

Agency Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	6.00	6.00	6.00	6.00	6.00	6.00	.00	0.00 %
Personal Services	218,906	324,185	288,132	288,260	543,091	576,392	33,301	6.13 %
Operating Expenses	146,514	124,655	245,066	234,767	271,169	479,833	208,664	76.95 %
Total Costs	\$365,420	\$448,840	\$533,198	\$523,027	\$814,260	\$1,056,225	\$241,965	29.72 %
General Fund	365,420	448,840	533,198	523,027	814,260	1,056,225	241,965	29.72 %
Total Funds	\$365,420	\$448,840	\$533,198	\$523,027	\$814,260	\$1,056,225	\$241,965	29.72 %

Agency Description

Mission Statement: To monitor and to enforce, in a fair and impartial manner, campaign practices and campaign finance disclosure, lobbying disclosure, business interest disclosure of statewide and state district candidates, elected state officials, and state department directors, ethical standards of conduct for legislators, public officers, and state employees, and to investigate legitimate complaints that arise concerning any of the foregoing.

The Commissioner of Political Practices (COPP) has responsibilities that were defined by a legislative initiative in 1980 requiring disclosure of acts by lobbyists and business interests of elected officials. COPP also has responsibility for the ethical standards of conduct for legislators, public officers, and state employees pursuant to Title 2, Chapter 2, MCA.

Agency Highlights

Commissioner of Political Practices Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The budget increased by 29.7 percent in the 2011 biennium from the 2009 biennium due primarily to statewide present law adjustments and requested funding increases for legal fees and technology projects ◆ The on-line computer application for filing of lobbyists and principal reports expected is to be fully operational ◆ The agency submitted expanded goals and objectives for the 2011 biennium ◆ New proposals request funding of \$82,151 and include: <ul style="list-style-type: none"> ● IT and travel expenses ● Additional legal costs ● Building security upgrades ● Computer application upgrade and maintenance ● Workers compensation management plan 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Legal costs funding need may be overstated 	

Agency Discussion

Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- Goals, objectives and year-to-date outcomes from the 2009 biennium
- Goals and objectives and their correlation to the 2011 biennium budget request

2009 Biennium Major Goals

The following provides an update in the major goals monitored during the 2009 interim.

Goals

1. Facilitate accurate and timely filing of the required lobbyist and principal reports
 - Successes:
 - Software development met all timeline milestones
 - Unit testing is on track for goal timeline
 - Functionality testing produced expected results
 - Project is expected to be operational by January
 - Challenges:
 - Contractor was switched to stay within budget and timeline
 - No other challenges were experienced
2. Facilitate accurate and timely filing of the required campaign finance reports by providing an electronic filing system and additional resources on the web for political campaigns in order to simplify reporting, reduce campaign reporting errors, enhance public disclosure, and improve compliance with the law
 - Successes:
 - The agency reports no successes towards the achievement of this goal
 - Challenges:
 - Target dates not met.
 - Problems in functionality found in the testing phase required time-consuming changes and formal change orders that were not expected in the project budget
 - Timeline delays meant that testing would coincide with the height of the campaign cycle and the agency would not have adequate staffing for the testing required
 - Important functionality was not anticipated in the design

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The agency is Unable to Accomplish the Goal

The second monitored goal of the 2009 biennium provided the agency with issues that have compounding budgetary implications. The additional workload of dealing with contract completion, testing, feedback, and implementation must be done by staff in addition to their current duties, and will continue to impact staff workload in the 2011 biennium.

The incomplete functionality of the system manifests itself in change orders and modifications to correct the deficiencies. The agency does not currently have the funding to make the changes in the system to make it operational. Any operational savings in accuracy and efficiency that were expected at the beginning of the project remain unrealized. However, the executive budget does not include any funding for completion of the project in the 2011 biennium. The agency has estimated costs to complete and maintain the system would be \$278,000.

Options

1. Discuss with the Commissioner of Political Practices what functionality would be achieved in the current 2009 biennium if no additional funding is provided
2. Provide additional funding to complete and maintain the project

2011 Biennium Major Goals

- Provide accurate and helpful information
 - Continue to update the agency website to provide useful, understandable information about ethics, lobbying, and campaign finance and practices laws and rules. Develop a more user-oriented web listing and include more Frequently Asked Questions (FAQ) handouts
 - Review procedures for capturing campaign reporting data; develop a plan for timely completion of the biennial campaign finance report at the conclusion of the election cycle
 - Supplement the formal complaint docket with scanned images of the original complaint and supporting documentation, as well as all public documents. Include rejected and dismissed complaints as well
 - Improve the search capabilities for past formal decisions with key word searches and summary information
 - Provide access on the web to advisory opinions and post an index of opinions
- Facilitate more accurate and timely filing of the required lobbying financial reports. Facilitate public disclosure of lobby-related activity under our jurisdiction
 - Encourage on-line registration, fee payment, and financial reporting
 - Add material to the lobbyist's handbook that will clarify and provide more useful guidance on the filing schedule and filing requirements. Develop additional FAQs for lobbying section of the website
 - Implement a program to audit lobbying financial reports and use the findings to provide guidance and instruction on lobby reporting
- Facilitate accurate and timely filing and public disclosure of the required campaign finance reports
 - Provide COPP presence at campaign schools and other party functions; highlight and respond to frequent questions, misunderstandings, and complaint areas. Seek new ideas and suggestions for better ways to conduct COPP business. Implement good ideas
 - Update website descriptions of the complaint procedure and the decision processes to provide more helpful guidance and reduce filing errors and misdirected or erroneous complaints
 - Revise the office policy manual to reflect changes in office procedures brought about by the conversion to digital processes
 - Develop additional campaign-oriented FAQs for the website
 - Update and enhance the online reporting and search services to make them more useful and more widely used.

- Improve Compliance
 - Provide training and informational mailings to political party committees to improve their compliance with reporting requirements
 - Implement a procedure and seek specific rule authority to allow COPP to formally disband a non-responsive PAC
 - Publicize orders of non-compliance on the web and in news stories
 - Supplement the formal complaint docket with information on civil penalties and settlements.
- Expedite resolution of campaign finance and practices complaints
 - Update current complaint investigation procedures to allow for a more timely investigation of formal complaints
 - Clear the backlog of campaign complaints so that future complaint investigations can normally be concluded within four to six months of the date the complaint was filed
 - Develop a notification system to provide the complaint investigations
 - Set objectives and develop a work plan to shorten, when feasible, the time-frame for final resolution of complaints
- Ensure that physical security of the office is adequate
 - Develop and institute an organizational security plan
 - Upgrade current physical security controls
 - Schedule and complete regular, recurring security reviews of the facility
- Bring the office into compliance with SAS 112 (Dept. of Administration internal control guidelines)
 - Update office internal control policies and document the related accounting processes
 - Implement internal control and testing requirements

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Objectives are Not Time-Bound

The agency has provided a number of specific objectives for each goal. The factor missing from each objective, however, is when the objectives will be met. For example, under “Improve Compliance”, one of the objectives was to provide various training; however, it does not indicate when or how often the training is to occur. Without this factor the agency may not be able to achieve the goal because there are no benchmarks against which to measure success.

The legislature may want to discuss with the agency how the objectives would be improved to allow a determination of whether the goals are being met.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding Table						
Administration						
Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 365,420	100.0%	\$ 533,198	100.0%	\$ 523,027	100.0%
01100 General Fund	<u>365,420</u>	<u>100.0%</u>	<u>533,198</u>	<u>100.0%</u>	<u>523,027</u>	<u>100.0%</u>
Grand Total	<u>\$ 365,420</u>	<u>100.0%</u>	<u>\$ 533,198</u>	<u>100.0%</u>	<u>\$ 523,027</u>	<u>100.0%</u>

This program is entirely funded with general fund. A small amount of revenue is generated from nominal fees charged for printing and distribution, as well as civil fines for violation of campaign laws. Both are deposited into the general

fund. In addition, COPP collects a \$150 lobbyist filing fee, \$50 of which is deposited into the general fund and \$100 in a state special revenue account that is appropriated to the Legislative Services Division to fund the state broadcasting system. The lobbyist license expires at the end of each even-numbered year, just before the start of the legislative session. Thus, the majority of the revenues are collected in odd numbered years. Total deposited revenues for statewide broadcasting in FY 2007 were \$53,500.

LFD ISSUE	The Use of the Lobbyist Filing Fees for Statewide Broadcasting System could be Clearer
	There is a state government broadcasting account in the state special revenue fund that receives a portion of the lobbyist filing fee as noted above. Money in the account is available to the division by appropriation and must be used for the development, operation, and maintenance of a state government broadcasting service. Because the statewide broadcasting system is not directly related to the functions or purpose of the Commissioner of Political Practices, having a portion of the lobbyist filing fee deposited in a state special revenue account dedicated for the statewide broadcasting system creates a disconnect when trying to associate the source of revenue to its related expense. The legislature may want to consider revising 5-7-103(4)(b), MCA to have these funds deposited to the general fund and create a general fund appropriation for the statewide broadcasting system within the Legislative Services Division, which administers the program.

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 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	365,420	365,420	730,840	69.19 %	365,420	365,420	730,840	69.19 %
Statewide PL Adjustments	80,947	73,796	154,743	14.65 %	80,947	73,796	154,743	14.65 %
Other PL Adjustments	4,680	4,680	9,360	0.89 %	4,680	4,680	9,360	0.89 %
New Proposals	82,151	79,131	161,282	15.27 %	82,151	79,131	161,282	15.27 %
Total Budget	\$533,198	\$523,027	\$1,056,225		\$533,198	\$523,027	\$1,056,225	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “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 2010-----				-----Fiscal 2011-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					69,226					69,354
Inflation/Deflation					532					748
Fixed Costs					11,189					3,694
Total Statewide Present Law Adjustments					\$80,947					\$73,796
DP 1 - Increases in Web/IT, Telephone, and Travel	0.00	4,680	0	0	4,680	0.00	4,680	0	0	4,680
Total Other Present Law Adjustments	0.00	\$4,680	\$0	\$0	\$4,680	0.00	\$4,680	\$0	\$0	\$4,680
Grand Total All Present Law Adjustments					\$85,627					\$78,476

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** –
 - The agency does not have a written policy that addresses percentage of market that they would hire for entry into a position. Historically, the agency has hired at 80 percent of market for an employee that is new to state government. For an employee that transfers, or comes into a position with relevant experience, they evaluate their training, education and/or years of service to set a competitive wage. The agency attempts to move all positions to market within three years
 - At the beginning of the 2008 fiscal year, the agency reported that they had achieved 86 percent of the market rate relative to the 2006 market survey. After implementation of the HB13 adjustments, the agency reported salaries at 82 percent relative to the 2008 market survey. The target market ratio for the 2011 biennium is 97 percent relative to the 2008 market survey
 - The agency has one exempt staff person whose salary is set in statute
- **Vacancy** –
 - Entry level staff positions have been identified by the agency as experiencing difficulty associated with turnover and vacancies due to competitive market forces. In order to remain competitive and reduce the impacts of these challenges, the agency offers flexible work schedules, incentives, training, and performance-based increases
 - Due to the small size of the agency, vacancies have a large impact on operations and expenses including: overtime, compensatory time, sick time and employee workload
 - Functional turnover generated vacancy savings that was used for overtime and comp time payouts with the remainder being reverted
- **Legislatively applied vacancy savings** – Because of the small size of the agency, it is not subject to the applied vacancy savings mandate
- **Pay Changes** – Pay and position changes within the agency were funded within the budgeted amount. No additional increases were made
- **Retirements** – There were no retirements in the 2009 biennium and the agency does not expect any retirements in the 2011 biennium

DP 1 - Increases in Web/IT, Telephone, and Travel - This request is for \$4,680 general fund each year of the biennium to cover increased costs in web administrator software, FileNet storage, telephone, and travel funding for the investigator.

New Proposals

New Proposals	-----Fiscal 2010-----					-----Fiscal 2011-----					
	Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2 - Additional Legal Costs Funding - OTO											
01	0.00	59,000	0	0	59,000	0.00	59,000	0	0	59,000	
DP 4 - Building Security Update- OTO											
01	0.00	3,000	0	0	3,000	0.00	0	0	0	0	
DP 5 - IT Application Maintenance and Enhancement											
01	0.00	20,000	0	0	20,000	0.00	20,000	0	0	20,000	
DP 6 - Fixed Cost Workers Comp Management Pgm Allocation											
01	0.00	151	0	0	151	0.00	131	0	0	131	
Total	0.00	\$82,151	\$0	\$0	\$82,151	0.00	\$79,131	\$0	\$0	\$79,131	

DP 2 - Additional Legal Costs Funding - OTO - The executive recommends \$59,000 OTO general fund each year of the biennium for additional legal costs and to decrease the backlog of unresolved complaints.

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The Single Largest Operating Expense for the COPP is for Legal Expenses.

The FY 2008 total expense was \$125,600. The FY 2008 base budget for this item is \$66,300. COPP has requested an increase in its 2011 biennium budget of \$59,000 in each fiscal year. This amount represents the difference between FY 08 actual expense and the FY 2008 base budgets. During the 2007 legislative session, the legislature provided a one time only appropriation of \$77,500 annually to cover the expected shortfall between projected legal cost and the proposed executive budget for the 2009 biennium.

The seven year average expense for Legal Fees and Court Costs for this program has been \$85,334. (see chart). The biennial average for the last three biennia is \$157,242.

Seven Year Average Legal Expenses By Year and			
Fiscal Year	Amount	Biennium	Amount
FY02	\$83,754		
FY03	100,999	2003	
FY04	85,805		\$184,753
FY05	60,433	2005	
FY06	47,536		146,238
FY07	93,198	2007	
FY08	<u>125,614</u>		140,734
7-Year Average	<u>\$85,334</u>	3-Biennia Average	<u>\$157,242</u>

The requested increase in the budget for legal fees would result in a funding level of \$125,300 in each of the fiscal years over the 2011 biennium or \$40,000 over the seven year average in each fiscal year. A reduced increase of \$19,000 in each year would adequately fund the program to the seven year and the biennia averages. Creating a biennial appropriation would allow the agency additional flexibility to offset legal costs which vary from year to year. The legislature may wish to do one or both of the following:

- o Decrease the amount in DP2 from the requested \$59,000 to \$19,000 annually.
- o Establish a biennial appropriation for agency legal costs.

DP 4 - Building Security Update- OTO - This request is for a \$3,000 OTO general fund appropriation in FY2010 to improve security by adding an alarm system and document shredding equipment at the Commissioner of Political Practices office.

DP 5 - IT Application Maintenance and Enhancement - This request is for \$20,000 general fund each year of the biennium for maintenance and enhancements to two computer applications coming online in FY 2009.

DP 6 - Fixed Cost Workers Comp Management Pgm Allocation - The Workers' Compensation Management program at the Department of Administration was funded by the 2007 Legislature with a one-time-only general fund appropriation. For the 2011 biennium and beyond, the executive proposes the program be funded via a fixed cost allocation. The allocation is based upon the average number of payroll warrants issued per pay period. Because the program was approved as an OTO for the current biennium, it must be presented as a new proposal for the next biennium. Therefore, the allocation cannot be included as part of the standard present law fixed cost process.