

**D39S00**  
**Maryland State Board of Contract Appeals**

***Operating Budget Data***

(\$ in Thousands)

	<b>FY 05</b> <b><u>Actual</u></b>	<b>FY 06</b> <b><u>Working</u></b>	<b>FY 07</b> <b><u>Allowance</u></b>	<b>FY 06-07</b> <b><u>Change</u></b>	<b>% Change</b> <b><u>Prior Year</u></b>
General Fund	<u>\$527</u>	<u>\$572</u>	<u>\$593</u>	<u>\$20</u>	<u>3.6%</u>
<b>Total Funds</b>	<b>\$527</b>	<b>\$572</b>	<b>\$593</b>	<b>\$20</b>	<b>3.6%</b>

- The fiscal 2007 allowance increases \$20,352 from the fiscal 2006 working appropriation, largely for employee and retiree health insurance costs.

***Personnel Data***

	<b>FY 05</b> <b><u>Actual</u></b>	<b>FY 06</b> <b><u>Working</u></b>	<b>FY 07</b> <b><u>Allowance</u></b>	<b>FY 06-07</b> <b><u>Change</u></b>
Regular Positions	5.00	5.00	5.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>5.00</b>	<b>5.00</b>	<b>5.00</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

Turnover, Excluding New Positions	0.00	0.00%
Positions Vacant as of 12/31/05	0.00	0.00%

- Staff levels are unchanged in fiscal 2007. No vacancies exist and no new positions are created.

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

For further information contact: Jody J. Sprinkle

Phone: (410) 946-5530

## *Analysis in Brief*

---

### Major Trends

***Board Meets Its Goals of Timeliness for Written Opinions:*** The Maryland State Board of Contract Appeals' (MSBCA) goals and performance measures assess only the timeliness of cases for which opinions are issued, a small portion of the overall caseload. **The Department of Legislative Services recommends that the board update its Key Goals and Objectives to include measurements for disposition of all cases.**

***New Appeals Remain Constant While Carry-forward Caseload Grows:*** MSBCA is carrying forward a greater number of unresolved cases. **The board should be prepared to discuss the growth in the carry-forward caseload and any steps it will take to reverse this trend.**

### Recommended Actions

	<u>Funds</u>
1. Delete double budgeted funds for contractual services.	\$ 4,200
<b>Total Reductions</b>	<b>\$ 4,200</b>

**D39S00**  
**Maryland State Board of Contract Appeals**

***Operating Budget Analysis***

---

**Program Description**

Title 15, Subtitle 2 of the State Finance and Procurement Article established the Maryland State Board of Contract Appeals (MSBCA) and vested it with the authority to hear and resolve all protests and disputes relating to the letting of contracts and the performance, breach, modification, and termination of State contracts. The board hears bid protests, which involve the preparation and interpretation of bid specifications, qualification, and selection of successful bidders, and contract claims, which relate to the contractual relationship between the State and a contractor including quality of performance, compliance with contract provisions, compensation, claims and change orders, and terminations.

Statutory qualifications to serve on the three-member panel are the ability to serve in a quasi-judicial capacity and possession of a thorough knowledge of procurement practices and processes. MSBCA's mission addresses the need to:

- resolve bid protests and contract claims before the board in the least time possible consistent with established legal requirements; and
- enhance the value and credibility of board opinions, by providing in a timely manner, written opinions in sufficient detail and with appropriate research and documentation to serve as guides to future actions by procurement authorities, the legal community, and contractors doing or wishing to do business with the State.

**Performance Analysis: Managing for Results**

As shown in **Exhibit 1**, total new appeals received by MSBCA have remained relatively stable since fiscal 2003. Specifically, the number of new contract claims has fallen from 37 to 34 in fiscal 2005, while the number of new bid protests has increased from 25 to 32. See **Exhibit 2**.

The Managing for Results data indicates that MSBCA continues to perform well toward its goal of issuing opinions in bid protest appeals and contract claims within specified time frames. MSBCA aims to return decisions in bid protests within three months, as bid protests necessitate a delay in the performance of a contract. The board was able to complete this task 82% of the time in fiscal 2005. However, this rate has fallen since fiscal 2003 when the board issued 91% of its decisions within three months. **Exhibit 3** details the board's decline in meeting this objective. Additionally, the board aims to issue decisions in contract claim cases within six months of the close of the record. This objective has been achieved 100% of the time.

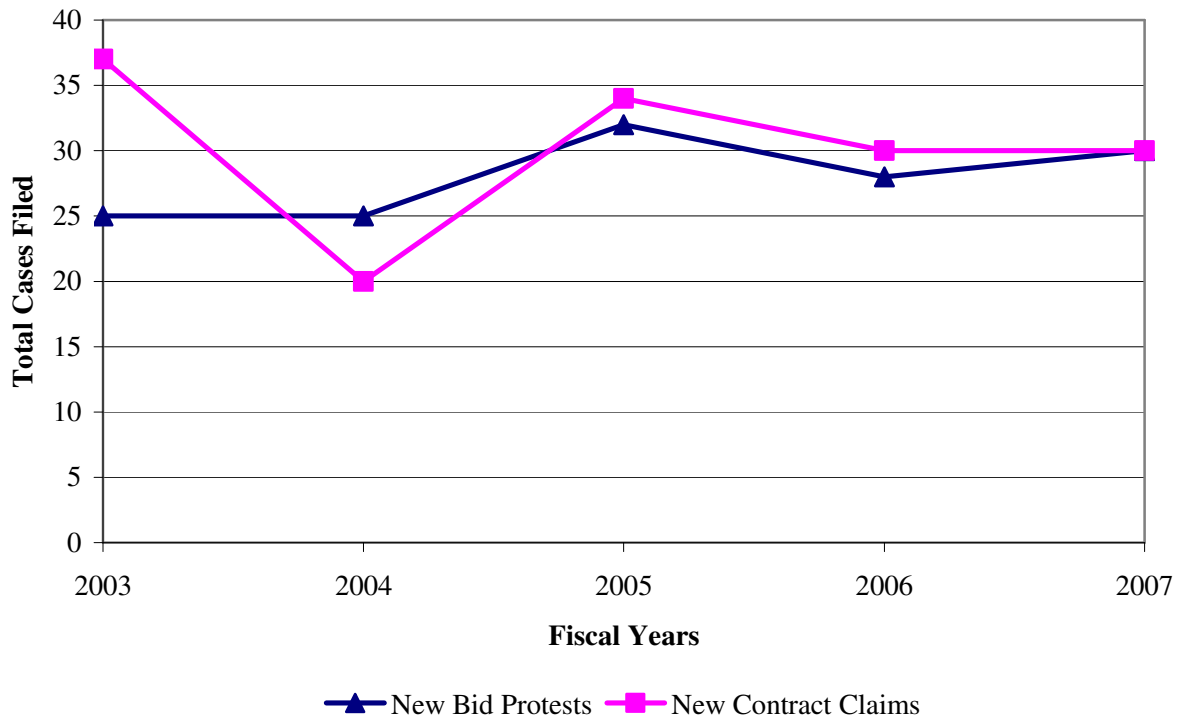
**Exhibit 1  
Program Measurement Data  
Board of Contract Appeals  
Fiscal 2003 – 2007**

	<u>Actual</u> <u>2003</u>	<u>Actual</u> <u>2004</u>	<u>Est.</u> <u>2005</u>	<u>Actual</u> <u>2005</u>	<u>Est.</u> <u>2006</u>	<u>Est.</u> <u>2007</u>	<u>Ann.</u> <u>Chg.</u> <u>03-07</u>
<b>Bid Protests</b>							
New bid protests	25	25	23	32	28	30	9.5%
Appeals requiring a written decision	11	16	19	11	13	13	8.7%
Decisions issued within three months	91%	88%	84%	82%	85%	85%	-3.4%
Bid protests carried forward	7	3	8	9	4	4	-24.4%
<b>Contract Claims</b>							
New contract claims	37	20	28	34	30	30	-10.0%
Cases resolved prior to hearing	26	27	27	28	27	27	1.9%
Number of opinions issued	6	3	4	2	4	4	-18.4%
Opinions issued within six months	100%	100%	100%	100%	100%	100%	0.0%
Contract claims carried forward	45	39	41	44	43	43	-2.2%
<b>Total New Cases Filed</b>	<b>62</b>	<b>45</b>	<b>51</b>	<b>66</b>	<b>58</b>	<b>60</b>	<b>-1.6%</b>

Source: Maryland State Board of Contract Appeals

---

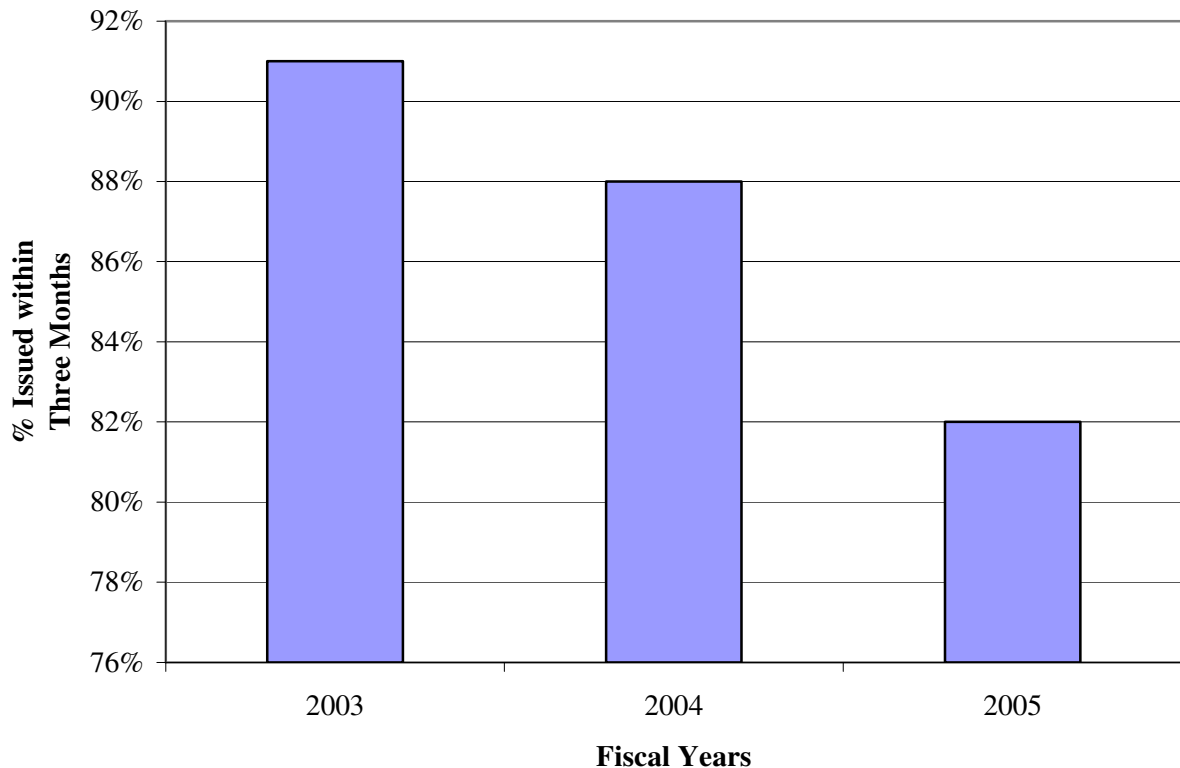
**Exhibit 2**  
**Maryland State Board of Contract Appeals Caseload**  
**Fiscal 2003 – 2007**



Source: Maryland State Board of Contract Appeals

---

**Exhibit 3**  
**Bid Protests**  
**Decisions Issued within Three Months**  
**Fiscal 2003 – 2005 Actual**

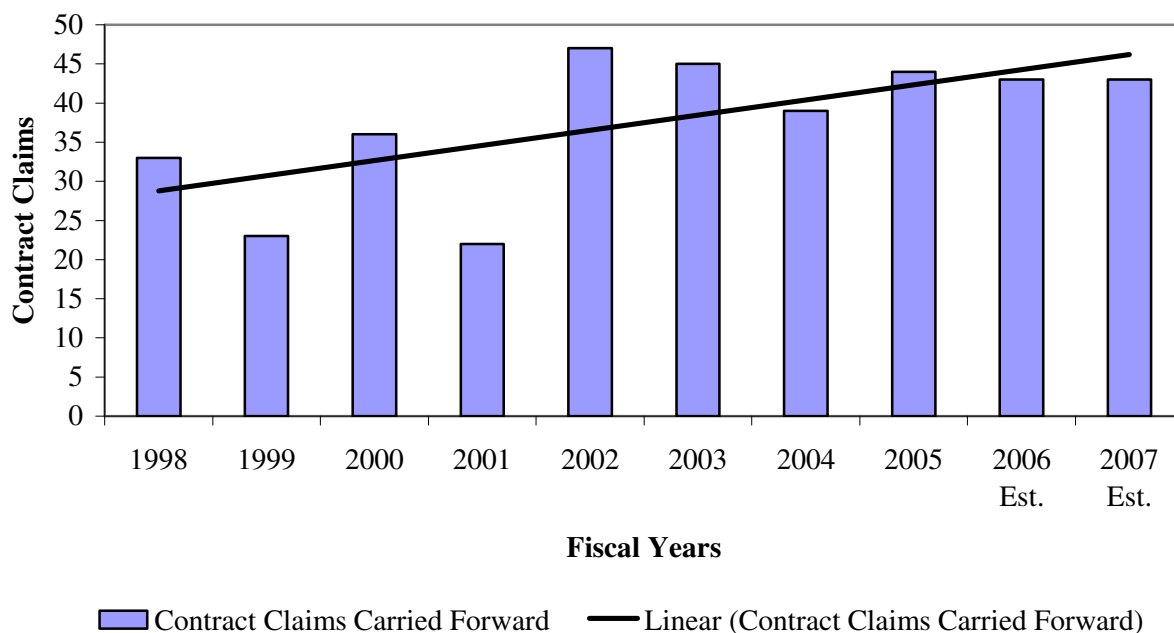


Source: Maryland State Board of Contract Appeals

---

The board's objectives do not address the timeliness of contract claims cases for which no opinions are issued. Cases for which opinions are issued represent only a small percentage of total cases. For example, in fiscal 2005, the board received 34 new contract claims but issued only two opinions. The board issued the two opinions within the stated objective of six months. However, the time frame for the resolution of the remaining cases is unknown. Additionally, in that same year, the board carried forward 44 contract claim cases. As shown in **Exhibit 4**, the number of claims carried forward has been gradually trending upward over the last 10 years.

**Exhibit 4**  
**Contract Claims Carried Forward**  
**Fiscal 1998 – 2007**



Source: Maryland State Board of Contract Appeals

The Department of Legislative Services recommends that the board update its Key Goals and Objectives to include measurements for disposition of all cases. The board should be prepared to discuss the recent reduction in the rate of timely completion of bid protest decisions, the growth in the carry-forward caseload, and the steps it will take to reverse this trend.

### Governor's Proposed Budget

As shown in Exhibit 5, the fiscal 2007 allowance is \$592,695, an increase of \$20,352, or 3.6% over the fiscal 2006 working appropriation. The vast majority of the increase is attributable to costs associated with health insurance, retirees' health insurance, and the employees' retirement system. This increase is partially offset by decreases in contractual hearing support and telecommunication costs.

---

**Exhibit 5**  
**Governor's Proposed Budget**  
**Maryland State Board of Contract Appeals**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b>General Fund</b>	<b>Total</b>
2006 Working Appropriation	\$572	\$572
2007 Governor's Allowance	<u>593</u>	<u>593</u>
Amount Change	\$20	\$20
Percent Change	3.6%	3.6%

**Where It Goes:**

**Personnel Expenses**

Increments and other compensation.....	\$2
Employee and retiree health insurance .....	25
Other fringe benefit adjustments.....	4

**Other Changes**

Decrease in contractual hearing support consistent with actual experience .....	-9
Decrease in DBM paid telecommunications.....	-6
Printing.....	4

**Total** **\$20**

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

---

***Recommended Actions***

---

	<b><u>Amount Reduction</u></b>	
1. Delete double budgeted funds for contractual services.	\$ 4,200	GF
<b>Total General Fund Reductions</b>	<b>\$ 4,200</b>	

## *Current and Prior Year Budgets*

---

### **Current and Prior Year Budgets State Board of Contract Appeals (\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2005</b>					
Legislative Appropriation	\$523	\$0	\$0	\$0	\$523
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	4	0	0	0	4
Reversions and Cancellations	0	0	0	0	0
<b>Actual Expenditures</b>	<b>\$527</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$527</b>
<b>Fiscal 2006</b>					
Legislative Appropriation	\$566	\$0	\$0	\$0	\$566
Budget Amendments	7	0	0	0	7
<b>Working Appropriation</b>	<b>\$572</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$572</b>

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

---

**Fiscal 2005**

A fiscal 2005 budget amendment added \$4,200 in general funds for the \$752 employee cost-of-living adjustment that was budgeted in the Department of Budget and Management (DBM) budget and subsequently distributed to each agency.

**Fiscal 2006**

A fiscal 2006 budget amendment added \$6,800 in general funds for the 1.5% employee cost-of-living adjustment that was budgeted in the DBM budget and distributed to each agency.

## ***Audit Findings***

---

Audit Period for Last Audit:	January 29, 2001 – February 19, 2004
Issue Date:	March 2004
Number of Findings:	0
Number of Repeat Findings:	n/a
% of Repeat Findings:	n/a
Rating: (if applicable)	n/a

The audit did not disclose any significant deficiencies in the design or operation of the board's internal control or any significant instances of noncompliance with applicable laws, rules, or regulations.

**Object/Fund Difference Report  
Maryland State Board of Contract Appeals**

<u>Object/Fund</u>	<u>FY05 Actual</u>	<u>FY06 Working Appropriation</u>	<u>FY07 Allowance</u>	<u>FY06 - FY07 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	5.00	5.00	5.00	0	0%
<b>Total Positions</b>	<b>5.00</b>	<b>5.00</b>	<b>5.00</b>	<b>0</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 502,240	\$ 510,773	\$ 541,461	\$ 30,688	6.0%
02 Technical & Spec Fees	2,701	15,450	6,870	-8,580	-55.5%
03 Communication	6,092	25,566	20,450	-5,116	-20.0%
07 Motor Vehicles	3,330	3,960	4,320	360	9.1%
08 Contractual Services	9,700	10,744	14,944	4,200	39.1%
09 Supplies & Materials	1,195	2,200	2,000	-200	-9.1%
11 Equip – Additional	542	1,900	700	-1,200	-63.2%
13 Fixed Charges	1,523	1,750	1,950	200	11.4%
<b>Total Objects</b>	<b>\$ 527,323</b>	<b>\$ 572,343</b>	<b>\$ 592,695</b>	<b>\$ 20,352</b>	<b>3.6%</b>
<b>Funds</b>					
01 General Fund	\$ 527,323	\$ 572,343	\$ 592,695	\$ 20,352	3.6%
<b>Total Funds</b>	<b>\$ 527,323</b>	<b>\$ 572,343</b>	<b>\$ 592,695</b>	<b>\$ 20,352</b>	<b>3.6%</b>

Note: The fiscal 2006 appropriation does not include deficiencies, and the fiscal 2007 allowance does not reflect contingent reductions.