Department of Budget and Management
Personnel
Fiscal Year 2005 Operating Budget

Senate Budget & Taxation Committee – February 19, 2004
The Honorable Ulysses Currie, Chair

House Appropriations Committee – February 20, 2004
The Honorable Norman H. Conway, Chair

INTRODUCTION

The Department of Budget and Management (DBM) appreciates this opportunity to update the fiscal committees on the activities of the Department's Personnel functions and to respond to the issues raised and recommendations contained in the analysis prepared by the Department of Legislative Services (DLS).

This document contains the following information:

- Highlights of the Department of Budget and Management's Office of Personnel Services and Benefits (OPSB) key accomplishments of the past year;
- The Department's response to the DLS recommendations; and
- Responses to other issues and updates addressed in the DLS analysis.

KEY ACCOMPLISHMENTS

- Absorbed various personnel functions of several small agencies with no increase in staff (resulted in agencies being able to abolish personnel-related positions).
- Worked successfully with DBM's Information Technology Division to create a restricted access website for agency personnel officers.
- Implemented Statewide personnel guidelines for all agencies.
- Trained approximately 13,000 employees in the areas of management, administration, information technology and personnel.

- Created an automated Performance Evaluation Planning (PEP) database to allow DBM to monitor agency PEP performance.

- Settled 50% of disciplinary action appeals and 32% of grievance appeals, resulting in approximately $1 million in savings as fewer cases had to be heard by the Office of Administrative Hearings.

- Enhanced the services of the Maryland State Employment Center to account for the State's increased use of technology in hiring practices - includes workshops for the public on searching for State career opportunities and instruction on use of the State's web-based recruiting tools.

- Successfully met all Federal HIPAA requirements for the State Employee Benefits Program by the required deadlines.

- Partnered with the Governor's Individuals with Disabilities Office and the Equal Employment Opportunity Commission, in a review of employment practices that affect individuals who are State employees or are applicants for State employment, to identify best practices for hiring and retaining individuals with disabilities.

Plans for FY 2005

- **Automation of Personnel Systems with Internal Resources:** OPSB will continue to work with DBM Information Technology staff to automate personnel transactions processes to improve system functionality, provide more extensive reporting capabilities, and to eliminate time intensive data entry functions.

- **Continue Workforce Planning Activities in Anticipation of Large Exodus of Employees Resulting from Retirements in the Next Five Years**: Approximately 21% of the State workforce were eligible to retire as of July 2003. As a result, OPSB is currently leading State efforts to implement a formal statewide Workforce Planning Program (WPP) for agencies of the State Personnel Management System.

- **Implementation of a Newly Developed Recruitment Strategy and Testing Process for Correctional Officers:** This new staffing model was designed to be a more cost efficient method for selecting correctional officers. Through the use of on-line Biodata and a Personality Inventory, OPSB hopes this new process will be a model for future statewide programs and significantly decrease turnover at correctional institutions.

- **Contract Selections for Medical Plan Contracts and Dental Plan Contracts:** OPSB will be continuing with the process of Medical Plan and Dental Plan RFPs, issuance of the RFPS during 2004, evaluation and selection of vendors, contract and rate negotiations, and submission to the Board of Public Works for final contract approval for the 2005 benefits year.

RESPONSE TO DLS RECOMMENDATIONS

Summary of DBM Positions

DLS Recommendations	Amount	DBM Position
1. Add section reducing the "Rule of 250" to the "Rule of 50"		Concur
2. Add language reducing the State's match of the deferred compensation benefit		Concur
3. Add section requiring the maintenance of three statewide subobjects		Neutral
4. Add section limiting the scope of the sick leave incentive program		Concur
5. Add section providing for a position cap.		Oppose
6. Add language requiring a report upon the creation of regular full-time equivalent positions		Concur
7. Add language requiring DBM and DHMH to evaluate the possibility of developing a single preferred drug list		Concur, request extension of report due date
8. Add language requiring a report on the cost of collective bargaining		Oppose
9. Add language maintaining calendar year employee benefits provisions, premium levels, structures, co-payments, deductibles and coverage levels		Oppose
10. Adopt narrative requiring Annual Report of State Personnel, Fiscal Year 2004		Concur
11. Add language regarding amendment to the resolution by the Judicial Compensation Commission		Neutral
12. Add language to reduce funds attributable to an overestimation of the cost of the general salary increase	$4,800,000	Concur
13. Add language recommending that the Office of the Legislative Auditor do a performance audit of agencies' workforce planning activities and prepare a list of best practices		Oppose

DEPARTMENT OF BUDGET & MANAGEMENT RESPONSES

DLS Recommendation 1: Amend Section 18 to reduce the "Rule of 250" to the "Rule of 50" and add language that requires the Secretary to certify the status of positions created with non-state funding sources during fiscal 2003, fiscal 2004, and fiscal 2005 under this provision as remaining authorized or abolished due to discontinuation of funds.

DBM Response: Concur.

DLS Recommendation 2: Add language that provides for a reduction in the State's match of the deferred compensation benefit. Also provides that the reduction is not contingent on the passage of the Budget Reconciliation Act of 2004.

DBM Response: Concur.

DLS Recommendation 3: Add language requiring DBM to maintain three statewide subobjects for fiscal 2006 regarding payouts for annual leave, funds to be used for reclassifications and hiring above the minimum for a classification, and cell-phone expenditures.

DBM Response: Neutral.

DLS Recommendation 4: Add section limiting the scope of the sick leave incentive program to the number of pilot sites, units or facilities selected by DBM and limiting payments to the use of existing funds.

DBM Response : Concur. However because of budgetary limitations, DBM does not anticipate being able to expand the pilot to other sites within the State.

DLS Recommendation 5: Add section providing for a position cap. Regular employees may not exceed 74,100 FTEs and contractual employees may not exceed 8,800 FTEs; requiring the Governor to submit to the Board of Public Works, not later than June 15, 2004, a schedule for aligning position authorizations for agencies in the Executive Branch; requiring at least 50 percent of the reductions to take place in the "Officials and Administrators" job category; requiring that reductions scheduled to take place by June 30, 2005, from DHMH, be used to reach the established limit; requiring that the number of exempt or non-State funded positions added in fiscal 2004 through the BPW shall not count under the established limit; and requiring DBM to provide the budget committees with a list of abolished positions on or before July 1, 2004.

DBM Response: Agree to a limit of 52,442 permanent and 2,934 contractual positions, excluding higher education, port and airport operations.

DBM believes that after two years, the statewide limit has become a very blunt instrument that now requires some refinement.

- In addition to the legislative and judicial branches, DBM believes that certain large employers, which must respond to increasing demands, should not be included in the limit. These include the higher education institutions, the Port Administration and the Aviation Administration. These operations need to be able to respond to increases in enrollment, cargo and passengers. It is not reasonable to expect other state operations to suffer offsetting reductions.
- The limit should be increased to reflect initiatives that will generate new revenue, provide appropriate public defender caseloads, and staff public safety facilities.

The following calculation sets out these proposed adjustments.

	Permanent	Contractual
Position limit 12/1/03	**74,100**	**8,800**
Less:		
Higher Education	20,966	5,860
Port	310	2
Airport	556	4
Net	52,268	2,934
Add to limit		
Non-state positions added	47	
Public Defender	68	
Comptroller (net of DLS rec.)	11	
Public Safety Facilities	30	
DJS Facilities	18	
Total	174	-
Proposed Limit 12/1/04	**52,442**	**2,934**

In addition, DBM does not support the recommendation that 50% of the positions eliminated should be in specified classifications or functions. We believe that the Governor should have discretion to make the selection in accordance with the needs of the State and its citizens.

In addition, DBM records from executive branch agencies (excluding colleges and universities) show that the percentage of officials and administrators has increased only slightly between FY 2001 (6.4%) and February 2004 (6.9%).

Overall, there has been a net reduction of 83 official and administrator positions for the period of February 2003 through February 2004. This reduction (2.6%) is consistent with the reduction for all positions in all categories (2.7%) for this same period.

Imposing a formula for any necessary positions reductions limits the Executive Branch's ability to identify those position reductions that will be least likely to impact critical agency operations and services. Finally, we would suggest that the overall position limit be effective December 1, as it was in fiscal 2004. In the event some of the abolished positions are filled, this will provide time for the operation of the notice and "bumping" procedures provided in law.

Since positions can be abolished administratively, we suggest streamlining the process by providing notice to the budget committees, but not requiring a report to the Board of Public Works.

DBM suggests the following substitute language:

AND BE IT FURTHER ENACTED, That:

(A) On December 1, 2004, the number of full-time equivalent (FTE) regular positions may not exceed 52,442, and the number of FTE contractual positions, as reported in the state budget books, shall not exceed 2,934 for the agencies described in paragraph (B) of this section.
(B) The limits in paragraph (A) of this section apply to the total of all appropriated Executive Branch positions except those of: Department of Transportation-Maryland Port Administration, Department of Transportation –Maryland Aviation Administration, Morgan State University, St. Mary's College of Maryland, University System of Maryland, and Baltimore City Community College.
(C) Any positions created by the Board of Public Works after January 21, 2004 that are not counted against the limit established in the annual budget bill (known as the "Rule of 250/Rule of 50") shall be added to the limit established in paragraph (A) of this subsection.
(D) The Secretary of Budget and Management shall provide to the Department of Legislative Services a listing of the abolished positions by eight-digit budget code on or before December 15, 2004.

DLS Recommendation 6: Add language requiring DBM to prepare a report for the budget committees upon creation of regular full-time equivalent positions through BPW action and upon transfer or abolition of positions.

DBM Response: Concur.

DLS Recommendation 7: Add language requiring DBM and DHMH to jointly evaluate the possibility of developing a single preferred drug list for State employees and Medicaid recipients. The departments shall submit a report and timetable for implementing a preferred drug list by July 1, 2004.

DBM Response: Concur, request extension of report date. The Department will continue to explore the possibility of a joint prescription drug program to include the development of a

single preferred drug list. Given the complexity of the project and the additional workload resulting from re-bidding the health benefits contracts, the Department would like to request an extension of the report deadline to December 31, 2004.

DLS Recommendation 8: Add language requiring DBM to report on the cost of implementing provisions of the collective bargaining agreements[1] (*sic*)

DBM Response: Oppose.

DBM will continue to produce this report if the budget committees so desire. The report cannot be compiled directly from budget data, and so it requires a very significant staff effort, both within DBM and within each reporting agency. In addition, as we enter the sixth year of collective bargaining, it has become very difficult in concept and in practice to separate costs of collective bargaining provisions from the baseline costs of government operations.

If this information is valuable to the committees, then DBM is happy to continue providing it. However, we have never seen any evidence that legislators use this data for reference, decision-making or oversight. If it continues to be required simply out of habit, we ask that our staff be relieved of the burden.

DLS Recommendation 9: Add language maintaining calendar year 2004 health, dental, mental health, or prescription insurance plan contract provisions, premium levels and structures, co-payment requirements, deductible levels, and coverage levels except those provision changes that were included in signed memoranda of understanding between the exclusive representatives of State employee labor organizations and the State.

DBM Response: Oppose. Under the Maryland Constitution, the General Assembly cannot increase appropriations. The effect of this recommendation would be to increase the appropriation. In addition, the Department recognizes that to offer a comprehensive cost effective health insurance program, changes in cost sharing will be required.

The budget recognizes the need to modify the employee health insurance program to restrain the growth in state costs. No final decisions have been made regarding what elements to adjust. These decisions will be made in discussion with labor representatives and with the state's actuarial consultants.

DLS Recommendation 10: Adopt narrative requiring Annual Report of State Personnel, Fiscal Year 2004 by October 1, 2004 with updates provided when information not available on initial publication becomes available.

DBM Response: Concur.

[1] This section refers to Memoranda of Understanding negotiated with the exclusive bargaining representatives.

DLS Recommendation 11: Add language that provides if the General Assembly amends the resolution of the Judicial Compensation Commission to provide for a lesser salary increase for judges, the Public Defender, and the State Prosecutor, these funds shall be reduced by the total decrease in funding recommended.

DBM Response: Neutral.

DLS Recommendation 12: Add language reducing general funds by $4.8 million attributable to an overestimation of the cost of the general salary increase.

DBM Response: Concur.

DLS Recommendation 13: Adopt language recommending that the Office of Legislative Auditor do a performance audit of select agencies' workforce planning activities and prepare a list of best practices in the State.

DBM Response: Oppose. DBM is opposed to another audit of DBM or agency operations. At this time, State resources are significantly diminished and agencies should be focusing all efforts on mission critical activities, including Workforce Planning. Audits require an additional agency investment of time and resources that take away from these mission-critical functions.

In 2003, DBM and select agencies established a formal Workforce Planning Program (WPP) Task Force to provide for a strategic response to the State's workforce and succession planning issues. The WPP Task Force has recently completed a best practices review of WPP activities within federal, state and local government and the private sector. In addition, to assist agencies the Task Force has also established a secure WPP web page on DBM's personnel officers' site for recording meeting agenda, posting minutes and resources, and providing State workforce data and analyses. At this time, DBM is currently reviewing these best practices for the State's own long-range planning activities and will be developing a Maryland model incorporating the most useful provisions of these best practices.

ISSUES/UPDATES

I. Performance Planning and Evaluation Program (PEP)

DLS Recommendation: More oversight should be assumed in this area.

DBM Response: Concur. DBM recognizes that the number of completed PEPs has decreased with the discontinuation of Pay-for-Performance. DBM has already taken steps to remind agencies of the importance of the PEP process. DBM will begin to send quarterly notices to agency heads regarding their PEP performance in that quarter.

The State's Position on Medicare Options

DLS Recommendation: DBM, at the January 21, 2004, hearing on the new program, delineated what it saw as its tasks in the response to the new program. It anticipated that it would need to:

- determine long-term strategy and objectives for the State's employee and retiree prescription program;
- analyze current program's design, distribution of costs, compatibility, and actuarial equivalence to Medicare Part D;
- develop alternative options;
- assess administrative implications and vendor capabilities; and consider all the legal issues.

DLS requests that DBM provide an update of its progress toward accomplishing these tasks and of any conclusions it has reached about the feasibility of each of Maryland's options related to the program. It also requests that DBM provide an estimate of any anticipated fiscal 2006 revenue available as a result of Maryland's interaction with Medicare Part D. Lastly, DLS requests that DBM discuss the feasibility of using the 28% subsidy available from the federal government to fund the unfunded actuarial liability of the State's retiree benefit.

DBM Response:

At the present time, there are many unknowns concerning the new Federal Medicare Prescription Drug Plan. The Department continues its research and analysis of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. As Ms. Joy Johnson, Federal Affairs Counsel and Director of Health Policy, Office of State Relations, Nation Conference of State Legislature presented at the January 21, 2004, hearing on the new program, it is too early to determine the full impact of the legislation. She also testified that most employers are waiting for further clarification from the Department of Labor before making decisions.

The new Federal Medicare Prescription Drug Plan provides several options to employers that currently provide prescription drug benefits to their retirees. These options include the payment of a subsidy by the Federal Government to the employer, as well as the Coordination of Benefits with Medicare payments. Currently, the State health plans coordinate benefits with Medicare for health care benefits.

The State is evaluating the various options provided under the new Federal Medicare Prescription Drug Plan to determine that option which is most advantageous. As other employers, the State is awaiting additional clarification from the Federal Government on several aspects of the new plan. Given the large number of unknown factors, it cannot be determined at this time as to the amount of subsidy provided by the Federal Government that could be applied to the Postretirement Health Insurance Funding System.