D25E03
Interagency Committee on School Construction

Operating Budget Data

($ in Thousands)

	FY 08 Actual	FY 09 Working	FY 10 Allowance	FY 09-10 Change	% Change Prior Year
General Fund	$18,528	$20,623	$19,245	-$1,379	-6.7%
Contingent & Back of Bill Reductions	0	0	-11,673	-11,673	
Adjusted General Fund	**$18,528**	**$20,623**	**$7,572**	**-$13,051**	**-63.3%**
Adjusted Grand Total	**$18,528**	**$20,623**	**$7,572**	**-$13,051**	**-63.3%**

- The fiscal 2010 allowance is $1.4 million less than the 2009 working appropriation, however, contingent reductions proposed in the Budget Reconciliation and Financing Act of 2009 would eliminate funds for the Aging Schools Program in the operating budget and eliminate the deferred compensation match. The adjusted fiscal 2010 allowance is $13.1 million less than the working appropriation.

Personnel Data

	FY 08 Actual	FY 09 Working	FY 10 Allowance	FY 09-10 Change
Regular Positions	19.00	19.00	18.00	-1.00
Contractual FTEs	1.00	0.00	0.00	0.00
Total Personnel	**20.00**	**19.00**	**18.00**	**-1.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.54	2.99%
Positions and Percentage Vacant as of 12/31/08	1.00	5.26%

- The fiscal 2010 allowance includes 18 regular positions, 1 less than the fiscal 2009 working appropriation.

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

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Analysis in Brief

Major Trends

Public School Construction Program Inspectors Increase Schools Participating in the School Maintenance Surveys for a Second Year in a Row: The Public School Construction Program (PSCP) inspected 233 schools in fiscal 2007, chosen based on the oldest inspection date on record. In fiscal 2008 the PSCP inspectors were able to complete 250 inspections. In both surveys, no schools were ranked poor. Between 2007 and 2008, the percentage of schools ranked "superior" and "good" both declined while the number of schools ranked "adequate" increased and the numbers ranked "not adequate" ranking remained constant. The counties with the oldest facilities have shown less improvement than those with newer facilities. **The Interagency Committee on School Construction (IAC) should comment on the lack of improvement in average age of facilities in those jurisdictions with the oldest buildings.**

Issues

Aging School's Program Funds Remain Unspent: At the close of fiscal 2008, school systems were still holding $10.3 million from fiscal 2007 and 2008 and were allocated $11.1 million in fiscal 2009. **Given the cash flow and likely influx of federal funds, the counties could complete projects in the upcoming year without additional funds. The Department of Legislative Services recommends concurrence with the $11.0 million contingent reduction, and striking Section 13 in the capital budget to use bond proceeds for the Aging Schools Program.**

Qualified Zone Academy Bond Funds Remain Unspent – Earn Interest: Qualified Zone Academy Bonds (QZABs) were established by the federal government in 1997, and then extended in 1999 and 2002. Maryland first authorized the sale of QZABs in Chapter 322 of 2000. Funds were distributed to the counties based on the school systems percentage of pre-1960 square footage and the percentage of free and reduced price meal eligible students enrolled in the school. None of the proceeds from any of the QZAB sales have been fully drawn down. Furthermore, all series continue to earn interest, subject to QZAB federal regulation complicating the program. **IAC should discuss the new federal regulations and how they will affect the QZAB program. IAC should also discuss the possibility of changes in Maryland statute in the QZAB program that would allow for funds to be used on projects other than bricks-and-mortar programs and whether this would increase the State's ability to spend the proceeds from the most recent bond sale.**

Recommended Actions

1. Concur with Governor's allowance.

Operating Budget Analysis

Program Description

The Interagency Committee on School Construction (IAC) administers the Public School Construction Program (PSCP) under the authority of the Board of Public Works (BPW). The largest program that IAC administers is the *Capital Improvement Program*, which allocates funding to local education agencies (LEAs) for public school capital improvement projects. Eligible projects include renovations, additions, new schools, and systemic renovations. IAC also administers the Technology in Maryland Schools (TIMS) program, the Aging Schools Program, the federal Qualified Zone Academy Bond (QZAB) program, and the Recycled Tire program. Employees of the Maryland State Department of Education (MSDE), the Department of General Services (DGS), and the Maryland Department of Planning support the activities of the PSCP and provide technical assistance to the public school systems.

In administering the PSCP, IAC has established the following goals:

- to promote physical learning environments that support the educational goals of MSDE and LEAs;
- to promote well-maintained, safe physical environments in which to teach and learn; and
- to promote equity in the quality of school facilities throughout the State.

Performance Analysis: Managing for Results

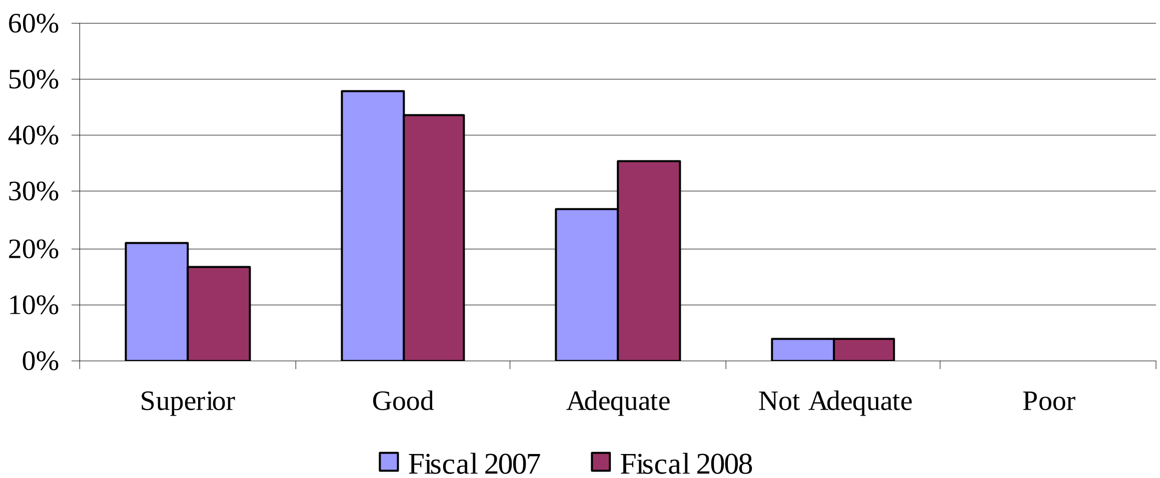
PSCP Inspectors Increase Schools Participating in the School Maintenance Surveys for a Second Year in a Row

One of IAC's major objectives in the Managing for Results (MFR) report is to promote well-maintained, safe physical environments in schools. The corresponding performance measures reflect a recent focus on the adequacy of maintenance procedures in public school facilities. This performance measure relates to the number of schools in which PSCP inspectors will conduct annual maintenance surveys and requires the submission of an annual report to BPW, IAC, and LEAs. For schools rated not adequate or poor, timely remediation plans by those schools, reinspection, and correction of deficiencies are required.

Consistent with the MFR performance measures, the PSCP submitted the *Maintenance Survey Report for Public School Buildings* to BPW in November 2008, which included results from inspections that took place in fiscal 2008. Fiscal 2007 was the first year the responsibility for school maintenance inspections was transferred to PSCP from DGS. Two full-time inspector positions were created at PSCP to handle these added responsibilities. The PSCP inspectors inspected 233 schools in fiscal 2007, chosen based on the oldest inspection date on record. In fiscal 2008 the PSCP inspectors were able to complete 250 inspections. Of the 250 schools surveyed, 42 were rated superior, 109 were rated good, 89 were rated adequate, and 10 were rated not adequate. The 10 schools rated not adequate were located in Anne Arundel County (2), Baltimore City (4), Montgomery County (1), and Prince George's County (3). Survey results by county are shown in **Appendix 2**.

Exhibit 1 shows the percentage of facilities ranked superior, good, adequate, not adequate, and poor in the fiscal 2007 and 2008 surveys. In both surveys, no schools were ranked poor. Between 2007 and 2008, the percentage of schools ranked "superior" and "good" both declined while the number of schools ranked "adequate" increased and "not adequate" ranking remained constant.

Exhibit 1
Maintenance Survey Results
Fiscal 2007-2008



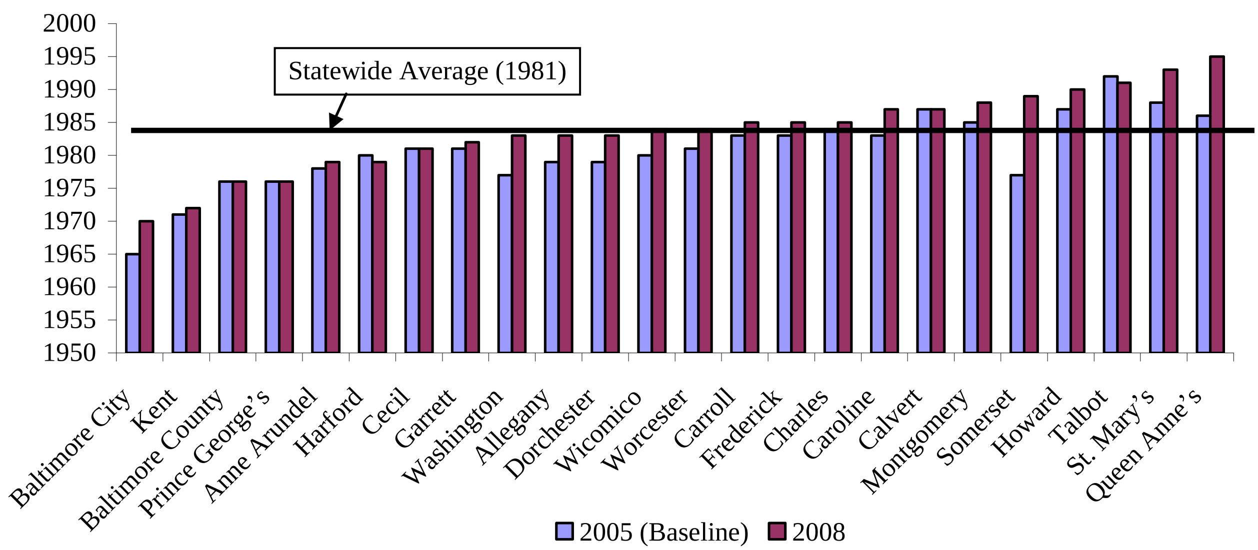
Source: Interagency Committee on School Construction

Average Age of School Facilities Shows Little Improvement

In fiscal 2007, IAC established the third MFR goal to promote equity in the quality of school facilities throughout the State. The accompanying objective is to improve or, at least hold constant, each LEA's deviation from the statewide average age of square footage of school facilities. The baseline statewide average, determined in 2005, was 24 years old (constructed in 1981).

Exhibit 2 shows the average year of construction by LEA for 2005 (baseline year) and fiscal 2008, the most recently completed survey. The oldest schools are located in Baltimore City, with an average construction date of 1970, or 38 years old. Kent County follows closely with an average construction date of 1972. Prince George's and Baltimore counties have the third oldest school facilities with an average construction date of 1975, showing no improvement from 2005. The newest school facilities are located in St. Mary's, Queen Anne's, and Talbot counties. Somerset County has shown the most significant improvement in average construction date of school facilities, increasing from 1977 in 2005 to 1989 in 2008.

Exhibit 2
Average Construction Year
Fiscal 2005 and 2008



Source: Interagency Committee on School Construction

All but three counties (Baltimore County, Prince George's County, and Cecil County) have shown improvement in the average age of school facilities. However, the counties with the oldest facilities have shown less improvement than those with newer facilities. **IAC should comment on the lack of improvement in average age of facilities in those jurisdictions with the oldest buildings.**

Fiscal 2009 Actions

Impact of Cost Containment

The fiscal 2009 working appropriation was reduced by $197,639 for cost containment. BPW reduced the appropriation to the TIMS wiring program by $118,000 and reduced the agency's operating expenses by $79,649.

Proposed Budget

The fiscal 2010 allowance is $1.4 million less than the fiscal 2009 working appropriation, as shown in **Exhibit 3**. Payments for the Technology in Maryland Schools wiring program are in the final years, declining by $2.0 million. Personnel expenses decline due to the abolishment of one vacant position and the contingent reduction in the deferred compensation match on behalf of employees to supplemental retirement plans.

Exhibit 3
Proposed Budget
Interagency Committee on School Construction
($ in Thousands)

How Much It Grows:	**General Fund**	**Total**
2009 Working Appropriation	$20,623	$20,623
2010 Allowance	19,245	19,245
Amount Change	-$1,379	-$1,379
Percent Change	-6.7%	-6.7%
Contingent Reductions	-$11,673	-$11,673
Adjusted Change	-$13,052	-$13,052
Adjusted Percent Change	-63.3%	-63.3%

Where It Goes:	
Personnel Expenses	
Abolished/transferred positions	-$39
Increments and other compensation	3
Employee and retiree health insurance	43
Other Post Employment Benefits deferral	-6
Turnover adjustments	-2
Removal of deferred compensation match	-7
Employee retirement	9
Other Changes	
Contingent deletion of general funds for the Aging Schools Program	-11,109
Technology in Maryland Schools – wiring lease payment	-1,964
Other changes	22
Total	**-$13,051**

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

Impact of Cost Containment

The Governor has recommended, as a contingent reduction included in the Budget Reconciliation and Financing Act (BRFA) of 2009, the elimination of general funds for the Aging Schools Program. This action would reduce the operating budget for IAC by $11.7 million. In addition to the proposed reduction of general funds, the Governor proposes using $6.1 million in bond premiums from the State and Local Facilities Loan Fund for the Aging Schools Program in fiscal 2010. This would be implemented through Section 13 of House Bill 102/Senate Bill 167 (the Maryland Consolidated Capital Bond Loan of 2009). In fiscal 2011 the Aging Schools Program would be funded at $6.1 million with general funds. It is unclear, what the funding for the program will be in 2012. The Department of Budget and Management assumes that it would return to full funding in fiscal 2012.

Impact of the Federal Stimulus

The American Recovery and Reinvestment Act of 2009 (ARRA), includes $22.0 billion in a new tax credit bond program and $1.4 billion to extend the QZAB program. While the amount is unclear, a portion of these funds will be available to Maryland schools. The bill also allows State fiscal stabilization funds, of which Maryland will receive $736.2 million over two years, to be used for school modernization. **The Department of Legislative Services (DLS) recommends, because of the likely influx of federal stimulus and the high level of unspent encumbrances in the program discussed in Issue 1, striking Section 13 of the Maryland Consolidated Capital Bond Loans Act of 2009, which authorizes the use of bond premium funds to backfill a portion of the Aging Schools Program.**

Issues

1. Aging School's Program Funds Remain Unspent

The Aging Schools Program is a mandated program which funds maintenance and renovations to school facilities through the operating budget. The funding formula is outlined in Section 5-206 of the Education Article and is based on a specific base amount for each school system inflated every year since fiscal 2006 using the Consumer Price Index. At the close of fiscal 2008, school systems were still holding $10.3 million from fiscal 2007 and 2008 and were allocated $11.1 million in fiscal 2009. **Exhibit 4** shows the total funds available through the Aging Schools Program by county.

Exhibit 4
Aging Schools Program Encumbrances

Local Education Agencies	Prior Year Encumbrances	Fiscal 2009 Working Appropriation	Total
Allegany	$153,212	$177,829	$331,041
Anne Arundel	615,464	920,214	1,535,678
Baltimore City	1,521,370	2,523,893	4,045,263
Baltimore County	1,298,719	1,589,753	2,888,472
Calvert	74,872	69,632	144,504
Caroline	78,385	91,057	169,442
Carroll	306,388	249,604	555,992
Cecil	143,757	174,616	318,373
Charles	18,911	91,057	109,968
Dorchester	50,872	69,632	120,504
Frederick	217,082	332,091	549,173
Garrett	45,872	69,632	115,504
Harford	306,629	395,296	701,925
Howard	84,630	159,618	244,248
Kent	55,872	69,632	125,504
Montgomery	0	1,095,902	1,095,902
Prince George's	1,627,808	2,199,301	3,827,109
Queen Anne's	97,910	91,057	188,967
St. Mary's	46,910	91,057	137,967
Somerset	56,872	69,632	126,504
Talbot	97,872	69,632	167,504
Washington	122,780	245,319	368,099
Wicomico	147,490	193,898	341,388
Worcester	49,872	69,632	119,504
ASP Supplemental	3,054,424	0	3,054,424
Total	**$10,273,973**	**$11,108,990**	**$18,328,538**

Source: Interagency Committee on School Construction

Even if the Governor's proposed contingent reduction is adopted, the funds available to the counties in the Aging Schools Program would increase to $24.4 million, without any additional funds from the federal stimulus package. **Given the cash flow and likely influx of federal funds, the counties could complete projects in the upcoming year without additional funds. DLS recommends concurrence with the contingent reduction and that Section 13 of the Maryland Consolidated Capital Bond and Loan Act of 2009 be stricken, eliminating the appropriation for the Aging Schools Program in fiscal 2010. DLS further recommends that the BRFA be amended so that the Aging Schools Program be re-based at $6.1 million beginning in fiscal 2011, and inflated according to the Consumer Price Index each subsequent fiscal year.**

2. Qualified Zone Academy Bond Funds Remain Unspent – Earn Interest

QZABs were created under the federal Tax Reform Act of 1997 as a new type of debt instrument to finance specific education projects. In Maryland, the proceeds supplement the Aging Schools Program. QZABs are issued with the full faith and credit of the State. Consequently, QZABs are considered State debt. For purposes of calculating State debt affordability, QZABs are included in the State's GO bond debt outstanding and debt service.

Background

QZABs were established by the federal government in 1997, and then extended in 1999 and 2002. The bond funds can be used in schools located in an Enterprise or Empowerment Zone, or where at least 35% of the student population qualifies for free or reduced price meals (FRPM). The State does not pay interest on QZAB issuances. Instead, bondholders receive a federal income tax credit for each year the bond is held. The State is not required to make payments on the principal until the bonds are redeemed. For example, under its 2001 agreement with Bank of America, the State, through the State Treasurer's Office, makes annual payments into a sinking fund invested into a guaranteed rate of interest. Since the funds are invested in interest bearing accounts, the repayment of the principal by the State is less than the par value of QZABs, making QZABs less expensive than general obligation bonds.

Maryland first authorized the sale of QZABs in Chapter 322 of 2000. Funds were distributed to the counties based on the school systems percentage of pre-1960 square footage and the percentage of FRPM students enrolled in the school. The General Assembly authorized the sale of QZABs four additional times: Chapter 139 of 2001, Chapter 55 of 2003, Chapter 431 of 2005, and most recently in Chapter 585 of 2007, which changed the allocation to the counties based on pre-1970 square footage consistent with the statutory change in the Aging School Program formula.

Federal law requires grantees to provide a matching fund, 10% from private business contributions, for each project. While Maryland law authorizes QZAB funds to be spent only on bricks-and-mortar projects, federal QZAB regulations would also allow funds to be spent on curriculum development, testing, and teacher training as well as school facilities.

Funds Remain Unspent

BPW approved 196 projects from the fiscal 2001 and 2002 bond sales, 55 projects from the fiscal 2004 bond sale, 72 projects from the fiscal 2006 sale, and 58 projects from the fiscal 2008 sale. In fiscal 2001 and 2002, 21 LEAs were eligible under federal rules and all 21 participated. In fiscal 2004, 23 LEAs were eligible and 16 participated, and in fiscal 2006, 23 LEAs were eligible and 12 participated in the program. Projects included chiller replacements, Americans with Disabilities Act upgrades, carpet replacements, playground renovations, and sidewalk repairs. In fiscal 2008, the General Assembly replaced $5.5 million in general funds with $5.5 million from the QZAB program.

None of the proceeds from any of the QZAB sales have been fully drawn down. Furthermore, all series continue to earn interest, subject to QZAB federal regulation. **Exhibit 5** shows the QZAB investment earnings through September 2008.

Exhibit 5
Expenditures of QZAB Bond Proceeds through December 31, 2008

	Original Proceeds	Interest Income Earned	Proceeds Plus Interest	Expenditures from Bond Proceeds	Unexpended Balance	% Expended
2001 QZAB	$18,098,000	$1,286,687	$19,384,687	$17,847,650	$1,537,037	92.07%
2004 QZAB	9,043,000	988,972	10,031,972	3,404,219	6,627,753	33.93%
2006 QZAB	4,378,000	330,831	4,708,831	2,369,755	2,339,076	50.33%
2007 QZAB	4,986,000	127,934	5,113,934	0	5,113,934	0.00%
2008 QZAB	5,563,000	1,623	5,564,623	0	5,564,623	0.00%
Total	**$42,068,000**	**$2,736,047**	**$44,804,047**	**$23,621,624**	**$21,182,423**	

Source State Treasurers Office

IAC has indicated that school systems find the QZAB process cumbersome and are beginning to have trouble meeting the 10% local business match requirement for projects which might otherwise be eligible. **IAC should discuss the reasons behind the inability to fully spend the QZAB funds and the reasons behind the reduction in LEA participation in the program from 2001 to 2006.**

Changes in Federal Regulations Complicate Maryland QZAB Program

The State Treasurer's Office advises that the federal government has approved new rules regarding arbitrage that preclude the State from investing sinking funds. As a consequence, the State will no longer be able to invest the sinking fund payments, interest earnings will no longer be generated, and the State will need to fully appropriate the principal borrowed. Consistent with the new regulations, the 2008 and 2009 issuances assume no interest earnings.

The new regulations also require a strict five-year spend-down policy with very limited remedial actions available if the State is unable to spend the funds on qualified projects in this timeframe. Furthermore, contracts for at least 10% of the bond proceeds must be in place within six months of issuance. Lastly, when used for bricks-and-mortar projects, any change in the school status during the entire life of the bond would require an early bond call equal to the full value of the bond This would be particularly difficult for school systems facing declining enrollment that are closing schools.

The ARRA includes $1.4 billion to extend the QZAB program, including additional federal money available to the states. Federal regulations allow QZAB funds to be used on other noncapital expenses, for example, instructional materials, teacher training, and assessment testing. This could help the State in spending the funds but would also use capital funds for noncapital expenses. **IAC should discuss the new federal regulations and how they will affect the QZAB program. IAC should also discuss the possibility of changes in Maryland statute in the QZAB program that would allow for funds to be used on projects other than bricks-and-mortar programs and whether this would increase the State's ability to spend the proceeds from the most recent bond sale.**

Recommended Actions

1. Concur with Governor's allowance.

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets
Interagency Committee on School Construction
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2008					
Legislative Appropriation	$18,768	$0	$0	$0	$18,768
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	23	0	0	0	23
Cost Containment	0	0	0	0	0
Reversions and Cancellations	-263	0	0	0	-263
Actual Expenditures	**$18,528**	**$0**	**$0**	**$0**	**$18,528**
Fiscal 2009					
Legislative Appropriation	$20,797	$0	$0	$0	$20,797
Cost Containment	-198	0	0	0	-198
Budget Amendments	24	0	0	0	24
Working Appropriation	**$20,623**	**$0**	**$0**	**$0**	**$20,623**

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

Fiscal 2008

The fiscal 2008 budget closed at $18.5 million, $240,083 less than the legislative appropriation. The agency is completely funded through the general fund. The appropriation increased by $22,988 for a cost-of-living adjustment (COLA) for State employees. However, $260,000 was reverted after funds were not allocated by the counties in the Aging Schools Program.

Fiscal 2009

The fiscal 2009 working appropriation is $20.6 million, $174,106 less than the legislative appropriation. A COLA for State employees increased the appropriation by $23,543. However, BPW reduced the appropriation to the TIMS wiring program by $118,000 and reduced the agency's operating expenses by $79,649.

Appendix 2

Maintenance Survey Results
November 13, 2008

County	Superior	Good	Adequate	Not Adequate	Poor	Total
Allegany		4				4
Anne Arundel	3	10	6	2		21
Baltimore City		7	29	4		40
Baltimore County	1	24	1			26
Calvert	3	1				4
Caroline		1	1			2
Carroll	1	4				5
Cecil	4	1	1			6
Charles	3	2	1			6
Dorchester	1	1	1			3
Frederick	3	3	2			8
Garrett	1	2				3
Harford	1	6	2			9
Howard	6	6	2			14
Kent	1	1				2
Montgomery	4	20	10	1		35
Prince George’s	2	5	26	3		36
Queen Anne’s	1	1	1			3
St. Mary’s	3	3				6
Somerset		1	1			2
Talbot		1				1
Washington	1	4	2			7
Wicomico	3	1	1			5
Worcester			2			2
Total	**42**	**109**	**89**	**10**	**0**	**250**

Source: Interagency Committee on School Construction

Object/Fund Difference Report
Interagency Committee on School Construction

Object/Fund	FY08 Actual	FY09 Working Appropriation	FY10 Allowance	FY09 - FY10 Amount Change	Percent Change
Positions					
01 Regular	19.00	19.00	18.00	-1.00	-5.3%
02 Contractual	1.00	0	0	0	0.0%
Total Positions	**20.00**	**19.00**	**18.00**	**-1.00**	**-5.3%**
Objects					
01 Salaries and Wages	$ 1,297,228	$ 1,409,863	$ 1,416,818	$ 6,955	0.5%
02 Technical and Spec. Fees	57,204	480	480	0	0%
03 Communication	9,069	18,096	12,745	-5,351	-29.6%
04 Travel	20,835	15,324	15,729	405	2.6%
07 Motor Vehicles	10,780	11,760	11,760	0	0%
08 Contractual Services	18,892	22,322	20,920	-1,402	-6.3%
09 Supplies and Materials	32,554	11,588	11,588	0	0%
10 Equipment – Replacement	5,811	591	591	0	0%
11 Equipment – Additional	10,061,704	8,020,153	6,084,183	-1,935,970	-24.1%
12 Grants, Subsidies, and Contributions	7,008,986	11,108,986	11,666,661	557,675	5.0%
13 Fixed Charges	4,667	4,094	3,231	-863	-21.1%
Total Objects	**$ 18,527,730**	**$ 20,623,257**	**$ 19,244,706**	**-$ 1,378,551**	**-6.7%**
Funds					
01 General Fund	$ 18,527,730	$ 20,623,257	$ 19,244,706	-$ 1,378,551	-6.7%
Total Funds	**$ 18,527,730**	**$ 20,623,257**	**$ 19,244,706**	**-$ 1,378,551**	**-6.7%**

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

Fiscal Summary
Interagency Committee on School Construction

Program/Unit	FY08 Actual	FY09 Wrk. Approp.	FY10 Allowance	Change	FY09 - FY10 % Change
01 General Administration	$ 1,487,154	$ 1,495,352	$ 1,523,439	$ 28,087	1.9%
02 Aging Schools Program	17,040,576	19,127,905	17,721,267	-1,406,638	-7.4%
Total Expenditures	**$ 18,527,730**	**$ 20,623,257**	**$ 19,244,706**	**-$ 1,378,551**	**-6.7%**
General Fund	$ 18,527,730	$ 20,623,257	$ 19,244,706	-$ 1,378,551	-6.7%
Total Appropriations	**$ 18,527,730**	**$ 20,623,257**	**$ 19,244,706**	**-$ 1,378,551**	**-6.7%**

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