

C91H00
Office of People's Counsel

Operating Budget Data

(\$ in Thousands)

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$2,582	\$3,172	\$2,761	-\$412	-13.0%
Total Funds	\$2,582	\$3,172	\$2,761	-\$412	-13.0%

- The fiscal 2008 allowance for the Office of the People's Counsel (OPC) decreases by \$411,675, or 13% below the fiscal 2007 working appropriation. However, when you adjust the fiscal 2007 working appropriation to reflect the one-time health surplus, the fiscal 2008 allowance decreases by \$334,706, or 10.8%.
- Contractual employee expenses decrease by \$496,689 mostly due to a reduction in legal service expenditures for activities associated with the Florida Power & Light Company and Constellation Energy Group merger.
- Personnel expenditures increase by \$75,882 primarily due to an increase in employee compensation.

Personnel Data

	<u>FY 06</u> <u>Actual</u>	<u>FY 07</u> <u>Working</u>	<u>FY 08</u> <u>Allowance</u>	<u>FY 07-08</u> <u>Change</u>
Regular Positions	19.00	19.00	19.00	0.00
Contractual FTEs	<u>1.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	20.00	19.00	19.00	0.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.00	0.00%
Positions Vacant as of 12/31/06	0.00	0.00%

Note: Numbers may not sum to total due to rounding.

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- The fiscal 2008 allowance does not include any new positions.
- Currently, OPC has no vacancies. Turnover expectancy is reduced from 2.72 to 0%.

Analysis in Brief

Major Trends

Fewer Consumer Complaints Are Resolved in Fiscal 2006: The percentage of utility complaints and terminations successfully resolved by OPC declined in fiscal 2006. OPC reports that it changed its process for handling consumer complaints once the agency realized that a considerable amount of attorney resources were being diverted away from critical matters involving OPC’s core mission to address consumer complaints.

Issues

Fiscal 2006 Closeout Audit: The Office of Legislative Audits’ statewide review of budget closeout transactions for fiscal 2006 indicated that OPC overspent its legislative appropriation by \$120,457. OPC reports that the majority of the funding was used to pay for employee salaries, raises, and reclassifications. **OPC should comment to the committees as to why the agency overspent its fiscal 2006 legislative appropriation. OPC should also comment on the measures it has taken to ensure that it remains within its fiscal 2007 working appropriation.**

Baltimore Gas & Electric (BGE) Rate Stabilization Plan: In an effort to mitigate the potential rate shock to consumers, the General Assembly passed legislation to mitigate the anticipated 72% electric utility increase during the 2006 special session. Chapter 5 of the 2006 special session automatically enrolled all BGE residential customers in a rate stabilization plan. The stabilization plan limited the monthly increase in the rates charged to residential customers on “standard offer service” to 15% from July 1, 2006, through May 31, 2007. Beginning June 1, 2007, at the choice of the customer, rates will be at the full market rate or an intermediate level opt-in plan. **OPC should comment to the committees on the current rate stabilization plan and the future impact of full market rate prices to consumers.**

Electric Universal Service Program (EUSP): Chapters 3 and 4 of 1999 required the Public Service Commission to establish a continuing, nonlapsing EUSP to help electric customers with annual incomes at or below 150% of the federal poverty level. In response to anticipated electric utility rate increases, Chapter 5 of the 2006 special session increased the annual funding level for the EUSP from \$34 million to \$43 million in fiscal 2007 and to \$37 million thereafter. The Office of Home Energy Programs (OHEP) has opined that funding in excess of the amount that is currently being administered for bill payment and arrearage retirement will be required to adequately fund the EUSP in fiscal 2008. OPC also supports OHEP’s contention that a funding increase is warranted. **OPC should comment to the committees on the current level of EUSP funding and whether the**

current level of funding should be maintained going forward given the anticipated increase in electric utility rates for residential consumers.

Recommended Actions

	<u>Funds</u>
1. Reduce allowance for postage expenses based on fiscal 2006 actual expenditures plus inflation.	\$ 6,804
2. Reduce allowance for telephone expense based on fiscal 2006 actual expenditures plus inflation.	5,724
3. Reduce allowance for travel expense based on fiscal 2006 actual expenditures plus inflation.	19,598
4. Reduce allowance for bookbinding and printing expenses based on fiscal 2006 actual expenditures plus inflation.	12,938
Total Reductions	\$ 45,064

C91H00 – Office of People’s Counsel

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Office of People's Counsel

Operating Budget Analysis

Program Description

The Office of People's Counsel (OPC) represents the interests of residential and noncommercial users of gas, electricity, telephones, water, and sewer before the Public Service Commission (PSC), various federal agencies, and the courts. OPC monitors the development of competitive markets in gas, electric, and telephone service and initiates investigations that it deems necessary to protect the interests of residential and noncommercial users. OPC has the following three key goals:

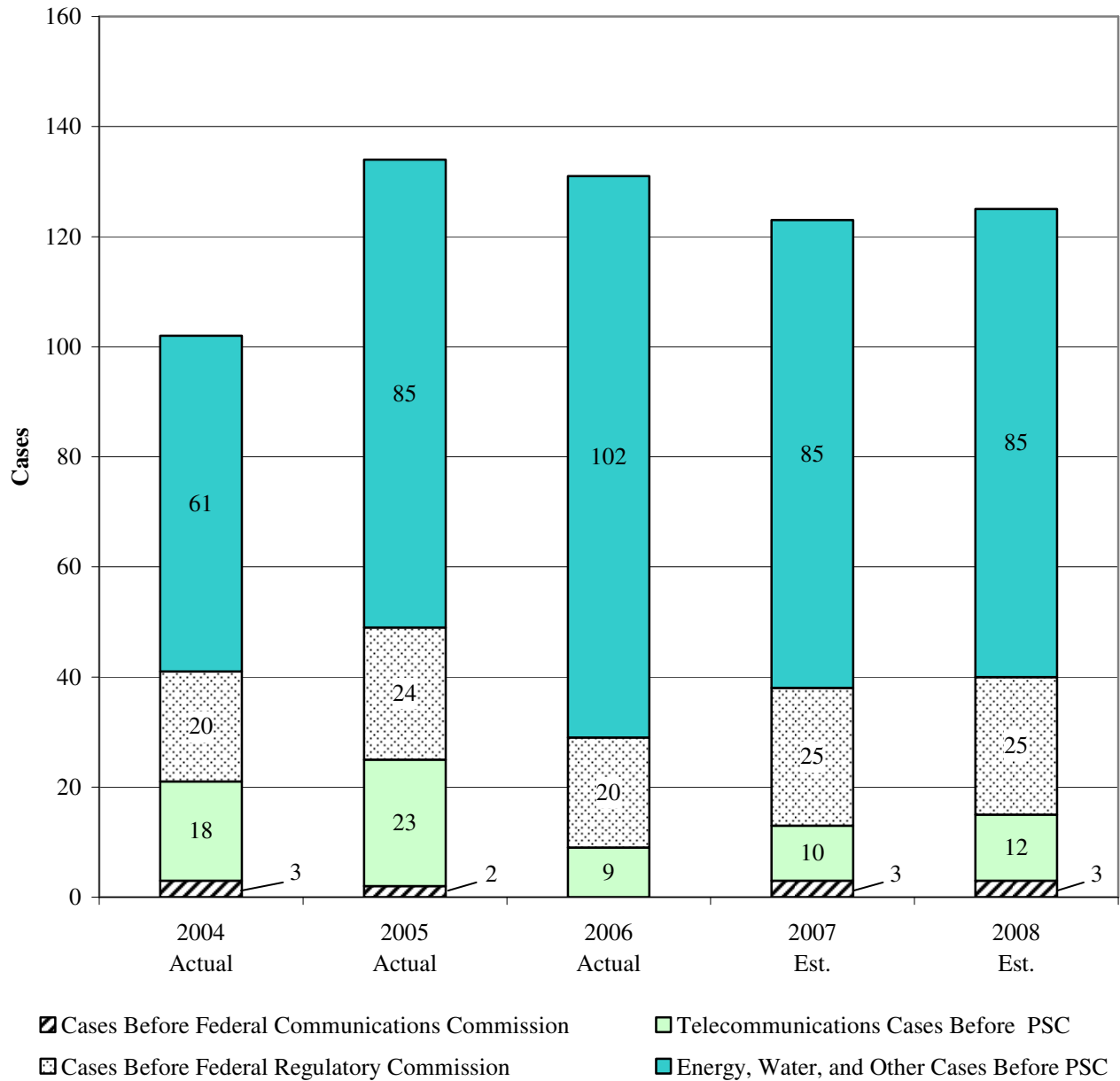
- to obtain, preserve, and protect fair and equitable prices and high quality and reliable products and services for residential consumers of energy, telecommunications, and other regulated utility services;
- to keep the public informed about changes and new developments in the utility industry; and
- to continue protecting consumers from potential harm caused by the transition from fully regulated services to the competitive market.

Performance Analysis: Managing for Results

Exhibit 1 illustrates that overall, OPC advocated in fewer cases on behalf of residential rate payers in fiscal 2006. While it is impossible to accurately estimate the number of cases in which OPC will participate in a given year, OPC has indicated that the decline is likely attributed to the vast amount of regulatory restructuring which has taken place over the past several years. OPC has indicated that the downward trend is likely to continue going forward.

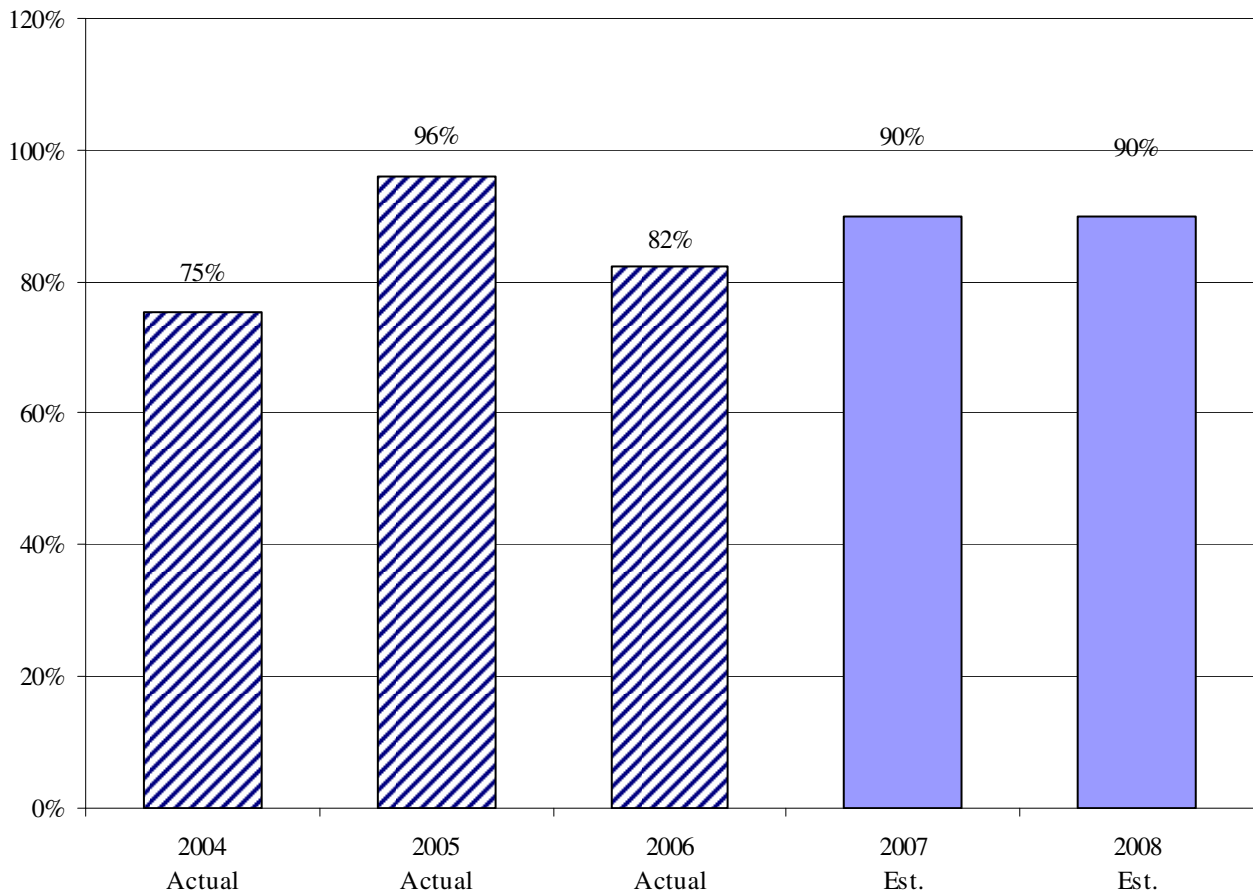
Exhibit 2 shows that the percentage of utility complaints and terminations successfully resolved by OPC declined in fiscal 2006. OPC reports that in fiscal 2006, the agency changed its resolution process due to the high volume of consumer complaints. OPC began focusing primarily on consumer complaints that were deemed to be "high risk." That is, cases where there was a high probability that consumers' utility services would be terminated in the near future. OPC reports that it changed its process for handling consumer complaints once the agency realized that a considerable amount of attorney resources were being diverted away from critical matters involving OPC's core mission to address consumer complaints. **OPC should comment to the committees regarding the current process for resolving consumer complaints and terminations and whether this process is sufficient to adequately address consumer complaints going forward.**

Exhibit 1
Office of People’s Counsel Case Participation
Fiscal 2004-2008



Source: Office of People’s Counsel

Exhibit 2
Percentage of Complaints and Terminations Successfully Resolved
Fiscal 2004-2008



Source: Office of People’s Counsel

Governor’s Proposed Budget

As illustrated in **Exhibit 3**, OPC’s fiscal 2008 allowance decreases by \$411,675, or 13% below the fiscal 2007 working appropriation. The net decline is primarily attributed to a \$500,000 reduction in legal service expenditures for activities associated with the Florida Power & Light Company and Constellation Energy Group merger and a \$75,882 increase in employee compensation.

Exhibit 3
Governor’s Proposed Budget
Office of People’s Counsel
(\$ in Thousands)

How Much It Grows:	<u>Special Fund</u>	<u>Total</u>
2007 Working Appropriation	\$3,172	\$3,172
2008 Governor’s Allowance	<u>2,761</u>	<u>2,761</u>
Amount Change	-\$412	-\$412
Percent Change	-13.0%	-13.0%

Where It Goes:

Personnel Expenses

Increments and other compensation	\$73
Turnover adjustments	40
Employees’ retirement system.....	34
Social Security contributions and other fringe benefit increases.....	-3
Net health insurance costs and one-time use of surplus	-68

Other Changes

Reduction in contractual expenditures for public utility merger	-500
Increased rent paid to the Department of General Services.....	6
Department of Budget and Management paid telecommunications	2
Other	4

Total	-\$412
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Note: Numbers may not sum to total due to rounding.

Issues

1. Fiscal 2006 Closeout Audit

The Office of Legislative Audits’ statewide review of budget closeout transactions for fiscal 2006 indicated that OPC overspent its legislative appropriation by \$120,457. OPC reports that the majority of the funding was used to pay for employee salaries, raises, and reclassifications. In an attempt to ensure that the agency remains within its budgeted appropriation going forward, OPC reports that the administrative staff has begun conducting quarterly budget reviews to identify and resolve potential budget issues.

OPC should comment to the committees as to why the agency overspent its fiscal 2006 legislative appropriation. OPC should also comment on the measures it has taken to ensure that it remains within its fiscal 2007 working appropriation.

2. Baltimore Gas & Electric (BGE) Rate Stabilization Plan

Background

The Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in Maryland, introducing “customer choice” of an electric supplier. Customer choice allows the customer to purchase electricity generated by other sources and have the electricity delivered over transmission and distribution lines of the local electric utility. Before deregulation, the local electric utilities “bundled” the generation, transmission, and distribution of electricity and provided them to their customers within their geographically defined monopoly service territories. With customer choice, consumers who do not choose a competing electric supplier have the option to remain with their current supplier under what is known as the “standard offer service” (SOS). SOS customers pay a bidded market price that is sufficient to provide the electric company with the opportunity to recover verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return.

BGE

The need for energy assistance is growing rapidly across the United States. Last year, the total number of households receiving heating assistance increased by 12% to almost 5.8 million households – the highest number in 13 years. Experts have indicated that the increased demand for energy assistance is mostly due to an increase in the wholesale cost of energy. Of the 13 approved¹ rate increases throughout the county, Maryland’s Baltimore Gas & Electric, which serves more than one million business and residential electric customers, ranked top on the list at 72%.

¹ Wolfe, Mark. (June 19, 2006). “States Report Highest Level of Households Receiving Energy Assistance in 13 Years Additional \$1 Billion Appropriated for LIHEAP Provides Essential Support State-By-State Survey Results.” National Energy Assistance Directors’ Association.

In an effort to mitigate the potential rate shock to consumers, the General Assembly passed legislation to mitigate the anticipated 72% electric utility increase during the 2006 special session. Chapter 5 of the 2006 special session automatically enrolled all BGE residential customers in a rate stabilization plan. The stabilization plan limited the monthly increase in the rates charged to residential customers on SOS to 15% from July 1, 2006, through May 31, 2007. Beginning June 1, 2007, at the choice of the customer, rates will be at the full market rate or an intermediate level opt-in plan. Pursuant to the legislation, all SOS residential customers are required to pay full market rates starting January 1, 2008.

Recent Developments

When the market prices take effect in fiscal 2008, the electric rates may not be as high as originally anticipated as the market prices for electricity have fallen in recent months. In January 2007, PSC accepted the interim results for the bidding process for market priced electric SOS. The final bid results will determine the SOS prices that will go into effect on June 1, 2007. PSC’s interim report estimates that BGE customers’ annual utility bills will increase approximately 47%, or \$550 above the 15% increase customers experienced last summer.

OPC should comment to the committees on the current rate stabilization plan and the future impact of full market rate prices to consumers.

3. Electric Universal Service Program (EUSP)

Background

Chapters 3 and 4 of 1999 required PSC to establish a continuing, nonlapsing EUSP to help electric customers with annual incomes at or below 150% of the federal poverty level. The EUSP, which is administered by the Department of Human Resources (DHR) Office of Home Energy Programs (OHEP), has the following three components: (1) bill payment assistance to help participants pay current electricity bills; (2) arrearage retirement payments to assist participants with paying past due electric bills; and (3) weatherization to provide electric energy efficiency measures to reduce future electric bills. Chapter 468 of 2005 transferred responsibility for the low-income weatherization component of the EUSP from DHR to the Department of Housing and Community Development (DHCD).

In response to anticipated electric utility rate increases, Chapter 5 of the 2006 special session increased the annual funding level for the EUSP from \$34 million to \$43 million in fiscal 2007 and to \$37 million, thereafter. Additionally, the legislation increased the income level eligibility requirement from 150 to 175% of the federal poverty level.

In October 2006, OHEP submitted its annual report to PSC regarding the EUSP. Several of the report’s highlights include the following:

- Approximately \$34 million was issued in benefits for bill payment assistance in fiscal 2006, an increase of 20% above fiscal 2005.
- A total of 93,186 applications were received for EUSP during fiscal 2006, an increase of 5.5% over the previous fiscal year.
- Applications certified during fiscal 2006 for EUSP increased to 83,853, or 6.6%. The average bill payment assistance benefit issued was \$410.
- Arrearage retirement assistance payments totaled approximately \$1.7 million. The average arrearage benefit issued was \$435.

While projecting the future need for EUSP comes with many limitations, as illustrated in **Exhibit 4**, OHEP has opined that funding in excess² of the \$36 million that is currently being administered for bill payment and arrearage retirement will be required to adequately fund the EUSP in fiscal 2008. In addition, OHEP recommends an incremental increase to keep pace with the expected growth and enrollment to reach the anticipated increased need³ by fiscal 2010. OHEP recommends legislation authorizing a \$10 million increase in EUSP for fiscal 2008. OPC also supports OHEP’s contention that a funding increase is warranted. OPC further believes there is a need to increase EUSP funding based upon Roger Colton’s testimony in Case Number 9074, which stated that “The Home Energy Affordability Gap in Maryland reached \$392 million in 2005. This Affordability Gap pre-dates Katrina-related increases in natural gas prices during the 2005/2006 winter season.”⁴

On November 1, 2006, PSC held a public hearing on the matter and upon its review of OHEP’s annual report and the comments of the parties, PSC recommended that the \$37 million funding level for the EUSP be maintained at this time.

OPC should comment to the committees on the current level of EUSP funding and whether the current level of funding should be maintained going forward given the anticipated increase in electric utility rates for residential consumers.

² OHEP’s projections do not address the weatherization component administered by DHCD. The weatherization component receives \$1 million annually from the EUSP.

³ EUSP’s goal is to meet 50% of eligibility need.

⁴ Roger Colton, (October 2006). “*Home Energy Affordability in Maryland: Necessary Regulatory and Affordability Legislative Actions.*” at 7, Office of People’s Counsel Direct Testimony in Case No. 9074.

Exhibit 4
Projected Funding Levels for the EUSP
Fiscal 2008-2010

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Bill Payment Assistance	\$42,251,836	\$43,519,391	\$44,824,973
Arrearage Retirement	3,000,000	4,500,000	4,500,000
Administration Expenses	5,271,919	5,578,127	5,731,296
Total	\$50,523,755	\$53,597,518	\$55,056,269

Source: Department of Human Resources, Office of Home Energy Programs

Recommended Actions

	<u>Amount Reduction</u>	
1. Reduce allowance for postage expense based on fiscal 2006 actual expenditures plus inflation. Postage expenditures were \$4,661 in fiscal 2006. This reduction will appropriate \$5,139.	\$ 6,804	SF
2. Reduce allowance for telephone expense based on fiscal 2006 actual expenditures plus inflation. Telephone expenditures were \$8,864 in fiscal 2006. This reduction will appropriate \$9,773.	5,724	SF
3. Reduce allowance for travel expense based on fiscal 2006 actual expenditures plus inflation. Travel expenditures were \$11,249 in fiscal 2006. This reduction will appropriate \$12,402.	19,598	SF
4. Reduce allowance for bookbinding and printing expenses based on fiscal 2006 actual expenditures plus inflation. These expenses were \$23,182 in fiscal 2006. This reduction will appropriate \$25,558.	12,938	SF
Total Special Fund Reductions	\$ 45,064	

Current and Prior Year Budgets

Current and Prior Year Budgets Office of People’s Counsel (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2006					
Legislative Appropriation	\$0	\$2,582	\$0	\$0	\$2,582
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	0	0	0	0	0
Actual Expenditures	\$0	\$2,582	\$0	\$0	\$2,582
Fiscal 2007					
Legislative Appropriation	\$0	\$3,149	\$0	\$0	\$3,149
Budget Amendments	0	23	0	0	23
Working Appropriation	\$0	\$3,172	\$0	\$0	\$3,172

Note: Numbers may not sum to total due to rounding.

Fiscal 2006

The fiscal 2006 working appropriation was the same as the fiscal 2006 legislative appropriation.

Fiscal 2007

The fiscal 2007 special fund appropriation increased by \$23,581 due to a cost-of-living adjustment.

**Object/Fund Difference Report
Office of People's Counsel**

<u>Object/Fund</u>	<u>FY06 Actual</u>	<u>FY07 Working Appropriation</u>	<u>FY08 Allowance</u>	<u>FY07-FY08 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	19.00	19.00	19.00	0	0%
02 Contractual	1.00	0	0	0	0.0%
Total Positions	20.00	19.00	19.00	0	0%
Objects					
01 Salaries and Wages	\$ 1,465,836	\$ 1,710,620	\$ 1,786,502	\$ 75,882	4.4%
02 Technical and Spec. Fees	764,061	1,137,547	640,858	-496,689	-43.7%
03 Communication	41,836	63,734	65,097	1,363	2.1%
04 Travel	11,249	32,000	32,000	0	0%
07 Motor Vehicles	10,749	10,800	11,520	720	6.7%
08 Contractual Services	90,873	48,496	49,296	800	1.6%
09 Supplies and Materials	56,433	64,010	64,010	0	0%
12 Grants, Subsidies, and Contributions	0	7,017	7,017	0	0%
13 Fixed Charges	141,195	98,182	104,431	6,249	6.4%
Total Objects	\$ 2,582,232	\$ 3,172,406	\$ 2,760,731	-\$ 411,675	-13.0%
Funds					
03 Special Fund	\$ 2,582,232	\$ 3,172,406	\$ 2,760,731	-\$ 411,675	-13.0%
Total Funds	\$ 2,582,232	\$ 3,172,406	\$ 2,760,731	-\$ 411,675	-13.0%

Note: The fiscal 2007 appropriation does not include deficiencies, and the fiscal 2008 allowance does not reflect contingent reductions.