

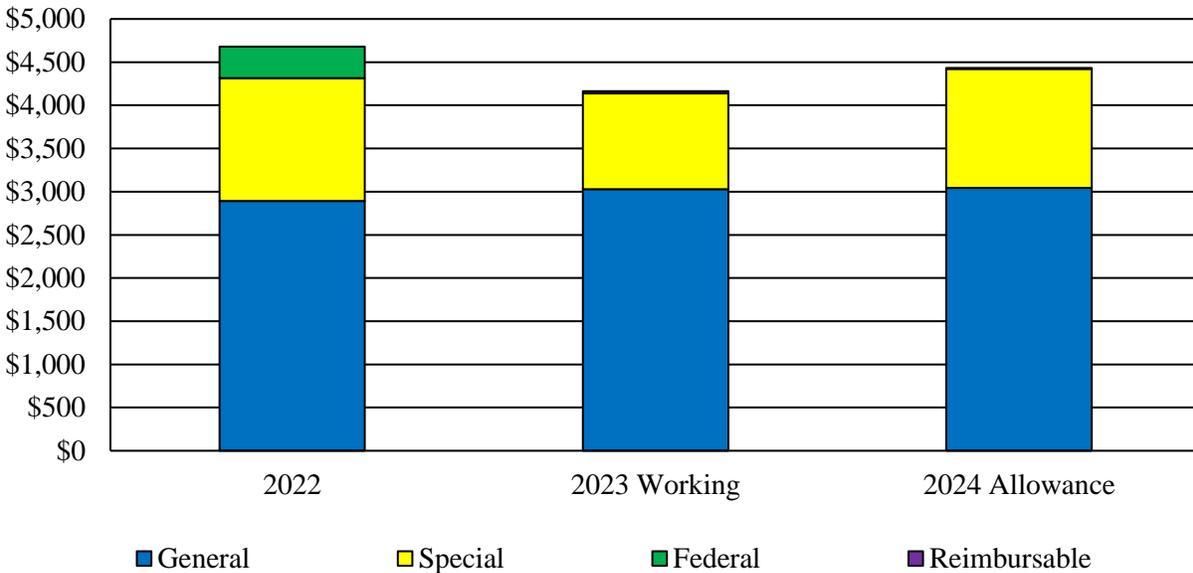
D16A06 Secretary of State

Program Description

The Secretary of State is responsible for a variety of executive functions, including attesting to the Governor’s signature on public documents such as executive orders, extraditions, and pardons, and certifying candidates for nomination to appear on the presidential primary ballot. Other duties include administering the State’s notary public laws and processing notary commissions, regulating charitable organizations, administering the Address Confidentiality Program (ACP), and publishing administrative regulations in the *Maryland Register* and the Code of Maryland Regulations.

Operating Budget Summary

Fiscal 2024 Budget Increases \$268,180, or 6.4%, to \$4.4 Million (\$ in Thousands)



Note: 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.

- The office’s special fund allowance increases by \$266,787 from fiscal 2023 to 2024 due to higher Charitable Enforcement and Protection Fund and Notary Public Fund expenditures. Most (90.5%) of the growth will fund regular and contractual personnel.

For further information contact: Madelyn C. Miller

Madelyn.Miller@mlis.state.md.us

Fiscal 2022

The office canceled \$46,706 in special funds and \$3,919 in American Rescue Plan Act (ARPA) funds in fiscal 2022. Chapter 649 of 2021 established the Notary Public Fund, distributing processing fees to the special fund rather than to the General Fund. The anticipated fee collection associated with the launch of the Notary Public Fund was overestimated for fiscal 2022, leading to the cancellation of funds.

ARPA funds in the fiscal 2022 budget replaced reimbursable funds from the Governor's Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) for the ACP; this funding was part of the enhanced public safety funding initiative. GOCPYVS previously supported the ACP using federal Victims of Crime Assistance (VOCA) funding prior to fiscal 2022. However, general funds support the ACP in fiscal 2023 and 2024 as required by language in the 2021 and 2022 enacted budgets. Two of the fiscal 2023 proposed deficiencies are to ensure the use of general funds to support the ACP.

Fiscal 2023

Proposed Deficiencies

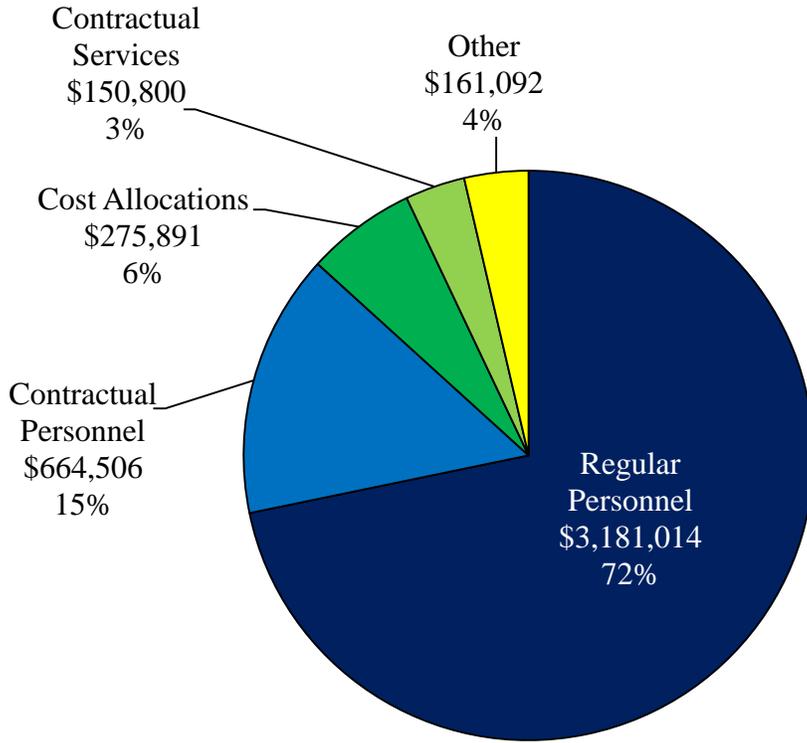
The fiscal 2024 allowance includes three proposed deficiency appropriations for the office in fiscal 2023 as follows:

- \$34,289 in general funds for a position previously supported in part by federal VOCA funding;
- \$10,205 in general funds replace an equal amount of reimbursable funds from GOCPYVS for a position formerly supported by federal VOCA funding; and
- \$320,780 in general funds replace \$320,780 in special funds as revenue from the Sales of Publications, Binders and Data Fund was lower than anticipated.

Fiscal 2024 Overview of Agency Spending

The fiscal 2024 allowance for the Secretary of State is \$4.4 million. As shown in **Exhibit 1**, the majority of the budget covers personnel costs. Regular and contractual personnel expenses combined total \$3.8 million, or approximately 86.7% of the budget. Operating expenses for the office are made up mostly of cost allocations and contractual services. The largest cost allocation, the Department of Information Technology (DoIT) shared services allocation, is \$234,127, or over 5% of the budget. Other contracts total \$150,800, or over 3% of the budget.

Exhibit 1
Overview of Agency Spending
Fiscal 2024 Allowance



Source: Governor’s Proposed Fiscal 2024 Budget

Proposed Budget Change

As shown in **Exhibit 2**, the fiscal 2024 allowance increases by \$268,180, or 6.4%, from the fiscal 2023 working appropriation. This increase is primarily caused by changes within the department’s personnel budget, which add a net of approximately \$249,000. Notable increases are additional funding provided for an administrative officer II position in the Charitable Enforcement Division and an administrative contractual position to support the agency’s workload, as well as the increased salary expenses for the Secretary of State due to Chapter 616 of 2022. In addition to increases for positions, the budget also grows for information technology (IT) products and services (\$33,000) as well as for postage (\$15,000). Increases to the budget are offset by lower travel and vehicle costs (-\$20,000) and equipment and office supplies (-\$10,000).

**Exhibit 2
Proposed Budget
Secretary of State
(\$ in Thousands)**

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2022 Actual	\$2,893	\$1,423	\$362	\$0	\$4,678
Fiscal 2023 Working Appropriation	3,028	1,110	0	28	4,165
Fiscal 2024 Allowance	<u>3,045</u>	<u>1,376</u>	<u>0</u>	<u>12</u>	<u>4,433</u>
Fiscal 2023-2024 Amount Change	\$17	\$267	\$0	-\$16	\$268
Fiscal 2023-2024 Percent Change	0.6%	24.0%	n/a	-56.1%	6.4%

Where It Goes:	<u>Change</u>
Personnel Expenses	
Miscellaneous and other fringe benefit adjustments	\$195
Employee and retiree health insurance.....	65
New administrative officer II position in the Charitable Enforcement Division	64
Annualization of November 2022 4.5% COLA.....	34
Regular earnings.....	25
Turnover adjustments.....	-182
Other Changes	
Contractual position changes, including a net increase of 1 position and the annualization of 4.5% COLA	47
Software, licenses and maintenance, and DoIT services allocation.....	33
Postage	15
Other.....	1
Equipment and office supplies	-10
Travel and vehicle costs	-20
Total	\$268

COLA: cost-of-living adjustment
DoIT: Department of Information Technology

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

Information Technology Spending Is Critical to the Office’s Duties

Funding for IT products and services increases by approximately \$33,000 between fiscal 2023 and 2024 for an allowance of \$303,000. This funding is for IT support and maintenance costs as several projects become functional, including the online notary application process and database, the online charities database, and the replacement of the Electronic Filing System (ELF).

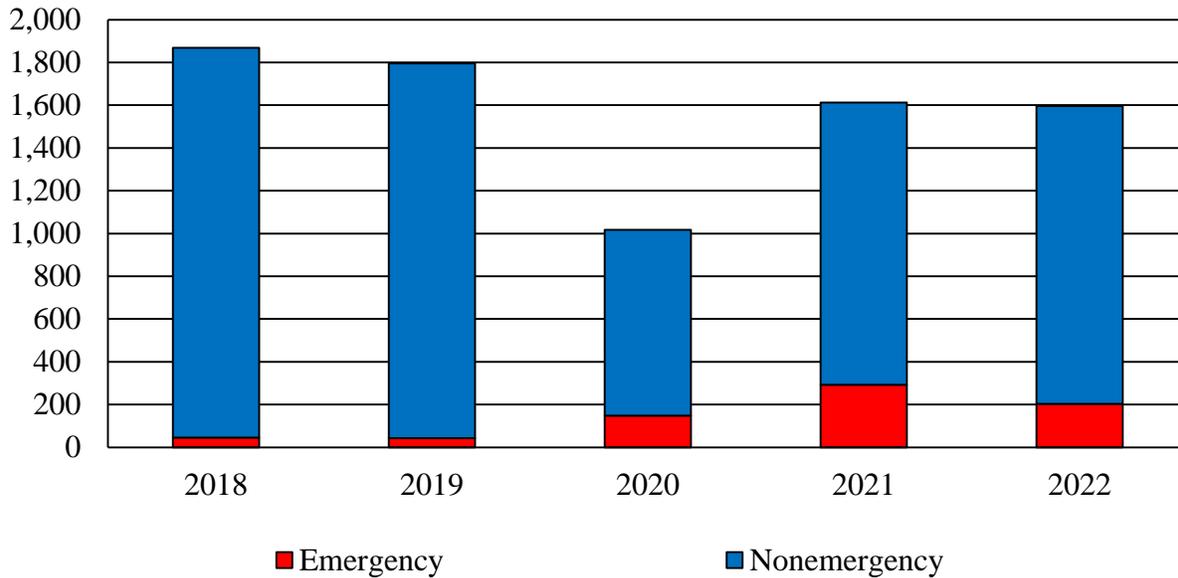
Replacement of the notary application process and database was required to handle the new applications necessary to meet the requirements for electronic and remote notarization set by Chapter 407 of 2019 and Chapter 157 of 2020. Funding for replacement was originally budgeted for fiscal 2021 but was deferred to fiscal 2022 as part of cost containment actions. As of January 2022, all the office’s notary applications were being processed online. The office reports that the development of the notary database is in progress and the system is currently in a testing phase. The fiscal 2024 budget includes some funding for the addition of software license costs.

Replacement of the charities database, which was completed in August 2022, helped to resolve two findings of an Office of Legislative Audits (OLA) audit published on June 1, 2022. The list of three findings, two of which were repeat, can be found in **Appendix 1**. The office reports that all findings have been resolved.

Administrative, Executive and Legislative Review Process

The fiscal 2024 allowance includes funding for operations and maintenance of the new ELF, a system which is critical to the Administrative, Executive and Legislative Review (AELR) regulation promulgation process. ELF, the online interface that agencies use to electronically file regulations, is located within the office’s Division of State Documents (DSD). Agencies submit proposed regulations, including emergency regulations, to DSD via ELF, and proposed regulations are reviewed by the Joint Committee on Administrative, Executive, and Legislative Review (AELR committee) prior to their publication in the *Maryland Register*. The various statutory review functions are described in §2-506(b) of the State Government Article. **Exhibit 3** provides the number of proposed regulations and emergency regulations submitted to DSD via ELF since 2018.

Exhibit 3
Regulations Submitted to the Division of State Documents
Calendar 2018-2022

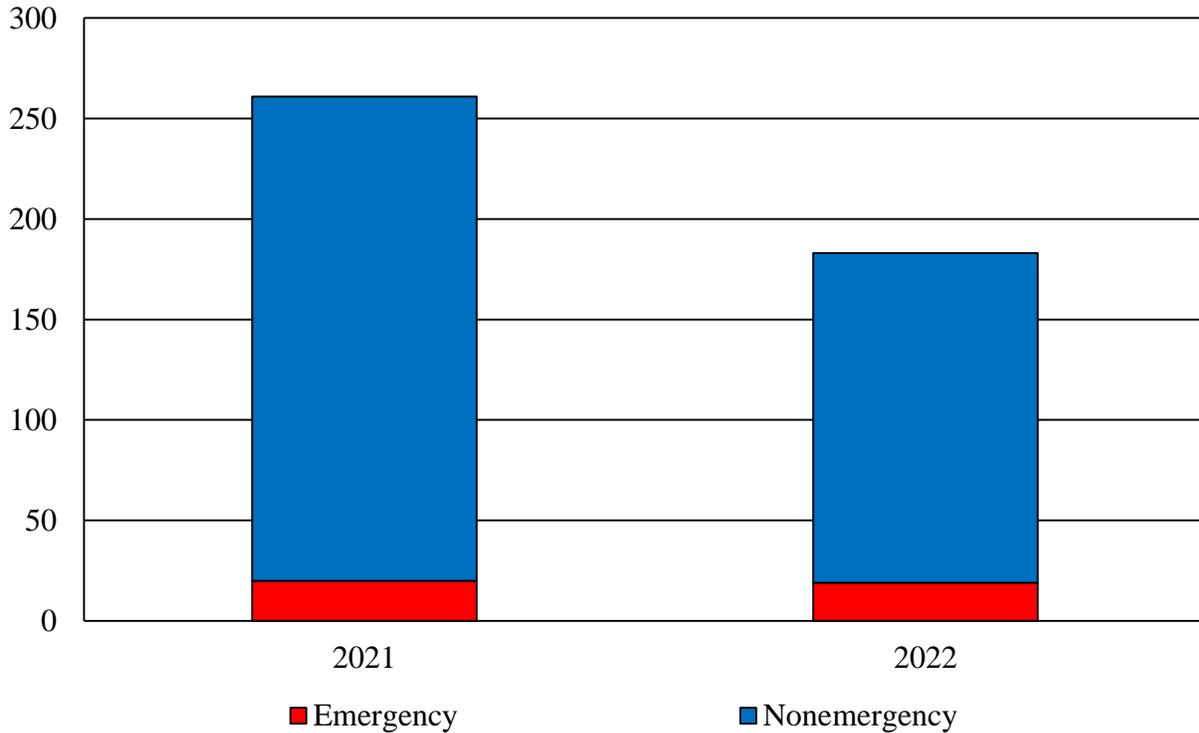


Source: Office of the Secretary of State

DSD received money in fiscal 2022 to replace the legacy system and the initial timeline estimated the system to be operational by the end of January 2022. This end date was pushed back to September 2022 and eventually to November 2022. ELF went offline in early September due to the system upgrade, and DSD initially asked that agencies refrain from submitting regulations from September 2 to September 19, 2022, to facilitate the transition. Between September and November, DSD staff and AELR committee counsel from the Department of Legislative Services worked with agencies to create a temporary system of emailing regulations. In its 2022 interim report to the Legislative Policy Committee, the AELR committee noted “there was significant miscommunication and substantial delays during this time period.” The office reports that agencies and other users of ELF were able to gain access on November 18, 2022.

Though ELF went back online in November, the overall number of proposed regulations and emergency regulations that AELR had received was much lower in calendar 2022 than in 2021. **Exhibit 4** shows the difference compared to 2021, when the legacy ELF system was in use, and as of December 13, 2022, functionality issues also persist. It was not until January 2023 that AELR committee counsel got the first notification from the new ELF system. Agencies are also continuing to have difficulties, for example, when submitting extension requests for emergency regulations, and there is already a nonemergency regulation effective date in place.

Exhibit 4
Proposed Regulations Received by AELR
Calendar 2021-2022



AELR: Administrative, Executive and Legislative Review

Source: Joint Committee on Administrative, Executive, and Legislative Review

The office reports that DSD, DoIT, and the company working to create the new ELF have developed a prioritized list of issues to be fixed in the ELF system. Twice per week phone calls have been scheduled through the beginning of April to ensure these fixes occur. Finally, additional costs for improving the system will not be borne by DSD.

The office should comment on the ongoing issues with upgrading ELF, when it expects the list of issues to be resolved, and provide any additional costs that may be needed to modify the system.

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	24.00	24.00	25.00	1.00
Contractual FTEs	<u>10.50</u>	<u>8.50</u>	<u>9.50</u>	<u>1.00</u>
Total Personnel	34.50	32.50	34.50	2.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	1.78	7.42%
Positions and Percentage Vacant as of 12/31/22	n/a	n/a
Vacancies Below Turnover	1.78	

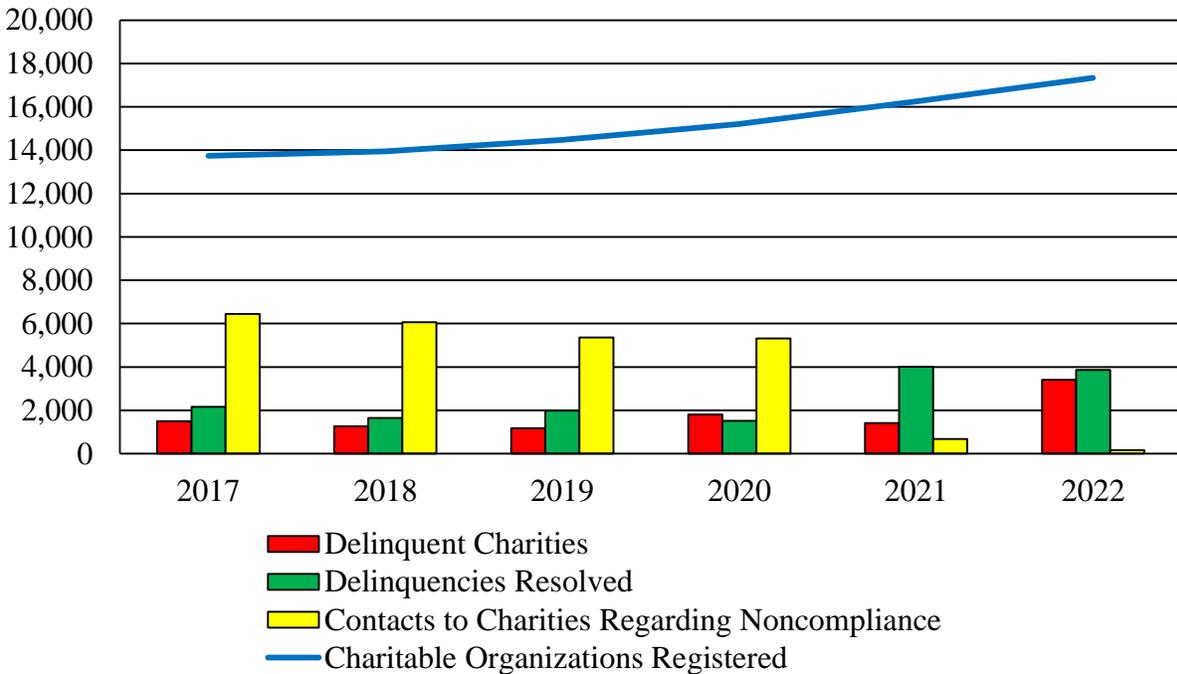
- The fiscal 2024 allowance includes the addition of 1 administrator officer II position in the Charitable Enforcement Division.

Key Observations

1. Charitable Organizations

The Secretary of State’s Charitable Enforcement Division is responsible for annually registering, regulating, and renewing registrations of charitable organizations in Maryland. This includes the review of a charitable organization’s financial and governing documents as well as the review of all fundraising contracts. The number of registered charities has continued to trend upward since fiscal 2017, reaching 17,335 organizations in fiscal 2022. The number of delinquent charities, however, has also increased 126% during the same time period. **Exhibit 5** shows these trends as well as the number of enforcement activities regarding delinquent charities and the total number of delinquencies resolved among charitable organizations.

Exhibit 5
Charitable Organizations Registered and Delinquencies
Fiscal 2017-2022



Source: Office of the Secretary of State

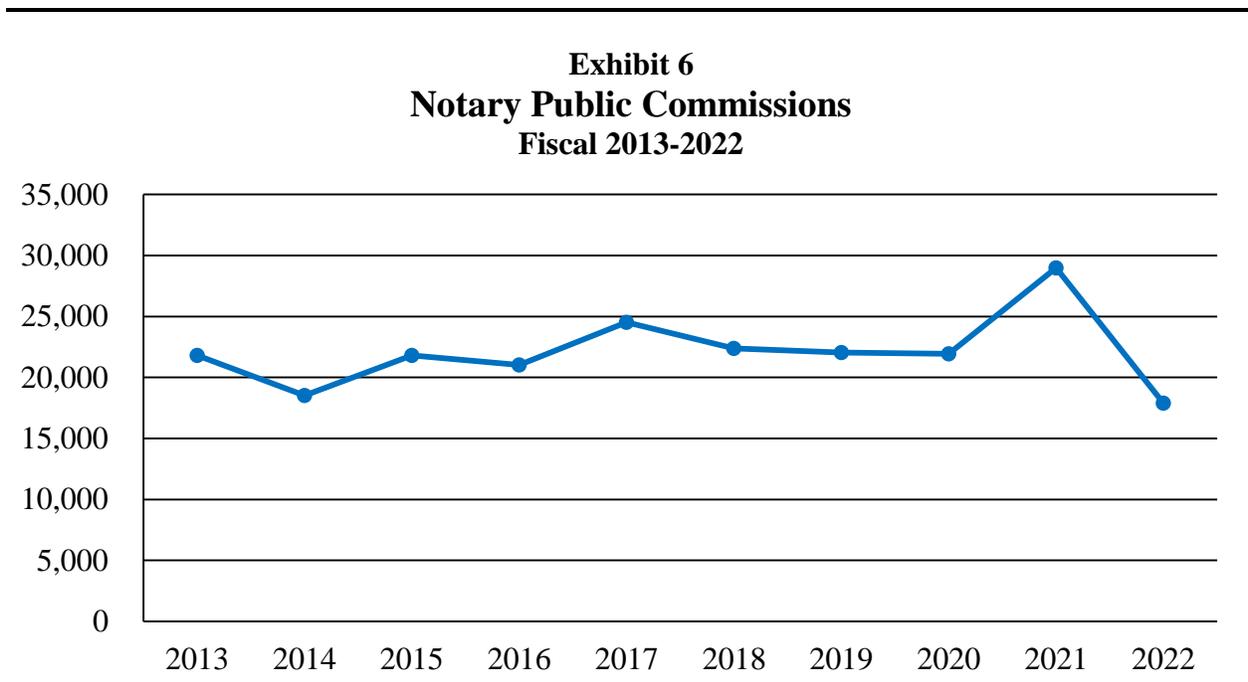
The number of delinquent charities rose in fiscal 2022 to 3,409 following the end of an executive order on licenses and registrations expiring during Governor Lawrence J. Hogan Jr.’s declared state of emergency and catastrophic health emergency. The number of delinquencies

resolved also rose in fiscal 2022, and the office was able to respond to 23,675 requests for information about charity registration status. Though additional delinquencies were resolved, enforcement activities continued to fall in fiscal 2022 to 162. The office reports that the decreased enforcement actions taken in fiscal 2021 and 2022 were the result of a temporary shift in priorities toward processing charitable applications and by position vacancies.

The agency should comment on how the enforcement activities of the division have been impacted by the database replacement and how the agency resolved the related findings identified by the OLA audit.

2. Notary Public Commissions

The Charities and Legal Services Division is also responsible for processing applications and regulating and renewing commissions for notaries public in Maryland. As shown in **Exhibit 6**, the number of notary public commissions processed in fiscal 2022 was 17,890, a 38.3% decrease from fiscal 2021. Notary commissions are valid for a period of four years from the date that the commission is issued. The figure was inflated in fiscal 2021 in part due to the end of Governor Hogan’s declared state of emergency and catastrophic health emergency. Additionally, beginning in January 2022, all applications are processed virtually, and changes to the application process may have encouraged some applicants to get commissions processed early. There are approximately 91,000 notaries currently serving statewide.



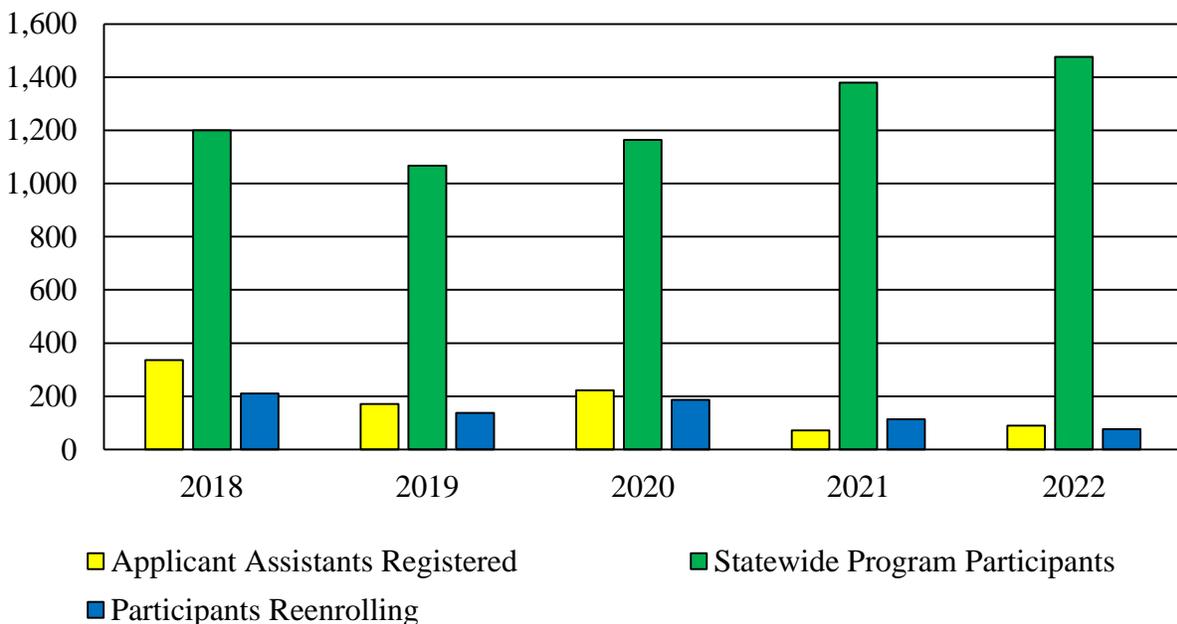
Source: Office of the Secretary of State

3. Address Confidentiality Program

The Office of the Secretary of State is responsible for operating the Maryland Safe at Home ACP that was established by Chapters 374 and 375 of 2006 to serve survivors of domestic abuse by rerouting their mail so that their address can remain confidential. Chapters 423 and 424 of 2018 enabled, under certain circumstances, ACP participants to also request the shielding of real property records. ACP eligibility was expanded by Chapter 124 of 2021 to include survivors of threatened, attempted, or actual domestic violence; sexual assault; stalking; harassment; or human trafficking as well as individuals who reside in the same household as an eligible applicant or program participant.

Exhibit 7 shows the number of program participants, the number of participants reenrolling, and the number of application assistants registered (individuals trained to assist potential participants in enrolling). The number of participants statewide increased in fiscal 2022 to 1,476 individuals. There were 13 new participants in fiscal 2022 because of the expanded eligibility. The number of participants reenrolling fell to 77. Both the number of participants and the number of participants reenrolling tend to fluctuate from year to year. The number of applicant assistants registered was 90 in fiscal 2022.

Exhibit 7
Address Confidentiality Program Participation
Fiscal 2018-2022



Source: Office of the Secretary of State

Operating Budget Recommended Actions

1. Concur with Governor's allowance.

**Appendix 1
Audit Findings**

Audit Period for Last Audit:	December 5, 2017 – November 15, 2021
Issue Date:	June 2022
Number of Findings:	3
Number of Repeat Findings:	2
% of Repeat Findings:	67.7%
Rating: (if applicable)	n/a

Finding 1: The Office of the Secretary of State did not conduct independent reviews since August 2020 to ensure that critical data obtained from charitable organizations was accurately recorded and that these organizations submitted the proper amount of fees.

Finding 2: The office did not investigate charitable organizations that failed to comply with the annual registration requirements of State law. In addition, the office did not monitor related fees incurred by delinquent organizations and refer accounts to the State’s Central Collection Unit.

Finding 3: Adequate controls were not established over cash receipts.

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

**Appendix 2
Object/Fund Difference Report
Secretary of State**

<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	24.00	24.00	25.00	1.00	4.2%
02 Contractual	10.50	8.50	9.50	1.00	11.8%
Total Positions	34.50	32.50	34.50	2.00	6.2%
Objects					
01 Salaries and Wages	\$ 2,781,717	\$ 2,876,343	\$ 3,181,014	\$ 304,671	10.6%
02 Technical and Special Fees	565,855	602,534	664,506	61,972	10.3%
03 Communication	73,637	50,574	64,322	13,748	27.2%
04 Travel	13,131	39,621	24,490	-15,131	-38.2%
07 Motor Vehicles	4,114	6,740	3,640	-3,100	-46.0%
08 Contractual Services	1,172,130	397,179	426,691	29,512	7.4%
09 Supplies and Materials	32,548	44,641	36,478	-8,163	-18.3%
10 Equipment – Replacement	780	5,445	3,976	-1,469	-27.0%
11 Equipment – Additional	7,357	1,000	1,000	0	0%
13 Fixed Charges	26,902	23,203	27,186	3,983	17.2%
Total Objects	\$ 4,678,171	\$ 4,047,280	\$ 4,433,303	\$ 386,023	9.5%
Funds					
01 General Fund	\$ 2,893,089	\$ 2,611,820	\$ 3,044,790	\$ 432,970	16.6%
03 Special Fund	1,423,354	1,397,460	1,376,309	-21,151	-1.5%
05 Federal Fund	361,728	0	0	0	0.0%
09 Reimbursable Fund	0	38,000	12,204	-25,796	-67.9%
Total Funds	\$ 4,678,171	\$ 4,047,280	\$ 4,433,303	\$ 386,023	9.5%

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