Department of Regulatory Agencies
Schedule 10
FY 2009-10 Budget Request

Priority	Number	Division	Request	FTE	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
Decision Items									
1	DI-1	Executive Director's Office	Funding for Contract Security Officer	0.0	$66,955	$0	$0	$66,955	$0
2	DI-2	Division of Registrations	Increase Resources for Office of Expedited Settlement	2.0	$110,815	$0	$110,815	$0	$0
3	DI-3	Division of Securities	Increase Securities Field Examiners	2.0	$148,982	$0	$148,982	$0	$0
4	DI-4	Civil Rights Division	Restore Civil Rights Regional Office in Northern Colorado	1.4	$140,396	$140,396	$0	$0	$0
5	DI-5	Division of Financial Services	Increase Resources for Division of Financial Services	2.0	$266,789	$0	$266,789	$0	$0
6	DI-6	Division of Banking	Increase Resources for Division of Banking	6.0	$707,579	$0	$707,579	$0	$0
7	DI-7	Public Utilities Commission	PUC Electric Transmission Planning	2.0	$221,658	$0	$221,658	$0	$0
Total - Decision Items				**15.4**	**$1,663,174**	**$140,396**	**$1,455,823**	**$66,955**	**$0**
Base Reduction Items									
Total - Base Reduction Items				**0.0**	**$0**	**$0**	**$0**	**$0**	**$0**
Non-Prioritized Items									
-	NP-1	Executive Director's Office	Statewide Vehicle Lease Payments	0.0	$59,610	$0	$59,610	$0	$0
-	NP-2	Executive Director's Office	Fleet Fuel	0.0	$106,086	$0	$106,086	$0	$0
-	NP-3	Executive Director's Office	Workers Compensation Ombudsman	0.0	$158	$6	$133	$16	$3
-	NP-4	Executive Director's Office	Mail Request	0.0	$46,841	$2,234	$42,260	$2,347	$0
-	NP-5	Executive Director's Office	Administrative Law Judges	0.0	$12,885	$594	$12,291	$0	$0
Total Non Prioritized Items				**0.0**	**$225,580**	**$2,834**	**$220,380**	**$2,363**	**$3**
			Grand Total October 31, 2008	15.4	**$1,888,754**	**$143,230**	**$1,676,203**	**$69,318**	**$3**

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10	Supplemental FY 2008-09	Budget Amendment FY 2009-10 ☐

Request Title: Funding for Contract Security Officer
Department: Department of Regulatory Agencies
Priority Number: DI-1

Dept. Approval by: [signature] **Date:** 10/16/08
OSPB Approval: [signature] **Date:** 10-17-08

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	4,241,468	3,961,046	0	3,961,046	4,163,461	66,955	4,230,416	0	4,230,416	66,955
	FTE	54.0	52.3	0.0	52.3	52.3	0.0	52.3	0.0	52.3	0.0
	GF	56,450	24,936	0	24,936	16,100	0	16,100	0	16,100	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	36,310	0	36,310	26,200	0	26,200	0	26,200	0
	CFE/RF	4,185,018	3,899,800	0	3,899,800	4,121,161	66,955	4,188,116	0	4,188,116	66,955
	FF	0	0	0	0	0	0	0	0	0	0
(1) Executive Director's Office Personal Services	Total	4,241,468	3,961,046	0	3,961,046	4,163,461	66,955	4,230,416	0	4,230,416	66,955
	FTE	54.0	52.3	0.0	52.3	52.3	0.0	52.3	0.0	52.3	0.0
	GF	56,450	24,936	0	24,936	16,100	0	16,100	0	16,100	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	36,310	0	36,310	26,200	0	26,200	0	26,200	0
	CFE/RF	4,185,018	3,899,800	0	3,899,800	4,121,161	66,955	4,188,116	0	4,188,116	66,955
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None
Letternote Revised Text: None
Cash or Federal Fund Name and COFRS Fund Number: N/A, Reappropriated Funds via indirect costs
Reappropriated Funds Source, by Department and Line Item Name: Reappropriated Funds via indirect costs
Approval by OIT? Yes: ☐ No: ☐ N/A: ☑
Schedule 13s from Affected Departments:

CHANGE REQUEST for FY 09-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-1
Change Request Title:	Funding for Contract Security Officer

SELECT ONE:

☒ Decision Item FY 09-10
☐ Base Reduction Item FY 09-10
☐ Supplemental Request FY 08-09
☐ Budget Request Amendment FY 09-10

SELECT ONE:

Supplemental or Budget Request Amendment Criterion:

☒ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☐ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

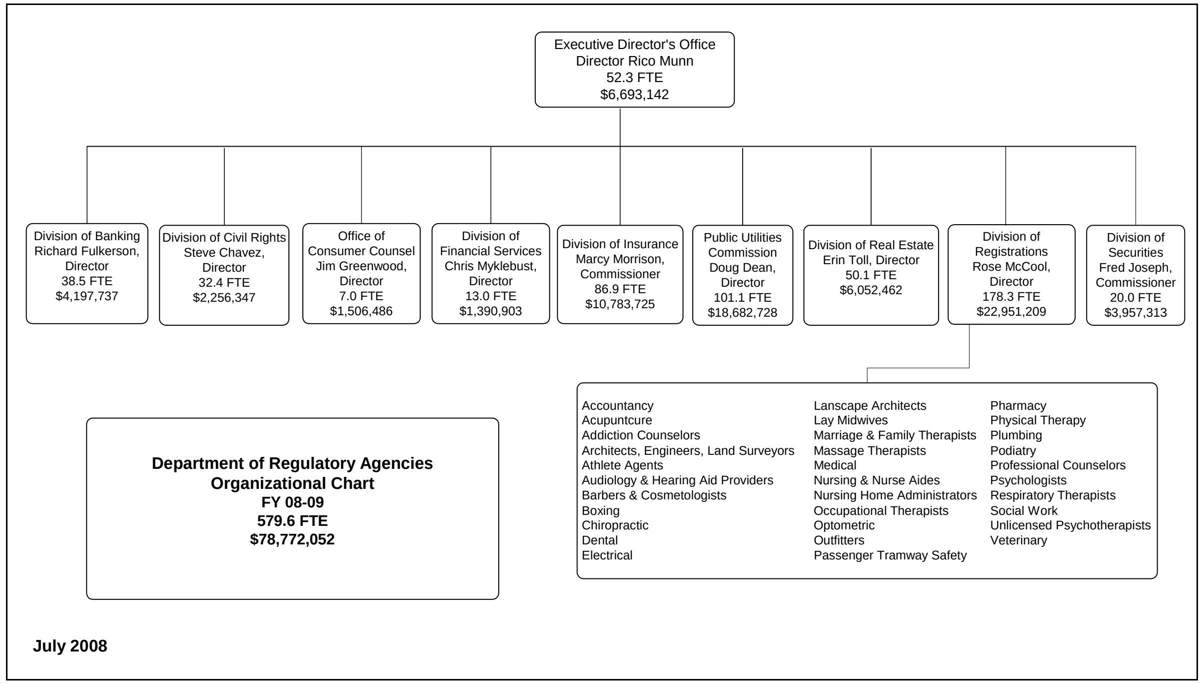
<u>Short Summary of Request</u>:

This is a request for $66,955 reappropriated funds in FY 2009-10 to hire a Contract Security Officer who would be assigned to the Executive Director's Office (EDO) in DORA for purposes of providing service to the entire Departmental headquarters. This position would provide ongoing security by being located in a central location and being available to provide security in all 10 DORA divisions, both on a day-to-day basis and when Board meetings occur in which disciplinary action is to be taken against licensees.

<u>Background and Appropriation History</u>:

DEPARTMENT BACKGROUND

The Department's mission is consumer protection. This mission is carried out through regulatory programs that license, establish standards, approve rates, investigate complaints, and conduct enforcement. The Department includes 10 separate divisions and 47 boards or commissions having oversight of various professions and industries as shown in the following FY 2008-09 organizational chart:



The Executive Director's Office coordinates and oversees the operations of the divisions within the Department and performs administrative functions, including accounting, budgeting, data processing, personnel, purchasing, facilities planning, and management reporting. The Division also includes funding and staff for the Office of Policy and Research, which conducts sunrise and sunset evaluations for state programs. The Division's cash funds derive from a variety of cash funds within the Department. Reappropriated funds come from indirect cost recoveries within the Department plus occasional transfers from other departments, while federal funds come from indirect cost recoveries from the Civil Rights and Insurance Divisions.

Across the Department, all agencies either take disciplinary actions against individual licensees or businesses, or take actions in setting rates that impact individuals or companies. Specifically, Divisions involve issues as follows :

- **Division of Banking -** This division regulates state-chartered commercial and industrial banks, trust companies, debt adjusters, and money order companies
- **Civil Rights Division -** This division investigates and adjudicates complaints of discrimination involving employment, housing, and public accommodation.
- **Office of Consumer Counsel -** This division represents the interests of residential, agricultural, and small businesses in cases before the Public Utilities Commission (PUC). Cases involve proposed changes to electric, gas, and telecommunication utility rates, services, and policies.
- **Division of Financial Services -** This division regulates state-chartered credit unions, savings and loans, and life care institutions, in addition to administering the federal Public Deposit Protection Act, which safeguards uninsured public monies invested with such institutions.
- **Division of Insurance -** This division regulates insurance professionals and insurance companies, non-profit hospitals and health service corporations, health maintenance organizations, workers' compensation self-insurance pools, and pre-need funeral contracts.
- **Public Utilities Commission -** This division includes funding for the Public Utilities Commission (PUC), which has the authority to regulate the rates and services of transportation and fixed utilities throughout Colorado. The PUC has some legislative and judicial authority, and is charged with determining whether utilities have the financial and technical capability to provide services. The PUC administers the following programs: Colo. Telecommunications High Cost Program, the Low-Income Telephone Assistance Program, the Highway Crossing Protection Program, and the Disabled Telephone Users Program.

- **Division of Real Estate -** This division is responsible for establishing and maintaining a safe, stable environment in which the general public can buy, sell, and lease real property in Colorado. To this end, the division licenses and carries out enforcement against real estate brokers, real estate appraisal professionals, and mortgage brokers.
- **Division of Registrations -** This division regulates over 221,000 licensees in more than 30 professions and occupations in Colorado. The General Assembly created the division's boards and licensing programs to ensure a minimum level of competency among licensees and to protect the public welfare. Licensing activities include the qualification of practitioners, facilities, programs, and equipment. Enforcement activities include inspections, complaint investigations, and license revocation in the absence of compliance with generally accepted standards of practice or safety.
- **Division of Securities -** This division monitors the conduct of broker-dealers and sales representatives in Colorado, investigating both citizen complaints and indications of investment fraud. Fees and assessments against regulated entities support the division.

APPROPRIATION HISTORY

Not including central appropriations for distribution throughout the Department, the FY 2008-09 appropriation for the Executive Director's Office includes $4.0 million and 52.3 FTE Personal Services and $110,555 Operating Expenses, with additional funding for centrally appropriated items including legal services. This compares to an FY 2007-08 total appropriation of $3.9 million and 54.0 FTE Personal Services, $110,555 Operating Expenses, and additional funding for centrally appropriated items including legal services. During recent years no significant funding changes have occurred in the Executive Director's Office; however, FTE authority was decreased related to IT consolidation beginning in FY 2008-09.

DESPITE BROAD REGULATORY AND DISCIPLINARY SCOPE OVER INDIVIDUALS, THE DEPARTMENT DOES NOT HAVE SECURITY RESOURCES

Although the regulatory scope of each Division encompasses a range of issues, to varying degrees all the issues above involve a naturally contentious process in which the livelihood of a licensed professional or institution is can be at stake, and too often enhanced security measures must be taken to ensure the protection of volunteer Board members and staff. Unfortunately, the Department does not have a single security officer on its staff anywhere in the Department.

RECENT INTERNAL AND EXTERNAL SECURITY REVIEWS REVEAL VULNERABILITIES

Past internal security reviews conducted by a POST-certified professional investigator highlighted physical security weaknesses that help reveal the need for a security officer, among them:

- In isolated circumstances regarding frequent or familiar visitors, Divisions occasionally lapse from best practices that include required visitor sign-in;
- Combination lock doors restricting access occasionally break;
- Four Divisions do not have separate reception areas, potentially permitting immediate access without passing through a security door;
- Isolated reports that conference and/or hearing room back entrances are occasionally left open, potentially permitting anonymous entry;

While this internal review highlighted vulnerabilities and the Department immediately acted to resolve these via better practices and upgrading access technology, certain physical improvements could not be remedied without costly construction work and do not represent a feasible option. This highlights the need for a security officer.

In addition to internal review efforts, a physical security review was performed by the Department of Public Safety's Rubicon team in the Office of Preparedness and Security. It is important to note that this review concentrated on the physical property of the Denver Post Tower, and as previously stated, physical improvements are not a feasible option to address security needs. The review suggested a number of specific items including that a security plan must be implemented, physical access control improved, screening and monitoring increased. Among the assessed vulnerabilities of this review were:

- Lack of complete access controls and intrusion detection alarms to detect, deter, delay, or mitigate potentially dangerous persons from entering key areas;
- Lack of necessary equipment and training for existing building security personnel;
- Limited monitoring for potentially dangerous persons and equipment being done at the building, particularly at locations other than the main entrances;

Specifically, the review concluded that while the building security staff is adequate to carry out the level of security provided, increasing the security posture for an agency within the building would require that adding additional security personnel be considered who are assigned to the individual department.

All told, the reviews confirmed that DORA faces significant risks that cannot be easily remedied without costly construction work. However, security can and should be improved via the addition of a DORA security officer.

General Description of Request:

This is a request for $66,955 Reappropriated Funds to hire a Contract Security Officer who would be assigned to the Executive Director's Office (EDO) in DORA for purposes of providing service to the entire agency. This position would provide ongoing security by being located in a central location and being available to provide security in each of EDO Section and 9 divisions, both on a day-to-day basis and when Board meetings occur in which disciplinary action is to be taken against licensees. This position would allow the Department to provide protection to all of our Board members when they are serving in their official capacity in service to the citizens of Colorado.

MEETINGS AND HEARINGS INVOLVE MULTIPLE PARTIES, CONTENTIOUS ISSUES, OPEN ACCESS, BUT NO SECURITY

The need for this resource is driven primarily by the lack of a security presence in virtually every public board meeting and hearing conducted by agencies in the Department. Typically, the volunteer members of a board or commission will conduct business at regularly scheduled meetings that often last entire days, and these meetings are identified publicly in advance. Staff members also attend each meeting or hearing. In general, this includes officials (typically the chief administrator for each board) and administrative staff, as well as retained experts, licensees, and members of the public, media, and attorneys. Proceedings range from ordinary agenda items and general business to disciplinary matters for formal hearings. All told, the meetings typically bring together multiple parties involving many issues, and it is difficult to predict whether circumstances will create security risks without having prior knowledge or communication from involved persons.

However, there have been several occasions in the past several months when an e-mail has been sent to staff throughout the Department to send larger, male staff members to a particular board meeting because board staff believes that disgruntled individuals might be attending the meeting and they want the enhanced presence as a dissuasive factor. In addition, there have been several occasions when our Human Resources Department has had to take disciplinary action against certain employees and there has been concern about the employees' state of mind and that they might serve as a potential security threat.

Since there is no in-house resource to turn to, in some cases staff contacts Denver Police to help provide security. In these cases police officers typically are brought in at contract hourly rates for a few hours in each case. In other cases, the notice that a disgruntled person might be attending a board meeting occurs too late to be able to notify Denver Police in time for them to attend the meeting.

EXISTING APPROACH IS INCONSISTENTLY APPLIED, NOT SUFFICIENT

There are several primary concerns with this approach:

- Lack of a dedicated resource leaves only two options: contact the police, or contact internal staff members. There are many circumstances that may warrant security, but in the absence of clear red flags or prior conduct that suggests a security risk, in general the police will not be called. This means that Department employees are the default security entity for almost every security risk. While some Department employees are POST-certified and possess the training and qualifications to handle security issues, this function is not within their present responsibilities or resources, as they are fully utilized in the performance of their existing duties.

- Without a dedicated staff person, security resources cannot be applied consistently across the Department. While some supervisors or board members may be inclined to observe signals that suggest a security risk, others may not be so inclined. This prevents a consistent application of security or a standardized approach. Given that security risks are possible Department wide as suggested by the Department's wide regulatory scope, some form of uniform security should be adopted.

- Security risks often present themselves without any notice or warning. It is precisely this circumstance that suggests a standardized approach and department-wide resource be utilized.

- An unknown percentage of citizens view government in confrontational terms, and some other citizens can possess impairments in judgment that cause them to misplace blame for some personal circumstance negatively affecting them. DORA licenses over 700,000 individuals – approximately 15% of the Colorado population – who are impacted by a government agency beyond generalized issues of tax collection. Furthermore, relative to other state agencies, the frequency of public meetings at DORA presents increased opportunity for such a citizen to present a security risk. In short, DORA touches more individuals personally, and involves relationships to more individuals, than many other state agencies.

REQUESTED STAFF WOULD PROVIDE CONSISTENT AND UNIFORM SECURITY

The request to add a Contract Security Officer resolves these significant concerns and will serve to improve safety in the following manner:

- The presence of a full time resource will eliminate a significant weakness in the Department's physical security. Rather than employing off-duty Denver Police officers or diverting the attention of existing Departmental staff, dedicated security will be available and provided where it is needed most.

- With a dedicated contract person, security resources will be applied consistently across the Department. Supervisors or board members will not have to rely on interpreting signals that suggest a security risk. Further, with a resource devoted to security, a standardized approach can be promulgated. While security risks will continue to be possible Department wide, uniform security will be adopted.

- A resource will be immediately available to respond to risks that present themselves without any notice or warning, a significant percentage of the overall risk profile.

- The requested contract staff would bolster weaknesses previously identified in the Department's work on reviewing internal security. Specifically, this resource would add an active component to physical vulnerabilities, and represents an alternative to resolving vulnerabilities that could not be remedied without costly construction work.

Last and most importantly, adding the resource on a contract basis represents a less costly and more efficient alternative relative to adding full-time Safety Security Officer III in the state classified system. Calculations of this are provided in the cost-benefit analysis section of this request. A contractor would provide an optimum skill set. The position would be qualified to exercise powers of custody and control, restrain citizens, detect criminal activity, respond to emergencies and requests for assistance, and serve as an important liaison if and when law enforcement authorities must be summoned. There is currently no employee at DORA with these exact skills required in their job description.

Consequences if Not Funded:

Consequences are unknown, because it is very possible that security and safety problems may not surface within a time period certain. However, the Department is in the business of licensing individuals and then disciplining those individuals when they violate some requirement or revoking their license, which often times leads to them losing their job and primary source of income. This unfortunately translates to increased security risk.

Further, the Department houses volunteer members for over 30 boards, and the Department possesses a duty to volunteer board members – who devote their time and energies to State service – to ensure that this unpaid service does not carry with it additional personal risk. Further, the general public who attend these boards meetings also must be protected to ensure their safety. Many members of the public have important issues before DORA boards, and security risks may discourage public participation in state business.

Calculations for Request:

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$66,955	$0	$0	$66,955	$0	0.0
(1) Executive Director's Office Personal Services	$66,955	$0	$0	$66,955	$0	0.0

Summary of Request FY 10-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$66,955	$0	$0	$66,955	$0	0.0
(1) Executive Director's Office Personal Services	$66,955	$0	$0	$66,955	$0	0.0

Assumptions for Calculations:

Calculations by Long Bill Line Item - All amounts Cash Funds Exempt	FY 09-10 Total	FTE	FY 10-11 Total	FTE
Contract Security Rate, 2,080 hours @ $32.19 per hour	$66,955		$66,955	
PERA @ 10.15%	n/a		n/a	
Medicare @ 1.45%	n/a		n/a	
Total Personal Services	**$66,955**	**0.0**	**$66,955**	**0.0**
Capital Outlay (Furniture) is $2,021 per Leg Council guidelines	n/a			
PC equipped with a shared printer and standard office software is $959	n/a			
Telephone service is $279/FTE per the Department's existing system	n/a		n/a	
Annual operating expenses @ $500/FTE	n/a		n/a	
Total Operating Expenses	**$0**		**$0**	
Leased Space (150 SF @ $16.35 in FY 08-09, 16.60 in FY 09-10)	n/a		n/a	
Hardware/Software Maintenance (annual maintenance is $155/FTE)	n/a		n/a	
Total	**$66,955**	**0.0**	**$66,955**	**0.0**

Impact on Other Government Agencies: None.

Cost Benefit Analysis:

Given that this issue is a public safety issue, it is not possible to quantify a cost-benefit analysis for the request in terms of the value of the protection that is provided. Conceptually, potential harm to volunteers, the general public and/or staff would far offset the costs to fund this position.

However, from a resource standpoint this request was structure to have minimum costs. The range minimum salary of $55,260 plus the incremental costs and personnel benefits of adding state FTE in the form of a Safety Security Officer III, total hourly costs would be $34.94 (based on a total of $72,666). This is based on the absolute minimum costs, including no leased space and no share of indirect costs. Meanwhile, this request would provide these services at $32.19 hourly, meaning that the request is $5,711 less than adding a permanent, full-time state FTE. The cost differential would be even greater for a non-armed guard at $23.15 hourly – or $48,152 annually, of $24,514 less expensive. This request therefore represents the least costly way to add full-time security via contract resources. Finally, in light of the request's rationale that a dedicated security resource be provided so as to provide a uniform security standard specifically across agencies, contracting periodically or as necessary is not an alternative that would yield the same result, and therefore costs are not estimated.

	FTE Annual Cost	Contractor Annual Cost	Difference
Total Personal Services	**$61,670**	$66,955	$5,285
Total Operating Expenses	**$6,178**	$0	($6,178)
Non-add items (includes HLD and other benefits)	**$4,818**	$0	($4,818)
Total	$72,666	$66,955	($5,711)

<u>Implementation Schedule:</u>

Task	**Month/Year**
FTE Hired	July, 2009
Written Policy Promulgating Regarding Security Resources and Protocol	July, 2009

<u>Statutory and Federal Authority</u>: Section 24-34-104, C.R.S. (2008) authorizes the Executive Director of the Department to “have those powers, duties, and functions prescribed for heads of principal departments in the ‘Administrative Organization Act of 1968’ [Sections 24-1-101 through 24-1-137, C.R.S (2008)]”. Section 24-1-122(2)(a), C.R.S. (2008) establishes management and budgeting authority in the Executive Director’s Office; this request promotes the general good management and operation of the Department.

<u>Performance Measures:</u> This request is consistent with the Department’s mission of consumer protection, and directly assists in the achievement of all objectives. A safe environment empowers DORA staff to educate, communicate with, and involve the public, and a safe environment makes regulatory actions further accessible to the public.

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: Increase Resources for Office of Expedited Settlement
Department: Department of Regulatory Agencies
Priority Number: DI-2

Dept. Approval by: [signature] **Date:** 10/16/08
OSPB Approval: [signature] **Date:** 10-17-08

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	16,293,894	16,544,727	0	16,544,727	16,875,108	110,815	16,985,923	0	16,985,923	100,669
	FTE	166.2	178.3	0.0	178.3	178.4	2.0	180.4	0.0	180.4	2.0
	GF	88,272	159,459	0	159,459	102,946	0	102,946	0	102,946	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	15,519,834	13,491,114	0	13,491,114	13,740,606	110,815	13,851,421	0	13,851,421	100,669
	CFE/RF	659,664	2,860,407	0	2,860,407	2,983,157	0	2,983,157	0	2,983,157	0
	FF	26,124	33,747	0	33,747	48,399	0	48,399	0	48,399	0
(1) Executive Director's Office, Leased Space	Total	2,524,965	2,805,617	0	2,805,617	3,138,077	7,500	3,145,577	0	3,145,577	7,500
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	0	102,146	0	102,146	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	7,500	2,535,318	0	2,535,318	7,500
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	310
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	310
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0
(9) Division of Registrations, Personal Services	Total	11,776,908	11,431,315	0	11,431,315	11,708,393	90,959	11,799,352	0	11,799,352	90,959
	FTE	166.2	178.3	0.0	178.3	178.4	2.0	180.4	0.0	180.4	2.0
	GF	0	67,400	0	67,400	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	11,776,908	9,176,108	0	9,176,108	9,443,552	90,959	9,534,511	0	9,534,511	90,959
	CFE/RF	0	2,181,315	0	2,181,315	2,258,349	0	2,258,349	0	2,258,349	0
	FF	0	6,492	0	6,492	6,492	0	6,492	0	6,492	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10 ☐	Supplemental FY 2008-09 ☐	Budget Amendment FY 2009-10 ☐

Request Title: Increase Resources for Office of Expedited Settlement
Department: Department of Regulatory Agencies
Priority Number: DI-2

Dept. Approval by: **Date:**
OSPB Approval: **Date:**

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
(9) Division of Registrations, Operating Expenses	Total	1,313,306	1,424,330	0	1,424,330	1,356,323	12,356	1,368,679	0	1,368,679	1,900
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,313,306	1,424,330	0	1,424,330	1,356,323	12,356	1,368,679	0	1,368,679	1,900
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None
Letternote Revised Text: None
Cash or Federal Fund Name and COFRS Fund Number: Division of Registrations Cash Fund, #189
Reappropriated Funds Source, by Department and Line Item Name: N/A, CF Request
Approval by OIT? Yes: ☐ No: ☐ N/A: ☑
Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 09-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-2
Change Request Title:	Increase Resources for Office of Expedited Settlement

SELECT ONE:

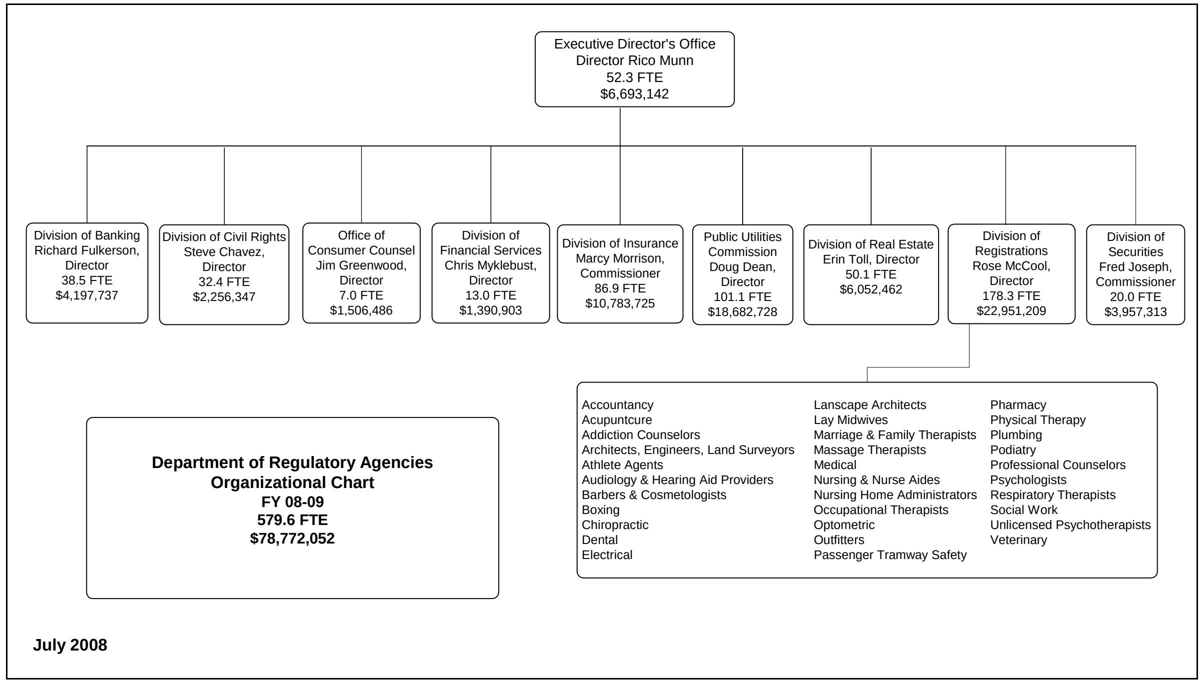
☒ Decision Item FY 09-10
☐ Base Reduction Item FY 09-10
☐ Supplemental Request FY 08-09
☐ Budget Request Amendment FY 09-10

SELECT ONE:

Supplemental or Budget Request Amendment Criterion:
☒ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☐ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

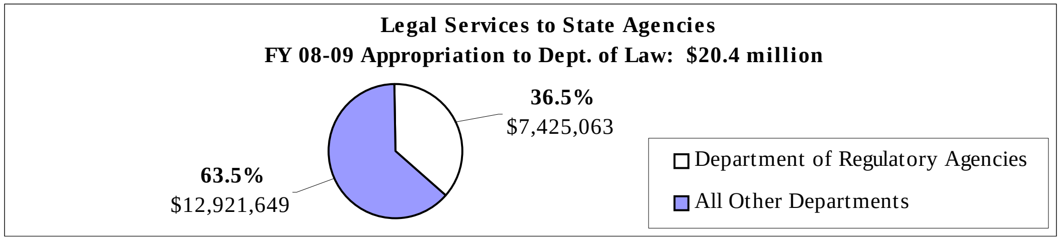
<u>Short Summary of Request</u>: This is a request for 2.0 FTE and $110,815 cash funds spending authority in FY 2009-10 for the Office of Expedited Settlement to achieve optimum case referral levels and thereby maximize the conservation of legal services and swift resolution to professional licensees.

<u>Background and Appropriation History</u>: The Department's mission is consumer protection, and this mission is carried out through regulatory programs that license, establish standards, approve rates, investigate complaints, and conduct enforcement. The Department includes 10 separate divisions and 47 boards or commissions having oversight of various professions and industries as shown in the following FY 2008-09 organizational chart:

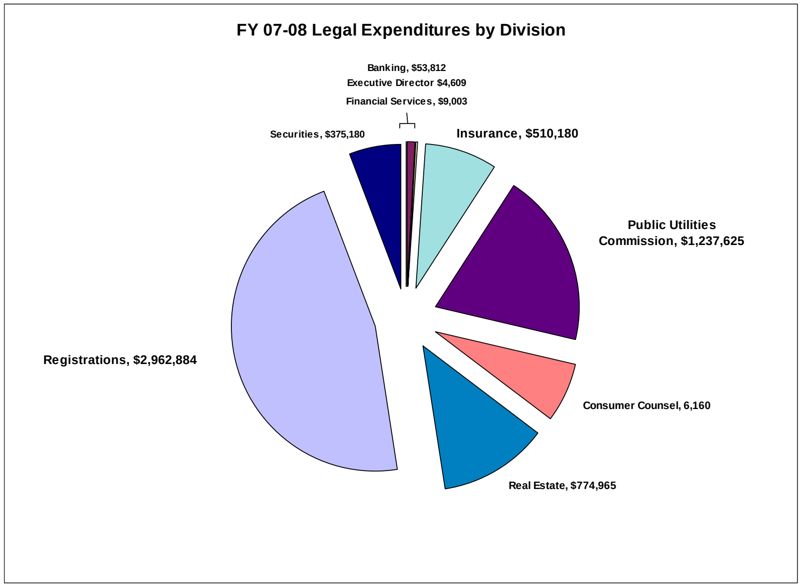


Regulatory licensure and enforcement through disciplinary action are central methods of achieving consumer protection. All DORA agencies are empowered to set standards for professional licensure, regulate standards of conduct for professionals, review complaints against licensees, and take disciplinary actions against licensed individuals and entities. Disciplinary matters are resolved through a variety of formal and informal mechanisms, and the range of actions includes probation, practice limitations, fines, letters of admonition, and other actions usually achieved though stipulations. Formal disciplinary actions require attorneys and paralegals to prepare cases, experts to testify, and administrative law judges to hear cases. The costs associated with this process can be substantial, and the time to resolution slow, which can serve to compound costs.

As such, DORA is unique within the state in its demand for legal services, which under the Oregon Plan are obtained centrally from the Colorado Department of Law under the State Attorney General. DORA accounts for approximately 36.5 percent of all legal hours appropriated to state agencies, a fact that is driven by the nature of regulatory oversight and enforcement. For FY 2008-09, these services will be retained a blended hourly cost of $75.10, for a total of 98,000 legal hours.



Within DORA, the largest consumer of legal services is the Division of Registrations (DOR), which presently accounts for 47% percent of DORA's legal expenditures:



To help mitigate the increasing need for legal services, DOR and the Office of the Attorney General (OAG) in the Department of Law began exploring alternatives to traditional means of providing legal services related to disciplinary actions. The goal was to stem rising legal costs, but also to enable resolution of complaints in a faster manner. The Board of Nursing, an agency within DOR, responded to the mandate by designing and implementing a pilot project called the **expedited settlement process (ESP)** in which existing program staff attempted to offer settlement to disciplinary matters. Under the project, the expedited settlement process began after the board determined a complaint to be legally sufficient and the allegations were identified as violations of the practice act. Instead of immediately referring the complaint to the Office of the Attorney General for formal disciplinary hearings, a board staff member attempted to settle the disciplinary action in accordance with the board's initial settlement guidance. If the respondent agreed to the settlement terms, or the board agreed to a proposed counter offer, a stipulation and final agency order was drafted and signed by the respondent, at which time the complaint was closed without the need for legal expenses. In the event the complaint was not resolved, the staff member referred the complaint to the Office of the Attorney General for initiation of formal disciplinary proceedings.

From October 1995 to January 1998, approximately 250 disciplinary actions were processed through ESP with a settlement rate near 70%, meaning that for these cases, no expenditure of legal services was required. In short, the pilot project successfully mitigated the potential legal costs of each case, achieving the desired result of the pilot project. Based on the Nursing Board's success, the Department of Regulatory Agencies submitted a special report to the Colorado Joint Budget Committee in 1998 concluded that:

> "DOR should consider the following measure to help reduce the rate of increase in the DOR's Legal Services need -- All DOR boards should study, develop and implement, as appropriate, an early settlement procedure similar to those utilized by the Nursing Board and the Division of Real Estate . . ."

In accordance with the above directive, DOR created an Operations and Procedures Manual and expanded the use of expedited settlement in many boards. Different boards started expedited settlement programs each year since the Board of Nursing first started its program in 1995. During FY 2001-02, thirteen boards settled 109 cases of approximately 150 attempted. The types of cases that had been resolved included a variety of unprofessional conduct and disciplinary sanctions such as letter of admonitions, probationary stipulations, injunctions, and even revocations. DOR continued to expand the use of the expedited settlement process and settled 255 cases in FY 2002-03. During that same time period, Office of the Attorney General's expenses increased 150% while the number of cases resolved dropped 50%. This data strongly illustrated the need to expanding ESP efforts.

In January 2004, DOR presented a decision item to the Joint Budget Committee seeking funds to create the Office of Expedited Settlement (Office). DOR proposed adding 2.0 FTE whose only purpose would be to attempt settlement of disciplinary actions for all boards and programs prior to referring a case to the Office of the Attorney General. Based on the positive results of this program, during the 2004 Legislative session the Joint Budget Committee approved a funding request for 2.0 FTE to expand the use of expedited settlement in the resolution of disciplinary actions by creating an Office of Expedited Settlement.

With full-time staff available to achieve settlements within board-stipulated parameters, the success of the program increased dramatically. The following table shows the number of case settlements between FY 2004-05 and FY 2006-07:

Expedited Settlement Case Data	Actual FY 2004-05	Actual FY 2005-06	Actual FY 2006-07
Opened Cases	682	752	598
Settled Cases	570	723	551
Settlement Rate	83.6%	96.1%	92.1%

Original estimates for the office had sought to exceed 50% settlements. Based on this overwhelming success, and the fact that expedited settlement process did not yet have sufficient staff to refer all possible cases through expedited settlement process, the Department sought a budget increase to fund an additional position for the Office for FY 07-08, and pledged to increase its commitment to expedited settlement process by making more existing staff available for the program. The JBC approved a funding request for an additional 1.0 FTE for FY 07-08, and the Division assigned an existing FTE to the Office of Expedited Settlement, boosting the total resources for expedited settlement process to 4.0 FTE, where it remains today.

General Description of Request:

This is a request for $110,815 Cash Funds to hire 2.0 additional FTE for the Office of Expedited Settlement to achieve optimum case referral levels and thereby maximize the conservation of legal services and swift resolution to professional licensees.

ESP Cost Effectiveness. The cost-effectiveness of Expedited Settlement rests solely on the basis that program expedited settlement process staff cost much less than Legal Services, and if the same work is done for less money, efficiency is achieved. The FY 2007-08 blended legal rate was $72.10; the FY 2007-08 hourly rate of expedited settlement process staff was $30.33, including all office costs. This means that expedited settlement process staff cost 43% of the cost of legal staff – and conversely, that legal staff cost 138% more than expedited settlement process staff. This is a significant differential, and it has significant results that are discussed in the table on the following page.

How ESP Works to Avoid Costs and Conserve Legal Services. There are two key ways in which expedited settlement process cost-effectiveness can be evaluated. First, any expenditure of legal services that is spent on a matter that does not require legal expertise represents an inefficient and wasteful use of state funding, period. Paying $72 for an hour of work that could alternatively have cost $30 represents wasted resources. Second, since legal services appropriations are specifically provided by the General Assembly to the exclusion of other sources and uses, there is a limited amount of legal money available to spend. These resources must be used on the most appropriate matters. Both of these factors make expedited settlement process attractive, as it both precludes wasteful spending and makes limited legal resources go farther in accomplishing program workload. Expedited settlement process efforts will continue to be a worthwhile investment until such time as the maximum amount of cases have an opportunity to go through expedited settlement process. For reasons discussed later in this document, the Division believes that this level has not yet been reached.

The following table shows expedited settlement process case settlement performance as compared to the costs of processing the same matter in Office of the Attorney General, presuming Office of the Attorney General takes a minimum of 10 hours for each matter – a conservative assumption as all matters handled in Office of the Attorney General easily exceed 10 legal hours regardless of whether they are settled or adjudicated.

	Actual FY 2004-05	Actual FY 2005-06	Actual FY 2006-07	Actual FY 2007-08
Expedited Settlement Spending	**$138,592**	**$ 156,549**	**$ 188,008**	**$ 252,345**
Opened Cases	682	752	598	779
Settled Cases	570	723	551	618
Settlement Rate	83.6%	96.1%	92.1%	79.3%
Cost per settled case	$243.14	$216.53	$341.21	$408.33
Office of the Attorney General				
Hourly rate	$ 61.57	$ 64.45	$ 67.77	$ 72.03
Estimated Cost per Case	$ 615.70	$ 644.50	$ 677.70	$ 720.30
Total Estimated Cost	**$350,949**	**$ 465,974**	**$ 373,413**	**$ 445,145**
Total Net Cost Avoidance	**$212,357**	**$ 309,425**	**$ 185,405**	**$ 192,800**
Est. Cost Avoidance per Case	$ 372.56	$ 427.97	$ 336.49	$ 311.97

The table above shows that in each actual year, the expedited settlement process program successfully avoided a minimum of $311 per case in FY 2007-08 – meaning that it would have cost an extra $311 to resolve the same matter without expedited settlement process. In that same year expedited settlement process actually conserved a full $445,145 in total legal expenditures (and $899,987 in 4 years) – meaning that this amount was available to use for other matters. Compared to total legal expenditures in FY 2007-08 of $6.4 million, this represents a full 6.9% of the existing legal appropriation that was made available for other uses. Given the 4.3% increase in the blended legal rate for the coming year, expedited settlement process successfully exceeded the cost increase associated with legal hours – a significant achievement in light of the fact that DORA has the highest concentration of legal hours (and thus the most dollars associated with the 4.3% increase) in the State.

Maximum Possible ESP Workload. Having established the cost avoidance and legal services conservation that expedited settlement process provides, it is important to focus on the volume of work that remains possible to benefit from the program. As a general rule, of the total complaint matters received by the Division it is estimated that roughly 70% of all complaints would not be eligible for expedited settlement process. The reasons for this vary, but in general this would be the case for matters handled in immediate fashion by the board, for instance: dismissal for jurisdictional reasons; issuance of a confidential letter of concern because the misconduct does not rise to the level of disciplinary action; issuance of a letter of admonition issued by the board staff; or less frequently, because a license was immediately and permanently revoked based on significant misconduct with no possibility of settlement. This leaves roughly 30% that fall within the range of disciplinary actions and thus would be eligible for settlement. With 4,269 overall complaints received in FY 2007-08, these percentages would suggest an annual maximum case referral figure of 1,281 cases – or, 502 cases more than the 779 processed by expedited settlement process during FY 2007-08.

However, the 30% figure is an average that does not reflect the fact that certain boards will have higher and lower percentages of cases ineligible for settlement, while others are already operating at maximum referral levels. Therefore, a more accurate method would be to make board-by-board projections. The following table shows complaints, the estimated amount of cases eligible for expedited settlement process referral, the number of cases most recently referred to expedited settlement process, in order to arrive at an estimated amount of cases not attempted by expedited settlement process.

Board/Program	Complaints Handled	Not Eligible for Settlement*	Eligible for Settlement	Cases Referred	Pct Attempted	Cases Unattempted
Accountancy	63	33	30	30	47.6%	0
Acupuncturists	11	8	3	2	18.2%	1
Addiction Counselors	84	59	25	0	0.0%	25
Architects/Engineers/Land Surveyors	105	64	41	41	39.0%	0
Athlete Agents	0	0	0	0	0.0%	0
Barber/Cosmetology	487	217	270	265	54.4%	5
Boxing	14	10	4	0	0.0%	4
Chiropractic	117	82	35	17	14.5%	18

Board/Program	Complaints Handled	Not Eligible for Settlement*	Eligible for Settlement	Cases Referred	Pct Attempted	Cases Unattempted
Dental	301	211	90	59	19.6%	31
Electrical	124	87	37	37	29.8%	0
Hearing Aid Providers/Audiologists	22	15	7	3	13.6%	4
Landscape Architects	1	1	0	0	0.0%	0
Lay Midwives	7	5	2	0	0.0%	2
Massage Therapists	0	0	0	0	0.0%	0
Mental Health	376	263	113	60	16.0%	53
Medical*	1,133	1,020	113	19	1.7%	94
Nursing*	585	435	150	137	23.4%	13
Nurse Aides	249	174	25	0	0.0%	25
Nursing Home Administrators	23	15	8	8	34.8%	0
Occupational Therapists	0	0	0	0	0.0%	0
Optometric	30	21	5	1	3.3%	4
Outfitters	30	18	12	12	40.0%	0
Passenger Tramway	5	2	3	3	60.0%	0
Pharmacy	283	198	85	42	14.8%	43
Physical Therapy	32	22	10	10	31.3%	0
Plumbers	85	60	25	22	25.9%	3
Podiatry	16	11	5	1	6.3%	4
Respiratory Therapists	25	18	7	1	4.0%	6
Veterinarians	61	43	18	9	14.8%	9
FY 07-08 Actual	**4,269**	**3,092**	**1,123**	**779**	**18.2%**	**344**

* Cases receiving immediate action by the board (i.e., dismissals, revocations, letters of concern, etc.) are not eligible for settlement. This occurs in roughly 70% of all complaints.

As the table shows, it is expected that there were 1,123 cases that could have been referred – a difference of 344 cases. Primarily, this is expected to occur with regard to boards within the final phase of the plan for expedited settlement process implementation, specifically the Medical, Nursing, and Pharmacy boards. It is further estimated that each settlement specialist can process approximately 200 cases per year –

and this is illustrated in FY 2007-08 case data of 779 completed cases amongst 4.0 FTE in the Office.

Therefore, estimated workload suggests that the addition of staff can achieve further legal cost avoidance and conservation. Given the certainty that every case settled via expedited settlement process is cost-effective compared to the expenditure of legal services and when faced with the continuing need for progressively more expensive legal hours, the Department requests that staff be added to complete this workload.

Although the estimates would support the addition of two additional settlement staff, the Department believes that the request should adopt a conservative approach – if the estimates are too high, there is a possibility that diminishing returns could be realized if 2.0 FTE settlement specialists are added. To guard against this possibility and guarantee that the intended cost-effectiveness is realized, the Department requests the addition of only 1.0 FTE full time settlement specialist, with an additional 1.0 FTE administrative staff intended to supplement the entire expedited settlement process Office and free up staff time of existing settlement specialists to facilitate remaining workload.

Given the ability of settlement specialists to complete 200 cases each year and assuming that the administrative staff will free up approximately 10% of the time of the existing 4.0 staff (thereby boosting their performance by an estimated 20 cases each), this approach will enable the completion of an estimated 300 cases. This will give the Office the optimum chance to complete available workload while guarding against diminishing returns. Moreover, given the relative expense of administrative staff, the freed-up resources of existing specialists will be procured at less than the cost of adding another specialist, making the overall request a more efficient use of resources.

Consequences if Not Funded:

As previously stated, the existing program successfully avoids legal costs and conserves legal resources. This is urgently needed to offset existing demand for legal services and the continually increasing rate at which legal services are provided.

If the request is not approved, the Department will likely spend legal services on matters that do not require legal services, and public money will have been used in a way that is not as efficient as possible.

Calculations for Request:

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$110,815	$0	$110,815	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$0	$0	$0	$0	$0	0.0
(9) Division of Registrations Personal Services	$90,959	$0	$90,959	$0	$0	2.0
(9) Division of Registrations Operating Expenses	$12,356	$0	$12,356	$0	$0	0.0

Summary of Request FY 10-11	**Total Funds**	**General Fund**	**Cash Funds**	**Cash Funds Exempt**	**Federal Funds**	**FTE**
Total Request	$100,669	$0	$100,669	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$310	$0	$310	$0	$0	0.0
(9) Division of Registrations Personal Services	$90,959	$0	$90,959	$0	$0	2.0
(9) Division of Registrations Operating Expenses	$1,900	$0	$1,900	$0	$0	0.0

Assumptions for Calculations:

		FTE and Operating Costs						***GRAND TOTAL***		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**Administrative Assistant III**			**General Professional III**					
Number of PERSONS / class title		1	1	1	1	1	1			
Number of months working in FY 08-09, FY 09-10 and FY 10-11		12	12	12	12	12	12			
Number months paid in FY 08-09, FY 09-10 and FY 10-11[1]		12	12	12	12	12	12			
Calculated FTE per classification		**1.0**	**1.0**	**1.0**	**1.0**	**1.0**	**1.0**	2.0	2.0	2.0
Annual base salary		$34,764	$34,764	$34,764	$46,740	$46,740	$46,740			
Salary		$34,764	$34,764	$34,764	$46,740	$46,740	$46,740	$81,504	$81,504	$81,504
PERA	**10.15%**	$3,529	$3,529	$3,529	$4,744	$4,744	$4,744	$8,273	$8,273	$8,273
Medicare	**1.45%**	$504	$504	$504	$678	$678	$678	$1,182	$1,182	$1,182
Subtotal Personal Services at Division Level		**$38,797**	**$38,797**	**$38,797**	**$52,162**	**$52,162**	**$52,162**	**$90,959**	**$90,959**	**$90,959**
OPERATING EXPENSES										
Supplies @ $500/$500[2]	**$500**	$500	$500	$500	$500	$500	$500	$1,000	$1,000	$1,000
Computer @ $900/$0	**$900**	$900	$0	$0	$900	$0	$0	$1,800	$0	$0
Office Suite Software @ $330/$0	**$330**	$330	$0	$0	$330	$0	$0	$660	$0	$0
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$3,998	$0	$0	$3,998	$0	$0	$7,996	$0	$0
Telephone Base @ $450/$450[2]	**$450**	$450	$450	$450	$450	$450	$450	$900	$900	$900
Leased Space (150 SF/FTE estimated at $25.00/SF)								$7,500	$7,500	$7,500
Hardware/Software Maintenance ($155/FTE)								$0	$310	$310
Subtotal Operating Expenses		**$6,178**	**$950**	**$950**	**$6,178**	**$950**	**$950**	**$19,856**	**$9,710**	**$9,710**

GRAND TOTAL ALL COSTS		**$44,975**	**$39,747**	**$39,747**	**$58,340**	**$53,112**	**$53,112**	**$110,815**	**$100,669**	**$100,669**

Impact on Other Government Agencies: None.

Cost Benefit Analysis:

As previously stated, the cost-effectiveness of Expedited Settlement efforts is without question so long as sufficient workload exists. Expedited settlement process staff cost much less than Legal Services, and if the same work is done for less money, efficiency is achieved. The FY 07-08 blended legal rate was $72.10; the FY 07-08 hourly rate of expedited settlement process staff was $30.33, including all office costs. This means that in FY 07-08, expedited settlement process staff cost 43% of the cost of legal staff – and conversely, that legal staff cost 138% more than expedited settlement process staff. This is a significant differential and it has significant results.

However, the cost-benefit of this request consists of the whether the request will generate a sufficient amount of avoided legal costs and conserved legal resources. To this end, the following table shows what will occur under present case settlement rates if this request is funded: an increase in cost avoidance of $73,330, and the conservation of an additional $184,145 (from a projected $464,118 to $648,263).

	Actual FY 2004-05	Actual FY 2005-06	Actual FY 2006-07	Actual FY 2007-08	**FY 09-10 Baseline Status Quo**	**FY 09-10 with Request**	**Difference**
					4.0 FTE	**6.0 FTE**	**2.0 FTE**
Expedited Settlement Spending	**$138,592**	**$ 156,549**	**$ 188,008**	**$ 252,345**	**$ 286,388**	**$ 397,203**	**$ 110,815**
Opened Cases	682	752	598	779	779	1,079	300
Settled Cases	570	723	551	618	618	863	245
Settlement Rate	83.6%	96.1%	92.1%	79.3%	80.0%	80.0%	
Cost per settled case	$ 243.14	$ 216.53	$ 341.21	$ 408.33	$ 463.41	$ 460.15	$ (3.26)
Office of the Attorney General							
Hourly rate	$ 61.57	$ 64.45	$ 67.77	$ 72.03	$ 75.10	$ 75.10	$ -
Cost per Case	$ 615.70	$ 644.50	$ 677.70	$ 720.30	$ 751.00	$ 751.00	$ -
Total Estimated Cost	**$350,949**	**$ 465,974**	**$ 373,413**	**$ 445,145**	**$ 464,118**	**$ 648,263**	**$ 184,145**
Total Net Cost Avoidance	**$212,357**	**$ 309,425**	**$ 185,405**	**$ 192,800**	**$ 177,731**	**$ 251,061**	**$ 73,330**
Est. Cost Avoidance per Case	$ 372.56	$ 427.97	$ 336.49	$ 311.97	$ 287.59	$ 290.85	$ 3.26

Implementation Schedule:

Task	**Month/Year**
FTE Hired	July, 2009

Statutory and Federal Authority: Expedited Settlement operates under the statutory auspices of the Division of Registrations, and is not a statutorily-created program. The relevant citation is:

24-34-102, C.R.S. (2008): (1) There is hereby created a division of registrations in the department of regulatory agencies, the head of which shall be the director of registrations, which office is hereby created. The executive director of the department of regulatory agencies shall appoint, pursuant to section 13 of article XII of the state *constitution, the director of the division of registrations who shall appoint such other personnel as may be necessary for the efficient operation of the division..”*

Performance Measures:

Expedited Settlement performance is easily measurable, and these measurements are a critical part of justifying the cost effectiveness of the office. Expanding upon a successful program that conserves legal resources for the Division of Registrations, these resources will have the following benefits: swift resolution for licensees; conserved and prioritized use of legal services; consistency in regulatory enforcement. More specifically, there is a close nexus with the Division's Strategic Results in terms of resolving consumer complaints in a timely manner, making government efficient, and protecting the consumer via enforcement of regulatory standards.

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: Increase Securities Field Examiners
Department: Department of Regulatory Agencies
Priority Number: DI-3

Dept. Approval by: **Date:** 10/16/08
OSPB Approval: **Date:** 10-17-08

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2007-08	Appropriation FY 2008-09	Supplemental Request FY 2008-09	Total Revised Request FY 2008-09	Base Request FY 2009-10	Decision/ Base Reduction FY 2009-10	November 1 Request FY 2009-10	Budget Amendment FY 2009-10	Total Revised Request FY 2009-10	Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	5,008,302	5,468,139	0	5,468,139	5,666,049	148,982	5,815,031	0	5,815,031	138,836
	FTE	19.8	20.0	0.0	20.0	20.0	2.0	22.0	0.0	22.0	2.0
	GF	88,272	92,059	0	92,059	102,946	0	102,946	0	102,946	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	4,234,242	4,669,733	0	4,669,733	4,796,388	148,982	4,945,370	0	4,945,370	138,836
	CFE/RF	659,664	679,092	0	679,092	724,808	0	724,808	0	724,808	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Leased Space	Total	2,524,965	2,805,617	0	2,805,617	3,138,077	7,500	3,145,577	0	3,145,577	7,500
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	0	102,146	0	102,146	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	7,500	2,535,318	0	2,535,318	7,500
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	310
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	310
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0
(10) Division of Securities, Personal Services	Total	1,748,162	1,731,241	0	1,731,241	1,807,841	129,126	1,936,967	0	1,936,967	129,126
	FTE	19.8	20.0	0.0	20.0	20.0	2.0	22.0	0.0	22.0	2.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,748,162	1,731,241	0	1,731,241	1,807,841	129,126	1,936,967	0	1,936,967	129,126
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: Increase Securities Field Examiners

Department: Department of Regulatory Agencies

Priority Number: DI-3

Dept. Approval by: **Date:**

OSPB Approval: **Date:**

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
(10) Division of Securities, Operating Expenses	Total	56,460	47,816	0	47,816	47,816	12,356	60,172	0	60,172	1,900
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	56,460	47,816	0	47,816	47,816	12,356	60,172	0	60,172	1,900
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None

Letternote Revised Text: None

Cash or Federal Fund Name and COFRS Fund Number: Division of Securities Cash Fund, #213

Reappropriated Funds Source, by Department and Line Item Name: N/A, CF Request

Approval by OIT? **Yes:** ☐ **No:** ☐ N/A: ☑

Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 2009-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-3
Change Request Title:	Increase Funding for Securities Field Examiners

SELECT ONE (click on box):

☒Decision Item FY 2009-10
☐Base Reduction Item FY 2009-10
☐Supplemental Request FY 2008-09
☐Budget Request Amendment FY 2009-10

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:
☒Not a Supplemental or Budget Request Amendment
☐An emergency
☐A technical error which has a substantial effect on the operation of the program
☐New data resulting in substantial changes in funding needs
☐Unforeseen contingency such as a significant workload change

Short Summary of Request: This is a request for an additional $148,982 cash funds spending authority and 2.0 FTE in FY 2009-10 for Securities Field Examiners to address a substantial increase in the number of licensees of investment advisory firms, and to achieve necessary staffing ratios to maintain effective consumer protection and complete minimum examination cycles. This request annualizes to $138,836 cash funds and 2.0 FTE in FY 2010-11.

Background and Appropriation History: The statutory mission of the Division of Securities is to protect investors and maintain public confidence in the securities markets without undue burdens on capital formation. Specifically, the Division seeks to protect the investing public from unethical and unlawful activities, including:

- Dishonest and unethical sales practices by licensed securities professionals
- Those committing securities fraud
- Sales of unregistered, nonexempt securities
- Sales of securities by unlicensed securities professionals

The Division accomplishes this mission through the licensing and examination of securities professionals, and the prevention and prosecution of securities fraud claims. Specific Division activities include:

- review of applications for the registration of public securities offerings and reviewing other offerings to determine applicability of exemptions from the registration requirement;
- licensure of securities broker-dealers, investment advisers, investment adviser representatives, and sales representatives;
- conducting on-site examinations of broker-dealers, investment advisers, and local government investment pool trust funds;
- investigation of potential violations of law, grounds for statutory disqualification or sanctions, establish priorities, prepare and assist in litigation; and,
- communications with licensees, registrants, investors, professional associations, the media, and other interested parties.

Broker-dealers are securities firms who buy and sell securities for investors. **Investment Advisers** are firms who manage and invest funds for investors. Like financial institutions, broker-dealers and investment advisers control and have access to investor funds.

Regulatory responsibility over the industry includes the Division, the federal Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority ("FINRA") (formerly known as the NASD). The Division coordinates its examination activities with these organizations to capture the entities not examined by SEC and FINRA. The separate responsibilities for these organizations are as follows:

- The SEC regulates Investment Advisory firms with assets over $25 million, and is the only regulator for this type of activity, while the states regulate Investment Advisory firms having assets under $25 million, and are the only regulator for these entities.

- The primary duty of the FINRA is to make scheduled examinations of the *home* offices of broker-dealers; however, Broker-dealers also have *branch* offices. Branch office examinations by FINRA are rare, and examinations of the branches are left largely to states. The Division of Securities must therefore examine branches based on its overall statutory charge of protecting Colorado consumers. (FINRA has no regulatory authority over Investment Advisers)

As such, the Division is charged with oversight of Investment Advisory firms with assets under management of less than $25 million. The Division is the only regulator for these firms. As of June 30, 2008, there are 671 State registered investment advisory firms located in Colorado. The substantial growth in the number of Investment Advisory firms regulated solely by the Division is of primary concern to the Division, and drives the need for additional examiners.

The Division is organized into two sections: Examination and Enforcement. The examination process attempts to ensure firms are in compliance with investor regulatory protections. **Field examiners** conduct on-site examinations, or audits, and off-site monitoring of broker-dealers and investment advisers with the purpose of preventing and detecting unlawful behavior, and ensuring compliance with industry standards. The field examiner's audit includes on-site examination of financial documents, investors' accounts and trading records, business activities, and interviews of licensees. The result of the audit can include comment letters, recommendations for corrective action, and referrals to the Enforcement section for revocation of license proceeding, or civil or criminal enforcement actions.

Because of the Section's small staff size, the Division selects examinations by targeting firms with the greatest potential for improper or illegal practices. The Division has developed a systemic, risk based scheduling plan to better identify and target those entities with the potential for committing the most serious type of infractions. This identification process has resulted in more substantive findings by the Section. Of the

218 field examinations conducted in the past 5 completed fiscal years, the Division found violations in more than 50% of firms examined.

Even though the large percentage of resources are devoted to higher risk examinations, the Section attempts to dedicate a small portion of time to a review of lower risk entities. But given the small size of the staff, it is currently impractical to examine all firms within any sort of realistic time frame.

The Division's risk based examination schedule is coordinated with the SEC and FINRA, and the firms not examined by the SEC and FINRA are the focus of the Division. Because of the unit's small size, the Division currently limits its examination to firms with offices located in Colorado. Currently a Division examiner conducts approximately 25 examinations per year. The 2 existing field examiners spend nearly 85% of their time in connection with field examinations of licensed businesses located in Colorado.

The last time the Division added an examiner was in 1992, which increased the number of field examiners to today's level. In 1992 the additional FTE was approved and funded in connection with the implementation of the Colorado Municipal Bond Supervision Act. Since that time there have been 2 other statutory revisions: the Local Government Investment Pool Trust Fund Administration and Enforcement Act (1993), and Investment Adviser amendments enacted in 1999, both broadening the Division's responsibilities. For example, under the Investment Adviser amendments, the Division now licenses and regulates approximately 800 Investment Advisory firms (671 are based in Colorado) and 8,357 Investment Adviser Representatives without any additional FTE. The Examination Section currently includes:

- 2 field examiners
- 2 licensing examiners
- 1 securities registration examiner
- 1 supervising examiner

General Description of Request:

The Division requests two additional FTE Field Examiners to address a substantial increase in the number of licensees of investment advisory firms, and to achieve necessary staffing ratios to maintain effective consumer protection and complete minimum examination cycles.

Licensee Volume. Prior to 1999, the Division was not responsible for regulating Investment Advisers. It now solely regulates 671 Investment Advisory firms located in Colorado. Further, an overall increase in the number of broker-dealer branches located in Colorado. In 2004, there were 1,803 broker dealer branches located in Colorado, and 1,975 in 2005. Now there are 3,625. While the definition of "branch office" was revised by FINRA, and accounts for part of the increase, industry business models appear to be contributing to a higher concentration of branches in Colorado.

In Colorado, the current total number of licensed firms is as follows:

▪ State-registered investment advisory firms based in Colorado:	671
▪ Colorado headquartered broker-dealers (“BDs”):	102
▪ 2,300 out-of-state BDs with branches located in Colorado:	3,625
Total :	4,398

Given the substantial number of licensees, only a small percentage of licensees can be examined in any sort of realistic time frame. Correspondingly, a large percentage of firms, including Investment Advisory firms, currently go unexamined by any regulatory authority for extended periods of time.

Insufficient Examination Frequency for Investment Advisor Firms. Of greatest concern to the Division is the amount of Investment Advisory firms over which the Division has sole regulatory oversight. Investment Advisers are firms who manage and invest funds for investors. The potential for public harm is immense, as these firms control large amounts of uninsured financial resources on behalf of consumers. In order to protect consumers, the Division must ensure that these firms are in compliance with statutory requirements ranging from violations of record-keeping requirements to outright fraud. For example, a recent examination of a Colorado based IA firm disclosed a ponzi scheme where the principal of the firm illegally paid himself $1.2 million out of total investor funds of $6 million. As a result of the exam, the remaining investor funds were safely placed with a court appointed receiver, a restitution order for $1.2 million was entered against the principal of the firm, and he was permanently barred from the securities industry

Given the vast potential for public harm, the Division believes that all firms must be examined regularly, and that no firm should operate without being examined at least once in every 5-7 years. As a comparison, the SEC -- which has oversight of the federally licensed Investment Advisory firms -- conducted examinations of 18% of federally licensed Investment Advisory firms during FY 2004-05. This SEC benchmark translates to examining 90 percent of all firms within 5 years.

Unfortunately, given the volume of Investment Advisory firms currently licensed with the Division and located in Colorado, the Division is unable to meet this goal. In fact, the Division currently only examines less than 3% of the 671 firms per year – meaning that examining all 671 firms would take 33 years.

When compared with other states, Colorado's ratio of examiners to number of licensed Investment Advisers is significantly higher than other states with large numbers of Investment Advisory firms, and states within the western region. The following two charts reflect how other states regulate Investment Advisers, and the judgments made by those states in determining the appropriate number of examiners per the number of licensed Investment Advisory firms.

Top Ten States in Number of Licensed Investment Advisory firms.

State	Number of Examiners	Number of state IA's Located within the state	Number of state IA's Per Examiner
California	17	2,840	167
Texas	10	1,264	126
Florida	38	988	26
New Jersey	13	706	54
Illinois	6	696	116
Massachusetts	5	693	139
Colorado	2	671	336
Pennsylvania	10	657	66
Ohio	5	603	121
Maryland	2.5	500	200

Further, Colorado is ranked 7th in the nation in terms of the number of licensed Investment Advisory firms located within the state. The Division does not have an explanation as to why Colorado has such a high number of licensed Investment Advisory firms located in Colorado relative to its population numbers.

Western Regional States

State	Number of Examiners	Number of state IA's Located within the state	Ratio of state IA's Per Each Examiner
Arizona	4	380	95
Colorado	2	671	336
Kansas	7	164	23
Missouri	6	311	52
Nebraska	1	73	73
New Mexico	1	79	79
Nevada	6	166	28
Oregon	3	162	54
Utah	4	146	37
Washington	7	441	63

The table above reflects what other states in the western region and/or with similar population numbers have in terms of number of examiners relative to the number of licensed Investment Advisory firms. As can be seen from both graphs, Colorado's ratio of examiners to number of firms is substantially higher than other states. The addition of two examiners would bring Colorado's ratio down to one examiner per 168 firms. While that ratio is still higher than other states, the number would put Colorado more in alignment with other states than the status quo.

Even as Colorado cannot keep pace with other states and does not have sufficient resources for its intended benchmark, recent examinations illustrate a potential for harm in that violations occurs in more than half of all examinations. The following table summarizes the types of violations identified in the 218 examinations conducted by the Division in the last five years (across all categories).

Violation Category	Description	Frequency	Percent of Total
Books and Records Violations	Technical violations of record-keeping requirements	72	33.0%
Supervision	Inadequate supervision of sales representatives	28	12.8%
Unlicensed Activity	Selling a security/being an investment advisor with no license. This is a class 6 felony	8	3.7%
Fraud and Prohibited Conduct	A class 3 felony punishable by 8-12 years in prison	4	1.8%
Sales of Unregistered Securities	Failing to register a security prevents full disclosure. This is a class 6 felony	2	0.9%
Statutory Disqualifications	Failing to inform of prior injunctions or orders from other states	1	0.5%
Dishonest and Unethical Practices	Dishonest practices.	1	0.5%
No Violations		102	46.8%
Total		218	100.0%

In short, only 102 had no violations – 46.8 percent. And while a high percentage of violations were technical, felony violations were identified in 6.4 percent of these examinations, with another 12.8 percent of licensed brokers and advisors not having adequately supervised their unlicensed sales representatives. If these statistics are applicable to all unexamined investment advisor firms (without considering the Division's risk-based approach), this would mean that felony violations are occurring at roughly 43 of the 671 firms – many of which are presently unexamined.

The 218 exams conducted by the Division in five years represents approximately 6% of the securities firms subject to examination, or less than 1% of firms on an annual basis. Compared to federal counterpart agencies, this percentage is extremely low, and increased growth in licensee population will progressively worsen the situation.

To address this problem, the Division is shifting its 2.0 FTE existing examiners to focus on Investment Advisor firms. Since each examiner is capable of 25 per year, this will facilitate examinations of 50 firms each year. Adding 2.0 full-time examiners pursuant to this request would double the number of examiners, and increase the Division's capacity to 100 per year. This level will be sufficient to perform 500 exams in five years, and would enable the Division to meet its goal of examining all 671 firms within 5-7 years and succeed in protecting Colorado consumers.

COST TO THE INDUSTRY

The Division of Securities is entirely cash funded, assessing primarily licensing fees annually on the firms and individuals it regulates. The rapid growth of the number of licensed professionals has had a positive effect on the amount of fees charged in recent years. The Division currently charges securities sales representatives and investment adviser representatives an annual fee of $8, which is the lowest of any state in the country. In 1991, the fee was $20. Firms are charged an annual licensing fee of $75, one of the lowest in the nation. In 1991, firms were charged $145. The Division licenses approximately 153,200 individuals and 4,460 firms for a total of 157,660 licensed entities. So, raising fees by $1 to each licensed entity will fund $157,660 of the cost of two additional FTEs. The total increase in licensing fees to each licensed entity to cover the costs of two additional FTEs is between $1 and $2. The timing is favorable for the Division to add field examiners as costs can be reasonably absorbed by the industry.

SUMMARY

The foremost objective of the Examination Section is prevention. By ensuring that the investment advisers and broker-dealers comply with the rules and regulations under which they operate, the section attempts to prevent dishonest and unethical sales practices before they occur. On-site examinations also bring to light investment scams that are perpetrated upon the public by remotely located and unsupervised representatives.

The field exam staff level has not increased since 1992, and significant growth of the securities industry, especially in the growth of Investment Advisory firms since 1999, has outpaced the Examination Section's ability to absorb the new firms into a reasonable long term examination schedule. In particular, the Division in 1999 became responsible for sole oversight of state licensed Investment Advisory firms. Their number has grown from zero to 671 currently licensed firms. While the Division examines less than 1% of these firms annually, the SEC examines approximately 18% of federally licensed firms. The ratio of examiners to firms in other states is also much lower than currently exists. The addition of two field examiners with a focus on Investment Advisory firms is an important first step that will begin to bring these firms under proper regulatory oversight.

State securities regulators are closest to investors: in other words the first line of defense in protecting investors from financial fraud and abuse. The Division can be compared to the "cops on the beat" and the securities market's early warning system. In order to maintain high standards in investor protection, the Division must have additional FTE that will be dedicated to fulfill the Field Examiner duties.

Consequences if Not Funded:

If this request is not funded, there are insufficient resources available to conduct an effective examination program of detection and prevention, especially for Investment Advisory firms. As this growth trend continues, fewer than 5% of Colorado firms and branches will be examined over the next 5 year period. The Division is the only regulator for the 671 Investment Advisory firms present in Colorado, and the only agency that audits the 3,625 branch offices of out-of-state broker-dealers. As the number of firms increase without oversight, so does the potential for harm to Colorado investors. Given these percentages, the perception and the reality in the industry will be one of little oversight, which only creates a lax regulatory environment that will be prone to abusive practices towards investors.

The Division currently schedules exams on a risk based approach. Given its small staff size, it is unrealistic for the Division to engage in any long term examination scheduling method. The Division will be unable to devote any resources to low risk examinations, and will be able to devote fewer resources to high risk examinations. This will create an environment that is unfavorable to Colorado investors.

Calculations for Request:

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$148,982	$0	$148,982	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$0	$0	$0	$0	$0	0.0
(10) Division of Securities Personal Services	$129,126	$0	$129,126	$0	$0	2.0
(10) Division of Securities Operating Expenses	$12,356	$0	$12,356	$0	$0	0.0

Summary of Request FY 10-11	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$138,836	$0	$138,836	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$310	$0	$310	$0	$0	0.0
(10) Division of Securities Personal Services	$129,126	$0	$129,126	$0	$0	2.0
(10) Division of Securities Operating Expenses	$1,900	$0	$1,900	$0	$0	0.0

Cash Funds Projections:

Cash Fund Name	Cash Fund Number	FY 2007-08 Expenditures	FY 2007-08 End of Year Cash Balance	FY 2008-09 End of Year Cash Balance Estimate	FY 2009-10 End of Year Cash Balance Estimate	FY 2010-11 End of Year Cash Balance Estimate
Division of Securities Cash Fund	213	$3,019,395	$545,535	$545,535	$545,535	$545,535

Assumptions for Calculations:

FTE and Operating Costs					*GRAND TOTAL*		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**Financial Credit Examiner II**					
Number of PERSONS / class title		2	2	2			
Number of months working in FY 08-09, FY 09-10 and FY 10-11		12	12	12			
Number months paid in FY 08-09, FY 09-10 and FY 10-11[1]		12	12	12			
Calculated FTE per classification		**2.0**	**2.0**	**2.0**	2.0	2.0	2.0
Annual base salary		$57,852	$57,852	$57,852			
Salary		$115,704	$115,704	$115,704	$115,704	$115,704	$115,704
PERA	**10.15%**	$11,744	$11,744	$11,744	$11,744	$11,744	$11,744
Medicare	**1.45%**	$1,678	$1,678	$1,678	$1,678	$1,678	$1,678
Subtotal Personal Services at Division Level		**$129,126**	**$129,126**	**$129,126**	**$129,126**	**$129,126**	**$129,126**
OPERATING EXPENSES							
Supplies @ $500/$500[2]	**$500**	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000
Computer @ $900/$0	**$900**	$1,800	$0	$0	$1,800	$0	$0
Office Suite Software @ $330/$0	**$330**	$660	$0	$0	$660	$0	$0
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$7,996	$0	$0	$7,996	$0	$0
Telephone Base @ $450/$450[2]	**$450**	$900	$900	$900	$900	$900	$900

FTE and Operating Costs					GRAND TOTAL		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Leased Space (150 SF/FTE estimated at $25.00/SF)					$7,500	$7,500	$7,500
Hardware/Software Maintenance ($155/FTE)					$0	$310	$310
					$0	$0	$0
Subtotal Operating Expenses		**$12,356**	**$1,900**	**$1,900**	**$19,856**	**$9,710**	**$9,710**
GRAND TOTAL ALL COSTS		**$141,482**	**$131,026**	**$131,026**	**$148,982**	**$138,836**	**$138,836**

Impact on Other Government Agencies: Not Applicable

Cost Benefit Analysis:

The fundamental philosophy behind securities regulation is the goal of investor protection and establishing the "rules of the game" so as to maintain the integrity of the market. When the rules are obeyed, the securities markets work and drive investment in the economy. When rules are disobeyed, the markets lose credibility and people stop investing.

Simply stated, the benefit of hiring two field examiners is the doubling of the current number of field exams conducted per year from 50 to 100. Doubling the number of field exams will in turn increase the number of broker-dealer and investment adviser violations that are discovered through the examination process. Since 1999, the number of Investment Advisory firms licensed with the state has grown from zero to 671 firms. The addition of two field examiners assigned to conduct examinations of Investment Advisory firms will be an important first step in proper oversight of these firms.

Currently, violations are found in over 50% of firms examined. Doubling the number of firms examined will result in bringing at least half of those firms in full compliance with the securities regulations, thereby enhancing investor protection and investor confidence. The additional presence of having more “cops on the beat” in the regulated community will foster a heightened awareness by the firms to ensure compliance.

When a firm “turns bad” a criminal enforcement is required. Restitution values per enforcement, on average, have been $782,385 over the past two years. If the doubling of firm examinations prevents even one firm from “turning bad”, the cost benefit of the additional two examiners is positive. The following table illustrates this cost benefit calculation:

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When a firm “turns bad” a criminal enforcement is required. Restitution values per enforcement, on average, have been $782,385 over the past two years. If the doubling of firm examinations prevents even one firm from “turning bad”, the cost benefit of the additional two examiners is positive.

Benefit	Dollars	Cost	Net Savings	Ratio
Fraud avoided per 2.0 Examiners added	$782,385	$148,982	$633,403	4.3
Average per Colorado Citizen	$0.16			

The costs are justified and can be reasonably absorbed by the industry. The phenomenal growth in the industry has allowed the Division to reduce fees to the lowest in the nation. A one dollar increase in fees can fund $157,666. The Division can meet its priorities and still limit the cost of regulation.

Implementation Schedule:

Task	Month/Year
FTE Hired	July 1, 2009, or as soon as possible thereafter

Statutory and Federal Authority: Colorado Securities Act 11-51-101 through 908 (includes the Local Government Investment Pool Trust Fund Administration and Enforcement Act); the Colorado Municipal Bond Supervision Act 11-59-101 through 120; and the Colorado Commodity Code 11-53-101 through 210

11-51-101, C.R.S. (2008): (1) This article shall be known and may be cited as the "Colorado Securities Act". (2) The purposes of this article are to protect investors and maintain public confidence in securities markets while avoiding unreasonable burdens on participants in capital markets. This article is remedial in nature and is to be broadly construed to effectuate its purposes. (3) The provisions of this article and rules made under this article shall be coordinated with the federal acts and statutes to which references are made in this article and rules and regulations promulgated under those federal acts and statutes, to the extent coordination is consistent with both the purposes and the provisions of this article.

11-59-104, C.R.S. (2008): (1) The securities commissioner is hereby empowered to administer and enforce all provisions of this article and to provide the division with such books, records, files, and printing and other supplies and such officers and clerical and other assistance as may be necessary in the commissioner's discretion to perform the duties required of the securities commissioner under this article, subject to appropriations made by the general assembly.

11-53-201, C.R.S. (2008): (1) The commissioner in his discretion may make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated any provision of this article or any rule or order under this article or to aid in the enforcement of this article, or, in the prescribing of rules and forms under this article, the commissioner may require or permit any person to file a statement as to all the facts and circumstances concerning the matter to be investigated and may publish information concerning any proceeding brought under this article or any rule or order issued under this article.

<u>Performance Measures:</u>

One of the Division's Strategic Results for the Examination section is to serve as an early warning system for investors by ensuring that brokerage and investment advisory firms are complying with the law to prevent dishonest and unethical sales practices. The performance measure for this result is to annually examine 125 Investment Adviser and brokerage firms in Colorado. The additional examiners are necessary for the Division to begin to meet this performance measure. The addition of two FTE field examiners will have a measurable impact as it will double the number of exams conducted by the Division, and move the Division closer to the goal of meeting its strategic results.

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10 ☐	Supplemental FY 2008-09 ☐	Budget Amendment FY 2009-10 ☐

Request Title: Restore Civil Rights Regional Office in Northern Colorado

Department: Department of Regulatory Agencies

Priority Number: DI-4

Dept. Approval by: [signature] **Date:** 10/31/08

OSPB Approval: [signature] **Date:** 10-21-08

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2007-08	Appropriation FY 2008-09	Supplemental Request FY 2008-09	Total Revised Request FY 2008-09	Base Request FY 2009-10	Decision/ Base Reduction FY 2009-10	November 1 Request FY 2009-10	Budget Amendment FY 2009-10	Total Revised Request FY 2009-10	Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	11,525,942	13,087,352	0	13,087,352	13,321,075	140,396	13,461,471	0	13,461,471	121,476
	FTE	31.0	32.0	0.0	32.0	32.4	1.4	33.8	0.0	33.8	1.5
	GF	1,294,228	1,256,581	0	1,256,581	1,351,435	140,396	1,491,831	0	1,491,831	121,476
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	8,532,151	10,024,713	0	10,024,713	10,103,214	0	10,103,214	0	10,103,214	0
	CFE/RF	1,103,587	1,236,670	0	1,236,670	1,282,386	0	1,282,386	0	1,282,386	0
	FF	595,976	569,388	0	569,388	584,040	0	584,040	0	584,040	0
(1) Executive Director's Office, Legal Services	Total	6,426,882	7,618,538	0	7,618,538	7,646,984	30,040	7,677,024	0	7,677,024	30,040
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	56,256	204,013	0	204,013	204,013	30,040	234,053	0	234,053	30,040
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	6,102,531	7,134,037	0	7,134,037	7,162,483	0	7,162,483	0	7,162,483	0
	CFE/RF	132,391	138,511	0	138,511	138,511	0	138,511	0	138,511	0
	FF	135,704	141,977	0	141,977	141,977	0	141,977	0	141,977	0
(1) Executive Director's Office, Leased Space	Total	2,524,965	2,805,617	0	2,805,617	3,138,077	30,000	3,168,077	0	3,168,077	15,000
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	30,000	132,146	0	132,146	15,000
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	0	2,527,818	0	2,527,818	0
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	310
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	310
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	0
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: Restore Civil Rights Regional Office in Northern Colorado
Department: Department of Regulatory Agencies **Dept. Approval by:** **Date:**
Priority Number: DI-4 **OSPB Approval:** **Date:**

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
(3) Civil Rights Division, Personal Services	Total	1,752,103	1,678,996	0	1,678,996	1,760,748	68,475	1,829,223	0	1,829,223	74,701
	FTE	31.0	32.0	0.0	32.0	32.4	1.4	33.8	0.0	33.8	1.5
	GF	1,089,166	900,893	0	900,893	982,645	68,475	1,051,120	0	1,051,120	74,701
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	311,532	419,067	0	419,067	419,067	0	419,067	0	419,067	0
	FF	351,405	359,036	0	359,036	359,036	0	359,036	0	359,036	0
(3) Civil Rights Division, Operating Expenses	Total	143,277	100,736	0	100,736	102,951	11,881	114,832	0	114,832	1,425
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	60,534	59,616	0	59,616	61,831	11,881	73,712	0	73,712	1,425
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	82,743	41,120	0	41,120	41,120	0	41,120	0	41,120	0

Non-Line Item Request: None
Letternote Revised Text: None
Cash or Federal Fund Name and COFRS Fund Number: N/A, GF Request
Reappropriated Funds Source, by Department and Line Item Name: N/A, GF Request
Approval by OIT? Yes: ☐ No: ☐ N/A: ☑
Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 2009-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-4
Change Request Title:	Restore Civil Rights Regional Office in Northern Colorado

SELECT ONE (click on box):

☒Decision Item FY 2009-10
☐Base Reduction Item FY 2009-10
☐Supplemental Request FY 2008-09
☐Budget Request Amendment FY 2009-10

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:
☒Not a Supplemental or Budget Request Amendment
☐An emergency
☐A technical error which has a substantial effect on the operation of the program
☐New data resulting in substantial changes in funding needs
☐Unforeseen contingency such as a significant workload change

<u>Short Summary of Request</u>: In response to on-going civil rights issues in Northern Colorado, the Department requests $140,396 General Fund and 1.4 FTE in FY 2009-10 in order to re-open the Colorado Civil Rights Division (CCRD) Regional Office in Greeley, Colorado. This request will restore CCRD's ability to serve Northern Colorado and resolve problems created by the closure of the Greeley office during budget reductions in FY 2002-03 and FY 2003-04.

<u>Background and Appropriation History</u>: The mission of the CCRD is to ensure that all persons in Colorado who are real or potential victims of illegal discrimination are afforded equal protection of the laws. The CCRD is the administrative arm of the Colorado Civil Rights Commission (CCRC), and serves the public interest through enforcement of anti-discrimination laws, education, and intervention services in communities throughout the state. As mandated in Section 24-34-305 C.R.S. (2008), the powers and duties of the Commission are to receive, investigate, and pass upon charges alleging unfair or discriminatory practices and to hold hearings upon any complaint issued against a respondent pursuant to the statute. In addition, the Commission is charged with investigating and studying the existence, character, causes and extent of unfair or discriminatory practices and to formulate plans for eliminating them. The CCRD serves the public through enforcement and prevention activities,

receiving and resolving approximately 1,100 complaints annually. Activities are performed without cost to persons who file complaints; instead, the Division is funded with a mix of General Funds and Federal Funds available from the U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Housing and Urban Development (HUD). The Division has agreements in place with the EEOC and HUD whereby the State receives federal funding to defray a portion of the cost of processing claims. Additionally, Colorado law also covers important areas that are not covered under federal law, including cases involving sexual orientation (including transgender status); marital and familial status; small businesses with fewer than 15 employees; marital status (housing); marital status (employment - i.e., marriage to a co-worker); public accommodations; advertising; and State Personnel complaints alleging discrimination pursuant to §24-50-125.3, C.R.S.

The CCRD operated a Regional Office in Northern Colorado from 1977 through December 2003. During that time, the CCRD received numerous claims of discrimination in the Northern Colorado area. However, in FY 2002-2003 and FY 2003-2004, the CCRD received appropriation reductions of approximately $1,000,000 and 10.0 FTE, a 30% reduction in staff. As a result, 10 positions were eliminated and five regional offices were closed including the Greeley regional office. While CCRD responded with aggressive strategies to cope with the reductions of staff and operating monies, the loss of 30% of its staff and five regional offices nevertheless had a negative impact on CCRD's ability to function as required by law.

During the last year the Greeley office was open, CCRD processed 593 cases from Northern Colorado in FY 2003-04. Since that time, cases filed in this area have dramatically declined. In FY 2004-05 the CCRD received 369 cases from Northern Colorado, a 38% decline. By FY 2007-08, CCRD received only 238 cases from Northern Colorado – making the total decline in case activity roughly 60%.

<u>General Description of Request</u>:

The CCRD requests $140,396 General Fund and 1.4 FTE to re-open the Northern Colorado CCRD Regional Office in Greeley, Colorado. Specifically, this includes 0.9

FTE General Professional III (annualized to 1.0 FTE in the second year); 0.5 FTE Program Assistant II (annualized at 0.5 FTE ongoing); and associated leased space and operating expenses funding.

Despite aggressive strategies by the Division to mitigate the impact of the severe budget reductions that occurred during FY 2002-03 and FY 2003-04, Northern Colorado citizens have not received adequate services from the CCRD since the regional office was closed and staff was reduced. This is confirmed by both quantitative data regarding case intake and population, as well as a number of specific factors that reveal an environment that requires a civil rights presence to implement state civil rights law.

First, quantitative data clearly indicates reduced numbers of cases being processed in this area subsequent to the closure of the regional office – which translates to a significant reduction in the ability to enforce Colorado law as well as the amount of access citizens have to this protection. In FY 2007-08, the CCRD received only 238 filed charges from the Northern Colorado area, which represents a drastic decline of 60% from the 593 cases processed through the Greeley regional office FY 2003-04. This trend is just as clear in examining data from the two most populous counties in Northern Colorado, both of which suffered similar declines in filings of charges: Larimer County (68%) and Weld County (53%). While the Division is hopeful for improvements in the conduct of employment, housing, and public accommodation, there is unfortunately no evidence to suggest that this statistical data is driven by such improvements. As such, the lack of a regional presence by the CCRD in Northern Colorado may be discouraging victims of civil rights discrimination from filing charges with the CCRD, and therefore hampering the ability of the CCRD to fulfill its statutory mandate.

This data is reinforced via comparison to population data in Colorado. In Calendar Year (CY) 2003, the populations of Weld and Larimer Counties were approximately 209,456 and 265,493, respectively. According to estimates, Weld County has an average annual growth of 5.0%, whereas Larimer County has an average annual growth of 1.5% from CY 2000-06, expected to increase to 2.1% for CY 2007-16. In CY 2009, Weld County will have grown approximately 25% since closure of the Regional Office in Greeley and

Larimer has grown approximately 11%. As such, the CCRD can expect to receive a proportionately higher number of cases based on population growth. The CCRD can expect to receive 330 charge filings from Weld County and 294 charge filings from Larimer County. In these two counties alone, this would result in an increase of 95 charge filings over FY 2003-04. Conversely, if nothing is done and the current trend persists, the CCRD could only expect 156 charge filings by FY 2009-10, a 74% decrease from FY 2003-04, when the Regional Office was disassembled. The counties intended to benefit from the renewed regional presence are Grand, Larimer, Logan, Moffat, Morgan, Phillips, Routt, Sedgwick, Washington, Weld and Yuma Counties.

The CCRD has an obligation to fulfill its statutory mandate of investigating and, if necessary, redressing civil rights discrimination and to conduct education and outreach across the State of Colorado. The closing of the Regional Office in Greeley during FY 2003-04 has reduced the CCRD's ability to fulfill this statutory mandate and has stretched available resources at the Denver office. Currently, when an investigation must be conducted on-site or education and outreach is to occur at, for example, a school, an employee from Denver must travel to conduct such training or investigation. The availability of resources based locally would allow not only for greater ability to fulfill the statutory mandate of the CCRD, but also free up resources in Denver that could be used to improve the fulfillment of said mandate in that area or other, unrepresented areas of the state.

In addition to the quantitative data discussed above, there are several factors that reveal an environment that requires a civil rights presence to implement state civil rights law. Weld County experiences the following general categories of civil rights issues:

1) Citizen Fear: Many Weld County Latino citizens reported to the current CCRD Director that they are afraid to come forward and present their concerns to CCRD out of fear that they will be contacted by immigration officials as a result. These citizens also stated that due to a number of scheduling difficulties it is extremely difficult to take a whole day off work to travel to Denver to meet with CCRD staff to discuss concerns. In addition, these citizens also state that they cannot avail themselves of

the CCRD's computerized intake process because they do not have computers. These citizens also reported that they felt safer when a CCRD Regional Office existed in Greeley. Citizens reported generally that they have no recourse for civil rights-related complaints and concerns.

2) Discriminatory Predatory Lending: In October 2007, CCRD received a grant from HUD to investigate discriminatory predatory lending in Colorado. The CCRD has received numerous complaints from Weld County residents alleging that they have been the target of predatory lending because of their ethnic background and color. CCRD is currently investigating 15 complaints alleging predatory lending. It appears that the Latino community has been especially hard hit by predatory lenders in Weld County. A CCRD Regional Office in Greeley would greatly enhance the CCRD's ability to investigate not only housing cases, but all types of discrimination claims.

Last, it is important to note that the lack of regional presence here and corresponding lack of enforcement deprives the State of the opportunity to leverage available federal resources. Contract agreements with the U.S. Housing and Urban Development (HUD) and Equal Employment Opportunity Commission (EEOC) enable CCRD to earn a portion of the costs of processing employment and housing cases (which are cross-jurisdictional), affording protection to Colorado citizens at less than 100% of the cost. Moreover, EEOC and HUD expect CCRD to have a viable presence in all of Colorado. Using 107 cases as an estimate, CCRD could have expected to bill approximately $35,649 in EEOC funds and $12,000 in HUD funds associated with cases that are no longer brought based on the Greeley office closure – a total of $47,649 that was not earned via the investigation and resolution of these cases. CCRD will be able to leverage the general fund appropriation requested into additional federal dollars earned from EEOC and HUD. While not a savings figure in that the work will still carry General Fund cost, this nevertheless shows a return on the requested General Fund investment in Civil Rights enforcement in Colorado.

It should also be noted that the legislative grant of additional funds for the CCRD to reopen its Regional Offices in Grand Junction and Pueblo is representative not only of a mandate by the members of the legislature for the CCRD to continue operating as it has been, but also as an indication that regional representation is a priority of the CCRD.

Specifically, the requested Regional Office in Greeley would consist of 1.0 FTE classified General Professional III and 0.5 FTE classified Program Assistant I. A General Professional III is needed given the significant independent responsibility associated with operating a Regional Office. Further, there are high professional demands required of the position, as contact with local residents and institutions, including government and other public interest entities, will be frequent and necessary to establish the trust required for the CCRD to function efficiently and according to its mandate. A comparison with other CCRD Regional Offices located in Grand Junction and Pueblo indicate that General Professional III is the minimum classification required for attainment of the CCRD's goals.

<u>Consequences if Not Funded:</u>

It is the CCRD's firm conviction that civil rights conditions will continue to deteriorate in Northern Colorado if the CCRD cannot establish a presence in Northern Colorado. The projected total for FY 2009-10 is 156 charge filings, if the current downward trend continues, as opposed to an estimated 700 cases, provided the Regional Office in Northern Colorado can establish an immediate presence. Failure to establish a presence would result in a quantitative loss of hundreds of cases over the course of the next several years.

Additionally, it is important to note that the lack of regional presence here and corresponding lack of enforcement deprives the State of the opportunity to leverage available federal resources. Contract agreements with the U.S. Housing and Urban Development (HUD) and Equal Employment Opportunity Commission (EEOC) enable CCRD to earn a portion of the costs of processing employment and housing cases, affording protection to Colorado citizens at less than 100% of the cost. As stated above, it is estimated that the General Fund investment would leverage approximately $47,000 in available federal funding. Calculations that show the potential impact are furnished in following pages.

Calculations for Request:

Summary of Request FY 2009-10	**Total Funds**	**General Fund**	**Cash Funds**	**Reappropriated Funds**	**Federal Funds**	**FTE**
Total Request	$140,396	$140,396	$0	$0	$0	1.5
(1) Executive Director's Office Leased Space	$30,000	$30,000	$0	$0	$0	0.0
(1) Executive Director's Office Legal Services	$30,040	$30,040	$0	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$0	$0	$0	$0	$0	0.0
(3) Civil Rights Division Personal Services	$68,475	$68,475	$0	$0	$0	1.4
(3) Civil Rights Division Operating Expenses	$11,881	$11,881	$0	$0	$0	0.0

Summary of Request FY 2010-11	**Total Funds**	**General Fund**	**Cash Funds**	**Reappropriated Funds**	**Federal Funds**	**FTE**
Total Request	$121,476	$121,476	$0	$0	$0	1.5
(1) Executive Director's Office Leased Space	$15,000	$15,000	$0	$0	$0	0.0
(1) Executive Director's Office Legal Services	$30,040	$30,040	$0	$0	$0	0.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
(1) Executive Director's Office Hardware/Software Maintenance	$310	$310	$0	$0	$0	0.0
(3) Civil Rights Division Personal Services	$74,701	$74,701	$0	$0	$0	1.5
(3) Civil Rights Division Operating Expenses	$1,425	$1,425	$0	$0	$0	0.0

Assumptions for Calculations:

		FTE and Operating Costs						*GRAND TOTAL*		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**General Professional III**			**Program Assistant II**					
Number of PERSONS / class title		1	1	1	0.5	0.5	0.5			
Number of months working in FY 08-09, FY 09-10 and FY 10-11		12	12	12	12	12	12			
Number months paid in FY 08-09, FY 09-10 and FY 10-11[1]		11	12	12	11	12	12			
Calculated FTE per classification		**0.9**	**1.0**	**1.0**	**0.5**	**0.5**	**0.5**	1.4	1.5	1.5
Annual base salary		$46,740	$46,740	$46,740	$40,392	$40,392	$40,392			
Salary		$42,845	$46,740	$46,740	$18,513	$20,196	$20,196	$61,358	$66,936	$66,936
PERA	**10.15%**	$4,349	$4,744	$4,744	$1,879	$2,050	$2,050	$6,228	$6,794	$6,794
Medicare	**1.45%**	$621	$678	$678	$268	$293	$293	$889	$971	$971
Subtotal Personal Services at Division Level		**$47,815**	**$52,162**	**$52,162**	**$20,660**	**$22,539**	**$22,539**	**$68,475**	**$74,701**	**$74,701**
OPERATING EXPENSES										

		FTE and Operating Costs						*GRAND TOTAL*		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Supplies @ $500/$500[2]	**$500**	$500	$500	$500	$250	$250	$250	$750	$750	$750
Computer @ $900/$0	**$900**	$900	$0	$0	$900	$0	$0	$1,800	$0	$0
Office Suite Software @ $330/$0	**$330**	$330	$0	$0	$330	$0	$0	$660	$0	$0
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$3,998	$0	$0	$3,998	$0	$0	$7,996	$0	$0
Telephone Base @ $450/$450[2]	**$450**	$450	$450	$450	$225	$225	$225	$675	$675	$675
Legal Services								$30,040	$30,040	$30,040
Leased Space (150 SF/FTE estimated at $25.00/SF)								$15,000	$15,000	$15,000
Leased Space (estimated one-time build out)								$15,000	$0	$0
Hardware/Software Maintenance ($155/FTE)								$0	$310	$310
Subtotal Operating Expenses		**$6,178**	**$950**	**$950**	**$5,703**	**$475**	**$475**	**$71,921**	**$46,775**	**$46,775**
GRAND TOTAL ALL COSTS		**$53,993**	**$53,112**	**$53,112**	**$26,363**	**$23,014**	**$23,014**	**$140,396**	**$121,476**	**$121,476**

<u>Other assumptions:</u>

1) Calculations for charge filings were computed using statistical filing information for FY 2003-04, FY 2004-05, FY 2005-06, FY 2006-07 and FY 2007-08. Declines were calculated by division of the FY 2007-08 by the FY 2003-04 statistic.

2) Population increases were calculated using information from the following sources:

a) “Executive Summary.” Compass of Larimer County accessed via http://www.co.larimer.co.us/compass/popgrowth_demographics.htm.

b) Villegas, Andrew. “Latino Population in Weld grows 30 percent since 2000.” The Greeley Tribune. August 9, 2007.

3) Population figures for Weld County were calculated using an average 5% growth based on a six-year 30% growth figure. The 5% figure was added to a compounded figure for each calendar year.

4) Population for Larimer County were calculated by taking the average of the total growth (9%) over six years, resulting in an average 1.5% growth *per annum*. The newest figure estimates growth at 2.1% *per annum* since 2006, and thus 2.1% was added for each year after CY 2006 to the compounded figure.

5) Projections for charge filings in FY 2009-10 use the statistics for charge filings in FY 2003-04 as the base to which to add the estimated percentage increase and the average percent decline from FY 2004-05 through FY 2007-08 as the continued decline trend through FY 2009-10.

Impact on Other Government Agencies: N/A

Cost Benefit Analysis: The calculable benefits of civil rights protection extended by the CCRD in the employment, housing and public accommodation arenas involve both direct and indirect economic benefits inherent in protecting individuals. Most obviously, this occurs in the form of mediations and conciliations that result in restitution and back-pay for discriminated parties. Last year Division mediations resulted in $1.3 million in payments across 92 mediations, an average of $14,130. At this rate, this request would be justifiable from a cost-benefit standpoint to the individual if approximately 10 such mediations occurred associated with the restoration of the office. While the number of charges filed and ultimately the number of mediations cannot be estimated with certainty, even taking the difference between the most recent number of charges filed with a regional office (593) and the amount of charges expected without restoration of the office (as low as 156 if downward trends persist), the differential (437 under this scenario) would certainly generate in excess of 10 mediations.

However, there are less tangible general economic benefits in several respects. In the employment sector protection against discrimination preserves the ability of those protected to earn and spend income on a citizen-by-citizen basis, which ultimately factors into the State's maintenance and growth of personal income. A level playing field for all wage earners also encourages competitiveness and productivity generally speaking. Less obviously, protection from discrimination with regard to housing serves to remove a factor that can affect housing inventory and localized housing values affected by foreclosure. Of specific note is predatory lending, which can place both citizens and lenders in situations requiring bankruptcy filings and/or diminished home values. This negatively affects equity-building on the part of the homeowner, and negatively impacts surrounding property values based on foreclosure activity.

In terms of the costs of this request, positive cost-benefit issues are present in two primary respects: it will cost much less than the previous office, and it will earn an increase in federal grant funding.

Historically, the Regional Office for Northern Colorado in Greeley was staffed by 3.0 FTE (one each: Compliance Investigator I) in order to sufficiently serve the area. Due to the implementation of the CCRD's Case Management System in FY 2004-05, projections are that the CCRD will be able to provide the same or better level of service with only 1.5 FTE, as requested above. This roughly translates to a cost avoidance of an amount identical to the amount of the request.

Additionally, the CCRD is a party to work-sharing agreements with the EEOC and HUD. EEOC agreed to pay $550 for each completed case and $50 for each filed charge. HUD agreed to pay a maximum of $2,400 for each timely completed case with an additional $500 for each finding of cause. Though it is impossible to estimate how many employment or housing cases will be eligible under the work-sharing agreement, a significant increase in income from Federal Funds can be expected with the reopening of the Regional Office in Greeley.

Using a rough estimate of 107 cases (roughly 30% of the overall annual decrease in cases for the region after the closure of the office in FY 2002-03), present case proportions suggest a total of 59 employment cases (@ $600 per case) and 5 housing cases (@ $2,400 per case) that would be eligible for federal funding, leading to approximately $48,000 in federal grant funding.

Implementation Schedule:

Task	Month/Year
FTE Hired	July 2009
Office Opened	July-September 2009

Statutory and Federal Authority:

24-34-305, C.R.S. (2008) (1) The commission has the following powers and duties: (a) To adopt, publish, amend, and rescind rules and regulations, in accordance with the provisions of section 24-4-103, which are consistent with and for the implementation of parts 3 to 7 of this article. All such rules adopted or amended on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-34-104 (9) (b) (II). (b) To receive, investigate, and pass upon charges alleging unfair or discriminatory practices in violation of parts 4 to 7 of this article; (c) To investigate and study the existence, character, causes, and extent of unfair or discriminatory practices as defined in parts 4 to 7 of this article and to formulate plans for the elimination thereof by educational or other means.

Performance Measures:

This request will afford a local presence where there currently is none with regard to Civil Rights education, outreach, and enforcement. This will directly facilitate completion Division strategic results and Department strategic results as follows:

- Consumer Outreach. While not necessarily expected to increase the number of website hits (which is the Department-level measure for this objective), the very presence of a regional office meets this objective and is indeed the entire thrust of the request. Individuals who are not presently served and are not presently informed will have a local resource. Additionally, the Division-level measure of a 30% partnership rate with business and community groups on outreach efforts will be benefited by the restoration of a local Northern Colorado office.

- Consumer Complaints (Department level) and Consumer Complaint Intake (Division level). The requested regional office will accommodate new complaints that are not presently received, but also will enhance the ability to meet measures for complaints that are already received in this location. More specifically, it will better enable the Division to serve 100% of charges on a respondent within 10 days of filing. The location of the office will enable these complaints to be more promptly investigated and therefore resolved more quickly than presently is the case
- Enforcement. Enforcement will be enhanced because with a local presence the Division will be better positioned to meet its stated goal of 80% of investigations being completed in 270 days and 80% of mediations within 30 days.

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10 ☐	Supplemental FY 2008-09 ☐	Budget Amendment FY 2009-10 ☐

Request Title: Increase in Resources for Division of Financial Services

Department: Department of Regulatory Agencies

Priority Number: DI-5

Dept. Approval by: Date: 10/16/08

OSPB Approval: Date: 10-21-08

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	4,219,713	4,727,104	0	4,727,104	4,889,365	266,789	5,156,154	0	5,156,154	256,643
	FTE	11.2	13.0	0.0	13.0	13.0	2.0	15.0	0.0	15.0	2.0
	GF	88,272	92,059	0	92,059	102,946	0	102,946	0	102,946	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	3,445,653	3,928,698	0	3,928,698	4,019,704	266,789	4,286,493	0	4,286,493	256,643
	CFE/RF	659,664	679,092	0	679,092	724,808	0	724,808	0	724,808	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Leased Space	Total	2,524,965	2,805,617	0	2,805,617	3,138,077	7,500	3,145,577	0	3,145,577	7,500
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	0	102,146	0	102,146	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	7,500	2,535,318	0	2,535,318	7,500
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	310
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	310
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0
(5) Division of Financial Services, Personal Services	Total	929,045	956,351	0	956,351	997,302	214,702	1,212,004	0	1,212,004	214,702
	FTE	11.2	13.0	0.0	13.0	13.0	2.0	15.0	0.0	15.0	2.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	929,045	956,351	0	956,351	997,302	214,702	1,212,004	0	1,212,004	214,702
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10 ☐	Supplemental FY 2008-09 ☐	Budget Amendment FY 2009-10 ☐

Request Title: Increase in Resources for Division of Financial Services

Department: Department of Regulatory Agencies

Priority Number: DI-5

Dept. Approval by: Date:

OSPB Approval: Date:

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
(5) Division of Financial Services, Operating Expenses	Total	86,988	81,671	0	81,671	81,671	44,587	126,258	0	126,258	34,131
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	86,988	81,671	0	81,671	81,671	44,587	126,258	0	126,258	34,131
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None

Letternote Revised Text: None

Cash or Federal Fund Name and COFRS Fund Number: Division of Financial Services Cash Fund, #272

Reappropriated Funds Source, by Department and Line Item Name: N/A, CF Request

Approval by OIT? Yes: ☐ No: ☐ N/A: ☑

Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 2009-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies (DORA)
Priority Number:	DI-5
Change Request Title:	Increase in Resources for Division of Financial Services

SELECT ONE (click on box):

☒Decision Item FY 2009-10
☐Base Reduction Item FY 2009-10
☐Supplemental Request FY 2008-09
☐Budget Request Amendment FY 2009-10

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:
☒Not a Supplemental or Budget Request Amendment
☐An emergency
☐A technical error which has a substantial effect on the operation of the program
☐New data resulting in substantial changes in funding needs
☐Unforeseen contingency such as a significant workload change

Short Summary of Request: The Department requests 2.0 FTE and $266,789 cash funds spending authority (Division of Financial Services Cash Fund) in FY 2009-10, in order to maintain staffing at a level commensurate with assets under regulation in order to continue to meet statutory and policy objectives.

Background and Appropriation History: The Division of Financial Services (DFS) has the primary statutory responsibility of regulating 55 state-chartered natural person credit unions and one corporate credit union. The Division also regulates 4 state-chartered savings and loan associations and 6 life-care institutions. In addition, it administers the Public Deposit Protection Act (PDPA) to safeguard uninsured deposits of public moneys in 13 state and federal savings and loan associations. The Division realizes its mission of protecting consumers by preserving the integrity of the marketplace and by promoting a fair and competitive business environment. The DFS protects consumers by enforcing Colorado’s laws through the following primary functions:

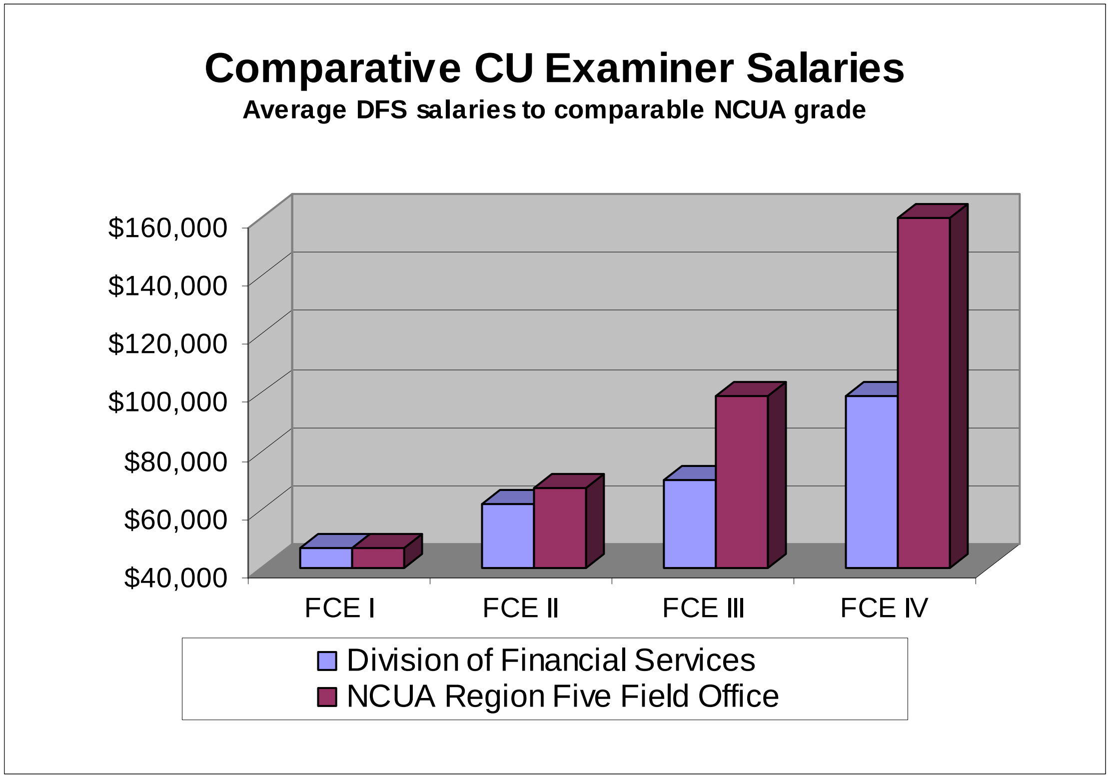
1. Performing on-site examination and off-site monitoring of each institution's financial condition and compliance with state and federal laws.
2. Take necessary supervisory and/or corrective and enforcement actions.
3. Educate consumers about financial risks in the marketplace; and communicate alternatives to high cost financial products and services for Colorado's low income and under banked consumers.

The DFS is appropriated $1,398,526 to oversee industry assets in excess of $11.7 billion. This is accomplished with a staff of 13, including 6 field examiners and 2 field examiner interns.

General Description of Request:

The ability of the Division of Financial Services to advance the mission of consumer protection and maintain public confidence in Colorado's financial institutions is largely dependent on the efficiency and effectiveness of the Division's examination unit. Industry growth, weakening credit markets, federal to state charter conversions, examiner turnover, decreased assistance and more scrutiny from federal counterparts have strained the resources of the Division. Such resource pressures have been partially offset over the last few years through the renewed emphasis on risk-focused examinations, increased use of offsite work programs, internal restructuring (i.e. reclassification of positions among field staff), and cross training; however, there are no remaining avenues available to wring out additional efficiency gains. To be able to continue to maintain public confidence in the system and provide consumer protection, an increase in field staff, a reduction in turnover, improvements in resource utilization, and a better hiring and training program is necessary. If the examination unit at the DFS is not staffed at a level commensurate with the growth and risk profile of the regulated industries, the Division will no longer be able to meet statutory and policy objectives; thereby, compromising the integrity of the regulatory process and exposing consumers and competing institutions to the unsafe and/or unscrupulous practices of a few. Since that is not an acceptable outcome, consideration must be given to increasing the field staff.

The Division seeks authorization to fund the addition of one Auditor IV position, and one FCE III position to the DFS staff, along with corresponding increases in personal services and operating expense line items. Furthermore, in addition to the increased appropriation for the needed positions, an increase is requested in personal services line items to allow some adjustment to field examiner salaries to address inequities and somewhat offset the considerable disparity between state and federal examiner salaries.

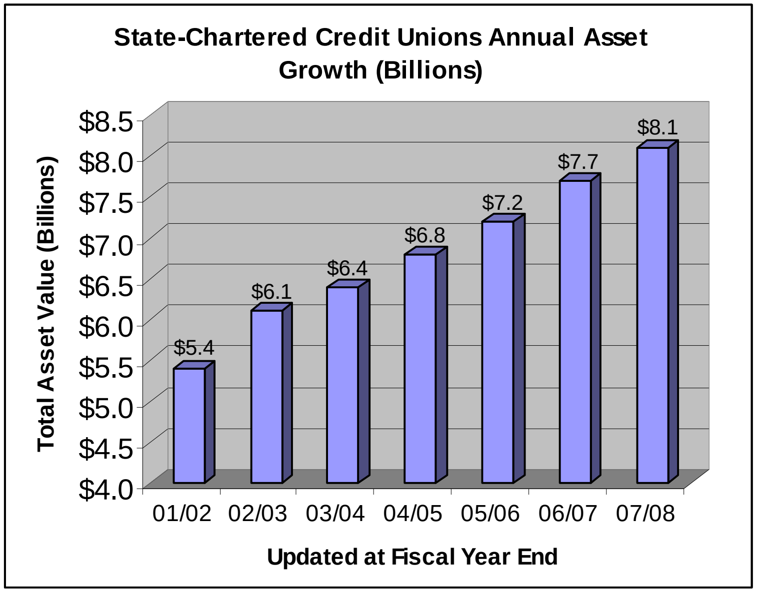


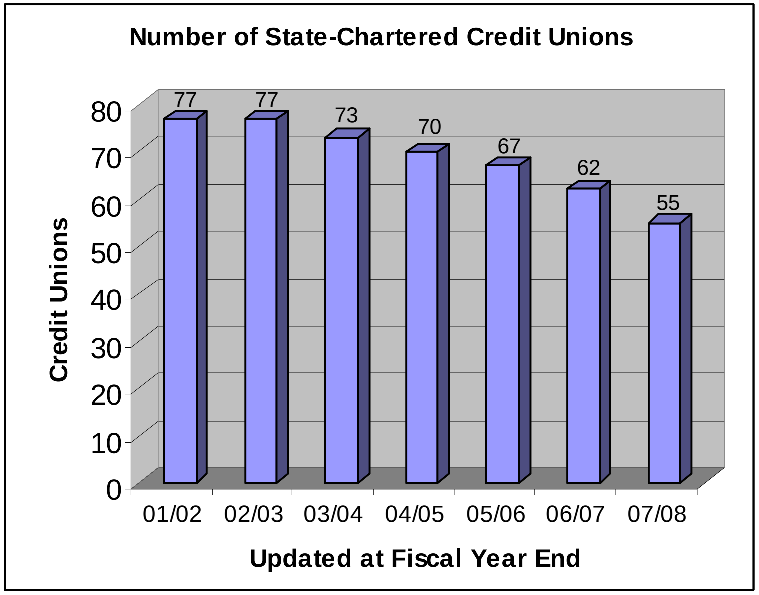
The DFS is appropriated 8 general field examiner positions. All of the Division's available budget resources are accounted for in remaining fully staffed by the current pool of examiners, half of whom have not completed 3 years of field experience needed to be considered fully proficient in the position. It is estimated that one examiner having more than 5 years experience will retire from the Division in 2009. Economic conditions and regulatory responsibilities dictate that the Division hires one examiner with subject matter expertise in the areas of business lending and one auditor specialized in the area of information technology.

Included in the assessment rate increase request above is an appropriation increase to the Division's operating budget of $8,231 to pay for the Division's continued accreditation by and membership in the National Association of State Credit Union Supervisors (NASCUS). Accreditation enhances the reputation of the Division. According to industry representatives and the Financial Services Board, NASCUS accreditation is a key measure in determining the overall value of the DFS to state-chartered credit unions. Due to a lack of sufficient operating budget, the DFS has arranged a temporary solution where NASCUS has agreed to accept $2,000 to maintain accreditation for FY08/09. It is imperative that a permanent funding solution be found before the Division loses is status as an accredited agency.

INDUSTRY GROWTH

The DFS has seen robust growth in assets under its regulation over the past several years in the face of substantial consolidation among state chartered credit unions. The conversions of two credit unions, Red Rocks and Elevations, from federal to state charters in 2006 and 2007 respectively, have contributed to the steady growth in assets under DFS oversight during a recent period of economic slowdown. It is estimated that the trend for conversions from federal to state charter will continue due to the benefits gained by those converting. Benefits include: representation by the Financial Services Board for state regulated institutions, a local regulator that is more responsive and better attuned to local economic conditions, and regulation that is less costly than the federal regulator. The following charts detail asset growth of natural person Colorado state-chartered credit unions within a consolidating industry:


State-Chartered Credit Unions Annual Asset Growth (Billions)
Total Asset Value (Billions)
$8.5
$8.0
$7.5
$7.0
$6.5
$6.0
$5.5
$5.0
$4.5
$4.0
$5.4
$6.1
$6.4
$6.8
$7.2
$7.7
$8.1
01/02
02/03
03/04
04/05
05/06
06/07
07/08
Updated at Fiscal Year End


Number of State-Chartered Credit Unions
Credit Unions
80
70
60
50
40
30
20
10
0
77
77
73
70
67
62
55
01/02
02/03
03/04
04/05
05/06
06/07
07/08
Updated at Fiscal Year End

Consolidation among credit unions has not resulted in a net effect of reducing examination responsibilities. On the contrary, both mergers and organic growth have enabled many credit unions to rapidly assume greater economies of scale and to assume risks that are new to DFS examiners. Credit unions have grown to become the sophisticated financial services providers their member-owners demand. The forces that have caused credit unions to become more sophisticated have placed with the DFS the responsibility of maintaining equal sophistication as a safety and soundness regulator. Consumers and the regulated industry expect a safe and a healthy marketplace. The DFS must ensure its primary mission of protecting consumers is carried out while not becoming a barrier to economic growth as a result of inadequate resources. DFS management is committed to promoting a fair and competitive business environment but now requires additional resources to do so.

EXAMINATION STAFFING PROJECTIONS

The table below depicts industry tenure among the DFS field examiners. Detailed within the columns are the positions held, industry tenure and classification of special disciplines that set an examiner apart from their peers in terms of specialized training and certifications. Those without specialized training are designated as "General" examination professionals. It is accepted among regulators that it takes approximately three years of experience for an examiner to hone general skills required to be considered proficient at performing a normal full-scope examination.

Position	**Tenure**	**(General or Special Disc.)**
Fin/Credit Examiner IV	Greater than 5 years.	Certified Public Accountant
Fin/Credit Examiner III	Greater than 5 Years	Bank Secrecy Act
Fin/Credit Examiner III	Greater than 5 years	General
Fin/Credit Examiner III	Fewer than 4 years	General
Fin/Credit Examiner III	Fewer than 2 years	General
Fin/Credit Examiner II	Fewer than 2 years	General
Fin/Credit Examiner Intern	Fewer than 1 year	General
Fin/Credit Examiner Intern	Fewer than 1 year	General

The data indicates that only half of the DFS field staff have completed the three years of hands on experience required to be considered a proficient general examiner. In addition, one examiner with greater than 5 years of general examination experience is expected to retire in FY 2008-2009 (highlighted in gray).

During the past two years, the need for specialization among examiners has become clear. Recent credit union failures and increased industry sophistication among strong performers has shed light on the need for specialization within the Division's examination resources in order to recognize and effectively react to safety and soundness risks. While the Division intends to maintain a maximum pool of examiners with general skills, the need for examiners with specialized experience in the areas of commercial and business lending and information technology is critical. Currently, half of the Division's examiners are engaged in becoming proficient general examiners, one senior field examiner expects to retire, and the remaining senior field examiners are busy with training responsibilities while contributing their own specialties to examinations.

One strategic expectation of the DFS requires that state-chartered institutions realize greater efficiencies than those that are federally-chartered. Astute application of regulation over state-charters is a basic necessity in producing this result. Further statistical data supports the need for the DFS to staff a deeper pool of examination assets by hiring an auditor and an examiner with specialized skills. Per the National Credit Union Administration (NCUA), as of September, 2007, state-chartered credit unions in Colorado hold 61.8% of total credit union deposits and serve 65.1% of all the state's credit union members. This is a remarkable statistic when considering that on the national average, state-chartered credit unions hold only 44.4% of total deposits and serve only 44% of total credit union members. In addition, of the nine largest and most sophisticated Colorado credit unions having total assets in the range of $250 million to $2 Billion, seven of them are state-chartered. In the cases of the large credit unions, size matters. Colorado's large state-chartered credit unions have in the past, and continue to be pioneers in ventures that are new, and non-traditional for credit unions. While there is evidence of great success, recent history suggests that the DFS would have benefitted from a deeper pool of resources to identify risk and appropriately regulate pioneering ventures that ended up failing, such as the Centrix sub-prime loans that led to the demise of New Horizons Credit Union (2006) and the failed Florida construction loan portfolio that led to the highly publicized demise of Norlarco Credit Union in Fort Collins, CO (2007). In each of these cases, systemic losses also occurred because many other credit unions in Colorado and throughout the nation were able to participate in the lending programs that were managed by New Horizons and Norlarco.

Finally, the DFS must have examiners equally sophisticated as those of its NCUA counterpart. This is not an issue concerning general full-scope examinations, but in areas where specialty training is required. Recent credit union failures have caused the NCUA to take a stronger stance against perceived risk at the expense of state regulators. In 2007 and 2008, the NCUA launched a series of “insurance examinations” designed to assess risk at state-chartered credit unions without the assistance of the state regulator. These examinations focus on the very areas of specialty previously described as needed among DFS examiners. In addition, the NCUA continues to propose rules that seek to preempt state regulator’s authority over state chartered credit unions. The most recent example is the Advanced Notice of Proposed Rulemaking (April 2008) regarding the NCUA’s intent to preempt state laws concerning mergers, consolidations and dissolutions. Colorado consumers have benefitted greatly over the past two years because mergers and consolidation of state-chartered credit unions has been handled by the DFS. By maintaining examiners equal in skill to those at the NCUA, the DFS will be better positioned to maintain its status as the primary regulator of state-chartered credit unions and meet the mission outlined in its strategic plan.

In summary, the DFS strives to produce strategic long–term results by meeting the following staffing objectives:

- Properly compensate existing staff to ensure retention.
- Approval for the addition of one Financial/Credit Examiner III to augment the Division’s Credit Union examination program. In addition, added staff will perform Savings and Loan, Public Deposit and Life Care Audits in order to eliminate field examination responsibilities for one Senior Examiner IV having

high-level skills that are of great value to projects performed at the DFS. This small restructuring of resources will enable the Division to better perform consumer outreach and consumer response initiatives.

- Approval for the addition of one Auditor IV responsible for specialized risk management in the area of information technology.

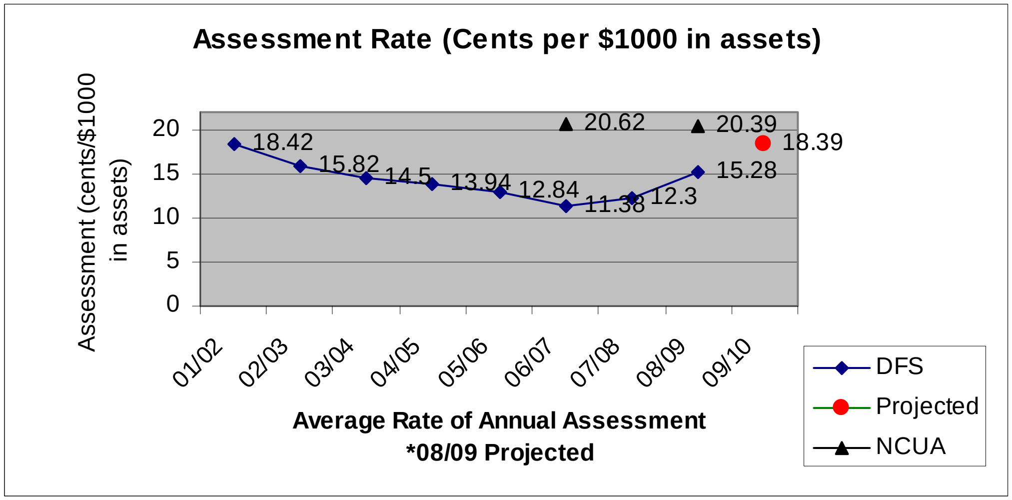
SALARY ADJUSTMENTS

The difficulties encountered by the Division over the last several years in hiring and retaining an experienced examination field staff are well documented. While the DFS has had recent success in filling vacancies with strong candidates, it is imperative that the investment in training be preserved by addressing some salary inequities and reducing turnover to the extent possible. Given that it takes on average, at least three years to bring a new hire, even one with strong industry and/or auditing experience fully up to speed as an examiner, retention is critical to the long term objectives of the Division – maintaining an adequately staffed pool of professional examiners.

The current field examiner salary structure contains a number of inequities that have developed as the salaries of more recent hires have stagnated at the lower end of the applicable pay ranges. Although some examiners with relevant experience were brought in at levels above the pay range floor, most were offered starting salaries at or near range minimums. The lack of meaningful salary advancement despite increased production, coupled with career opportunities outside of state government and significant pay differentials compared to federal counterparts will predictably lead many examiners to the justifiable conclusion that they are losing ground economically and must seek other employment in order to advance their careers. A complete schedule of examiner classifications, current salaries (projected as of July 1, 2008), location within salary range and recommended adjustments is attached to this document, labeled Exhibit #1. As reflected in the schedule, annual base salary adjustments of $59,785 are recommended.

FUNDING

Historically, the DFS has been a responsible steward of its budget and committed to reducing the cost of regulation. That commitment will endure. As stated in the DFS Strategic Plan, the average assessment for state chartered credit unions shall be at least 10% less than those of federally chartered ones. In actuality, the entire expected FY08/09 assessment for state chartered credit unions is 27.6% less than if they were all federally chartered. (The NCUA assessment currently averages over 20 cents/$1000 in assets annually.) The chart below tracks the changing average assessment rates over recent years and projects the estimated rate increase that would be realized in FY09/10 if there is no asset growth. Currently, the average annual assessment rate is 15.28 cents/$1000 in assets for FY08/09.



It is expected that the DFS can meet its organizational funding increase while continuing to meet its assessment performance measure. If the DFS fully funds the required specialized positions in FY09/10, then the current annual assessment rate is estimated to increase by 3.11 cents/$1000. That equates to a final estimated average annualized rate of 18.39 cents/$1000. With the NCUA's annualized average assessment rate of over 20 cents/$1000 in assets, the DFS will still remain about 10% less costly on an annual basis than the NCUA. The cost of regulation for state charters will be very similar to the rates assessed back in FY01/02 but will provide a benefit whereby the DFS will meet today's regulatory needs.

In summary, the requested staffing and operating increases and required budget appropriations are shown in the following table:

Appropriation Increases without Resource Sharing		
Line Item	**Financial Services**	
Personal Services		
1 - Auditor IV Position (DFS)	$ 68,808	
1 - FCE III Position (DFS)	$ 63,792	
Salary Adjustments	$ 59,785	
PERA/Medicare	$ 22,687	
Subtotal		$ 214,702
Operations		
Leased Space	$ 7,500	
New FTE Operating	$ 12,356	
Travel Costs (new FTE)	$ 24,000	
NASCUS (DFS)	$ 8,231	
Subtotal		$ 52,087
TOTAL		**$ 266,789**

<u>Consequences if Not Funded:</u>

Consequences will render the following results: Without the funding for specialized staff, the DFS will be unable to meet the performance measures detailed in its strategic plan (referenced on page 15). The examination scope will not be expanded to include the in-depth analysis of business lending activities and information technology review. The normal examination process will become less effective, and potential risks will increase. Increased risk, whether real or perceived will invite the NCUA to intervene in state examinations as the DFS becomes less reliable in performing increasingly complex examinations. The DFS will be hampered in its strategic effort to promote economic growth due to a lack of adequate resources to allow, and properly regulate, special risks associated with the industry's new, non-traditional business ventures.

If salary inequities are not addressed now, the Division will be stuck on a treadmill of recruiting and training new examiners as it has in the past, only to see them depart at about the time the training dollars are beginning to pay off and they are becoming productive members of the team.

Without the funding for continued membership in, and accreditation by NASCUS, the Division will cease its affiliation with NASCUS and lose its status as an accredited agency. This will result in the degradation of the Division's reputation as a qualified regulator among state-chartered credit unions. As stated earlier in this request, "Accreditation enhances the reputation of the Division. According to industry representatives and the Financial Services Board, NASCUS accreditation is a key measure in determining the overall value of the DFS to state-chartered credit unions".

Calculations for Request:

Summary of Request FY 2009-10	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$266,789	$0	$266,789	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$0	$0	$0	$0	$0	0.0
(5) Division of Financial Services Personal Services	$214,702	$0	$214,702	$0	$0	2.0
(5) Division of Financial Services Operating Expenses	$44,587	$0	$44,587	$0	$0	0.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$256,643	$0	$256,643	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$310	$0	$310	$0	$0	0.0
(5) Division of Financial Services Personal Services	$214,702	$0	$214,702	$0	$0	2.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
(5) Division of Financial Services Operating Expenses	$34,131	$0	$34,131	$0	$0	0.0

Cash Funds Projections:

Cash Fund Name	Cash Fund Number	FY 2007-08 Expenditures	FY 2007-08 End of Year Cash Balance	FY 2008-09 End of Year Cash Balance Estimate	FY 2009-10 End of Year Cash Balance Estimate	FY 2010-11 End of Year Cash Balance Estimate
Division of Financial Services	272	$1,239,860	$75,957	$75,957	$75,957	$75,957

Assumptions for Calculations:

		FTE and Operating Costs									***GRAND TOTAL***		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**Financial Credit Examiner III**			**Auditor IV**			**Salary Adjustment**					
Number of PERSONS / class title		1	1	1	1	1	1	0	0	0			
Number of months working in FY 08-09, FY 09-10 and FY 10-11		12	12	12	12	12	12	0	0	0			
Number months paid in FY 08-09, FY 09-10 and FY 10-11[1]		12	12	12	12	12	12	0	0	0			
Calculated FTE per classification		**1.0**	**1.0**	**1.0**	**1.0**	**1.0**	**1.0**	**0.0**	**0.0**	**0.0**	2.0	2.0	2.0
Annual base salary		$63,792	$63,792	$63,792	$68,808	$68,808	$68,808						

FTE and Operating Costs											GRAND TOTAL		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Salary		$63,792	$63,792	$63,792	$68,808	$68,808	$68,808	$59,785	$59,785	$59,785	$192,385	$192,385	$192,385
PERA	**10.15%**	$6,475	$6,475	$6,475	$6,984	$6,984	$6,984	$6,068	$6,068	$6,068	$19,527	$19,527	$19,527
Medicare	**1.45%**	$925	$925	$925	$998	$998	$998	$867	$867	$867	$2,790	$2,790	$2,790
Subtotal Personal Services at Division Level		**$71,192**	**$71,192**	**$71,192**	**$76,790**	**$76,790**	**$76,790**	**$66,720**	**$66,720**	**$66,720**	**$214,702**	**$214,702**	**$214,702**
OPERATING EXPENSES													
Supplies @ $500/$500[2]	**$500**	$500	$500	$500	$500	$500	$500	$0	$0	$0	$1,000	$1,000	$1,000
Computer @ $900/$0	**$900**	$900	$0	$0	$900	$0	$0	$0	$0	$0	$1,800	$0	$0
Office Suite Software @ $330/$0	**$330**	$330	$0	$0	$330	$0	$0	$0	$0	$0	$660	$0	$0
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$3,998	$0	$0	$3,998	$0	$0	$0	$0	$0	$7,996	$0	$0
Telephone Base @ $450/$450[2]	**$450**	$450	$450	$450	$450	$450	$450	$0	$0	$0	$900	$900	$900
Leased Space (150 SF/FTE estimated at $25.00/SF)											$7,500	$7,500	$7,500
Hardware/Software Maintenance ($155/FTE)											$0	$310	$310
NASCUS Accreditation (present rate)											$8,231	$8,231	$8,231
Travel for new FTE*											$24,000	$24,000	$24,000
Subtotal Operating Expenses		**$6,178**	**$950**	**$950**	**$6,178**	**$950**	**$950**	**$0**	**$0**	**$0**	**$52,087**	**$41,941**	**$41,941**
GRAND TOTAL ALL COSTS		**$77,370**	**$72,142**	**$72,142**	**$82,968**	**$77,740**	**$77,740**	**$66,720**	**$66,720**	**$66,720**	**$266,789**	**$256,643**	**$256,643**

*Travel costs are estimated based on an average of $12,000 per examiner, which would be $24,000 for the requested 2.0 FTE.

<u>Impact on Other Government Agencies:</u>

The Division of Financial Services has signed an Operating Agreement with the National Credit Union Administration (NCUA). The NCUA and the DFS have a shared interest in the continued safe and sound financial health and operation of federally insured state-chartered credit unions. If the DFS fails to meet expected standards as determined by NCUA, then the NCUA will implement its statutory authority to conduct insurance examinations or reviews of state-chartered credit unions; thus preempting the state's supervisory authority.

<u>Cost Benefit Analysis</u>:

Benefits of full funding are as follows:

- Public confidence is promoted by the safe and sound conduct of state-chartered credit unions.
- Specialized examiners will ensure the Division's ability to promote the lawful, safe and sound operation of state-chartered credit unions to protect the deposits of private citizens pursuant to the authority granted by 11-30-106, C.R.S. (2008).
- State-chartered credit unions realize greater efficiencies than federally-chartered credit unions.
- Adequately specialized examiner staff available to perform risk-based safety and soundness examinations of state-chartered credit unions growing in size and sophistication. Specifically, the ability to perform in-depth business lending and information technology reviews.
- The DFS maintains a good reputation with stakeholders as an accredited regulator and maintains independence from NCUA involvement in state regulatory matters.
- The DFS continues to meet the Governor's efficiency expectations by being fiscally responsible.
- Ability to promote economic growth by having adequate resources to allow, and properly regulate, special risks associated with the industry's new business ventures.

The costs associated with this request are expected to provide sufficient resources to ensure the DFS is able to complete its legislative agenda as outlined in 11-102-301, C.R.S. (2008), and adequately examine financial institutions. These costs represent the costs of public protection in ensuring the solvency and stability of state-chartered banks, and of taking action to minimize losses in the event of a failure. Colorado credit unions and savings and loans hold assets ranging between $15 million to $2 billion for a single institution. In the event of a failure, losses can exceed 50% of an institution's assets, which would translate to between roughly $7.5 million and $1 billion in Colorado, depending on the institution. So any institution failure as a result of inadequate examination – even of the smallest state-chartered bank – would result in losses that far outweigh the $266,789 cost of this request. While a failure is not certain as a result of inadequate examination, the consequences of inadequate examinations increase the risk of a failure.

Finally, the costs can be reasonably absorbed by the industry. If there is no asset growth, then the cost of regulation for state charters in FY09/10 will be very similar to rates assessed back in FY01/02 but will provide a benefit whereby the DFS will meet the regulatory needs of today. The DFS will continue to meet its performance measure stated in its strategic plan, by remaining almost 10% less costly on an annual basis than the NCUA.

Implementation Schedule:

Task	Month/Year
Approved Funding Received	July 2009
Internal Research/Planning Period	July 2009
FTE Hired	September 2009
Start-Up Date	September 2009

Statutory and Federal Authority:

Credit Unions: 11-30-101, C.R.S. (2008) (I.1) "Commissioner" means the state commissioner of financial services. (II) "Division" means the division of financial services created in section 11-44-101. (2) A credit union may be organized in the following manner: (a) Any eight or more residents of the state of Colorado who meet the *membership requirements of section 11-30-103 (2) may execute, in a number of copies to be specified by the commissioner, articles of incorporation setting forth therein the terms by which they agree to be bound. The articles shall state the name and address of the proposed credit union; the names and addresses of the incorporators; the number of shares subscribed by each incorporator; and the term of existence of the corporation, which may be perpetual.*

Savings and Loan Associations: 11-40-101, C.R.S. (2008) A "savings and loan association", within the meaning of articles 40 to 46 of this title, is any domestic or foreign association or corporation formed, created, or organized to carry on the business of a savings and loan association, which is formed to encourage industry, thrift, home building, and saving among its members, by the accumulation of funds through the issuance and sale of its own shares, capital notes, or debentures, the acceptance of savings deposits, or any other manner permitted by the provisions of articles 40 to 46 of this title, the loaning or investment of the funds so accumulated to assist its members in acquiring real estate, in making improvements thereon, and in paying off existing encumbrances thereon, or for any other purposes or in any other manner permitted by the provisions of articles 40 to 46 of this title, and which accumulates funds to be returned to its members.

Protection of Deposits of Public Moneys: 11-47-101, C.R.S. (2008) The provisions of this article shall be administered by the commissioner under the supervision of the financial services board. The financial services board and the commissioner shall have the authority to do all acts necessary and required to carry out the purpose of this article. To this end, the financial services board is empowered to make, amend, and rescind rules and regulations consistent with said provisions and to prescribe a standard form for the statements and reports required to be made or filed by eligible public depositories and to require uniform use of the same. Acts of the commissioner are subject to appeal to the financial services board pursuant to section 11-44-101.8.

See also Life Care Institutions: 12-13-101, C.R.S. (2008); Uniform Consumer Credit Code: 5-1-101, C.R.S. (2008); Electronic Funds Transfers: 11-48-101, C.R.S. (2008)

Performance Measures:

Division of Financial Services 2009/2010 Strategic Plan Measures:

1. The average cost of regulation for state-chartered credit unions is at least 10% less than those federally-chartered.
2. Fewer than 10% of regulated institutions will experience a reduction in rating during any fiscal year.

Division of Financial Services 2009/2010 Strategic Plan Results:

1. Economic Environment – Public confidence is promoted by the safe and sound conduct of state-chartered credit unions, savings and loan associations and life care institutions.
2. Government Efficiency – State-chartered institutions realize greater efficiencies than federally-chartered institutions.

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑	Base Reduction Item FY 2009-10 ☐	Supplemental FY 2008-09 ☐	Budget Amendment FY 2009-10 ☐

Request Title: Increase Resources For Division of Banking
Department: Department of Regulatory Agencies
Priority Number: DI-6

Dept. Approval by: [signature] **Date:** 10/16/08
OSPB Approval: [signature] **Date:** 10-21-08

	Fund	1 Prior-Year Actual FY 2007-08	2 Appropriation FY 2008-09	3 Supplemental Request FY 2008-09	4 Total Revised Request FY 2008-09	5 Base Request FY 2009-10	6 Decision/ Base Reduction FY 2009-10	7 November 1 Request FY 2009-10	8 Budget Amendment FY 2009-10	9 Total Revised Request FY 2009-10	10 Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	6,521,476	6,779,554	0	6,779,554	7,047,143	707,579	7,754,722	0	7,754,722	677,141
	FTE	36.2	38.5	0.0	38.5	38.5	6.0	44.5	0.0	44.5	6.0
	GF	88,272	92,059	0	92,059	102,940	0	102,946	0	102,946	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	5,747,416	5,981,140	0	5,981,140	6,177,402	707,579	6,885,061	0	6,885,061	677,141
	CFE/RF	650,664	679,092	0	679,092	724,808	0	724,808	0	724,808	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Leased Space	Total	2,524,955	2,805,617	0	2,805,617	3,180,077	22,500	3,180,377	0	3,180,577	22,500
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	0	102,146	0	102,146	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	22,500	2,550,318	0	2,550,318	22,500
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	930
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	930
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0
(2) Division of Banking, Personal Services	Total	3,033,326	2,810,567	0	2,810,567	2,956,846	528,011	3,484,857	0	3,484,857	528,011
	FTE	36.2	38.5	0.0	38.5	38.5	6.0	44.5	0.0	44.5	6.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	3,033,326	2,810,567	0	2,810,567	2,956,846	528,011	3,484,857	0	3,484,857	528,011
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: Increase Resources For Division of Banking
Department: Department of Regulatory Agencies
Priority Number: DI-6

Dept. Approval by: **Date:**
OSPB Approval: **Date:**

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2007-08	Appropriation FY 2008-09	Supplemental Request FY 2008-09	Total Revised Request FY 2008-09	Base Request FY 2009-10	Decision/ Base Reduction FY 2009-10	November 1 Request FY 2009-10	Budget Amendment FY 2009-10	Total Revised Request FY 2009-10	Change from Base (Column 5) FY 2010-11
(2) Division of Banking, Operating Expenses	Total	284,470	279,905	0	279,905	279,905	157,068	436,973	0	436,973	125,700
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	284,470	279,905	0	279,905	279,905	157,068	436,973	0	436,973	125,700
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None
Letternote Revised Text: None
Cash or Federal Fund Name and COFRS Fund Number: Division of Banking Cash Fund, #244
Reappropriated Funds Source, by Department and Line Item Name: N/A, CF Request
Approval by OIT? Yes: ☐ No: ☐ N/A: ☑
Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 2009-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-6
Change Request Title:	Increase Resources For Division of Banking

SELECT ONE (click on box):

☒ Decision Item FY 2009-10
☐ Base Reduction Item FY 2009-10
☐ Supplemental Request FY 2008-09
☐ Budget Request Amendment FY 2009-10

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:
☒ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☐ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

<u>Short Summary of Request</u>: The Department requests $707,579 cash funds spending authority (Division of Banking Cash Fund) and 6.0 FTE in FY 2009-10 in order to maintain staffing at a level commensurate with the growth of the banking industry and continue meet statutory and policy objectives.

<u>Background and Appropriation History</u>: The Division of Banking embraces the Department's mission of consumer protection and works to preserve public trust in the Colorado banking industry. It is the legislative policy of the Division of Banking to protect the public interest by regulating the business of state chartered and/or licensed financial institutions under its supervision in such a manner as to preserve and promote sound and constructive competition among financial services institutions; a dual federal and state banking system; the security of deposits; the safe and sound conduct of the business of state chartered/licensed financial institutions; and a statewide safe and sound banking system. In addition the Division of Banking seeks regulatory coordination and cooperation; regulatory parity among financial services institutions; and encourages diversity in financial products and services.

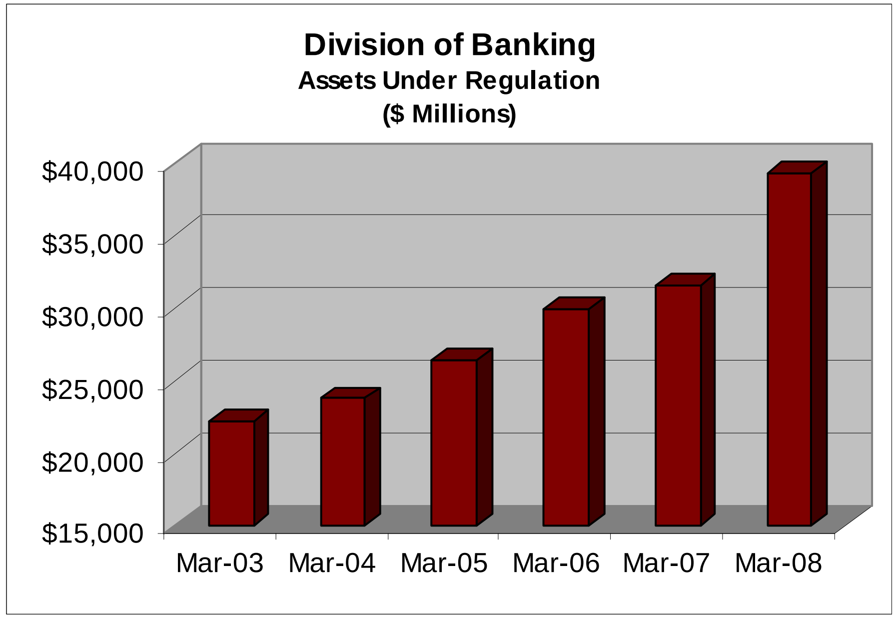
The Division of Banking has been able to hold off the need for an increase in Operating (travel) as the federal agencies have provided the Division of Banking with unlimited assistance in recent years. However, due to the downturn in the economy in other regions of the United States the federal agencies have decreased their assistance which has greatly strained the Division of Banking's Operating budget. Also, the Division of Banking has not had to request additional FTE and associated increases in Operating by a renewed emphasis on risk focused examinations, increased use of automated exam programs, offsite review of imaged loan and other offsite work programs, internal restructuring (reclassification of positions from support to field staff), cross training, and utilization of contract examiner; however there are few remaining avenues available to wring out additional efficiency gains.

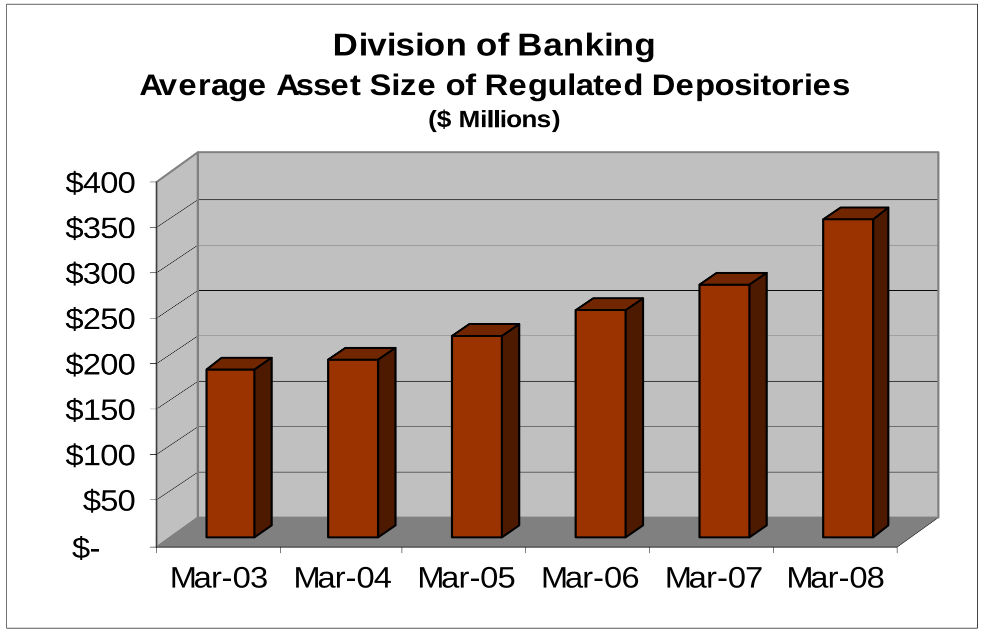
INDUSTRY GROWTH

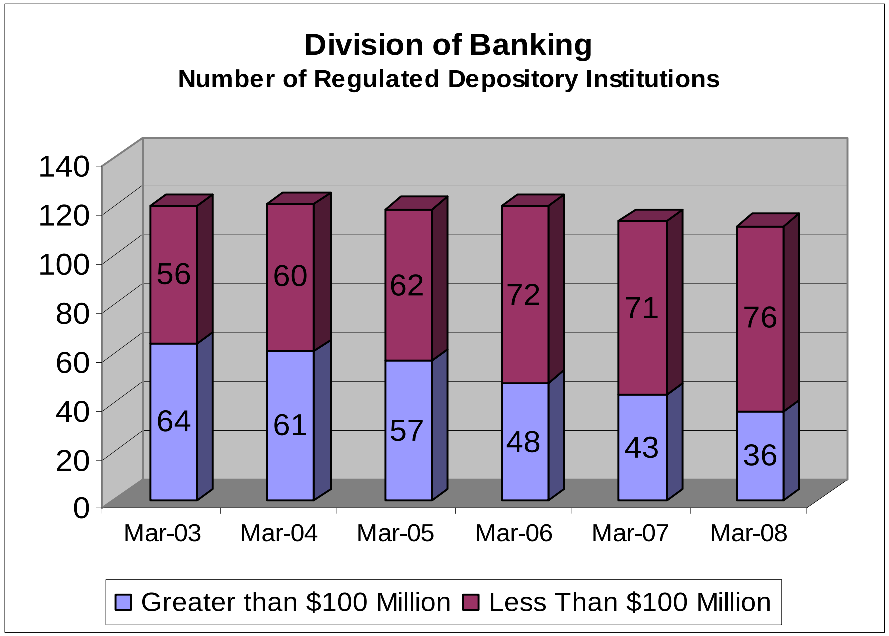
The Colorado banking industry has experienced remarkable growth over the last ten years. In the last five years alone, assets under Division of Banking regulation have increased by over 77 percent, to $39.2 billion as of March 31, 2008. While much of the growth has been organic, averaging around 10 percent annually over the last five years, the Division of Banking has seen an increased interest from national banks seeking to convert to state charter based on cost considerations, the responsiveness of Division of Banking staff, and the examiners' knowledge of Colorado economic conditions and community bank issues. In the last year, three national banks (CoBiz, Mile High, and Points West) with combined assets of over $3.6 billion converted to state charter. In addition, several other national banks are considering conversion, including one very large institution. The conversions, along with new charters, averaging approximately three per year, largely offset merger and consolidation activity.

The following three graphs best illustrate the tremendous growth in depository assets under Division of Banking regulation[1], the steady increase in average bank size, and the number of individual charters:

[1] For purposes of this memorandum "depositories under DOB supervision" includes FDIC insured, state-chartered commercial banks, industrial banks, and depository trust companies.


Division of Banking
Assets Under Regulation
($ Millions)
$40,000
$35,000
$30,000
$25,000
$20,000
$15,000
Mar-03
Mar-04
Mar-05
Mar-06
Mar-07
Mar-08


Division of Banking
Average Asset Size of Regulated Depositories
($ Millions)
$400
$350
$300
$250
$200
$150
$100
$50
$-
Mar-03
Mar-04
Mar-05
Mar-06
Mar-07
Mar-08



Considerable detail on examination staffing projections is provided elsewhere in this report; however, it is fairly intuitive, based simply on the charts above, that Division of Banking resources are strained when tasked with the regulation of depositories holding $40 billion in assets, with fewer staff than was authorized in 1995, to oversee assets of $12 billion.

General Description of Request:

The Department requests $707,579 Cash Funds (Division of Banking Cash Fund) and 6.0 FTE in order to maintain staffing at a level commensurate with the growth of the banking industry and continue meet statutory and policy objectives.

Specifically, the Department requests the addition of 5.0 FTE financial credit examiners (FCE) and 1.0 FTE Auditor IV[2] position to the Division of Banking's authorized staff,

[2] The Auditor IV classification and salary structure best fit the qualification criteria for an IT examiner.

along with corresponding increases in Personal Services and Operating expense (primarily related to travel) line items. Additionally, it is requested that the appropriation to the Division's base Personal Services line items be increased to allow adjustment to field examiner salaries to address inequities and partially offset the considerable disparity between state and federal examiner salaries.

The ability of the Division of Banking to advance the mission of consumer protection and maintain public confidence in Colorado financial intuitions is largely dependent on the efficiency and effectiveness of the examination unit. Industry growth, weakening credit markets, federal to state charter conversions, examiner turnover, and decreased assistance from the federal counterparts have greatly strained the resources of the Division of Banking.

TRAVEL COSTS

Several factors have contributed to the increased amount of time necessary for examinations and/or the increased number of total examinations within a state fiscal year:

- Addition of 40 hours for Bank Secrecy Examinations
- Increase in total assets under supervision of 77 percent during the last five years.
- Since September 30, 2006 ten banks moved from the 18-month cycle to a 12-month cycle as a result of total assets increasing over $500 million

The 18-month exam cycle makes for inconsistency from year-to-year in the number of examinations required and resultant travel costs even if all else remains the same (experience of examiners, number of examiners assigned to a particular exam, rating of the banking institution). A year of more out-of-town examinations increases costs significantly. However, the other factors of industry growth, training needs and staffing requirements are also driving increased costs. The Division of Banking needs an Operating appropriation that consistently has adequate travel dollars to avoid compromising the integrity of the regulatory process and risk exposing consumer and competing institutions to the unsafe and/or unscrupulous practices of a few.

	ACTUAL			
	In State Travel Costs	Trainin g	Other Operating	Total Operations
FY 2004-05	$145,198	$35,945	$93,502	$274,645
FY 2005-06	$117,073	$38,948	$102,579	$258,600
FY 2006-07	$161,440	$13,691	$95,596	$270,727
FY 2007-08	$178,000	$21,679	$84,987	$284,666

	PROJECTED				**Current Operating Appropriation**	**$279,905**
	In State Travel Costs	Trainin g	Other Operating (average of last 4 FY's)	Total Operations	Increase Need over Current FY 2008-09 Appropriations	
FY 2008-09	$293,677	$30,000	$94,166	$417,843	$137,938	
FY 2009-10	$279,808	$30,000	$94,166	$403,974	$124,069	
FY 2010-11	$240,000	$30,000	$94,166	$364,166	$84,261	

* Estimated travel cost can vary due change in examination cycle and new charters

EXAMINATION STAFFING PROJECTIONS

Projections for examination staffing are influenced by a number of variables including; examination frequency, institution size, complexity and risk profile, federal regulatory agency cooperative agreements, and travel and training considerations. The Banking Board mandates that the Division of Banking conduct examinations in accordance with federal statutory requirements. The examination interval for Federal Deposit Insurance Corporation (FDIC) insured depository institutions is largely determined by the institution's size and composite CAMELS[3] rating. Generally, banks rated "1" or "2" with less than $500 million in assets are examined on an 18 month cycle. Larger institutions and/or adversely rated institutions are examined every 12 months. Problem institutions may be examined more frequently, and limited scope or target examinations are conducted in response to specific concerns. The Division of Banking has executed agreements with the federal regulatory agencies to perform alternating or joint examinations in order to reduce regulatory burden and increase resource utilization. For example, a bank on a 12-month examination cycle would be examined by the Division of Banking in 2008 and by the FDIC in 2009. In certain instances banks are examined jointly by both agencies, with one assuming the lead for the examination. Larger banks and problem banks are generally examined jointly with the federal agencies, with the remaining institutions examined on an alternating basis.

For planning purposes the Division of Banking utilizes a matrix based on composite CAMELS ratings and asset size to determine budgeted exam hours. The matrix was developed based on prior federal regulatory experience[4], historical examination hours, and peer comparisons. Examination time budgets are established in accordance with the matrix and adjusted as necessary by the portfolio manager based on unique characteristics of the bank, i.e. high concentration of construction lending, or other specific concerns. Actual examination time is tracked by the examiner-in-charge (EIC) and variances from budgeted amounts must be explained and justified. The matrix hours are used for safety and soundness examinations of commercial and industrial banks.

[3] The composite rating is based on the component ratings assigned to Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk The ratings range from "1" to "5", with "1" being the best rating assigned and "5" the worst.

[3] It should be noted that matrix hours are less than similar budgets utilized by the federal banking agencies; however a direct comparison is not readily available due to the compliance and CRA examinations that the federal agencies often perform in conjunction with safety & soundness examinations

Examination budgets for trust company examinations and specialty examinations are based on average hours of prior examinations. The matrix is reviewed annually by Division of Banking management and adjusted as appropriate for the next fiscal year. The following matrix is applicable to safety and soundness examinations for the FY 2008/09.

2008-09 Exam Matrix
Maximum Hours to Complete Safety & Soundness Examinations*
COMPOSITE CAMELS RATING

ASSETS	1	2	3	4	5
$0 - $25M	337	441	510	750	830
$26 - $50M	382	486	574	854	942
$51 - $100M	436	531	670	990	115
$101 - $500M	580	705	1280	1640	200
$501M - $1B	660	1200	1760	2080	288
$1.1B - $5B	1300	1940	2500	3540	354

The elasticity of the examination frequency cycle requires that projections for examination staffing be predicated on a three-year cycle. For illustrative purposes, assume that all banks are "1" rated and examined alternately by the Division of Banking and the FDIC on an 18 month cycle. If in this example the Division of Banking examined all of the banks as of January 2009, the FDIC would examine all of the banks after 18 months (June 2010), and the Division of Banking would not examine them again until January 2012. In this simplistic scenario considerable Division of Banking examination hours would be required in 2009, but none in 2010 or 2011. Therefore, meaningful examination projections must be based on actual examination due dates over a three-year period, adjusted for projected changes in CAMELS ratings, asset growth, new charters and consolidation.

The Division of Banking currently utilizes an automated scheduling system to determine the next examination due date for all institutions. The projected safety and soundness examination due dates and lead agency for all Colorado banks for FY 2008-09 were extracted from the scheduling system and loaded into a forecasting spreadsheet. Assumptions concerning asset growth, industry consolidation, new charters, conversions, and economic conditions were analyzed. Projections for the next three fiscal years and key assumptions are depicted in the following table:

Projections			
Category	**FY End 6/30/2009**	**FY End 6/30/2010**	**FY End 6/30/2011**
Total Assets ($Thousands)	$ 42,350,000	$ 46,858,500	$ 50,581,520
State S&S Bank Exams	57	44	55
Exam Hours per Matrix (excl. charter changes)	41,066	30,035	37,061
Exam Hours - Merger/Conversion to National	(4,935)	(4,230)	(5,640)
Exam Hours - New Charters	1,458	1,944	1,944
Exam Hours Conversions from National to State	2,115	3,525	1,410
Estimated Travel Hours	2,478	2,288	2,370
Total Exam Hours	42,182	33,562	37,145
FTE Required for Bank S&S Exams	22.4	17.9	19.8
FTE Required for Money Transmitter Exams	2.0	3.0	3.0
FTE Required for Trust Company/Trust Exams	1.5	1.5	1.5
FTE Required for IT Examinations	1.5	1.5	1.5
Total FCE/IT Examiners Required	27.4	23.9	25.8
Authorized Field Examiner/IT Positions	**22.0**	**22.0**	**22.0**
Under staffed	**(5.4)**	**(1.9)**	**(3.8)**

Key Assumptions			
Consideration Factors	**FY 08/09**	**FY 10/11**	**FY 11/12**
Annual Asset Growth Rate	9.0%	11.0%	12.0%
Standard Hours Available per FTE	1880	1880	1880
Standard Hours for Public Deposit Exam	9	9	9
Number of Merger/Conversion to National	-7	-6	-8
Assets Merger/Conversion to National	$ (2,450,000)	$ (2,100,000)	$ (2,800,000)
Number of New Charters	3	4	4
Assets New Charters	$ 150,000	$ 200,000	$ 200,000
National to State Conversions	3	5	2
Assets National to State Conv.	$ 1,050,000	$ 1,750,000	$ 700,000
Number of State Chartered Banks	111	115	110

Standard Hours per JBC	2080
Monitoring	40
Training (includes OJT)	80
Special Projects/Other	80
Exam Hours Available per FTE	1880

It must be emphasized that the projections are based on assumptions that are considered most likely to occur. The unexpected sale or conversion of a large institution would reduce the number of examiners required. Conversely continued deterioration in the real estate market would adversely affect the condition of a percentage of institutions, translating to a steep increase in supervisory hours. Nevertheless, this relatively conservative forecast illustrates both the current understaffing and the significant annual variations in examination requirements.

As detailed above the Division of Banking needs 27.4 examiners/IT auditors to conduct projected examinations for FY 2008-09. The Division of Banking currently has 22 authorized positions, of which one is vacant due to budgetary constraints. Assuming that funding for the vacant position is secured, an additional six examiners are needed to adequately staff projected examinations. Staffing at this level will result in some underutilization of staff during off-peak periods in the examination cycle. It is anticipated that during such periods, an increased emphasis will be placed on off-site financial monitoring, and training.

Staffing Request Summary by Line Item	**Division of Banking**			
	FY 2009/10		**FY 2010/11**	
Personal Services				
1 Auditor IV Position	$72,000		$81,864	
4 FCE II Positions	$273,072		$310,483	
1 FCE I Position	$58,786		$66,840	
Fund Vacant FCE Position	$68,268		$77,620	
Salary Adjustments	$52,144		$52,144	
PERA/Medicare	$60,815		$60,815	
Subtotal		**$528,011**		**$528,011**
Operations				
Operating expenses (new FTE)	$37,068		$5,700	
Travel Costs (new FTE)	$84,000		$84,000	
Travel shortfall existing staff	$36,000		$36,000	
Leased Space (new FTE)	$22,500		$22,500	
Hardware/Software Maint.			$930	
Subtotal		**$179,568**		**$149,130**
Total		**$707,579**		**$677,141**

SALARY ADJUSTMENTS

The difficulties encountered by the Division of Banking over the last several years in hiring and retaining an experienced examination field staff are well documented. While the Division of Banking has had recent success in filling vacancies with strong candidates possessing banking experience, it is imperative that the investment in training be preserved by addressing some salary inequities and reducing turnover to the extent possible. Given that it takes on average, at least three years to bring a new hire, even one with strong industry and/or auditing experience fully up to speed as an examiner, retention is critical to the long term objectives of the Division of Banking – maintaining an adequately staffed cadre of professional examiners.

The current field examiner salary structure contains a number of inequities that have developed as the salaries of more recent hires have stagnated at the lower end of the applicable pay ranges. Although some examiners with relevant experience were brought in at levels above the pay range floor, most were offered starting salaries at or near range minimums. The lack of meaningful salary advancement despite increased production, coupled with significant pay differentials compared to federal counterparts (see charts on following page), will predictably lead many examiners to the justifiable conclusion that they are losing ground economically and must seek other employment in order to advance their careers. The following is a complete schedule of examiner classifications, current salaries (projected as of July 1, 2008), location within salary range and recommended adjustments.

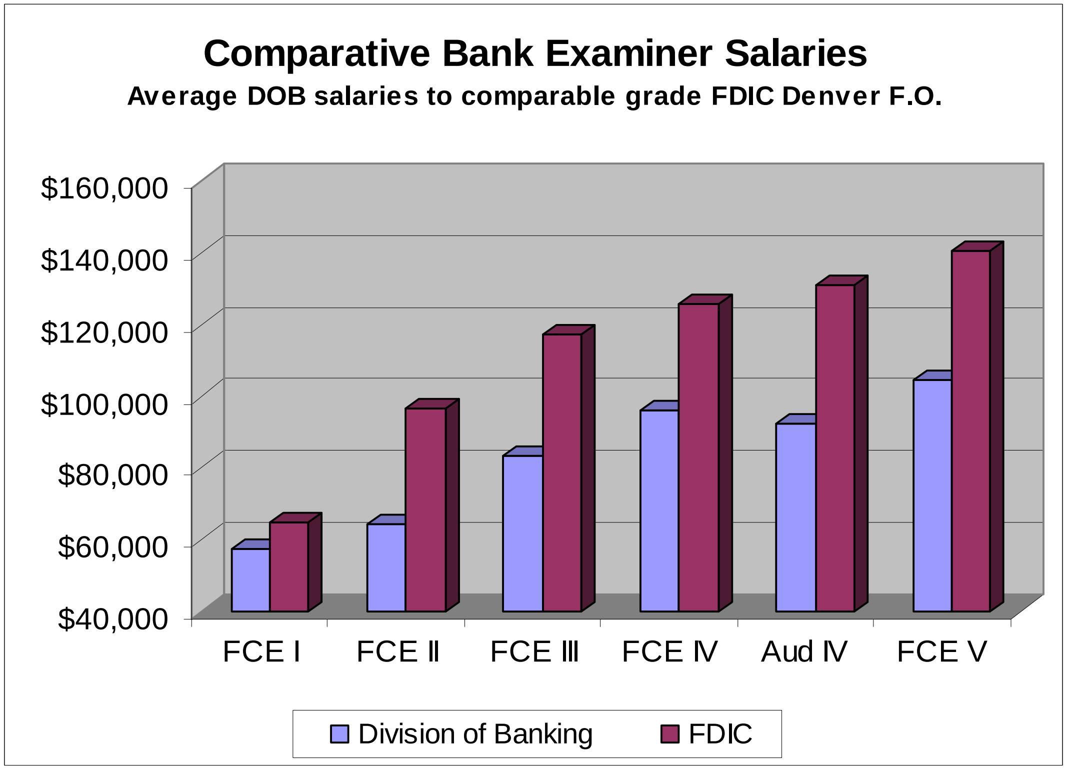
Examiner Staffing - Salary Adjustments & Additional FTE Costs											
Pos. No.	**Class Title**	**Tenure Jun-08**	**Projected FY 09 Monthly**	**FY08/09 Range Floor**	**FY08/09 Range Ceiling**	**Salary as a Percent of Class Range Current**	**Target Percent**	**Proposed Increase**	**Adj. Salary Month**	**Adj. Salary Annual**	
2082	FCE V	13.5	$8,716	$6,465	$9,350	78.0%	NC	$0	$8,716	$	104,592
2038	FCE IV	30.0	$8,639	$6,155	$8,903	90.4%	NC	$0	$8,639	$	103,671
2020	FCE IV	26.8	$8,580	$6,155	$8,903	88.3%	NC	$0	$8,580	$	102,965
2029	FCE IV	9.7	$7,611	$6,155	$8,903	53.0%	nc	$0	$7,611	$	91,337
2023	FCE IV	10.0	$7,234	$6,155	$8,903	39.3%	53.0%	$377	$7,611	$	91,337
2041	Auditor IV	6.2	$7,704	$5,734	$8,299	76.8%	NC	$0	$7,704	$	92,446
2046	FCE III	14.9	$7,393	$5,316	$7,692	87.4%	NC	$0	$7,393	$	88,713
2050	FCE III	9.7	$7,393	$5,316	$7,692	87.4%	NC	$0	$7,393	$	88,713
2061	FCE III	10.2	$7,393	$5,316	$7,692	87.4%	NC	$0	$7,393	$	88,713
2052	FCE III	14.2	$7,249	$5,316	$7,692	81.3%	NC	$0	$7,249	$	86,985
2062	FCE III	8.3	$7,141	$5,316	$7,692	76.8%	NC	$0	$7,141	$	85,686
2009	FCE III	7.2	$6,472	$5,316	$7,692	48.7%	NC	$0	$6,472	$	77,665
2045	FCE III	3.4	$6,472	$5,316	$7,692	48.7%	NC	$0	$6,472	$	77,665
2032	FCE III	5.6	$5,948	$5,316	$7,692	26.6%	NC	$0	$5,948	$	71,372
2060	FCE III	2.6	$5,948	$4,821	$6,979	52.2%	NC	$0	$5,948	$	71,372
2005	FCE II	1.6	$5,896	$4,821	$6,979	49.8%	50.0%	$4	$5,900	$	70,800
2030	FCE II	7.4	$5,872	$4,821	$6,979	48.7%	50.0%	$28	$5,900	$	70,800
2068	FCE II	6.3	$5,507	$4,821	$6,979	31.8%	50.0%	$393	$5,900	$	70,800
2016	FCE II	11.2	$5,377	$4,821	$6,979	25.8%	50.0%	$523	$5,900	$	70,800
2006	FCE II	3.1	$5,022	$4,821	$6,979	9.3%	50.0%	$878	$5,900	$	70,800
2036	FCE II	1.5	$5,261	$4,821	$6,979	20.4%	25.0%	$99	$5,361	$	64,326
2067	FCE II	0.7	$4,940	$4,821	$6,979	5.5%	25.0%	$421	$5,361	$	64,326

Division of Banking

Examiner Staffing - Salary Adjustments & Additional FTE Costs

2056	FCE II	2.8	$4,895	$4,821	$6,979	3.4%	25.0%	$466	$5,361	$ 64,326
2012	FCE II	2.7	$4,852	$4,821	$6,979	1.5%	25.0%	$508	$5,361	$ 64,326
2057	FCE I	0.6	$5,539	$4,375	$6,328	59.6%	NC	$0	$5,539	$ 66,466
2053	FCE I	6.8	$5,076	$4,375	$6,328	35.9%	NC	$0	$5,076	$ 60,916
2031	FCE I	0.8	$4,623	$4,375	$6,328	12.7%	NC	$0	$4,623	$ 55,481
2069	FCE I	0.6	$4,623	$4,375	$6,328	12.7%	NC	$0	$4,623	$ 55,481
2025	FCE I	3.7	$4,442	$4,375	$6,328	3.4%	20.0%	$324	$4,766	$ 57,187
2080	FCE I	3.0	$4,442	$4,375	$6,328	3.4%	20.0%	$324	$4,766	$ 57,187
			Total Recommended Salary Adjustments						$ 4,345	$ 52,144
			Fund vacant position #2081 (average FCE II salary)					**1**	$ 5,689	$ 68,268
			Requested Additional Aud IV position					**1**	$ 6,000	$ 72,000
			Requested Additional FCE II positions (avg salary)					**4**	$ 22,756	$ 273,072
			Requested Additional FCE I positions (avg. salary)					**1**	$ 4,899	$ 58,788
			Subtotal					**7**	$ 39,344	$ 472,128
			Estimated Benefits						$ 5,389	$ 64,676
			Total Increase in DOB Personal Services						**$ 49,078**	**$ 588,948**
			Total Budget Increase						**$**	**588,948**

The Division of Banking can never expect to match federal pay grades; however there are many positive benefits of State employment over the federal agencies that must be emphasized, along with elimination of glaring inequities. Otherwise the Division of Banking will continually pay to recruit and train new examiners, only to see them depart at about the time the training investment is beginning to pay off and they are becoming productive members of the team.

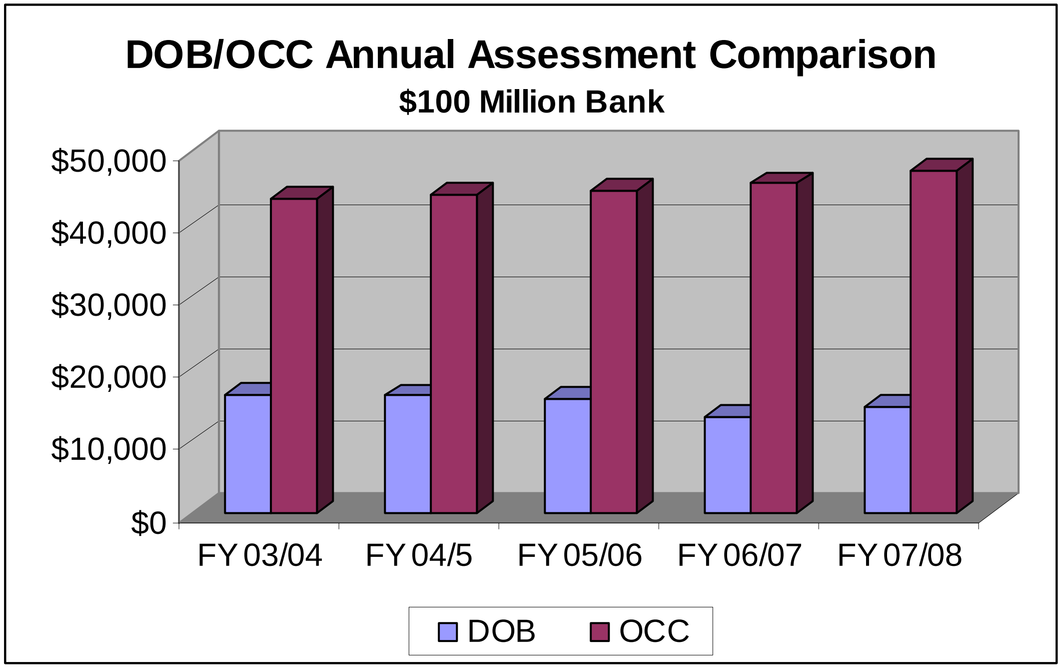


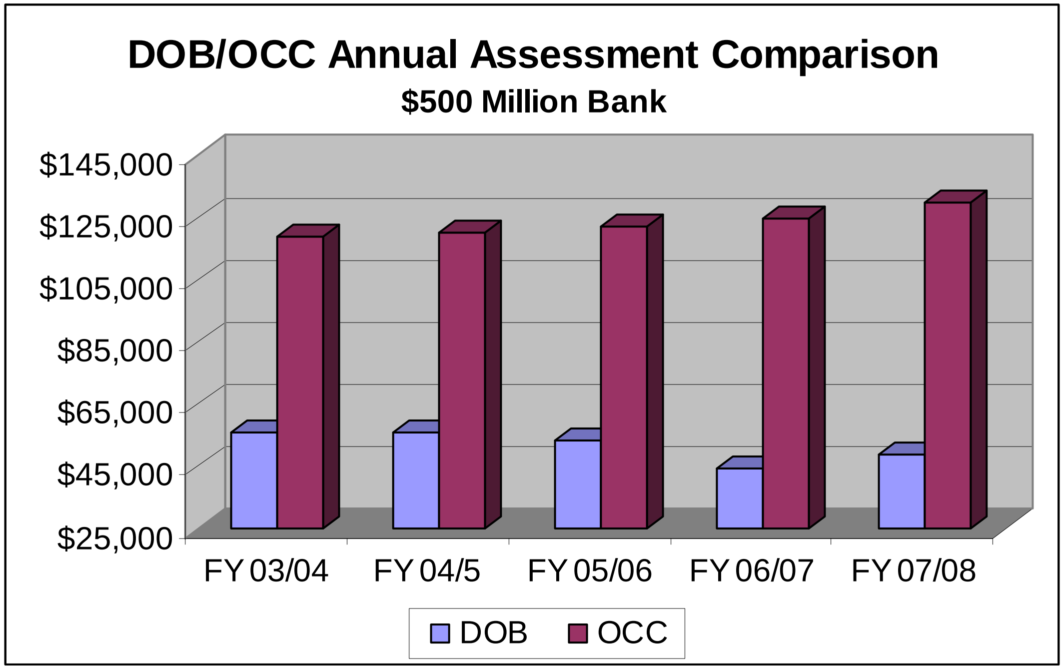
The Division of Banking is cash funded in advance through semi-annual institution assessments, specialty examination charges, and receipt of application and licensing fees. Institution assessments are the primary funding source, historically approximating 80 to 90 percent of total revenue. The semi-annual assessment methodology consists of a base amount ($1,500), plus a sliding scale percentage of assets[5] over an established level (approximately $9.0 million). The calculation formula is based on the Office of the

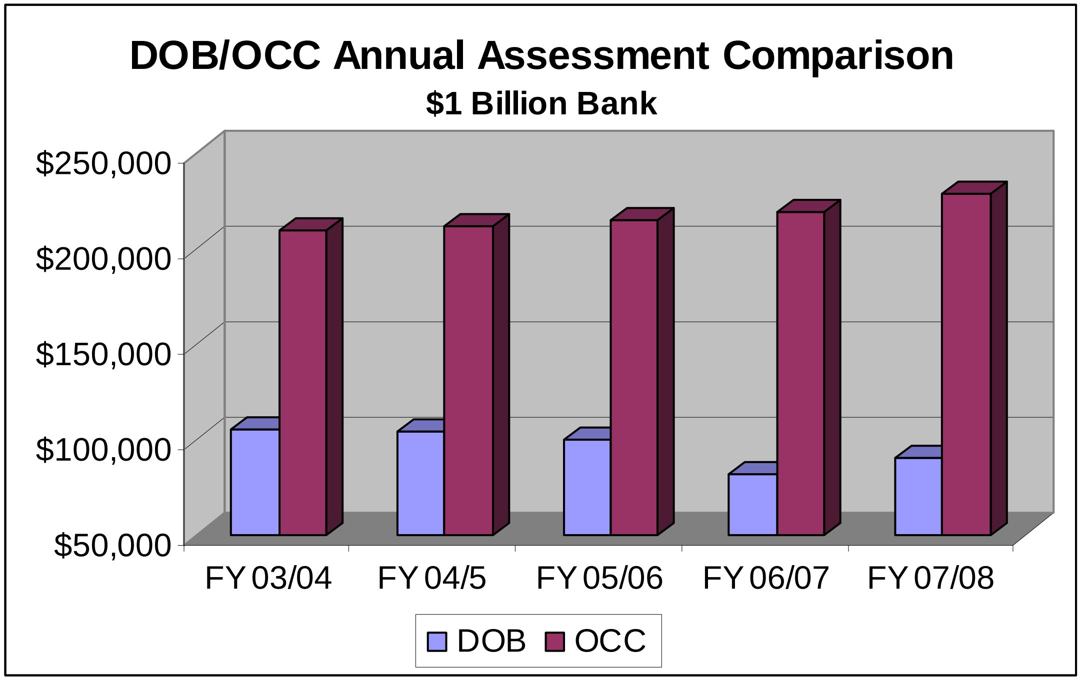
[5] The tiered structure recognizes that the time and cost to examine and supervise a $400 million bank is higher, but not double that of a $200 million bank (not unlike the matrix concept discussed under *Examination Staffing Projections*).

Comptroller of the Currency (OCC) assessment tables, less a percentage discount that is adjusted to approximate funding needs. As an example, for FY 2007-08 a commercial bank with total assets of $302 million (average asset size as of September 30, 2007) would have paid an annual assessment of $32,618 if operating as a state chartered bank and $94,864 if operating as a national bank. Institutions rated “4” or “5” are assessed an additional 25 percent to reflect the increased cost of supervision.

The following three charts contrast the annual assessment costs applicable to banks of $100 million, $500 million, and $1 billion for Division of Banking regulated depositories and national banks regulated by the OCC over the last five years.

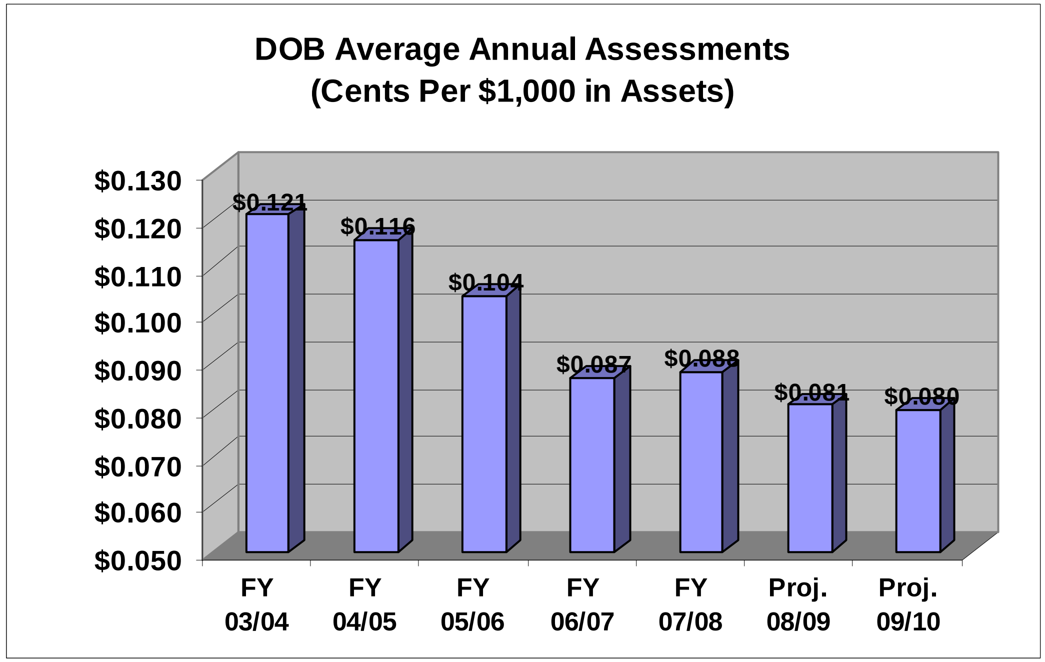



DOB/OCC Annual Assessment Comparison
$500 Million Bank
$145,000
$125,000
$105,000
$85,000
$65,000
$45,000
$25,000
FY 03/04
FY 04/5
FY 05/06
FY 06/07
FY 07/08
DOB
OCC



The growth in regulated assets over the last several years has substantially exceeded increases in Division of Banking approved appropriations; accordingly, the average assessment rate as a percentage of average assets has steadily declined. The following chart reflects this downward trend[6] as well as the impact of the recommended appropriation increases in FY 2008/09 and FY 2009/10 as a percentage of projected assets:

[6] The drop in FY06/07 followed by a slight increase in FY07/08 was due to the application of an artificially low assessment rate intended to lower the cash fund balance below the statutorily mandated cap of 16.5 percent of appropriations.



The above chart is based on annual assessment dollars as a percent of total assets. Although the trend and conclusions will be the same, rates for individual banks well be slightly higher or lower based on asset size due to the tiered assessment calculation utilized by the DOB.

The projections for FY 2008/09 and FY 2009/10 reflect forecast growth in Division of Banking assets as well as 2.0 percent annual increase in appropriations, plus the Operating (shortfall existing staff and new FTE's) and Personal Services increases. In short, the requested increases are expected to be offset by continued asset growth, leaving the assessment rates effectively unchanged - at a level 34 percent less than FY 2003/04.

The Department is dedicated to consumer protection, preserving the integrity of the marketplace and promoting a fair and competitive business environment in Colorado. The request set forth above recognize the strong growth of the Colorado financial services industry, the critical role of an adequately funded, capable state regulatory framework, and the need for ongoing improvement and efficiencies, while fully respecting budgetary restriction and costs levied on the regulated institutions.

<u>Consequences if Not Funded:</u>

If the examination unit is not staffed at a level commensurate with the growth of the banking industry, the Division of Banking will no longer be able to meet statutory and policy objectives; thereby, compromising the integrity of the regulatory process and exposing consumers and competing institutions to the unsafe and/or unscrupulous practices of a few. Since that is not an acceptable outcome, consideration was given to other alternatives, including, consolidation of the Division of Banking and Financial Services; a limited cross-utilization of examiners, while maintaining separate and distinct Divisions, boards, and funding sources; fully staffing the Division of Banking at a level commensurate with current and future needs based on reasonable projections as to industry growth and condition; and, combinations thereof.

As an additional consequence, Division of Banking's commitments under interagency agreements with the FDIC and Federal Reserve are at risk of breach, and would negatively affect the ability of the Division of Banking to rely on federal examinations. Absent this ability to rely on commitments of the other regulatory agencies, the state, FDIC, and Federal Reserve would all be required by state and federal law to conduct independent examinations, a very expensive and duplicative process for all parties. This would lead to a relationship in which separate examinations occur, essentially doubling the cost to both regulators and doubling the regulatory burden on the institutions.

A further consequence of this activity might also be that state banks would switch to national charter – placing the Division of Banking in contravention of its legislative mandate to preserve and promote the dual banking system. This would increase the risk, especially during a period of economic slowdown, that problems would go undetected.

In addition, if the request for an increase in Personal Services (salary adjustments) is not funded the lack of meaningful salary advancement despite increased production, coupled with significant pay differentials compared to federal counterparts will predictably lead many examiners to the justifiable conclusion that they are losing ground economically and must seek other employment in order to advance their careers.

The following are additional consequences of the requested not being funded:

- Reduce the number of trainees per examination, therefore, increasing length of training
- Increases potential for ineffective training
- Eliminates ability to complete addition examination for special action banks
- Disrupts schedule frequency of examination cycle
- Increases examiners extensive workload
- Potentially eliminates segments of the examination
- Reduces “quality” of examination reviews (i.e. percent of loans reviewed)
- Increases length of time identify “problem banks”
- Extends length of time institution have to address and resolve violations/actions (the longer the problem exists, the longer it takes to correct

<u>Calculations for Request:</u>

Summary of Request FY 2009-10	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$707,579	$0	$707,579	$0	$0	6.0
(1) Executive Director's Office Leased Space	$22,500	$0	$22,500	$0	$0	0.0
(1) Executive Director's Office Hardware	$0	$0	$0	$0	$0	0.0
(2) Division of Banking Personal Services	$528,011	$0	$528,011	$0	$0	6.0
(2) Division of Banking Operating Expenses	$157,068	$0	$157,068	$0	$0	0.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$677,141	$0	$677,141	$0	$0	6.0
(1) Executive Director's Office Leased Space	$22,500	$0	$22,500	$0	$0	0.0
(1) Executive Director's Office Hardware	$930	$0	$930	$0	$0	0.0
(2) Division of Banking Personal Services	$528,011	$0	$528,011	$0	$0	6.0
(2) Division of Banking Operating Expenses	$125,700	$0	$125,700	$0	$0	0.0

Cash Funds Projections: Given that approximately 90 percent of the Division of Banking's funding is derived from semi-annual assessments levied on state-chartered banks, input and suggestions from industry representatives was sought and considered. Industry representatives indicated a strong preference for staffing the Division of Banking's examination unit at an appropriate level on a stand-alone basis, and not pursuing consolidation or limited cross-utilization of examiners**.**

Cash Fund Name	**Cash Fund Number**	**FY 2007-08 Expenditures**	**FY 2007-08 End of Year Cash Balance**	**FY 2008-09 End of Year Cash Balance Estimate**	**FY 2009-10 End of Year Cash Balance Estimate**	**FY 2010-11 End of Year Cash Balance Estimate**
Division of Banking	244	$4,036,808	$470,434	$504,000	$600,000	$627,919

Assumptions for Calculations: Assumptions for calculation of finding are found in the following table, with additional supporting detail located throughout this request.

		FTE and Operating Costs									*GRAND TOTAL*		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**Financial Credit Examiner I**			**Financial Credit Examiner II**			**Auditor IV**					
Number of PERSONS / class title		1	1	1	4	4	4	1	1	1			
Number of months working in FY 08-09, FY 09-10 and FY 10-11		12	12	12	12	12	12	12	12	12			
Number months paid in FY 08-09, FY 09-10 and FY 10-11[1]		12	12	12	12	12	12	12	12	12			
Calculated FTE per classification		**1.0**	**1.0**	**1.0**	**4.0**	**4.0**	**4.0**	**1.0**	**1.0**	**1.0**	6.0	6.0	6.0
Annual base salary		$52,500	$52,500	$52,500	$57,852	$57,852	$57,852	$68,808	$68,808	$68,808			
Salary, Vacant Financial Credit Examiner II											$68,268	$68,268	$68,268
Salary Adjustments for Base Division FTE											$52,144	$52,144	$52,144
Salary		$52,500	$52,500	$52,500	$231,408	$231,408	$231,408	$68,808	$68,808	$68,808	$352,716	$352,716	$352,716
PERA*	**10.15%**	$5,329	$5,329	$5,329	$23,488	$23,488	$23,488	$6,984	$6,984	$6,984	$48,023	$48,023	$48,023
Medicare*	**1.45%**	$761	$761	$761	$3,355	$3,355	$3,355	$998	$998	$998	$6,860	$6,860	$6,860
Subtotal Personal Services at Division Level		**$58,590**	**$58,590**	**$58,590**	**$258,251**	**$258,251**	**$258,251**	**$76,790**	**$76,790**	**$76,790**	**$528,011**	**$528,011**	**$528,011**
OPERATING EXPENSES													
Supplies @ $500/$500[2]	**$500**	$500	$500	$500	$2,000	$2,000	$2,000	$500	$500	$500	$3,000	$3,000	$3,000
Computer @ $900/$0	**$900**	$900	$0	$0	$3,600	$0	$0	$900	$0	$0	$5,400	$0	$0
Office Suite Software @ $330/$0	**$330**	$330	$0	$0	$1,320	$0	$0	$330	$0	$0	$1,980	$0	$0
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$3,998	$0	$0	$15,992	$0	$0	$3,998	$0	$0	$23,988	$0	$0
Telephone Base @ $450/$450	**$450**	$450	$450	$450	$1,800	$1,800	$1,800	$450	$450	$450	$2,700	$2,700	$2,700
Leased Space (150 SF/FTE estimated at $25.00/SF)											$22,500	$22,500	$22,500

FTE and Operating Costs											***GRAND TOTAL***		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Hardware/Software Maintenance ($155/FTE)												$930	$930
Travel for new FTE **											$120,000	$120,000	$120,000
Subtotal Operating Expenses		**$6,178**	**$950**	**$950**	**$24,712**	**$3,800**	**$3,800**	**$6,178**	**$950**	**$950**	**$179,568**	**$149,130**	**$149,130**
GRAND TOTAL ALL COSTS		**$64,768**	**$59,540**	**$59,540**	**$282,963**	**$262,051**	**$262,051**	**$82,968**	**$77,740**	**$77,740**	**$707,579**	**$677,141**	**$677,141**

*PERA and Medicare totals include incremental amounts associated with requested non-FTE salary adjustments of $68,268 and $52,144.

** Travel costs include $36,000 in estimated shortfall for existing FTE (calculated as the difference between projected examination-by-examination total need of $293,000 less a projected $257,000 in available funds), and $84,000 for requested new FTE (calculated at an estimated $14,000 per FTE).

Impact on Other Government Agencies: The Division of Banking has signed Cooperative Agreements with the FDIC and the Federal Reserve. If the DOB has insufficient staff to complete examinations, or assist in joint examinations, the agreements become void. As a result, the FDIC, the Federal Reserve, and the Division of Banking, would each have to complete their own examination, which would result in increased costs for all agencies involved.

Cost Benefit Analysis: The costs associated with this request are expected to provide sufficient resources to ensure the Division of Banking is able to complete its legislative agenda as outlined in 11-102-301, C.R.S. (2008), and adequately examine financial institutions. These costs represent the costs of public protection in ensuring the solvency and stability of state-chartered banks, and of taking action to minimize losses in the event of a failure. Colorado banks hold assets ranging between $14 million to $2.6 billion for a single institution and $8 billion for a banking organization having multiple institutions. In the event of a failure, losses can exceed 50% of a bank's assets, which would translate to between roughly $7 million and $4 billion, depending on the institution. So any bank failure as a result of inadequate examination – even of the smallest state-chartered bank – would result in losses that far outweigh the $707,579 cost of this request. While a bank failure is not certain as a result of inadequate examination, the consequences of inadequate examinations increase the risk of a failure.

Furthermore, as previously stated it is the policy of the Division of Banking to protect the public interest by regulating the business of state chartered and/or licensed financial institutions under its supervision in such a manner as to preserve and promote sound and constructive competition among financial services institutions; a dual federal and state banking system; the security of deposits; the safe and sound conduct of the business of state chartered/licensed financial institutions; and a statewide safe and sound banking system.

Implementation Schedule:

Task	**Month/Year**
Increase Operating line item-travel	July 2009
Increase in Personal Services line item	July 2009
Increase in Operating line item- new FTE	July 2009
FTE Hired	July 2009

Tailor this table to meet the needs of the specific Change Request; delete and add rows as applicable.

Statutory and Federal Authority:

Section **11-102-101, C.R.S. (2008) as follows:**
Division of banking - creation - subject to termination - repeal of article. (1) There is hereby created a division of banking within the department of regulatory agencies. The division shall be charged with functions provided by law. Whenever any law of this state refers to the banking department, said law shall be construed as referring to the division of banking.

(2) The administrative head of the division shall be the commissioner of banking, who shall be the state bank commissioner appointed and serving as provided by law, and the deputies and employees of the commissioner shall also be deputies and employees of the division of banking hereby created. The bank commissioner, at the time of his or her appointment, shall be experienced in the theory and practice of the business and regulation of financial services institutions under the jurisdiction of the banking board.

(3) (a) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the division of banking created by this section.

(b) This article is repealed, effective July 1, 2013.

11-102-301. Examinations and examiner's reports. (1) The commissioner shall examine the books and records of every state bank as often as deemed advisable and to the extent required by the banking board, shall make and file in his or her office a correct report in detail disclosing the results of such examination, and shall mail a copy of such report to the bank examined.

(2) The commissioner shall examine, as often as deemed advisable and to the extent required by the banking board, any electronic data processing centers of a state bank or any electronic data processing centers that serve a state bank, without regard to the location of the electronic data processing center; shall make and file in his or her office a correct report in detail disclosing the results of such examination; and shall mail a copy of such report to the data processing centers examined and the state bank that they serve.

(3)(a) The commissioner, if he or she deems it necessary or if required by the banking board, may examine the books and records of the controlling shareholder of a state bank and any affiliated entities of the controlling shareholder, as well as any relationship among the controlling shareholder and its affiliated entities, for the purpose of determining the safety and soundness of the state bank.

(b) If the controlling shareholder or affiliate's records are located outside this state, the controlling shareholder or affiliate shall either make them available to the commissioner at a convenient location within this state or pay the reasonable and necessary expenses for the commissioner or the commissioner's representative to examine the records at the place where they are located.

(c) The commissioner may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf.

(d) If a controlling shareholder or affiliate refuses to permit the commissioner to make an examination, the banking board may fine such controlling shareholder or affiliate an amount not to exceed one thousand dollars for each day any such refusal continues.

(e) In lieu of any examination required by this subsection (3), the commissioner may accept an audit for the previous fiscal year prepared by an independent certified public accountant, independent registered accountant, or other independent qualified person. If the commissioner accepts an audit prepared by such independent person, no costs of the audit shall be borne by the commissioner and all costs of such audit shall remain the obligation of the controlling shareholder or affiliate.

(f) For purposes of this subsection (3):

(I) "Affiliated entity" or "affiliate" means an entity in control of a controlling shareholder or an entity controlled by a controlling shareholder.

(II) "Controlling shareholder" means a shareholder in control of a state bank.

(III) "In control of" means that an entity or shareholder meets the same criteria for acquiring control as is set forth in section 11-102-303 for acquiring control of a state bank.

(4) If the commissioner deems necessary, the commissioner may examine any corporation the majority of the stock of which is owned by a state bank or which corporation is found by the banking board to be controlled by a state bank, but the provisions of this subsection (4) shall not apply when such stock is held in a fiduciary capacity by the bank.

(5) If the banking board finds any officer, director, or employee of any state bank to be dishonest, reckless, incompetent, or acting in violation of this code, it shall, in writing, report the facts regarding such officer, director, or employee to the board of directors of the state bank, and, if the directors of the state bank fail or refuse to take action on such report within ten days, the banking board may, if it deems it advisable, send a copy of such report to the surety on the bond of said officer.

Performance Measures:

Division of Banking's 2009/2010 Strategic Plan – The Department's DOB protects consumers by conducting examinations of all state-charter or licensed financial institutions under it supervision to preserve public trust in the Colorado banking industry.

Reasons to Believe:

- Accessible Government
- Qualified Professionals
- Fair Standards

Strategic Results:

- Professional Outreach
- Economic Environment

Measures:

- DOB annually coveys key regulatory issues and guidelines to 80 percent of bank officers/directors
- 78 percent of Colorado banks are state chartered and 95 percent of new charters are state chartered

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: PUC Electric Transmission Planning
Department: Department of Regulatory Agencies
Priority Number: DI-7

Dept. Approval by: [signature] **Date:** 10/4/08
OSPB Approval: [signature] **Date:** 10-21-08

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2007-08	Appropriation FY 2008-09	Supplemental Request FY 2008-09	Total Revised Request FY 2008-09	Base Request FY 2009-10	Decision/ Base Reduction FY 2009-10	November 1 Request FY 2009-10	Budget Amendment FY 2009-10	Total Revised Request FY 2009-10	Change from Base (Column 5) FY 2010-11
Total of All Line Items	Total	12,154,322	12,582,789	0	12,582,789	13,039,955	221,658	13,261,613	0	13,261,613	211,512
	FTE	88.8	101.1	0.0	101.1	100.9	2.0	102.9	0.0	102.9	2.0
	GF	88,272	92,059	0	92,059	102,946	0	102,946	0	102,946	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	11,380,262	11,784,383	0	11,784,383	12,170,294	221,658	12,391,952	0	12,391,952	211,512
	CFE/RF	659,664	679,092	0	679,092	724,808	0	724,808	0	724,808	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Leased Space	Total	2,524,965	2,805,617	0	2,805,617	3,138,077	7,500	3,145,577	0	3,145,577	7,500
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	87,472	91,259	0	91,259	102,146	0	102,146	0	102,146	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,010,307	2,266,613	0	2,266,613	2,527,818	7,500	2,535,318	0	2,535,318	7,500
	CFE/RF	401,062	420,490	0	420,490	466,206	0	466,206	0	466,206	0
	FF	26,124	27,255	0	27,255	41,907	0	41,907	0	41,907	0
(1) Executive Director's Office, Hardware/Software Maintenance	Total	678,715	883,465	0	883,465	672,315	0	672,315	0	672,315	310
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	800	800	0	800	800	0	800	0	800	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	419,313	624,063	0	624,063	412,913	0	412,913	0	412,913	310
	CFE/RF	258,602	258,602	0	258,602	258,602	0	258,602	0	258,602	0
	FF	0	0	0	0	0	0	0	0	0	0
(7) Public Utilities Commission, Personal Services	Total	8,558,518	8,475,608	0	8,475,608	8,828,119	161,802	8,989,921	0	8,989,921	161,802
	FTE	88.8	101.1	0.0	101.1	100.9	2.0	102.9	0.0	102.9	2.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	8,558,518	8,475,608	0	8,475,608	8,828,119	161,802	8,989,921	0	8,989,921	161,802
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Schedule 13
Change Request for FY 2009-10 Budget Request Cycle

Decision Item FY 2009-10 ☑ | Base Reduction Item FY 2009-10 ☐ | Supplemental FY 2008-09 ☐ | Budget Amendment FY 2009-10 ☐

Request Title: PUC Electric Transmission Planning

Department: Department of Regulatory Agencies | **Dept. Approval by:** | **Date:**

Priority Number: DI-7 | **OSPB Approval:** | **Date:**

		1	2	3	4	5	6	7	8	9	10
	Fund	Prior-Year Actual FY 2007-08	Appropriation FY 2008-09	Supplemental Request FY 2008-09	Total Revised Request FY 2008-09	Base Request FY 2009-10	Decision/ Base Reduction FY 2009-10	November 1 Request FY 2009-10	Budget Amendment FY 2009-10	Total Revised Request FY 2009-10	Change from Base (Column 5) FY 2010-11
(7) Public Utilities Commission, Operating Expenses	Total	392,124	418,099	0	418,099	401,444	52,356	453,800	0	453,800	41,900
	FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	392,124	418,099	0	418,099	401,444	52,356	453,800	0	453,800	41,900
	CFE/RF	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Non-Line Item Request: None

Letternote Revised Text: None

Cash or Federal Fund Name and COFRS Fund Number: Fixed Utilities Cash Fund, #184

Reappropriated Funds Source, by Department and Line Item Name: N/A, CF Request

Approval by OIT? Yes: ☐ No: ☐ N/A: ☑

Schedule 13s from Affected Departments: No

CHANGE REQUEST for FY 2009-10 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	DI-7
Change Request Title:	Increase Resources for Electricity Transmission Planning

SELECT ONE (click on box):

☒Decision Item FY 2009-10
☐Base Reduction Item FY 2009-10
☐Supplemental Request FY 2008-09
☐Budget Request Amendment FY 2009-10

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:
☒Not a Supplemental or Budget Request Amendment
☐An emergency
☐A technical error which has a substantial effect on the operation of the program
☐New data resulting in substantial changes in funding needs
☐Unforeseen contingency such as a significant workload change

Short Summary of Request: For the purpose of ensuring just and reasonable utility rates into the future for Colorado consumers, the Department requests $221,658 cash funds spending authority and 2.0 FTE in FY 2009-10 to enable the Public Utilities Commission to represent Colorado's interests in critically important regional, national, and local efforts on planning for electricity transmission.

Background and Appropriation History: The mission of the Public Utilities Commission is to protect consumers by regulating the rates and services of a wide range of transportation and fixed utilities throughout Colorado. Assessments and licensing fees paid by regulated entities support the Division.

PUC has full economic and quality of service regulatory authority over intrastate telecommunication services; and investor-owned electric, gas and water utilities, as well as partial regulatory control over municipal utilities and electric associations. The Public Utilities Commission also has jurisdiction over gas pipeline inspection units, investor-owned distribution operators; municipal distribution operators; master meter distribution operators; investor-owned transmission operators; some municipal transmission operators; liquid petroleum operators; and direct sales purchasers. The PUC also regulates utilities that move, such as railroad and motor carrier utilities that are for hire. Under its jurisdiction are common and contract motor carriers; transportation operating authorities; carriers providing intrastate transportation services; and carriers providing interstate transportation services. Finally, the PUC has jurisdiction over public railroad-highway grade crossings. The PUC has some legislative and judicial authority, and is charged with determining whether utilities have the financial and technical capability to provide services. In addition, the PUC also administers the following programs: Colo. Telecommunications High Cost Program, the Low-Income Telephone Assistance Program, the Highway Crossing Protection Program, and the Disabled Telephone Users Program.

The Commission includes three members who are appointed by the Governor and confirmed by the Senate for a term of four years. The Division Director manages the staff and daily operations of the Public Utilities Commission. Staff members have specialized knowledge in engineering, economics, law, finance, support, and management, and are organized into the following working sections and units: the Energy Section; Telecommunications Section; Economics Section; Transportation Section; Administrative Hearings Section; External Affairs Unit; Policy Advisory Unit; Rail/Transit Safety and Water Section; Gas Pipeline Safety Section; Administrative Services Section; and, the Research and Emerging Issues Section.

The FY 2008-09 appropriation for the Public Utilities Commission includes $9.5 million and 101.1 FTE Personal Services and $418,099 Operating Expenses, with additional funding for centrally appropriated items including $1.3 million in legal services. This compares to an FY 07-08 total appropriation of $8.7 million and 95.6 FTE Personal Services, $402,660 Operating Expenses, and additional funding for centrally appropriated items including $1.2 million in legal services. During recent years the only significant FTE change occurred when legislation to continue the Public Utilities Commission (HB 08-1227) added 4.0 FTE in order to accommodate added regulatory responsibilities.

General Description of Request:

For the purpose of ensuring just and reasonable utility rates into the future for Colorado consumers, the Department requests $221,658 Cash Funds and 2.0 FTE to enable the Public Utilities Commission to represent Colorado's interests in critically important regional, national, and local efforts on planning for electricity transmission. Specifically, this includes 2.0 FTE General Professional VI and associated travel and operating expenses funding.

Emerging Energy Issues Will Place Significant Pressure on Utility Rates. Colorado, like many other states in the United States, is facing the need for increased electricity generation at rates that are reasonable for residential and commercial consumers. At the same time, the nation is acting in various ways to address global climate change issues. Both the need for increased generation and actions being taken to address global climate change issues are likely to impact electric utility rates throughout the nation, which places pressure on the statutory charge of the Public Utilities Commission to ensure just and reasonable rates.

Colorado's Position is Favorable Relative to Other States. The problems affecting utility rates transcend Colorado borders, as the entire nation will be challenged to meet the need for increased electricity at reasonable and affordable rates while also addressing climate change issues. However, these challenges provide opportunities for economic development in Colorado that other states may not have. Colorado contains abundant traditional coal and gas resources, and at the same time is becoming a leader in the development and use of renewable resources for electric generation. When combined with the opportunities for cleaner coal and gas-fired generation in the state, Colorado has the potential to become an exporter of energy (both clean and traditional) to other states on the western interconnect.[1]

[1] Colorado, by virtue of its location and by virtue of the existing AC/DC tie, is positioned as a potential supplier of power to the eastern United States if ultimately additional facilities to interconnect the western and eastern grid are considered.

Colorado's Advantage is Limited by Transmission Capacity. Colorado possesses unique advantages in terms of natural and renewable resources, both in its natural supply of coal and gas, and its head start on renewable development. This increasingly balanced approach to energy production will assist in maintaining reasonable utility rates for Colorado consumers.

However, capitalizing on these advantages hinges on a method to deliver energy both inside and outside the state that does not presently exist. Electricity transmission capacity – both inside the state and outside the state – has a positive effect on utility rates in several ways. For times of peak demand, the ability to import energy increases supply, and therefore has a positive affect on utility rates. For times in which energy production exceeds demand (particularly with renewable sources such as wind power), the ability to export energy capitalizes on this by enabling this power to be sold rather than unused and unproduced. Last, effective transmission capacity enables power to be moved in a way that enables energy production to be managed to the least possible cost, both inter- and particularly intra-state. All told, the ability to transport Colorado power both within and outside the state to other parts of the country is central to maintaining reasonable rates for Colorado consumers.

The ability to move Colorado power is completely dependent on transmission facilities both in Colorado and elsewhere. Planning for and building new transmission is a significant undertaking that requires extensive planning, designing, permitting, site planning, and most importantly, high levels of regional and national coordination. This is particularly true in the western region of the country, a strategically important energy location where significant multi-state planning that addresses both reliability issues and economic, environmental and regulatory policy issues is necessary.

Lack of Transmission Planning Resources Places Colorado's Utility Interests at Risk. As such, the Colorado Public Utilities Commission must be a key party to all regional planning efforts. The Commission and its personnel understand transmission reliability, economics, and policy issues within the state – and most importantly, represent the interest of Colorado consumers. Unfortunately, the Public Utilities Commission currently does not have the resources to effectively participate in critical state and national forums to protect and advance the state's interests. The lack of effective Public Utilities Commission participation in these state and national forums places Colorado at significant disadvantage when key strategic regional planning, design, site planning, and pricing decisions are made, and this effectively neutralizes the natural and policy-based advantages Colorado presently enjoys.

Task Force Recommends Additional Resources. Moreover, the General Assembly has expressed a commitment to study this important issue and bolster efforts in the area. During the 2006 legislative session, the General Assembly commissioned a Task Force on Reliable Electricity Infrastructure to study transmission issues throughout the state.[2] *A key recommendation from that task force[3] was that the Public Utilities Commission needs additional resources to effectuate progressive transmission policies*. The Task Force was comprised of four members designated by the legislation, ten members appointed by the Governor and legislative leaders, and one member appointed by mutual consent of the Governor and the legislative leaders. The Task Force held public meetings receiving testimony and presentations from electric utility experts, renewable energy resource experts, and regional reliability organizations on all the issues delineated by the legislation. One key recommendation from the task force stated: "The Task Force recognizes that transmission is a regional reliability issue. Therefore, the Task Force recommends that as a matter of state policy the Colorado State Legislature appropriate adequate funding for the Public Utilities Commission to actively participate in regional electricity transmission planning, reliability and regulatory forums."

This is not the only study that addressed critical transmission issues. During the 2007 legislative session, the legislature required the Governor's Energy Office to "develop a map of existing generation and transmission lines and potential renewable resource generation development areas within Colorado that have the potential to support competition among renewable energy developers for development of renewable resource

[2] House Bill 06-1325.
[3] *Report of the Task Force on Reliable Electricity Infrastructure*, November 1, 2006.

generation projects."[4] The results of those study efforts identified an abundance of potential renewable resources throughout Colorado, but also identified challenges of connecting Colorado's renewable resources to the markets. It stated: "Perhaps foremost among the challenges are the unique transmission capacity constraints that exist in Colorado."[5]

Recent Legislation Demonstrates Unfulfilled Commitment to Transmission Capacity. As an additional factor, the passage of Senate Bill 07-100 was passed to require electric utilities to undertake biennial reviews to designate areas of the state in which transmission capacity lags behind generating capacity and to consider impacts of renewable energy facilities, and to submit proposed plans for the development of additional transmission facilities with Public Utilities Commission approval. It also broadened existing standards for approval to include the need to ensure the reliable delivery of electricity to Colorado consumers and to meet renewable energy standards, as well as inserted costs of these activities to be recovered from consumers.

While it was expected that this policy change would contribute to co-ordination and facilitation of transmission planning efforts within the state, the lack of Public Utilities Commission involvement in fostering those activities has hindered their success.

Additional Resources Requested. In response to these calls for additional Public Utilities Commission involvement in this critical and important issue on behalf of Colorado rate payers, the Department requests funding in order to implement the 2006 recommendation and resolve this important issue. Specifically, the Department requests $221,658 Cash Funds and 2.0 FTE to enable the Public Utilities Commission to represent Colorado's interests in critically important regional, national, and local efforts on planning for electricity transmission.

The workload driving the request involves representation at national, regional, and state planning organizations and efforts. This includes workload encompassing all facets of

[4] Senate Bill 07-091.
[5] *Connecting Colorado Renewable Resources to the Market*, p.3.

effective representation: monitoring, technical and policy review, planning and recommendation development, and report preparation. While different efforts will require different levels of activity, all told this includes an estimated 1,048 hours of work associated with national organizations and planning efforts, 1,372 hours associated with regional planning efforts, and 1,968 hours associated with state planning efforts -- or an estimated 4,388 hours in total. It is expected that this workload can be divided between two positions, as follows:

The first of these two people will participate in regional and national forums that advance Colorado's overall economic and policy interests and that increase the reliability and robustness of the electric grid that serves Colorado. These include, but not limited to the: North American Electric Reliability Organization; FERC; the Department of Energy; the Western Electric Coordinating Council; the Transmission Expansion Planning Policy Committee, the Western Interconnection Regional Advisory Board, and WestConnect. They would also be expected to advance the development of interstate partnerships with other State Commissions and Authorities in the Region. Detailed estimates of the purpose and activities associated with each entity are outlined in the attached workload matrix.

The second of these two people will monitor and understand on-going activities in Colorado concerning transmission in state forums including, but not limited to attending activities of: the Clean Energy Development Authority; the Senate Bill 100 Task Force; the Colorado Coordinated Planning Group; and, the Colorado Long Range Planning Group. Additionally, they would be expected to serve as a liaison to economic development agencies and city and county planning organizations throughout the state relating to energy and transmission planning issues. Detailed estimates of the purpose and activities associated with each entity are outlined in the attached workload matrix.

Consequences if Not Funded:

As previously stated, emerging energy issues will place significant pressure on utility rates in Colorado, and while Colorado's position is favorable relative to other states, this advantage is limited by transmission capacity. Despite significant attention from legislative and other policy makers (including task force recommendations, studies, and recent legislative bills) that suggests the need for increased resources, the lack of transmission planning resources places Colorado's utility interests at a disadvantage.

Without the ability and resources to plan effectively, Colorado rate payers will experience unnecessary utility rate increases resulting from an inability to utilize transmission capacity to manage energy resources to have the most benefit on rates.

Calculations for Request:

Summary of Request FY 2009-10	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$221,658	$0	$221,658	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0
(1) Executive Director's Office Hardware/Software Maintenance	$0	$0	$0	$0	$0	0.0
(7) Public Utilities Commission Personal Services	$161,802	$0	$161,802	$0	$0	2.0
(7) Public Utilities Commission Operating Expenses	$52,356	$0	$52,356	$0	$0	0.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
Total Request	$211,512	$0	$211,512	$0	$0	2.0
(1) Executive Director's Office Leased Space	$7,500	$0	$7,500	$0	$0	0.0

Summary of Request FY 2010-11	Total Funds	General Fund	Cash Funds	Reappropriated Funds	Federal Funds	FTE
(1) Executive Director's Office Hardware/Software Maintenance	$310	$0	$310	$0	$0	0.0
(7) Public Utilities Commission Personal Services	$161,802	$0	$161,802	$0	$0	2.0
(7) Public Utilities Commission Operating Expenses	$41,900	$0	$41,900	$0	$0	0.0

<u>Assumptions for Calculations</u>:

FTE and Operating Costs					*GRAND TOTAL*		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
PERSONAL SERVICES	**Title:**	**General Professional VI**					
Number of PERSONS / class title		2	2	2			
Number of months <u>working in</u> FY 08-09, FY 09-10 and FY 10-11		12	12	12			
Number months <u>paid in</u> FY 08-09, FY 09-10 and FY 10-11[1]		12	12	12			
Calculated FTE per classification		**2.0**	**2.0**	**2.0**	2.0	2.0	2.0
Annual base salary		$72,492	$72,492	$72,492			
Salary		$144,984	$144,984	$144,984	$144,984	$144,984	$144,984
PERA	**10.15%**	$14,716	$14,716	$14,716	$14,716	$14,716	$14,716
Medicare	**1.45%**	$2,102	$2,102	$2,102	$2,102	$2,102	$2,102
Subtotal Personal Services at Division Level		**$161,802**	**$161,802**	**$161,802**	**$161,802**	**$161,802**	**$161,802**
OPERATING EXPENSES							
Supplies @ $500/$500[2]	**$500**	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000
Computer @ $900/$0	**$900**	$1,800	$0	$0	$1,800	$0	$0
Office Suite Software @ $330/$0	**$330**	$660	$0	$0	$660	$0	$0

FTE and Operating Costs					***GRAND TOTAL***		
Fiscal Year(s) of Request		**FY 09-10**	**FY 10-11**	**FY 11-12**	**FY 09-10**	**FY 10-11**	**FY 11-12**
Office Equipment @ $3,998/$0 (includes cubicle and chair)	**$3,998**	$7,996	$0	$0	$7,996	$0	$0
Telephone Base @ $450/$450[2]	**$450**	$900	$900	$900	$900	$900	$900
Travel For New FTE*					$40,000	$40,000	$40,000
Leased Space (150 SF/FTE estimated at $25.00/SF)					$7,500	$7,500	$7,500
Hardware/Software Maintenance ($155/FTE)					$0	$310	$310
Subtotal Operating Expenses		**$12,356**	**$1,900**	**$1,900**	**$59,856**	**$49,710**	**$49,710**
GRAND TOTAL ALL COSTS		**$174,158**	**$163,702**	**$163,702**	**$221,658**	**$211,512**	**$211,512**

*Travel costs are estimated based on 3 trips to other states per month x 12 months per year x $1,000 per trip for the regional/national travel, plus an estimated $4,000 per year for in-state travel.

Impact on Other Government Agencies: None.

Cost Benefit Analysis: The cost benefit of hiring the requested staff should entail comparing the annual costs of these staff members with the rate impact realized as a result of their efforts at planning for transmission capacity. Unfortunately, it is not possible to quantify this impact in advance, nor would it be possible to isolate the impact of transmission capacity on rates until the transmission capacity is planned, developed, and operational. Further, the actual addition of transmission capacity brings with it its own cost-benefit calculations in order to justify the up-front investment in infrastructure by rate-payers – something that is not part of this request itself.

However, it is possible to show in rough terms the annual utility rate savings that would be required per household, for instance, to break even and thereby justify the cost of the request, and what this translates to on average per citizen:

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	Cost	**Number of Households**	**Cost per Household (required Savings)**	**Average per Citizen**
Utility Rate Savings required	$221,658	1,960,617	$0.12	$0.05

Additionally, based on past history it is possible to show that Public Utilities Commission involvement always yields exponential savings – most recently, the Division achieved over $72 million in savings compared to an appropriation of approximately $18 million annually, which represents a positive cost-benefit ratio of 4.0. Applying this rough assumption to the increased expenditures associated with the request, the additional staff could expect to generate roughly $887,000 in savings, on average.

Implementation Schedule:

Task	Month/Year
FTE Hired	July 2009

Statutory and Federal Authority:

40-2-115, C.R.S (2008). Cooperation with other states and with the United States. (1) The commission is authorized to confer with or hold joint hearings with the authorities of any state or any agency of the United States in connection with any matter arising in proceedings under this title, under the laws of any state, or under the laws of the United States; to avail itself of the cooperation, services, records, and facilities of authorities of this state, any other state, or any agency of the United States as may be practicable in the enforcement or administration of the provisions of this title; and to enter into cooperative agreements with the various states and with any agency of the United States to enforce the economic and safety laws and rules of this state and of the United States. The commission is authorized to provide for the exchange of information concerning the enforcement of the economic and safety laws and rules of this state, any other state, and the United States relating to public utilities or to safety of transportation of gas by any person including a municipality; and, in particular, the commission may enforce the rules of the United States department of transportation concerning pipeline safety drug testing promulgated under the federal "Natural Gas Pipeline Safety Act", 49 U.S.C. sec. 60101 et seq., and may adopt such rules as are necessary and proper to comply with federal requirements under said act. (1.5) The commission is authorized to adopt such rules as may be necessary to enforce and administer, in cooperation with the United States department of transportation, the provisions of the "Natural Gas Pipeline Safety Act", 49

U.S.C. sec. 60101 et seq., for the purpose of gas pipeline safety. Such rules shall apply to all public utilities and all municipal or quasi-municipal corporations transporting natural gas or providing natural gas service, all operators of master meter systems, as defined in 49 CFR 191.3, and all operators of pipelines transporting gas in intrastate commerce.

40-2-123 C.R.S (2008). New energy technologies - consideration by commission - incentives - demonstration projects - definitions - legislative declaration. (1) (a) The commission shall give the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases. The commission shall consider utility investments in energy efficiency to be an acceptable use of ratepayer moneys. This statute directs the commission to give fullest possible consideration to the cost-effective implementation of clean-energy and energy-efficient technologies in generation acquisition. A major stumbling block to new energy technologies is the lack of transmission to connect those technologies to the existing grid.

40-3-101, C.R.S. (2008) (1) All charges made, demanded, or received by any public utility for any rate, fare, product, or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded, or received for such rate, fare, product or commodity, or service is prohibited and declared unlawful. Rates and charges demanded or received by any public utility for gas transportation service furnished or to be furnished shall not be deemed to be unjust or unreasonable so long as said rate or charge is no greater than a maximum rate and no lower than a minimum rate determined by the commission (or, in the case of a municipal utility, by the governing body of the municipal utility in accordance with sections 40-3-102 and 40-3.5-102) to be just and reasonable, and the provision of such gas transportation service at such rates or charges shall not constitute per se unjust discrimination or the granting of a preference. Nothing in this subsection (1) shall limit or restrict the commission's authority to regulate rates and *charges, correct abuses, or prevent unjust discrimination.(2) Every public utility shall furnish, provide, and maintain such service, instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and convenience of its patrons, employees, and the public, and as shall in all respects be adequate, efficient, just, and reasonable.§40-4-101 Regulations, service, and facilities prescribed.*

40-2-126, C.R.S. (2008) (1) As used in this section, "energy resource zone" means a geographic area in which transmission constraints hinder the delivery of electricity to Colorado consumers, the development of new electric generation facilities to serve Colorado consumers, or both. (2) On or before October 31 of each odd-numbered year, commencing in 2007, each Colorado electric utility subject to rate regulation by the commission shall: (a) Designate energy resource zones; (b) Develop plans for the construction or expansion of transmission facilities necessary to deliver electric power consistent with the timing of the development of beneficial energy resources located in or near such zones; (c) Consider how transmission can be provided to encourage local ownership of renewable energy facilities, whether through renewable energy cooperatives as provided in section 7-56-210, C.R.S., or otherwise; and (d) Submit proposed plans, designations, and applications for certificates of public convenience and necessity to the commission for simultaneous review pursuant to subsection (3) of this section. (3) The commission shall approve a utility's application for a certificate of public convenience and necessity for the construction or expansion of transmission facilities pursuant to paragraph (b) of subsection (2) of this section if the commission finds that:
(a) The construction or expansion is required to ensure the reliable delivery of electricity to Colorado consumers or to enable the utility to meet the renewable energy standards set forth in section 40-2-124; and (b) The present or future public convenience and necessity require such construction or expansion. (4) Notwithstanding any other provision of law, in any application for a certificate of public convenience and necessity for the construction or expansion of transmission facilities pursuant to paragraph (b) of subsection (2) of this section, the commission shall issue a final order within one hundred eighty days after the application is filed. If the commission does not issue a final order within that period, the application shall be deemed approved.

Performance Measures:

The success of this request can be measured via tracking of participation in the national, regional, and state planning efforts, and ultimately, the development of transmission capacity and its positive impact on utility rates. More specifically, there is a close nexus with the Division's Strategic Result of providing reliable, safe, equitable, adequate, and quality services – as well as a nexus to ensuring Colorado utilities maintain financial viability through just and reasonable rates.