DEPARTMENT OF
BUDGET & MANAGEMENT

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Deputy Secretary

DEPARTMENT OF BUDGET AND MANAGEMENT – OFFICE OF THE SECRETARY

Testimony of
David R. Brinkley
Secretary

Senate Budget and Taxation Committee
February 21, 2017

House Appropriations Committee
February 24, 2017

The Department of Budget and Management (DBM) appreciates this opportunity to respond to the Department of Legislative Services' (DLS) analysis of the Office of the Secretary budget.

PERFORMANCE ANALYSIS

Central Collection Unit (CCU) Net Profits

As the analysis points out, decreases to net profits are primarily due to the costs of replacing CCU's IT business system. The FY 2018 Governor's allowance includes $2.5 million from CCU revenues for the project. Additional increases in spending, which lower the net profit in FY 2018, are attributable to the Unit's increased inventory of collections due to the onboarding of EZPass toll-violations. These include an additional 10 contractual employees for the Unit's call center as well as increased contractual services costs related to enhanced collection efforts.

ISSUES

Interagency Agreements

The Department agrees that appropriate scrutiny should be given to Interagency Agreements (IAs) and has complied with FY 2017 budget bill language to review and provide a consolidated report to the budget committees on IAs in excess of $100,000. In most cases, the agreements with higher education institutions provide expertise not available within the agencies at reasonable indirect cost recovery rates.

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DBM has taken on this new task of IA review and approval with no additional resources. Department staff have recently begun working with agencies to target those IAs we believe appropriate to either bring in-house or compete out. As a result, several IAs between higher education institutions and the Departments of Health and Mental Hygiene and Transportation have successfully been brought in-house and the IAs terminated.

The analyst further recommends an amendment to the BRFA requiring DBM to perform a triennial review of IAs in place between FY 2015 and FY 2017 with actual expenditures above $750,000, with the first report due December 2017. In response, DBM would note that the actual expenditure numbers will not be known until agencies submit reports with the additional/new actual expenditure data requirements in August or September 2017, which will make it difficult to conduct a thorough review and prepare a report to the committees by December 1.

FY 2016 Closeout Audit and Unresolved General Fund Liabilities

As the committees are aware, over the past two years the Administration has made a concerted effort to "true up" the budget and address outstanding liabilities which, in many cases, were of a longstanding nature. We believe much progress has been made in eliminating unfunded liabilities, covering prior year shortfalls, and addressing past audit findings. The Administration will continue to address liabilities as part of the budget process.

With regard to the items identified in the FY 2016 closeout audit, several have been resolved. For example, the Office of Public Defender was provided a $5.3 million deficiency in the Governor's FY 2018 allowance to cover the FY 2016 shortfall identified in the closeout report. In addition, the State Police has sufficient funds to cover both liabilities and these are considered resolved as is the Health Exchange item. Others, such as the Department of Labor, Licensing, and Regulation item related to indirect cost recoveries, are still being reviewed and negotiated to determine the actual amount of the outstanding liability. The item related to prior year federal claims for certain Developmental Disabilities Administration services remains under dispute.

As we do every year, DBM will continue to work with the agencies to document the amounts outstanding and to evaluate their capacity to absorb the shortfalls within their existing budgets.

Governor's Office of Transformation and Renewal

The Office continues to work with State agencies to identify and implement efficiencies and improvements to State government organizations and operations.

DLS RECOMMENDATIONS

DLS has proposed restricting a total of $500,000 from DBM – Executive Direction, pending compliance with a variety of reporting requirements or budget action (note this includes $100,000 associated with a recommendation in the Reserve Fund analysis). DBM would note that this total amounts to more than twenty percent of the entire Executive Direction general fund budget, which is comprised almost exclusively of salary costs. This seems excessively punitive and DBM respectively asks the committees not to concur with these recommended restrictions on already limited funds.

DBM concurs with nine of the eighteen recommendations proposed by the analyst. The Department does not concur with recommendations 1-7, 14, and 18, as discussed below.

Recommendation 1: Restrict $100,000 and require the published FY 2019 budget books to include a volume with personnel and MFR data.

While the Department is committed to transparency, we do not concur with this recommendation for several reasons. First, the analysis incorrectly suggests that the personnel detail and Managing for Results (MFR) data were not provided with the Governor's FY 2018 Allowance. Agency personnel detail and MFR data were both posted on the Department's website on the same day the FY 2018 allowance was released, thereby making the information available to the public in a searchable, user-friendly format. Should any member of the General Assembly or the public request a hard copy, DBM would be happy to provide one. However, no such requests have been made.

Second, moving the personnel and MFR information online is part of the Administration's commitment to saving taxpayer dollars and using technology to make information accessible to the broader general public. The State is saving about $26,000 annually in printing costs by reducing the size of the budget book set and moving this information online. In addition, the format of the data was improved to make it more user-friendly.

Further, beginning with the introduction of the FY 2019 budget, DBM will post all information – budget, personnel, and MFR – in a single consolidated location on-line

With regard to MFR, the Department does not believe that legislative review has been impeded by this action. DBM engaged DLS in the process as we worked to streamline how we collect and publish MFR data, and DLS feedback was incorporated throughout the process. The Excel template used in the revised process includes data that is reported to DLS alone to assist with their analyses. Further, all data provided online is archived to preserve its historical value.

DBM is also concerned about the DLS proposal requiring all agencies to have at least five performance measures per objective. In an effort to focus on performance outcomes, DBM has encouraged agencies to reduce the number of input measures that are reported and instead report the outcome measure for each objective. Further, such a requirement would result in a major review and redesign of agency MFRs, replicating an extensive effort that was recently undertaken to update and refine agency measures.

Recommendation 2: Restrict $100,000 pending development of MFR measures for Juvenile Services Education

DBM Response: DBM will work with the budget committees to get the requested data from MSDE and DJS, however, we strongly oppose restricting funding for this purpose.

Recommendation 3: Restrict $100,000 contingent on FY 2019 reversions being limited to $30 million

DBM Response: DBM believes this recommendation impedes executive authority over the budget. Including specific reversions in the budget plan is not unprecedented and there are a number of reasons why the Administration may choose to show excess appropriations as specified reversions rather than as negative deficiencies. For example, showing savings from anticipated caseload trends as a reversion rather than removing the funds as a negative deficiency provides greater flexibility as the fiscal year provides, should the caseload trend change and costs increase. In addition, funds restricted by the General Assembly but determined not to be spent by the Governor are shown as reverting to the General Fund, rather than reduced from the budget.

For the past two years, the amount of reversions made by State agencies have exceeded the reversion target and the Department anticipates this to continue in the future, given the Administration's emphasis on spending controls and efficiencies. Therefore, the Department respectfully requests the budget committees reject this recommendation and the associated restriction on agency funds.

Recommendation 4: Restrict $100,000 pending submission of the FY 2018 Managing for Results Comprehensive Plan in January 2018

DBM Response: DBM intends to submit the FY 2017 MFR plan by the end of this month and apologizes for the delay. The Department recognizes the importance of this report and has consistently submitted it to the Governor and General Assembly each year. Accordingly, we request that no funds be restricted pending submission of the FY 2018 report.

Recommendation 5: Require report addressing the structural deficit by July 1, 2017

DBM Response: The Department does not concur with the request to prepare a detailed report (at the program level) with specific proposals for achieving structural balance in 2019 by July 1, 2017. We would note that the timing of the report is inopportune as this is the beginning of the budget cycle. Further, there are many key drivers of the structural deficit that will be unknown at the time, including the FY 2017 closeout, agency budget submissions, and revenue estimates. DBM believes that the submission of the FY 2019 should constitute the Governor's plan.

Recommendation 6: Impose limitations on placing appropriations into contingency reserve

DBM Response: The Department does not concur with this limitation on the Secretary's authority to manage the budget. The language recommended for deletion by DLS was standard language in the budget bill that was included every year under the prior administration. The Department believes the current administration should be afforded the same authority to manage the budget.

Recommendation 7: Disallow transfers from restricted objects of expenditure to other purposes

DBM Response: The Department does not concur with this recommendation. The language permitting the Secretary of Budget and Management to approve the transfer of funds from various statewide allocations for other purposes had been included in annual budget bills for several years prior to FY 2016. DBM believes the current Administration should be afforded the same flexibility to manage funds as the prior administration and therefore respectfully requests the Committee reject the analyst's recommendation and allow the Secretary to retain this management tool.

Recommendation 14: Require allocation of across-the-board reductions and limit estimated reversions to $30 million

DBM Response: The Department concurs with the annual language in this section regarding reporting of budget data and organizational charts. However, DBM opposes the analyst's recommendation to add budget bill language requiring across-the-board reductions to positions and funding be allocated in detail by agency in the budget bill. It is not unprecedented to impose an unallocated across-the-board reduction in the budget bill. Moreover, transparency is not an issue. Once allocations are made, detail on the actions has been provided routinely, as a matter of course, to the budget committees and DLS.

In addition, as noted earlier, the Department does not concur with the recommended language limiting FY 2018 reversions to $30 million and requiring the withdrawal of excess FY 2018 appropriations as negative deficiencies in the FY 2019 budget bill rather than as specified reversions.

Recommendation 18: Limit salary payments to a Secretary or Acting Secretary under certain conditions

DBM Response: DBM does not concur with this recommendation. The Department is in support of the Governor's appointments.