

MEMORANDUM

April 14, 2023

TO: Government Operations & Fiscal Policy (GO) Committee

FROM: Logan Anbinder, Postgraduate Fellow

SUBJECT: **FY24 Recommended Operating Budget Worksession:
Merit System Protection Board (MSPB)**

PURPOSE: Review and make recommendations for Council consideration – vote expected.

Expected Participants:

- Bruce Martin, Executive Director, MSPB
- Harriet E. Davidson, Chair, MSPB
- Shanteé Jackson, Fiscal and Policy Analyst, Office of Management and Budget (OMB)

Current MSPB Members:

- Harriet E. Davidson, Chair
- Sonya E. Chiles, Vice Chair & Associate Member
- Barbara S. Fredericks, Associate Member

A. Summary of Staff Recommendations

- 1) Approve the County Executive’s recommended FY24 Operating Budget request for MSPB.

B. Fiscal Summary

Merit System Protection Board	FY23 Approved	FY24 CE Recommended	Change from FY23 Approved
General Fund	\$672,552	\$688,031	2.3%
Personnel Costs	\$258,048 1.50 FTEs	\$273,527 1.50 FTEs	6.0% 0.00 FTEs
Operating Costs	\$414,504	414,504	0.0%
Total Expenditures (all funds)	\$672,552 1.50 FTEs	\$688,031 1.50 FTEs	2.3% 0%

C. About MSPB

1. MSPB Overview

The Merit System Protection Board (MSPB) is established by the Charter of Montgomery County, Maryland¹ [to oversee the merit system](#) and protect employee and job applicant rights guaranteed under the merit system law.² MSPB is comprised of 1.5 FTEs (part-time Executive Director and part-time Office Services Coordinator) who support a three-member board that reviews three types of appeals from County merit system employees and applicants: [Grievances](#), [Disciplinary Action or Termination](#) and [Denial of Employment](#).

Once every five years, the MSPB is required to hire an independent, outside consultant to conduct an audit of the County's classification and compensation plan and procedures.³ In June 2018, MSPB transmitted its recommendations to the Council after an independent [final report was completed on February 6, 2018](#) by CPS HR Consulting. That report found no significant regulatory or policy compliance issues and identified opportunities to improve the County's long-term success and organizational effectiveness.

2. Racial Equity and Social Justice Review

After reviewing MSPB's submission for the FY24 Operating Budget Equity Tool, the Office of Racial Equity and Social Justice (ORESJ) issued a rating of ★★ (two stars) on a scale of zero to three stars, indicating that the department-level budget **demonstrates a commitment** to advancing racial equity and social justice in Montgomery County. ORESJ provided the following justification for its rating:

“The department indicated commitments across each major area of the GARE [Government Alliance on Race and Equity] framework, but only provided supporting evidence for two activities. In addition, the department indicated that it does not collect demographic data to avoid the perception of bias, however it is impossible to detect bias without an analysis that includes demographic information. Assessing the extent to which there are inequities or bias in access, proceedings, or outcomes will require the collection and or assessment of demographic data.”

In response to this rating and justification, MSPB suggests that the Office of Human Resources (OHR) or the Office of Labor Relations (OLR) would be best suited to gather and analyze demographic data for County employees, including the subset of those who bring appeals before the Board. This could allow collection of demographic data as recommended by ORESJ without giving the appearance of bias in MSPB's quasi-judicial proceedings.

¹ Charter of Montgomery County, Maryland, [Article 4, Merit System and Conflicts of Interest, Section 403: Merit System Protection Board](#).

² Charter of Montgomery County, Maryland, [Section 404, Duties of the Merit System Protection Board](#); the Montgomery County Code, [Article II Merit System](#), Chapter 33; and the Montgomery County Personnel Regulations, [Sections 33-9 and 35-20](#).

³ Code of Montgomery County Regulations, [33.07.01.09-3\(h\)\(2\)\(A\)](#).

D. Public Testimony

There were no speakers or testimony related to the Merit System Protection Board during the Council’s April 2023 operating budget public hearings.

E. Major Budget and Key Discussion Items for FY24

1. Personnel and Technical Adjustments (County Executive recommendation: +\$15,479)

MSPB’s FY24 recommended budget includes personnel and technical adjustments to reflect updated personnel costs from the approved FY23 and proposed FY24 compensation agreements.

No vote is needed at this time since compensation will be addressed separately by the GO Committee and the full Council.

2. Classification and Compensation Independent Audit (County Executive recommendation: no change)

Last year’s approved FY23 budget allocated \$400,000 to MSPB to hire an independent consultant to conduct its classification and compensation audit and projected an allocation of an additional \$400,000 for this purpose in FY24, for a total sum of \$800,000. In FY23, MSPB did not secure a viable vendor for the audit. MSPB plans to reissue its request for proposal (RFP) in FY24, and consequently the County Executive has recommended shifting the two years of \$400,000 allocations from FY23 & FY24 to FY24 & FY25. This represents a non-regularly recurring expense that would be removed from the base budget after FY25.

MSPB has indicated that potential vendors perceived the scope of its previous RFP as overbroad. MSPB hopes to secure a vendor for the next iteration of its RFP by narrowing the scope of its request and by continuing to solicit a wide variety of potential consultants, including public institutions, since the contractor for the previous audit was a public agency.

Council staff recommendation: Approve as recommended by the County Executive.

This packet contains: _____ © Page #

FY24 Recommended Operating Budget: MSPB.....	©1-3
Council staff report on MSPB Operating Budget for FY23.....	©4-5
Video of GO Committee worksession on MSPB FY23 operating budget (May 4, 2022)	



Merit System Protection Board

RECOMMENDED FY24 BUDGET

\$688,031

FULL TIME EQUIVALENTS

1.50

BRUCE MARTIN, EXECUTIVE DIRECTOR

MISSION STATEMENT

The mission of the Merit System Protection Board is to oversee the merit system and protect employee and job applicant rights guaranteed under the merit system law.

BUDGET OVERVIEW

The total recommended FY24 Operating Budget for the Merit System Protection Board is \$688,031, an increase of \$15,479 or 2.30 percent from the FY23 Approved Budget of \$672,552. Personnel Costs comprise 39.76 percent of the budget for no full-time position(s) and two part-time position(s), and a total of 1.50 FTEs. Total FTEs may include seasonal or temporary positions and may also reflect workforce charged to or from other departments or funds. Operating Expenses account for the remaining 60.24 percent of the FY24 budget.

COUNTY PRIORITY OUTCOMES

While this program area supports all seven of the County Executive's Priority Outcomes, the following is emphasized:

Effective, Sustainable Government

PROGRAM CONTACTS

Contact Bruce Martin of the Merit System Protection Board at 240.777.6622 or Shantee Jackson of the Office of Management and Budget at 240.777.2760 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Merit System Oversight

The Merit System Protection Board oversees the merit system and protects employee and job applicant rights guaranteed under the merit system; conducts or authorizes periodic audits of the classification system; comments on any proposed changes in the merit system law or regulations; reviews the need to amend laws or regulations, and adjudicates appeals from grievances, removals, demotions, and suspensions upon request of the employee. Personnel Management Oversight includes investigations, audits, or

special studies of all aspects of the merit system. The Board also publishes an annual report.

BUDGET SUMMARY

	Actual FY22	Budget FY23	Estimate FY23	Recommended FY24	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	206,836	204,329	212,066	216,219	5.8 %
Employee Benefits	52,333	53,719	54,084	57,308	6.7 %
County General Fund Personnel Costs	259,169	258,048	266,150	273,527	6.0 %
Operating Expenses	5,360	414,504	8,575	414,504	—
County General Fund Expenditures	264,529	672,552	274,725	688,031	2.3 %
PERSONNEL					
Full-Time	0	0	0	0	—
Part-Time	2	2	2	2	—
FTEs	1.50	1.50	1.50	1.50	—

FY24 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY23 ORIGINAL APPROPRIATION	672,552	1.50
Other Adjustments (with no service impacts)		
Increase Cost: FY24 Compensation Adjustment	8,458	0.00
Increase Cost: Annualization of FY23 Compensation Increases	7,031	0.00
Decrease Cost: Annualization of FY23 Personnel Costs	(10)	0.00
FY24 RECOMMENDED	688,031	1.50

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY24	FY25	FY26	FY27	FY28	FY29
COUNTY GENERAL FUND						
EXPENDITURES						
FY24 Recommended	688	688	688	688	688	688
No inflation or compensation change is included in outyear projections.						
Classification and Compensation Independent Audit	0	0	(400)	(400)	(400)	(400)

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY24	FY25	FY26	FY27	FY28	FY29
At least once every five years, the Merit System Protection Board must have an independent consultant conduct an objective audit of the County's entire classification and compensation plan and procedures.						
Labor Contracts	0	4	4	4	4	4
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	688	692	292	292	292	292

MEMORANDUM

May 3, 2022

TO: Government Operations & Fiscal Policy [GO] Committee

FROM: Carolyn Chen, Legislative Analyst *CJC*

SUBJECT: **FY23 Recommended Operating Budget Worksession:
Merit System Protection Board [MSPB]**

PURPOSE: Review and make recommendations for Council consideration – vote expected.

Expected Participants:

- Bruce Martin, Executive Director, MSPB
- Julie Knight, Fiscal & Policy Analyst, Office of Management and Budget [OMB]

Current MSPB Members:

- Harriet E. Davidson, Chair
- Sonya E. Chiles, Vice Chair & Associate Member
- Barbara S. Fredericks, Associate Member

SYNOPSIS: [FY23 Recommended Operating Budget: MSPB](#)

About MSPB. The Merit System Protection Board [MSPB] is established by the Charter of Montgomery County, Maryland¹ [to oversee the merit system](#) and protect employee and job applicant rights guaranteed under the merit system law². MSPB is comprised of 1.5 FTEs (part-time Executive Director and Office Services Coordinator) who support a three-member board who review appeals from Merit System County employees and applicants on three types of appeals: [Grievances](#), [Disciplinary Action or Termination](#) and [Denial of Employment](#).

Once every five years, the MSPB is required to hire an independent, outside consultant to conduct an audit of the County's classification and compensation plan and procedures³. In [June 7, 2018, MSPB transmitted its recommendations](#) to the Council after an independent [final report was completed on February 6, 2018](#) by CPS HR Consulting.

¹ Charter of Montgomery County, Maryland, [Article 4, Merit System and Conflicts of Interest, Section 403: Merit System Protection Board](#).

² Charter of Montgomery County, Maryland, [Section 404, Duties of the Merit System Protection Board](#); the Montgomery County Code, [Article II Merit System](#), Chapter 33; and the Montgomery County Personnel Regulations, [Sections 33-7](#) and [35-20](#), p.320.

³ Code of Montgomery County Regulations, [33.07.01.09-3\(h\)\(2\)\(A\)](#).

Summary analysis of FY23 changes. As noted in [Council staff's April 26, 2021 packet](#) to the GO Committee, FY23 recommended operating budget includes funding to initiate the County's next merit system audit after five years since the 2018 final report and recommendations were released. MSPB estimates at least \$800,000 is needed to procure an independent entity to conduct the audit and requested the funds be apportioned over FY23 and FY24 [©4].

Designed with racial equity and social justice lens. MSPB, in consultation with the Office of Human Resources and Office of Racial Equity and Social Justice, has drafted a scope of services that includes two objectives:

- To ensure the accuracy, equity, justice, validity, and integrity in the administration of the classification and compensation program and execution of its procedures → *Does the current program assure equitable treatment of employees and meet the needs to attract and retain a quality workforce?*; and
- To determine the effectiveness of the current classification and compensation models and methodologies → *How does the County compare to public and private sector organizations in the regional market?*

Council staff recommends approval of the Merit System Protection Board [MSPB] FY23 Operating Budget as submitted by the County Executive.

This packet contains: _____ © Page #

[FY23 Recommended Operating Budget: MSPB](#).....©1-3
MSPB FY23 Budget Request to OMB – October 28, 2021.....©4