

## Funding Issue 1

### Increase Records Services Fund Appropriation

*Description of issue and how recommending the agency's request furthers the agency's mandates:* After entering a 10-year contract to store the state's records with Iron Mountain in 2017 the annual cost of preservation and management of records nearly doubled. The records management program had previously been completely operated by the state, with the records stored in a state-owned facility. The Records Services Fund appropriations of \$742,800 in fiscal year 2020 and \$744,800 in fiscal year 2021 are not enough to support the current cost structure of the operations. Those appropriations align with the program cost when it was fully run by the state, not the current costs, and the appropriation needs to be updated moving beyond fiscal year 2021 as well.

*Proposal:* Provide the following increases under the Records Services fund –

- \$262,372 FY20 Supplemental:** On November 15, 2019, the Secretary of State's office submitted a fiscal year 2020 supplemental request for \$217,200. At that time there was a lot of uncertainty around the performance of the fund. The Iron Mountain contract had started in May of 2017 as a pilot project with just a handful of agencies storing their records under the new contract at Iron Mountain's facility. The movement of state records was not completed until February 2019. When the current administration came on in early 2019, we discovered that there were significant delays in billing agencies for their storage costs during the transition to Iron Mountain and that a lot of agencies were confused by their invoices, all of which resulted in inconsistencies for the fund's revenues during the almost 2 year transition of records. Our supplemental request of \$217,200 was based on only using the fund to pay the Iron Mountain bills because, while we had hoped that resolving all of the prior billing issues and beginning to consistently bill agencies each month would have a positive effect on the revenues, we weren't certain that the fund would be able to support any other expenditures. The reality is that the fund partially paid for one of the Records Services FTEs in addition to \$2,500 in program operating expenditures in fiscal year 2020 and still has more than enough cash to cover the Iron Mountain bills. Though the cash flow results have been positive we still face the issue of not having enough money appropriated under the fund to pay our annual Iron Mountain costs. We ended fiscal year 2020 past due by \$262,372 on the Iron Mountain account, with \$515,488 of cash in the fund, and \$0 left of the appropriation.

*FY20 Records Services Appropriation & Cash Flow – Projected vs Actual*

<b>FY20 Beginning Cash Balance</b>	<b>\$197,329</b>	<b>FY20 Appropriation</b>	<b>\$742,800</b>
FY20 Revenue Projection	\$900,000	FY20 Actual Revenues	\$1,060,959
FY20 Iron Mountain Projection	\$960,000	FY20 Iron Mountain Actual	\$959,909
FY20 Other Expenditures Projection	\$0	FY20 Other Expenditures Actual	\$52,263
<b>FY20 Ending Cash Balance Projection</b>	<b>\$137,329</b>	<b>FY20 Appropriation/Iron Mountain Shortfall</b>	<b>-\$269,372</b>
		<b>FY20 Actual Ending Cash Balance*</b>	<b>\$515,488</b>

\*If supplemental appropriation is provided and we payoff the \$262,372 FY20 balance owed to Iron Mountain, the ending cash balance will come to \$246,116

- \$521,400 FY21 Supplemental:** We stated in our fiscal year 2021 budget request that our goal was to get the records services operation back to being a self-funded program, as it is intended to be and as it was prior to the Iron Mountain contract, and that is still our objective. The first issue with the current appropriation of \$744,800 is that we anticipate that FY21 Iron Mountain bills alone will be \$1,030,600. Additionally, the general fund is still fronting the cost for some of the operating expenses. It is time, once again, for the program to be self-funded and we request that the appropriation support the costs associated with getting the preservation and management of records program where it ought to be – without any cost to the general fund. We have brought the fund revenues back to a stable condition and increased prices for records storage so that we can cover a contractual increase in Iron Mountain storage costs and use the fund to pay for other records services expenditures. Approval of our supplemental request would bring the total FY21 appropriation to \$1,266,200.

*FY21 Records Services Fund - Projected Cash Flow & Expenditure Plan*

<b>FY21 Beginning Cash Balance</b>	<b>\$246,116</b>
Revenue Projection	\$1,251,900
Iron Mountain Projection	\$1,030,600
Personal Services Projection	\$150,400
Employee Related Expenditures Projection	\$60,200
In-State Travel	\$5,000
Other Expenditures Projection (Including Training & Education)	\$20,000
<b>FY21 Ending Cash Balance Projection</b>	<b>\$231,816</b>

- \$1,266,200 FY22 Appropriation:** We request that the fiscal FY22 appropriation mirror the FY21 appropriation. In FY23 we plan to increase charges for storage again, to parallel increases written into the Iron Mountain contract. At that time, we can include enough of an increase to the charges not only to cover the Iron Mountain contract, but also any increased cost we have realized in our efforts to correct and enhance program operations. Approval of our fiscal year 2022 request would bring the total FY22 appropriation to \$1,266,200.

*FY22 Records Services Fund - Projected Cash Flow & Expenditure Plan*

<b>FY22 Beginning Cash Balance Projection</b>	<b>\$231,816</b>
Revenue Projection	\$1,251,900
Iron Mountain Projection	\$1,030,600
Personal Services Projection	\$150,400
Employee Related Expenditures Projection	\$60,200
In-State Travel	\$5,000
Other Expenditures Projection (Including Training & Education)	\$20,000
<b>FY22 Ending Cash Balance Projection</b>	<b>\$217,516</b>

*Alternatives Considered and reasons for rejection:* We could request an appropriation from the general fund, but that would negate the goal of self-funding the program using the Records Services Fund and leave the revenues generated by the fund unused.

*Impact of not funding this fiscal year:* Without an appropriation increase under the Records Services Fund the agency would not have access to all of the revenues that the fund generates and would need supplemental funding from the General Fund in order to cover our contractual expenses, at the least. As of 2020 fiscal year-end we were 2 months behind on Iron Mountain payments and by 2021 fiscal yearend we will be 8 months behind on payments.

*Statutory Reference:* Per ARS 41-151.12 the Records Services Fund was established for the preservation and management of records.

*Equipment to be purchased:* N/A

*Classification of new positions:* N/A

*Annualization:* N/A

## Funding Issue 2

### Election Litigation Expenses

*Description of issue and how recommending the agency's request furthers the agency's mandates:* In fiscal year 2019 the Attorney General's office was appropriated \$500,000 to support legal costs associated with lawsuits against the Secretary of State's office. The budget also included a supplemental appropriation of \$500,000 for fiscal year 2018 for the same purpose. In February 2020 the Attorney General's office notified our office that they had fully encumbered the funding for election litigation expenses and that we would need to fund future representation. The Secretary of State has not received an appropriation for legal representation and does not have funding to pay for it.

*Proposal:* Provide a non-lapsing election litigation appropriation of \$500,000 to the Secretary of State's office in fiscal year 2022 and a \$500,000 supplemental appropriation for fiscal year 2021. In fiscal years 2018 and 2019 the appropriations were funded by the Risk Management Revolving fund.

*Alternatives Considered and reasons for rejection:* The Secretary of State's Office has done everything it can to minimize the amount of resources required to cover outside counsel when needed, including securing pro bono counsel in some matters. Unfortunately, the Secretary of State, as the chief elections officer for the state, is the subject of many lawsuits and complaints. Given the relationship and ideological differences between the Secretary and Attorney General, the frequency of a conflict being declared or disqualification for representation has increased, and the office has had no choice but to pay for outside counsel in several matters. This places a burden on the office's operating budget as there are no other funds available to cover these expenses. The Secretary would be best served to have her own General Counsel, as the Governor and State Treasurer have. Unfortunately, this would require a change in state law, 41-192. This is still an option for consideration, but either way, funding would be required.

*Impact of not funding this fiscal year:* If the Secretary of State's office does not receive funding for election litigation we will likely need supplemental funding from the general fund in fiscal years 2021 and 2022.

*Statutory Reference:* ARS 41-192

*Equipment to be purchased:* N/A

*Classification of new positions:* N/A

*Annualization:* N/A

## Funding Issue 3

### Petition Processing System

*Description of issue and how recommending the agency's request furthers the agency's mandates:* The contract for the petition processing system currently in use by the Secretary of State's office ends in December 2020. Our office must have a contract for a system in place by the beginning of calendar year 2022.

*Proposal:* Our office is working with the State Procurement Office to put out a request for bid on a petition processing system after the 2020 election cycle has ended. The fiscal year 2020 budget included an increase of \$100,000 from the General Fund for petition filing. We will put that allotment toward the system purchase and anticipate that additional one-time funding will be needed for implementation of the system and upfront costs such as hardware and development. Depending on the annual maintenance and operation expenses for the new system our office may also need an increase to the ongoing appropriation for petition filing. Once we receive bids we will have a better idea of actual costs. Under the current contract there were \$111,700 in expenses in fiscal year 2020. That amount included software licensing with customized functionality for Arizona, software support, 1 scanner, scanner licensing fees, and custom development for the State of Arizona. That did not include the staff resources, including overtime, temps, interns and fellows, that were used in addition to the software to meet statutory obligations of petition processing.

*Alternatives Considered and reasons for rejection:* Process petitions manually; the process is too complex to do manually and meet statutory deadlines.

*Impact of not funding this fiscal year:* If a system is not in place by the beginning of 2022 The Secretary of State's office will not be prepared for the 2022 candidate and initiative petition processing cycle, which would put our office at risk of missing statutory deadlines that in turn impact ballot printing deadlines for all fifteen counties in the state, ultimately putting the entire election at risk and increasing our office's risk of having litigation brought against us.

*Statutory Reference:* ARS § 19.121 and 19.121.01

*Equipment to be purchased:* Potentially scanners and other hardware needed to operate the system.

*Classification of new positions:* N/A

*Annualization:* N/A

## Funding Issue 4

### Address Confidentiality Program - New Fund Source

*Description of issue and how recommending the agency's request furthers the agency's mandates:*

Address Confidentiality Programs were created to protect primarily victims of stalking, domestic violence, and sexual assault, from those who would use public records, such as voter or drivers' license registries, to locate, harass, intimidate, and/or abuse them. The first confidential address program was passed by the Washington State legislature in 1991. Survivors of domestic violence were frustrated with their inability to vote since voter registration records are public and easily available. Survivors had to decide whether to risk being found by an abuser in order to exercise their right to vote, a right that many Americans take for granted. The Washington Secretary of State proposed an innovative solution: Provide survivors with a legal substitute address, accepted by state and local agencies, and a mail forwarding service. These services provided survivors with 1) a way to register to vote and 2) a way to keep their actual address out of all public records.

In 2011, the Arizona legislature established the Address Confidentiality Program (ACP) within the Office of the Secretary of State. Arizona was the 27th state to create a confidential address program. On June 4, 2012, the program began assisting individuals and families impacted by domestic violence, sexual offenses and stalking. Part of the enabling legislation created the ACP Fund, which is made up of a \$50 fine assessed as part of court fines included when there is a conviction for domestic violence, sexual assault, or stalking. When this ACP Fund was created, the fine was used as a way to generate funding to support the program without relying on general funds from the legislature. At the time, it was customary that this type of fine would be used to fund such a program and some other state ACPs were similarly funded, although not all. Since then, as more is understood about the impact of fines and fees on low income individuals, and especially on communities of color, the SOS is requesting that this practice of relying on these types of fees be discontinued. The Secretary supports efforts to reform our criminal legal systems and work towards a more restorative approach to addressing these offenses. A fine is incongruent with those efforts. Furthermore, reliance on those fines and fees, especially given the current economic situation of many Arizonans due to the COVID-19 pandemic and resulting loss of income for many of our citizens, is not sustainable. The burden to pay those fines often falls on the victims of the crimes themselves, which only further exacerbates the harm.

**Proposal:** The Arizona Department of State, Secretary of State’s Office – Katie Hobbs and the Address Confidentiality Program proposes replacing the funding from the court fines with \$300,000 from the General Fund.

<b>Expenses</b>	<b>2019-Actual</b>	<b>2020-Actual</b>	<b>2021-Projection</b>	<b>2022-Projection</b>
Personal Services	\$139,576	\$150,964	\$161,200	\$161,200
Employee Related Expenditures	\$43,778	\$48,121	\$64,500	\$64,500
Professional And Outside Services	\$8,892	\$2,341	\$3,000	\$3,000
Travel - In-State	\$1,258	\$1,330	\$1,600	\$1,600
Travel - Out-Of-State	\$1,858	\$1,798	\$3,800	\$3,800
Other Operating Expenditures	\$46,417	\$64,181	\$65,900	\$65,900
Transfers Out	\$37,803			
<b>Expenditure Total</b>	<b>\$279,582</b>	<b>\$268,735</b>	<b>\$300,000</b>	<b>\$300,000</b>

**Alternatives Considered and reasons for rejection:** One option would be to maintain the current source of funding, the court fines as described. This proposal is rejected in light of widespread discussions around criminal legal reform efforts and the desire to minimize the financial impact on low income individuals, which has the effect of destabilizing the fund during an economic recession, as well as disproportionately impacting communities of color. The Office would consider an alternative fund source, but looks to the executive and legislature to partner to create a fee that would generate around \$250,000 a year for this purpose, that would be in line with the program’s intent and goals.

**Impact of not funding this fiscal year:** If general fund is not provided, or another fund source not identified, we would maintain the current fee structure outlined in statute.

*Statutory Reference: ARS 41-161 – 41-169*

*Equipment to be purchased: N/A*

*Classification of new positions: N/A*

*Annualization:*

## Funding Issue 5

### Appropriate Remaining HAVA 2020 Grant

*Description of issue and how recommending the agency's request furthers the agency's mandates:* On December 20, 2019 the Consolidated Appropriations Act of 2020 was signed into Law. Under the act, the Arizona Secretary of State's office was awarded a 2020 Help America Vote Act (HAVA) election security grant from the Election Assistance Commission (EAC). During the second regular session of the fifty-fourth legislature our office received a \$6,690,300 supplemental appropriation of the funds; \$1,338,100 for election systems improvements for the Secretary of State and \$5,352,200 for election systems improvements for counties. At the time of the appropriation the EAC had announced \$8,362,741 in funding for Arizona with a match requirement of \$1,672,548 and Arizona's ability to secure the required 20% match was in question. Since that time, the EAC has announced an additional \$34,558 in funding for Arizona, bringing the total federal award to \$8,397,299 and the match requirement to \$1,679,460, and we have met the match obligation using eligible expenses from County general operating budgets.

*Proposal:* Appropriate the remaining grant award of \$1,706,999 to the Secretary of State in the fiscal year 2022 budget.

*Alternatives Considered and reasons for rejection:* Not appropriating the full grant is an option. That approach would needlessly under fund Arizona election security.

*Impact of not funding this fiscal year:* Federal grant monies would be inaccessible, limiting the state's ability to dynamically address election security issues, enhance existing technology, and make improvements to the administration of federal elections at both the state and county level.

*Statutory Reference:* ARS § 41-129

*Equipment to be purchased:* None identified at this time.

*Classification of new positions:* Our FY21 spending plan includes 1 FTE that needs to be appropriated. No additional positions have been identified at this time.

*Annualization:* N/A

## Funding Issue 6

### Appropriate HAVA CARES Grant & Fund Match

*Description of issue and how recommending the agency's request furthers the agency's mandates:*

Governor Doug Ducey in partnership with Secretary of State Katie Hobbs announced in July 2020 the investment of \$9 million in Coronavirus Relief Funding (CRF) to support safe and secure voting in Arizona during the 2020 election season.

Earlier in the year, in March 2020, the Arizona Secretary of State's office was awarded \$7,874,848 in emergency HAVA CARES funds made available to states to prevent, prepare for, and respond to the coronavirus for the 2020 federal election cycle. The grant included a 20% match requirement of \$1,574,970, for a total Arizona HAVA CARES grant allocation of \$9,449,817.

After the legislature adjourned in March without appropriating the HAVA CARES grant the Secretary of State, county election officials, and Governor began working on a bipartisan plan to prioritize voter and poll worker safety, as well as increase access to voting options, during the pandemic. This work resulted in the Governor funding the Secretary's entire \$9,449,817 plan through the AZVoteSafe program using the CRF.

*Proposal:* Appropriate the grant award of \$7,874,848 and fund the \$1,574,969 match using general fund monies so that the Governor's Coronavirus Relief Fund may be credited using the HAVA CARES grant.

*Alternatives Considered and reasons for rejection:* Don't appropriate the grant or fund the match and leave \$7,874,848 of federal grant funds unused during the COVID-19 pandemic.

*Impact of not funding this fiscal year:* Our office will not be able to pay back the AZVoteSafe grant, \$9,449,817 that could have been used for other pandemic related costs will remain unavailable to the state, and \$7,874,848 in federal funds will revert to the US Treasury. Additionally, a percentage-based penalty will be realized if the state does not fund the match. For example, if 50% of the match is made then only 50% of the federal award is available for use by the state. In-kind match for this grant is unlikely due to county expenses that would be eligible are likely being covered by another federal fund source in response to the pandemic.

*Statutory Reference:* ARS § 41-129

*Equipment to be purchased:* Ballot boxes and mobile voting units.

*Classification of new positions:* N/A

*Annualization:* N/A