C96J00
Uninsured Employers' Fund

Operating Budget Data

($ in Thousands)

	FY 17 Actual	FY 18 Working	FY 19 Allowance	FY 18-19 Change	% Change Prior Year
Special Fund	$1,590	$1,589	$1,598	$9	0.6%
Adjustments	0	-17	10	27	
Adjusted Special Fund	**$1,590**	**$1,572**	**$1,609**	**$37**	**2.3%**
Adjusted Grand Total	**$1,590**	**$1,572**	**$1,609**	**$37**	**2.3%**

Note: FY 18 Working includes targeted reversions, deficiencies, and across-the-board reductions. FY 19 Allowance includes contingent reductions and general salary increases.

- The fiscal 2019 allowance increases by $37,000, or 2.3%, over the working appropriation, including a 2% general salary increase effective January 1, 2019.

Personnel Data

	FY 17 Actual	FY 18 Working	FY 19 Allowance	FY 18-19 Change
Regular Positions	14.00	13.00	13.00	0.00
Contractual FTEs	0.00	0.00	0.00	0.00
Total Personnel	**14.00**	**13.00**	**13.00**	**0.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/17	5.00	38.46%

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

For further information contact: Laura M. Vykol Phone: (410) 946-5530

- Total positions for the Uninsured Employers' Fund (UEF) remain unchanged in the fiscal 2019 allowance. Two vacant positions have been reclassified as assistant Attorneys General positions.

- Budgeted turnover is 0% due to the agency's small size. As of December 31, 2017, UEF had 5 vacant positions, resulting in a vacancy rate of 38.5%. UEF has had persistent, high vacancies over the past four fiscal years, which UEF partially attributed to hiring freeze restrictions. The budget committees adopted committee narrative in the 2017 *Joint Chairmen's Report* (JCR) expressing intent that hiring freeze restrictions on UEF be lifted to allow the agency to fill 6 vacant positions. Hiring freeze restrictions were lifted accordingly, but UEF is still carrying 5 vacancies.

Analysis in Brief

Major Trends

New Cases Continue to Exceed Resolved Cases: In recent years, the number of new cases has been greater than the number of resolved cases. From fiscal 2009 to 2017, UEF received 4,669 new cases and resolved 3,565 cases, resulting in a net 1,104 unresolved cases. UEF attributes the reduced case closure rate to the nature of UEF cases, as well as agency vacancies. **The Department of Legislative Services (DLS) recommends that, in addition to case closures, UEF develop annual Managing for Results performance measures that track other aspects of agency performance and the efficiency of the staff, such as (1) the number of settlements reached; (2) the number of claims processed; (3) claim processing times; and (4) fines or penalties issued to uninsured employers. DLS also encourages UEF to define "active" and "inactive" cases and begin pursuing settlement with inactive cases, as suggested by the agency.**

Issues

Fund Could Face Insolvency in Fiscal 2024: UEF is entirely special funded through a 2% assessment on awards against and settlements with employers or insurers for permanent disability or death. Though the assessment has been at its maximum rate since fiscal 2009, increasing benefit payments are pushing the fund toward insolvency. Two options UEF could pursue to increase revenue into the fund are to (1) improve recovery of benefit payments owed by uninsured employers, and (2) increase the assessment rate on workers' compensation permanency awards through legislation. UEF identified issues and made recommendations to maintain the fund in 2016, but the agency has not brought forth legislation to act on those recommendations. The last actuarial study was conducted in 2014, and UEF feels the study is out of date and does not reflect the reality of the fund given recent personnel changes and efforts to improve the efficiency of the agency. **DLS recommends that UEF conduct an actuarial study of the fund and establish a regular actuarial schedule to be conducted every three to five years. UEF should discuss additional personnel and information technology resources that would assist the agency with the recovery of benefit payments, as well as case**

closures. UEF should explain why legislation has not been submitted to carry out recommendations from the report submitted in January 2016 and update the budget committees on any future plans to submit legislation.

New Claims Administrator Contract Not Budgeted: In March 2017, UEF entered into an emergency contract for a third-party claims administrator because it was concerned that critical services (including payments to claimants) could be disrupted if its incumbent claims processing vendor went out of business. It was also determined that no contract with the prior vendor existed, which violated State procurement laws. The contract was approved by the Board of Public Works on December 20, 2017, for $994,500 for a term of 18 months (September 1, 2017 to February 28, 2019). However, the cost of the claims administrator contract is not currently budgeted in fiscal 2018 or 2019. The contract would cost approximately $552,500 in fiscal 2018 and $442,000 in fiscal 2019, based on DLS estimates. **UEF should comment on the agency's ability to cover the cost of the claims administrator contract using existing budgetary resources and discuss whether a deficiency will be necessary. UEF should also provide a status update to the budget committees on when the agency expects to competitively bid the claims administrator contract in the future.**

Executive Branch Staffing Adequacy Study: Over the course of the 2016 and 2017 interims, DLS conducted an analysis of the adequacy of staffing levels in the Executive Branch of Maryland. The report raised issues and provided recommendations for agencies identified with staffing concerns, including UEF. UEF has carried persistent vacancies in recent years. As a result, UEF's case closure rate has decreased, and the number of unresolved cases the fund is carrying has increased to over 1,100 cases. In the 2017 JCR, the budget committees adopted committee narrative expressing intent that hiring freeze restrictions on UEF be lifted to allow the agency to fill 6 vacant positions. Hiring freeze restrictions were lifted accordingly, but UEF is still carrying 5 vacancies as of December 31, 2017. **UEF should provide an update on recent staffing changes and any future staffing plans. UEF should also provide an explanation of why 5 positions continue to be vacant after hiring freeze restrictions were lifted last year and outline the agency's plan to fill those vacancies. DLS recommends adopting committee narrative requesting UEF to submit a report evaluating the agency's staffing needs and addressing questions raised in the *Executive Branch Staffing Adequacy Study*.**

Operating Budget Recommended Actions

1. Add budget bill language restricting funding until the agency takes corrective action to address repeat audit findings.

2. Adopt committee narrative expressing intent that the agency conduct an actuarial study and establish an actuarial schedule.

3. Adopt committee narrative requesting the Uninsured Employers' Fund to submit a report evaluating the agency's staffing needs.

Updates

Outstanding Claim Against Subsequent Injury Fund Resolved: The Subsequent Injury Fund (SIF) and UEF share a fund source, with SIF receiving a 6.5% assessment on certain workers' compensation awards and UEF receiving a 2% assessment. On April 10, 2012, UEF requested that SIF return $544,000 in assessments that UEF believed that it had erroneously paid in connection with a 2006 Memorandum of Understanding (MOU). The MOU addressed the processing of workers' compensation claims associated with employees of the former Bethlehem Steel Corporation, which had filed for federal bankruptcy protection in 2001. The outstanding claim between SIF and UEF was discussed in both SIF and UEF Office of Legislative Audit's reports (September 2017 and January 2018, respectively). As of December 2017, the outstanding claim has been resolved.

Operating Budget Analysis

Program Description

The Uninsured Employers' Fund (UEF) protects workers whose employers are not insured under the Maryland Workers' Compensation Law. UEF reviews and investigates claims filed by employees or, in the case of death, by their dependents. If the employer does not properly compensate a claimant, the fund will directly pay the claimant's compensation benefits and medical expenses. UEF then holds the uninsured employer liable for the total benefits that the fund paid to the claimant and for certain penalties and assessments.

The cost to administer the fund and provide benefits to claimants is wholly specially funded. The special funds are derived from a 2% assessment on (1) awards against employers or insurers for permanent disability or death; and (2) amounts payable by employers or insurers under settlement agreements. UEF also collects penalties from sanctions on uninsured employers and revenue from recovery of benefits paid out for uninsured claims. The fund's mission addresses the need for:

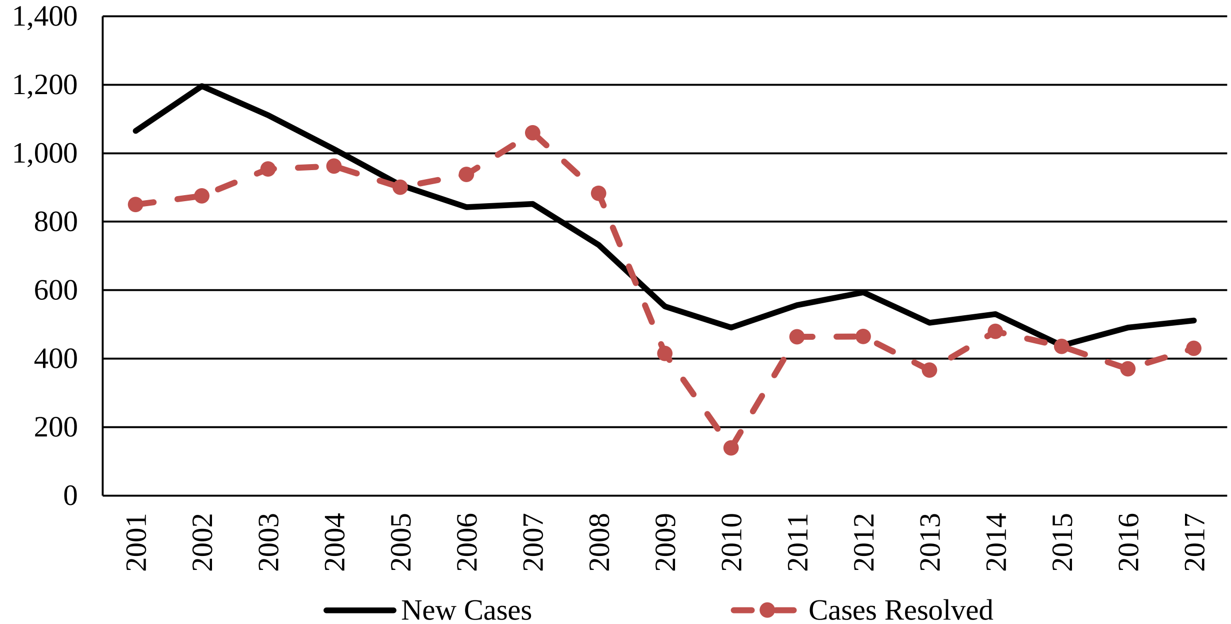
- efficiently investigating and defending all designated noninsured cases;
- monitoring awards and following established procedures to ensure prompt payment to claimants and health care providers; and
- tracking and collecting fines, assessments, and awards benefits by the fund, and maintaining the adequacy and integrity of the fund balance.

Performance Analysis: Managing for Results

1. New Cases Continue to Exceed Resolved Cases

As shown in **Exhibit 1**, from fiscal 2001 to 2005, the number of new cases UEF received exceeded the number of resolved cases each year. From fiscal 2006 to 2008, the trend flipped, with resolved cases exceeding new cases received by the agency. New cases once again exceeded resolved cases from fiscal 2009 to 2017, when UEF received 4,669 new cases, and 3,565 cases were resolved, resulting in a net 1,104 unresolved cases.

Exhibit 1
New and Resolved Cases
Fiscal 2001-2017



Note: Cases resolved in fiscal 2010 do not include Bethlehem Steel cases.

Source: Uninsured Employers' Fund; Department of Budget and Management's Fiscal 2019 Managing for Results

UEF partially attributes the reduced case closure rate to the nature of UEF cases. UEF ensures that injured workers whose employers failed to obtain workers' compensation insurance are compensated for their losses, including medical bills and prescription benefits, by processing claims through the fund. Cases are resolved only when UEF reaches a settlement with the claimant or as a result of the death of the worker (although, in some cases, UEF is responsible for survivor benefits to a spouse or dependent). Injured workers' cases remain unresolved as long as claims are eligible to be processed, which can result in ongoing cases.

The agency also attributes drops in case closures to vacancies, particularly attorney vacancies. From fiscal 2014 to 2017, UEF has carried at least 4 vacant positions continuously, or 29% of the agency personnel complement. This corresponds with a time period when fewer cases were resolved than received. Fiscal 2017 shows an increase in cases resolved, but new cases received by the agency still exceeded case closures.

UEF believes that the case closure rate is not a comprehensive measure of agency performance. The agency is considering tracking "active" and "inactive" cases, with inactive cases being without claims activity for several years. UEF attorneys could then pursue settlement with inactive cases, which would close out the case. **The Department of Legislative Services (DLS) recommends that, in addition to case closures, UEF develop annual Managing for Results performance measures that track other aspects of agency performance and the efficiency of the staff, such as (1) the number of settlements reached; (2) the number of claims processed; (3) claim processing times; and (4) fines or penalties issued to uninsured employers. DLS also encourages UEF to define "active" and "inactive" cases and begin pursuing settlement with inactive cases, as suggested by the agency.**

Fiscal 2018 Actions

Across-the-board Employee and Retiree Health Insurance Reduction

The budget bill includes an across-the-board reduction for employee and retiree health insurance in fiscal 2018 to reflect a surplus balance in the fund. This agency's share of this reduction is $17,061 in special funds.

Proposed Budget

As shown in **Exhibit 2**, the fiscal 2019 allowance increases by $37,000, or 2.3%, over the working appropriation, including a contingent reduction in health insurance in fiscal 2018, and a 2% general salary increase effective January 1, 2019.

Exhibit 2
Proposed Budget
Uninsured Employers' Fund
($ in Thousands)

How Much It Grows:	**Special Fund**	**Total**
Fiscal 2017 Actual	$1,590	$1,590
Fiscal 2018 Working Appropriation	$1,572	$1,572
Fiscal 2019 Allowance	$1,609	$1,609
Fiscal 2018-2019 Amount Change	$37	$37
Fiscal 2018-2019 Percent Change	2.3%	2.3%

Where It Goes:

Personnel Expenses	
2% general salary increase effective January 1, 2019	$10
Increased salaries for two reclassified positions as assistant Attorneys General	15
Employee and retiree health insurance, after reduction in fiscal 2018	17
Retirement	3
Other fringe benefit adjustments	2
Other Changes	
Expanded office space lease	$48
Office supplies, telephone, and copier expenses related to office expansion	17
Operating costs associated with additional assistant Attorneys General	11
Legal expense related to criminal prosecution of uninsured employers	6
Subscriptions	-11
Elimination of funding for software package unnecessary due to CorVel contract	-27
Reduced need for temporary staffing due to filling of vacant positions	-55
Other	1
Total	**$37**

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

Personnel

The fiscal 2019 allowance includes funds for a 2% general salary increase for all State employees, effective January 1, 2019. These funds are budgeted in the Department of Budget and Management's (DBM) statewide program and will be distributed to agencies during the fiscal year. This agency's share of the general salary increase is $10,172 in special funds. In addition, employees will receive another 0.5% increase and a $500 bonus effective April 1, 2019, if actual fiscal 2018 general fund revenues exceed the December 2017 estimate by $75 million. These funds have not been budgeted. The Administration will need to process a deficiency appropriation if revenues are $75 million more than projected.

Regular earnings for UEF also increase by $14,700 in fiscal 2019, reflecting that 2 vacant positions have been reclassified to assistant Attorneys General positions, which have higher salaries than the former vacant positions. Increases in retirement ($3,000) and other fringe benefits ($2,000) are also associated with the reclassification of those 2 positions.

Issues

1. Fund Could Face Insolvency in Fiscal 2024

UEF is entirely special funded through an assessment on awards against and settlements with employers or insurers for permanent disability or death, as defined by § 9-1007 through 9-1011 of the Labor and Employment Article. The fund also receives revenue through the recovery of benefit payments owed by uninsured employers and interest income. According to § 9-1007, if the UEF board determines that the reserves of the fund are inadequate to meet anticipated losses, the board may direct the Workers' Compensation Commission to assess up to a 2% maximum on permanency awards. In fiscal 2004, the UEF board used this authority to increase the assessment from 1% to 2% in order to provide for the estimated payouts for Bethlehem Steel workers' compensation claims in the wake of the company's bankruptcy. The rate was temporarily reduced back to 1% in fiscal 2008 but returned to 2% in fiscal 2009 as the Bethlehem Steel liability was revalued higher than expected. The assessment has remained at 2% since fiscal 2009.

During the 2014 legislative session, the budget committees requested that UEF conduct an actuarial study to evaluate the fund's health and whether the 2% assessment rate on workers' compensation awards was sufficient to maintain the fund's viability. Pinnacle Actuarial Resources, Inc. conducted the study in 2014. According to the actuary's assumptions, the fund was expected to be solvent through fiscal 2024, but beyond that, UEF would not be able to fully support the agency's operating costs. **Exhibit 3** shows the original actuarial forecast with actual revenue and expenditure data updated for fiscal 2012 to 2017. Including the updated information, the forecast now predicts insolvency in fiscal 2024.

Exhibit 3
Actuary Projected Fund Decline – Updated with Actual Expenditures
Fiscal 2012-2024 Est.
($ in Thousands)

Fiscal Year	2012 Actual	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Est.	2019 Est.	2020 Est.	2021 Est.	2022 Est.	2023 Est.	2024 Est.
Beginning Balance	$9,704	$10,521	$10,487	$11,184	$10,861	$9,085	$7,041	$6,189	$3,671	$3,246	$2,634	$1,834	$841
Revenue													
Gross Fund Revenue	$8,700	$8,292	$8,381	$8,390	$8,726	$7,589	$8,295	$8,100	$8,603	$8,560	$8,517	$8,474	$8,432
Investment Income	107	94	115	110	105	111	105	71	84	75	64	51	35
Recovery of Benefit Payments Owed by Uninsured Employers	296	454	679	416	548	709	452	700	517	517	517	517	517
Total Revenue	**$9,104**	**$8,839**	**$9,175**	**$8,916**	**$9,380**	**$8,409**	**$8,852**	**$8,871**	**$9,204**	**$9,152**	**$9,098**	**$9,042**	**$8,984**
Expenditures													
Benefits Payments	$7,149	$7,714	$7,210	$7,977	$9,982	$8,863	$8,102	$9,800	$7,946	$8,045	$8,146	$8,247	$8,351
Agency Operating Expenses	1,137	1,159	1,268	1,260	1,174	1,590	1,602	1,589	1,684	1,718	1,752	1,787	1,823
Total Expenditures	**$8,286**	**$8,873**	**$8,478**	**$9,238**	**$11,156**	**$10,453**	**$9,704**	**$11,389**	**$9,630**	**$9,763**	**$9,898**	**$10,035**	**$10,174**
Surplus/-Deficit	**$817**	**-$34**	**$697**	**-$322**	**-$1,776**	**-$2,044**	**-$852**	**-$2,518**	**-$426**	**-$611**	**-$800**	**-$993**	**-$1,189**
Ending Balance	**$10,521**	**$10,487**	**$11,184**	**$10,861**	**$9,085**	**$7,041**	**$6,189**	**$3,671**	**$3,246**	**$2,634**	**$1,834**	**$841**	**-$348**

Source: Pinnacle Actuarial Resources, Inc. 2014 Actuarial Study; Department of Budget and Management Fiscal 2019 Managing For Results; Uninsured Employers' Fund

From fiscal 2015 to 2017, expenditures exceeded revenues, primarily as a result of increasing benefit payments. UEF attributes the increase in benefit payments to rising medical and prescription costs, as well as low case closures that permit claims to stay open. While it is possible for UEF to mitigate some expenditures with higher case closures, increasing medical and prescription costs are out of UEF's control. If benefit payments continue to come in higher than originally predicted by the actuary, the fund could face insolvency sooner than fiscal 2024 without corresponding revenue increases.

According to UEF, the 2014 actuarial study is out of date and does not reflect the reality of the fund, given recent personnel changes and efforts to improve the efficiency of the agency. However, the agency does not believe an actuarial study is necessary at this time and has no ongoing contract with an actuary. **DLS recommends that UEF conduct an actuarial study for the fund and establish a regular actuarial schedule to be conducted every three to five years.**

Two options that UEF could pursue to increase revenue into the fund are to (1) improve recovery of benefit payments owed by uninsured employers, and (2) increase the assessment rate on workers' compensation permanency awards through legislation.

Increase Recovery of Benefit Payments

UEF has expressed frustration in recent years in not being able to hold uninsured employers financially accountable, often times not being able to pursue or realize recovery of benefits or reimbursement for compensation from the fund. In the past, UEF has utilized the Central Collection Unit (CCU) to pursue collections from uninsured employers with very limited success. CCU requires certain information, such as a tax identification number, in order to withhold tax refunds from noncompliant uninsured employers until UEF is reimbursed. Obtaining the information required by CCU is difficult and time consuming. According to UEF's most recent audit submitted by the Office of Legislative Audits (OLA) in January 2018, UEF had 3,980 delinquent accounts totaling approximately $5.2 million that have not been referred to CCU as required.

CCU and UEF agree that additional personnel and information technology (IT) resources would assist UEF in gathering the information necessary for CCU to aid in collection. With improved information, collections from uninsured employers will be more successful, particularly given CCU's authority to withhold tax refunds to motivate compliance of uninsured employers. **UEF should discuss additional personnel and IT resources that would assist the agency with the recovery of benefit payments.**

Increase Assessment Rate on Workers' Compensation Awards

In January 2016, UEF submitted a report, as required by the 2015 *Joint Chairmen's Report* (JCR), providing options to maintain the fund's viability. UEF concluded at that time that, despite the assessment being at the maximum rate allowed by statute, the fund will struggle to meet upcoming claims in the next three to five years. UEF presented two recommendations:

- the assessment percentage should be allowed to increase by an additional 1 to 2 percentage points over the current 2% maximum; and

- the fund balance cap of $5 million established in § 9-1011 in the Labor and Employment Article should be increased or eliminated to allow the fund to accumulate a balance high enough to cover upcoming claims.

Legislation would be necessary to achieve either of these recommendations to increase revenue into the fund. To date, no legislation has been submitted to raise the assessment above the current maximum assessment of 2% or to increase or eliminate the $5 million fund cap. **UEF should explain why legislation has not been submitted to carry out recommendations from the report submitted in January 2016 and update the budget committees of any future plans to submit legislation.**

2. New Claims Administrator Contract Not Budgeted

In March 2017, UEF entered into an emergency contract for a third-party claims administrator. The contract was brought to the Board of Public Works (BPW) for consideration on September 6, 2017, and then resubmitted and approved by BPW on December 20, 2017. The contract was procured as an emergency, according to UEF, because there was concern that critical services (including payments to claimants) could be disrupted if its incumbent claims processing vendor went out of business. It was also determined that no contract with the prior vendor existed, which violated State procurement laws. The emergency contract was awarded to CorVel Enterprise Comp, Inc.

The incoming claims vendor provides 8 staff members, which will be housed onsite at UEF. UEF submitted an item and was approved by BPW on August 16, 2017, to expand its currently leased space for the additional staff associated with the new claims administrator contract. The revised office space cost budgeted in fiscal 2019 is $126,000, an increase of $48,000 over the fiscal 2018 working appropriation. The cost of the claims administrator contract, however, is not budgeted in either fiscal 2018 or 2019. The total contract cost for 18 months (from September 1, 2017 to February 28, 2019) amounts to $994,500. This amounts to approximately $552,500 for 10 months in fiscal 2018 and $442,000 for 8 months in fiscal 2019 for contract costs that are not currently budgeted, according to DLS estimates. Considering that UEF's operating budget is only $1.6 million in fiscal 2019, it seems unlikely that the agency will be able to absorb this additional cost within existing budgetary resources. Including the cost of this contract in UEF's operating costs may push the fund toward insolvency sooner than fiscal 2024.

UEF should comment on the agency's ability to cover the cost of the claims administrator contract using existing budgetary resources and discuss whether a deficiency will be necessary. UEF should also provide a status update to the budget committees on when the agency expects to competitively bid the claims administrator contract in the future.

3. Executive Branch Staffing Adequacy Study

Over the course of the 2016 and 2017 interims, DLS conducted an analysis of the adequacy of staffing levels in the Executive Branch of Maryland. The report raised issues and provided recommendations for agencies identified with staffing concerns. UEF was one of the agencies identified.

As shown in **Exhibit 4**, UEF position counts have fluctuated from 11 positions to 14 positions from fiscal 2003 to 2017. The agency lost 2 positions in fiscal 2006 due to the abolishment of a long-term vacancy (a legal secretary position) and the transfer of a fiscal accounts position to the Subsequent Injury Fund (SIF). The fiscal accounts position was physically located at SIF but provided services to UEF. In fiscal 2012, UEF regained a fiscal accounts position, bringing the total to 12 positions. In fiscal 2014, UEF added an information technology director and an administrative officer. During the 2017 legislative session, the legislature abolished 1 position transferred from the Department of Human Services when it was determined that the duties of the position were redundant to the role of CCU, bringing UEF's position count to 13 positions in fiscal 2018.

Exhibit 4
Uninsured Employers' Fund Historical Positions and Vacancies
July 2003 to July 2017

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Vacancies	0.00	2.00	1.00	0.00	0.00	1.00	0.20	1.00	2.20	2.20	2.20	6.50	4.00	7.00	6.00
Positions	12.00	13.00	13.00	11.00	11.00	11.00	11.00	11.00	12.00	12.00	14.00	14.00	14.00	14.00	13.00
% Vacant	**0.0%**	**15.4%**	**7.7%**	**0.0%**	**0.0%**	**9.1%**	**1.8%**	**9.1%**	**18.3%**	**18.3%**	**15.7%**	**46.4%**	**28.6%**	**50.0%**	**46.2%**

Source: Department of Budget and Management; Department of Legislative Services

As shown in Exhibit 4, UEF's vacancies and vacancy rates from July 2003 to 2017 have ranged from 0.20 positions (1.8%) to 7 positions (50%). From fiscal 2014 to 2017, UEF has carried at least 4 vacant positions continuously, or 29% of the agency personnel complement. UEF attributed the inability to fill 6 vacant positions to a hiring freeze restriction. In response, the budget committees adopted committee narrative in the 2017 JCR expressing the intent that hiring freeze restrictions on UEF be lifted to allow the agency to fill vacancies. Hiring freeze restrictions were lifted accordingly, but UEF is still carrying 5 vacant positions.

Of the 6 vacant positions during the 2017 legislative session, 3 positions are still vacant, 1 claims investigator position has been filled, and 2 positions have been reclassified to assistant Attorneys General positions, bringing the agency's total to 5 assistant Attorneys General. UEF believes the 2 additional attorney positions will improve case closures as the agency would have more resources to pursue settlements with injured workers. Attorneys would also assist the agency in pursuing legal action against uninsured employers, such as suspension of business licenses, with the intention of discouraging uninsured employers in the future.

As discussed in the analysis, UEF was approved for a third-party claims administrator contract in order to assist the agency with claims processing tasks. According to UEF, the agency has been utilizing a third-party claims administrator for the past three years, but no official contract had been procured, so the emergency procurement of this contract essentially continues the same service with a different vendor and brings the use of this service in line with State contract and procurement rules. The new claims administrator has provided positions for the following tasks:

- process medical billing;
- investigate claims;
- process weekly income checks to claimants; and
- maintain a database in compliance with Maryland rules on reporting.

Based on UEF's mission, these activities are core functions of the agency. Although a third-party contract may be the most efficient solution to maintaining operations of the agency in the short term, the agency should consider a long-term solution to staffing. UEF should consider the following questions:

- Is the current staffing ideal for carrying out the responsibilities of the agency? Does the agency need more staff to meet the needs of the claimants?
- Does the agency have difficulty recruiting and retaining employees? If so, what needs to be done to change this?

- Are the responsibilities of the third-party administrator a core function of the agency? If so, would this function be better served by full-time employees of the agency?

UEF should provide an update on recent staffing changes and any future staffing plans. UEF should also provide an explanation of why 5 positions (38.5% of the agency) continue to be vacant after hiring freeze restrictions were lifted last year and outline the agency's plan to fill those vacancies. DLS recommends adopting committee narrative requesting UEF to submit a report evaluating the agency's staffing needs and addressing questions raised in the *Executive Branch Staffing Adequacy Study*.

Operating Budget Recommended Actions

1. Add the following language to the special fund appropriation:

   , provided that since the Uninsured Employers' Fund (UEF) has had four or more repeat findings in the most recent fiscal compliance audit issued by the Office of Legislative Audits (OLA), $75,000 of this agency's administrative appropriation may not be expended unless:

   (1) UEF has taken corrective action with respect to all repeat audit findings on or before November 1, 2018; and

   (2) a report is submitted to the budget committees by OLA listing each repeat audit finding along with a determination that each repeat finding was corrected. The budget committees shall have 45 days to review and comment to allow for funds to be released prior to the end of fiscal 2019.

   Explanation: The Joint Audit Committee has requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each agency is to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency and a determination by OLA that each finding was corrected. OLA shall submit reports to the budget committees on the status of repeat findings.

Information Request	**Author**	**Due Date**
Status of corrective actions related to the most recent fiscal compliance audit	OLA	45 days before the release of funds

2. Adopt the following narrative:

   Actuarial Study and Schedule: During the 2014 legislative session, the budget committees requested that the Uninsured Employers' Fund (UEF) conduct an actuarial study to evaluate the fund's health and whether the 2% assessment rate on workers' compensation awards was sufficient to maintain the fund's viability. Based on the findings of the 2014 actuarial study and actual revenues and expenditures of the fund from fiscal 2012 to 2017, the fund is expected to be insolvent by fiscal 2024. According to UEF, the 2014 actuarial study is out of date and does not reflect the current personnel complement and efforts being undertaken by the agency to pursue recovery of benefits and case closures. It is the intent of the budget committees that UEF conduct an actuarial study and establish a regular actuarial study schedule to be conducted every three to five years. The committees request that the study and the proposed schedule be submitted by January 1, 2019.

Information Request	**Author**	**Due Date**
Actuarial study of the fund and proposed actuarial schedule	UEF	January 1, 2019

3. Adopt the following narrative:

Evaluation of Staffing Needs: Over the course of the 2016 and 2017 interims, the Department of Legislative Services conducted an analysis of the adequacy of staffing levels in the Executive Branch of Maryland. The Uninsured Employers' Fund (UEF) was identified with staffing concerns, including persistent vacancies that are impacting the agency's performance. As a result of vacancies, UEF has had to use a third-party claims administrator to conduct tasks that are a core function of the agency, including processing medical bills, investigating claims, processing weekly income checks to claimants, and maintaining a claims database. Although a third-party contract may be the most efficient solution in the short term to maintain agency operations, UEF should consider the following questions:

- Is the current staffing ideal for carrying out the responsibilities of the agency? Does the agency need more staff to meet the needs of the claimants?
- Does the agency have difficulty recruiting and retaining employees? If so, what needs to be done to change this?
- Are the responsibilities of the third-party claims administrator a core function of the agency? If so, would this function be better served by full-time employees of the agency?

The budget committees request that UEF submit a report that answers the questions posed above and provide an overall evaluation of the agency's staffing needs. This report should be submitted by December 1, 2018, to the budget committees.

Information Request	**Author**	**Due Date**
Evaluation of agency staffing needs	UEF	December 1, 2018

Updates

1. Outstanding Claim Against Subsequent Injury Fund Resolved

SIF and UEF share a fund source, with SIF receiving a 6.5% assessment on certain workers' compensation awards and UEF receiving a 2% assessment. On April 10, 2012, UEF requested that SIF return $544,000 in assessments that UEF believed it had erroneously paid in connection with a 2006 Memorandum of Understanding (MOU). The MOU addressed the processing of workers' compensation claims associated with employees of the former Bethlehem Steel Corporation, which had filed for federal bankruptcy protection in 2001. As of June 2017, UEF's claim was still outstanding. UEF sought advice from the Office of the Attorney General (OAG) on April 9, 2014, as to whether SIF should reimburse UEF for these assessments. Written advice was not received, but UEF management advised that OAG had verbally recommended that the issue be directed to DBM. UEF did not pursue this issue with DBM and made no additional attempts to recover the funds from SIF until December 2016, at which time SIF preliminarily agreed to reimburse UEF for certain of these assessments totaling approximately $441,468 (which includes lost interest).

This issue was discussed in OLA's fiscal compliance audits for SIF in September 2017 and for UEF in January 2018. According to both agencies, the outstanding claim between UEF and SIF was finally resolved in December 2017.

Appendix 1
Current and Prior Year Budgets
Uninsured Employers' Fund
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2017					
Legislative Appropriation	$0	$1,584	$0	$0	$1,584
Deficiency Appropriation	0	0	0	0	0
Cost Containment	0	0	0	0	0
Budget Amendments	0	18	0	0	18
Reversions and Cancellations	0	-12	0	0	-12
Actual Expenditures	**$0**	**$1,590**	**$0**	**$0**	**$1,590**
Fiscal 2018					
Legislative Appropriation	$0	$1,589	$0	$0	$1,589
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Working Appropriation	**$0**	**$1,589**	**$0**	**$0**	**$1,589**

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. Numbers may not sum to total due to rounding.

Fiscal 2017

The budget for the Uninsured Employers' Fund (UEF) increased by $18,000 in special funds due to a budget amendment allocating employee increments. The increase was partially offset by $12,000 in special fund cancelations due to unspent funding.

Fiscal 2018

The fiscal 2018 working appropriation for UEF remains unchanged from the legislative appropriation.

Appendix 2
Audit Findings

Audit Period for Last Audit:	November 14, 2013 – November 27, 2016
Issue Date:	January 2018
Number of Findings:	8
Number of Repeat Findings:	7
% of Repeat Findings:	87.5%
Rating: (if applicable)	Unsatisfactory

Finding 1: **The Uninsured Employers' Fund (UEF) did not conduct independent reviews of accounts receivable transactions.**

Finding 2: **UEF did not adequately monitor and pursue collection of delinquent accounts. As of January 5, 2017, there were 3,980 delinquent accounts totaling $5.2 million that should have been referred to the Department of Budget and Management's Central Collection Unit.**

Finding 3: **UEF did not adequately review indemnity and medical claim payments for propriety.**

Finding 4: **UEF violated State procurement regulations to obtain claims processing and related services from 11 vendors, did not have written agreements, and did not adequately monitor the vendors' services and verify their billings.**

Finding 5: **UEF did not have adequate procedures and controls to ensure that all collections were deposited.**

Finding 6: Sensitive personally identifiable information maintained by UEF was stored without adequate safeguards.

Finding 7: **Security event monitoring, access controls, and user access monitoring were not sufficient.**

Finding 8: **UEF did not have an information systems disaster recovery plan.**

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

Appendix 3
Object/Fund Difference Report
Uninsured Employers' Fund

Object/Fund	FY 17 Actual	FY 18 Working Appropriation	FY 19 Allowance	FY 18 - FY 19 Amount Change	Percent Change
Positions					
01 Regular	14.00	13.00	13.00	0.00	0%
Total Positions	**14.00**	**13.00**	**13.00**	**0.00**	**0%**
Objects					
01 Salaries and Wages	$ 956,379	$ 1,201,512	$ 1,220,820	$ 19,308	1.6%
02 Technical and Spec. Fees	21,439	715	7,100	6,385	893.0%
03 Communication	81,832	53,824	57,721	3,897	7.2%
04 Travel	12,486	10,348	14,500	4,152	40.1%
08 Contractual Services	419,820	199,029	138,197	-60,832	-30.6%
09 Supplies and Materials	7,886	16,400	19,500	3,100	18.9%
10 Equipment – Replacement	360	15,561	11,385	-4,176	-26.8%
13 Fixed Charges	89,738	91,528	129,106	37,578	41.1%
Total Objects	**$ 1,589,940**	**$ 1,588,917**	**$ 1,598,329**	**$ 9,412**	**0.6%**
Funds					
03 Special Fund	$ 1,589,940	$ 1,588,917	$ 1,598,329	$ 9,412	0.6%
Total Funds	**$ 1,589,940**	**$ 1,588,917**	**$ 1,598,329**	**$ 9,412**	**0.6%**

Note: The fiscal 2018 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2019 allowance does not include contingent reductions or cost-of-living adjustments.