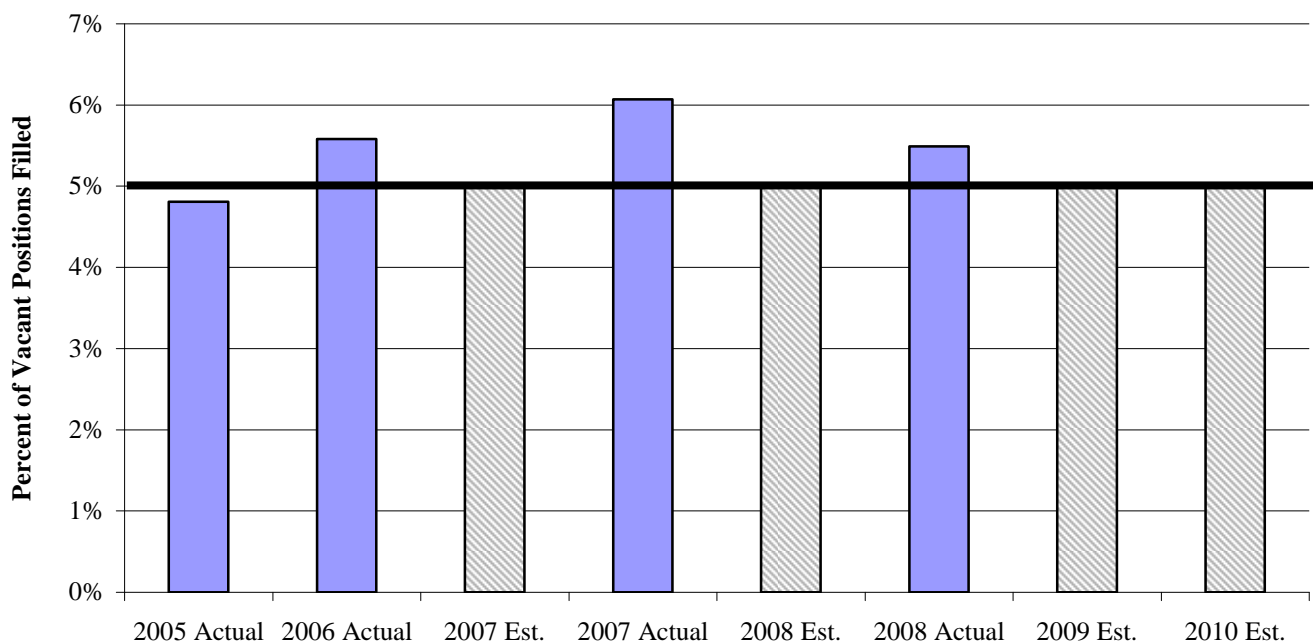
The Secretary's Office (TSO) provides overall policy direction and management to the Maryland Department of Transportation (MDOT). Units within the office provide support in the areas of finance, procurement, engineering, audits, administrative services, planning and capital programming, human resources, freight logistics, and Minority Business Enterprise (MBE) certification. Executive staff support is also provided for management services, public affairs, the general counsel's office, and policy and governmental relations. Within TSO, the Office of Transportation Technology Services (OTTS) provides centralized computing, network, infrastructure, and general information technology services for MDOT. TSO also makes grants to various entities for transportation-related purposes.

Performance Analysis: Managing for Results

One of MDOT's departmentwide goals is an average vacancy rate of 5.0%, or less, by fiscal 2010. As shown in **Exhibit 1**, MDOT last met the 5.0% goal in fiscal 2005. The fiscal 2008 vacancy rate was 5.49%, less than the fiscal 2007 rate of 6.1%. Part of the decline in fiscal 2008 is attributed to MDOT eliminating 96.5 vacant positions as part of Chapter 2 of the 2007 special session. TSO indicates that the rate remained high due to new positions that took several months to fill and that the applicant pool increased as the job market tightened, resulting in a longer process to fill positions. In addition, during fiscal 2008, MDOT's level of filled positions increased by 132.0 positions despite a statewide hiring freeze imposed by the Department of Budget and Management (DBM). Many of these filled positions were for day to day operations like Motor Vehicle Administration customer agents, State Highway Administration maintenance workers, and Maryland Transit Administration bus supervisors.

For fiscal 2009 and 2010, MDOT projects a vacancy rate of 5.0%. As of January 2009, MDOT's vacancy rate is 4.21%. The agencies with the largest vacancy rates are the Maryland Port Administration and the Maryland Aviation Administration. It should be noted that as part of the October Board of Public Works (BPW) reductions, MDOT eliminated 66 positions, 44 vacant and 22 filled. In October 2008, before BPW actions, the departmentwide vacancy rate was 5.77% and after the action the vacancy rate was 4.66%. **The Department of Legislative Services (DLS) recommends that MDOT discuss with the committees what effect the elimination of vacant and filled positions has had on its agencies and what impact, if any, the hiring freeze has had on MDOT's ability to fill critical positions.**

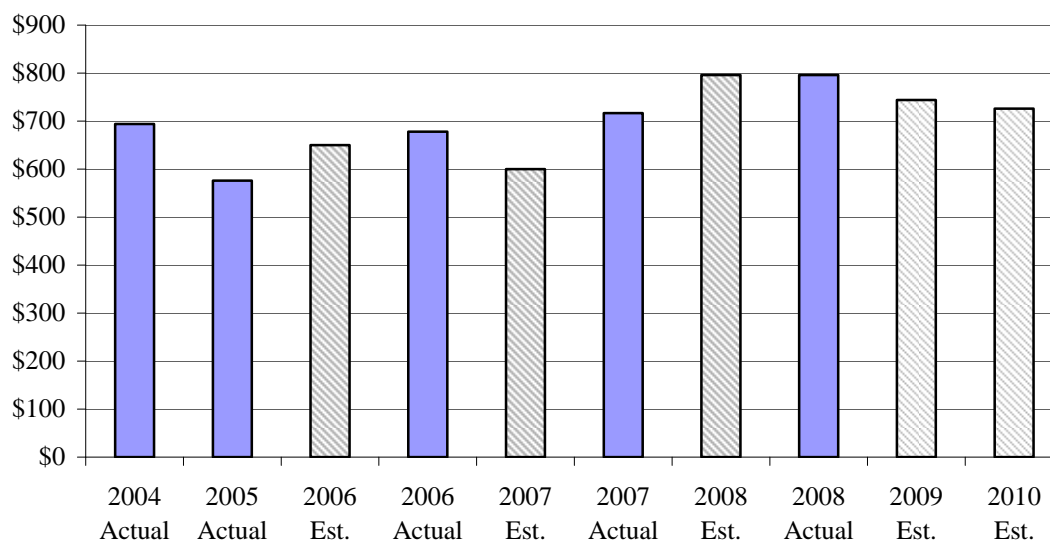
**Exhibit 1
Departmentwide Vacancy Rate
Fiscal 2005-2010**



Source: Maryland Department of Transportation

TSO also has a number of goals to ensure the financial stability of the Transportation Trust Fund (TTF) as well as the operational integrity of the transportation network. For example, Goal 2 provides that system preservation should be adequately funded at \$850 million in fiscal 2009. As shown in **Exhibit 2**, the level of system preservation funding in fiscal 2009 and 2010 will be below the goal. The goal for the level of system preservation funding was increased beginning in fiscal 2009 due to the revenue increase. For example, the January 2008 goal for fiscal 2009 was \$846 million. The current estimate for fiscal 2009 is \$744 million. The decline in system preservation funding is due to revenue shortfalls that have necessitated reductions to the capital program. The current funding levels are still greater than the fiscal 2004 level of system preservation. Of note is that the Consolidated Transportation Program (CTP) shows actual system preservation funding of \$708 million in fiscal 2009 and \$692 million in fiscal 2010. The discrepancy in the Managing for Results and CTP numbers is due to timing issues for document production. **DLS recommends that the agency discuss what a reduced level of system preservation investment will mean for the transportation network long-term and that in the future attempts are made to have the information in the CTP and Managing for Results match.**

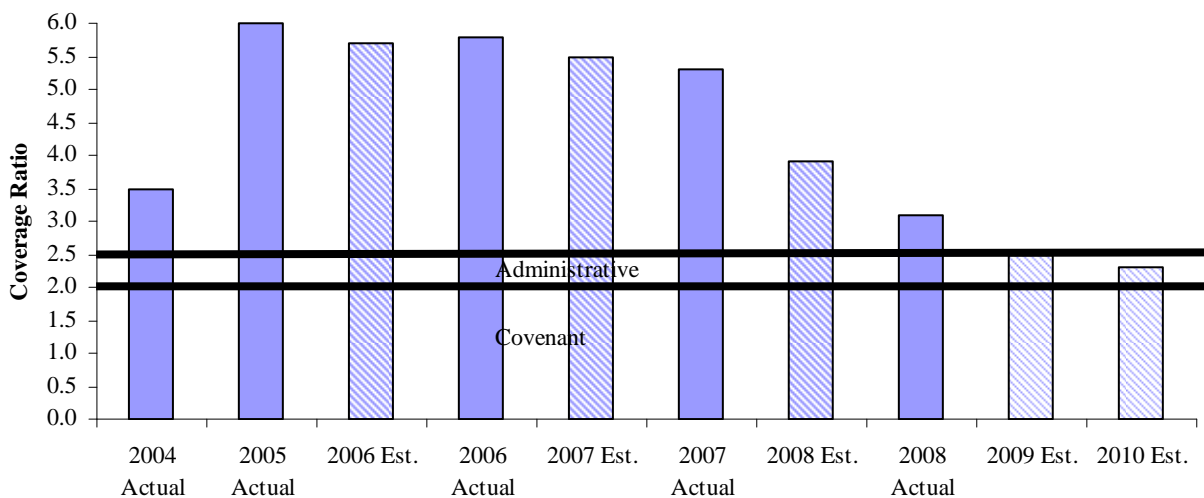
Exhibit 2
System Preservation Funding Levels
Fiscal 2004-2010
(\$ in Millions)



Source: Maryland Department of Transportation

Goal 3 focuses on the financial stability of the TTF. MDOT uses two debt service coverage tests for Consolidated Transportation Bonds (CTB) based on either pledged taxes, or net revenues to the TTF. Since the pledged tax coverage ratio is typically far above 2.0, the net revenues test is the limiting factor. The agency must maintain at least 2.0 times coverage ratio per bond agreement but uses an administrative level of 2.5 as a hedge. **Exhibit 3** indicates that net revenues are sufficient to maintain an estimated coverage ratio of 2.5 times in fiscal 2009; however, in fiscal 2010, the coverage ratio falls to 2.3 times due to the decline in revenues and an attempt to maintain the capital program. This issue will be addressed in further detail under the Debt Service Requirements (J00A04) budget analysis.

**Exhibit 3
Net Revenues Bond Coverage Ratio
Fiscal 2004-2010**



Source: Maryland Department of Transportation

Fiscal 2009 Actions

Impact of Cost Containment

Chapter 10 of 2008 required the Governor to reduce the fiscal 2009 general fund budget by \$50 million. As part of that reduction, overbudgeted health insurance funds were withdrawn by BPW, and TSO’s share of that totaled \$126,000.

In addition, TSO has undertaken several cost containment actions internally in fiscal 2009 that total \$1.1 million. All of these actions occur in OTTS and involve contractual services including mainframe and desktop software maintenance and enhancements, equipment purchases, and other miscellaneous operating reductions.

Proposed Budget

The fiscal 2010 allowance for TSO totals approximately \$76.8 million, an increase of \$0.4 million or 0.6%. As indicated, the department has undertaken several cost containment actions in fiscal 2009 that total \$1.1 million. When adjusting for these actions, the fiscal 2010 allowance actually grows approximately \$1.6 million, or 2.1%. **Exhibit 4** provides a summary of the major changes in the Governor’s allowance.

Exhibit 4
Proposed Budget
MDOT – The Secretary’s Office
(\$ in Thousands)

| How Much It Grows: | Special Fund | Federal Fund | Total |
|---|-------------------------|-------------------------|---------------|
| 2009 Working Appropriation | \$68,033 | \$8,364 | \$76,398 |
| 2010 Allowance | <u>68,382</u> | <u>8,586</u> | <u>76,968</u> |
| Amount Change | \$215 | \$222 | \$436 |
| Percent Change | 0.3% | 2.6% | 0.6% |
| Where It Goes: | | | |
| Personnel Expenses | | | |
| Employee and retiree health insurance | | | \$687 |
| Turnover adjustments..... | | | 484 |
| Employee retirement system..... | | | 192 |
| Accrued leave payout..... | | | 58 |
| Other Post Employment Benefit payment not made in fiscal 2010 | | | -527 |
| Contingent reduction for deferred compensation..... | | | -134 |
| Other fringe benefit adjustments..... | | | 7 |
| Other Changes | | | |
| Increase contract support for maintaining the department's financial management information system..... | | | 461 |
| Baltimore Metropolitan Planning Organization..... | | | 116 |
| Washington Metropolitan Planning Organization | | | 90 |
| Increase for contract litigation unit in the Attorney General’s Office | | | 46 |
| Increase for legal support services for railroad and freight related issues | | | 35 |
| Increase for utilities per DBM instructions..... | | | 27 |
| Decrease in software application purchases and software for new projects | | | -450 |
| Decrease in DBM paid telecommunications based upon usage..... | | | -239 |
| Decrease in payment to the Office of Administrative Hearings per DBM instructions..... | | | -188 |
| Decrease in cost for telecommunications..... | | | -66 |
| Decrease in capital lease payments for telecommunications based on usage | | | -58 |
| Decrease in use fees paid to eMaryland Marketplace based on usage..... | | | -49 |
| Decrease in computer services subscriptions | | | -39 |
| Other | | | -17 |
| Total | | | \$436 |

DBM: Department of Budget and Management

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

Personnel Expenditures

Overall, personnel expenditures account for the largest area of growth in the budget with an increase of \$901,134 (3.4%). The largest increase is for employee and retiree health insurance payments of \$687,392 due to the fiscal 2009 working appropriation being understated due to fund balances being utilized to defray costs. This increase is offset by a decrease in the Other Post Employment Benefit payment not being made in fiscal 2010 due to fiscal constraints. The turnover rate has decreased, representing an increase in the budget. Of note is that the deferred compensation payment is a contingent reduction totaling \$133,980.

Operating Grants-in-aid

Operating grants-in-aid increase \$249,838, or 2.0%, compared to the fiscal 2009 working appropriation. Almost all of the increase is associated with federal funds that are used by Metropolitan Planning Organizations (MPO) in developing the CTP. The largest increases are for the Baltimore MPO at \$115,629 and the Washington MPO at \$89,849. **Exhibit 5** provides a summary of the amount of operating grants-in-aid, by special and federal funds, included in the fiscal 2010 allowance.

Other Changes

Other notable funding changes include:

- \$460,681 increase in a contract to maintain the financial management system of the department which is offset by a decrease of \$450,223 for software purchases;
- \$238,633 decrease in telecommunication costs paid to DBM based on usage; and
- \$188,153 decrease in the cost for Administrative Hearings based upon information provided by DBM.

Exhibit 5
Recipients of Operating Grants-in-aid
Fiscal 2010

| <u>Grant Recipient</u> | <u>Special Funds</u> | <u>Federal Funds</u> | <u>Total Funds</u> |
|--|----------------------|----------------------|---------------------|
| Cumberland MPO | \$10,783 | \$86,260 | \$97,043 |
| Salisbury MPO | 11,997 | 95,978 | 107,975 |
| Hagerstown MPO | 21,396 | 171,167 | 192,563 |
| Baltimore MPO | 571,258 | 4,570,066 | 5,141,324 |
| Wilmington MPO | 5,549 | 44,390 | 49,939 |
| Washington MPO | 452,259 | 3,618,066 | 4,070,325 |
| Tri-County Planning Organization | 50,000 | 0 | 50,000 |
| DBED (to support the Appalachian Regional Commission) | 58,905 | 0 | 58,905 |
| Metropolitan Area Transportation Operation Coordination Program | 53,334 | 0 | 53,334 |
| Maryland Department of Planning | 258,230 | 0 | 258,230 |
| Payments in Lieu of Taxes | 1,005,837 | 0 | 1,005,837 |
| Pride of Baltimore | 164,000 | 0 | 164,000 |
| Baltimore City – Marine Fire Suppression Services | 1,399,940 | 0 | 1,399,940 |
| Total | \$4,063,488 | \$8,585,927 | \$12,649,415 |

DBED: Department of Business and Economic Development

MPO: Metropolitan Planning Organizations

Source: Maryland Department of Transportation

PAYGO Capital Program

Program Description

TSO’s capital program has historically consisted of projects that support the preservation of MDOT’s headquarters systems and air quality improvement initiatives in the Baltimore and Washington, DC metropolitan areas. TSO also provides capital grants to public and private entities for transportation-related purposes.

Fiscal 2009 – 2014 Capital Reductions

As part of the \$2.2 billion reduction to the six-year capital program, TSO had \$4 million reduced for consultant services.

Fiscal 2009 to 2014 Consolidated Transportation Program

The fiscal 2010 allowance for TSO’s capital program totals \$36.2 million. System preservation and minor projects funding account for the largest portion of the program at \$30.7 million as shown in **Exhibit 6**. Large system preservation and minor projects include:

- \$6.0 million transfer to the Maryland Transportation Authority in lieu of federal aid;
- \$6.0 million to upgrade MDOT’s mainframe;
- \$5.5 million for a payment to retain airline business at Baltimore/Washington International Thurgood Marshall Airport;
- \$3.5 million for ongoing capital network hardware and software replacement costs; and
- \$3.0 million for consultant contract services for various planning studies and efforts.

Exhibit 6
The Secretary’s Office Major Ongoing Projects
Funded in Fiscal 2010
(\$ in Millions)

| <u>Jurisdiction</u> | <u>Project Description</u> | <u>Fiscal 2010</u> | <u>Six-year Project Costs</u> |
|------------------------------|--|--------------------|-------------------------------|
| Baltimore and Washington, DC | Transportation Emissions Reduction Program | \$3.7 | \$24.7 |
| Statewide | System Preservation and Minor Projects | 30.7 | 116.6 |
| Statewide | Capital Salaries, Wages, and Other Costs | 1.8 | 12.4 |
| Total | | \$36.2 | \$153.7 |

Source: Maryland Department of Transportation, 2009-2014 Consolidated Transportation Program

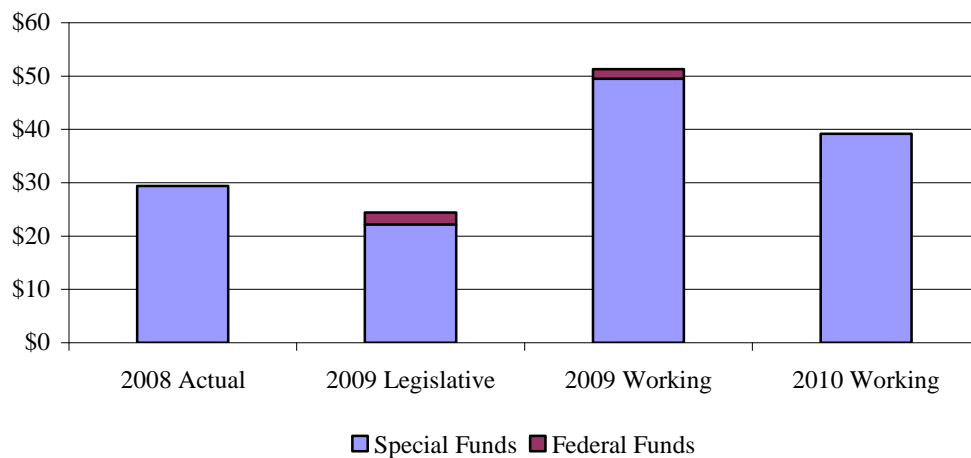
Fiscal 2009 and 2010 Cash Flow Analysis

The fiscal 2009 working appropriation increases \$26.9 million compared to the legislative appropriation as shown in **Exhibit 7**. The increase is due to cash flow carry over from fiscal 2008 for a number of small projects and number of capital grants being added to the fiscal 2009 working appropriation.

The fiscal 2010 allowance is \$15.2 million less than the fiscal 2009 working appropriation. The decrease is due to a number of system preservation and minor projects ending in fiscal 2009. These projects include:

- \$5.6 million for consultant contract services for various planning studies and planning efforts;
- \$4.9 million for the purchase of property for the Reisterstown Motor Vehicle Administration office;
- \$2.0 million for a grant for Towson Circle; and
- \$1.3 million for Ft. McHenry transportation improvement grants to match a federal earmark.

Exhibit 7
Cash Flow Changes
Fiscal 2008-2010
(\$ in Millions)



Source: Maryland Department of Transportation, 2009-2014 *Consolidated Transportation Program*

Issues

1. Lack of Budget Transparency

The downturn in revenues has forced MDOT to make reductions in the operating and capital budgets. The reductions are relatively clear in the capital budget; however, the operating budget reductions are not withdrawn by BPW, transparent, or accurately reflected in the budget. Furthermore, the fiscal 2009 operating budget figures provided in the Governor’s budget books do not reflect the department’s own financial forecast and neither document appears to account for projected fiscal 2009 spending increases, identified in the department’s budget amendment report, in the fiscal 2010 allowance.

Specific issues include the following:

- **The cost containment actions identified by the department are not reflected in the fiscal 2009 working appropriation.** As a result, the growth from the fiscal 2009 working appropriation to the fiscal 2010 allowance is understated unless adjusted. In addition, the department has indicated that cost containment actions have been identified in fiscal 2010 as well; however, to date the department has not clearly identified those actions.
- **Unlike general fund agencies which have had appropriations withdrawn through BPW, MDOT withholds spending and cancels the spending at the end of the year.** Instead of a transparent withdrawal of spending, legislators are left to presume that MDOT will cancel what it has indicated as cost containment at the end of the year. In fiscal 2008, MDOT identified \$18 million in cost containment but only cancelled \$13 million, leaving at least \$5 million in cost containment for which there is no accounting. In addition, the financial forecast accounts for the cost containment and reallocates that funding to the capital budget or to the fund balance.
- **For fiscal 2009 MDOT did not process any deficiencies and instead will process budget amendments that withdraw or realign spending.** By processing a budget amendment instead of a deficiency appropriation, the legislature is not afforded the opportunity to consider the spending increases and changes as part of its ongoing budget deliberations. This process does not follow the budget bill guidelines regarding budget amendments and circumvents the Spending Affordability Committee calculation. More importantly, due to the department almost falling below the 2.0 net income test, unexpected operating budget increases could result in the bond covenant being violated.

The Maryland Transit Administration’s (MTA) budget provides an example of the issues highlighted above, and detail is provided in **Exhibit 8**. The fiscal 2009 working appropriation in the budget books reflects the budget amendments processed to date; however, it is different than the number reflected in the financial forecast which takes into account cost containment identified by MDOT. In addition when adjusting for the department’s planned operating budget amendments, which total approximately \$19.0 million, the projected MTA spending plan is \$14.2 million more

**Exhibit 8
MTA’s Spending Plan
(\$ in Millions)**

| | <u>Fiscal 2009 Working Appropriation</u> | <u>Fiscal 2010 Allowance</u> | <u>\$ Change</u> | <u>% Change</u> |
|---|--|--------------------------------------|------------------|-----------------|
| Governor’s Budget Books | \$589.8 | \$596.3 | \$6.5 | 1.1% |
| Cost Containment | -4.7 | | | |
| Projected Budget Amendment | 18.9 | | | |
| Projected Total Fiscal 2009 Spending | \$604.0 | \$596.3 | -\$7.7 | -1.3% |
| Financial Forecast | \$585.0 | \$597.0 | \$12.0 | 2.1% |
| Difference | \$19.0 | \$0.7 | | |

Source: Maryland Department of Transportation; Department of Legislative Services

than the working appropriation in the budget book. Moreover, the fiscal 2009 projected spending plan is \$7.7 million LESS than the fiscal 2010 allowance which means the MTA will need to take further reductions to its operating budget or the fiscal 2010 allowance does not accurately represent planned spending. Finally, the difference between the working appropriation and the allowance totals \$6.5 million according to the Governor’s budget books while the forecast shows a \$12.0 million increase.

In conclusion, the department’s current spending plan for fiscal 2009, and perhaps fiscal 2010, is not accurately reflected in the Governor’s budget books, the CTP, or the financial forecast. This lack of clarity makes the legislature’s work in overseeing the budget more complicated and less transparent. As a result, it appears that spending levels may be greater than currently assumed which would move MDOT even closer to violating its agreement with bondholders regarding the coverage ratios. **DLS recommends that MDOT discuss with the committees the following:**

- **why it does not go to BPW or submit deficiencies to withdraw spending if that is its intention;**
- **why the fiscal 2009 working appropriation in the Governor’s budget book does not reflect the financial forecast’s spending levels;**

- **why the department elected to process budget amendments instead of deficiencies as directed by the budget bill; and**
- **what impact its actual fiscal 2009 and 2010 spending plan will have on the net income test;**

In addition, DLS recommends that language be added in the Budget Reconciliation and Financing Act of 2009 (House Bill 101/Senate Bill 166) to:

- **require the Governor’s budget books, the CTP, and MDOT’s financial forecast to match each other for actual expenditures, the working appropriation, and the allowance;**
- **reduce the fiscal 2009 working appropriation by \$23,322,906 to reflect the amount of cost containment identified by MDOT and reflected in its financial forecast; and**
- **amend the Finance and Procurement Article to prohibit the department from transferring special fund PAYGO funds from the PAYGO capital to the operating budget. Current law prohibits any agency from transferring general funds from PAYGO programs to operating programs.**

DLS also recommends budget bill language be added to cap the level of operating budget spending in fiscal 2010 to the level of the legislative appropriation and indicate that the level may be increased once MDOT submits deficiency appropriations for fiscal 2010. This would ensure that any adjustments to fiscal 2010 are accurately reflected in the forecast and the budget committees can evaluate any spending changes in the context of its budget deliberations and the six-year financial forecast.

2. Update on Planned Transit-oriented Development Projects

The Office of Real Estate in the Secretary’s Office is responsible for disposing of excess land owned by MDOT as well as promoting development around transit stations and port-related development. The goal of transit-oriented development (TOD) is to create high-density, livable, and walkable neighborhoods around transit stations. Chapter 122 of 2008 codified the department’s TOD activities and allowed the Secretary to designate a TOD with other State agencies and the local government or multi-county agency with land use and planning responsibility for the relevant area.

During the 2008 session, DLS noted that not all TOD projects fall under the State’s public private-partnership program or legislative notice requirements and recommended that legislation be introduced to provide legislative oversight. The larger concern was that MDOT may be entering into development agreements with private entities and the legislature is not aware of the magnitude or impact of a project. In its response, MDOT expressed a desire to develop an administrative process for oversight rather than having legislation introduced that would codify an oversight process.

Administrative Process

During the 2008 interim, DLS and MDOT worked to develop an administrative process of reporting and oversight for TOD projects. Following is a summary of the agreed upon process and oversight.

- **Annual TOD Report:** Each September MDOT will submit a report to the budget committees and DLS that will include a brief progress report, any agreed upon frameworks including financial components, and any expected activity on a project, such as BPW approval.
- **Notice Prior to Solicitations for Projects:** MDOT will provide notification to the budget committees, DLS, and the State legislator representing the jurisdiction where a project is located prior to a solicitation being made for the project. The notification will include information on the project and any known financial commitments.
- **Notice of TOD Agreement Prior to BPW Approval:** MDOT will submit a report to the parties outlined above, 45 days prior to taking an item to the BPW. This report will include the development and financing plan for a project and specifically any State financial comments.
- **Additional Reporting Requirements for Individually Significant Projects:** At the request of the legislature or through its own initiative, MDOT will also provide additional reporting for significant TOD projects.

Projects Planned

MDOT submitted a report in September 2008 that highlighted a number of TOD projects. Following is a summary of those projects.

- **Savage MARC Station:** The Savage MARC station TOD project will be located on a 12.7-acre lot that is owned by MDOT. MDOT transferred 10.2 acres (valued at \$3.3 million) to the developer in return for the construction of a new MTA-owned commuter garage. The remaining cost of the garage, \$14.0 million, will be supported by a local tax increment financing (TIF) issuance to be supported by the local real estate tax increment generated on the privately owned portion of the site. MDOT intends to introduce legislation that would allow Howard County to issue a TIF for a noncounty asset, like the parking garage.
- **Owings Mills Baltimore Metro Station:** In July 2005, the BPW approved a development agreement for the construction of a mixed use development where surface parking lots had once been. The agreement provides that the developer pay ground rent payments to MDOT and construct two parking garages. MDOT committed to contribute \$15.1 million and Baltimore County committed \$13.1 million. Currently Baltimore County is negotiating with the developer about the construction of a library and community college branch that would

require an amendment to the development agreement. If the TIF legislation mentioned above is enacted, the Maryland Economic Development Corporation would become the owner of the garages, and the county would approve a TIF to support the cost of the parking garages.

- **State Center Complex:** The Department of General Services (DGS) owns the 28-acre land that comprises the State Center complex. In 2005, a Request for Qualifications was issued and a development team was selected. DGS and MDOT are currently negotiating the terms of a mixed use development agreement with the developers. MDOT and DGS will seek BPW approval for land disposition and perhaps State leases in the near future.
- **Odenton MARC Station:** A development team for the project was selected in September 2007 by MDOT and Anne Arundel County. The project has been in the planning phase since then and with discussions of concept plans and business plans to begin in the near future. MDOT hopes to come to BPW with a master development agreement during calendar 2009.
- **Laurel MARC Station:** MDOT had entered into a negotiating agreement with a developer in June 2004; however, that agreement expired in June 2008 without the parties reaching an agreement. MDOT anticipates that it will solicit for a new developer for the project in the first six months of calendar 2009.
- **Reisterstown Plaza Metro:** The United States General Services Administration (GSA) has announced that the location is the preferred site for the Social Security Administration. If the site is the final selection, MDOT will begin to negotiate with the GSA about the sale of land and simultaneously seek a developer for the site.

DLS recommends that the agency discuss with the committees any future projects that may be planned and any additional information regarding the projects about which the committees should know.

Operating Budget Recommended Actions

1. Add the following language:

Provided that \$840,000 and 12 public information, communication, and governmental affairs positions are abolished from the Maryland Department of Transportation’s fiscal 2010 budget. The department shall identify the positions to be abolished across all modes and provide a report to the budget committees by June 15, 2009, that identifies by mode, position, tenure, and salary the positions that have been identified for abolishment.

Explanation: The Maryland Department of Transportation (MDOT) has at least 39 public information, communication, and governmental affairs positions. In the 2005 session, the legislature reduced the number of these positions from 38.5 to 27 because MDOT had a larger complement of these positions than other State agencies. This language would reduce the number of these positions to the level identified by the legislature in the 2005 session.

| Information Request | Author | Due Date |
|-------------------------------|---------------|-----------------|
| Report on abolished positions | MDOT | June 15, 2009 |

2. Add the following language:

Section XX. AND BE IT FURTHER ENACTED, That the fiscal 2010 special fund appropriations for the following budget programs within the Maryland Department of Transportation may not exceed \$xxxx million:

J00A01.01 Executive Direction
J00A01.02 Operating Grants-In-Aid
J00A01.04 Washington Metropolitan Area Transit-Operating
J00A01.07 Office of Transportation Technology Services
J00A04.01 Debt Service Requirements
J00B01.02 State System Maintenance
J00B01.04 Highway Safety Operating Program
J00D00.01 Port Operations
J00E00.01 Motor Vehicle Operations
J00H01.01 Transit Administration
J00H01.02 Bus Operations
J00H01.04 Rail Operations
J00H01.06 Statewide Programs Operations
J00I00.02 Airport Operations.

Further provided that the department may increase special fund appropriations in the above referenced budget programs for fiscal 2010 only through deficiency appropriations with the submission of the fiscal 2011 allowance provided that the additional spending is reflected in its six-year financial plan submitted at the 2010 session.

Notwithstanding the provisions of this section, the special fund appropriations for the above referenced budget programs may be increased by budget amendment upon a declaration by the Board of Public Works that the amendment is essential to maintaining public safety, health, or welfare, including protecting the environment or the economic welfare of the State.

Explanation: This language would prohibit the Maryland Department of Transportation from submitting special fund budget amendments that increase spending above the level accounted for in the financial forecast. Any change in operating budget spending affects the department’s ability to produce the planned capital program or would necessitate reductions to the capital budget. This language ensures that those levels of spending are maintained until the next legislative session when the six-year financial forecast can be updated to reflect any increases in operating budget spending. In addition, the language allows for the General Assembly to contemplate any operating budget increases in the context of the six-year financial plan next session unless there is an extenuating circumstance.

| | <u>Amount Reduction</u> |
|--|------------------------------------|
| 3. Reduce funds for consultants. The fiscal 2010 allowance includes \$50,000 for consultants to review how the State will invest future dollars in State-owned rail freight lines on the Eastern Shore over the next 20 years. Given the current fiscal environment and diminished capital funding, such a study may be deferred until additional funds are available for the study and freight rail investment. In addition, given the fiscal constraints facing the department, additional cost savings can be applied to the fund balance to offset any revenue write downs and help the net income coverage ratio. | \$ 50,000 SF |
| 4. Reduce funds for office supplies. Office supplies increase 7.1% in the allowance. This reduction would fund office supplies at the fiscal 2009 working appropriation level. | 10,000 SF |

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5. Reduce funds for additional assistance. Funding is 89,950 SF provided for the Secretary’s Fellows program which is a program for University of Maryland Baltimore County interns to work with the department. Given the current fiscal environment and other workforce reductions, this program should be deferred until the fiscal climate improves. In addition, given the fiscal constraints facing the department, additional cost savings can be applied to the fund balance to offset any revenue write downs and help the net income coverage ratio.
6. Reduce special payments payroll. The Governor’s 56,374 SF fiscal 2010 budget includes a statewide reduction for contractual employees. The Maryland Department of Transportation was not included in the list of specified State agencies. In addition, given the fiscal constraints facing the department, additional cost savings can be applied to the fund balance to offset any revenue write downs and help the net income coverage ratio. This reduction would reduce the level of funding for contractual employees to the fiscal 2008 actual spending level.
7. Add the following language to the special fund appropriation:

. provided that no more than \$4,063,488 of this appropriation may be expended for operating grants-in-aid, except for:

- (1) any additional special funds necessary to match unanticipated federal fund attainments;
or
- (2) any proposed increase either to provide funds for a new grantee or to expand funds for an existing grantee; and

Further provided that no expenditures in excess of \$4,063,488 may occur unless the department provides notification to the budget committees to justify the need for additional expenditures due to either provision (1) or (2) above, and the committees provide review and comment or 45 days elapse from the date such notification is provided to the committees.

Explanation: This annual language caps the level of special funds provided for operating grants-in-aid. The cap may be increased to match unanticipated federal dollars or to provide new or expanded grant funding upon notification to the budget committees.

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| Information Request | Author | Due Date |
|---|---------------------------------------|--------------------------------|
| Explanation of need for additional special funds for grants-in-aid | Maryland Department of Transportation | As needed |
| | | <u>Amount Reduction</u> |
| 8. Reduce funds for in-state travel to conferences. The fiscal 2009 working appropriation increases \$31,040 from the fiscal 2009 legislative appropriation. This reduction funds in-state travel for conferences at the fiscal 2008 actual spending level. In addition, given the fiscal constraints facing the department, additional cost savings can be applied to the fund balance to offset any revenue write downs and help the net income coverage ratio. | | 74,000 SF |
| 9. Reduce funds for contractual services. This reduction would provide funding for contractual services at the fiscal 2009 level. The Governor’s allowance assumes a savings from renegotiated contracts which was taken in special fund agencies. In addition, given the fiscal constraints facing the department, additional cost savings can be applied to the fund balance to offset any revenue write downs and help the net income coverage ratio. | | 45,626 SF |
| Total Special Fund Reductions | | \$ 325,950 |

PAYGO Budget Recommended Actions

1. Concur with Governor’s allowance.

Updates

1. Update on Public-private Partnerships for I-270 Multi-modal Corridor

The fiscal 2009 budget bill restricted \$1 million in special funds from TSO pending a report on the I-270/Corridor Cities Transitway project. The report was to include information on the status of the project, what segments of the project are available for tolling, if a public-private partnership (P3) is still an option, and if a solicitation will be made for the financing of the project. On July 1, 2008, TSO submitted the report to the budget committees and following is a summary.

In October 2006, a Request for Expressions of Interest (RFEI) was issued to gauge the interest of the private sector in a P3 for the I-270 Multi-Modal Corridor. The I-270 Multi-Modal Corridor project involves two components, highway and transit. The Corridor Cities Transitway is a transit option supporting bus or light rail service along or near I-270. There are also three sections of express toll lanes (ETLs): I-270 between the interchange at I-70 on the north and I-370 in Gaithersburg; I-270 from the I-370 interchange south along the West Spur to I-495 (Capital Beltway); and I-495 from the I-270 West Spur across the American Legion Bridge to the Virginia state line.

The Alternatives Analysis/Environmental Assessment for the I-270/US 15 Multi-Modal Corridor Study, similar to the project that was included in the P3 RFEI, is expected to be completed in the spring of 2009 with public hearings taking place then as well. The current project schedule anticipates obtaining a Record of Decision from the federal government in early 2010. Through their respective priority letters to MDOT, Montgomery and Frederick counties have generally expressed support for the project. Frederick County has acknowledged that an electronic toll system on I-270 will likely be part of any long-term solution, and Montgomery County indicated that the widening of I-270 for high occupancy toll lanes or high occupancy vehicle lanes is a regionally significant project.

Cost estimates were completed in March 2008 with highway improvements and ETLs between I-370 in Gaithersburg and I-70 in Frederick estimated to cost \$2.9 billion, a Bus Rapid Transit Option for the Corridor Cities Transitway estimated at \$450 million, and Light Rail estimated at \$800 million. A State Highway Administration consultant found that based upon these project costs, the entire project is not financially feasible from a private perspective; however, the private sector may find the construction and lease of the ETLs to be financially feasible.

The report indicated that MDOT is “not actively pursuing the implementation of a P3 in the I-270 Corridor.” The report also indicated that while a P3 is an option for financing the project, additional studies and funding are required to advance highway and transit improvements in the area.

Current and Prior Year Budgets

Current and Prior Year Budgets The Secretary’s Office (\$ 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 | \$0 | \$65,296 | \$9,684 | \$0 | \$74,980 |
| Deficiency Appropriation | 0 | 0 | 0 | 0 | 0 |
| Cost Containment | | -55 | | | -55 |
| Budget Amendments | 0 | -2,327 | 0 | 8 | -2,319 |
| Reversions and Cancellations | 0 | -1,131 | -1,783 | 0 | -2,914 |
| Actual Expenditures | \$0 | \$61,783 | \$7,901 | \$8 | \$69,692 |
| Fiscal 2009 | | | | | |
| Legislative Appropriation | \$0 | \$67,328 | \$8,364 | \$0 | \$75,692 |
| Cost Containment | 0 | -126 | 0 | 0 | -126 |
| Budget Amendments | 0 | 832 | 0 | 0 | 832 |
| Working Appropriation | \$0 | \$68,034 | \$8,364 | \$0 | \$76,398 |

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

Fiscal 2008

Actual expenditures for TSO totaled \$69.7 million, approximately \$5.3 million less than the legislative appropriation. Special fund budget amendments withdrew a net of \$2.3 million and included the following actions:

- \$0.4 million increase to fund the 2% cost-of-living adjustment (COLA) for State employees as provided for in the fiscal 2008 appropriation;
- \$2.3 million decrease in information technology spending due to expected contractual expenses not materializing; and
- \$0.4 million decrease in operating grants-in-aid due to federal funds not being spent and matching special funds are reduced.

Special fund cost containment totaled \$0.1 million due to the elimination of vacant positions as required under Chapter 2 of the 2007 special session;

Special fund cancellations totaled \$1.1 million with reductions in salaries and fringe benefits due to the level of vacancies exceeding the amount budgeted.

Federal fund cancellations totaled \$1.8 million due to local MPOs not expending all available federal funds.

Reimbursable funds increased by \$8,000 for a grant that was provided by the Maryland Mediation and Conflict Resolution Office to support trainings for staff in how to handle conflict and facilitate difficult public meetings.

Fiscal 2009

The special fund appropriation increases \$0.7 million to fund the fiscal 2009 special fund COLA for all State employees. In addition, there is an increase of \$175,000 in special funds to manage the procurement of helicopters for the State Police.

Chapter 10 of 2008 required the Governor to reduce the fiscal 2009 general fund budget by \$50 million. As part of that reduction, overbudgeted health insurance funds were withdrawn by BPW, and TSO’s share of that totaled \$126,000.

**Object/Fund Difference Report
MDOT – The Secretary’s Office**

| <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 | 311.00 | 317.00 | 317.00 | 0 | 0% |
| 02 Contractual | 3.60 | 5.00 | 5.50 | 0.50 | 10.0% |
| Total Positions | 314.60 | 322.00 | 322.50 | 0.50 | 0.2% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 24,266,146 | \$ 26,815,428 | \$ 27,716,562 | \$ 901,134 | 3.4% |
| 02 Technical and Spec. Fees | 481,656 | 641,348 | 652,443 | 11,095 | 1.7% |
| 03 Communication | 1,089,159 | 1,709,461 | 1,423,144 | -286,317 | -16.7% |
| 04 Travel | 239,362 | 348,623 | 314,415 | -34,208 | -9.8% |
| 06 Fuel and Utilities | 360,949 | 398,671 | 431,557 | 32,886 | 8.2% |
| 07 Motor Vehicles | 173,278 | 73,098 | 72,754 | -344 | -0.5% |
| 08 Contractual Services | 27,726,220 | 30,407,803 | 30,068,434 | -339,369 | -1.1% |
| 09 Supplies and Materials | 308,463 | 324,256 | 333,327 | 9,071 | 2.8% |
| 10 Equipment – Replacement | 25,799 | 2,000 | 3,000 | 1,000 | 50.0% |
| 11 Equipment – Additional | 32,604 | 2,000 | 7,000 | 5,000 | 250.0% |
| 12 Grants, Subsidies, and Contributions | 11,691,483 | 12,428,577 | 12,678,415 | 249,838 | 2.0% |
| 13 Fixed Charges | 3,297,864 | 3,246,590 | 3,266,950 | 20,360 | 0.6% |
| Total Objects | \$ 69,692,983 | \$ 76,397,855 | \$ 76,968,001 | \$ 570,146 | 0.7% |
| Funds | | | | | |
| 03 Special Fund | \$ 61,783,904 | \$ 68,033,460 | \$ 68,382,074 | \$ 348,614 | 0.5% |
| 05 Federal Fund | 7,901,304 | 8,364,395 | 8,585,927 | 221,532 | 2.6% |
| 09 Reimbursable Fund | 7,775 | 0 | 0 | 0 | 0.0% |
| Total Funds | \$ 69,692,983 | \$ 76,397,855 | \$ 76,968,001 | \$ 570,146 | 0.7% |

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

**Fiscal Summary
MDOT – The Secretary’s Office**

| <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> |
|---|------------------------|----------------------------|---------------------------|-----------------------|---------------------------------|
| 01 Executive Direction | \$ 23,497,878 | \$ 26,020,936 | \$ 26,492,448 | \$ 471,512 | 1.8% |
| 02 Operating Grants-in-aid | 11,667,866 | 12,399,577 | 12,649,415 | 249,838 | 2.0% |
| 03 Facilities and Capital Equipment | 29,408,367 | 51,385,773 | 36,196,590 | -15,189,183 | -29.6% |
| 07 Office of Transportation Technology Services | 34,527,239 | 37,977,342 | 37,826,138 | -151,204 | -0.4% |
| 08 Major IT Development Projects | 13,369 | 0 | 0 | 0 | 0% |
| Total Expenditures | \$ 99,114,719 | \$ 127,783,628 | \$ 113,164,591 | -\$ 14,619,037 | -11.4% |
| Special Fund | \$ 91,167,136 | \$ 117,556,046 | \$ 104,578,664 | -\$ 12,977,382 | -11.0% |
| Federal Fund | 7,901,304 | 10,178,395 | 8,585,927 | -1,592,468 | -15.6% |
| Total Appropriations | \$ 99,068,440 | \$ 127,734,441 | \$ 113,164,591 | -\$ 14,569,850 | -11.4% |
| Reimbursable Fund | \$ 46,279 | \$ 49,187 | \$ 0 | -\$ 49,187 | -100.0% |
| Total Funds | \$ 99,114,719 | \$ 127,783,628 | \$ 113,164,591 | -\$ 14,619,037 | -11.4% |

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

Budget Amendments for Fiscal 2009
Maryland Department of Transportation
The Secretary’s Office – Operating

| <u>Status</u> | <u>Amendment</u> | <u>Fund</u> | <u>Justification</u> |
|--------------------|------------------|-------------|--|
| Approved | -\$126,498 | Special | Board of Public Works – Health Insurance Reduction |
| Approved | 175,000 | Special | Funding available from the State Police Helicopter Replacement Fund |
| Pending | 657,205 | Special | Amendment to fund the cost-of-living adjustment for all State employees |
| Projected | -10,027 | Special | Transfer the Metropolitan Area Transportation Operation Grant to State Highway |
| Grand Total | \$695,680 | | |

Source: Maryland Department of Transportation

Budget Amendments for Fiscal 2009
Maryland Department of Transportation
The Secretary’s Office – Capital

| <u>Status</u> | <u>Amendment</u> | <u>Fund</u> | <u>Justification</u> |
|--------------------|--------------------------------|--------------------|--|
| Approved | \$6,741 | Special | Board of Public Works – Health Insurance Reduction |
| Approved | 29,627 | Special | Amendment to fund the cost-of-living adjustment for all State employees. |
| Approved | 11,022 | Reimbursable | Transfer of funds from the Department of Business and Economic Development for a BRAC Coordinator position |
| Projected | 27,271,000 <u>(400,000)</u> | Special Federal | Adjusts the working appropriation to reflect the final Consolidated Transportation Program |
| | 26,871,000 | | |
| Grand Total | \$26,918,390 | | |

BRAC: Base Realignment and Closure

Source: Maryland Department of Transportation