

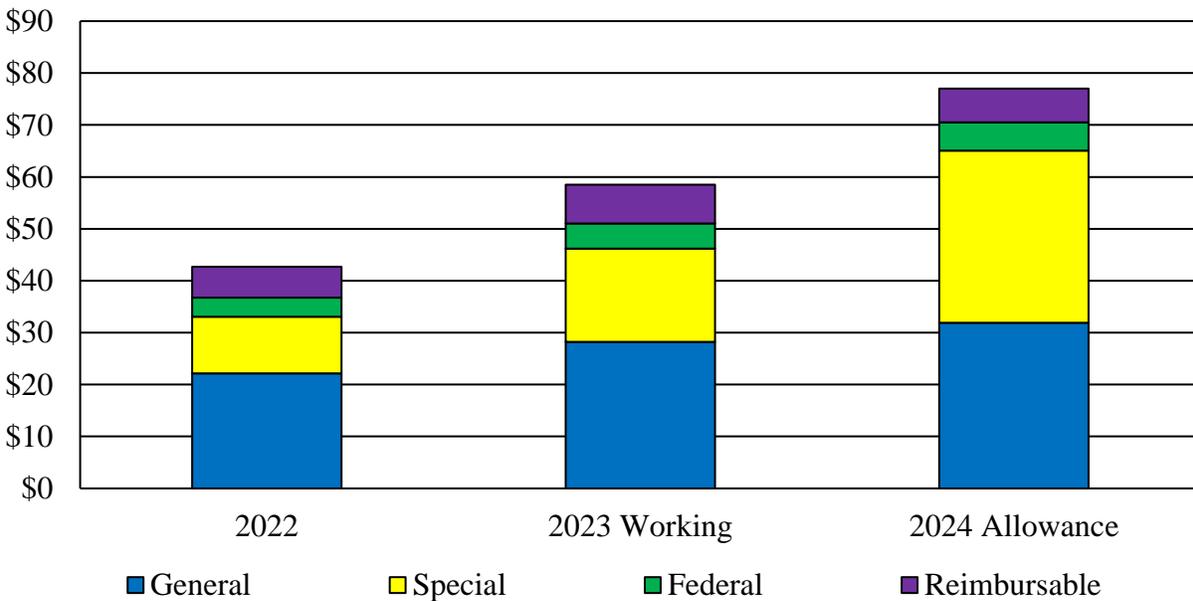
C81C Office of the Attorney General

Program Description

The Attorney General acts as legal counsel to the Governor; the General Assembly; the Judiciary; and all departments, boards, and commissions (except the Maryland Commission on Civil Rights, the Public Service Commission, and the State Ethics Commission). The Office of the Attorney General (OAG) represents the State in all matters of interest to the State, including civil litigation and criminal appeals in all State and federal courts. The office also reviews legislation passed by the General Assembly prior to consideration by the Governor and oversees the expenditures of the Mortgage Loan Servicing Practices Settlement Fund. The office is currently supported by 14 divisions: Legal Counsel and Advice; Securities; Consumer Protection; Antitrust; Medicaid Fraud Control; Civil Litigation; Criminal Appeals; Criminal Investigation; Educational Affairs; Correctional Litigation; Contract Litigation; People’s Insurance Counsel; the Independent Investigations Division (IID); and the Juvenile Justice Monitoring Unit.

Operating Budget Summary

Fiscal 2024 Budget Increases \$18.5 Million, or 31.6%, to \$77.0 Million
(\$ in Millions)



Note: Numbers may not sum due to rounding. The fiscal 2023 working appropriation includes deficiency appropriations including this agency’s share of a deficiency appropriation budgeted in the Statewide Account within the Department of Budget and Management (DBM). Fiscal 2024 salary enhancements are budgeted in the Statewide Account within DBM.

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- Special funds account for approximately 75% of the fiscal 2024 funding increase, primarily due to the inclusion of \$14 million for the Access to Counsel in Evictions (ACE) Special Fund, which had been previously budgeted within the Judiciary’s Administrative Office of the Courts. These funds originate from the State’s Unclaimed Property Fund.

Fiscal 2023

Proposed Deficiencies

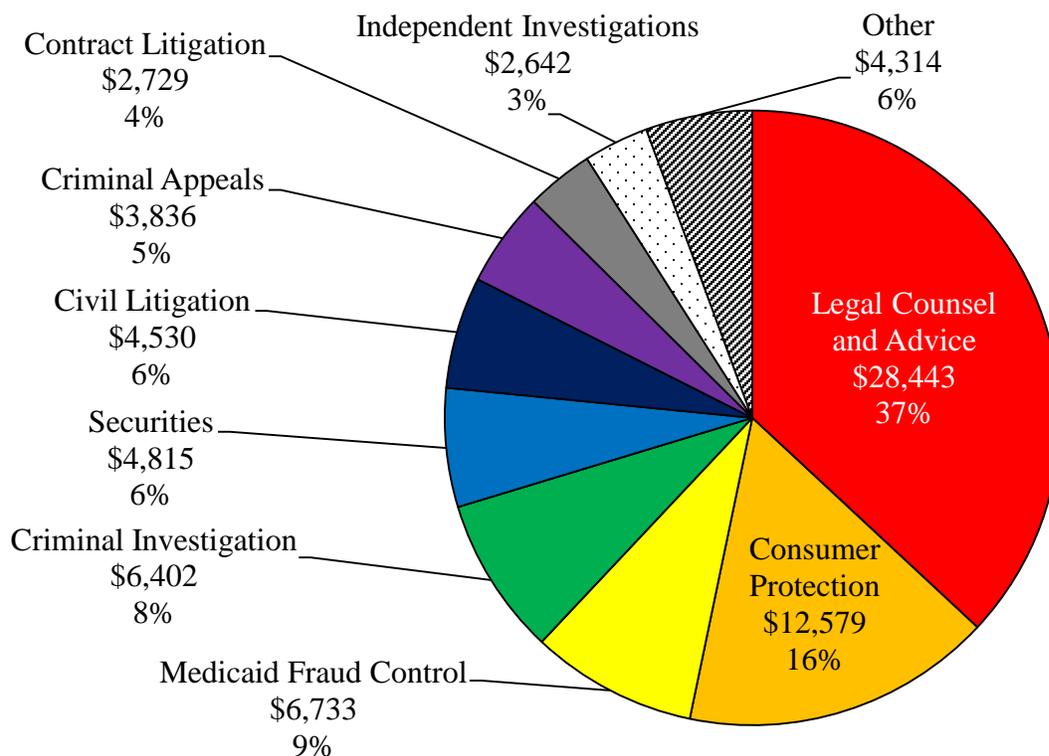
Proposed deficiency appropriations reduce the fiscal 2023 budget for OAG by a net \$1.1 million. Deficiencies are provided for the following purposes:

- a \$208,000 general fund increase to fund an independent audit of the Office of the Chief Medical Examiner (OCME);
- a \$143,017 special fund increase to fund 2 new positions for assistant Attorneys General focusing on enforcement in the Consumer Protection Division; and
- a \$1.5 million reduction reflecting the transfer of general funds to the Department of Public Safety and Correctional Services to fund efforts by the U.S. Attorney to combat crime in Baltimore City.

Fiscal 2024 Overview of Agency Spending

As shown in **Exhibit 1**, the fiscal 2024 allowance for OAG totals \$77.0 million. The Legal Counsel and Advice program occupies 37% of the total budget. The next largest programs are Consumer Protection and the Medicaid Fraud Control Unit, at 16% and 9% of the total allowance, respectively.

Exhibit 1
Overview of Agency Spending
Fiscal 2024 Allowance
(\$ in Thousands)



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

Proposed Budget Change

As shown in **Exhibit 2**, the fiscal 2024 allowance increases by \$18.5 million, or 31.6%, over the fiscal 2023 working appropriation. The inclusion of funds for the ACE Special Fund increases the budget by \$14 million per Chapter 40 of 2022, which required the one-time distribution of these funds from the Unclaimed Property Fund. Other significant changes include \$4.9 million for new positions offset by a \$2.1 million reduction in funding for contractual full-time equivalents, as several of the new regular positions are contractual conversions.

Exhibit 2
Proposed Budget
Office of the Attorney General
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2022 Actual	\$22,179	\$10,904	\$3,672	\$5,929	\$42,683
Fiscal 2023 Working Appropriation	28,248	17,934	4,834	7,507	58,522
Fiscal 2024 Allowance	<u>31,911</u>	<u>33,153</u>	<u>5,435</u>	<u>6,522</u>	<u>77,021</u>
Fiscal 2023-2024 Amount Change	\$3,663	\$15,220	\$601	-\$985	\$18,499
Fiscal 2023-2024 Percent Change	13.0%	84.9%	12.4%	-13.1%	31.6%
Where It Goes:					<u>Change</u>
Personnel Expenses					
Funding for 28 assistant Attorneys General, 6 staff attorneys, 1 computer technician, and 22 administrative positions, including 19 contractual conversions.....					\$4,914
Employee and retiree health insurance.....					992
Annualization of November 2022 4.5% cost-of-living adjustment					430
Turnover adjustments					364
Employees’ retirement system					126
Workers’ compensation premium assessment.....					109
Incremental salary increases.....					69
Social Security contributions.....					66
Other fringe benefit adjustments					10
Reclassification					-772
Other Changes					
Funding for the Access to Counsel in Evictions Special Fund (Chapter 40 of 2022) ...					14,000
Office of the Chief Medical Examiner audit expenses for experts and staff.....					375
Department of Information Technology services expenses					-15
Other adjustments.....					-54
Reduction of 29 contractual personnel positions.....					-2,115
Total					\$18,499

Note: Numbers may not sum to total due to rounding. The fiscal 2023 working appropriation includes deficiency appropriations including this agency’s share of a deficiency appropriation budgeted in the Statewide Account within the Department of Budget and Management (DBM). Fiscal 2024 salary enhancements are budgeted in the Statewide Account within DBM.

Office of the Chief Medical Examiner Audit

Funds have been allocated to OAG for an audit of OCME in fiscal 2023 and 2024. Following the testimony of former Maryland Chief Medical Examiner Dr. David Fowler in the trial of former police officer Derek Chauvin in Minnesota, more than 400 medical experts signed a letter to the previous Attorney General, Brian E. Frosh, calling for an investigation into OCME’s practices for investigating in-custody deaths under Dr. Fowler. Attorney General Frosh ordered an audit as a result of this letter. The audit is ongoing.

Personnel Data

	<u>FY 22</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 23-24</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	285.50	294.50	351.50	57.00
Contractual FTEs	<u>24.20</u>	<u>59.40</u>	<u>30.40</u>	<u>-29.00</u>
Total Personnel	309.70	353.90	381.90	28.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	20.81	7.09%
Positions and Percentage Vacant as of 12/31/22	42.40	14.40%
Vacancies Above Turnover	21.59	

- The fiscal 2024 allowance reduces the number of contractual positions by 29 positions to accommodate the addition of 19 regular positions.
- OAG’s fiscal 2024 allowance provides for 57 new regular positions. These positions include:
 - 28 assistant Attorneys General in Legal Counsel and Advice, Consumer Protection, Medicaid Fraud Control, Civil Litigation, Criminal Appeals, and Criminal Investigation;
 - 6 staff attorneys;
 - 1 computer technician in Criminal Investigation; and
 - 22 administrative positions in various divisions.

C81C – Office of the Attorney General

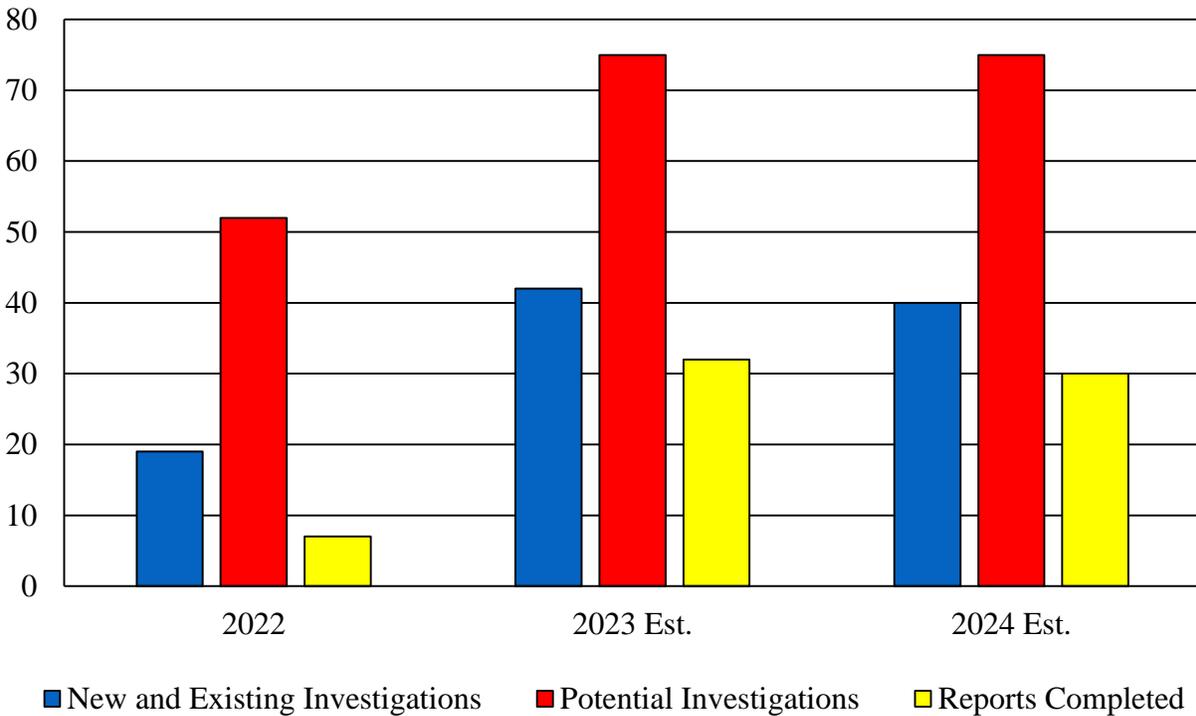
- OAG currently has vacant positions matching the new positions requested in all of the divisions where new positions are being requested, with the exception of Educational Affairs. **OAG should comment on what is being done to fill these vacant positions and why the new positions are being requested when there are currently vacancies for similar positions.**
- OAG currently has a high vacancy rate, at 14.4%. Of the 42.4 vacant positions, 15 became vacant on or before December 31, 2021. Four of these positions are assistant Attorneys General, and 1 is a staff attorney position. OAG has attempted to remediate part of this issue by implementing a one salary grade increase for attorneys in the fiscal 2024 allowance. Approximately \$4.5 million is budgeted in the Statewide Account within the Department of Budget and Management to fund this increase.

Key Observations

1. Independent Investigations Division Completes First Year of Operation

IID in OAG was established in 2021 following the enactment of Chapter 132 of 2021. This division is tasked with investigating any police involved death of a civilian in the State or any case with a likelihood of death. On February 8, 2023, approximately three months past the requested due date, OAG submitted a 2022 *Joint Chairmen’s Report* (JCR) response, which stated that of the reports submitted to date to the State’s Attorney’s Office, none had resulted in an indictment. During IID’s first 12 months of operations, 23 cases were investigated. In fiscal 2022, the IID began 19 investigations, out of 52 potential investigations. Data including projections for the IID’s caseload for fiscal 2023 and 2024 may be found in **Exhibit 3**.

Exhibit 3
Independent Investigations Division Caseload
Fiscal 2022-2024 Est.



Source: Office of the Attorney General; Department of Legislative Services

The estimates for fiscal 2023 and 2024 are based on the projections of a working group that was charged with creating the division that IID would investigate 30 to 40 qualifying cases in any given year.

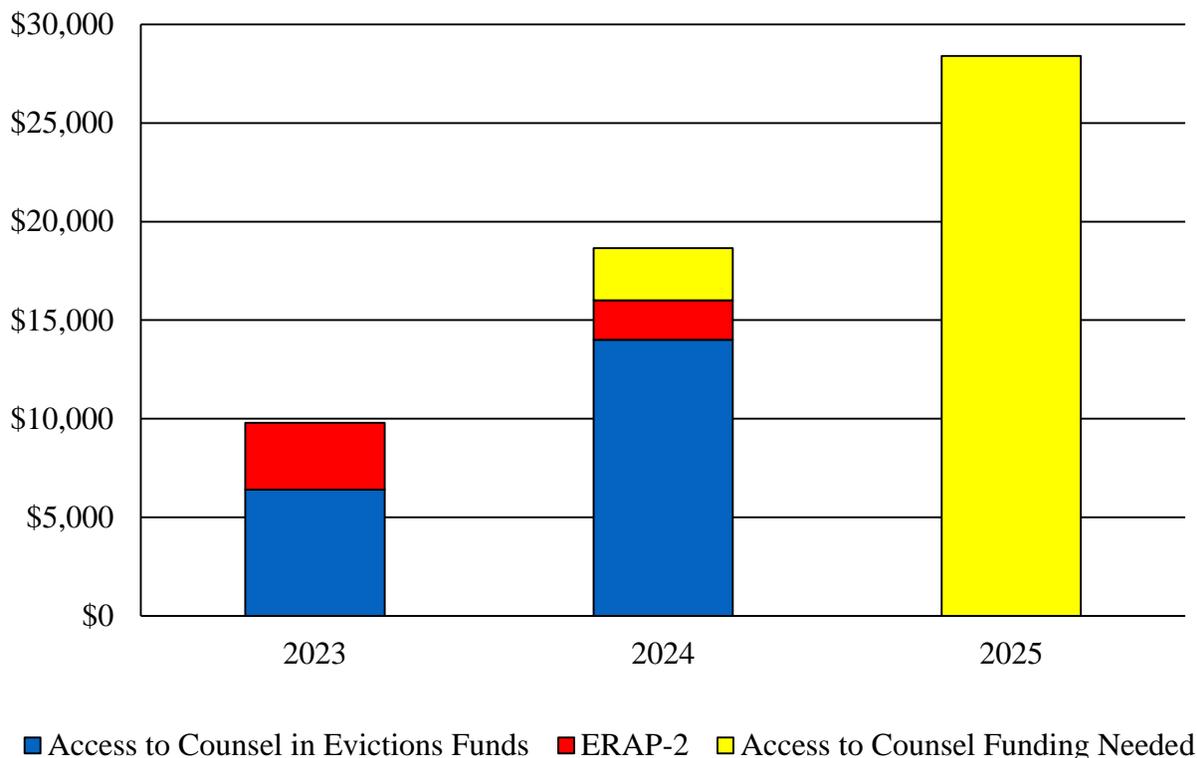
The Department of Legislative Services (DLS) recommends the adoption of committee narrative requesting a report on the performance of IID in fiscal 2023. The report should include monthly data on the number of potential cases, the number of completed investigations, and outcomes.

2. Access to Counsel in Evictions Program Continues Rollout Process

Chapter 746 of 2021 established the ACE Program, which provides a right to counsel in cases of evictions for qualifying individuals, along with the ACE Special Fund, both of which are administered by the Maryland Legal Services Corporation (MLSC). The same legislation also established the ACE Task Force, which is staffed by 15 members appointed by OAG. This task force is responsible for studying potential funding sources, making recommendations to improve the implementation of the access to counsel in evictions program, and evaluating the provision of services provided under the scope of the program. Chapter 685 of 2022 mandated that the Judiciary compile data on evictions and share that data monthly with the Department of Housing and Community Development (DHCD) beginning January 1, 2023. The rollout of the ACE program is a three-year process, with final implementation to be completed by October 1, 2025.

Per Chapter 40, the ACE Special Fund is allocated \$14 million in revenues diverted from the Unclaimed Property Fund. These funds are appropriated to MLSC via the OAG fiscal 2024 allowance. MLSC estimates that the cost of the program in fiscal 2024 will be \$18.65 million. A portion of the additional fiscal 2024 expenses not covered by the appropriation in OAG is expected to be covered by funds transferred to MLSC via a grant agreement wherein DHCD agreed to transfer \$5.4 million in funding from the Emergency Rental Assistance program. Additionally, Chapters 20 and 21 of 2022 appropriate certain funds to the ACE Special Fund that are received from a final settlement, agreement, or judgement relating to certain investigations or enforcement actions. Funding is expected to be available in the ACE Special Fund from this source in fiscal 2024, but the exact amount of funds has not yet been appropriated. The projected costs of implementing ACE in fiscal 2024 are \$16 million in legal services grants to nonprofit legal services organizations providing access to counsel, \$1.15 million in coordinated grants for intake and infrastructure, \$1 million for tenant outreach and education, and \$500,000 for administrative expenses. **Exhibit 4** provides a full breakdown of the funding available and what is still needed to fund ACE.

Exhibit 4
Access to Counsel in Evictions Program Funding
Fiscal 2023-2025
(\$ in Thousands)

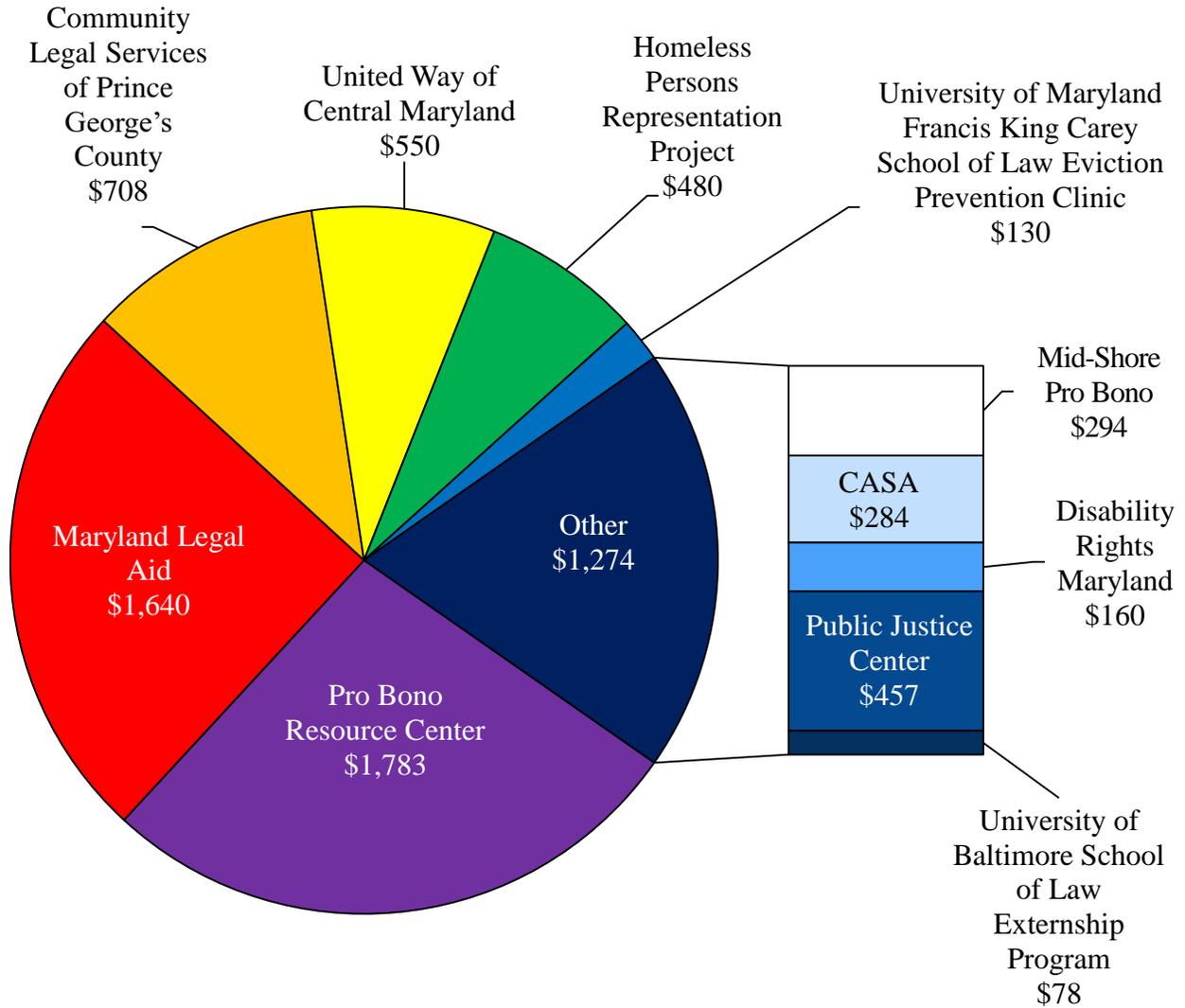


ERAP-2: Emergency Rental Assistance Program (second round)

Source: Maryland Legal Services Corporation; Department of Legislative Services

Funding provided to date has been used to fund legal services grants to providers in the program, along with administrative costs and tenant outreach and education. The program has provided funding to 11 organizations providing access to counsel in evictions in the first phase of the rollout. This first phase prioritizes funding in jurisdictions that had previously designated funds of their own to use in providing eviction prevention legal services, in accordance with statute. In the first two quarters of fiscal 2023, these 11 organizations have received a combined total of approximately \$6.6 million. The Pro Bono Resource Center has received the most funding at approximately \$1.8 million, followed by Maryland Legal Aid at \$1.6 million. A full breakdown of the funds granted to legal services providers may be found in **Exhibit 5**.

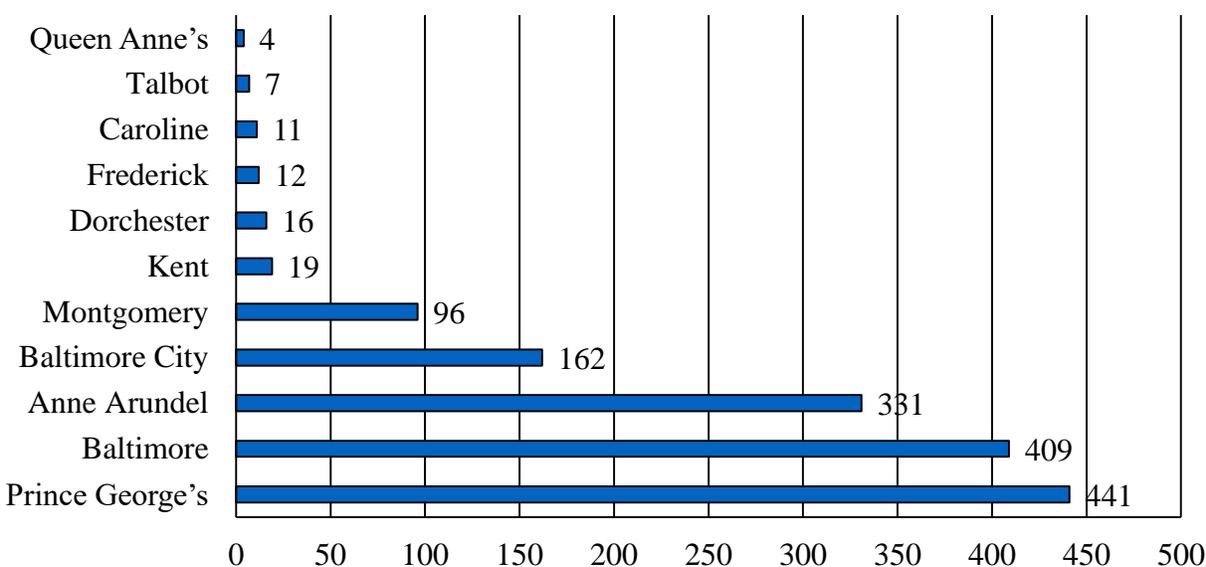
Exhibit 5
Funding for Providers Participating in the
Access to Counsel in Evictions Program
Fiscal 2023 Q1 and Q2
(\$ in Thousands)



Source: Maryland Legal Services Corporation; Department of Legislative Services

During the first two quarters of fiscal 2023, 1,508 tenants were provided with access to counsel via the program, with the highest number of recipients (441) in Prince George’s County. At the time this analysis was written, MLSC did not have a projection for the number of cases in the remainder of fiscal 2023. A full listing of the counties where access to counsel in evictions was offered in the first two quarters of fiscal 2023 and the number of cases handled may be found in **Exhibit 6**.

Exhibit 6
Eviction Cases Closed with ACE Assistance by County
Fiscal 2023 Q1 and Q2

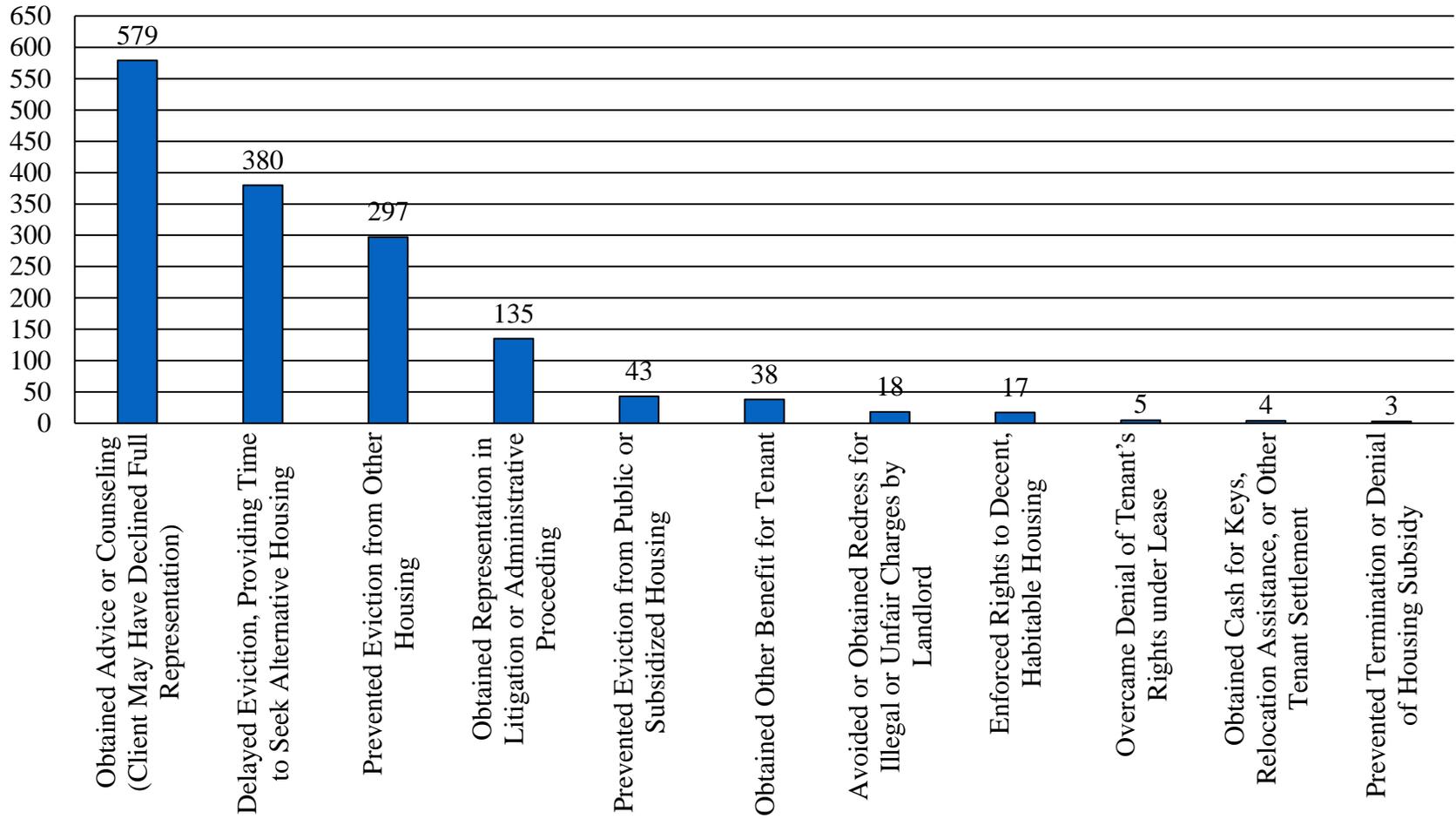


ACE: Access to Counsel in Evictions Program

Source: Maryland Legal Services Corporation; Department of Legislative Services

The cases that were closed with help from ACE had a variety of different results. Tenants received advice or counseling in 579 cases and may have declined full representation. Additionally, 380 tenants had their eviction delayed, which gave them time to find alternative housing. There were 1,519 benefits reported, as some providers reported more than one benefit per case. A full breakdown of the types of dispositions may be found in **Exhibit 7**.

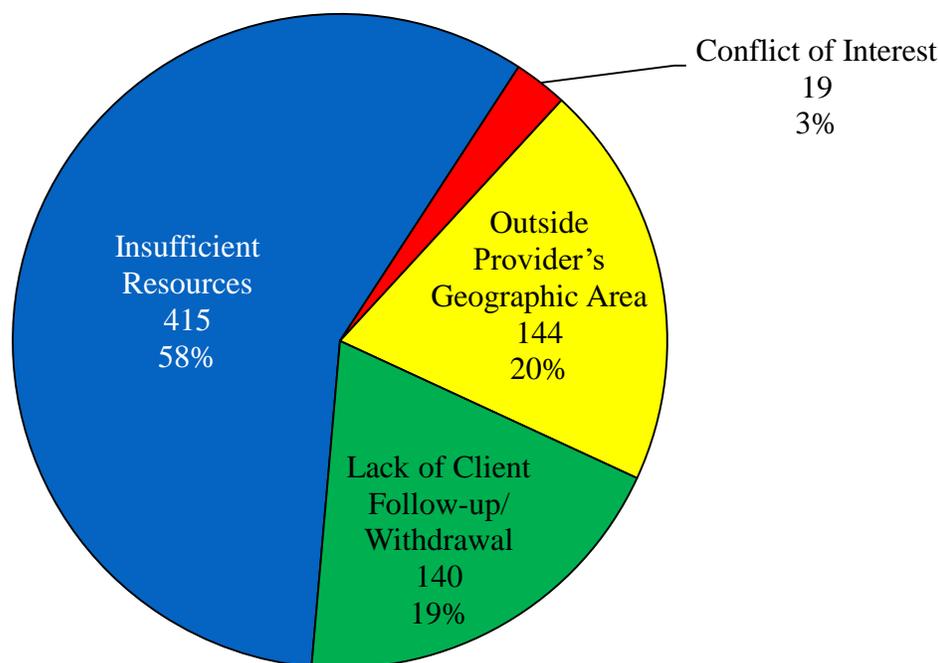
Exhibit 7
Results of Cases with Access to Counsel in Evictions Program Assistance
Fiscal 2023 Q1 and Q2



Source: Maryland Legal Services Corporation; Department of Legislative Services

The cases displayed in Exhibit 6 and Exhibit 7 are only a fraction of the cases where help was sought in these 11 counties. In the first two quarters of fiscal 2023, 718 applicants were rejected from the program, according to MLSC. The most common reason for rejection was a lack of resources, with 415 applicants being rejected for this reason. As the implementation process continues in fiscal 2024, ACE plans to add more providers in order to lower the number of rejections. Data regarding the number of applicants rejected is illustrated in **Exhibit 8**.

Exhibit 8
Applicants Rejected by Access to Counsel in Evictions Program
Fiscal 2023 Q1 and Q2



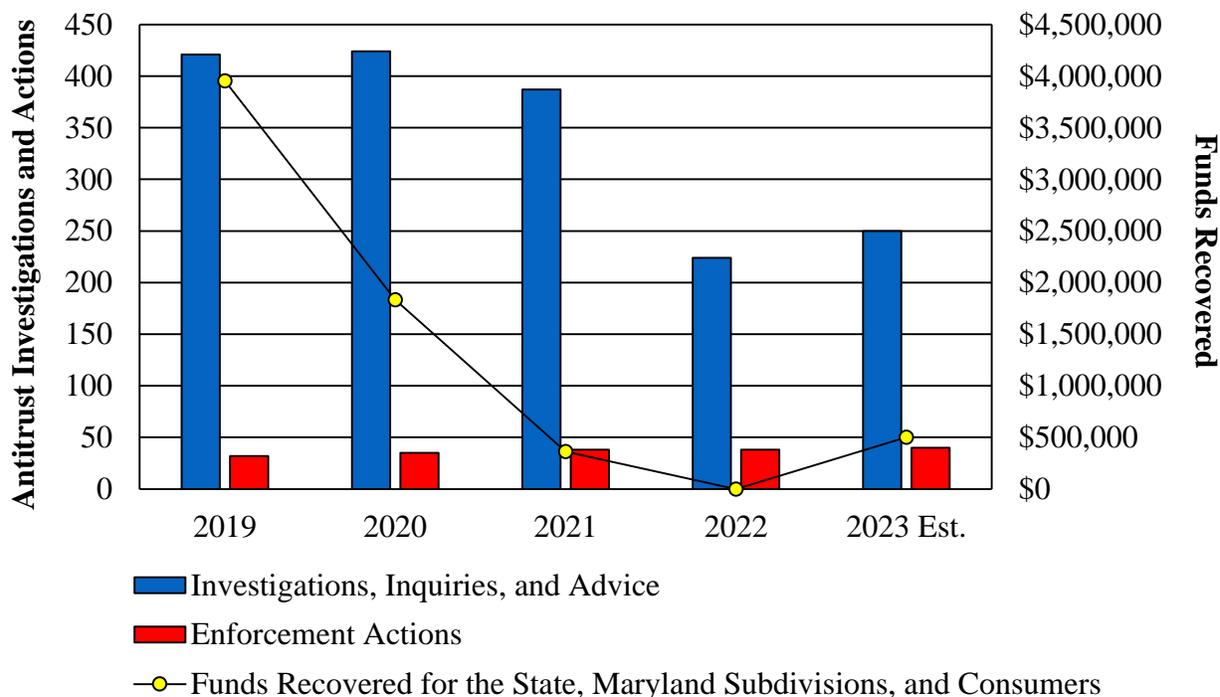
Source: Maryland Legal Services Corporation; Department of Legislative Services

As this program proceeds toward full implementation in fiscal 2025, it is expected that the program will provide access to counsel for Marylanders under the threat of eviction across the State, especially once the program has sufficient funding to provide increased access to counsel outside of areas that are statutorily required to have priority access to funding at this time. MLSC also expects to begin gathering data on the desired outcomes of tenants so that those may be compared to the outcomes of cases, in order to determine if the access to counsel is having the desired effect for tenants. **DLS recommends the adoption of committee narrative requesting quarterly reports on the implementation of the ACE program in fiscal 2024.**

3. Antitrust Division Investigations Decrease, Enforcement Actions Remain Stable

The Antitrust Division in OAG enforces the Maryland Antitrust Act to ensure that fair economic competition exists within the State. The Antitrust Division also represents the State in damage actions brought under federal and State antitrust statutes. In fiscal 2022, the Antitrust Division investigated or was involved with inquiries or advice in 224 cases, a decrease of 163 cases from the prior year. However, enforcement actions remained stable from fiscal 2021, staying at a total of 38 cases. OAG did not report any funds recovered in fiscal 2022 as a result of antitrust enforcement actions, in contrast to fiscal 2021, where \$363,117 was recovered for the State. Data showing antitrust investigations, inquiries, and advice, along with enforcement and funds recovered, may be found in **Exhibit 9**.

Exhibit 9
Antitrust Investigations and Actions
Fiscal 2019-2023 Est.



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

OAG should comment on what has caused the decrease in the number of investigations, inquiries, and advice given in cases. OAG should also comment on the lack of funds recovered in fiscal 2022.

Operating Budget Recommended Actions

1. Adopt the following narrative:

Independent Investigations Division (IID): The committees remain interested in the work of IID within the Office of the Attorney General (OAG). The committees request a report, to be submitted by October 1, 2023, detailing the work of the division during fiscal 2023. At a minimum, the report should include:

- monthly data on the number of potential investigations;
- the number of completed investigations;
- the outcomes of the investigations; and
- the average number of hours required to investigate a case or potential case.

Information Request	Author	Due Date
IID report	OAG	October 1, 2023

2. Adopt the following narrative:

Access to Counsel in Evictions (ACE) Quarterly Reports: The committees remain interested in the progress of the implementation of the ACE program. The committees request quarterly reports on the progress of the rollout of the program. The first report should be submitted no later than October 15, 2023. Each report should provide, at a minimum, the following information:

- quarterly expenditures by purpose of expense;
- the number of cases with representation by attorneys in the program;
- the amount of funds paid to attorneys per case; and
- the number of tenants rejected by the program and the reason for rejection.

Information Request	Author	Due Date
ACE quarterly reports	Maryland Legal Services	October 15, 2023
	Corporation	January 15, 2024
	Office of the Attorney	April 15, 2024
	General	July 15, 2024

Appendix 1
2022 Joint Chairmen’s Report Responses from Agency

The 2022 JCR requested that OAG prepare two reports. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***IID:*** OAG submitted a report on IID’s first year of operations in February 2023, after the due date of November 1, 2022. Further discussion of this report may be found in Key Observation 1 of this analysis.
- ***OAG Vacancy Report:*** OAG submitted a report on its vacancy data and the impact vacancies are having on the office’s operations in February 2023, after the due date of August 1, 2022. The report stated that as of July 6, 2022, OAG had 34.4 vacancies. Of these vacancies, 6 were in the newly formed IID, and they were filled by the end of August 2022. The report indicated difficulties in hiring attorneys due to a pay gap between OAG and other employers. OAG has attempted to remediate this issue by including a one grade salary increase for attorneys in the fiscal 2024 allowance.

Appendix 3
Case Management and Document Management
Major Information Technology Project
Office of the Attorney General

New/Ongoing: Ongoing								
Start Date: August 2, 2019					Est. Completion Date: End of fiscal 2024			
Implementation Strategy: Waterfall								
(\$ in Millions)	Prior Year	2023	2024	2025	2026	2027	Remainder	Total
GF	\$0.325	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.325
RF	3.500	0.000	0.525	0.000	0.000	0.000	0.000	4.025
Total	\$3.825	\$0.000	\$0.525	\$0.000	\$0.000	\$0.000	\$0.000	\$4.350

- **Project Summary:** This project is designed to replace OAG’s 15-year-old case management system (CMS) and other methods for tracking case information. The project will support the ability of OAG employees to work outside of the office and will improve productivity by integrating with other applications, removing the need to manually input data into the CMS.
- **Need:** The current CMS does not have compatibility with other applications used by OAG and does not have full usability outside of the office. Additionally, many tasks that could be automated or simplified are currently performed manually and will benefit from the new system.
- **Observations and Milestones:** The civil and criminal portions of this project are live. Consumer protection and securities implementation has been delayed, pushing the completion date beyond the original goal of June 30, 2022.
- **Concerns:** The project was originally expected to be complete by June 30, 2022. However, issues with implementation due to federal regulations and scheduling delays due to the COVID-19 pandemic, along with the unique requirements of the Consumer Protection Division and the Securities Division have pushed this date back, and OAG remains uncertain on precisely when the project will officially conclude.
- **Other Comments:** This project utilizes reimbursable funds, which are gained via services provided to other State agencies.

**Appendix 4
Object/Fund Difference Report
Office of the Attorney General**

<u>Object/Fund</u>	<u>FY 22 Actual</u>	<u>FY 23 Working Appropriation</u>	<u>FY 24 Allowance</u>	<u>FY 23 - FY 24 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	285.50	294.50	351.50	57.00	19.4%
02 Contractual	24.20	59.40	30.40	-29.00	-48.8%
Total Positions	309.70	353.90	381.90	28.00	7.9%
Objects					
01 Salaries and Wages	\$ 34,214,312	\$ 41,122,563	\$ 48,434,138	\$ 7,311,575	17.8%
02 Technical and Special Fees	1,720,312	5,052,061	2,937,083	-2,114,978	-41.9%
03 Communication	126,571	340,896	340,710	-186	-0.1%
04 Travel	96,104	125,614	123,419	-2,195	-1.7%
07 Motor Vehicles	258,544	156,425	156,425	0	0%
08 Contractual Services	2,512,291	4,512,451	4,910,140	397,689	8.8%
09 Supplies and Materials	275,349	431,577	439,077	7,500	1.7%
11 Equipment – Additional	213,855	96,201	117,201	21,000	21.8%
12 Grants, Subsidies, and Contributions	462,176	3,939,241	16,573,899	12,634,658	320.7%
13 Fixed Charges	2,803,889	2,917,706	2,989,187	71,481	2.4%
Total Objects	\$ 42,683,403	\$ 58,694,735	\$ 77,021,279	\$ 18,326,544	31.2%
Funds					
01 General Fund	\$ 22,178,994	\$ 28,964,376	\$ 31,910,758	\$ 2,946,382	10.2%
03 Special Fund	10,903,632	17,474,361	33,153,145	15,678,784	89.7%
05 Federal Fund	3,671,686	4,748,716	5,434,953	686,237	14.5%
09 Reimbursable Fund	5,929,091	7,507,282	6,522,423	-984,859	-13.1%
Total Funds	\$ 42,683,403	\$ 58,694,735	\$ 77,021,279	\$ 18,326,544	31.2%

Note: The fiscal 2023 appropriation does not include deficiencies. The fiscal 2024 allowance does not include contingent reductions or cost-of-living adjustments.