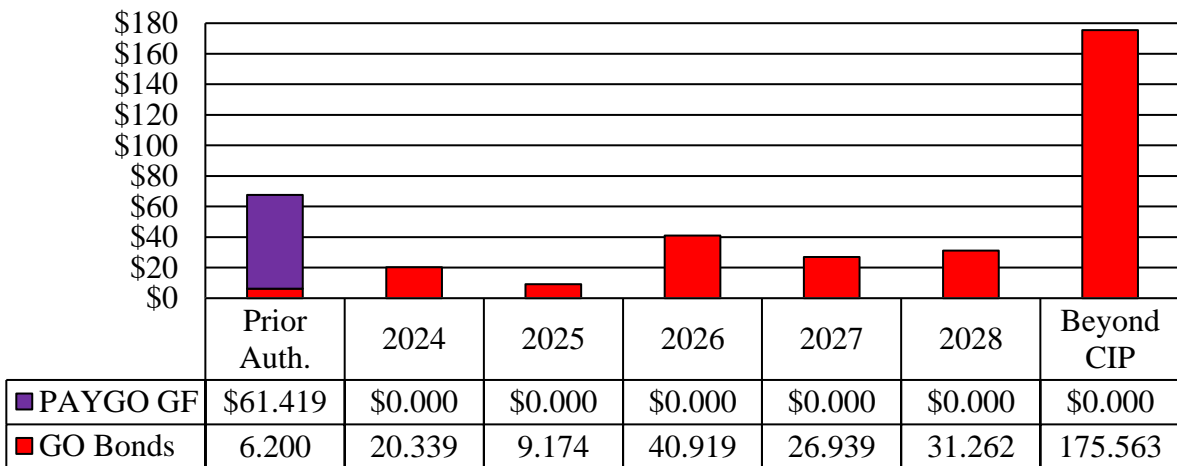
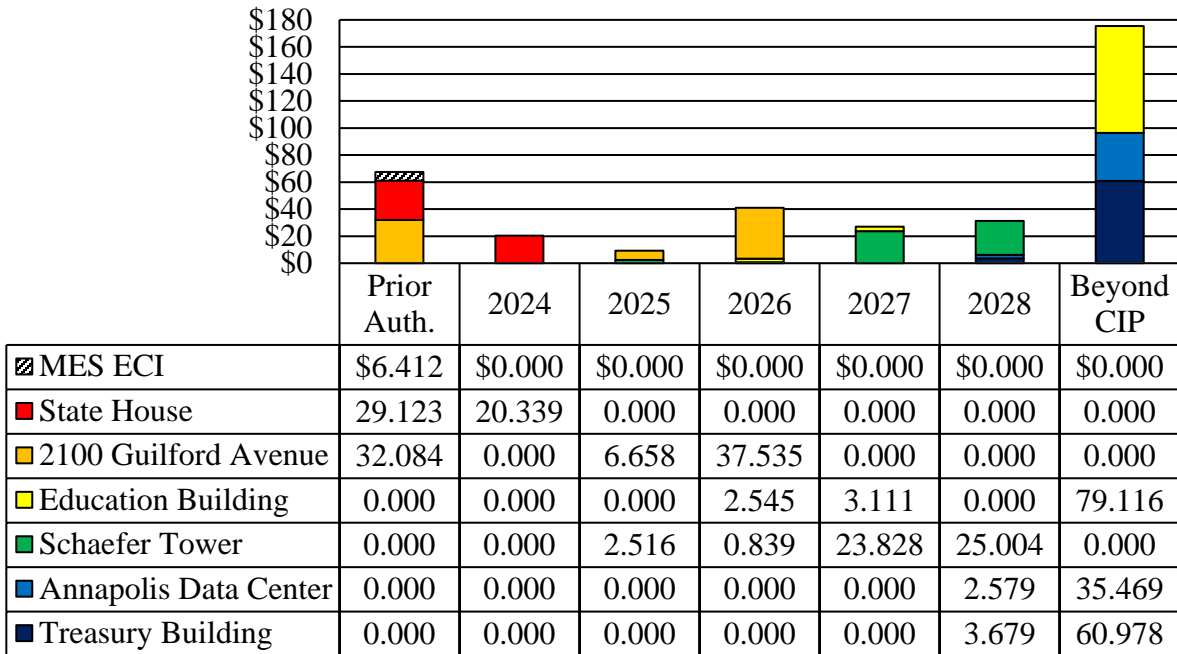


DE0201
Board of Public Works – Capital

Capital Budget Summary

State-owned Capital Improvement Program
(\$ in Millions)



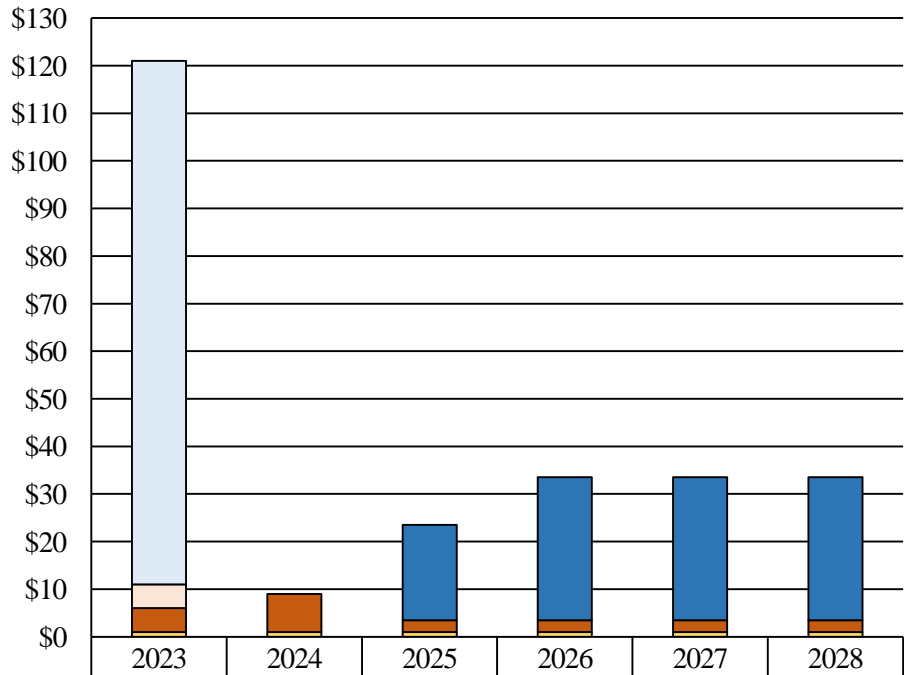
CIP: Capital Improvement Program
ECI: Eastern Correctional Institution
GF: general funds

GO: general obligation
MES: Maryland Environmental Service
PAYGO: pay-as-you-go

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**Statewide and Regional Programs Capital Improvement Program
(\$ in Millions)**



	2023	2024	2025	2026	2027	2028
□ Facilities Renewal – PAYGO GF	\$110.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000
■ Facilities Renewal – GO Bonds	0.000	0.000	20.000	30.000	30.000	30.000
□ CCF – PAYGO GF	5.000	0.000	0.000	0.000	0.000	0.000
■ CCF – GO Bonds	5.000	8.000	2.500	2.500	2.500	2.500
■ Fuel Tank Replacement – GO Bonds	1.000	1.000	1.000	1.000	1.000	1.000

CCF: Construction Contingency Fund
GF: general funds

GO: general obligation
PAYGO: Pay-as-you-go

Key Observations

- Facility Renewal Funding Paused for a Year:** There is no fiscal 2024 funding for facility renewal. The Department of General Services (DGS) expects to expend \$30 million in fiscal 2023, leaving \$80 million of fiscal 2023 funding available to spend in fiscal 2024.
- Delays and Higher Costs for the Renovation on 2100 Guilford Avenue:** The 2022 Capital Improvement Program (CIP) had construction funding in fiscal 2023 and 2024. The 2023 CIP delays construction funding to fiscal 2025 and 2026. This leaves DGS as the only agency in State Center from the end of 2024 until this project is completed. Costs have increased by \$23.8 million and now total \$76.3 million.

PAYGO Recommended Actions

- 1. Concur with Governor’s allowance.

GO Bond Recommended Actions

- 1. Amend Construction Contingency Fund Annual Reporting Requirement

ZF6200 Section 16 – Construction Contingency Fund \$ 0

Add the following language:

Article – State Finance and Procurement

.....
3–609.

- (a) There is a Construction Contingency Fund.
- (b) The Fund is a continuing, nonlapsing, revolving fund that consists of:
 - (1) money appropriated to the Fund:
 - (i) in the annual budget; or
 - (ii) in an annual General Construction Loan Act or in a Maryland Consolidated Capital Bond Loan Act; or
 - (2) unspent proceeds of an enabling act allocated to the Fund by the Governor under § 8–129 of this article; or
 - (3) the amount of an appropriation in an annual General Construction Loan Act or in a Maryland Consolidated Capital Bond Loan Act that is in excess of the amount needed for a project included in the Act and that is allocated to the Fund by the Governor.

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- (h) [By January 1] WITHIN ONE MONTH AFTER THE END of each year, the Secretaries of Budget and Management and General Services shall submit a report ON ACTIVITY FROM JANUARY 1 THROUGH DECEMBER 31 OF THAT YEAR, subject to § 2-1257 of the State Government Article, to the General Assembly on the money:
 - (1) appropriated to the Fund;
 - (2) authorized for expenditure from the Fund; and
 - (3) expended from the Fund.
- (i) Money in the Fund shall be deposited with the State Treasurer.

.....
Explanation: This amends Section 3-609 of the State Finance and Procurement Article to change the annual reporting date requirement for the Construction Contingency Fund.

Updates

- ***Funding Deauthorization for Harriet Tubman and Frederick Douglass Statues:*** The capital budget bill proposes to deauthorize \$266,724 from a 2018 session \$500,000 general obligation (GO) bond authorization for the commissioning of the Harriet Tubman and Frederick Douglass statues. The Department of Budget and Management (DBM) advises that these funds are no longer needed to complete the work.

Summary of Fiscal 2024 Funded State-owned Projects

Eastern Correctional Institution Cogeneration Facility

The operating budget bill includes a \$6,412,424 general fund pay-as-you-go (PAYGO) capital deficiency appropriation in DGS’ Statewide Capital Appropriation to support the Maryland Environmental Service’s (MES) fuel conversion project at the Eastern Correctional Institution Cogeneration facility. Since MES is a nonbudgeted agency, the funds are budgeted within DGS. There is a detailed discussion of this project in the capital budget analysis for MES – UB00.

State House Exterior and Ground Renovation

Project Summary: This project restores the exterior and grounds of the Maryland State House and Old Treasury buildings in the Annapolis State Government Complex. This includes the north front portico and columns, dome and lantern, building envelope, roof, soffits, south front portico, north front accessible entrance, Old Treasury Building, and brick perimeter walls and sidewalks. The need for this project was discovered during cleaning of black carbon and biofilm from the State House exterior, a process that exposed significant structural issues, including large cracks in the brickwork.

New/Ongoing: Ongoing	
Start Date: November 2021	Est. Completion Date: June 2024

Fund Sources:								
(\$ in Millions)	Prior Auth.	2024	2025	2026	2027	2028	Beyond CIP	Total
GO Bonds	\$3.000	\$20.339	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$23.339
GF	26.123	0.000	0.000	0.000	0.000	0.000	0.000	26.123
Total	\$29.123	\$20.339	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$49.462

Fund Uses:								
(\$ in Millions)	Prior Auth.	2024	2025	2026	2027	2028	Beyond CIP	Total
Planning	\$6.373	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$6.373
Construction	22.750	20.339	0.000	0.000	0.000	0.000	0.000	43.089
Total	\$29.123	\$20.339	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$49.462

- **Need:** The State House’s earliest sections were completed in 1779, and the dome was completed in 1788. Initially, the project was to clean the exterior, but DGS recognized that major renovations, including addressing structural issues, were needed, so the scope was increased. To restore the building as it was built, historically appropriate designs and materials, with the guidance of the Maryland Historical Trust, are used.
- **Project Status and Schedule:** Design began in November 2021 and is expected to be completed by March 2023. Construction is scheduled for completion in June 2024.
- **Changes:** In January 2022, construction was scheduled to end in August 2024. The earlier completion date is attributable to a shorter construction period. Last year’s CIP programmed \$12.802 million for fiscal 2024, but the current estimate now puts that figure at \$20.339 million to complete this project. The increase is largely attributable to (1) higher square foot construction costs, especially for the Old Treasury Building; (2) higher construction manager preconstruction fees; and (3) higher contingencies due to higher

costs, as the rate remains 10% through the construction phase rather than the customary 5%. The estimated project cost increased from a very preliminary predesign estimate of \$33.147 million in the 2021 session to the current \$49.462 million estimate. The Department of Legislative Services (DLS) notes that the current estimate is still only based on the schematic design phase estimate and that a more reliable 100% construction document estimate should be forthcoming soon. DLS recommends that DGS update the cost estimate before funding decisions are made in the 2023 session to ensure the proper level of funding is provided to award a construction contract as scheduled. If the budget proves to be insufficient, this could result in an immediate request to draw funds from the Construction Contingency Fund (CCF).

Planned Out-year Authorizations for State Facilities in the CIP

The fiscal 2024 capital budget fully funds the State House renovation as currently estimated. The CIP proposes out-year authorizations to (1) complete the renovation at 2100 Guilford Avenue in Baltimore City; (2) begin planning at the Louis L. Goldstein Treasury Building at 80 Calvert Street in Annapolis; and (3) begin planning at the Education Building at 200 West Baltimore Street in Baltimore City. Added to the CIP are two new projects, the William Donald Schaefer Tower at 6 Saint Paul Street in Baltimore City and the Annapolis Data Center (ADC) at 108 Carroll Street in Annapolis. DLS has the following concerns about the projects receiving out-year funding in the CIP:

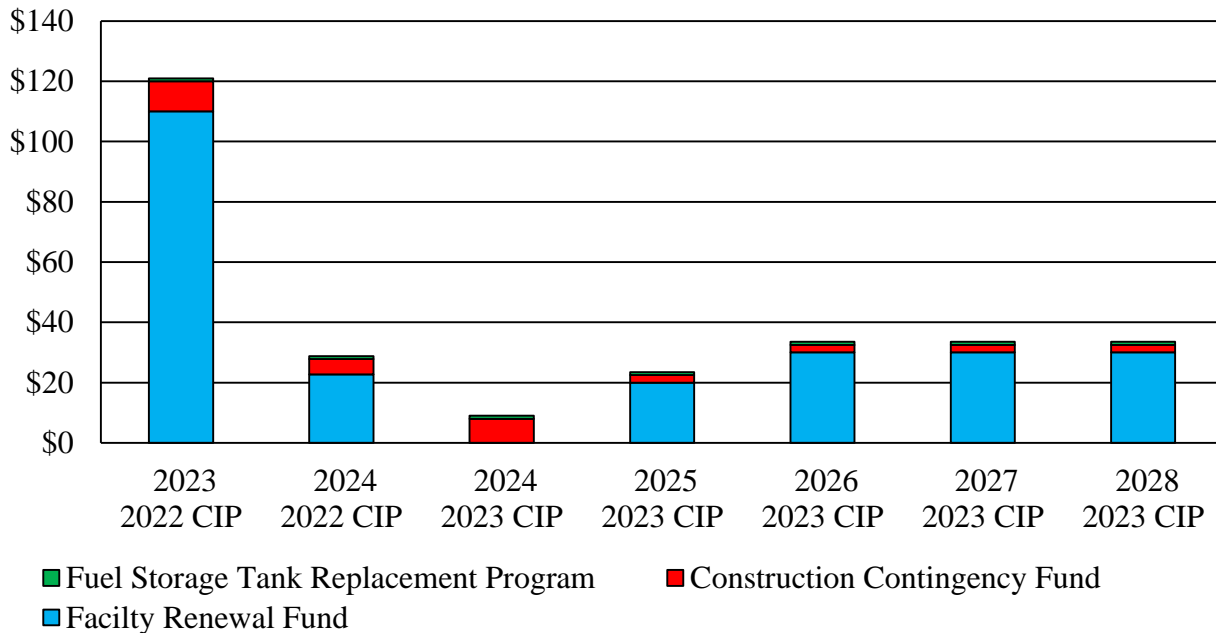
- DGS central operations are currently located in State Center, which is in the process of being vacated as the State divests from the complex. The plan is for DGS to move into Guilford Avenue when its renovation is complete. The project on Guilford Avenue receives most of its construction funding in fiscal 2026, which suggests that the earliest that the project will be ready to be occupied is when these funds become available in June 2025. Most agencies are leaving State Center in calendar 2023, with some leaving in calendar 2024. DGS will be the only tenant in State Center after calendar 2024. Costs for this project also increased by \$23.8 million, from \$52.5 million in January 2022 to \$76.3 million in January 2023. **DGS should be prepared to brief the committees on the schedule, cost, and impact on the divestment from State Center.**
- The CIP suggests that both the Goldstein Treasury Building and ADC will be renovated at the same time. The Treasury Building was delayed, and the data center was added to the CIP so that the initial planning for both is in fiscal 2028. There is not a lot of excess office space in Annapolis, so renovating one building could pose operational challenges. How will agencies in the Treasury Building and the adjacent ADC find office space in Annapolis if both buildings are renovated concurrently? **DGS should be prepared to brief the committees on how these projects will be scheduled and the potential operational challenges and cost implications.**

Budget Overview of Statewide and Regional Programs

DGS administers two statewide funds, the Facility Renewal Fund and the CCF, and a regional program, the Fuel Storage Tank System Replacement Program.

Exhibit 1 shows that proposed fiscal 2024 authorizations total \$9 million, which is \$20 million less than what was programmed in the 2022 CIP. There are no fiscal 2024 authorizations for the facility renewal program, although \$23 million was planned in the 2022 CIP. The program received \$110 million of PAYGO general funds budgeted in the Dedicated Purpose Account (DPA) in fiscal 2023 and, as of the date of this analysis, none of the funds have been moved out of the DPA and made available for expenditure. DGS advises, however, that it anticipates spending \$30 million in fiscal 2023, leaving \$80 million unspent at the end of fiscal 2023. This forms the basis for the lack of fiscal 2024 funding for the facility renewal program. Increasing project costs suggest that it is prudent to increase funding into the CCF as proposed.

Exhibit 1
Comparison of GO Bond Authorizations in 2022 and 2023 CIP
Fiscal 2023-2028
(\$ in Millions)



CIP: *Capital Improvement Program*
 GO: *general obligation*

Source: Department of Budget and Management

Construction Contingency Fund

Program Description: The CCF supplements funding if bids exceed the authorized funds, conducts value engineering, and covers change orders during the construction period of a project. To access the fund, DGS must provide written notice to the budget committees. The budget committees have 45 days to review and comment on the request. After legislative review, proposed transfers from the fund must be approved by the Board of Public Works (BPW). The CCF is a continuing, nonlapsing fund that receives funding from a GO bond authorization or appropriation, unspent proceeds of an enabling act (such as unspent PAYGO funds appropriated in the operating budget), or unspent GO bond authorizations. Unspent GO bond authorizations that exceed \$100,000 are usually deauthorized in a capital budget bill and not made available to the fund.

- **Changes:** Construction inflation has been higher than the inflationary increases that DBM included in its project estimates. So that additional funds are available in case bids are higher than projected, the proposed fiscal 2024 authorization has been increased to \$8.0 million, which is \$3.0 million more than the amount planned in the 2022 CIP.
- **Other Comments:** Including the \$8.0 million budgeted for fiscal 2024, the CCF is projected to have a fund balance of \$20.0 million as of June 1, 2024. Section 3-609(c) of the State Finance and Procurement Article limits the CCF balance to no more than 1.25% of the limit recommended by the Capital Debt Affordability Committee, which caps the balance at \$7.5 million for fiscal 2024. Language attached to the fiscal 2024 authorization would allow the balance to exceed the statutory cap on the fund without amending the statute. Similar language was attached to the fiscal 2023 authorization.

Fuel Storage Tank Replacement Program

Program Description: The Fuel Storage Tank Replacement Program provides funds to remove, replace, or upgrade State-owned fuel storage tanks. This program is primarily designed to correct gasoline fuel storage tank deficiencies at Department of State Police barracks and other specified fueling facilities throughout the State. A significant number of existing underground gasoline fuel storage tanks at these locations have reached or are nearing the end of their useful lives, which is estimated to be 30 years. The fuel storage tanks will be replaced or upgraded to eliminate or prevent leakage problems and related soil contamination. Fuel leaks can contaminate groundwater and cause other environmental damage. Leaking tanks may also subject the State to regulatory penalties.

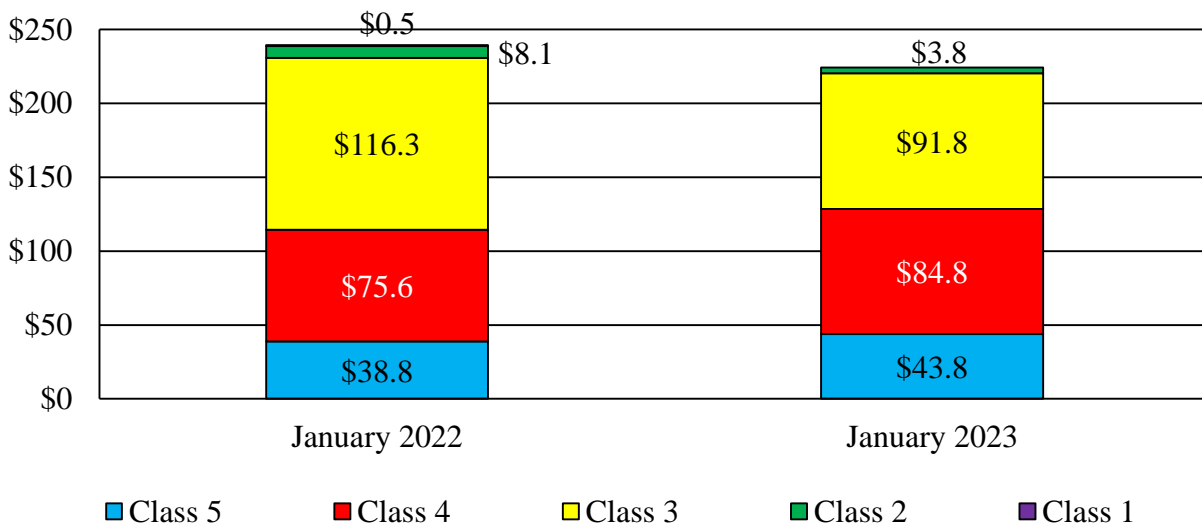
- **Projects Selected:** The fiscal 2024 authorization funds the McHenry Barrack in Garrett County and the Westminster Barrack in Carroll County. These are the highest remaining priorities. DBM projects that these funds are sufficient to fund all costs associated with these projects.

Facility Renewal Fund

Program Description: Pursuant to §§ 4-407 and 4-408 of the State Finance and Procurement Article, DGS is required to establish and supervise a comprehensive and continuing program of maintenance and repair of all public improvements. DGS’ maintenance of State facilities includes both critical maintenance, funded through the operating budget, and facilities renewal, funded through the capital budget. Issues related to operating critical maintenance, staffing, and information technology systems are discussed in DGS’ operating budget analysis. Maintenance projects are rated in five categories, with the highest priority being 1, specifically (1) serious prolonged impact on facility mission such as high risk of litigation, cessation of services, or reduction of mandated services; (2) system or unit is prematurely deteriorating or causes the premature deterioration of a related asset; (3) end of life expectancy; (4) restore to original design effectiveness; and (5) system improvements or redesign.

- Performance Measures:** Exhibit 2 shows that the facility renewal backlog declined from \$239 million to \$224 million over the last year. The backlog in the three highest priority categories declined from \$125 million to \$96 million. DGS advises that the increases in the lower priority categories are attributable to the Building Assessment Unit’s ability to better identify maintenance needs.

Exhibit 2
Capital Facility Renewal Backlog Projects by Priority Categories
January 2022 and January 2023
(\$ in Millions)



Source: Department of General Services

- **Concerns:** DGS advises that the facility renewal program expended \$20 million to \$25 million annually from fiscal 2018 to 2022. DGS anticipates spending \$30 million in fiscal 2023 and increasing this to \$35 million in fiscal 2024 and \$40 million in fiscal 2025. Spending in both years is less than the \$80 million available from fiscal 2023 appropriations. While these increases are substantial, it is well below what is needed when there is a \$224 million backlog and additional projects are added each year.
- **Other Comments:** On February 15, 2023, BPW approved a \$10 million contract (\$5 million base for five years and \$5 million five-year renewal) for a job order contracting procurement. This is a project delivery method used to get numerous, commonly encountered construction projects done quickly and easily through multi-year contracts for a wide variety of renovation, repair, and minor construction projects. It is regularly used to clear deferred maintenance backlogs, perform rapid response recurring project needs, and construct renovation projects. Individual contracts are competitively bid, fixed-price, multi-year construction contracts based on established or published unit prices via a unit price book or a price list with a multiplier, termed as a termed coefficient, applied to the unit prices. The intent is that this procurement enhances the amount of maintenance work that is done annually. **DGS should be prepared to brief the committees on its efforts to increase its annual facility renewal encumbrances and expenditures, including the perceived benefits and impact of the recently approved job ordering contract.**

Issues

1. Change of Due Date for Annual Construction Contingency Fund Activity Report Recommended

Section 3-609 (h) of the State Finance and Procurement Article requires that by January 1 of each year, the Secretary of Budget and Management and the Secretary of General Services shall submit a report on activity in the CCF. The calendar 2022 report was submitted on December 17, 2022. Each report is based on the fund balance at the end of November of that calendar year. DLS noted that the end of calendar 2021, fund balance was approximately \$286,000 more in the 2022 report than shown in the 2021 report. This was because there was a transaction in December 2021 that was not reported. Upon further review, DLS found that similar end-of-year transactions do occur occasionally. **So that each end-of-year report reflects all annual activity, DLS recommends that § 3-609(h) of the State Finance and Procurement Article be amended so that the annual CCF report is submitted by January 31 and that the report cover activity for the previous calendar year.**