

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$25	\$0	\$0	\$0	
Special Fund	20	6	6	0	
Reimbursable Fund	10,878	10,791	10,807	17	0.2%
Adjusted Grand Total	\$10,923	\$10,797	\$10,813	\$17	0.2%

- Office of Administrative Hearings (OAH) is level funded with no increase in workload assumed.

Personnel Data

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>
Regular Positions	141.00	133.00	129.00	(4.00)
Contractual FTEs	0.00	0.00	0.00	0.00
Total Personnel	141.00	133.00	129.00	(4.00)

Vacancy Data: Regular Positions

Budgeted Turnover: FY 04	3.30	2.56%
Positions Vacant as of 12/31/02	5.75	4.32%

- Impact of the hiring freeze is permanent with the abolition of four vacant positions.

Note: Numbers may not sum to total due to rounding.

For further information contact: James L. Stoops

Phone: (410) 946-5530

Analysis in Brief

Major Trends

Improved Performance of Nonbench Decisions: OAH has the goal of reducing the average number of days between appeal and disposition of nonbench decisions where a written opinion is issued after the conclusion of a hearing.

Alternative Dispute Resolution: OAH plans to increase the number of cases settled by mediation from 379 in fiscal 2002 to 550 in fiscal 2004.

Recommended Actions

1. Add budget bill language to delete State match funds for deferred compensation.

Updates

Progress on Case Management System Upgrade: The Case Management System is in the final stage of implementation.

Action Plan to Increase Diversity of Work Force: The required plan was submitted by OAH on July 31, 2002.

D99A11
Office of Administrative Hearings

Operating Budget Analysis

Program Description

The Office of Administrative Hearings (OAH) holds hearings in contested cases involving State agencies. The office was created in 1989 to centralize the hearing functions in various units of State government. Most cases originate from the Motor Vehicle Administration (MVA); the Inmate Grievance Office; the Department of Health and Mental Hygiene (DHMH); the Department of Human Resources (DHR); the Department of Labor, Licensing, and Regulation (DLLR); and the Department of Budget and Management (DBM). Funding primarily comes from those agencies that use OAH services. These agencies reimburse the OAH based on the proportion of time spent on their cases.

OAH decisions may be appealed on the record to the circuit court. In certain cases the OAH decision is advisory, and the originating agency can overrule or reject the OAH ruling. When an agency has rejected the OAH decision, recourse again is with the circuit court.

The Chief Administrative Law Judge is the administrative head of the agency. The State Advisory Council on Administrative Hearings oversees all activities of the agency and provides guidance and direction to the Chief Administrative Law Judge.

Performance Analysis: Managing for Results

OAH has two significant goals: to reduce the number of days from filing to disposition and to increase the number of cases that are resolved through alternative dispute resolution (ADR) where appropriate. The key indicators for the five agencies that constitute 87% of OAH cases are depicted in **Exhibit 1**. OAH hearings fall within two broad categories: oral bench decisions and written decisions where the ALJ does not issue a decision at the hearing.

ALJs conclude the vast majority of cases with oral decisions. Examples include driver license suspensions and revocations and involuntary admissions into psychiatric facilities. In these cases timely decisions are a necessity. In driver license hearings, the individual's need for a driver license must be weighed against the safety of the public. In psychiatric hearings, State law provides that an individual may not be deprived of liberty and committed to a psychiatric facility without a hearing. State law requires a hearing be held within ten days of an involuntary admission and allows for one, seven-day postponement. Exhibit 1 does not show much improvement in MVA/Maryland Department of Transportation (MDOT) and DHMH cases, which constitute 34% of the OAH workload.

Exhibit 1

**Key Managing for Results Indicators
Office of Administration**

	<u>Actual 2001</u>	<u>Actual 2002</u>	<u>Goal 2003</u>	<u>Goal 2004</u>	<u>% Chg. 02-03</u>	<u>%Chg. 03-04</u>
Average number of days between appeal and dispositions						
Mostly bench decisions:						
MVA/MDOT	58	62	58	55	-6.8%	-5.1%
DHMH	31	41	38	35	-8.3%	-7.9%
Mostly nonbench written decisions:						
DHR	111	89	89	89	0.3%	0.0%
MSDE	38	42	38	35	-8.8%	-7.9%
DLLR	197	225	215	210	-4.4%	-2.3%
Alternative Dispute Resolution						
Total cases scheduled	55,833	53,485	56,800	56,800	-6.2%	0.00%
Total hearing held	26,172	24,537	26,800	26,800	-9.2%	0.00%
Hearings with nonbench decisions	2,988	3,169	3,000	3,000	-5.3%	0.00%
Mediation cases	378	379	520	550	37.2%	5.8%
Mediation success rate	66.4%	66.6%	67.5%	67.5%	n/a	n/a

MVA= Motor Vehicle Administration
MDOT= Maryland Department of Transportation
DHMH=Department of Health and Mental Hygiene
DHR= Department of Human Resources
MSDE= Maryland State Department of Education
DLLR= Department of Labor, Licensing, and Regulation

Source: Office of Administrative Hearings Managing for Results submission

Nonbench decision cases from three agencies (DHR, MSDE, and DLLR) comprise nearly 43% of the OAH workload. OAH has significantly reduced the time between the scheduling of a hearing and the disposition of DHR cases. Results have been mixed, however, with respect to MSDE and DLLR cases.

OAH intends to improve performance with ADR. While ADR will have little or no impact in oral decision cases, it can significantly impact nonbench decision cases in three ways – less time for a formal hearing is required, the parties to the dispute write the decision, and there is no appeal to the circuit court. An increase in ADR cases is projected for both fiscal 2003 and 2004. One final benefit of ADR is the ability of OAH to meet its responsibilities under cost containment with fewer ALJs.

Fiscal 2003 Actions

Impact of Cost Containment

No reductions were taken in the fiscal 2003 budget for cost containment. However, OAH will have salary savings of \$167,000 for vacant positions due to a hiring freeze. In addition, there will be salary savings in pay-for-performance salary adjustments not spent in addition to funds budgeted for the one-time bonus that employees will not receive. OAH is a reimbursable fund agency. Any savings will be reflected as reductions in the assessments of agencies that refer contested cases to OAH for resolution.

Governor's Proposed Budget

The OAH budget allowance reflects a \$16,538 increase over the fiscal 2003 budget. The changes between the 2003 working appropriation and the 2004 budget allowance are highlighted in **Exhibit 2**.

Impact of Cost Containment in Fiscal 2004

The significant item is the abolition of four vacant positions for a reduction of \$167,035 in the fiscal 2004 allowance. An administrative law judge, a paralegal position, docket clerk, and an administrative position will be abolished and are currently vacant due to the hiring freeze noted above. A reduction in the turnover rate adds \$239,141 to the budget but is largely offset by the savings from the abolished positions. The allowance reflects a budgeted turnover rate of 2.56% or \$228,271 for fiscal 2004 compared to 5.29% or \$467,412 reflected in the 2003 working appropriation. It should be noted that the hearing workload for fiscal 2004 is 26,800 (with 21,368 bench decisions) the same as fiscal 2003. This level of workload is about 700 more than in fiscal 2002 when OAH had a staff of 141, compared to 129 now.

Other Changes

OAH is in the final stage of implementing a new case management system information technology (IT) application. The fiscal 2003 appropriation included \$161,802 for development of this IT system that will not carry forward into fiscal 2004.

Exhibit 2

**Governor's Proposed Budget
Office of Administrative Hearings
(\$ in Thousands)**

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$25	\$0	\$0	\$0	
Special Fund	20	6	6	0	
Reimbursable Fund	10,878	10,791	10,807	17	0.2%
Adjusted Grand Total	\$10,923	\$10,797	\$10,813	\$17	0.2%

Where It Goes:

Personnel Expenses

Abolished positions for cost containment.....	-\$167
Pay-for-performance salary adjustments not budgeted in fiscal 2004	-98
Employee and retiree health insurance increased costs in fiscal 2004	226
Workers' compensation premium assessment	-25
Reduced turnover and adjust for positions abolished in 2004.....	230
Other fringe benefit adjustments.....	3

Total salary changes **\$169**

Other Changes

Case management (IT) completed in fiscal 2003	-162
Postage and telecommunication expenses	15
Replacement vehicle purchased in fiscal 2003	-21
Other operating expenses.....	16

Total **\$17**

Note: Numbers may not sum to total due to rounding.

Reimbursable funds

OAH receives reimbursable funds from State agencies that have contested cases referred to OAH for resolution. DBM allocates funds to these agencies to cover the OAH assessment based on prior year experience. In the 2001 session, budget bill language directed OAH to submit with its annual budget an

D99A11 - Office of Administrative Hearings

accounting of caseload and average case hours per case attributable to each agency that receives an OAH assessment. The agency assessment continues to be based on the case formula methodology. A caseload formula is used to calculate the OAH agency assessment based on the ratio of agency caseload hours (agency average hourly rate x agency caseload fiscal 2002) to the sum of all agency caseload hours. **Exhibit 3** shows the cases, average caseload rate for fiscal 2002, and the fiscal 2004 assessment.

Exhibit 3

**Office of Administrative Hearings
Cost Allocation – Fiscal 2003 to 2004**

	<u>Avg. Case Time (Hrs)</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>	<u>Allocation FY 2004</u>
MDOT					
Motor Vehicle Administration	0.50	22,215	11,108	25.42%	\$ 2,727,067
Miscellaneous	7.50	5	38	0.09%	9,207
Total MDOT		22,220	11,145	25.51%	\$ 2,736,273
DHMH					
Not Criminally Responsible (NCR)	3.00	164	492	1.13%	\$ 120,794
Involuntary Admissions (IVA)	0.50	1,287	644	1.47%	157,989
Medical Assistance	4.00	406	1,624	3.72%	398,718
Physician Quality Assurance	88.00	11	968	2.22%	237,659
DDA	1.00	3	3	0.01%	737
Patient Bill of Rights	2.00	12	24	0.05%	5,892
Licensing	40.00	4	160	0.37%	39,283
Nursing Home Appeal Board	40.00	1	40	0.09%	9,821
Total DHMH		1,888	3,955	9.05%	\$ 970,892
DLLR					
Home Improvement Commission	24.00	205	4,920	11.26%	\$ 1,207,938
Real Estate Commission	24.00	29	696	1.59%	170,879
MOSH	15.00	5	75	0.17%	18,414
MISC	24.00	11	264	0.60%	64,816
Total DLLR		250	5,955	13.63%	\$ 1,462,047
DBM					
Office of Personnel Services	11.00	255	2,805	6.42%	\$ 688,672
Central Collections	2.00	9	18	0.04%	4,419
Total DBM		264	2,823	6.46%	\$ 693,091
DHR					
Child Support Enforcement	1.50	37	56	0.13%	13,626
Income Maintenance	3.50	553	1,936	4.43%	\$ 475,196
Child Abuse and Neglect	24.00	419	10,056	23.01%	2,468,907
Total DHR		1,009	12,047	27.57%	\$ 2,957,729

D99A11 - Office of Administrative Hearings

	<u>Avg. Case Time (Hrs)</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>	<u>Allocation FY 2004</u>
DNR					
Hearings	20.00	14	280	0.64%	\$ 68,744
Settlements	0.50	34	17	0.04%	4,174
Total DNR		48	297	0.68%	\$ 72,918
MSDE					
Mediations	3.00	284	852	1.95%	\$ 244,179
Hearings	30.00	122	3,660	8.38%	943,591
Total MSDE		406	4,512	10.33%	\$ 1,187,770
OAG					
Consumer Protection	20.00	8	160	0.37%	\$ 39,283
Securities Division	16.00	1	16	0.04%	3,928
Total OAG		9	176	0.40%	\$ 43,211
Department of the Environment	50.00	7	350	0.80%	\$ 85,931
Retirement and Pension	20.00	33	660	1.51%	162,040
Human Relations Commission	60.00	3	180	0.41%	44,193
MD State Police	2.50	17	43	0.10%	10,434
Board of Public Works	26.00	1	26	0.06%	6,383
Inmate Grievance Office	1.50	564	846	1.94%	207,706
MD Insurance Administration	1.50	453	680	1.56%	166,828
Total		27,172	43,694	100.00%	\$ 10,807,447

Source: Office of Administrative Hearings

Recommended Actions

1. Section XX Office of Administrative Hearings Reallocation of Funds

Add the following language:

SECTION XX. AND BE IT FURTHER ENACTED, that:

- (1) a reduction of \$61,900 is made in this budget for Office of Administrative Hearings' (OAH) services (Comptroller object 0172);
- (2) the Governor shall develop a schedule for allocating this reduction across the various State departments and agencies that utilize OAH's services and across all funds appropriated for the purpose of conducting administrative hearings based upon the percentage of cases referred to OAH by these departments and agencies; and
- (3) the reduction under this section shall equal at least the amounts indicated for the budgetary fund types listed:

<u>Fund</u>	<u>Amount</u>
General	\$28,941
Special	\$20,700
Federal	\$12,259

Explanation: Budget bill language reduces the Office of Administrative Hearings' (OAH) fiscal 2004 allowance by \$61,900 to reflect deleting the State deferred compensation 401k match consistent with State policy. This budget bill language directs the Governor to develop a schedule for reallocating funds resulting from this reduction to the various State departments and agencies that refer administrative hearing cases to OAH for adjudication. This reallocation schedule should be based on the percent of cases that each department or agency contributes to OAH's total caseload. Furthermore, the total reduction should be split as indicated above among general, special, and federal funds.

Updates

1. Progress on Case Management System Upgrade

The 2002 *Joint Chairmen's Report* (page 40) requested OAH to submit a report on the Case Management System (CMS) upgrade and use of funds from the fiscal 2002 cost containment action by August 1, 2002.

OAH has submitted the required report. Motor vehicle cases were processed by the new system in October 2002, and cases for most agencies are now processed by the new system. Final installation and implementation will be completed early in calendar 2003. The total cost of the new CMS has not increased from the previously agreed amount of \$508,324. All funds saved through the fiscal 2002 cost containment were obligated to pay for the CMS upgrade.

2. Action Plan to Increase Diversity of Work Force

Budget bill language in the 2002 session required OAH to submit an action plan on the diversity of its work force. As of July 1, 2002, minority persons filled 5 out of 63 administrative law judge positions. OAH cites the low starting salary as a major factor for not attracting minority applicants. ALJ salaries range from a starting salary of \$55,804 to \$78,128 for ALJs who have 12 years experience with OAH. Applicants must be a member of the Maryland bar and have a minimum of five years professional experience. The minority pool of applicants is not interested in the starting salary offered.

OAH indicates they will inform the Maryland Legislative Black Caucus and the Office of the Statewide Equal Opportunity Coordinator when there is a vacancy and will advertise staff vacancies with the Monumental Bar Association and other minority-based legal associations and newspapers. OAH has implemented a policy that any minority individual who meets the minimum qualification will be interviewed. Concurrent with increased advertising, OAH has implemented a number of proactive measures to increase contact with prospective candidates to provide a pool of applicants. OAH plans to recruit minority law students for internships, attend job fairs, and maintain contact with law schools.

Current and Prior Year Budgets

Current and Prior Year Budgets Office of Administrative Hearings (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2002					
Legislative Appropriation	\$25	\$6	\$0	\$10,798	\$10,829
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	15	0	80	95
Reversions and Cancellations	0	-1	0	0	-1
Actual Expenditures	\$25	\$20	\$0	\$10,878	\$10,923
Fiscal 2003					
Legislative Appropriation	\$0	\$6	\$0	\$10,791	\$10,797
Budget Amendments	0	0	0	0	0
Working Appropriation	\$0	\$6	\$0	\$10,791	\$10,797

Note: Numbers may not sum to total due to rounding.

D99A11 - Office of Administrative Hearings

Appendix 2

Object/Fund Difference Report
Office of Administrative Hearings

Object/Fund	FY 02	FY 03	FY 04	FY 03 - FY 04	Percent
	<u>Actual</u>	<u>Working Appropriation</u>	<u>Allowance</u>	<u>Amount Change</u>	<u>Change</u>
Positions					
01 Regular	141.00	133.00	129.00	(4.00)	(3.0%)
Total Positions	141.00	133.00	129.00	(4.00)	(3.0%)
Objects					
01 Salaries and Wages	\$ 8,578,027	\$ 8,571,922	\$ 8,741,174	\$ 169,252	2.0%
02 Technical & Spec Fees	79,766	87,041	87,041	0	0%
03 Communication	257,583	148,115	163,561	15,446	10.4%
04 Travel	116,894	93,872	98,104	4,232	4.5%
06 Fuel & Utilities	81,206	91,603	83,642	(7,961)	(8.7%)
07 Motor Vehicles	45,287	47,921	26,234	(21,687)	(45.3%)
08 Contractual Services	761,577	675,392	556,075	(119,317)	(17.7%)
09 Supplies & Materials	134,526	154,700	136,050	(18,650)	(12.1%)
10 Equip - Replacement	0	83,100	77,397	(5,703)	(6.9%)
11 Equip - Additional	30,314	0	0	0	0.0%
13 Fixed Charges	838,038	843,243	844,169	926	0.1%
Total Objects	\$ 10,923,218	\$ 10,796,909	\$ 10,813,447	\$ 16,538	0.2%
Funds					
01 General Fund	\$ 25,000	\$ 0	\$ 0	\$ 0	0.0%
03 Special Fund	19,959	6,000	6,000	0	0%
09 Reimbursable Fund	10,878,259	10,790,909	10,807,447	16,538	0.2%
Total Funds	\$ 10,923,218	\$ 10,796,909	\$ 10,813,447	\$ 16,538	0.2%

Note: Full-time and contractual positions and salaries are reflected for operating budget programs only.

