

Maryland Smart Growth Sub-Cabinet

Report on State Spending Inside and Outside of the Priority Funding Areas for Fiscal Years 2006 - 2009 and 2009 Annual Report

December 2009



Maryland Department of Planning



Smart, Green & Growing



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Maryland Smart Growth Sub-Cabinet Report on State Spending Inside and Outside of the Priority
Funding Areas for FY 2006-2009

This report was written by staff of the Maryland Department of Planning, with graphic design provided
by the Communications Office.

December 2009 Publication No. 2009-010

Maryland Smart Growth Sub-Cabinet Report on State Spending Inside and Outside of the Priority Funding Areas for FY 2006-2009

Richard E. Hall, Chair

Maryland Department of Planning

The Smart Growth Sub-Cabinet

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Gerrit Knapp, Director, National Center for Smart Growth (Ex Officio)

December 15, 2009

The Honorable Ulysses Currie
Chairman, Senate Budget and Taxation Committee
3 West Miller Senate Building
Annapolis, Maryland 21401-1991

The Honorable Norman Conway
Chairman, House Appropriations Committee
131 Lowe House Office Building
Annapolis, Maryland 21401-1991

Dear Chairmen,

This report is prepared in response to language in the 2009 Joint Chairmen's Report (JCR), page 22, concerning State spending inside and outside of the Priority Funding Areas. Specifically, the JCR language directs:

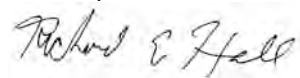
"The Maryland Department of Planning (MDP), in conjunction with the Smart Growth Subcabinet, should report to the committees on the amount of all State operating and capital budget spending (including local general obligation bonds) for each year from fiscal 2006 through 2008. This report may be considered as additional information to that provided in fiscal 2009 by the Smart Growth Subcabinet as required under the reporting requirements of State Government Article Section 9-1406(i)".

The State of Maryland through the Smart Growth Subcabinet is committed to making efficient investments of taxpayer dollars for costly infrastructure. Our coordinated actions have reduced development pressures on critical farmland and natural areas and increased the availability of more money to spend on roads, schools, and infrastructure to transform Maryland's towns and cities into population magnets and state economic engines.

In Fiscal Years 2006 through 2009, the statutory framework set out by the General Assembly in the Smart Growth Areas Act was met by the Smart Growth Subcabinet agencies and has served both the State and local governments well. The vast majority of "growth related" funding was spent in the Priority Funding Areas. The few exceptions to the law that were made followed the procedures prescribed in the law and did not violate the intent of smart growth.

Thank you for your continued support of the need for smart, sustainable growth in Maryland. If you need further assistance, please contact Mr. Matthew J. Power, Deputy Secretary at 410-767-3025. Of course, please feel free to contact me directly.

Sincerely,



Richard E. Hall
Secretary

Introduction

Priority Funding Areas (PFAs) were established by the 1997 Priority Funding Areas Act (the Smart Growth Act). The criteria for PFAs are defined in the Annotated Code of Maryland, State Finance and Procurement Article (SF&P), §5-7B-02 and §5-7B-03. The law also directs the Maryland Department of Planning (MDP) to coordinate the process of updating PFAs by providing technical assistance, review and comment of PFAs and the opportunity for public review.

PFAs are geographic growth areas defined under State law and designated by local jurisdictions to provide a map for targeting State investment in infrastructure. The law directs the use of state funding for roads, water and sewer plants, economic development and other growth-related needs to PFAs, recognizing that these investments are the most important tool the State has to influence growth and development. Priority Funding Areas were established to meet three key goals:

- To preserve existing communities;
- To make the most efficient and effective use of taxpayer dollars for costly infrastructure by targeting State resources to build on past investments; and
- To reduce development pressure on critical farmland and natural resource areas by encouraging projects in already developed areas.

The Smart Growth Act authorizes counties and municipalities to designate areas appropriate for growth as PFAs. Since October 1, 2006, municipalities must follow the same criteria as counties.¹ Locally designated PFAs are evaluated by MDP against criteria in §5-7B-02 and §5-7B-03. A local jurisdiction may revise its Priority Funding Area map. There are several types of revisions that are possible:

- Expanding PFA boundaries;
- Contracting PFA boundaries; or
- Expanding some areas while contracting others.

Reasons for revising a PFA boundary might include a change in zoning, a change in a jurisdiction's water and sewer plan, or a revised supply/demand analysis. If a jurisdiction is simply interested in contracting its boundaries, the process for updating the maps will likely be more streamlined. All revisions and updates must be communicated to MDP in writing in a letter addressed to the Department explaining the changes to the PFA.

The law defined as "growth related" certain programs in five state agencies: Business and Economic Development (DBED), General Services (DGS), Housing and Community Development (DHCD), Environment (MDE), and Transportation (MDOT).² In addition, several agencies chose to voluntarily limit programs to the PFAs. The Smart Growth Areas Act required these agencies to report yearly to the Office of Planning on their implementation of the act. The 1998 executive order which established the Smart Growth Sub-Cabinet – and the 2001 law which codified it – further defined the requirements of these reports and made them a responsibility of the Sub-Cabinet.³ The Smart Growth Areas Act also allows for these agencies to seek exceptions for individual projects through one of two avenues: the Board of Public Works⁴ or the Smart Growth Coordinating Committee.⁵

¹ Maryland Annotated Code, State Finance and Procurement §5-7B-02 and §5-7B-03

² Maryland Annotated Code, State Finance and Procurement, § 5-7B-01

³ Maryland Annotated Code, State Government, § 9-1406 (H) (3)

⁴ Maryland Annotated Code, State Finance and Procurement, § 5-7B-05

⁵ The law calls for a process to be "established jointly by the applicable State agency and the Department of Planning". Maryland Annotated Code, State Finance and Procurement Article, §5-7B-06.

The Smart Growth Sub-Cabinet is required to report annually on growth related spending and any exceptions to PFA law. Additionally, this year the General Assembly has asked the Sub-Cabinet to report on spending for fiscal years 2006 through 2008. This report is intended to meet the requirements of both this request and the Sub-Cabinet's 2009 Annual Report.

This report shows that in Fiscal Years 2006 through 2009, the statutory framework set out by the General Assembly in the Smart Growth Areas Act was met by the Smart Growth Subcabinet agencies. The vast majority of "growth related" funding was spent in the Priority Funding Areas. The few exceptions to the law that were made followed the procedures prescribed in the law and did not violate the intent of smart growth.

Department of Housing and Community Development (DHCD)

The Department of Housing and Community Development (DHCD) programs defined as “Growth Related” and thus limited to PFAs are:

1. The “construction or purchase of newly constructed single family homes” by the Community Development Administration’s (CDA) Maryland Mortgage Program (MMP); which provides low interest mortgages to qualified first time homebuyers;
2. The “acquisition or construction of newly constructed multifamily rental housing” by CDA; and
3. “State funded neighborhood revitalization projects,” which includes funding from Community Legacy (CL), Community Investment Tax Credit (CITC), Maryland Capital Access Program (MCAP) and Neighborhood Business Works (NBW).

It should also be noted that, although it is not required by the law, DHCD also requires that Community Development Block Grants be limited to PFAs. The program is not covered by the law because it consists solely of federal funds and the law covers only state funded projects.

Program	Total Projects	Total Funding	Projects in PFA	PFA Funding	Projects outside PFA ⁶	Funding Outside PFA
FY 2006						
CDA – MMP⁷	74	\$8,755,737	74	\$8,755,737	0	\$0
Multifamily	7	\$9,453,547	7	\$9,453,547	0	\$0
CL	55	\$5,000,000	55	\$5,000,000	0	\$0
CITC	47	\$955,000	47	\$955,000	0	\$0
MCAP	28	\$70,598	28	\$70,598	0	\$0
NBW	27	\$2,871,367	27	\$2,871,367	0	\$0
Total	238	\$27,106,249	238	\$27,106,249	0	\$0
FY 2007						
CDA – MMP	137	\$26,167,500	136	\$25,968,600	1	\$198,900
Multifamily	8	\$12,303,276	8	\$12,303,276	0	\$0
CL	73	\$6,500,000	73	\$6,500,000	0	\$0
CITC	44	\$930,650	44	\$930,650	0	\$0
MCAP	42	\$101,607	42	\$101,607	0	\$0
NBW	69	\$5,722,393	69	\$5,722,393	0	\$0
Total	373	\$51,725,426	372	\$51,526,526	1	\$198,900

⁶ DHCD’s analysis was done using a statewide PFA boundary file received from MDP on 11/24/2009. These numbers could differ depending on the version of the PFA boundary.

⁷ Each MMP project is one single family mortgage loan.

FY 2008						
CDA – MMP	142	\$34,110,924	142	\$34,110,924	0	\$0
Multifamily	19	\$27,263,561	19	\$27,263,561	0	\$0
CL	73	\$7,000,000	73	\$7,000,000	0	\$0
CITC	53	\$1,000,000	53	\$1,000,000	0	\$0
MCAP	35	\$82,695	35	\$82,695	0	\$0
NBW	20	\$3,890,310	20	\$3,890,310	0	\$0
Total	342	\$73,347,490	342	\$73,347,490	0	\$0
FY 2009						
CDA – MMP	108	\$23,078,589	108	\$23,078,589	0	\$0
Multifamily	7	\$15,748,463	7	\$15,748,463	0	\$0
CL	63	\$4,700,000	63	\$4,700,000	0	\$0
CITC	60	\$1,224,500	60	\$1,224,500	0	\$0
MCAP	12	\$28,419	12	\$28,419	0	\$0
NBW	8	\$1,287,105	8	\$1,287,105	0	\$0
Total	258	\$46,067,076	258	\$46,067,076	0	\$0

Department of General Services (DGS)

While it has no capital budget itself, the Department of General Services is responsible for acquiring, leasing, and maintaining most of the State's facilities. Thus it is responsible for ensuring that the state's "growth related funding" is limited to PFAs for the following:

1. Leases of Property by the State; and
2. Land acquisition.

However, the law explicitly exempts projects for "maintenance, repair, additions, or renovations to existing facilities, acquisition of land for telecommunications towers, parks, conservation and open space, and acquisition of agricultural, conservation, and historic easements."

It should also be noted that DGS sends every lease and project to the Maryland Department of Planning's State Clearinghouse for Intergovernmental Assistance to ensure that it complies with the Smart Growth Areas Act.

Program	Total Projects	Total Funding	Projects in PFA	PFA Funding	Projects Outside PFA	Funding Outside PFA
FY 2006						
Leases ⁸ Commenced	50	\$6,131,916.16	50	\$6,131,916.16	0	\$0
Land Acquisitions	1	\$259,132.50	1	\$259,132.50	0	\$0
Total	51	\$6,391,048.66	51	\$6,391,048.66	0	\$0
FY 2007						
Leases Commenced	40	\$7,772,760.55	40	\$7,772,760.55	0	\$0
Land Acquisitions	2	\$3,737,550.00	2	\$3,737,550.00	0	\$0
Total	42	\$11,510,310.55	42	\$11,510,310.55	0	\$0
FY 2008						
Leases Commenced	57	\$7,254,630	57	\$7,254,630	0	\$0
Land Acquisitions	0	0	0	0	0	\$0
Total	57	\$7,254,630.00	57	\$7,254,630.00	0	\$0
FY 2009						
Leases Commenced	33	\$7,259,729	33	\$7,259,729	0	\$0
Land Acquisitions	1	\$5,750.00	1	\$5,750.00	0	\$0
Total	34	\$7,265,479.00	34	\$7,265,479.00	0	\$0

⁸ Represents number of leases commenced each fiscal year and the combined annual rent of those leases

Department of Business and Economic Development (DBED)

The DBED programs defined by the Smart Growth Areas Act as “growth related” have all subsequently been renamed and/or consolidated. Currently the programs subject to the law’s restrictions are:

1. The Maryland Small Business Development Financing Authority (MSBDFA), which provides financing for small businesses that are not able to qualify for financing from private lending institutions or owned by socially and economically disadvantaged persons;
2. The Maryland Economic Development Assistance Authority And Fund (MEDAAF), which provides both loans and grants to businesses and local jurisdictions;
3. The Economic Development Opportunities Fund (Sunny Day Fund), which promotes Maryland's participation in extraordinary economic development opportunities that provide significant returns to the state through creating and retaining employment as well as the creation of significant capital investments in Priority Funding Areas; and
4. The Maryland Economic Adjustment Fund (MEAF), which assists business entities in the state with modernization of manufacturing operations, the development of commercial applications for technology, and exploring and entering new markets.

Program	Total Projects	Total Funding	Projects in PFA	PFA Funding	Projects outside PFA	Funding Outside PFA
FY 2006						
MSBDFA	14	\$7,971,200.44	13	\$7,971,200.44	0	0
MEDAAF	39	\$13,825,972.31	27	\$13,788,472	1	\$37,500.00
Sunny Day Fund	3	\$5,000,000.00	3	\$5,000,000.00	0	0
MEAF	6	\$525,800.00	6	\$525,800.00	0	0
Total	62	\$27,322,972.75	61	\$27,285,472.75	1	\$37,500.00
FY 2007						
MSBDFA	19	\$9,318,521.60	19	\$9,318,521.60	0	0
MEDAAF	32	\$12,961,066.24	30	\$12,704,810.09	2	\$256,256.15
Sunny Day Fund	4	\$2,307,345.71	4	\$2,307,345.71	0	0
MEAF	6	\$386,000.00	6	\$386,000.00	0	0
Total	61	\$24,972,933.55	59	\$24,716,677.40	2	\$256,256.15
FY 2008						
MSBDFA	27	\$8,478,133.90	27	\$8,478,133.90	0	0
MEDAAF	36	\$12,968,790.07	35	\$12,775,046.22	1	\$193,743.85
Sunny Day	3	\$4,265,761.58	3	\$4,265,761.58	0	0

Fund						
MEAF	2	\$100,000.00	2	\$100,000.00	0	0
Total	68	\$25,812,685.55	67	\$25,618,941.70	1	\$193,743.85
FY 2009						
MSBDFA	17	\$10,844,871.17	17	\$10,844,871.17	0	0
MEDAAF	36	\$6,817,604.14	36	\$6,817,604.14	0	0
Sunny Day Fund	4	\$2,689,320.60	4	\$2,689,320.60	0	0
MEAF	6	\$874,641.00	6	\$874,641.00	0	0
Total	63	\$43,065,791.16	63	\$43,065,791.16	0	0

Maryland Department of the Environment (MDE)

The following MDE Programs are subject to PFA restrictions:

1. The Maryland Water Quality Revolving Loan Fund (MWQRLF), which provides financial assistance to local governments and private citizens for a wide variety of projects to protect or improve the quality of Maryland's rivers, streams, lakes, the Chesapeake Bay and other water resources;
2. The Drinking Water Supply Financial Assistance Program, which provides financial assistance to local governments for the acquisition, construction, rehabilitation, and improvement of publicly owned water supply facilities throughout the State;
3. The Supplemental Assistance Program, which provides grants to local governments for planning, design, and construction of needed wastewater facilities; and
4. The Maryland Drinking Water Revolving Loan Fund (MDWRLF) which provides financial assistance to local governments and private citizens to protect or improve the quality of community water systems and ensure their compliance with national primary drinking water standards.

In FY 2009, all MDE exceptions were approved by the Smart Growth Coordinating Committee for health reasons (generally failed septic or water systems) or as industrial purposes (Wastewater Treatment plants physically located outside of the PFA but serving areas inside the PFA).

Program	Total Projects	Total Funding ⁹	Projects in PFA	PFA Funding	Projects outside PFA	Funding Outside PFA
FY 2006						
MWQRLF	17	\$113,674,000	17	\$113,674,000	0	\$0
Water Supply	4	\$1,550,000	4	\$1,550,000	0	\$0
Supplemental	16	\$3,898,395	12	\$3,335,040	4	\$563,355
MDWRLF	6	\$4,658,000	6	\$4,658,000	0	\$0
Total	43	\$123,780,395	39	\$123,217,040	4	\$563,355
FY 2007						
MWQRLF	16	\$61,025,000	11	\$40,000,000	5	\$21,025,000
Water Supply	12	\$2,253,500	6	\$1,244,125	6	\$1,009,375
Supplemental	18	\$5,682,635	17	\$5,182,635	1	\$500,000
MDWRLF	9	\$48,650,000	9	\$48,650,000	0	\$0
Total	55	\$117,611,135	43	\$95,076,760	12	\$22,534,375
FY 2008						
MWQRLF	13	\$59,240,800	12	\$58,473,000	1	\$767,800
Water Supply	11	\$3,639,844	8	\$2,487,094	3	\$1,152,750
Supplemental	12	\$5,425,427	10	\$4,866,427	2	\$559,000

⁹ Loan amount approved by the Board of Public Works, actual loan may be smaller.

MDWRLF	6	\$14,281,000	3	\$8,941,000	3	\$5,340,000
Total	42	\$82,587,071	33	\$74,767,521	9	\$7,819,550
FY 2009						
MWQRLF	10	\$45,492,177	9	\$42,792,177	1	\$2,700,000
Water Supply	15	\$3,951,005	13	\$3,632,005	2	\$319,000
Supplemental	19	\$5,634,020	17	\$4,684,020	2	\$950,000
MDWRLF	5	\$7,225,000	4	\$6,925,000	1	\$300,000
Total	49	\$62,302,202	43	\$58,033,202	6	\$4,269,000

Maryland Department of Transportation (MDOT)

For the Maryland Department of Transportation, “growth-related” projects include all major capital projects, defined as “any new, expanded, or significantly improved facility or service that involves planning, environmental studies, design, right-of-way, construction, or purchase of essential equipment related to the facility or service.”¹⁰ MDOT lists such projects in its Consolidated Transportation Program (CTP) as “Major Projects” and details the PFA status of each project as part of that report. The modal administrations of MDOT for which major capital projects are subject to PFA Restrictions include the State Highway Administration (SHA), the Maryland Transit Administration (MTA), the Maryland Aviation Administration (MAA), the Maryland Port Administration (MPA), the Motor Vehicle Administration (MVA), The Secretary’s Office (TSO), and payments to the Washington Metro Area Transit Authority (WMATA).

Transportation projects that are explicitly excluded from the Smart Growth Areas Act are: existing Maryland Transportation Authority (MdTA) facilities projects, project planning, initial project planning, and “Minor Capital Projects”, projects for the preservation and rehabilitation of existing facilities or services that do not increase capacity.¹¹ It should also be noted that a number of MDOT’s capital projects are not location-specific, meaning that they involve system-wide improvements, such as local transit assistance programs and transit vehicle acquisition by MTA, and facility management system improvements by MVA.

Of the 147 major capital projects in the Maryland Department of Transportation's Capital program for 2009, 31 were considered to be outside the Priority Funding Area (PFA). Of these, 11 had begun before the Smart Growth Areas Act was enacted and are thus exempt (grandfathered). This includes the listed Maryland Port Administration (MPA) project which pertains to dredge disposal at Hart Miller Island. Of the remaining 20 projects, 5 pertain to projects that had been granted an exception by the Board of Public Works (BPW) on the grounds that they either connected PFA's or were necessary safety improvements. This category includes projects related to the Inter-County Connector (ICC) (which comprised roughly 89% of funding outside the PFA and 4 projects related to MD 32. The remaining projects entailed the replacement or reconstruction of bridges that did not add significant highway capacity.

¹⁰ Maryland Annotated Code, Transportation, §§ 2-103.1 (A) (4),

¹¹ Maryland Annotated Code, State Finance and Procurement, §§ 5-7B-01 (D) (1) (I)

Major Transportation Projects¹²

	Total Proje cts	Total Funding	Projects In PFA	Funding In PFA	Projects Not Place Specific	Funding Not Place Specific	Projects Outside PFA	Funding Outside PFA
FY 2006								
SHA	98	\$543,250,000	65	\$430,028,000	6	\$43,092,000	27	\$70,130,000
MdTA/ SHA	1	\$51,317,000	0	\$0	0	0	1	\$51,317,000
MTA	32	\$271,198,000	15	\$74,656,000	16	\$190,061,000	1	\$6,481,000
MAA	11	\$85,960,000	11	\$85,960,000	0	0	0	\$0
MPA	12	\$49,999,000	9	\$26,141,000	2	\$19,473,000	1	\$4,385,000
MVA	7	\$7,441,000	1	\$3,333,000	6	\$4,108,000	0	\$0
TSO	2	\$19,162,000	0	\$0	2	\$19,162,000	0	\$0
WMATA	4	\$157,782,000	1	\$0	3	\$157,782,000	0	\$0
Total	167	\$1,186,109,000	102	\$620,118,000	35	\$433,678,000	30	\$132,313,000
FY 2007								
SHA	93	\$461,139,000	61	\$375,207,000	5	\$29,987,000	27	\$55,945,000
MdTA/ SHA	1	\$377,699,000	0	\$0	0	\$0	1	\$377,699,000
MTA	34	\$152,350,000	17	\$55,455,000	16	\$94,515,000	1	\$2,380,000
MAA	11	\$71,347,000	10	\$71,071,000	0	\$0	1	\$276,000
MPA	12	\$107,571,000	9	\$52,019,000	2	\$51,369,000	1	\$4,183,000
MVA	6	\$5,090,000	1	\$0	5	\$5,090,000	0	\$0
TSO	2	\$16,393,000	0	\$0	2	\$16,393,000	0	\$0
WMATA	3	\$135,790,000	0	\$0	3	\$135,790,000	0	\$0
Total	162	\$1,327,379,000	98	\$553,752,000	33	\$333,144,000	31	\$440,483,000

¹² Reported figures reflect committed funding as set out in MDOT's Consolidated Transportation Programs. Actual expenditures on given projects may vary.

FY 2008								
SHA	63	\$409,569,000	35	\$335,427,000	3	\$22,800,00	25	\$74,142,000
MdTA/ SHA	1	\$467,664,000	0	\$0	0	\$0	1	\$467,664,000
MTA	33	\$92,031,000	16	\$69,760,000	17	\$22,271,000	0	\$0
MAA	6	\$47,686,000	6	\$47,686,000	0	\$0	0	\$0
MPA	6	\$89,996,000	5	\$18,192,000	1	\$71,804,000	0	\$0
MVA	3	\$4,579,000	0	0	3	\$4,579,000	0	\$0
TSO	1	\$5,450,000	0	0	1	\$5,450,000	0	\$0
WMATA	3	\$169,198,000	0	0	3	\$169,198,000	0	\$0
Total	115	\$1,286,173,000	62	\$471,065,000	28	\$273,324,800	26	\$541,806,000
FY 2009								
SHA	86	\$340,725,000	53	\$247,620,000	4	\$28,300,000	29	\$64,805,000
MdTA/S HA	1	\$546,130,000	0	\$0	0	\$0	1	\$546,130,000
MTA	31	\$226,743,000	11	\$27,121,000	20	\$199,622,000	0	\$0
MAA	9	\$32,771,000	9	\$32,771,000	0	0	0	\$0
MPA	10	\$88,424,000	7	\$17,071,000	2	\$66,988,000	1	\$4,365,000
MVA	4	\$4,429,000	0	\$4,429,000	0	\$4,429,000	0	\$0
TSO	2	\$15,086,000	0	\$0	0	\$15,086,000	0	\$0
WMATA	4	\$162,769,000	0	\$0	0	\$162,769,000	0	\$0
Total	147	\$1,417,077,000	80	\$324,583,000	36	\$477,194,000	31	\$615,300,000

Maryland Historical Trust (MHT) Programs Voluntarily Restricted to PFAs

While they are not required to do so by the Smart Growth Areas Act or any other law, the Maryland Historical Trust, a division of the Maryland Department of Planning, voluntarily limits certain of their programs to the Priority Funding Areas in order to further the aims of Smart Growth.

MHT requires that recipients of Capital Historic Preservation (HP) grants be located inside PFAs, and has a formal exemption process for applicants that do not. The program assists nonprofit organizations, local Governments, businesses and individuals in the acquisition, rehabilitation or restoration of historic property in Maryland.

MHT gives preference to applicants for the Maryland Heritage Structure Tax Credit (RTC) that are located within the PFAs. The program provides Maryland income tax credits equal to 20% of the qualified capital costs expended in the rehabilitation of a “certified heritage structure”.

Program	Total Projects	Total Funding	Projects in PFA	PFA Funding	Projects outside PFA	Funding Outside PFA
FY 2006						
Capital HP Grants	24	\$761,145	21	\$665,145	3	\$96,000
RTC – Residential	549	\$9,120,680.05	522	\$8,745,094.58	27	\$375,585.47
RTC – Commercial	36	\$19,671,255.80	33	\$18,991,255.80	3	\$680,000
Total	609	\$29,553,080.85	576	\$28,401,495.38	33	\$1,151,585.47
FY 2007						
Capital HP Grants	13	\$553,529	11	\$463,529	2	\$90,000
RTC – Residential	322	\$6,386,891.20	307	\$6,118,692.20	15	\$268,199
RTC – Commercial	41	\$19,239,078.93	40	\$19,039,078.93	1	\$200,000
Total	376	\$26,179,499.13	358	\$25,621,300.13	18	\$558,199
FY 2008						
Capital HP Grants	20	\$819,117	16	\$644,117	4	\$175,000
RTC – Residential	308	\$6,389,766.23	301	\$6,291,166	7	\$98,600
RTC – Commercial	69	\$23,927,794.65	67	\$23,683,794.65	2	\$244,000
Total	397	\$31,136,677.88	384	\$30,619,077.65	13	\$517,600.00

FY 2009						
Capital HP Grants¹	1	\$50,000	1	\$50,000	0	\$0
RTC² – Residential	187	\$2,584,338	178	\$2,378,232	9	\$206,106
RTC – Commercial	15	\$10,000,000	15	\$10,000,000	0	\$0
Total	203	\$12,634,338	194	\$12,428,232	9	\$206,106

Public School Construction Program

While public schools are not required to be located within PFAs, nonetheless, it is informative to know what level of funding for secondary school construction is occurring within and outside of PFAs.

The Public School Construction Program assists local boards of education in providing Maryland's public school students with facilities which support teaching and learning. Funds are provided for building replacements, renovations, additions, new construction, systemic renovations, and other improvements. While the cost to design and equip public schools is a local responsibility, the State and local governments share in the cost of constructing.

Information on total expenditures in and out of PFAs is shown below. Generally, it is noted that the amount of expenditures in PFAs is far greater than outside PFAs. From FY2006 to FY2009, 71 percent of total funds for public school construction were spent within PFAs.

Total Funding*	PFA Funding	Funding Outside PFA
FY2006		
225,990,000	164,171,000	61,819,000
FY2007		
239,563,430	180,962,731	58,600,699
FY2008		
317,265,811	185,540,471	131,725,340
FY2009		
245,063,998	195,218,418	49,845,580

*Above figures reflect funding for new, replacement and renovation of existing schools and addition/renovation projects only, and exclude funding for systemic renovations.

School construction dollars that are focused on additions and renovations to existing schools, rather than new school facilities outside of PFAs, support Maryland's Smart Growth policies.

However existing schools outside PFAs must be supported as well. For instance in 2009 alone, 55% of the funds spent outside PFAs were spent for renovations or replacements of existing schools.

In addition, it should be noted that site approval is one of the prerequisites for planning approval, and that planning approval is required prior to funding approval for most major projects. Funding in one year often is a result of decisions in prior years. Site approval is valid for five years.

APPENDIX

Exceptions to the PFA Law Approved by the Smart Growth Coordinating Committee in FY 2009

The Smart Growth Act allows for growth related projects located outside the Priority Funding Areas to receive state funding if: “it is required to protect public health or safety”; the project involves federal funds and “compliance with [the Smart Growth Areas Act] would conflict or be inconsistent with federal law”; or it is a “growth related project related to a commercial or industrial activity, which, due to its operational or physical characteristics, shall be located away from other development.”¹³ The Smart Growth Coordinating Committee, the staff level working group of the Smart Growth Sub-Cabinet, is tasked with approving exceptions based on these criteria.

In FY 2009, the Coordinating Committee approved 19 PFA Exceptions, all of which were requested by the Maryland Department of the Environment. PFA exception approval alone, however, does not assure that MDE will fund the project. The tables on pages 10 and 11 represent funding actually approved during the relevant fiscal years.

October 2008—St. Clement's Shore Backup Well (St. Mary's County)

1. The project will provide a backup well for a water system that serves a community of 222 existing dwelling units. MDE regulations require a community of more than 100 connections to have a backup well capable of supplying the entire water system in case the largest producing well is out of service. The new back up well will maintain system reliability both in terms of service supply and fire protection.

Agency Submitting Request: MDE

Grounds for exception: Public health and safety

Funding: Maryland Drinking Water Revolving Loan Fund, \$150,000

October 2008—Oliver Drive Sewer Project (St. Mary's County)

2. The project will provide sewer service to five existing houses with failing septic systems along Oliver Drive. These houses would be connected to the existing Piney Point force main that runs to the Marlay Taylor Wastewater Treatment Plant. The force main is subject to a restricted access policy set forth in an agreement signed by the St. Mary's Board of County Commissioners, the Maryland Department of the Environment and the Metropolitan Commission, which restricts access to houses served by failed septic systems and denies access to any new development. Thereafter the County changed the project slightly, adding one more property, so the Smart Growth Coordinating Committee considered it again in 2009. The 2009 approval appears as Project #9.

Agency Submitting Request: MDE

Grounds for exception: Public health and safety

¹³ Maryland Annotated Code, State Finance and Procurement, § 5-7B-06 (A)

Funding: Maryland Water Quality Revolving Loan Fund, \$136,500

December 2008—College of Southern Maryland and Mount Carmel Woods WWT facilities upgrade (Charles County)

3. The proposed project consists of design and construction of two pumping stations and force mains to pump wastewater flows from two existing out-of-compliance WWTPs (Mt. Carmel Woods subdivision and the College of Southern Maryland) to the Charles County Mattawoman WWTP for treatment and disposal. The college is within a PFA, as its proposed pumping station. The Mt. Carmel Subdivision, the proposed Mt. Carmel pumping station and the force mains are outside of Charles County's PFAs. There are currently 72 residences and 7 vacant lots in the Mt. Carmel Woods service area. The proposed sewer lines will be minimally sized to help preclude new hookups, and Charles County will designate the sewer main as "restricted access" in the county Water & Sewer Plan, meaning that sewer service would be provided to 72 existing homes and to 7 existing lots of record that pass local health requirements and could otherwise be developed.

Agency Submitting Request: MDE

Grounds for exception: Public health and safety

Funding: MDE Grant, \$250,000

May 2009—Deer Creek (Harford County, Baltimore City)

4. The Deer Creek Pumping Station pumps water from the Conowingo Pool of the Susquehanna River through connecting tunnels and pipelines to Baltimore City's Montebello water filtration plants. The total length of the transmission main is about 38 miles. The project is to renovate and expand the existing Deer Creek Pumping Station to supply the additional raw water needed for the future Fullerton Water Filtration Plant in Baltimore County. All these facilities are part of the Central System, which functions as the common water system for the City of Baltimore and the Baltimore County Metropolitan District.

Agency Submitting Request: MDE

Grounds for Exception: Commercial or Industrial activity, which must be located away from other development

Funding: MDE Grant \$38,148,000

May 2009—Edesville Sewerage Service (Kent County)

5. The project will provide sewer service to 12 lots with failing septic systems along Lover's Lane in Edesville. Access to the sewer line is restricted so that each lot is limited to service for one dwelling. No other parcels, including any additional lots that may be subdivided from these parcels, will be allowed to connect to these lines.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant, \$300,000

May 2009—Barclay (Queen Anne's County)

6. The Town of Barclay is a PFA with 110 septic systems - mostly failing. This project would provide a collection system for the town and convey the sewage to the wastewater treatment plant at nearby Sudlersville by a denied access line. The entire service area is in the town.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE loan, \$350,000; MDE Grant, \$1,409,755

May 2009—Mt. Savage Water Distribution System (Allegany County)

7. The groundwater sources being used in the Mt. Savage area have been determined to be under the direct influence of surface water. Service has been provided to 225 customers and there are another 225 houses on private wells. The project will construct a new water distribution system for the Mt. Savage area to deliver safer water to the users of individual wells and those on the community system. The distribution system, some of which is outside the PFA, will serve only properties in the PFA.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant, \$500,000; MDE Water Quality Revolving Loan Fund, \$700,000

May 2009—Frostburg Raw Water Transmission Main Upgrades and Low Head Hydroelectric Plant (Garrett County)

8. Raw water is pumped from two sources (the Piney Creek Reservoir and groundwater from the Savage Pumping Station) to the top of Big Savage Mountain, where they join and supply raw water to a water treatment plant located within the City Limits of Frostburg. The treated water is distributed within Frostburg and to nearby communities. This project will replace portions of the raw water transmission lines that are unreliable and subject to failure.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant \$580,000

May 2009—Oliver Drive Sewer Project (St. Mary's County)

9. The proposed project will provide sewer service to six existing houses with failing septic systems along Oliver Drive. These houses would be connected to the existing Piney Point force main that runs to the Marlay Taylor Wastewater Treatment Plant. This force main is subject to a restricted access policy set forth in an agreement signed by the St. Mary's Board of County Commissioners, the Maryland Department of the Environment and the Metropolitan Commission, which restricts access to houses served by failed septic systems and denies access to any new development. The St. Mary's County Health Department has officially declared the on-site sewage disposal systems within the project area to be in a state of treatment failure. The Department has further recommended that the residences be connected to a public sewer system. The failed on-site sewage disposal systems are located near the banks of Herring Creek, which feeds directly into the Potomac River. The project, for which a PFA exception was approved in 2008 for 5 houses, was not constructed. This request adds one house and adjusts the estimated cost.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: Water Quality Revolving Loan Fund, \$485,275

May 2009—Holloway Beach Sewer (Cecil County)

10. Houses in this development are on septic systems, and some are in the Critical Area. Some of the septic systems are failing. This project will construct a pump station, force main, and gravity sewer service to the Holloway Beach community and decommission the septic systems. There are 53 dwellings in this area, according to the Health Department. There have been 4 disapprovals, 2 repairs, and there are nine holding tanks. The holding tanks were installed as a requirement to rebuild houses destroyed in Hurricane Isabel. The exception was approved, subject to conditions to be agreed upon between MDE and MDP to assure that the project would not encourage growth. The project was not funded in 2009, and the Departments have not yet determined the appropriate conditions.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: Water Quality Revolving Loan Fund, \$2,375,011

May 2009—Additional well sources, Mt. Airy (Carroll County)

11. Mt. Airy is under a Consent Order with MDE to find additional water supplies. The town has identified two options for groundwater wells: one on developer owned land (the Leishear Property) and one on County-owned land in the Gillis Falls watershed. Both are outside the PFA. The project would include well development, water treatment, piping and connection. The exception was approved subject to the condition that the line outside the town be denied access and that the service area be limited to the PFA.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant, \$4,639,000

May 2009—Sharpsburg Water Storage Tank Replacement (Washington County)

12. The town's existing 28,000 gallon finished water storage tank, located outside the PFA, was damaged beyond repair in 2008. This project would replace the old tank with a new 100,000 gallon water storage tank. The additional storage capacity is necessary because the water treatment plant cannot operate a full capacity when the Potomac River experiences high turbidity. The new tank will decrease the risk of a shortage of finished water. The service area is entirely within the PFA.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant, \$238,119; Water Quality Revolving Loan Fund, \$50,000

May 2009—Water Main Replacement, Smithsburg (Washington County)

13. This project will replace an existing 8-inch asbestos cement transmission main from the storage tanks to the Town water system with a 16-inch ductile iron cement lined pipe. The existing pipe is brittle and has experienced leaks; in addition, is undersized to deliver adequate fire flow plus maximum daily demands for the town. The storage tanks are outside the PFA, but the service area is in the PFA.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety; Commercial or Industrial activity, which must be located away from other development

Funding: MDE Grant \$916,612

May 2009—Halfway Interceptor Force Main (Washington County)

14. Halfway is a town in Washington County. Currently the sewage flow from the Sharpsburg Pike corridor is pumped and discharged into Halfway's gravity collection system. That gravity collection system has reached capacity and cannot handle additional flows. There is a risk of Sanitary Sewer Overflows and backups. This project is to construct a force main to redirect the sewage around the Halfway gravity system, back into the conveyance system below Halfway, and on to the WWTP. The force main will go through a PFA comment area. The service area will not change. According to the applicant, the portion of the force main that is located outside of the PFA will be a pressurized line; thus, incapable of providing sewer service to the non-PFA area.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grants, \$1,012,375; Water Quality Revolving Loan Fund, \$220,000

May 2009—Country Lakes Well (St. Mary's County)

15. An existing water distribution system serves the Country Lakes Subdivision near Mechanicsville in St. Mary's County. The system has three wells and is currently unable to meet the standard that a system must be able to pump enough water to meet the design maximum day demand with the largest producing well out of service. Without additional supply, the potential for a water outage is high, which is a health risk. The project would provide supplementary supply with a new well. The subdivision consists of 1093 residential units, and could serve 1113 units in the future. The current service area is surrounded by areas designated as "no planned service" in the County's Comprehensive Sewer and Water Plan map. The area surrounding the current service area is currently zoned Rural Preservation District (1 dwelling per 5 acres), which could be developed without a public water supply; thus, the project does not contribute to sprawl.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: Drinking Water Revolving Loan Fund, \$320,000

May 2009—Trice Fields Sewer Extension (Talbot County)

16. The project will extend sewer service to the community of Trice Fields, where 21 individual waterfront lots with the residential structures are currently served by septic systems that penetrate the groundwater due to the poor draining soils and high groundwater conditions in the area. The sewage will be conveyed to the Region II (St. Michael's) Wastewater Treatment Plant, which was recently upgraded to ENR. Covenants prevent the subdivision of land in this community

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: Water Quality Revolving Loan Fund, \$504,250

May 2009—Bush Creek Interceptor (Frederick County)

17. The Bush Creek Sewer Interceptor is part of a project to pick up flow from small wastewater treatment plants in the County send the flow to the ENR-upgraded Ballenger Creek/McKinney

WWTP. This phase of the project will allow the County to retire the New Market WWTP. The effluent from the New Market WWTP has contributed to degraded aquatic conditions in the Lower Bush Creek Watershed and the placement of the Lower Monocacy River, a receiving water body, on the impaired water list for fecal coliform. The New Market WWTP is among the highest annual average discharge concentrations of fecal coliform of the 17 NPDES permit holders in the Lower Monocacy Watershed. The line itself will be denied access. The service area is slightly larger than the PFA, but still within the County's growth area.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: Water Quality Revolving Loan Fund \$400,000

May 2009—Showell Elementary School (Ocean Pines/Berlin, Worcester County)

18. Showell Elementary School is served by an old septic system that the Worcester County Director of Environmental Programs advises is on the verge of failure and has required pumping every year because the system does not function properly. The school obtains its drinking water from an unconfined aquifer. Nitrate levels in the drinking water have risen over the years, and have exceeded half the drinking water standard for nitrate. The project is to construct a new wastewater pump station and force main to connect to the Ocean Pines Wastewater Plant. Eliminating the septic system will remove this threat to the drinking water and will reduce the discharge of nitrogen to the environment. The exception was approved subject to limitation that no future connections be allowed except the church and school that are already built on Showell Road.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety

Funding: MDE Grant, \$600,000; Water Quality Revolving Loan Fund, \$760,000

May 2009—Galena WWTP Upgrade (Kent County)

19. The Galena WWTP is designed for 60,000 gpd. It has been performing poorly and is in significant noncompliance. This project will enlarge the WWTP, which is located just outside of town, to 80,000 gpd and upgrade it. The sewer service area is entirely within the PFA except for 18 properties adjacent to the town that were served in the 1980's. This increased capacity will be wholly consumed to meet the infill needs of the town of Galena.

Agency Submitting Request: MDE

Grounds for Exception: Public health and safety; Commercial or Industrial activity, which must be located away from other development

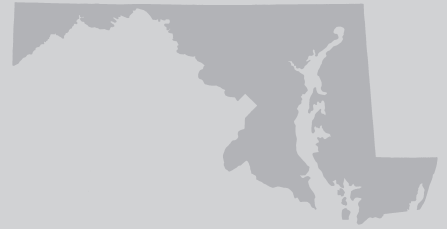
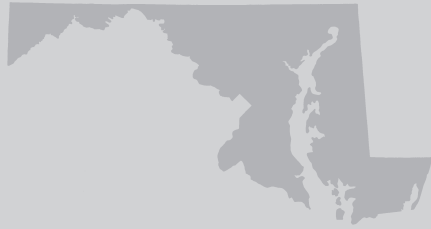
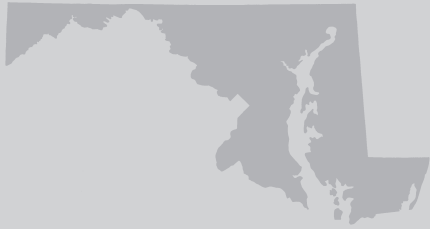
Funding: MDE Grant, \$2,300,000; Water Quality Revolving Loan Fund \$50,000

Exceptions to the PFA Law Approved by the Board of Public Works in FY 2009

The Board of Public Works may grant an exemption if it determines that: “extraordinary circumstances” exist, i.e. “the failure to fund the project in question creates an extreme inequity, hardship, or disadvantage that clearly outweighs the benefits from locating a project in a priority funding area”; or it is a transportation project that either maintains the existing system, serves to connect two PFAs, has as its sole purpose providing control of access on existing highway, or “due to its operational or physical characteristics, must be located away from other development.”¹⁴

In FY2009, the Board of Public Works did not approve any exceptions to the Smart Growth Areas Act.

¹⁴ Maryland Annotated Code, State Finance and Procurement, § 5-7B-05 (A)



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



Richard Eberhart Hall, AICP, Secretary
Matthew J. Power, Deputy Secretary