

U10B00
Maryland Environmental Service

Program Description

The Maryland Environmental Service (MES) is an instrumentality of the State. MES provides technical services including engineering, design, financing, construction, and operation of water supply and wastewater treatment facilities. MES also provides similar services in the area of hazardous and solid waste facility management, including sanitary landfills, incinerators, and resource recovery facilities. Additional services offered include sludge and dredged materials management, recycling and marketing of end products, regulatory monitoring, and renewable energy needs servicing. MES operates on a fee-for-service (FFS) basis. Three goals guide MES’s activities: improving the environment; improving infrastructure to treat water and wastewater in the State; and working more safely. A fourth goal to provide excellent customer service and satisfaction is not included in the fiscal 2023 budget materials.

Operating Budget Summary

Maryland Environmental Service
Fiscal 2018-2021
(\$ in Thousands)

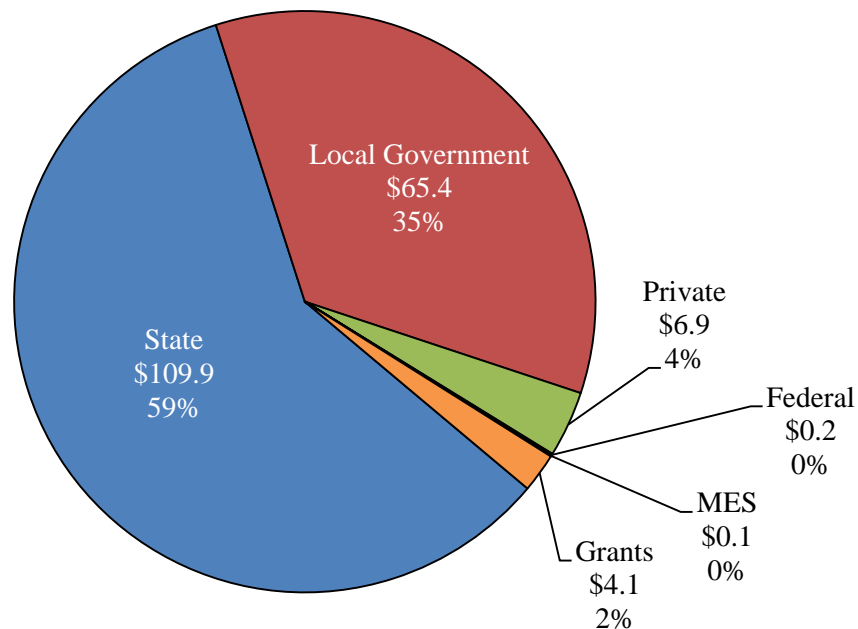
| | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>Change</u> <u>2020-2021</u> |
|-------------------------|-----------------|-----------------|-----------------|-----------------|-----------------------------------|
| Total Assets | \$85,412 | \$91,767 | \$101,114 | \$101,313 | \$199 |
| Total Liabilities | 57,338 | 62,010 | 70,630 | 70,829 | 199 |
| Total Net Assets | \$28,074 | \$29,757 | \$30,484 | \$30,484 | \$0 |
| | | | | | |
| Total Revenue | \$155,299 | \$161,121 | \$182,221 | \$186,529 | \$4,308 |
| Total Expenditures | 152,868 | 159,699 | 181,600 | 186,489 | 4,889 |
| Operating Income | \$2,431 | \$1,422 | \$621 | \$40 | -\$581 |

- Between fiscal 2020 and 2021, MES’s net operating income decreased by \$0.6 million for all operations excluding the Midshore Regional Landfill Private Purpose Trust Fund. According to MES’s audited financial statements, the reduction resulted from an increase in operating expenses from contractual services in fiscal 2021.

MES’s Fiscal 2021 Financial Position

MES breaks down its revenue by fund sources and type of business activity. **Exhibit 1** provides an overview of fiscal 2021 revenue by fund source and shows that approximately 94% of MES’s revenue comes from State and local government. In terms of its relationship with the State, MES has two arrangements: (1) reimbursable projects are related to Executive Order 01.01.1971.11 and the Board of Public Works (BPW) directive that MES operate wastewater and drinking water plants for State agencies; and (2) contractual projects for which MES has a contract with a State agency to do the work. Between fiscal 2020 and 2021, MES’s State government revenues decreased by \$3.1 million, and local government revenues increased by \$7.6 million. The State revenues decreased due to the completion of the Cox Creek expansion project. The local government revenues increased due to the Prince George’s County Materials Recycling Facility capital project’s major equipment upgrade. The upgrade included the addition of high-tech optical sorters, which allows the facility to separate plastic recyclables into more marketable commodities.

Exhibit 1
MES Revenue by Fund Source
Fiscal 2021
(\$ in Millions)

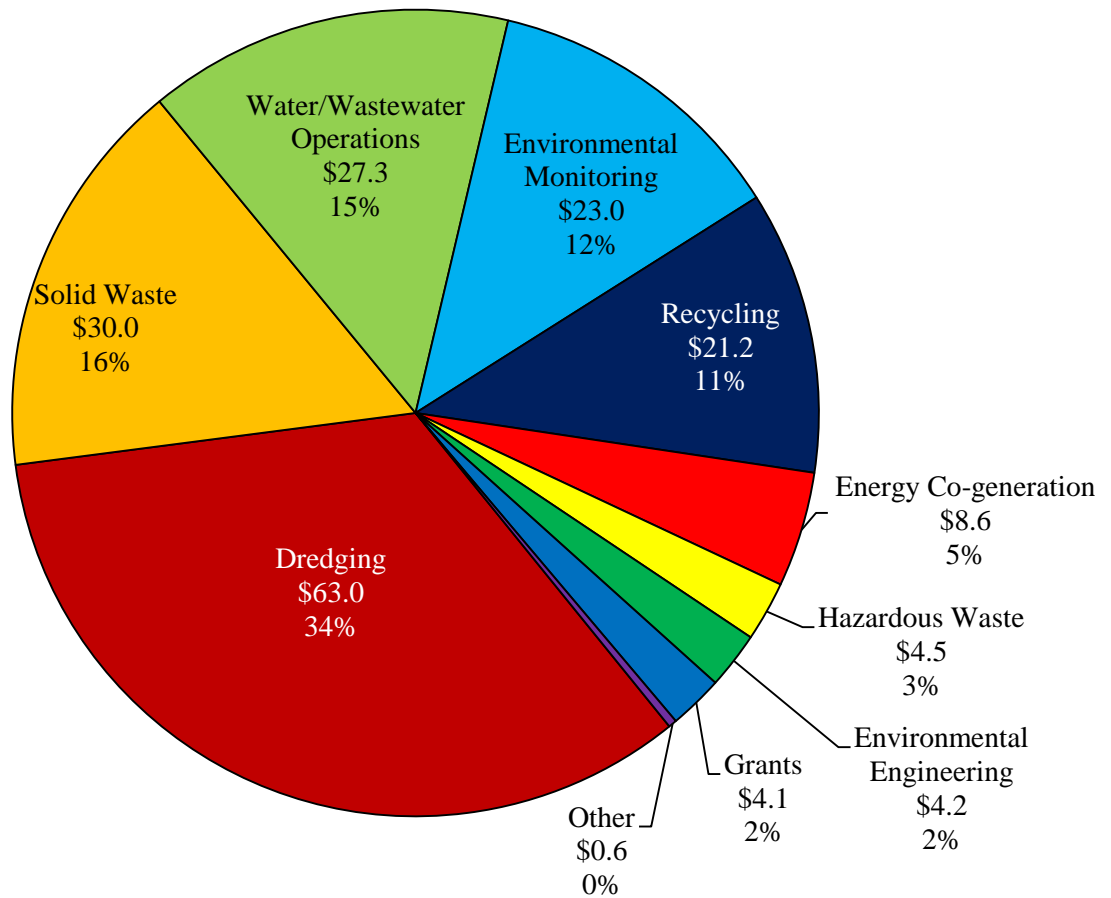


MES: Maryland Environmental Service

Source: Maryland Environmental Service

Exhibit 2 provides an overview of fiscal 2021 revenue by business activity type and shows that the largest three categories are dredging, water/wastewater operations, and solid waste. These three business activity types account for 65% of MES’s revenue. In recent years, MES has entered the market for energy efficiency and renewable energy.

Exhibit 2
MES Revenue by Business Activity Type
Fiscal 2021
(\$ in Millions)



MES: Maryland Environmental Service

Source: Maryland Environmental Service

Financial Changes

MES’s operating income decreased by \$0.6 million between fiscal 2020 and 2021 because of an increase in the operating expenses from contractual services in fiscal 2021. MES’s revenues increased by \$4.3 million between fiscal 2020 and 2021, as shown by the revenue by business type activity in **Exhibit 3**.

Exhibit 3
Revenues by Business Type Activity
Fiscal 2017-2021
(\$ in Thousands)

| <u>Business Type Activity</u> | <u>2017</u> | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>Change</u> <u>2019-20</u> | <u>Change</u> <u>2020-21</u> |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|---|---|
| Solid Waste Management | \$34,009 | \$29,430 | \$24,316 | \$24,385 | \$30,037 | \$69 | \$5,652 |
| Water/Wastewater Operations | 30,216 | 29,926 | 27,677 | 25,402 | 27,313 | -2,275 | 1,911 |
| Recycling | 16,834 | 15,714 | 17,989 | 19,868 | 21,157 | 1,879 | 1,289 |
| Environmental Monitoring | 17,580 | 19,384 | 20,584 | 21,992 | 23,017 | 1,408 | 1,025 |
| Energy Co-generation | 6,887 | 7,162 | 7,155 | 8,173 | 8,618 | 1,018 | 445 |
| Other | 395 | 506 | 361 | 461 | 617 | 100 | 156 |
| Hazardous Waste Treatment | 4,766 | 4,837 | 4,994 | 4,653 | 4,471 | -341 | -182 |
| Environmental Engineering | 2,263 | 2,398 | 2,594 | 4,518 | 4,239 | 1,924 | -279 |
| Grants | 2,092 | 1,699 | 2,867 | 5,123 | 4,055 | 2,256 | -1,068 |
| Environmental Dredging and Restoration | 50,742 | 44,243 | 52,584 | 67,646 | 63,005 | 15,062 | -4,641 |
| Total Revenue | \$165,784 | \$155,299 | \$161,121 | \$182,221 | \$186,529 | \$21,100 | \$4,308 |

Source: Maryland Environmental Service

- **Solid Waste Management:** An increase of \$5.7 million due to the Prince George’s County Materials Recycling Facility capital project, which allowed the facility to separate recyclables into more marketable commodities.
- **Water/Wastewater Operations:** An increase of \$1.9 million due to the addition of water and wastewater treatment plants (WWTP) as well as new construction projects.

- ***Environmental Dredging and Restoration:*** A decrease of \$4.6 million is due to the completion or winding down of activities related to the Cox Creek expansion project. This project included design of the more than 60 dike construction and construction projects for the operations complex relocation, base dike widening, and upland demolition and remediation. The decrease in environmental dredging and restoration was offset partially by an increase for the Seagirt Berth 3 dredging project – begun and completed in fiscal 2021 – and for the Mid Bay Design project, which included geotechnical and environmental investigations in fiscal 2021.

As shown in **Exhibit 4**, MES’s overall operating expenses increased by \$6.6 million between fiscal 2021 and 2022 and increased by \$5.7 million between fiscal 2022 and 2023. The major changes between fiscal 2022 and 2023 are increases of \$2.1 million in salaries, wages, and fringe benefits for a 3% cost-of-living adjustment (COLA); \$1.3 million in land and structures based on anticipated subcontracting dredging work as well as the purchase of new equipment and machinery; and \$1.1 million for contractual services for an anticipated 3% increase in equipment repair and maintenance, information technology expenses, and service contracts.

**Exhibit 4
Operating Expenses
Fiscal 2021-2023**

| <u>Operating Expense</u> | <u>Expenditures</u> <u>2021</u> | <u>Legislative</u> <u>Appropriation</u> <u>2022</u> | <u>Allowance</u> <u>2023</u> | <u>Change</u> <u>2021-2022</u> | <u>Change</u> <u>2022-2023</u> |
|---|--|--|---|---|---|
| Salaries, Wages, and Fringe Benefits | \$65,927,743 | \$69,236,261 | \$71,313,348 | \$3,308,518 | \$2,077,087 |
| Technical and Special Fees | 13,774,744 | 13,452,217 | 13,855,784 | -322,527 | 403,567 |
| Communication | 563,721 | 573,958 | 591,176 | 10,237 | 17,218 |
| Travel | 29,573 | 353,736 | 364,348 | 324,163 | 10,612 |
| Fuel and Utilities | 6,622,028 | 7,526,381 | 7,752,172 | 904,353 | 225,791 |
| Motor Vehicle Operation and Maintenance | 3,730,370 | 5,115,484 | 5,268,948 | 1,385,114 | 153,464 |
| Contractual Services | 40,690,671 | 38,028,705 | 39,169,567 | -2,661,966 | 1,140,862 |
| Supplies and Materials | 8,823,401 | 9,297,243 | 9,576,160 | 473,842 | 278,917 |
| Fixed Charges | 3,402,832 | 3,943,817 | 4,062,132 | 540,985 | 118,315 |
| Land and Structures | 39,496,770 | 42,125,764 | 43,389,537 | 2,628,994 | 1,263,773 |
| Total Operating Expenses | \$183,061,853 | \$189,653,566 | \$195,343,172 | \$6,591,713 | \$5,689,606 |

Source: Department of Budget and Management

Types of MES Operations

MES's business type activities can generally be viewed as FFS and revenue-generating activities. Revenue-generating activities can be further divided into products and services. Before the sale of the scrap tire recycling facility in January 2008, MES sold recycled crumb rubber products. Currently, on behalf of its clients, MES produces two products – Leafgro and Leafgro Gold. Leafgro – composted yard waste such as grass clippings and leaves – and Leafgro Gold – composted food residual and yard waste – are produced under the contract that MES has to operate composting facilities for Montgomery and Prince George's counties; thus, the two counties receive the revenues from sales. MES continues to perform three revenue generating services: yard waste grinding; waste oil collection; and geospatial and engineering services.

Exhibit 5 reflects some of MES's revenue-generating services. As can be seen, revenues exceeded expenses – a net gain – for all but geospatial and engineering services in fiscal 2021. MES notes that used oil collection was buoyed by favorable rates for the price of oil on the revenue side and staff turnover on the expenses side, which reduced program salary costs. Despite the staff turnover, the used oil collection program was maintained and the oil collection sites inspected. For geospatial and engineering services, MES took on a \$3.4 million contract for a high-performance pond – smart pond – partnership between the State Highway Administration (SHA), MES, and The Nature Conservancy as well as other SHA work, such as reporting highway characteristics, highway mapping, implementation of ESRI geographic information system software, and providing recovery support services for COVID-19 pandemic emergency response. These geospatial and engineering services revenues were offset by an increase in overhead and technology expenses that were not covered as part of MES labor rates, so there was a net loss in the program in fiscal 2021. Lastly, yard waste grinding saw a net gain due to an increase in the amount of material ground during fiscal 2021 and a decrease in expenses due to a reduction in depreciation costs for equipment that was fully depreciated.

Exhibit 5
Revenue Generating Services
Fiscal 2013-2021
(\$ in Thousands)

| | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> | <u>2017</u> | <u>2018</u> | <u>2019</u> | <u>2020</u> | <u>2021</u> | <u>Difference</u> <u>2020-2021</u> |
|--|---------------|--------------|--------------|---------------|--------------|--------------|--------------|--------------|---------------|---------------------------------------|
| Used Oil Collection | | | | | | | | | | |
| Revenue | \$721 | \$753 | \$585 | \$218 | \$147 | \$120 | \$86 | \$146 | \$148 | \$2 |
| Expense | -368 | -338 | -301 | -242 | -80 | -126 | -87 | -130 | -108 | 22 |
| Total | \$353 | \$415 | \$284 | -\$24 | \$67 | -\$6 | -\$1 | \$16 | \$39 | \$23 |
| Geospatial and Engineering Services | | | | | | | | | | |
| Revenue | \$2,878 | \$3,447 | \$4,549 | \$4,546 | \$4,611 | \$5,291 | \$6,056 | \$9,453 | \$13,661 | \$4,208 |
| Expense | -3,137 | -3,404 | -4,600 | -4,753 | -4,460 | -5,024 | -5,869 | -9,216 | -13,922 | -4,706 |
| Total | -\$259 | \$43 | -\$51 | -\$207 | \$151 | \$267 | \$187 | \$237 | -\$261 | -\$498 |
| Yard Waste Grinding (Tub Grinding) | | | | | | | | | | |
| Revenue | \$510 | \$347 | \$516 | \$570 | \$612 | \$751 | \$656 | \$519 | \$542 | \$23 |
| Expense | -378 | -282 | -345 | -498 | -570 | -672 | -700 | -569 | -487 | 82 |
| Total | \$132 | \$65 | \$171 | \$72 | \$42 | \$79 | -\$44 | -\$50 | \$55 | \$105 |

Source: Maryland Environmental Service

Fiscal 2022 Refund to the State

MES has \$1,739,478 of unearned monies in fiscal 2021. The unearned monies primarily reflect reduced utility costs for the Department of Public Safety and Correctional Services (DPSCS) – Maryland Correctional Institution – Hagerstown: Power Generation project, which came in \$1,277,798 under budget. In addition, there was a savings of \$287,532 due to the closure of DPSCS’s Pre-release Facilities, which are budgeted under the Dorsey Run Correctional Facility project, due to less labor and maintenance being required. MES will return \$80,275 in special funds to the Department of Natural Resources (DNR) and would like to retain \$1,659,203 for a new Eastern Correctional Institution (ECI) Energy Upgrade Project Fund – one of MES’s project reserve funds – since bids for the project came in significantly over the original estimate. MES received approval from the Department of Budget and Management (DBM) to retain the \$1,659,203 in the ECI Energy Upgrade Project Reserve Fund on January 11, 2022.

Fiscal 2023 Overview of Agency Spending

The discussion of the proposed budget focuses on the State reimbursable projects portion of MES’s budget. As shown in **Exhibit 6**, the overall change in reimbursable project charges to State agencies between fiscal 2022 and 2023 is an increase of \$1,731,826. The major changes are an increase of \$1,127,648 for salaries, wages, and fringe benefits; \$401,642 for contractual services; and \$238,278 for fuel and utilities. Salaries, wages, and fringe benefits increase due to a 3% COLA increase plus new labor costs to run a new addition to MES’s portfolio – DPSCS Central Maryland Correctional Facility. Contractual services increase for the repair and maintenance of outdated and aging equipment. The fuel and utilities line item increased due to the greater cost of using natural gas relative to the wood chips that were previously used at ECI – Co-generation facility.

Exhibit 6 Reimbursable Projects Operating Expenses Fiscal 2021-2023

| <u>Operating Expense</u> | <u>Expenditures 2021</u> | <u>Appropriation 2022</u> | <u>Allowance 2023</u> | <u>Change 2021-2022</u> | <u>Change 2022-2023</u> |
|--------------------------------------|------------------------------|-------------------------------|---------------------------|-----------------------------|-----------------------------|
| Salaries, Wages, and Fringe Benefits | \$16,008,327 | \$17,550,637 | \$18,678,285 | \$1,542,310 | \$1,127,648 |
| Technical and Special Fees | 430,987 | 501,905 | 542,933 | 70,918 | 41,028 |
| Communication | 122,864 | 131,110 | 124,715 | 8,246 | -6,395 |
| Travel | 412 | 14,969 | 15,195 | 14,557 | 226 |
| Fuel and Utilities | 5,440,511 | 8,530,298 | 8,768,576 | 3,089,787 | 238,278 |
| Equipment Operations and Maintenance | 483,439 | 537,054 | 446,724 | 53,615 | -90,330 |
| Contractual Services | 2,801,823 | 1,607,979 | 2,009,621 | -1,193,844 | 401,642 |
| Materials and Supplies | 2,909,951 | 2,314,876 | 2,334,605 | -595,075 | 19,729 |
| Total Operating Expenses | \$28,198,314 | \$31,188,828 | \$32,920,654 | \$2,990,514 | \$1,731,826 |

Source: Maryland Environmental Service

Exhibit 7 shows specific project changes between fiscal 2022 and 2023. The main changes are as follows.

- **DPSCS – ECI – Co-generation Facility:** increases \$982,925 due to the increased utility cost for the conversion from wood chips to natural gas as fuel for the facility.

U10B00 – Maryland Environmental Service

- ***DPSCS – Central Maryland Correctional Facility:*** increases \$949,228 due to this facility being a new addition to MES’s portfolio in fiscal 2023 at the request of DPSCS.
- ***DPSCS – Jessup Steam Plant:*** increases \$319,373 since this reflects combined Jessup Steam Plant and Jessup Correction WWTP expenses, which are a percentage of expenses for the Dorsey Run WWTP, and the Jessup Correction inmate count increased by 278 inmates relative to fiscal 2021.
- ***DPSCS – Patuxent Institution:*** decreases \$131,742 since Patuxent Institution is a percentage of the expenses for the Dorsey Run WWTP, and the inmate count decreased by 335 inmates relative to fiscal 2021.
- ***DPSCS – ECI:*** decreases \$168,087 for contractual services related to equipment repair and rental and service contracts.
- ***DPSCS – Dorsey Run Correctional Facility:*** decreases by a net of \$215,793. The majority of this change reflects a \$286,597 decrease due to the closing of DPSCS Pre-release System facilities, which are included in the amount shown for the Dorsey Run Correctional Facility, although there are still some ongoing permit costs. This decrease is offset partially by an increase due to the Dorsey Run Correctional Facility being a percentage of the Dorsey Run WWTP, and the inmate count increased by 23 inmates relative to fiscal 2021.

**Exhibit 7
Reimbursable Projects
Fiscal 2023 Allowance Data**

| Facilities | Expenditures <u>2021</u> | Allocation <u>2022</u> | Allowance <u>2023</u> | Change <u>2021-2022</u> | Change <u>2022-2023</u> |
|---|-------------------------------------|-----------------------------------|----------------------------------|------------------------------------|------------------------------------|
| Military Department | \$193,300 | \$228,888 | \$210,156 | \$35,588 | -\$18,732 |
| Maryland Department of Veterans Affairs | 573,693 | 613,966 | 705,754 | 40,273 | 91,788 |
| Maryland Aviation Administration | 15,552 | 36,070 | 30,538 | 20,518 | -5,532 |
| DNR – Maryland Park Service | 3,218,243 | 3,601,198 | 3,591,233 | 382,955 | -9,965 |
| DNR – Fishing and Boating Services | 57,239 | 79,839 | 91,135 | 22,600 | 11,296 |
| MDH – Springfield Hospital Center | 519,821 | 498,957 | 511,547 | -20,864 | 12,590 |
| MDH – Clifton T. Perkins Hospital Center | 131,573 | 135,684 | 156,938 | 4,111 | 21,254 |
| MDH – Crownsville Hospital Center | 811,853 | 691,582 | 730,436 | -120,271 | 38,854 |

U10B00 – Maryland Environmental Service

| Facilities | Expenditures <u>2021</u> | Allocation <u>2022</u> | Allowance <u>2023</u> | Change <u>2021-2022</u> | Change <u>2022-2023</u> |
|---|-------------------------------------|-----------------------------------|----------------------------------|------------------------------------|------------------------------------|
| DPSCS – Patuxent Institution | 486,293 | 501,488 | 369,746 | 15,195 | -131,742 |
| DPSCS – MCI-H | 1,844,222 | 1,936,042 | 2,024,808 | 91,820 | 88,766 |
| DPSCS – Western Correctional Institution | 145,923 | 210,372 | 158,838 | 64,449 | -51,534 |
| DPSCS – Jessup Steam Plant | 1,852,914 | 1,902,416 | 2,221,789 | 49,502 | 319,373 |
| DPSCS – MCI-J | 362,615 | 373,945 | 427,499 | 11,330 | 53,554 |
| DPSCS – MCI of Women-Jessup | 284,724 | 293,620 | 275,583 | 8,896 | -18,037 |
| DPSCS – Brockbridge Correctional Facility | 26,315 | 27,137 | 0 | 822 | -27,137 |
| DPSCS – ECI | 2,761,295 | 2,774,367 | 2,606,280 | 13,072 | -168,087 |
| DPSCS – Dorsey Run Correctional Facility | 1,462,371 | 1,627,947 | 1,412,154 | 165,576 | -215,793 |
| DPSCS – Central Maryland Correctional Facility | 0 | 0 | 949,228 | 0 | 949,228 |
| DPSCS – ECI Co-Generation Facility | 8,277,918 | 9,119,269 | 10,102,194 | 841,351 | 982,925 |
| DPSCS – MCI-H: Power Generation | 3,581,985 | 4,849,320 | 4,750,080 | 1,267,335 | -99,240 |
| St. Mary’s College of Maryland | 104,874 | 90,090 | 97,746 | -14,784 | 7,656 |
| UMCES – Horn Point | 77,793 | 91,783 | 78,508 | 13,990 | -13,275 |
| DJS – Statewide Youth Centers | 422,995 | 471,158 | 447,588 | 48,163 | -23,570 |
| DJS – Victor Cullen Center | 366,277 | 368,266 | 368,306 | 1,989 | 40 |
| DJS – Cheltenham Youth Detention Center | 618,525 | 665,421 | 602,570 | 46,896 | -62,851 |
| Total | \$28,198,313 | \$31,188,825 | \$32,920,654 | \$2,990,512 | \$1,731,829 |

DJS: Department of Juvenile Services
DNR: Department of Natural Resources
DPSCS: Department of Public Safety and Correctional Services
ECI: Eastern Correctional Institution
MCI-H: Maryland Correctional Institution – Hagerstown
MCI-J: Maryland Correctional Institution – Jessup
MDH: Maryland Department of Health
UMCES: University of Maryland Center for Environmental Science

Source: Governor’s Fiscal 2023 Budget Books; Maryland Environmental Service

Personnel Data

| | <u>FY 21</u> | <u>FY 22</u> | <u>FY 23</u> | <u>FY 22-23</u> |
|------------------------|----------------------|-----------------------|-------------------------|------------------------|
| | <u>Actual</u> | <u>Working</u> | <u>Allowance</u> | <u>Change</u> |
| Regular Positions | 825.00 | 825.00 | 825.00 | 0.00 |
| Contractual FTEs | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> | <u>0.00</u> |
| Total Personnel | 825.00 | 825.00 | 825.00 | 0.00 |

Vacancy Data: Regular Positions

| | | |
|---|------|-------|
| Turnover and Necessary Vacancies, Excluding New Positions | 0.00 | 0.00% |
| Positions and Percentage Vacant as of 12/31/21 | n/a | n/a |
| Vacancies Above (Below) Turnover | n/a | |

- Regular positions remain unchanged in the fiscal 2023 allowance. This reflects no change in anticipated needs. MES notes that there may be vacancies each year due to turnover, but that, per Chapter 72 of 2021, MES is required to reasonably advertise, conduct a search, and conduct a competitive interview process for each open position.

Key Observations

1. Maryland Environmental Service Reform Act of 2021 Implementation

The Joint Committee on Fair Practices and State Personnel Oversight held several hearings during the 2020 interim concerning a severance payment and the timing and amount of reimbursements received by MES's former director. As a result of these deliberations, the General Assembly enacted Chapter 72. Chapter 72 made significant changes to the governance and administration of MES, including changes to (1) the Board of Directors (BOD); (2) the director and other MES officers; (3) spending and procurement provisions; (4) training and other policies; and (5) personnel matters, including collective bargaining.

Chapter 72 altered the composition of BOD, changed the appointment process and qualifications for certain members, established procedures for board meetings, and removed certain MES officers from the board. The Director of MES, renamed to be the executive director, was removed as the presiding officer of BOD but remained the administrative head. Chapter 72 also required BOD to observe the same standard of care as corporate directors, receive annual training on that standard of care, and adopt a conflict of interest policy. Additionally, BOD must annually evaluate the executive director in accordance with criteria to be adopted by the board.

The executive director must appoint a diversity officer to coordinate the development and implementation of a diversity policy for MES and to assist employees in resolving grievances related to alleged violations of the diversity policy or State or federal antidiscrimination laws. Also, BOD must adopt policies on severance packages, bonuses, tuition reimbursements, expense reimbursements, workforce diversity, whistleblower complaints, travel, and the vehicles and equipment owned by MES; receive annual training on ethics, harassment, diversity, and other policies; and submit reports on the policies noted previously and on MES's efforts to reduce greenhouse gas emissions.

Additionally, Chapter 72 required MES to submit to BPW for approval of all contracts with a value of \$250,000 or more, with the exception of contracts for the provision of requested services to a unit of State or local government and provision of services to the federal government. MES also must notify its BOD of any nonemergency expenditure that exceeds \$25,000 and receive approval BOD for nonemergency expenditures greater than \$200,000. MES is required to submit a full and detailed operating and capital budget each year to DBM, and the budget must specify MES's revenue sources in a manner required by DBM. Chapter 72 also requires an audit that focuses on unauthorized spending, misallocated expenses, lack of conformity with State law or board policies, and other accounting errors and an assessment of the board's operations by an independent consultant or accountant to be obtained by December 31, 2021, and every five years thereafter.

Chapter 72 clarifies the authority of MES employees to enter into collective bargaining agreements. Further, Chapter 72 adds requirements for MES's personnel system and requires MES to reasonably advertise, conduct a search, and conduct a competitive interview process for each open position in MES.

U10B00 – Maryland Environmental Service

MES submitted a report to the General Assembly on December 27, 2021, covering the reporting requirements of Chapter 72. The report is divided into the following sections.

- ***Policies:*** MES notes that it adopted or re-adopted all of the policies by the deadlines set in Chapter 72. MES adopted the following policies at its October 2021 board meeting: conflict of interest; severance packages; bonuses; tuition reimbursements; whistleblower complaints; and expense reimbursements. In addition, MES adopted a use of equipment and vehicles policy at its November 2021 board meeting.
- ***Independent Assessment of the Board:*** MES obtained an assessment of the board’s operation by RSM US LLP, and the assessment was presented to the board at its December 2021 meeting. The assessment’s recommendations are divided into six framework areas as follows.
 - ***Strategy, Innovation, and Future Vision:*** increase in-person/virtual director exposure to current MES activities to include worksite/facility visits and staff interactions to drive continuous learning and operational understanding; rebalance focus to include both short-term and long-term strategies and provide guidance into MES’s new forthcoming five-year strategic plan; and MES leadership should provide BOD visibility into key risks associated with everyday operations;
 - ***Board Capabilities and Structure:*** formally develop a charter and bylaws for the board and all committees by the end of 2022 and deal with items at the board level for any topics that fall outside of the defined scope of MES’s committees;
 - ***Accountability:*** develop a formalized onboarding approach including a formal orientation with a standardized packet of materials and appropriate protocols, required training, etc; and require cyber awareness training in addition to the current training curriculum;
 - ***Engagement:*** survey board members to determine optimal pre-material to be delivered prior to board meetings;
 - ***Policies, Procedures and Communications:*** formally develop a charter and bylaws for the board and all committees and leverage the most recently developed policies, providing the ability to measure relative compliance/performance accordingly; and
 - ***Performance Monitoring:*** at least annually, the board should self-evaluate its own performance, including incorporating internal and external perspectives and utilizing both conversation as well as anonymous surveys; and key performance metrics should be defined and aligned with MES’s mission and values.

U10B00 – Maryland Environmental Service

- ***Greenhouse Gas Reduction Act Reporting:*** MES engaged in a six-month process of analyzing carbon emission and evaluating technologies that have co-benefits through four of its operating groups. Highlights for each of the four operating groups are as follows:
 - ***Water and Wastewater:*** plans to construct a pyrolysis facility to produce biochar – a product of the heating of organic matter in the absence of oxygen – from biosolids at the Dorsey Run advanced wastewater treatment plant in fiscal 2024;
 - ***Technical and Environmental Services:*** working on projects to assist in floodplain preservation, conservation, and restoration that will encourage carbon dioxide sequestration by promoting dense vegetation in wetland and coastal areas;
 - ***Environmental Dredging and Restoration:*** continues to establish wetlands practices to sequester carbon in soils at existing and proposed island restoration projects through the mid-Chesapeake Bay Island Ecosystem Restoration Project using dredged material; and
 - ***Environmental Operations:*** established a contractual relationship with Bioenergy Development Company to launch a renewable energy-generating anaerobic digester technology at the Maryland Food Center Authority campus in Jessup that will reduce greenhouse gas emissions from landfills.
- ***Board Members and Executive Staff Training:*** Board members and executive staff received annual training on ethics, harassment, diversity, and conflicts of interest either on September 2, 2021, or by watching a video recording of the five-hour training session later in the fall.

In addition to the activities required to be included in the report, MES reported on additional activities required by Chapter 72. These activities are as follows:

- ***New Board:*** The new MES board was installed prior to the July MES board meeting.
- ***Diversity Officer:*** MES hired a new diversity officer on July 28, 2021, titled the MES Diversity and Equal Employment Opportunity Officer.
- ***Transparency Requirements:*** The new transparency requirements have been in place since before July 1, 2021, when Chapter 72 took effect.
- ***Executive Director Expense Reporting:*** The executive director and deputy director have been reporting expenses at every board meeting since 2020.
- ***Procurement/Contracting:*** Changes to procurement/contracting were fully implemented on July 1, 2021.

- **Hiring/Recruitment:** MES implemented the requirement to advertise, search, and conduct a competitive interview process for all positions not assigned to a project effective July 1, 2021.
- **Audit:** MES is working on the requirement of completing an audit that focuses on unauthorized spending, misallocated expenses, lack of conformity with State law or MES board policies, and other accounting errors and expects this to be completed by the end of March 2022.

The Department of Legislative Services (DLS) recommends that MES comment on the status of implementing recommendations from the independent assessment of the board, including the development of a new five-year strategic plan and a charter and bylaws for the board and all committees to be completed by the end of 2022.

2. MES Funding Statement Reflects Agency Priorities

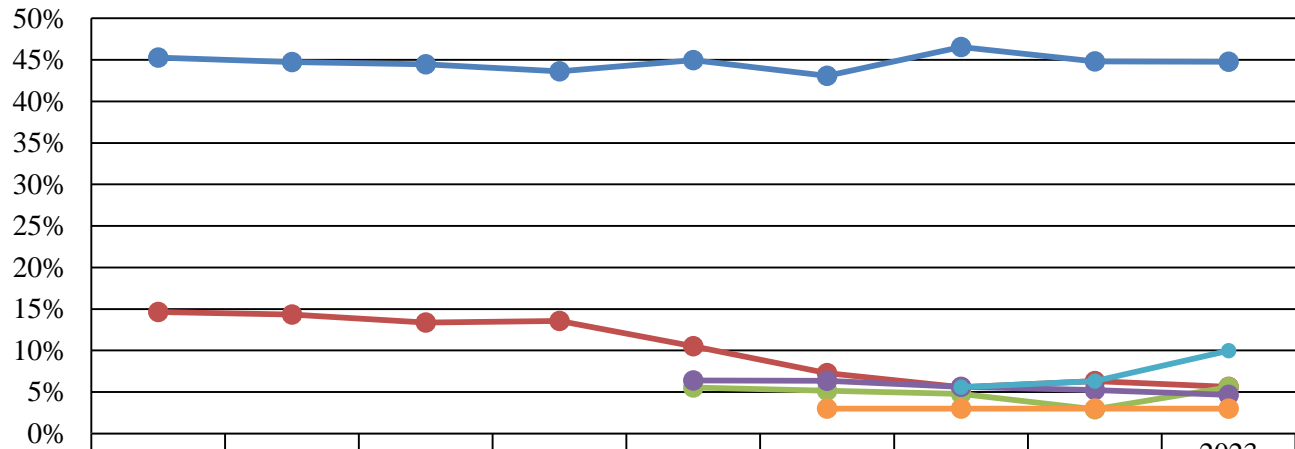
The 2021 *Joint Chairmen's Report* (JCR) included committee narrative requesting an MES funding statement including information on MES's undesignated unrestricted net assets, overhead rate, project reserve fund status, and reimbursable project funding change justifications. The submitted report and prior year information reflect the following.

- **Undesignated Unrestricted Net Assets:** MES considers its undesignated unrestricted net assets to be its fund balance. MES' unrestricted undesignated net position has generally increased from \$3.4 million in fiscal 2017 to \$4.3 million in fiscal 2020. As of last year's analysis, the net positions were also estimated to be \$4.3 million for fiscal 2021 and 2022. However, the net position has now increased to \$6.7 million for fiscal 2021 and the fiscal 2022 and 2023 estimates. MES notes that this increase of \$2.4 million is due to the inclusion of MES's Equipment Fund in the undesignated unrestricted net assets calculation in accordance with how this information is recorded in MES's audited financial statements. MES used a portion of its undesignated unrestricted net assets in fiscal 2019 to pay for the implementation of the Workday human resources software and to expand its program providing health care benefits to retirees beginning in January 2019, since MES retirees do not participate in the Maryland State Retirement and Pension System. MES notes that the amount retained on an annual basis as undesignated unrestricted net assets are needed to upgrade technology, address unexpected expenditures, and address emergencies.
- **Overhead Rate:** An informal goal reflected by MES in the past is to reduce the overhead rate – general administrative rate – charged to State agencies and other clients as a result of increasing MES's client base, thus spreading overhead over more clients. As shown in **Exhibit 8**, there does not appear to be a strong trend for the general and administrative rate, which was 45.29% in fiscal 2015 and 46.56% in fiscal 2021 – an increase due to salary and other personnel increases required to fill vacant positions – although there has been a recent downward trend since fiscal 2021. In contrast, there has been a strong downward trend for the water and wastewater overhead rate despite the heavy management component of water and WWTP operations. This downward trend in the water and wastewater overhead rate benefits

U10B00 – Maryland Environmental Service

the State due to the State's heavy use of MES's services in this area. There is a strong upward trend – albeit recent – for technical and environmental services. There do not appear to be strong trends for the environmental dredging and restoration, environmental operations, and working capital overhead rates for the time period shown.

**Exhibit 8
MES Overhead Rates
Fiscal 2015-2023 Unaudited**



| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 Unaudited |
|--|--------|--------|--------|--------|--------|--------|--------|--------|----------------|
| General and Administrative | 45.29% | 44.75% | 44.45% | 43.60% | 44.98% | 43.06% | 46.56% | 44.80% | 44.76% |
| Water and Wastewater | 14.62% | 14.34% | 13.37% | 13.57% | 10.51% | 7.28% | 5.59% | 6.33% | 5.62% |
| Environmental Dredging and Restoration | | | | | 5.56% | 5.16% | 4.76% | 2.91% | 5.60% |
| Environmental Operations | | | | | 6.41% | 6.35% | 5.62% | 5.23% | 4.65% |
| Technical and Environmental Services | | | | | | | 5.59% | 6.33% | 9.96% |
| Working Capital | | | | | | 3.00% | 3.00% | 3.00% | 3.00% |

MES: Maryland Environmental Service

Source: Maryland Environmental Service

- Project Reserve Fund Status:** MES has four project reserve funds: the State Reimbursable Project Contingency Fund; the ECI Steam Turbine Contingency Fund; the DNR Project Contingency Fund; and the newly created ECI Energy Upgrade Project Reserve Fund. The status of these reserve funds is shown in **Exhibit 9**. MES has noted that the \$350,548 retained in the State Reimbursable Project Contingency Fund in fiscal 2020, but shown in the exhibit in fiscal 2021, reflects funding that is being retained for future revenue shortfalls and emergencies. Last year, MES noted that it anticipated using funds from the ECI Steam Turbine Contingency Fund in spring 2021 or fall 2022, since the original plan for how the money was going to be used was delayed due to postponements in upgrading the control system, a necessary step before the turbine overhaul. However, it does not appear that this funding was used. While not reflected in the exhibit, MES intends to return \$80,275 in special funds to DNR in fiscal 2022. The new ECI Energy Upgrade Project Reserve Fund was created at MES’s December 16, 2021 board meeting by resolution 21-12-1R under MES’s authority in Natural Resources Article Section 3-103(h). The intent of the ECI Energy Upgrade Project Reserve Fund is to retain reimbursable project funds for the express purpose of the natural gas energy upgrade/conversion project at ECI, which received bids that significantly exceeded the original estimate. The cap for the new project reserve fund is \$2,000,000, and any funding not spent by June 30, 2024, is required to be remitted to the State at which time the fund will cease to exist. MES received approval to retain the \$1,659,204 – funding attributable to a number of State reimbursable projects – in the ECI Energy Upgrade Project Reserve Fund by a letter received from DBM on January 11, 2022.

Exhibit 9
Project Reserve Fund Balances
Fiscal 2021-2022

| <u>Project Reserve Fund Activity</u> | <u>2021</u> <u>Amount</u> | <u>2022</u> <u>Amount</u> | <u>Cap</u> | <u>Difference</u> |
|--|------------------------------|------------------------------|--------------------|-------------------|
| State Reimbursable Project Contingency Fund | | | | |
| Beginning Balance | \$149,452 | \$500,204 | | |
| Approved Retainage (Fiscal 2020) | 350,548 | 0 | | |
| Funds Used | 0 | 0 | | |
| Interest Earned | 204 | 0 | | |
| Current Balance | \$500,204 | \$500,204 | \$1,000,000 | -\$499,796 |
| ECI Correctional Institution Steam Turbine Contingency Fund | | | | |
| Beginning Balance | \$1,232,941 | \$1,233,446 | | |
| Approved Retainage | 0 | 0 | | |
| Funds Used | 0 | 0 | | |
| Interest Earned | 505 | 0 | | |
| Current Balance | \$1,233,446 | \$1,233,446 | \$1,500,000 | -\$266,554 |

U10B00 – Maryland Environmental Service

| <u>Project Reserve Fund Activity</u> | <u>2021 Amount</u> | <u>2022 Amount</u> | <u>Cap</u> | <u>Difference</u> |
|--|------------------------|------------------------|--------------------|-------------------|
| DNR Project Contingency Fund | | | | |
| Beginning Balance | \$3,495 | \$3,496 | | |
| Approved Retainage | 0 | 0 | | |
| Funds Used | 0 | 0 | | |
| Interest Earned | 1 | 0 | | |
| Current Balance | \$3,496 | \$3,496 | \$500,000 | -\$496,504 |
| ECI Energy Upgrade Project Reserve Fund | | | | |
| Beginning Balance | \$0 | \$1,659,204 | | |
| Approved Retainage | 0 | 0 | | |
| Funds Used | 0 | 0 | | |
| Interest Earned | 0 | 0 | | |
| Current Balance | \$0 | \$1,659,204 | \$2,000,000 | -\$340,797 |

DNR: Department of Natural Resources

ECI: Eastern Correctional Institution

Source: Maryland Environmental Service; Department of Legislative Services

- Reimbursable Project Funding Changes:*** MES notes that it prepares the State reimbursable project budget two years in advance of the actual fiscal year and that it uses all available information to budget conservatively. In addition, MES notes that it either returns unused State funds to DBM or holds the funds in one or more of the contingency funds, subject to DBM approval. In terms of the fiscal 2023 State reimbursable project funding increase, MES notes that the funding is primarily budgeted for the addition of the DPSCS – Central Maryland Correction Facility, the conversion of the ECI wood-burning co-generation facility to natural gas, and increased costs for contractual services and engineering related services.

DLS recommends that committee narrative be adopted requesting that MES continue to provide an MES funding statement, including information on MES’s undesignated unrestricted net assets, overhead rate, project reserve fund status, and justification for reimbursable project funding changes.

Operating Budget Recommended Actions

1. Adopt the following narrative:

Maryland Environmental Service Funding Statement: The committees request that the Maryland Environmental Service (MES) continue to provide a report on the following:

- undesignated unrestricted net assets for fiscal 2022, 2023, and 2024 estimated and an explanation for any changes between each of these years, including revenues credited to and expenditures debited from the net assets;
- overhead rate for fiscal 2022, 2023, and 2024 estimated, including a separate calculation for the water and wastewater overhead rate for each fiscal year from fiscal 2016 through 2024;
- project reserve fund status by beginning balance, approved retainage, funds used, and interest earned for fiscal 2022 and 2023 for the State Reimbursable Project Contingency Fund, the Eastern Correctional Institution (ECI) Steam Turbine Contingency Fund, the Department of Natural Resources Project Contingency Fund, ECI Energy Upgrade Project Reserve Fund, and any other project reserve funds created by MES; and
- justification for the changes in reimbursable project funding for fiscal 2022, 2023, and 2024 estimated based on a discussion about how MES’s undesignated unrestricted net assets allow for reducing MES’s overhead rate for State reimbursable projects and how project reserve funds are available for any under budgeting.

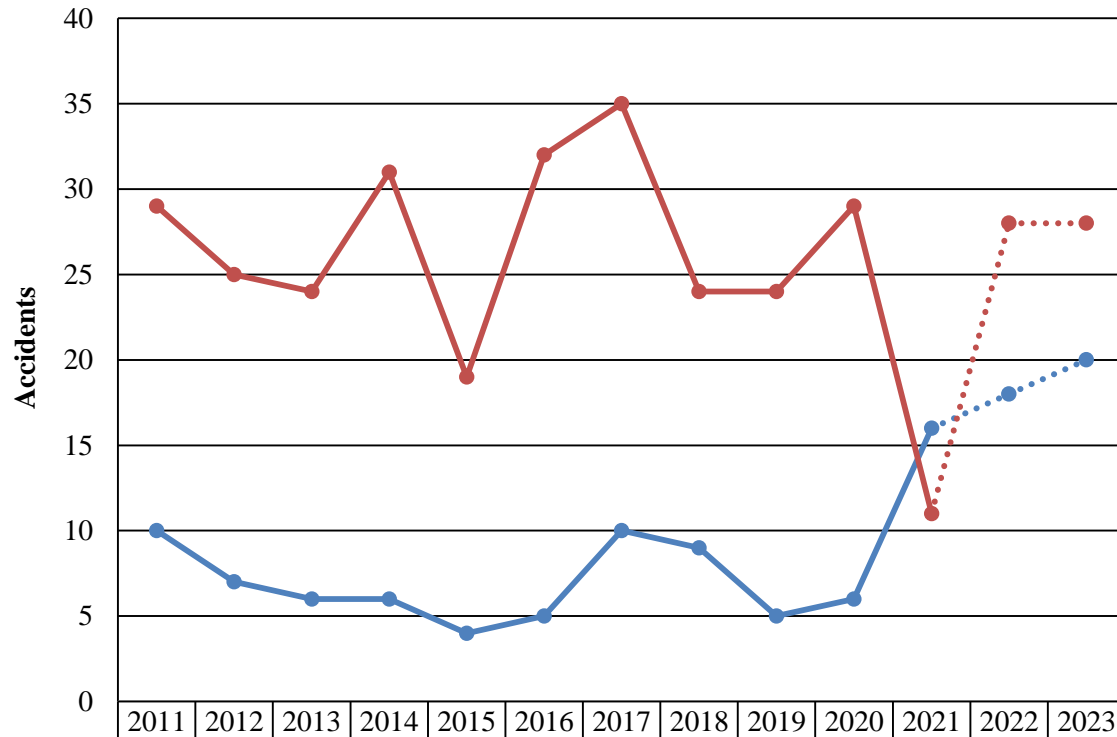
The report should be submitted in coordination with the Department of Budget and Management (DBM) with the fiscal 2024 budget submission.

| Information Request | Author | Due Date |
|----------------------------|---------------|----------------------------------|
| MES funding statement | MES DBM | Fiscal 2024 budget submission |

Updates

- ***Accidents Increase:*** MES’s third goal is to work more safely. Under this goal is the objective to improve safety performance by limiting accidents and related lost work time and by reducing the number of preventable vehicle accidents. As shown in **Exhibit 10**, the number of accidents resulting in more than 40 hours of accident leave increased from 6 in fiscal 2020 to 16 in fiscal 2021. In contrast, the number of preventable vehicle accidents decreased from 29 in fiscal 2020 to 11 in fiscal 2021. MES notes that the number of accidents resulting in more than 40 hours of accident leave increased because of employees traveling and working alone at job sites – particularly during the winter months in fiscal 2021 – due to the COVID-19 pandemic. In addition, job duties increased for ice and snow removal due to contractors not being available to do this work. The number of preventable vehicle accidents decreased – also due to the COVID-19 pandemic – because many employees did not have to drive to perform work-related duties.

**Exhibit 10
Accident Data
Fiscal 2011-2023 Est.**



| | | | | | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|------|------|------|------|------|
| ● Accidents Resulting in More Than 40 Hours of Accident Leave | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 |
| | 10 | 7 | 6 | 6 | 4 | 5 | 10 | 9 | 5 | 6 | 16 | 18 | 20 |
| ● Preventable Vehicle Accidents | 29 | 25 | 24 | 31 | 19 | 32 | 35 | 24 | 24 | 29 | 11 | 28 | 28 |

Source: Department of Budget and Management

Appendix 1
2021 Joint Chairmen’s Report Responses from Agency

The 2021 JCR requested that MES prepare two reports. Electronic copies of the full JCR responses can be found on the DLS Library website.

- ***MES Funding Statement Reflects Agency Priorities:*** The 2021 JCR included committee narrative requesting an MES funding statement. The funding statement was requested to include information on MES’ undesignated unrestricted net assets, overhead rate, project reserve fund status, and reimbursable project funding change justifications. Further discussion of this data can be found in Key Observation 2 of this analysis.
- ***Procurement Procedures and Rate-setting:*** The 2021 JCR included committee narrative requesting information on procurement procedures and rate-setting. The information requested included a report evaluating contracts from July 1, 2018, to September 30, 2020, with information provided on a list of jurisdictions that are party to an memorandum of understanding with MES and whether the memorandum authorizes the awarding of a sole-source contract; a list of projects that were sole sourced to MES and the statutory authority granting such an exemption; for each project, whether the rate for private contractors was a percentage of overhead or the Maryland Department of Transportation audited rate; and the overall utilization of these contract methodologies as a percentage of work undertaken by MES.

**Appendix 2
Object/Fund Difference Report
Maryland Environmental Service**

| <u>Object/Fund</u> | <u>FY 21 Actual</u> | <u>FY 22 Working Appropriation</u> | <u>FY 23 Allowance</u> | <u>FY 22 - FY 23 Amount Change</u> | <u>Percent Change</u> |
|-------------------------------|-------------------------|--|----------------------------|--|---------------------------|
| Positions | | | | | |
| 01 Regular | 825.00 | 825.00 | 825.00 | 0.00 | 0% |
| Total Positions | 825.00 | 825.00 | 825.00 | 0.00 | 0% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 65,927,743 | \$ 69,236,261 | \$ 71,313,348 | \$ 2,077,087 | 3.0% |
| 02 Technical and Special Fees | 13,774,744 | 13,452,217 | 13,855,784 | 403,567 | 3.0% |
| 03 Communication | 563,721 | 573,958 | 591,176 | 17,218 | 3.0% |
| 04 Travel | 29,573 | 353,736 | 364,348 | 10,612 | 3.0% |
| 06 Fuel and Utilities | 6,622,028 | 7,526,381 | 7,752,172 | 225,791 | 3.0% |
| 07 Motor Vehicles | 3,730,370 | 5,115,484 | 5,268,948 | 153,464 | 3.0% |
| 08 Contractual Services | 40,690,671 | 38,028,705 | 39,169,567 | 1,140,862 | 3.0% |
| 09 Supplies and Materials | 8,823,401 | 9,297,243 | 9,576,160 | 278,917 | 3.0% |
| 13 Fixed Charges | 3,402,832 | 3,943,817 | 4,062,132 | 118,315 | 3.0% |
| 14 Land and Structures | 39,496,770 | 42,125,764 | 43,389,537 | 1,263,773 | 3.0% |
| Total Objects | \$ 183,061,853 | \$ 189,653,566 | \$ 195,343,172 | \$ 5,689,606 | 3.0% |
| Funds | | | | | |
| 07 Nonbudgeted Fund | \$ 183,061,853 | \$ 189,653,566 | \$ 195,343,172 | \$ 5,689,606 | 3.0% |
| Total Funds | \$ 183,061,853 | \$ 189,653,566 | \$ 195,343,172 | \$ 5,689,606 | 3.0% |