

D99A11
Office of Administrative Hearings

Operating Budget Data

(\$ in Thousands)

	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>	<u>FY 05-06</u>	<u>% Change</u>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>	<u>Prior Year</u>
General Fund	\$0	\$303	\$0	-\$303	-100.0%
Special Fund	38	6	6	0	
Reimbursable Fund	<u>10,846</u>	<u>10,936</u>	<u>11,108</u>	<u>172</u>	<u>1.6%</u>
Total Funds	\$10,884	\$11,245	\$11,114	-\$130	-1.2%
Contingent & Back of Bill Reductions			-56	-56	
Adjusted Total	\$10,884	\$11,245	\$11,058	-\$186	-1.7%

- The allowance for the Office of Administrative Hearings (OAH) is \$186,177, or 1.7% less than the fiscal 2005 working appropriation. The reduction is due to the fact that general funds, and the States' deferred compensation match, have been deleted. The general funds were used for cost-of-living adjustments and annual salary reviews, which will now be billed out as reimbursable funds. Special funds have remained constant with the previous fiscal year while reimbursable funds have increased \$116,349, or 1.1%.

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

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Personnel Data

	<u>FY 04</u> <u>Actual</u>	<u>FY 05</u> <u>Working</u>	<u>FY 06</u> <u>Allowance</u>	<u>FY 05-06</u> <u>Change</u>
Regular Positions	126.00	125.00	122.00	(3.00)
Contractual FTEs	<u>0.00</u>	<u>1.00</u>	<u>1.00</u>	<u>0.00</u>
Total Personnel	126.00	126.00	123.00	(3.00)

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	3.66	3.00%
Positions Vacant as of 12/31/04	3.00	2.40%

- Funding for three regular positions, a Personnel Administrator I, Administrative Law Judge III, and Office Secretary III, was deleted.
- The vacancy rate as of December 31, 2004, is 2.4%. However, one of the currently vacant positions will be abolished in fiscal 2006, which effectively decreases the vacancy rate to 1.6%. OAH does not have enough vacancies to meet its turnover rate.

Analysis in Brief

Major Trends

Improved Performance of Nonbench Decisions: OAH has successfully reduced the time between the receipt of a case and its disposition in cases requiring a written opinion.

Mixed Performance of Bench Decisions: The average number of days between the date an appeal is received and the date of disposition has increased by 8.6 days for cases from the Motor Vehicle Administration.

Recommended Actions

1. Concur with Governor's allowance.

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 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.

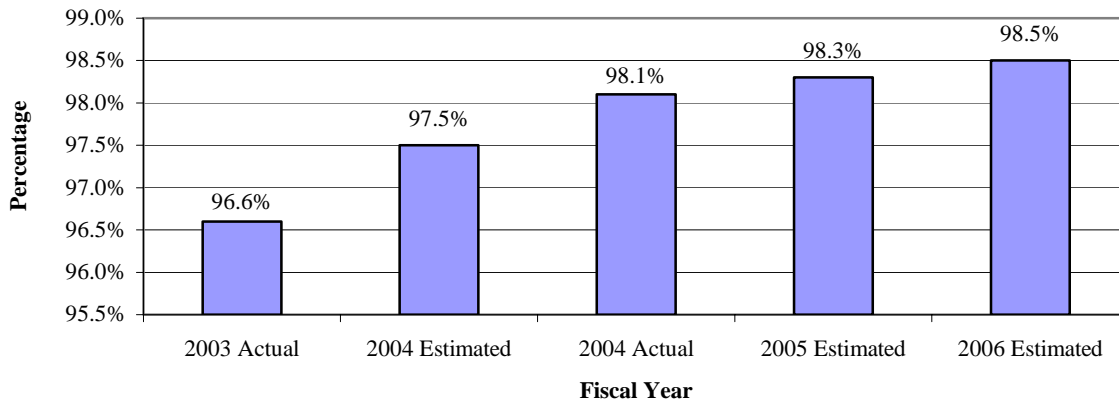
The Chief Administrative Law Judge (ALJ) is the administrative head of the agency. The State Advisory Council on Administrative Hearings oversees all activities of the agency and provides guidance and direction to the Chief ALJ.

Performance Analysis: Managing for Results

OAH has two primary performance goals: to reduce the number days from when an appealed case is first received to the disposition of the case and to increase the number of cases that are adjudicated through alternative dispute resolution (ADR). OAH hearings result in either bench or nonbench decisions.

Nonbench decisions result in written decisions being given by the ALJ after the conclusion of a hearing. Nonbench decisions are rendered in cases that are appealed from DHR, Maryland State Department of Education (MSDE), and DLLR. OAH has been successful in reducing the time between receipt and disposition of nonbench cases by 4.5 days for DHR, 8.6 days for DLLR, and 5.3 days for MSDE. **Exhibit 1** provides the percentage of all OAH nonbench cases that are closed in a timely manner. In fiscal 2004 OAH exceeded its goal to issue nonbench decisions in a timely manner by six tenths of a point.

Exhibit 1
Percentage of Nonbench Decisions Issued Timely

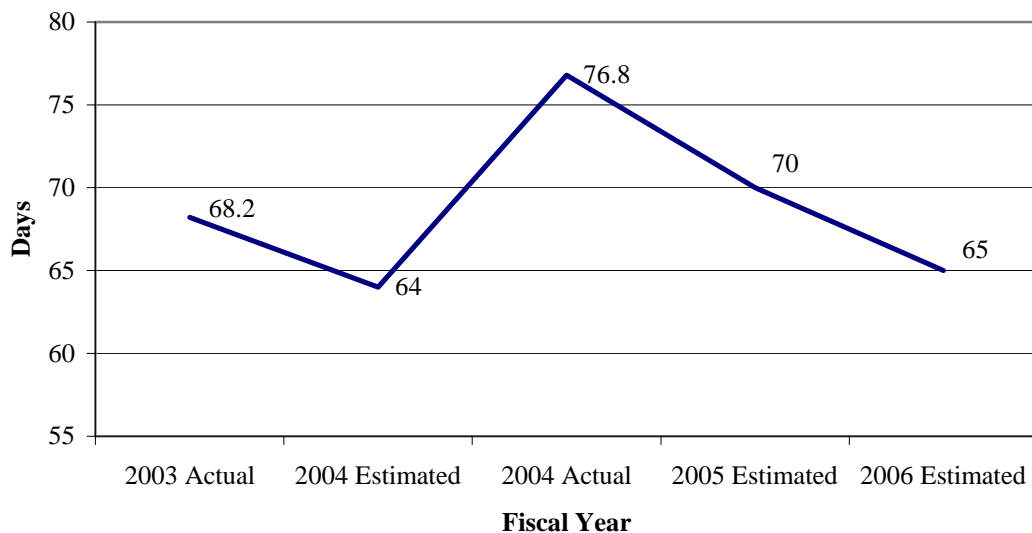


Note: In fiscal 2004 OAH exceeded its goal to issue nonbench decisions in a timely manner by six tenths of a point.

Source: Office of Administrative Hearings

The overall picture for bench cases is mixed, with the biggest increases being shown in MVA, which constitutes approximately 36% of OAH’s caseload, and the public employees’ retirement system. **Exhibit 2** depicts the increase in the time taken to close MVA cases.

Exhibit 2
Average Number of Days between Receipt and Disposition of MVA Cases



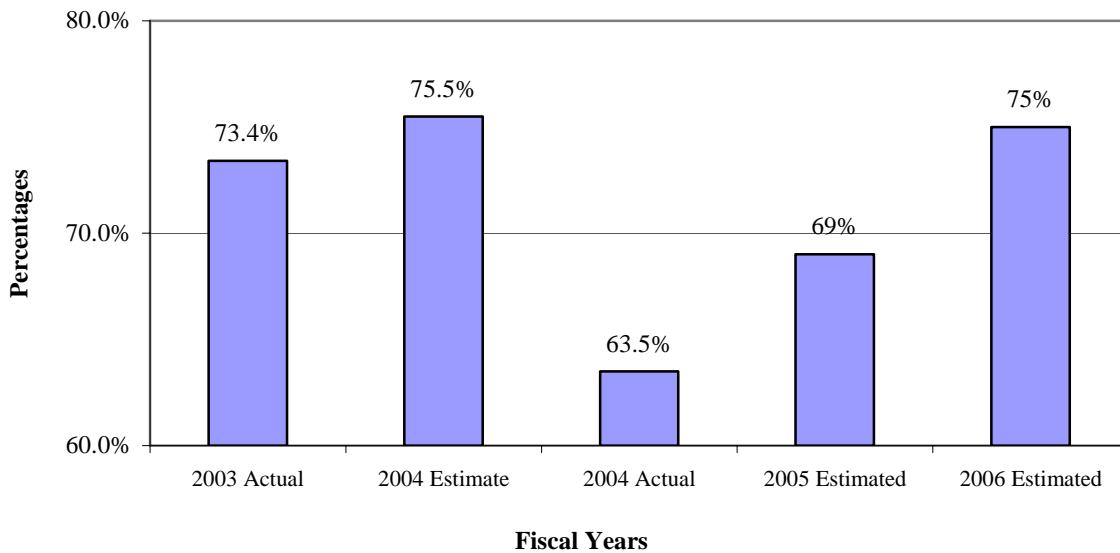
Source: Office of Administrative Hearings

D99A11 – Office of Administrative Hearings

OAH fell well short of its goal of a 64–day average between receipt and disposition of MVA cases. **OAH should explain to the committees why it exceeded its target in fiscal 2004 and why its fiscal 2005 and 2006 estimates are valid.**

The number of cases disposed through ADR mediations and settlement conferences increased by 54, or 11.4% between fiscal 2003 and 2004, but the overall percentage of cases resolved via ADR actually declined from 73.4% in fiscal 2003 to 63.5% in fiscal 2004. ADR is most frequently applied in cases from MSDE. **Exhibit 3** provides a graphical depiction of the percentage changes as well as fiscal 2005 and 2006 OAH estimates.

Exhibit 3
Percentage of Cases Resolved Using ADR



Source: Office of Administrative Hearings

OAH missed its goal of having 75.5% of all cases resolved using ADR in spite of the numerical increase. **OAH should explain to the committees why it did not meet its fiscal 2004 estimate and why it believes its fiscal 2005 and 2006 estimates are valid.**

Governor’s Proposed Budget

Exhibit 4 indicates that the OAH allowance decreases by \$186,000, or 1.7% below the fiscal 2005 allowance. The decrease is primarily attributable to the abolishment of three positions, salary increments, turnover, as well as the reduced need for court reporters.

Exhibit 4
Governor's Proposed Budget
Office of Administrative Hearings
(\$ in Thousands)

How Much It Grows:	General Fund	Special Fund	Reimbursable Fund	Total
2005 Working Appropriation	\$303	\$6	\$10,936	\$11,245
2006 Governor's Allowance	0	6	11,108	11,114
Contingent & Back of Bill Reductions	0	0	-56	-56
Adjusted Allowance	<u>0</u>	<u>6</u>	<u>11,052</u>	<u>11,058</u>
Amount Change	-\$303	\$0	\$116	-\$186
Percent Change	-100.0%		1.1%	-1.7%

Where It Goes:

Personnel Expenses

Abolished/transferred positions	-\$218
Fiscal 2006 Increments	154
Employee and retiree health insurance	-52
Turnover adjustments	-109
Employee retirement	73
Other fringe benefit adjustments	12

Other Changes

One full-time contractual position to replace an abolished docket clerk position.....	18
DBM Wide Area Network fee increase.....	14
Increased mileage rate and increased use of personal vehicles	15
New leased PCs needed for new server.....	-13
Utilities increased per DBM instructions to budget for a 10% increase.....	10
Equipment maintenance contracts	5
Computer maintenance contracts	-29
Reduction in the use of court reporters due to purchase of digital recorder.....	-40
Abolishment of instate travel	-5
Miscellaneous	-21

Total **-\$186**

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

Contingent Actions

The fiscal 2006 allowance reflects the elimination of \$56,000 (subobject 0172), the appropriation for matching employee deferred compensation contributions up to \$600, contingent upon enactment of a provision in budget reconciliation legislation.

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 years' experience. 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 average case time in hours for each agency case category in the prior year (fiscal 2005) multiplied by the projected caseload for each category in the allowance year. The percentage of the total caseload hours is applied to the total budget to calculate the individual agency assessment. **Exhibit 5** indicates average case times, number of cases, and total case hours for fiscal 2006.

**Exhibit 5
Cost Allocation – Fiscal 2006**

	<u>Avg Case Time (Hrs)</u>	<u>Est. No. of Cases</u>	<u>Total Case Hours</u>	<u>% of Total</u>	<u>Allocation FY 2006</u>
Maryland Department of Transportation					
Motor Vehicle Administration	0.55	29,616	16,289	36.20%	3,991,823
Miscellaneous	7.50	5	38	0.08%	9,101
Total MDOT		29,621	16,326	36.28%	\$4,000,924
Department of Health and Mental Hygiene					
Not Criminally Responsible	2.79	140	391	0.87%	95,723
Involuntary Admissions	0.94	1,246	1,171	2.60%	287,031
Medical Assistance	1.53	422	646	1.43%	158,229
Physician Quality Assurance	88.00	14	1,232	2.74%	301,921
Patient Bill of Rights	2.00	28	56	0.12%	13,724
Total DHMH		1,850	3,496	7.77%	\$856,627
Department of Labor, Licensing, and Regulation					
Home Improvement Commission	24.00	138	3,312	7.36%	811,691
Real Estate Commission	24.00	26	624	1.39%	152,921
MOSH	15.00	12	180	0.40%	44,112
Miscellaneous	24.00	16	384	0.85%	94,105
Total DLLR		192	4,500	10.00%	\$1,102,829
Department of Budget and Management					
Office of Personnel Services	7.07	287	2,029	4.51%	497,260
Central Collections	2.00	8	16	0.04%	3,921
Total DBM		295	2,045	4.54%	\$501,181
Department of Human Resources					
Child Support Enforcement	1.50	9	14	0.03%	3,308
Income Maintenance	3.50	547	1,915	4.25%	469,178
Child Abuse and Neglect	24.00	414	9,936	22.08%	2,434,965
Total DHR		970	11,864	26.36%	\$2,907,451
Department of Natural Resources (DNR)					
Hearings	20.00	8	160	0.36%	39,210
Settlements	0.50	27	14	0.03%	3,308
Total DNR		35	174	0.39%	\$42,519
Maryland State Department of Education					
Mediations	3.23	343	1,108	2.46%	316,506
Hearings	30.00	85	2,550	5.67%	659,917
Total MSDE		428	3,658	8.13%	\$976,423

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 2006</u>
Office of the Attorney General (OAG)					
Consumer Protection	20.00	1	20	0.04%	4,901
Securities Division	16.00	2	32	0.07%	7,842
Total OAG		3	52	0.12%	\$12,743
Department of the Environment	50.00	6	300	0.67%	73,520
Retirement and Pension	20.00	27	540	1.20%	132,335
Human Relations Commission	60.00	1	60	0.13%	14,704
MD State Police	5.88	13	76	0.17%	18,733
Board of Public Works	26.00	-	-	0.00%	-
Inmate Grievance Office	1.63	528	861	1.91%	210,913
MD Insurance Administration	2.23	443	988	2.20%	242,098
Higher Ed. Labor Relations Bd.	62.50	1	63	0.14%	15,439
Total		34,413	45,002	100.00%	\$11,108,439

Note: \$80,000 of the allowance is received from an MSDE grant, and therefore is not included in the calculations. The table is based upon an allowance of \$11,028,439.

Source: Office of Administrative Hearings

Recommended Actions

1. Concur with Governor's allowance.

Current and Prior Year Budgets

Current and Prior Year Budget 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 2004					
Legislative Appropriation	\$0	\$6	\$0	\$10,746	\$10,752
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	37	0	107	144
Cost Containment	0	0	0	0	0
Reversions and Cancellations	0	-5	0	-6	-11
Actual Expenditures	\$0	\$38	\$0	\$10,847	\$10,885
Fiscal 2005					
Legislative Appropriation	\$0	\$6	\$0	\$10,832	\$10,838
Budget Amendments	303	0	0	104	407
Working Appropriation	\$303	\$6	\$0	\$10,936	\$11,245

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

Fiscal 2004 Budget Changes

OAH received an additional \$36,500 in special funds representing additional fees received from local Boards of Education for conducting handicap accessibility hearings: St. Mary's County (\$10,700), Montgomery County (\$12,400), and Washington County (\$7,500). An additional \$5,900 for photocopy and tape fees was also received.

Fiscal 2005 Budget Changes

The working appropriation for fiscal 2005 has increased \$406,151 over the legislative appropriation. The bulk of this amount, \$302,526, was used to provide a one-grade salary adjustment for ALJs, while the remaining \$103,625 was received from DBM as reimbursable funds for cost-of-living adjustments.

Audit Findings

Audit Period for Last Audit:	October 26, 1999 – May 12, 2002
Issue Date:	September 2002
Number of Findings:	4
Number of Repeat Findings:	3
% of Repeat Findings:	75%
Rating: (if applicable)	

Finding 1: Proper internal controls were not established over the processing of purchasing and disbursement transactions.

Finding 2: The office did not ensure that caseload data maintained on its case management system were accurate.

Finding 3: The office did not have assurance that the allocation of its operating costs to State agencies was accurate.

Finding 4: Sufficient controls were not established over the office's corporate purchasing cards.

* Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report
Office of Administrative Hearings**

<u>Object/Fund</u>	<u>FY04 Actual</u>	<u>FY05 Working Appropriation</u>	<u>FY06 Allowance</u>	<u>FY05 - FY06 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	126.00	125.00	122.00	-3.00	-2.4%
02 Contractual	0	1.00	1.00	0	0%
Total Positions	126.00	126.00	123.00	-3.00	-2.4%
Objects					
01 Salaries and Wages	\$ 8,517,629	\$ 9,184,957	\$ 9,100,470	-\$ 84,487	-0.9%
02 Technical & Spec Fees	83,148	85,849	96,154	10,305	12.0%
03 Communication	194,197	171,447	185,503	14,056	8.2%
04 Travel	129,911	100,555	110,009	9,454	9.4%
06 Fuel & Utilities	78,768	82,095	92,006	9,911	12.1%
07 Motor Vehicles	28,183	22,646	21,564	-1,082	-4.8%
08 Contractual Services	585,514	557,847	492,654	-65,193	-11.7%
09 Supplies & Materials	186,094	146,712	136,300	-10,412	-7.1%
10 Equip - Replacement	147,946	48,120	35,000	-13,120	-27.3%
11 Equip - Additional	87,888	0	0	0	0.0%
13 Fixed Charges	844,360	844,388	844,779	391	0%
Total Objects	\$ 10,883,638	\$ 11,244,616	\$ 11,114,439	-\$ 130,177	-1.2%
Funds					
01 General Fund	\$ 0	\$ 302,526	\$ 0	-\$ 302,526	-100.0%
03 Special Fund	37,866	6,000	6,000	0	0%
09 Reimbursable Fund	10,845,772	10,936,090	11,108,439	172,349	1.6%
Total Funds	\$ 10,883,638	\$ 11,244,616	\$ 11,114,439	-\$ 130,177	-1.2%

Note: The fiscal 2005 appropriation does not include deficiencies, and the fiscal 2006 allowance does not reflect contingent reductions.

**Fiscal 2006 Cost Containment Actions
As Submitted by the Agency
Estimated Fiscal 2006 Savings
Compared to Fiscal 2005**

<u>Cost Saving Action/ Efficiency Measure</u>	<u>Program Code</u>	<u>Total Funds</u>	<u>General Funds</u>	<u>Special Funds</u>	<u>Positions Reduced</u>	<u>Impact of Action</u>
Abolish Personnel Administrator	D99A11	\$70,762			1	
Abolish Administrative Law Judge	D99A11	110,976			1	
Abolish Office Secretary III	D99A11	38,888			1	

Notes:

The abolition of the Personnel Administrator position will leave only one personnel position to manage the records for 125 employees, process forms to DBM, perform reclassification studies, perform risk management, monitor pep evaluations, and oversee open enrollment. If the incumbent in the remaining position is absent for a period of time, these functions will not be performed.

The abolition of the ALJ position will affect the ability to hear cases and issue timely decisions. The major goal of the OAH's Managing for Results is to complete the administrative hearing process from appeal to disposition in an efficient and timely manner. Consequently, the OAH monitors the average number of days between the date an appeal is received by OAH and the date of the disposition of the appeal. In addition, written decisions issued by ALJs are governed by strict time frames; therefore, the timeliness of the issuance of those decisions is monitored. The ALJs are directly responsible for the completion of the goal. The loss of an ALJ position means we schedule fewer cases, and the time between receipt of appeal and disposition increases.

The abolition of the Office Secretary position will have a direct impact on the disposition of cases. Secretaries assist with research, downloading audio recordings of hearings, typing, and processing finished decisions. The loss of the secretary position will place a strain on the rest of the clerical staff to maintain the production of timely decisions.

Source: Office of Administrative Hearings