

Agency Budget Comparison

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

Agency Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	200.50	200.50	208.50	209.50	200.50	209.50	9.00	4.49%
Personal Services	11,912,040	11,553,705	13,061,799	13,139,401	23,465,745	26,201,200	2,735,455	11.66%
Operating Expenses	7,959,536	7,938,224	9,966,097	9,834,012	15,897,760	19,800,109	3,902,349	24.55%
Equipment & Intangible Assets	21,118	123,370	21,118	21,118	144,488	42,236	(102,252)	(70.77%)
Total Costs	\$19,892,694	\$19,615,299	\$23,049,014	\$22,994,531	\$39,507,993	\$46,043,545	\$6,535,552	16.54%
General Fund	19,849,276	19,571,843	22,949,014	22,808,387	39,421,119	45,757,401	6,336,282	16.07%
State Special	43,418	43,456	100,000	186,144	86,874	286,144	199,270	229.38%
Federal Special	0	0	0	0	0	0	0	n/a
Total Funds	\$19,892,694	\$19,615,299	\$23,049,014	\$22,994,531	\$39,507,993	\$46,043,545	\$6,535,552	16.54%

Agency Description

Mission Statement - The mission of the Office of the State Public Defender (OPD) is to ensure equal access to justice for the state's indigent. The statewide public defender system, created by passage of the Montana Public Defender Act contained in Title 47, MCA, required the new system to be operational by July 1, 2006. The Public Defender Commission is responsible for the design, direction, and supervision of the new system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, approves statewide standards for qualifications and training of public defenders, and approves the overall design of the statewide system.

The Office of State Public Defender administers the statewide public defender system and delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be indigent per statutory provisions and is accused of an offense that could result in the person's loss of life or liberty if convicted. The statewide public defender system is supervised by the Public Defender Commission, an eleven member commission appointed by the Governor. The office is administratively attached to the Department of Administration with the exception of some functions as provided in statute (2-15-1028, MCA). The statewide public defender system also includes appellate defender functions.

Agency Highlights

Office of State Public Defender Major Budget Highlights
<ul style="list-style-type: none"> ◆ The general fund biennial increase for the agency is 16.1% or \$6.3 million due to statewide present law adjustments, anticipated caseload growth and costs associated with a death penalty case, and provision of a restricted, one time only appropriation of \$300,000 per year for contracted services and equipment replacement ◆ The legislature included changes to reporting requirements in HB 613 ◆ SJ 26 recommends monitoring of the agency during the interim

Summary of Legislative Action

Funding for the agency increases 16.5% between the 2011 and 2013 biennium, primarily in general fund. Increases are due to funding of statewide present law adjustments, \$3 million for caseload growth, \$0.9 million for death penalty cases and \$0.6 million for contracted services and equipment replacement.

Funding for FTE increases the equivalent of 9.00 FTE including 8.00 FTE supported by the general fund and associated with caseload growth and 1.00 FTE in FY 2013 for commission staff (as provided in SB 187) that is supported by state special revenue.

The agency received supplemental appropriations totaling \$1,350,000 general fund. Of this amount \$150,000 was specified as funding for death penalty cases. The agency cited difficulty achieving budget vacancy savings rates (7%) and across the board funding reductions (2%) included in 2011 biennium appropriations as contributing to the need for a supplemental appropriation. The agency implemented a number of strategies to mitigate the supplemental funding request.

Funding

The following table summarizes funding for the agency, by program and source, as adopted by the legislature. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2013 Biennium Budget				
Agency Program	General Fund	State Spec.	Grand Total	Total %
01 Office Of Public Defender	\$ 43,828,620	\$ 286,144	\$ 44,114,764	95.81%
02 Office Of Appellate Defender	1,928,781	-	1,928,781	4.19%
Grand Total	<u>\$ 45,757,401</u>	<u>\$ 286,144</u>	<u>\$ 46,043,545</u>	<u>100.00%</u>

The agency is funded primarily by the general fund. A small amount of state special revenue from reimbursements for services provided is also available to the agency.

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 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	19,849,276	19,849,276	39,698,552	86.76%	19,892,694	19,892,694	39,785,388	86.41%
Statewide PL Adjustments	725,713	685,037	1,410,750	3.08%	782,295	716,619	1,498,914	3.26%
Other PL Adjustments	1,500,000	1,500,000	3,000,000	6.56%	1,500,000	1,500,000	3,000,000	6.52%
New Proposals	874,025	774,074	1,648,099	3.60%	874,025	885,218	1,759,243	3.82%
Total Budget	\$22,949,014	\$22,808,387	\$45,757,401		\$23,049,014	\$22,994,531	\$46,043,545	

Other Legislation

SJ 26 outlines recommendations from the joint appropriations subcommittees for interim monitoring by legislative committees and includes a recommendation for monitoring the Office of Public Defender.

HB 96 allows the Office of State Public Defender to recover costs of representation in probate and involuntary commitment cases if the respondent is determined to have the financial ability to pay for a public defender and is ordered to do so by the judge. An increase in state special revenue collections of about \$14,000 per year is anticipated as a result of this legislation.

HB 97 transfers the responsibility for supervision of the Chief Appellate Defender to the Public Defender Commission from the Office of the Public Defender Program.

HB 613 modifies reporting requirements to clarify that reports must include unduplicated counts for all cases where representation is paid for by the public defender system and that these reports must be provided to the Legislative Finance Committee by September 30th for the preceding fiscal year.

SB 15 creates the misdemeanor crime of aggravated driving under the influence (DUI). The agency anticipates that this will increase the number of cases that go to trial and thus increase the workload of the public defender system. The legislature added \$171,000 general fund for anticipated workload increases.

SB 187 modifies several provisions of the Montana Public Defender Act by:

- o Eliminating the requirement that the chief public defender carry a caseload
- o Prohibiting the contract manager from carrying a caseload
- o Providing for separate staff for the commission to be added when sufficient state special revenue has been collected to support the positions
- o Modifying per case charges for the costs of counsel
- o Specifying that the commission establish and oversee a conflicts office with a conflicts manager
- o Requiring that applicants for services submit notarized affidavits of indigence.

The legislature added 1.00 FTE and \$111,144 in FY 2013 to implement this legislation.

Executive Budget Comparison

The following table compares the legislative budget in the 2013 biennium to the budget requested by the Governor, by type of expenditure and source of funding.

Executive Budget Comparison								
Budget Item	Base Budget Fiscal 2010	Executive Budget Fiscal 2012	Legislative Budget Fiscal 2012	Leg - Exec. Difference Fiscal 2012	Executive Budget Fiscal 2013	Legislative Budget Fiscal 2013	Leg - Exec. Difference Fiscal 2013	Biennium Difference Fiscal 12-13
FTE	200.50	216.50	208.50	(8.00)	216.50	209.50	(7.00)	
Personal Services	11,912,040	13,499,779	13,061,799	(437,980)	13,485,337	13,139,401	(345,936)	(783,916)
Operating Expenses	7,959,536	8,265,055	9,966,097	1,701,042	8,212,813	9,834,012	1,621,199	3,322,241
Equipment & Intangible Assets	21,118	80,396	21,118	(59,278)	72,895	21,118	(51,777)	(111,055)
Total Costs	\$19,892,694	\$21,845,230	\$23,049,014	\$1,203,784	\$21,771,045	\$22,994,531	\$1,223,486	\$2,427,270
General Fund	19,849,276	21,707,345	22,949,014	1,241,669	21,661,333	22,808,387	1,147,054	2,388,723
State/Other Special	43,418	137,885	100,000	(37,885)	109,712	186,144	76,432	38,547
Federal Special	0	0	0	0	0	0	0	0
Total Funds	\$19,892,694	\$21,845,230	\$23,049,014	\$1,203,784	\$21,771,045	\$22,994,531	\$1,223,486	\$2,427,270

The legislative budget exceeds the executive budget by \$2.4 million general fund. Funding provided by the legislature exceeded the executive request by:

- o \$900,000 for death penalty cases
- o \$800,000 when caseload increases are compared to combined requests to support caseload increases and reductions in managers' caseloads
- o \$249,000 for contracted services and equipment replacement
- o \$171,000 for anticipated workload increases related to SB 15, which created the crime of aggravated driving under the influence (DUI)

While the funding level provided by the legislature exceeds the executive request, the number of FTE supported by the legislative budget is 7.00 FTE fewer in FY 2013. This is primarily due to non approval of decision packages to decrease manager's caseloads, provide an accounts receivable technician, add a records management position, and add 2.00 FTE for the appellate defender function. These changes are partially offset by the addition of 1.00 FTE supported by state special revenue directly supervised by and working for the commission.

Language and Statutory Authority

The legislature included the following language in HB 2.

“Funding in Office of Public Defender –May be used only to support contracted services or replacement of computers, servers, or copiers.”

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	191.50	191.50	199.50	200.50	191.50	200.50	9.00	4.70%
Personal Services	11,399,342	10,980,333	12,461,418	12,539,530	22,379,675	25,000,948	2,621,273	11.71%
Operating Expenses	7,595,524	7,726,874	9,601,837	9,469,743	15,322,398	19,071,580	3,749,182	24.47%
Equipment & Intangible Assets	21,118	123,370	21,118	21,118	144,488	42,236	(102,252)	(70.77%)
Total Costs	\$19,015,984	\$18,830,577	\$22,084,373	\$22,030,391	\$37,846,561	\$44,114,764	\$6,268,203	16.56%
General Fund	18,972,566	18,787,121	21,984,373	21,844,247	37,759,687	43,828,620	6,068,933	16.07%
State Special	43,418	43,456	100,000	186,144	86,874	286,144	199,270	229.38%
Federal Special	0	0	0	0	0	0	0	n/a
Total Funds	\$19,015,984	\$18,830,577	\$22,084,373	\$22,030,391	\$37,846,561	\$44,114,764	\$6,268,203	16.56%

Program Description

The Office of State Public Defender administers the statewide public defender system that delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be financially unable to retain private counsel and who is accused of an offense that could result in the person's loss of life or liberty if convicted. The office administers the statewide public defender system that is supervised by the Public Defender Commission. The office is administratively attached to the Department of Administration but has authority in law to provide administrative functions as determined by the commission.

The Public Defender Commission is responsible for the design, direction, and supervision of the system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, and approves statewide standards for qualifications and training of public defenders.

Program Highlights

Office of Public Defender Program Major Budget Highlights	
◆	When compared to the 2011 biennium appropriation level, the biennial increase in funding is 16.6% (\$6.3 million). The biennial comparison in the main table does not reflect actual expenditures, as it removes FY 2011 appropriations that were expended in FY 2010
◆	General fund support for the program increases primarily due to statewide present law adjustments, anticipated costs of caseload growth, and costs associated with a death penalty case

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as adopted by the legislature.

Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 18,972,566	99.8%	\$ 21,984,373	99.5%	\$ 21,844,247	99.2%
01100 General Fund	18,972,566	99.8%	21,984,373	99.5%	21,844,247	99.2%
02000 Total State Special Funds	43,418	0.2%	100,000	0.5%	186,144	0.8%
02250 Court Ordered Sentencing Costs	43,418	0.2%	100,000	0.5%	186,144	0.8%
Grand Total	\$ 19,015,984	100.0%	\$ 22,084,373	100.0%	\$ 22,030,391	100.0%

The Office of the Public Defender is funded primarily from the general fund. A small amount of state special revenue from collection of reimbursement for services also supports 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 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	18,972,566	18,972,566	37,945,132	86.58%	19,015,984	19,015,984	38,031,968	86.21%
Statewide PL Adjustments	637,782	597,607	1,235,389	2.82%	694,364	629,189	1,323,553	3.00%
Other PL Adjustments	1,500,000	1,500,000	3,000,000	6.84%	1,500,000	1,500,000	3,000,000	6.80%
New Proposals	874,025	774,074	1,648,099	3.76%	874,025	885,218	1,759,243	3.99%
Total Budget	\$21,984,373	\$21,844,247	\$43,828,620		\$22,084,373	\$22,030,391	\$44,114,764	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget adopted by the legislature. "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.

	-----Fiscal 2012-----				-----Fiscal 2013-----					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					1,030,081					1,017,890
Vacancy Savings					(497,193)					(496,690)
Inflation/Deflation					(28,678)					(27,073)
Fixed Costs					190,154					135,062
Total Statewide Present Law Adjustments		\$637,782	\$56,582	\$0	\$694,364		\$597,607	\$31,582	\$0	\$629,189
DP 103 - Fund Office of Public Defender caseload growth	8.00	1,500,000	0	0	1,500,000	8.00	1,500,000	0	0	1,500,000
Total Other Present Law Adjustments	8.00	\$1,500,000	\$0	\$0	\$1,500,000	8.00	\$1,500,000	\$0	\$0	\$1,500,000
Grand Total All Present Law Adjustments	8.00	\$2,137,782	\$56,582	\$0	\$2,194,364	8.00	\$2,097,607	\$31,582	\$0	\$2,129,189

DP 103 - Fund Office of Public Defender caseload growth - The legislature provided funding for caseload growth, including 8.00 FTE .

New Proposals

Program	-----Fiscal 2012-----					-----Fiscal 2013-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 100 - SB 15 - Aggravated DUI (Requires Legislation)										
01	0.00	85,500	0	0	85,500	0.00	85,500	0	0	85,500
DP 101 - SB 187 - Generally Revise Public Defender Laws (Requires Legislation)										
01	0.00	0	0	0	0	1.00	0	111,144	0	111,144
DP 102 - OPD Death Penalty Funding (Rest/Bien/OTO)										
01	0.00	500,000	0	0	500,000	0.00	400,000	0	0	400,000
DP 9701 - Contract/Equipment Funding - Restricted/OTO										
01	0.00	300,000	0	0	300,000	0.00	300,000	0	0	300,000
DP 95101 - 5% Plan - Reduce Contract Attorney Services										
01	0.00	(489,322)	0	0	(489,322)	0.00	(489,322)	0	0	(489,322)
DP 95102 - 5% Plan - Computer Hardware										
01	0.00	0	(2,171)	0	(2,171)	0.00	0	(2,171)	0	(2,171)
DP 95400 - 4% Personal Services Reduction - Program 1										
01	(12.00)	(477,285)	0	0	(477,285)	(12.00)	(477,285)	0	0	(477,285)
DP 96101 - Restore 5% Plan - Contract Attorney Services										
01	0.00	489,322	0	0	489,322	0.00	489,322	0	0	489,322
DP 96102 - Restore 5% Plan - Computer Hardware										
01	0.00	0	2,171	0	2,171	0.00	0	2,171	0	2,171
DP 96400 - Restore 5% Plan - 4% Personal Svc Reduction, Prog1										
01	12.00	477,285	0	0	477,285	12.00	477,285	0	0	477,285
DP 97100 - Reduction in Worker's Compensation Costs										
01	0.00	(11,475)	0	0	(11,475)	0.00	(11,426)	0	0	(11,426)
Total	0.00	\$874,025	\$0	\$0	\$874,025	1.00	\$774,074	\$111,144	\$0	\$885,218

DP 100 - SB 15 - Aggravated DUI - The legislature provided funding to support workload increases anticipated as a result of SB 15, which created the crime of aggravated driving under the influence (DUI)

DP 101 - SB 187 - Generally Revise Public Defender Laws - The legislature provided state special revenue authority to support the addition of 1.00 FTE position assigned directly to the Public Defender Commission as provided in SB 187.

DP 102 - OPD Death Penalty Funding (Rest/Bien/OTO) - The legislature provided a restricted, biennial, one time only appropriation to support anticipated costs related to an existing death penalty case.

DP 9701 - Contract/Equipment Funding - Restricted/OTO - The legislature provided \$300,000 general fund per year as a restricted, one time only appropriation that may be used for contracted services, or replacement of computers, servers, or copiers.

DP 95101 - 5% Plan - Reduce Contract Attorney Services - The legislature initially reduced general fund support for contracted attorney services. The agency included this reduction in the statutorily required plan to reduce base expenditures of general fund and certain state special revenue funds by 5%. These funds were restored in DP 96101.

DP 95102 - 5% Plan - Computer Hardware - The legislature initially reduced state special revenue support for computer hardware. The agency included this reduction in the statutorily required plan to reduce base expenditures of general fund and certain state special revenue funds by 5%. These funds were restored in DP 96102.

DP 95400 - 4% Personal Services Reduction - Program 1 - The legislature initially reduced general fund for personal services. This item was included in the statutorily required 5% reduction plan submitted by the agency. These funds were restored in DP 96400.

DP 96101 - Restore 5% Plan - Contract Attorney Services - The legislature restored funding removed in DP 95101.

DP 96102 - Restore 5% Plan - Computer Hardware - The legislature restored funding removed in DP 95102.

DP 96400 - Restore 5% Plan - 4% Personal Svc Reduction, Prog1 - The legislature restored funding removed in DP 95400.

DP 97100 - Reduction in Worker's Compensation Costs - The legislature reduced general fund support for worker's compensation costs based upon the anticipated impact of HB 334. The agency may allocate this reduction in funding among programs.

Program Budget Comparison

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

Program Budget Comparison								
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	9.00	9.00	9.00	9.00	9.00	9.00	0.00	0.00%
Personal Services	512,698	573,372	600,381	599,871	1,086,070	1,200,252	114,182	10.51%
Operating Expenses	364,012	211,350	364,260	364,269	575,362	728,529	153,167	26.62%
Total Costs	\$876,710	\$784,722	\$964,641	\$964,140	\$1,661,432	\$1,928,781	\$267,349	16.09%
General Fund	876,710	784,722	964,641	964,140	1,661,432	1,928,781	267,349	16.09%
Total Funds	\$876,710	\$784,722	\$964,641	\$964,140	\$1,661,432	\$1,928,781	\$267,349	16.09%

Program Description

The Appellate Defender Program provides appeal services for indigent citizens.

Program Highlights

Office of Appellate Defender Major Budget Highlights	
◆	When compared to the 2011 biennium appropriation level, the biennial increase in funding is 16.1% (\$267,000). The biennial comparison in the main table does not reflect actual expenditures, as it removes FY 2011 appropriations that were expended in FY 2010
◆	General fund support for the program increases due to statewide present law adjustments

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as adopted by the legislature.

Program Funding Table Office Of Appellate Defender						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 876,710	100.0%	\$ 964,641	100.0%	\$ 964,140	100.0%
01100 General Fund	876,710	100.0%	964,641	100.0%	964,140	100.0%
Grand Total	<u>\$ 876,710</u>	<u>100.0%</u>	<u>\$ 964,641</u>	<u>100.0%</u>	<u>\$ 964,140</u>	<u>100.0%</u>

The Appellate Defender Program is supported entirely by the general fund.

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 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	876,710	876,710	1,753,420	90.91%	876,710	876,710	1,753,420	90.91%
Statewide PL Adjustments	87,931	87,430	175,361	9.09%	87,931	87,430	175,361	9.09%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$964,641	\$964,140	\$1,928,781		\$964,641	\$964,140	\$1,928,781	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget adopted by the legislature. "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 2012-----					-----Fiscal 2013-----				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					112,698					112,168
Vacancy Savings					(25,015)					(24,995)
Inflation/Deflation					248					257
Total Statewide Present Law Adjustments		\$87,931	\$0	\$0	\$87,931		\$87,430	\$0	\$0	\$87,430
Grand Total All Present Law Adjustments	0.00	\$87,931	\$0	\$0	\$87,931	0.00	\$87,430	\$0	\$0	\$87,430

New Proposals

New Proposals	Program	FTE	-----Fiscal 2012-----				-----Fiscal 2013-----				
			General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 95400 - 4% Personal Services Reduction - Program 2	02	(0.50)	(24,016)	0	0	(24,016)	(0.50)	(24,016)	0	0	(24,016)
DP 96400 - Restore 5% Plan - 4% Personal Svc Reduction Prog2	02	0.50	24,016	0	0	24,016	0.50	24,016	0	0	24,016
Total		0.00	\$0	\$0	\$0	\$0	0.00	\$0	\$0	\$0	\$0

DP 95400 - 4% Personal Services Reduction - Program 2 - The legislature initially reduced general fund support for personal services. This item was included in the statutorily required 5% plan submitted by the agency. These funds were restored in DP 96400.

DP 96400 - Restore 5% Plan - 4% Personal Svc Reduction Prog2 - The legislature restored funding that was removed from the agency budget in DP 95400.