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April 23, 2026

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Pennsylvania State Police
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1800 Elmerton Avenue
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Re: Capital Construction Security Improvements

Dear Chief Counsel O'Malley:

The State Treasurer has carefully reviewed and considered Pennsylvania State Police requisitions seeking the payment of \$1,072,794.56¹ of expenses related to or arising from security construction at the Governor's private residence in southeastern Pennsylvania. Because of the unprecedented nature of requisitions involving capital construction expenditures on a private (non-public, non-Commonwealth owned) residential property, the Treasurer provides this explanation of the determination that the submitted requisitions do not, in the opinion of the Treasurer, appear to be lawful and correct and therefore warrants for payment will not be issued. A general government operations appropriation line-item is insufficient legal authority for capital construction costs on privately owned property.

Duty of the State Treasurer

The State Treasurer is constitutionally directed to oversee the expenditure of public funds. Article III, Section 24 of the Pennsylvania Constitution prohibits the State Treasurer from authorizing the payment of any public funds, except on appropriations made by law.² Pursuant

¹ See Trace ID / SAP requisition nos. PC120252031197862 / 5106057071; PC120252031379057 / 5106104731; PC120252031269471 / 5106023625; PC120252031298853 / 5106084185; and PC120252031412252/ 5106113028.

² Pa. Const. art. III, §24 ("No money shall be paid out of the treasury, except on appropriations made by law and on warrant issued by the proper officers;")

to the Fiscal Code, the Treasury may only issue a warrant for the payment of a requisition if it “appear[s] to be lawful and correct.”³ **To be clear, the Treasurer’s review of the expenditure requisitions is exclusively focused on their legality – it does not question the prudence, urgency, or necessity for the identified capital construction security improvements, nor does it second-guess the duty of the State Police to protect the Governor and his family.**

The Fiscal Code permits the Treasurer to exercise independent discretionary judgment when considering the legality of an expenditure requisition and to approve the payment of an expenditure only if it “appears” lawful under the circumstances. It is within this statutory framework that the Treasurer, subject to generally accepted auditing standards, reviews and, if deemed to be lawful and correct, approves expenditure requests submitted by the Comptroller for the Secretary of the Budget on behalf of Commonwealth agencies. In this case, the Treasurer considered all supporting documentation submitted by the State Police characterizing the expenditure as authorized to justify the issuance of the Treasurer’s warrant releasing public funds for the payment of the expenditure request. Within this context, it is both appropriate and occasionally necessary for the Treasurer to request detailed legal justification and documentation from the originating Commonwealth agency to support the expenditure payment request and demonstrate that the expenditure is legally authorized.⁴

Legal Basis of the Requisitions

General Government Operations

Fundamentally, the submitted requisitions, seeking the payment of capital construction security improvements to a private residence from the general government operations (GGO) line-item appropriation to the Pennsylvania State Police are without precedent.⁵ In response to inquiries from Treasury’s Bureau of Fiscal Review, and in public testimony before the Pennsylvania Senate Appropriations Committee, no prior instance has been identified in which the State Police’s general government operations line-item appropriation was used to pay for expenses associated with construction improvements to a non-Commonwealth building or facility.⁶ No

³ 72 P.S. §1502.

⁴ See e.g., Treasury, Bureau of Fiscal Review information requests of January 8, January 28, and March 12, 2026.

⁵ Act of November 12, 2025 (P.L. __, No. 1A) §229 (“For General Government Operations of the Pennsylvania State Police. State Appropriation . . . \$1,141,750,000”); Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 3 (February 18, 2026).

⁶ *Id.*; Lieutenant Colonel George Bivins, Acting Commissioner of the Pennsylvania State Police, testified before the Pennsylvania Senate Appropriations Committee, in response to questions from State Senator Cris Dush, that he was “not aware” of any prior reliance upon the State Police general government operations for security construction improvements to a Governor’s private residence. Pennsylvania State Appropriations Committee, Pennsylvania State Police Budget Hearing (February 24, 2026).

other legal authority, beyond the GGO line-item, has been cited in support of the requisitioned expenses.

State budgetary line-item appropriations for “general government operations” are primarily intended to fund core administrative costs, salaries, benefits, and operational overhead of Commonwealth departments and agencies.⁷ These typical operating expenses are described in the Governor’s Executive Budget book as “the portion of the state budget that supports the general day-to-day activities and expenses of state government.”⁸ Operating expenses are distinct from capital expenditures. Operating expenses are short-term costs for the day-to-day business operations, though often recurring; they are not designed to provide long-term benefits beyond routine rent, utilities, office supplies, and maintenance.⁹ Though GGO appropriations are occasionally used for capital construction, they are minor in nature and connected with state-owned buildings or facilities to maintain existing operations.

Capital Construction Expenditures

In contrast, capital expenditures, such as those requisitioned for the personal residence of the Governor, are expenses to acquire, upgrade, or to maintain long-term assets, including purchasing of machinery, construction, real estate and buildings, building or real estate improvements, or even hard or software upgrades to extend asset life-usage.¹⁰ Capital construction expenditures are funded either through (1) debt – the proceeds from bond sales as part of capital itemization legislation (Capital Budget Bill), or (2) current revenues – as projects specifically identified in the executive budget (General Appropriations Budget Bill).¹¹

The Governor’s Budget Office directs agencies to submit proposed capital expenditures as part of its annual budget submission.¹² For capital projects with estimated costs between \$100,000 and \$600,000, agencies are directed to include capital funding requests in the agency’s GGO budget, classified under maintenance, repair or fixed asset commitment items.¹³ All current

⁷ See e.g., *id* at §104 (defining state appropriations from the General Fund to agencies of the Commonwealth “as provided by law or by this Act, necessary for the proper conduct of the duties, function and activities” of the agency.)

⁸ Governor’s Executive Budget 2026-2027 at 17.

⁹ Governor’s Office of the Budget, *2026-2027 Budget Instructions*, Administrative Circular 25-11, page 65-67 (August 2025) (providing instructions for annual submissions by departments and agencies to the Governor’s Budget Office on the classification of operating vs. capital expenditures).

¹⁰ *Id.*; see e.g., President’s Commission to Study Capital Budgeting, *How States Budget for Capital* (October 22, 1998).

¹¹ See Governor’s Office of the Budget, *2026-2027 Budget Instructions*, Appendix: Other Submissions, page 1.

¹² *Id.*, directing all capital budget projects with an estimated cost greater than \$100,000, regardless of funding source, must be requested and subsequently included with proposed capital itemizations in the Governor’s Executive Budget.

¹³ *Id.*

revenue funded capital projects, regardless of amount, are directed to be included in the agency's budget request.¹⁴ All other new construction, land acquisition, or renovations to existing assets and structures, exceeding \$600,000, are typically requested as bond funded projects.¹⁵

In this case, the stated purpose of the construction costs at the Governor's personal residence is to provide a comparable level of protection to the Governor as exists in two publicly owned buildings - the Governor's Official Residence and the Capitol building in Harrisburg.¹⁶ However, the capital construction costs associated with the Governor's private residence do not appear in either the State Police's current 2025-26 General Appropriations Act nor in the proposed 2026-27 executive budget request.¹⁷

Appropriations for GGOs also differ from specific program line-item appropriations that supplement GGOs, specifically identifying authorized expenditures – such as “for law enforcement information technology” or “statewide public safety radio network.”¹⁸ There is no General Fund line-item appropriation within the State Police budget providing for capital construction security improvements to the Governor's personal residence, nor is there a similar project authorization in any capital budget bill.

The State Police correctly notes that the general government operations line-item appropriation authorizes the payment of public sums for “any other expenses,” which is defined to include “minor construction and renovation . . . of . . . buildings and facilities.”¹⁹ Though the General Appropriations Act's appropriation from the General Fund to each agency does not specifically include “construction” costs, it does include the catchall phrase -- “other expenses” -- the sole basis for the claim that the requisitioned expenditures are legally authorized.²⁰ However, conspicuously absent is any language suggesting that the ambiguously broad phrase, “other expenses,” specifically authorizes capital construction improvements to a non-Commonwealth, privately owned building or facility – such as the Governor's personal residence.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 4 (February 18, 2026).

¹⁷ The attack on the Governor's Official Residence, which gave rise for the stated need for the security construction improvements at the Governor's private home, occurred on April 13, 2025 – 7 months prior to the enactment of the FY 2025-26 General Appropriations Act, and almost 1 year prior to the submission of the FY 2026-27 budget proposal to the legislature.

¹⁸ See e.g., Act of November 12, 2025 (P.L. ___, No. 1A) §229(1) (“For law enforcement information technology. State Appropriation . . . \$27,871,000; For the Statewide Public Safety Radio Network. State Appropriation . . . \$27,062,000).

¹⁹ Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 3 (February 18, 2026), citing Act of November 12, 2025 (P.L. ___, No. 1A), §§104(a) and 229.

²⁰ *Id.* at §102.

The State Police claims “that the legislature knows that the State Police pays for the personal security for the Governor out of its general government appropriation.”²¹ However, it is not accurate to suggest that such “security,” as previously understood since State Police began providing security for Pennsylvania’s governors in 1942, now includes capital construction improvements to a Governor’s personally owned residence. In fact, the unprecedented use of the State Police’s GGO line-item for security construction improvements at the Governor’s personal residence belies any suggestion that the legislature anticipated this new use under these emergent circumstances.²² It has not been done before.

In contrast, when the General Assembly intends to appropriate public funds for security construction it has done so clearly, specifically, and without ambiguity. Within the same General Appropriations Act, \$22.3 million is explicitly authorized for the “Governor’s residence remediation and security” as a supplemental state appropriation to the Department of General Services in response to the security threats to the Governor.²³ Conspicuously absent in the General Appropriations Act of 2025 is any similar appropriations expenditure authority within the State Police budget for security construction (likely because none was requested). Neither the Governor’s enacted Fiscal Year 2025-26 Budget, nor the Governor’s Fiscal Year 2026-27 budget proposal contained any description of a need or specific appropriations request for security construction improvements at the Governor’s personal residence.

Public Official and Employee Ethics Act

Article III, Section 22 of the Pennsylvania State Constitution prohibits any public official from having an interest in “any purchase made by the Commonwealth under contract.”²⁴ This constitutional prohibition is embodied in the Public Official and Employee Ethics Act.²⁵

²¹ Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 4 (February 18, 2026).

²² These newly encountered, permanent (not temporary) security construction improvements include the placement of perimeter boulders, installation of visual barriers, sensors, cameras and lighting systems, commercial grade electric service and generator, gas line installation, building of a secure room, and window glass reinforcement. Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, pages 2-3 (April 3, 2026).

²³ Act of November 12, 2025 (P.L. __, No. 1A) §5118 (“The following amounts are appropriated from the General Fund to the Department of General Services for the prior fiscal year: For Governor’s residence remediation and security. State Appropriation . . . \$22,340,000.”) The statutorily designated Official Governor’s residence is the Governor’s Mansion in Harrisburg, Pennsylvania. 71 P.S. §782.5.

²⁴ Pa. Const. art., III, §22 (“The law shall provide that no officer or employee of the Commonwealth shall be in any way interested in any purchase made by the Commonwealth under contract or otherwise.”)

²⁵ Public Official and Employee Ethics Act (65 Pa.C.S.A. §1101, *et seq.* (“applicable to every expenditure of public funds . . . by Commonwealth agencies under any contract, irrespective of their source.”)

Pennsylvania law disallows any public official using the authority of his office for his or his immediate family's private pecuniary benefit. Specifically, the Public Official and Employee Ethics Act prohibits any public official from engaging in conduct that constitutes a conflict of interest.²⁶ Unfortunately, in the absence of specific expenditure authority for the capital construction improvements to the Governor's private residence, the State Police requisitions have unintendedly fostered concerns and claims that the expenditures may create a private pecuniary benefit.²⁷ It is this very risk – the appearance of a conflict of interest involving the pecuniary interest of a public official in capital improvements made to his personal real property -- that underscores the necessity for clear, explicit legal authorization, not implied, when incurring capital construction expenditures on private property.

Procurement Code

The requisitioned capital construction expenditures were not competitively bid, as ordinarily required under the Procurement Code.²⁸ Instead, the State Police determined that there was an urgency of need as the Official Governor's Residence was deemed temporarily uninhabitable.²⁹ Consequently, the contracts associated with the requisition for the security construction improvements to the Governor's private residence were obtained pursuant to the use of an "emergency procurement" under the Procurement Code, bypassing the formal competitive bid process.³⁰ While the "emergency procurement" process may be a valid and reasonable manner by which certain contract expenses were incurred, the Procurement Code is not an expenditure authority. Rather it directs "how" purchases of materials, supplies and personal property may be made, not "if" public funds may be spent.³¹ In fact, the Procurement Code's definitions of

²⁶ 65 Pa.C.S.A. §1103(a) ("No public official . . . shall engage in conduct that constitutes a conflict of interest."); §1101 (defines "conflict of interest" as the "use by a public official . . . of the authority of his office . . . for the private pecuniary benefit of himself, a member of his immediate family . . .").

²⁷ In fact, concerns of a possible conflict of interest compelled the submission of a confidential request to Pennsylvania Ethics Commission to issue an advisory opinion concluding that the security improvements at the Governor's private residence would not constitute a private pecuniary benefit or financial gain. *Confidential Opinion*, 25-0001, at 3 (October 10, 2025). The Ethics Commission was not asked (nor would it have been within its purview) if the expenditures were authorized. Rather, the Commission's abbreviated opinion concluded that there was no pecuniary benefit (based on the factual background provided to the Commission) because the expenses "would have impose[d] an additional unwarranted burden" if the Governor were compelled to incur the security construction expenses as a public official. *Id.* No other legal analysis was provided. Noteworthy, the request to the Ethics Commission was submitted on September 25, 2025, two months after the security construction costs were incurred.

²⁸ 62 Pa.C.S.A. §§511-520 (Pennsylvania Procurement Code).

²⁹ Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 6 (February 18, 2026).

³⁰ See 62 Pa.C.S.A. §516; Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 6 (February 18, 2026).

³¹ Pa. Const., art. III, §22 (directing the legislature to establish a "system of competitive bidding under which all purchases of materials, printing, supplies or other person property used by the government of this Commonwealth shall so far as practicable be made.").

“construction” and “design/build contract” are explicitly limited to public structures and public real property – not privately owned property.³²

Conclusion

Capital construction security improvements to the Governor’s personal residence are not statutorily authorized. The reliance on a broad, ambiguously defined GGO line-item appropriation as the sole legal basis for over \$1 million in capital construction security improvements on privately owned property, not only bypasses ordinary expenditure limitations, but creates an expenditure precedent without limitation.

The evolving and recurring threat environment confronting public officials is well documented and justifies reasonable security expenses as a necessary precaution. Recent violent acts directed at public officials at their homes have underscored the importance of protecting their safety at those locations. As the State Police noted in its response to Treasury’s inquiries, “[t]he Commonwealth may well have to undertake measures to secure the personal homes of Pennsylvania’s next governors as well.”³³ However, the compelling need to secure the private residences of threatened public officials does not alleviate the requirement that such expenditures must be explicitly authorized by an act of the legislature – particularly if these expenditures are anticipated to be reoccurring. Unfortunately, no legislative authorization appears to have been requested in response to the April 2025 arson attack at the Official Governor’s Residence.

If the State Police’s \$1.3 billion GGO line-item appropriation could be used for any capital construction costs on private property, limited only by an identified security purpose, there would be no meaningful expenditure control as to amount, scope, location or general purpose. For example –

- Could a GGO be used to pay for other capital construction security improvements at other executive branch public officials’ private residences: Lt. Governor, Attorney General, Commissioner of the State Police? Would it extend to officials of other branches of government: Supreme Court justices, Senate President Pro Tempore, Speaker of the House of Representatives?
- Could a GGO be used to pay for capital construction security improvement costs at other privately owned facilities: a long-term residential vacation home, adjacent properties, multiple family homes, private office, sale or transfer to new residence?

³² 62 Pa.C.S.A. §103 (“Construction. The process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. The term does not include the routine operation or maintenance of existing structures, buildings or real property.”) (“Design/build contract. A construction contract in which the contractor is responsible for both the design and construction of any public structure or building or other public improvements of any kind to any public real property.”) *Emphasis added.*

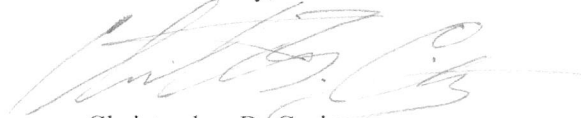
³³ Response of the Pennsylvania State Police to Treasury Bureau of Fiscal Review Inquiry, page 4 (February 18, 2026).

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- What type of capital construction security costs at a private residence are permitted under a GGO: an addition to a home to provide bedrooms, bathrooms or other living spaces for a state trooper on-site presence, parking expansion, fire suppression system?
- What total GGO expenditure limitations exist for capital construction security improvements at a private residence: \$2 million, \$20 million, \$200 million?
- Are GGO capital construction security improvements at a Governor's private residence annual or continuing expenditures, or occur only upon the assumption of office?
- Are GGO capital security improvement expenditures at a private residence reimbursable to the Commonwealth if the public official is convicted of a crime of malfeasance while in public office?

A line-item appropriation to the State Police, that explicitly defines and funds necessary capital construction security improvements at the personal residence of the Governor, or any other threatened public official, would provide sufficient authority to approve the expenditure requisitions. Unfortunately, none currently exists.

Sincerely,



Christopher B. Craig
Chief Counsel

cc: The Honorable Stacy Garrity
Pennsylvania Treasurer