

MEMORANDUM

April 24, 2023

TO: Public Safety (PS) Committee

FROM: Naeem M. Mia, Legislative Analyst

SUBJECT: **FY24 Recommended Operating Budget – Office of Consumer Protection (OCP)**

PURPOSE: Vote on recommendations for the Council's consideration

Expected Attendees:

- Eric Friedman, Director, OCP
- K. Sam Buo, Jr., Esq., Operations Administrator, OCP
- Patricia Vitale, Manager of Investigations, OCP
- Eva Acevedo, Fiscal and Policy Analyst, Office of Management and Budget (OMB)

A. Staff Recommendations

As outlined in Council President's budget guidance memorandum, **all** tax-supported additions to the budget over the FY23 Approved level **must** be placed on the reconciliation list *except* compensation adjustments in County Government (which are being considered separately) and changes to internal service funds (such as motor pool), which will be looked at across all budgets.

1. Therefore, Council staff recommends approval of the FY24 recommended budget for OCP, with the below programmatic items to be placed on the reconciliation list as either "high priority" or "priority."

#	<u>Cost Item</u>	<u>Amount</u>	<u>Staff Recommendation</u>
1	Enhance: Program Specialist for Business Education and Registration Unit	51,794 (1.0 FTE)	Priority
2	Increase Cost: FY24 Compensation Adjustment	99,471	High Priority
3	Increase Cost: Annualization of FY23 Compensation Increases	89,650	Approve
4	Increase Cost: Printing and Mail	358	Approve

5	Decrease Cost: Retirement Adjustment	(458)	Approve
6	Decrease Cost: Motor Pool Adjustment	(1,349)	Approve
7	Decrease Cost: Annualization of FY23 Personnel Costs	(94,695)	Approve
A	Total Change with Approvals:	-6,494	
B	Items added to the Reconciliation List:	151,265	
C	Total Change (Approvals + Reconciliation List Items):	144,77	

B. Fiscal Summary

General Fund	FY23 Approved	FY24 Recommended	Change from FY23 Approved
Consumer Protection	\$2,477,443	\$2,622,214	5.8%
Personnel Costs	\$2,345,470 18.00 FTEs	\$2,491,232 19.00 FTEs	6.2%
Operating Costs	\$131,973	\$130,982	-0.8%
Total Expenditures	\$2,477,443 18.00 FTEs	\$2,622,214 19.00 FTEs	5.8% 0%

C. Vacancy/Staffing Trend Analysis

As of March 3, 2023, OMB reports only one (1) vacancy in OCP:

<u>Division</u>	<u>Position</u>	<u>Days Vacant</u>	<u>Total FY24 Budgeted Personnel Cost</u>
OCP	Operations	40	\$132,025

OCP has stated that this position is in the process of being reclassified before advertising and recruitment. OCP expects to have the reclassification, recruitment, and selection completed by July 2023.

D. Operating Budget Equity Tool Rating and Justification

1. ORESJ Rating: 3 - Department-level budget demonstrates a strong commitment to advancing racial equity and social justice in Montgomery County.
2. ORESJ Justification: The department indicated commitments across each major area of the Government Alliance (GARE) framework and is well positioned to making meaningful impacts on redressing discrimination in the County. Of note, OCP plans to add the "Advancing Racial Equity" and "Groundwater Approach" trainings to all staff performance plans, as well as providing in-house interpretation services in Spanish, Mandarin, French, Korean, and Vietnamese. Volunteers provide these interpretation services, and if a volunteer is unavailable, OCP utilizes the County's language bank for assistance.

OCP also reports plans to increase its outreach and educational events, particularly in Council Equity Focus Areas (“EFAs”). The Department is working on a DataMontgomery dataset that provides an overview of the consumer complaint cases that the department receives. The dataset will provide information on the type of case received and the Council district of the complainant, if applicable.

E. Discussion of Major FY24 Cost Changes

1. Enhance: Program Specialist for Business Education and Registration Unit (+ \$51,794, 1.0 FTE)

For FY24, OCP has requested a Program Specialist I, a grade 18 position budgeted as a 6-month hire with a total FY24 personnel cost of \$51,794 (and a full-year cost of \$93,977). The projected start date is January 2024; interviews and recruitment will begin in October 2023.

This position was initially requested in the FY23 budget process last year, as the department sought the position to coincide with the start of a new Business Compliance Unit; funding priorities at the time did not include the position in the final approved budget.

OCP continued to move forward with initiative, reporting as follows:

“OCP’s Business Compliance Unit (“BCU”) began operations in September 2022. With an unknown number of noncompliant businesses operating in the County, the BCU was organized with the goal to positively impact the integrity of the marketplace by operating under three main principles:

- Assess - review the marketplace for noncompliant merchants and activities;
- Correct - work with noncompliant merchants to come into compliance;
- Educate - Coordinate outreach and educational events to educate merchants.

After engaging with County businesses, OCP was encouraged that the main driver of corrective action involved business education and explanation of County laws rather than adversarial enforcement and punitive actions. Therefore, OCP quickly rebranded the BCU to the Business Education and Registration (“BEAR”) unit.

The BEAR unit provides business education and outreach through consultations with the unit’s Administrative Specialists, letters, flyers, and organizing outreach events. On the compliance side, the BEAR unit primarily conducts desk audits to determine whether businesses are in compliance with the County’s consumer protection laws. A “Desk Audit” is a compliance examination that is conducted over written communications between the unit and businesses. ***The BEAR unit conducted 232 desk audits, resulting in the issuance of 62 new business registrations, totaling \$7,544 in registration fee revenues.***

Through a “Notice of Expired Registration” process, the BEAR unit notified recently expired registrants that their registrations expired and reminded them to renew resulting in more than \$6,064 in renewal registration fees. ***Finally, the BEAR unit obtained \$10,000***

in unregistered new home builder/seller business compliance fees by executing settlement agreements with unregistered builders/sellers to protect consumers who would not otherwise be protected by Maryland's New Home Guaranty Fund.

To improve efficiency and support, the BEAR unit documented numerous processes, created dashboards to improve productivity, and increased OCP's revenues. However, the team faced challenges such as developing IT systems and tools from scratch, identifying non-compliant businesses, ensuring staff were trained on registration and consumer protection laws, and operating under limited resources.

For the upcoming fiscal year, BEAR plans to overcome these challenges by continuing to build upon available IT resources and tools, adapting to changing market trends, conducting intensive staff training programs, and finding innovative ways to achieve objectives with limited resources.

The addition of a Program Specialist I for onsite education and compliance will help the unit maintain its success by providing education and support to local businesses regarding registration and compliance regulations, optimizing processes, and generating revenue for the County. The team is confident that they will be better equipped to address these issues and continue to achieve success in the upcoming fiscal year.”

Council Staff Recommendation: *Add to the Reconciliation List as “Priority.”*

This packet contains:

1. Page from FY24 Recommended Operating Budget Book – OCP
2. OBET Scoring for OCP

Circle Page #

1-4
5-8



Consumer Protection

RECOMMENDED FY24 BUDGET

\$2,622,214

FULL TIME EQUIVALENTS

19.00

✴ ERIC FRIEDMAN, DIRECTOR

MISSION STATEMENT

The mission of the Office of Consumer Protection (OCP) is to enforce consumer protection laws prohibiting unfair and deceptive business acts or practices to ensure a fair marketplace for consumers and businesses. Activities include complaint resolution, business registration, law enforcement, education, legislation, advocacy, and outreach to vulnerable consumers.

BUDGET OVERVIEW

The total recommended FY24 Operating Budget for the Office of Consumer Protection is \$2,622,214, an increase of \$144,771 or 5.84 percent from the FY23 Approved Budget of \$2,477,443. Personnel Costs comprise 95.00 percent of the budget for 20 full-time position(s) and no part-time position(s), and a total of 19.00 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 5.00 percent of the FY24 budget.

COUNTY PRIORITY OUTCOMES

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

- ❖ **Thriving Youth and Families**
- ❖ **A Growing Economy**
- ❖ **Effective, Sustainable Government**

INITIATIVES

- ✴ Enhance business education and outreach services in the Business Education and Registration Unit to perform business education presentations and provide subject matter expertise to help businesses follow consumer protection laws.

PROGRAM CONTACTS

Contact K. Samuel Buo of the Office of Consumer Protection at 240.777.3760 or Eva Acevedo of the Office of Management and Budget at 240.777.2763 for more information regarding this department's operating budget.

PROGRAM PERFORMANCE MEASURES

Performance measures for this department are included below (where applicable). The FY23 estimates reflect funding based on the FY23 Approved Budget. The FY24 and FY25 figures are performance targets based on the FY24 Recommended Budget and funding for comparable service levels in FY25.

Measure	Actual	Actual	Estimated	Target	Target
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Consumer Protection

	FY21	FY22	FY23	FY24	FY25
Program Measures					
Number of business registrations received ¹	707	707	750	805	825
Number of complaint cases received	1,040	1,047	1,050	1,065	1,100
Percent of consumer protection cases closed that are resolved by OCP	63.4%	59.1%	60.0%	62.0%	65.0%
Average number of calendar days to Issue a business license / certificate of registration (excluding new home builder registrations)	9.94	6.85	6.00	5.75	5.00
Average number of workdays to investigate and close a written complaint (All complaints)	38.26	43.63	40.00	38.26	38.00
Average OCP customer satisfaction rating - Outcome of the customer's case (5-point scale) based on customer satisfaction survey	3.54	4.60	4.50	4.50	4.50

¹ Actual FY22 amount includes registrations received for new home builders, new home sellers, motor vehicle repair and towing operators, secondhand personal property dealers, and small electrical repair dealers.

PROGRAM DESCRIPTIONS

☼ Consumer Protection

The Consumer Protection program is a law enforcement function established in 1971 responsible for enforcing consumer protection laws to prohibit unfair and deceptive business acts to ensure fairness and integrity in the marketplace for consumers and businesses. The program is responsible for receiving, investigating, and resolving complaints, educating consumers and merchants, and registering and licensing certain businesses. The program has the authority to issue civil citations for violations of law, issue subpoenas to compel testimony and documents, and collaborate with other agencies to advocate for legislation. The program also staffs the Patient Advocate, administers the Domestic Worker law, and beginning in May 2021, the program now provides the County's Public Election Fund Liaison Service.

BUDGET SUMMARY

	Actual FY22	Budget FY23	Estimate FY23	Recommended FY24	%Chg Bud/Rec
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	1,580,003	1,869,261	1,760,761	1,961,776	5.0 %
Employee Benefits	452,883	476,209	427,981	529,456	11.2 %
County General Fund Personnel Costs	2,032,886	2,345,470	2,188,742	2,491,232	6.2 %
Operating Expenses	68,295	131,973	131,973	130,982	-0.8 %
County General Fund Expenditures	2,101,181	2,477,443	2,320,715	2,622,214	5.8 %
PERSONNEL					
Full-Time	19	19	19	20	5.3 %
Part-Time	0	0	0	0	---
FTEs	18.00	18.00	18.00	19.00	5.6 %
REVENUES					
New Home Builder's License	146,170	153,000	153,000	153,000	---
Other Licenses/Permits	55,445	51,000	51,000	51,000	---
Other Fines/Forfeitures	3,100	5,000	5,000	3,000	-40.0 %
Miscellaneous Revenues	25	0	0	0	---
County General Fund Revenues	204,740	209,000	209,000	207,000	-1.0 %

FY24 RECOMMENDED CHANGES

	Expenditures	FTEs
COUNTY GENERAL FUND		
FY23 ORIGINAL APPROPRIATION	2,477,443	18.00
Changes (with service impacts)		
Enhance: Program Specialist for Business Education and Registration Unit [Consumer Protection]	51,794	1.00
Other Adjustments (with no service impacts)		
Increase Cost: FY24 Compensation Adjustment	99,471	0.00
Increase Cost: Annualization of FY23 Compensation Increases	89,650	0.00
Increase Cost: Printing and Mail	358	0.00

FY24 RECOMMENDED CHANGES

	Expenditures	FTEs
Decrease Cost: Retirement Adjustment	(458)	0.00
Decrease Cost: Motor Pool Adjustment	(1,349)	0.00
Decrease Cost: Annualization of FY23 Personnel Costs	(94,695)	0.00
FY24 RECOMMENDED	2,622,214	19.00

CHARGES TO OTHER DEPARTMENTS

Charged Department	Charged Fund	FY23 Total\$	FY23 FTEs	FY24 Total\$	FY24 FTEs
COUNTY GENERAL FUND					
Fire and Rescue Service	Fire	95,778	1.00	89,372	1.00

FUNDING PARAMETER ITEMS

CE RECOMMENDED (\$000S)

Title	FY24	FY25	FY26	FY27	FY28	FY29
COUNTY GENERAL FUND						
EXPENDITURES						
FY24 Recommended	2,622	2,622	2,622	2,622	2,622	2,622
No inflation or compensation change is included in outyear projections.						
Annualization of Positions Recommended in FY24	0	42	42	42	42	42
New positions in the FY24 budget are generally assumed to be filled at least two months after the fiscal year begins. Therefore, the above amounts reflect annualization of these positions in the outyears.						
Labor Contracts	0	40	40	40	40	40
These figures represent the estimated annualized cost of general wage adjustments, service increments, and other negotiated items.						
Subtotal Expenditures	2,622	2,704	2,704	2,704	2,704	2,704

ANNUALIZATION OF FULL PERSONNEL COSTS

	FY24 Recommended Expenditures	FY24 Recommended FTEs	FY25 Annualized Expenditures	FY25 Annualized FTEs
Program Specialist for Business Education and Registration Unit	51,794	1.00	93,977	1.00
Total	51,794	1.00	93,977	1.00

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2. How does your department's budget allocate funds towards ensuring that public documents (including websites and related apps), policies, plans, meetings, and hearings are readily accessible to the public? Please use the checkboxes below to indicate which activities your department budget will enable. Then, in the text box that follows, please describe how your budget targets resources towards these activities.

★ We're doing something else and will use the text box to describe.

CUPF actively participates with Countystat initiatives, and we have a Public Information Officer that handles MPIA requests. We also have several items posted weekly on our Community Bridge which is CUPF's blog.

3. What persistent gaps or limitations could inhibit your department's ability to advance racial equity and social justice?

Due to the pandemic, CUPF lapsed 5 positions and experienced 2 vacancies in the Department, which totaled 27% of our staff complement. Although we have a staff shortage, we are bridging the gap with 5 temporary employees. We are working with OHR to fill these vacancies as soon as possible. While we still continue with our policies in support of ensuring everyone has access to our permitting services.

ORESJ Rating

3-Department-level budget demonstrates a strong commitment to advancing racial equity and social justice in Montgomery County

ORESJ Justification

Department-level responses demonstrate a strong commitment to advancing RESJ in the County as submissions identified actionable efforts taking place in all three areas of the GARE framework. While the department indicated commitments from each major area of the GARE framework, and the Facility Fee Assistance program provides universal support, details in the responses centered on existing services; and an absence of demographic data and targeted resource allocations (both time and fiscal) made it difficult to assess whether a racial equity lens was applied in the activities indicated in the operationalizing section of the tool: track program access, use department-specific analysis or tools, conducting an organizational assessment to identify strengths and opportunities related to racial equity. Overall, it is a notable strength that the department will require all staff to take RESJ's core training offerings. Note: Question on Fee Facility Assistance Program and Community Access Program-to what extent did staff seek input from community users to identify and assess gaps in the programs?

Consumer Protection



1. How will your overall budget support the department's commitment to advancing racial equity and social justice? To aid you in the formulation of your response, we've offered a list of activities, using the GARE framework, that demonstrate department-level commitments to racial equity and social justice. More information about the GARE framework is below and here.

Normalize - Establish racial equity as a key value by developing a shared understanding of key concepts across the department and create a sense of urgency to make changes

- ★ Form a Racial Equity CORE Team.
- ★ Allocate or support the use of staff time for CORE team activities.

OCP has committed executive management resources toward the County's racial equity and social justice initiatives. Currently the department is formalizing its Racial Equity CORE Team, which is led by MLS Manager III K.Samuel Buo who has successfully completed ORESJ's Racial Equity Lead trainings, and participated in several CORE Team meetings and trainings. The CORE Team also includes Program Manager Maurice Valentine, who is the County's Public Election Fund Liaison and manager of OCP's Outreach and Education group, and the department's new Executive Administrative Aide, Cindy Flores, who serves as the County's Patient Advocate. OCP has a monthly staff meeting where its CORE Team will be allocated time and space to further its goals. By January 2023, the department plans to use the monthly meeting space to report out on trainings, solicit participants for relevant events, and to discuss the department's racial equity and social justice outcomes / projects. The CORE Team seeks to establish two (2) projects in FY24.

Organize - Build staff and organizational capacity, skills, and competencies through training while also building infrastructure to support the work, like internal organizational change teams and external partnerships with other institutions and community.

- ★ Implement a plan or policy requiring all staff and leadership to complete "Advancing Racial Equity: the Role of Government" and "the Racial Equity Institute's Groundwater Approach: building practical understanding of structural racism" trainings.
- ★ Designate resources for staff participation in GARE conferences and other department-specific racial equity and social justice professional development.

For FY24, OCP plans to add the "Advancing Racial Equity" and "Groundwater Approach" trainings to all staff performance plans. Since the trainings are remote and are expected to be offered multiple times throughout FY24, the department does not anticipate meeting this commitment. All supervisors will monitor their staff to ensure compliance, and the executive management team will ensure that managers and supervisors are also compliant. The department will also commit to paying towards any registration fees for attending GARE conferences or other relevant trainings.

Operationalize - Put theory into action by implementing new tools for decision-making, measurement, and accountability like a Racial Equity Tool and developing a Racial Equity Action Plan.

- ★ Conduct an organizational assessment to identify areas of strength and opportunity for advancing racial equity in policies, programs, and practices.
- ★ Using or creating department-specific racial equity tools or maps to support analysis (of policy, program, practice, procedure) or resource decisions.



OCP's principal public service is conciliating and resolving consumer complaints against merchants for unfair and deceptive business practices. Annually the department receives more than 1,000 consumer complaints and resolves close to 60% of all cases. If the matter falls within OCP's statutory jurisdiction, the department will open a case and attempt to resolve the dispute; all County residents and County marketplace participants are welcome and encouraged to seek help with OCP. There are no unrealistic barriers to access OCP services: the department accepts complaints via an online complaint form, onsite staff are available to assist and advise walk-ins, and OCP's marketing materials are translated in a variety of languages. The department recognizes that since there are no barriers to access, the main area that department resources can be allocated to operationalize its racial equity and social justice objectives is to expand and scale out the department's outreach and educational efforts into communities that may not know about OCP services. First, the department must perform statistical sampling of its complaint geocoordinate data to establish a "heat map" of OCP complaints. Next, the department will determine the geographic areas with low complaint activity and will specifically target outreach and educational efforts towards those communities.

2. How does your department's budget allocate funds towards ensuring that public documents (including websites and related apps), policies, plans, meetings, and hearings are readily accessible to the public? Please use the checkboxes below to indicate which activities your department budget will enable. Then, in the text box that follows, please describe how your budget targets resources towards these activities.

- ★ Translating documents and marketing material to relevant languages based on the project impact area. Completed in partnership or at the advisement of the Office of Community Partnerships.
- ★ Ensuring interpretation services (ASL and closed-captioning) are available to the public in all relevant places and programs (such as service desks, service phone lines, open houses, public meetings, etc.).

OCP currently translates its marketing materials into English, Spanish, Vietnamese, Korean, Amharic, French, and Mandarin. <https://www.montgomerycountymd.gov/OCP/Publications/brochures.html>. OCP has not partnered with the Office of Community Partnership in providing the translation for its marketing materials. All OCP marketing materials are expensed through its operating expense budget. OCP will continue to allocate operating expenses towards the translation of marketing materials. OCP currently provides in-house interpretation services in Spanish, Mandarin, French, Korean, and Vietnamese. Volunteers provide these interpretation services, and if a volunteer is unavailable, OCP utilizes the County's language bank for assistance.

3. What persistent gaps or limitations could inhibit your department's ability to advance racial equity and social justice?

As a small department of less than twenty FTEs, OCP is agile, adaptive, and able to implement the GARE framework.

ORESJ Rating

3-Department-level budget demonstrates a strong commitment to advancing racial equity and social justice in Montgomery County

ORESJ Justification



Responses indicate a strong commitment to advancing RESJ in that the department identified actionable efforts in all three areas of the GARE framework. In each area, it identified an opportunity to deepen its commitment to advancing racial equity and social justice. And though the department did not indicate a barrier to access, its recognition of potential gaps in awareness about their service offerings is a barrier. The proposed analysis, in the operationalizing section, is a strong first step in addressing this barrier. It will be important for the department to overlay race, ethnicity, and language characteristics to better target resources and meet residents' needs.

Correction and Rehabilitation



1. How will your overall budget support the department's commitment to advancing racial equity and social justice? To aid you in the formulation of your response, we've offered a list of activities, using the GARE framework, that demonstrate department-level commitments to racial equity and social justice. More information about the GARE framework is below and here.

Normalize - Establish racial equity as a key value by developing a shared understanding of key concepts across the department and create a sense of urgency to make changes

- ★ Allocate or support the use of staff time for CORE team activities.
- ★ Develop a racial equity vision statement (and/or racial equity and social justice mission, values, or guiding principles).

The Department is committed to advancing racial equity by developing departmental strategies to become more knowledgeable and skilled in reviews and implementation of policies, practices, programs and that demonstrate our values to lessen and eliminate racial disparities in our correctional environment for staff and the population we serve. Assessments of programs and services to build our capacity to engage and close the achievement gaps of marginalized communities within our care is on-going to improve the outcomes of returning citizens. The Department uses data at a global level that is inputted into the Correction and Rehabilitation Information Management System to determine the racial and ethnic background of the inmates and to be able to serve them at an optimal level. The work environment promotes diversity in all classifications and positions and future staff training will include topics of racial equity and cultural competencies as part of mandated yearly required staff training. The Department has designated an equity lead that will direct and ensure the department is aligned with County principles in our work and mission.

Organize - Build staff and organizational capacity, skills, and competencies through training while also building infrastructure to support the work, like internal organizational change teams and external partnerships with other institutions and community.

