

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
FTE	11.00	11.00	12.00	12.00	11.00	12.00	1.00	9.09%
Personal Services	619,235	686,408	842,245	842,120	1,305,643	1,684,365	378,722	29.01%
Operating Expenses	206,603	265,996	283,713	278,078	472,599	561,791	89,192	18.87%
Equipment & Intangible Assets	1,202	1,894	1,202	1,202	3,096	2,404	(692)	(22.35%)
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Total Costs	\$827,040	\$954,298	\$1,127,160	\$1,121,400	\$1,781,338	\$2,248,560	\$467,222	26.23%
State Special	827,040	954,298	1,127,160	1,121,400	1,781,338	2,248,560	467,222	26.23%
Total Funds	\$827,040	\$954,298	\$1,127,160	\$1,121,400	\$1,781,338	\$2,248,560	\$467,222	26.23%

Program Description

The Securities Division is responsible for the administration and enforcement of the Securities Act of Montana and the registration of securities issuers, salespeople, broker-dealers, investment advisers, investment adviser representatives and multi-level marketing companies. The division also is responsible for the investigation of unregistered and fraudulent securities transactions. The division has sole jurisdiction for investment advisor firms with assets of under \$100 million. The division investigates securities code and rule violations, including possible criminal violations, takes appropriate administrative action and refers criminal cases to either federal authorities or county attorneys for prosecution.

Program Highlights

Securities Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ The 2015 biennium budget request is about \$500,000 greater than the 2013 biennium due primarily to: <ul style="list-style-type: none"> • Continuation of funding for an FTE that was supported by a one-time appropriation removed from the 2013 biennium budget • Increases in contracted services to examine securities firms in accordance with 30-10-304, MCA
Major LFD Issues
<ul style="list-style-type: none"> ◆ Contracted services costs for examinations appear to exceed the amount needed to fund the anticipated number of examinations ◆ Continuation of the legal FTE funded from a one-time appropriation should be a new proposal instead of a present law adjustment

Program Discussion

The 2015 biennium Securities Division budget request increases about \$500,000 over the 2013 biennium, including funding to continue an FTE funded from a one-time appropriation. Budget increases are due to:

- Fully funding positions
- Continued funding for 1.00 FTE originally funded from a one-time appropriation that was removed from base budget expenditures

- Pay increases granted during the 2013 biennium (discussed in the agency overview)
- Contracted services for examinations of security firms

Funding

The following table shows program funding, by source for the 2015 biennium as recommended by the Governor.

Total State Auditor's Office Funding by Source of Authority 2015 Biennium Budget - Securities							
Funds	Non-		Statutory Appropriation	Total All Sources	% Total All Funds	MCA Reference	Statutory Category
	HB 2	Budgeted Proprietary					
State Special Total	\$2,248,560	\$0	\$582,500	\$2,831,060	100.0%		
02091 Security Restitution Fund	\$0	\$0	\$582,500	\$582,500	20.6%	30-10-1004	
02283 Securities Fee Account	\$2,248,560	\$0	\$0	\$2,248,560	79.4%		
Total All Funds	\$2,248,560	\$0	\$582,500	\$2,831,060	100.0%		
Percent - Total All Sources	79.4%	0.0%	20.6%				

The Securities Division is funded entirely from state special revenue derived from charges to the securities industry for:

- Filing portfolio notices
- Examining issuers, broker-dealers, or investment advisers as part of registration

Other fees related to the securities industry and collected by the SOA, such as registration of securities, are deposited to the general fund. Excess revenue in the state special revenue account that funds program administration is transferred to the general fund at fiscal yearend.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	0	0	0	0.00%	827,040	827,040	1,654,080	73.56%
Statewide PL Adjustments	0	0	0	0.00%	141,028	135,413	276,441	12.29%
Other PL Adjustments	0	0	0	0.00%	158,760	158,615	317,375	14.11%
New Proposals	0	0	0	0.00%	332	332	664	0.03%
Total Budget	\$0	\$0	\$0		\$1,127,160	\$1,121,400	\$2,248,560	

The majority of the 2015 biennium budget request supports continuation of current level services. However, continuation of an FTE that was supported from a one-time appropriation should have been included as a new proposal rather than rolled into present law.

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments	Fiscal 2014					Fiscal 2015				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					162,152					162,175
Vacancy Savings					(31,253)					(31,256)
Inflation/Deflation					38					220
Fixed Costs					10,091					4,274
Total Statewide Present Law Adjustments		\$0	\$141,028	\$0	\$141,028		\$0	\$135,413	\$0	\$135,413
DP 4002 - Biennial Contract Exams	0.00	0	65,000	0	65,000	0.00	0	65,000	0	65,000
DP 4003 - Securities Division Legal FTE	1.00	0	92,111	0	92,111	1.00	0	91,966	0	91,966
DP 4004 - Rent	0.00	0	1,649	0	1,649	0.00	0	1,649	0	1,649
Total Other Present Law Adjustments	1.00	\$0	\$158,760	\$0	\$158,760	1.00	\$0	\$158,615	\$0	\$158,615
Grand Total All Present Law Adjustments	1.00	\$0	\$299,788	\$0	\$299,788	1.00	\$0	\$294,028	\$0	\$294,028

Program Personal Services Narrative

Personal Services Adjustment

Statewide personal services present law adjustments increase due to fully funding positions that were vacant for a period of time in FY 2012 and due to salary increases, which are discussed in the agency overview.

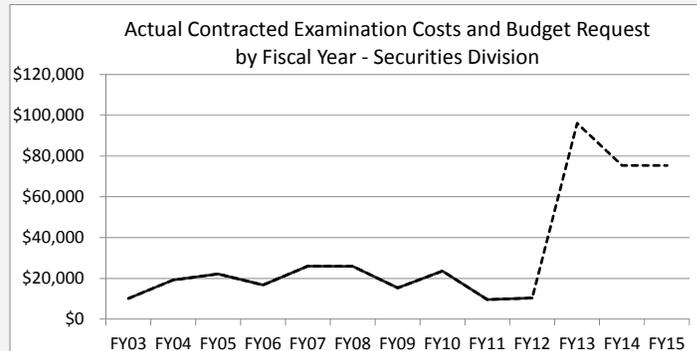
DP 4002 - Biennial Contract Exams - This request adds \$65,000 each fiscal year for contracted services to examine broker-dealer firms, broker-dealer firm branch offices, and investment advisor firms. The cost of these exams is reimbursed by the company being examined as allowed by 30-10-210, MCA. Base expenditures were \$10,357.

The Securities Division conducts routine and for-cause examinations of the 632 broker-dealer branch offices and 65 investment advisory firms domiciled in Montana to ensure compliance with the Montana Securities Act, resolve minor deficiencies, and determine the need for further investigation. Examinations are required pursuant to 30-10-304, MCA. The examination section of the Securities Division employs only one individual with the requisite knowledge and skills to conduct examinations. Therefore, in order to fulfill its obligation to protect Montana investors, the Securities Division also uses an independent contractor to perform routine examinations.

The Securities Division estimates it will need to contract for at least 15 examinations of broker-dealer and investment advisory firms annually in order to adequately protect Montana investors. On average, an examination involves approximately 30 hours of field work and 90 hours of analysis. At the average independent contractor rate of \$35.00 per hour, the CSI estimates it will need to contract for 1,800 to 1,900 hours of field work and analysis.

LFD ISSUE Appropriation Level for Contracted Exams and Average Cost per Exam

The figure shows the actual costs for contracted examinations of securities firms from FY 2003 to FY 2012 and the appropriation level for FY 2013 compared to the budget request for the 2015 biennium. Information provided in response to legislative staff questions indicated that there have been about 12 examinations for each of the last 3 years, which would calculate to an average cost between \$800 to \$,2000 per examination



LFD ISSUE CONT. The budget request is based on an average cost of \$4,200 per examination, which is more than double the historic average. As of November 1, 2012, FY 2013 expenditures for contracted examinations were \$14,000 compared to a total appropriation level of \$96,035. The legislature may wish to consider updated contract examination activity and expenditures prior to establishing the appropriation for the coming biennium.

DP 4003 - Securities - This request funds continuation of a legal FTE funded from a one-time appropriation in the last legislative session. The 2011 Legislature in approving funding for this FTE requested that the program provide performance criteria to the 2013 Legislature if the funding for the FTE was requested to continue. The following information was provided in fulfillment of that request.

From November 2010 through October 24, 2012, this position had primary responsibility of over 200 matters. In addition to providing legal opinions and counsel to the Securities and Insurance divisions, the position handled criminal prosecutions of securities and insurance fraud and pursued administrative actions against insurance companies, insurance agents, securities firms, stockbrokers, and those who violated the Insurance Code and Securities Act. Aside from the effective and efficient legal advice, the position brought over \$100,000 to the general fund in the form of fines imposed and premium taxes collected and returned over \$684,000 in restitution to those who have been victimized by securities or insurance fraud.

LFD COMMENT Funding for this FTE was approved as a one-time appropriation by the 2011 Legislature and should be characterized as a new proposal. If the legislature approves this request, it may wish to direct staff to change the designation.

DP 4004 - Rent - This adjustment adds state special revenue for increased office rent. The current lease does not include inflationary adjustments for rent. When the lease expires the agency anticipates a 5% increase on January 2015 for the last half of FY 2015.

New Proposals

New Proposals										
Program	FTE	Fiscal 2014				Fiscal 2015				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 6101 - Professional Development Center Fee Allocation										
04	0.00	0	332	0	332	0.00	0	332	0	332
Total	0.00	\$0	\$332	\$0	\$332	0.00	\$0	\$332	\$0	\$332

DP 6101 - Professional Development Center Fee Allocation - The executive requests an increase for training services purchased from the Professional Development Center (PDC) of the Department of Administration. This request reflects the difference between the amount paid in the base for PDC services and a fixed cost allocation based on agency FTE counts. Starting in the 2015 biennium and beyond, the executive recommends funding the PDC as a fixed cost item. For a further discussion, see the narrative for the Department of Administration.