

**D05E01
Board of Public Works**

Operating Budget Data

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$9,664	\$7,534	\$7,887	\$353	4.7%
Total Funds	\$9,664	\$7,534	\$7,887	\$353	4.7%

- The fiscal 2009 allowance, absent pay-as-you-go health insurance and Other Post Employment Benefits funding which distort year-to-year comparisons, increases by \$310,915, or 4.2%, from the fiscal 2008 working appropriation.
- The majority of growth in the allowance consists of \$286,171 for grants to private nonprofits, including an additional \$241,000 for the Maryland Zoo in Baltimore, \$40,000 for the Historic Annapolis Foundation, and \$5,171 to the Council of State Governments.

Personnel Data

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>
Regular Positions	9.00	9.00	9.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	9.00	9.00	9.00	0.00

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.00	0.00%
Positions Vacant as of 12/31/07	1.00	11.11%

- There are no new positions created in the fiscal 2009 allowance. The vacancy is for the board's procurement advisor position.

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

For further information contact: Dylan R. Baker

Phone: (410) 946-5530

Analysis in Brief

Major Trends

Large Increase in Dollar Value of Contracts and Modifications Before the Board: There was a \$700 million increase in the value of contracts approved and a \$600 million increase in the value of contracts modified in the last fiscal year.

Issues

Grant to Maryland Zoo in Baltimore Merits Re-examination: The Maryland Zoo in Baltimore has received large funding increases in the past two fiscal years, but the Maryland Zoological Society's plan to use these funds to boost operating income is inconclusive. **The Department of Legislative Services recommends that a dollar match revenue mechanism be instituted in the Board of Public Works pass through grant to provide incentives to encourage attendance growth and profitability.**

Recommended Actions

1. Add budget bill language to restrict the zoo grant to matched revenues.
2. Adopt narrative expressing intent to issue a zoo operator procurement document.

D05E01
Board of Public Works

Operating Budget Analysis

Program Description

The Governor, Comptroller, and Treasurer comprise the Board of Public Works (BPW). The board approves the expenditure of all sums appropriated through State loans authorized by the General Assembly and funds appropriated for capital improvements, except construction contracts for State roads, bridges, and highways. The board approves leases and contracts executed by State agencies. It adopts and promulgates rules, regulations, and procedures for the administration of the State's procurement law. The board approves certain actions of the Public School Construction Program, including the funding allocations to school boards in each county and to Baltimore City. The board also approves the amount and timing of bond sales.

The board is responsible for the issuance of licenses to people seeking to dredge in or to place fill on State tidal wetlands. The Wetlands Administration is a division of the board that conducts public hearings, prepares written recommendations, and issues licenses after approval by the board. This program also coordinates the State's wetlands licensing program with other governmental agencies, landowners, and the general public.

The budget for BPW contains funds for the administrative staff of the board, a contingency fund to supplement general fund appropriations when necessary, grant funds for private nonprofit groups, funds to pay settlements and judgments against the State, and funds for certain capital purposes including the Public School Construction Program.

Performance Analysis: Managing for Results

Although the Board of Public Works participates in Managing for Results (MFR), the BPW's principal charge is overseeing the stewardship of the State's assets. Quantitatively assessing the quality of that decision making is difficult. After consistent high performance in responding to public information requests in a timely and satisfactory manner, these measures have been dropped from its MFR reporting in lieu of other areas, following direction from the General Assembly. Specifically, returning measures that provide information on the State's procurement actions have been expanded to provide greater detail on this critical oversight function.

Exhibit 1 illustrates statewide contract submissions, modifications, and approvals for fiscal 2006 to 2009. There was a significant jump from fiscal 2006 to 2007 in the dollar value of contracts, nearly \$700 million, although only a total of 2 more contracts were approved. The same trend was seen in contract modifications, where 21 more contracts were modified in fiscal 2007 than in fiscal 2006, but the value of the modifications increased by \$600 million, a jump of over 50%. The board states that it projects out-years on the low side because several recent laws have the potential to reduce the number of contracts requiring board approval as it has exempted certain agencies from sending contracts before the board or raised the threshold for the minimum contract value requiring

Exhibit 1
Contract Approvals and Dollar Values
Fiscal 2006-2009

	<u>2006</u> <u>Actual</u>	<u>2007</u> <u>Actual</u>	<u>2008</u> <u>Estimate</u>	<u>2009</u> <u>Estimate</u>	<u>% Change</u> <u>2006-2007</u>
Contracts submitted for approval	663	670	670	670	1.1%
Contracts approved	635	637	630	630	0.3%
Total dollar value of contracts (\$ in billions)	\$2.1	\$2.8	\$2.5	\$2.5	33.3%
Contract modifications submitted for approval	272	288	270	270	5.9%
Contract modifications approved	260	281	260	260	8.1%
Total dollar value of approved contract modifications	\$1.1	\$1.7	\$1.5	\$1.5	54.6%

Source: Board of Public Works

board approval. As such, its estimates for fiscal 2008 and 2009 predict contract dollar values will be lower than the fiscal 2007 actual figures. The actual figures from fiscal 2007, however, moved well beyond the board's 2007 session estimates and assumptions for the value of contracts and modifications. **Therefore, the Department of Legislative Services (DLS) asks that the board comment on the trends affecting contract value and the reasons for the sizeable increase in costs due to contract modifications.**

New Procurement-related Performance Measures

Data for performance measures of the board's administrative office that were added pursuant to 2006 *Joint Chairmen's Report* (JCR) language are available for the first time. The two new MFR measures track:

- competitiveness of State contracts by quantifying procurement award methods; and
- agency compliance with Minority Business Enterprise (MBE) goals and procedures.

Exhibit 2 shows the new measures as they have been adopted, their first points of data, and the agency’s projections for these areas in fiscal 2008 and 2009.

Exhibit 2
New Managing for Results Measures
Fiscal 2007-2009

Minority Business Enterprise Compliance

Approved Contracts with MBE Participation:	<u>2007</u> <u>Actual</u>	<u>% of</u> <u>Total</u>	<u>2008</u> <u>Estimate</u>	<u>2009</u> <u>Estimate</u>
Less than 10%	323	54.9%	300	300
Between 10% and 25%	198	33.7%	200	200
Greater than 25%	67	11.4%	100	100
	588		600	600

Board of Public Works Contracts Approved by Procurement Method

	<u>2007</u> <u>Actual</u>	<u>% of</u> <u>Total</u>	<u>2008</u> <u>Estimate</u>	<u>2009</u> <u>Estimate</u>
Competitive Sealed Bid	270	41.2%	275	275
Competitive Sealed Proposals	93	14.2%	95	95
Single Bid/Proposal Received	75	11.4%	75	75
Sole Source	51	7.8%	50	50
Emergency or Expedited	55	8.4%	50	50
Other	112	17.1%	100	100
Total	656		645	645

MBE: Minority Business Enterprise

Source: Board of Public Works

Minority Business Enterprise Participation in Contracts

The MBE figures indicate that the majority of board approved contracts, 323 of 588, have less than 10% MBE participation. Leases are not included because they have no MBE goals. Section 14-302 of the Finance and Procurement Article sets the statewide MBE goal at 25% of the total dollar value of procurement contracts. BPW Advisory 2001-1 supplements the goal by suggesting means by which the State can achieve this level of participation. The portion of contracts currently achieving the goal is 11%. While this participation percentage is a goal and not a requirement, it would appear that the statewide objective is not being fully realized. **DLS asks the board to comment on potential enhancements to its Advisory to increase MBE participation.**

Competitiveness of Contracts

As for the competitiveness of contracts, the figures are increasingly important given the large increase in contract value noted above. Of the 656 total contracts approved by the board in fiscal 2007, 126 contracts (or 19%) were either single bid/proposal or sole source, suggesting limited competition for one-fifth of all contract proceedings. The board's administration unit values the single bid awards made in fiscal 2007 at over \$166 million. This valuation, which reflects only those contracts that were appropriate for competitive solicitation, excluded preference providers and certain non-negotiated contracts for human, cultural, and educational services and sole source awards.

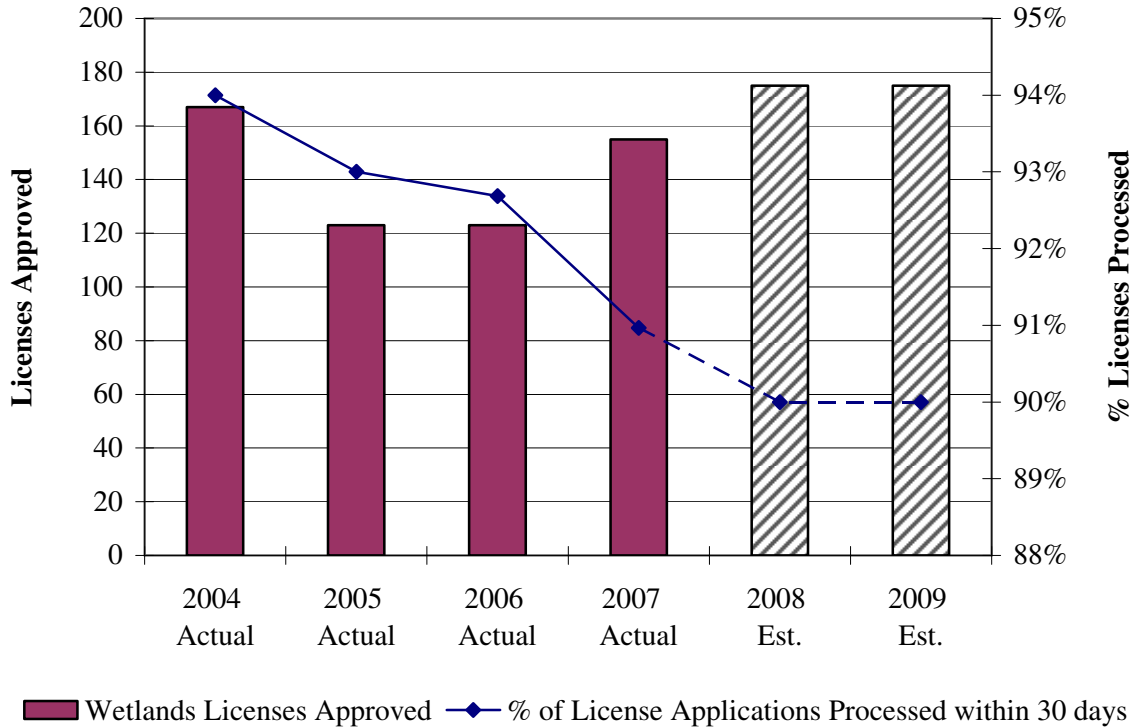
While there is not a Board Advisory specifically addressing single bid situations, several provide for increased scrutiny of single bids: (1) BPW Advisory 1995-1: A request to approve a contract must be brought to the board on an action agenda when the aggregate value of the initial term and all option periods specified in the initial contract exceed \$50,000 for competitively procured contracts if only one bid or proposal is received; and (2) BPW Advisory 2006-1: Directs agencies to include a copy of the written determination that acceptance of the one bid or the one proposal received is appropriate. Moreover, the board's legal counsel reviews every procurement action before it for legal sufficiency "with an emphasis on whether the proposed procurement has been competitively conducted," as described in State Finance and Procurement Article, Section 12-102.

Given the rapid increase in contract values and the substantial percentage of procurements awarded after receipt of a lone bid, DLS recommends that the board comment on the issuance of a Board Advisory that specifically addresses the topic and formalizes safeguards that promote contract competition.

Wetlands Administration

The board also coordinates the State's wetlands licensing program through the Wetlands Administration unit. More specifically, the unit conducts public hearings, prepares written recommendations, and issues licenses after approval by BPW. The board's MFR goal of processing at least 90% of license applications within 30 days is measured in **Exhibit 3**. Since the 2007 session's discussion of this measure, the board has divided its reporting of processing times to distinguish between routine and extraordinary license requests, obscuring historical data comparability. The rules set that is utilized to determine which cases qualify as extraordinary is defined in State regulations (COMAR 23.02.04.08). With this distinction made, the board has been able to review license requests at a rate exceeding its goal, but the completion rate is trending downward as more cases fall under the 'extraordinary' rubric. Notably, a case backlog and an emerging trend toward increasingly complex cases is prompting the unit to project that the board will approve more cases than it receives in fiscal 2008 and 2009 as more petitioners must have full hearings before the board.

**Exhibit 3
Board of Public Works Wetlands License Processing
Fiscal 2004-2009**



Source: Board of Public Works

Statewide Accounts

BPW’s fiscal 2009 allowance provides funds for interagency transfers from the contingent fund, grants to private nonprofit groups or sponsors that have statewide implications, and the payment of settlements or judgments against the State.

Contingent Fund

The allowance for the State contingent fund is \$750,000. As of January 30, 2008, two actions have come before the board requesting use of the fund. Both items involved requests to cover legal fees. The first, for \$1,094, was requested by the District Court of Maryland for Cecil County for fees on a State’s prosecutor’s office case that was terminated after investigations had begun. The other, for \$344,098, was requested by the State Board of Elections to pay attorney’s fees to dispose of a case after seven years of litigation, thus resolving all issues between the parties and protecting the State against the incursion of further legal fee obligations. Both were approved to be paid from the fiscal 2008 appropriation.

Grants to Private Nonprofits

The fiscal 2009 allowance for grants to private nonprofits totals \$5,943,460 in general funds, which represents an increase of \$286,171 over the fiscal 2008 working appropriation.

- **Maryland Zoo in Baltimore:** The State has provided the Maryland Zoological Society (MZS) with a variety of grants to support the general operations at the Maryland Zoo in Baltimore over the past 16 years. These funds have resided in the BPW budget since 2004. The fiscal 2009 allowance includes \$5,241,000 in general funds for this grant, \$241,000 more than the fiscal 2008 working appropriation. This item will be discussed in detail in the Issues section.
- **Historic Annapolis Foundation:** The fiscal 2009 allowance provides a \$568,000 general fund grant to the Historic Annapolis Foundation (HAF), which represents a \$40,000 increase over the fiscal 2008 working appropriation. HAF leases 11 State-owned historic buildings in Annapolis and is contractually obligated to operate and maintain them. The additional funds in the allowance are destined to continue an HAF project to equip all State-owned properties with fire suppression sprinkler units. Fire sprinklers have been funded at 2 buildings thus far.
- **Council of State Governments:** A \$134,460 general fund grant to the Council of State Governments (CSG) provides the organization with an operating budget subsidy. CSG uses these funds to provide support services for legislative priorities established by legislative leaders and executives through the Southern Office of the Council of State Governments, the Southern Legislative Conference, and the Southern Governors' Association. The amount budgeted represents a \$5,171 increase over fiscal 2008 levels and reflects an adjustment of CSG's participating State membership fees.

Judgments Against the State

Section 10-501 of the State Finance and Procurement Article provides that BPW may grant compensation to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit. The fiscal 2009 allowance includes \$213,125 in general funds for payments of civil judgments against the State. This is the same figure programmed for the fiscal 2008 budget, and represents amounts owed under settlements in force through fiscal 2012.

Fiscal 2008 Actions

Impact of Cost Containment

Funding of \$20,000 was cut from the fiscal 2008 legislative appropriation as part of the 2007 JCR Section 45 hiring freeze action.

Governor’s Proposed Budget

The fiscal 2009 allowance for BPW increases general funds by \$352,606 as shown in **Exhibit 4**. Pass-through grant items represented \$286,171 of the increase, with the Maryland Zoo in Baltimore receiving the majority of these funds through an inflationary increase of \$241,000.

Personnel expenses increased because of Other Post Employment Benefits funding worth \$34,470, but increments and employee earnings posted an overall decrease of \$13,549 because the salary for the current vacancy was returned to base after having been filled by a long-time employee in an advanced pay grade. An \$11,118 increase in spending is programmed for replacement of a portion of the board’s computer equipment.

Exhibit 4
Governor’s Proposed Budget
Board of Public Works
(\$ in Thousands)

How Much It Grows:	General Fund	Total
2008 Working Appropriation	\$7,534	\$7,534
2009 Governor’s Allowance	<u>7,887</u>	<u>7,887</u>
Amount Change	\$353	\$353
Percent Change	4.7%	4.7%

Where It Goes:

Personnel Expenses

Employee and retiree health insurance – Other Post Employment Benefits funding	\$34
Fiscal 2008 Budget Section 45 – one-time hiring freeze savings	20
Employee and retiree health insurance – pay-as-you-go costs	7
Increments and other compensation.....	-14
Other fringe benefit adjustments.....	-1

Other Changes

Inflationary increase to Maryland Zoo grant	241
Historic Annapolis Foundation grant increase for fire sprinkler replacement.....	40
Replacement of personal computers and supporting equipment	11
Dues increase for Council of State Governments membership	5
Department of Budget and Management telecommunication charge increase.....	4
Management study contingency allotment	2
Other	2

Total	\$353
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Note: Numbers may not sum to total due to rounding.

Issues

1. Grant to Maryland Zoo in Baltimore Merits Re-examination

The contractual relationship between the Maryland Zoological Society and the State of Maryland is grounded in a pair of lease agreements that were signed in 1992. The primary lease transferred control of the land where the zoo is located from the City of Baltimore to the State for \$1 a year. The transfer effectively put control of zoo operations into the State’s hands when the city’s financial outlook made its continued primary participation in the venture infeasible. A secondary lease was then developed between MZS and the State. That lease relationship is between owner and operator, with MZS taking on responsibility of operating the zoo for the State in exchange for the profit-generating potential such a business enterprise normally affords.

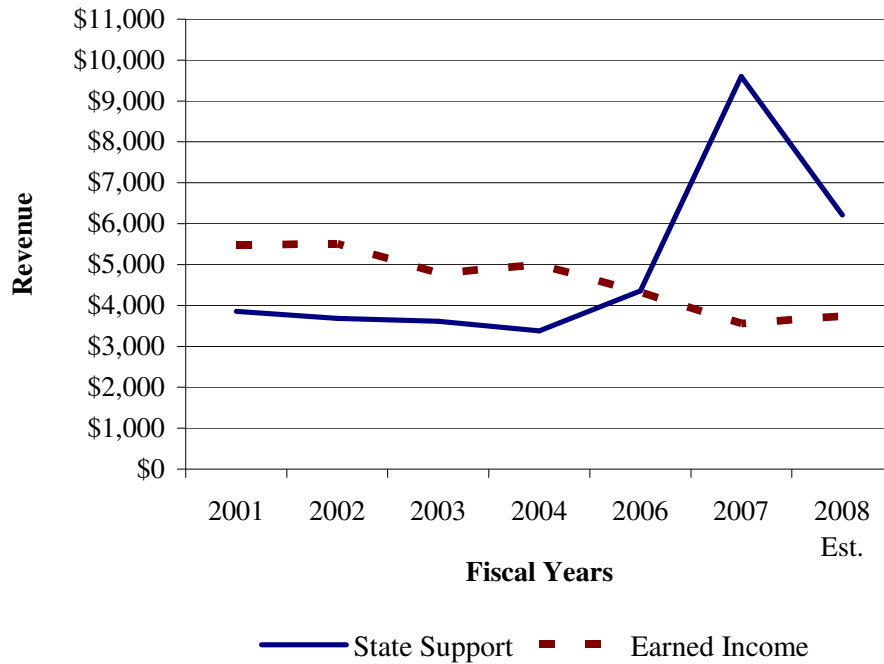
While the sublease explicitly expresses the expectation that MZS operate the facility as a “world class facility,” it establishes no specific commitment on the State’s part to fund operating costs. It does state that MZS would be allowed to continue applying for grant monies from the Maryland State Department of Education (MSDE) but goes no further. An explicit funding commitment is made on the capital infrastructure side, where the city and State are envisioned as sharing funding responsibility for projects, assuming that their respective budgetary climates permitted, that such expenditures were approved in a five-year *Capital Investment Program*, and that, if desired, MZS matched the public contribution 50/50.

The 1992 BPW meeting during which the lease and sublease were ratified by the State clarifies the intent of these funding commitments. The then-director of MZS is directly asked by the then-Comptroller what would happen if the funding provided in a particular year were insufficient for the operator to make its budget. The MZS director explained that it alone would be responsible for scaling back operational expenditures and adjusting managerial strategy to make up the difference. No further State money would be requested.

Failing Operational Performance

Since 2004, the zoo has unfortunately found itself facing severe budgetary problems. The primary problem has been falling operating revenues. Revenues at the zoo are composed of three pieces: (1) public support from governmental funding sources; (2) earned income from operations; and (3) contributions from private donors. Revenues have suffered most significantly in the area of earned income, the revenues the operator is directly responsible for through its day-to-day management of the park. Private support has been fairly constant across the decade, moving in a range of \$2.0 million to \$3.0 million annually. The major revenue figures are highlighted in **Exhibit 5**, which shows the drop in earned income that necessitated a large cash infusion from the State to counterbalance.

Exhibit 5
Maryland Zoo in Baltimore Revenues by Component
Fiscal 2001-2007
(\$ in Thousands)



(1) Fiscal 2006 to 2008 data from the zoo's 2007 *Joint Chairmen's Report* (JCR). JCR information does not track exactly with data prior to fiscal 2006. It does not include depreciation, temporarily restricted transfers, and other items that are calculated and used in the annual audit.

(2) Earned income in the JCR report represents net admissions, concessions, attractions, rentals plus events income, membership dues, and other revenue sources.

(3) Fiscal 2005 represented a change over from a calendar year to a fiscal year coinciding with that of the State of Maryland. Its financial information was incomplete and omitted.

Source: Maryland Zoological Society

Earned income has suffered from three principal factors: (1) falling attendance; (2) heavy discount usage; and (3) underperformance of in-park concessions.

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Attendance: Attendance in fiscal 2007 fell to under 350,000 visitors. This is well below the half a million visitors the zoo welcomed in 1992 at the time of the sublease agreement and nearly half the high water mark for attendance posted in 1997 (633,000). Given that attendance is the prime operational income generator, it is somewhat surprising to see revenue from gross admissions increasing since 2001. That increase was driven largely by the jump in ticket prices from \$10 to \$15. However, the net receipts figures show that gate revenues were minimally improved by the price jump, largely due to discounts. **Exhibit 6** shows attendance and ticket price changes over the last seven years. Comparative data for a host of zoos across the nation, and specifically zoos of similar budget size and animal specimen like Atlanta and Denver, demonstrate that attendance figures for the Maryland Zoo in Baltimore have the potential to be much larger, as shown in **Exhibit 7**, which focuses on the zoos cited by MZS as forming its peer group. **Appendix 3** provides further detail on the key attributes of 27 American zoos for comparative purposes.

Discounts: As Exhibit 6 also shows, MZS began expanding the value of discounts greatly in fiscal 2005, soon after the ticket price increase. Discounts grew from \$150,000 annually in 2001 to \$591,000 in fiscal 2006. Such a figure means that nearly 25% of gross gate receipts were discounted back to visitors to get them in the park. This move, while positively increasing the number of people who were able to enjoy the zoo, represented a sizeable loss of income. The loss might be acceptable if the increased visitor levels would have translated into dollars spent in the park that would benefit the MZS. It did not.

Attractions/Concessions: Once visitors are in the zoo, they can spend money on attractions (games/rides, etc.) or concessions (food/gifts, etc.). This is a major right given to the operator in the controlling sublease and should be a source of substantial revenues. Income from this item would be the presumed beneficiary of any higher attendance levels and a major reason to offer discounts. However, attraction revenue fell from the beginning of the decade, stagnating in the \$200,000-\$290,000 range, with no clear indicator that higher attendance was boosting in-park attraction profitability. An understanding of the absolute figures is enhanced by examining the per capita take, which MZS reported falling to \$4.92 per visitor in fiscal 2007, down from the fiscal 2006 level of \$5.17.

Even weaker are the returns from the concessions which posted a net yield of \$18,090 in fiscal 2006, which equates to each attendee contributing about 5 cents per visit to this income source. By way of comparison, the Denver Zoo, for example, earned nearly 8% of its operating revenue, or \$1.7 million, from concessions in fiscal 2006. A March 2005 amendment to the MZS concession contract that eliminated the baseline management fee, which guaranteed \$80,000 to the zoo from the operator of the concessions, is first among other unfavorable changes that seem to be having a substantial negative impact on the MZS revenue outlook.

Exhibit 6
Maryland Zoo in Baltimore
Attendance, Ticket Prices, Admissions, and Discounts
Fiscal 2001-2008
(\$ in Thousands)

<u>Year</u>	<u>Attendance</u>	<u>Adult Ticket Price</u>	<u>Admissions</u>	<u>Discount Admissions</u>	<u>Net Admissions</u>	<u>Attractions</u>	<u>Discount Attractions</u>	<u>Net Attractions</u>
2001	502,810	\$10.00	\$1,604	-\$150	\$1,455	\$296	-\$77	\$218
2002	452,419	10.00	1,629	-125	1,504	201	-16	185
2003	449,144	11.00	1,855	-113	1,743	236	-20	216
2004	417,632	15.00	1,953	-122	1,831	235	-28	207
2006	375,339	15.00	2,373	-591	1,782	290	-67	224
2007	349,813	15.00	2,196	-504	1,692	276	-66	211
2008 Est.	350,000	15.00	2,242	-492	1,750	245		245

(1) Fiscal 2006 to 2008 data from the zoo's 2007 *Joint Chairmen's Report* (JCR). JCR information does not track exactly with data prior to fiscal 2006. It does not include depreciation and temporarily restricted transfers and other items that are calculated and used in the annual audit.

(2) Fiscal 2005 represented a change over from a calendar year to a fiscal year coinciding with that of the State of Maryland. Its financial information is incomplete and has been omitted.

Source: Maryland Zoological Society

**Exhibit 7
Zoo Attendance as Function of Metro Population**

	<u>Attendance</u>	<u>Metro Population</u>	<u>Per Capita Attendance</u>
Columbus, OH	1,298,945	1,725,570	75.3%
Denver, CO	1,711,593	2,408,750	71.1%
St. Louis, MO	2,932,152	2,796,368	104.9%
Woodland Park, Seattle, WA	1,043,804	3,263,497	32.0%
Maryland Zoo in Baltimore	331,951	2,658,405	12.5%

Sources: All zoo data are from the Association of Zoos and Aquariums 2007 member directory; population estimates as of July 2006 are from the U.S. Census Bureau, October 2007, <http://www.census.gov/population/www/estimates/CBSA-est2006-annual.html>

MZS Reaction to Difficulties

Despite the intent expressed at the ratification of the sublease, the MZS poor budgetary status was not met by equivalent reductions in operating expenses. It first exhausted its cash reserves, as shown in **Exhibit 8**. The zoo then utilized \$1.4 million of private funds raised for the New Zoo campaign to meet daily operating needs through an inter-fund transfer. This inter-fund borrowing was repaid in May 2007, presumably using the emergency cash influx from the State.

**Exhibit 8
Maryland Zoo in Baltimore Annual Cash Balance
Fiscal 1998-2007**

<u>Fiscal Year</u>	<u>Cash Balance</u>	<u>Inter-fund Borrowing</u>	<u>Bank Borrowing</u>
1998	\$149,366		
1999	1,521,355		
2000	1,568,036		
2001	2,168,355		
2002	2,902,076		
2003	3,862,684		
2004	1,392,458		
2006	769,950	-1,443,122	750,000
2007	186,140	-	1,000,000

(1) Operating cash was a negative \$2.2 million in fiscal 2006.

(2) Fiscal 2005 represented a change over from a calendar year to a fiscal year coinciding with that of the State of Maryland. Its financial information is incomplete and omitted.

Source: Maryland Zoological Society

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After fiscal 2006, the reserves were depleted and borrowing became increasingly problematic. The zoo's credit line with Bank of America was used to capacity. So, scaling back operations did occur, to a degree. Several employees were laid off, and the zoo closed for several months during the winter. In October/November 2006, all capital projects were temporarily halted as well. However, the reductions were not of the proper magnitude to fall in line with revenues. MZS sought to rectify this shortfall by seeking State money above and beyond the grants it had historically received. **Exhibit 9** shows recent State funding for operating expense in detail.

Exhibit 9
State Funding for the Maryland Zoo in Baltimore Operating Expenses
Fiscal 2004-2009
(\$ in Thousands)

	<u>2004</u> <u>Approp.</u>	<u>2005</u> <u>Approp.</u>	<u>2006</u> <u>Approp.</u>	<u>2007</u> <u>Approp.</u>	<u>2008</u> <u>Approp.</u>	<u>2009</u> <u>Allow.</u>
Board of Public Works Pass-through Appropriation	\$2,860	\$2,860	\$2,860	\$3,100	\$3,100	\$5,241
State Dept. of Education Funding for Educational Organizations	1,023	1,023	1,023	1,023	1,023	972
State Dept. of Education Jan. 31, 2007, Budget Amendment (113-07)	0	0	0	1,305	0	0
Board of Public Works 2007 Deficiency Appropriation	0	0	0	2,500	0	0
MSDE March 30, 2007, Budget Amendment (126-07)	0	0	0	1,800	0	0
Supplemental Budget #3 Add-on March 27, 2007	0	0	0	0	1,900	0
BPW July 11, 2007, reduction to MSDE grant	0	0	0	0	-50	0
Total Operating Funding	\$3,883	\$3,883	\$3,883	\$9,728	\$5,973	\$6,213

BPW: Board of Public works
MSDE: Maryland State Department of Education

Source: Department of Legislative Services

State grant funding jumped from the fiscal 2006 level of \$3.88 million (\$3.1 million from BPW) a year to \$9.73 million in fiscal 2007. The extra \$5.61 million was conceived of as emergency funding needed to avoid immediate closure of the zoo. Yet in the fiscal 2008 budget cycle, expenditures were not scaled back to fall in line with the operational realities MZS was facing. Instead, an ongoing grant \$1.9 million higher than traditional levels represented by the fiscal 2006 figure was sought and received from BPW, while total expenses fell overall by \$846,985. At present, the amount of money from State support to MZS has become greater than all other income sources combined.

The large emergency funding prompted language in the fiscal 2008 budget that compelled MZS to set forth its plan for corrective action. The MZS report was released in December 2007.

MZS Response to the 2007 Joint Chairmen’s Report

The aim of the report was for the MZS to detail the strategic means by which it could:

- control expenditures and increase revenues;
- improve zoo attendance; and
- improve the zoo’s physical plant.

Report Review

Control Expenditures

The MZS response contemplates an increase in expenditures from fiscal 2008 to 2009 of more than \$1.0 million. The lone line item MZS projects will be reduced is administrative expense, which falls by \$14,000. The fiscal 2009 to 2010 MZS planning follows this trend and shows an estimated jump in expenditures of \$1.46 million, driven largely by increased staff compensation. New expenditure line items, such as a contingency account and replacement reserve, are also added. **Exhibit 10** highlights the key MZS projections for revenues and expenditures from fiscal 2008 through 2010.

Exhibit 10
Maryland Zoological Society Expense Projections
Fiscal 2008-2010

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Staffing	\$7,686,751	\$8,057,993	\$9,228,343
Administrative	1,258,653	1,244,653	1,254,168
Facilities	1,279,027	1,439,543	1,608,005
Animal Care	436,899	458,744	481,681
Support Services	1,263,707	1,379,263	1,444,271
Contingency	50,000	251,604	280,329
Subtotal Operating Expenses	\$11,975,037	\$12,831,800	\$14,296,797
Replacement Reserves	0	222,922	222,922
Total Expenses	\$11,975,037	\$13,054,722	\$14,519,719

Source: Maryland Zoological Society

Increase Revenues

The MZS chief strategy for correcting low earned income is to increase its inflows from public sources by seeking a dedicated local/regional tax. The report provides examples of other jurisdictions that have a tax, such as Denver, Detroit, and San Francisco, which respectively apply a sales, property, and hotel tax to residents whose proceeds are dedicated to their zoos. The report goes on to note the need for enabling legislation from the State of Maryland to allow such a tax. The report finds similar promise in the possibility of increasing private giving to the zoo as a means of increasing revenue. This method focuses on individuals, corporations, and foundations to provide funding. MZS notes that its key constituency is individual membership

Improve Attendance

The report states that attendance cannot be increased significantly in the short term because a gradual decline in ticket prices needs to be implemented, but goes on to say that the precarious financial state of the zoo prohibits any immediate change in prices. Direct mail to solicit new members is cited as a major source of maintaining and increasing income from membership as MZS believes members visit the zoo more frequently than average customers. MZS further emphasizes increasing attendance by improving the quality of the zoo experience via facility enhancements. It envisions additional capital funding from the State above its operating funds as a means of drawing in more customers.

Improve the Physical Plant

The MZS report signaled its intention to request \$5.0 million a year beginning in fiscal 2009 for capital improvements, with no matching funds, until the physical plant had improved. Details about the condition of each area are provided in the report but are more appropriate for the capital budget hearing. In the fiscal 2009 allowance, the Governor allocated \$3.0 million to the zoo, \$2.0 million for infrastructure improvements and \$1.0 million for facilities renewal.

Issues

There are numerous inconsistencies in the MZS report that bear examination:

Control Expenditures

Increasing expenditures:

- Fiscal 2008 to 2009 expenditures increase by \$1,079,685, or a 9% increase.
- The lone line item MZS targets for reduction are administrative expenses, which falls by \$14,000.
- Fiscal 2009 to 2010 expenditures increase by \$1,464,997, or an 11% increase.
- That includes a 5% increase in employee salaries.

Inconsistency in strategy to address expenditures:

- In 2006, the Philadelphia elephant population had been targeted for purchase by MZS, but the transaction was ultimately not brought to fruition because of the high ongoing cost associated with their care.
- In December 2007, media reports indicated that two elephants were acquired by MZS as part of a reported renovation of the elephant exhibit.

Increase Revenues

Envision high portion of public funding:

- The Maryland Zoo in Baltimore will receive approximately 57% of its revenue from public sources in fiscal 2008 and hopes to further increase this proportion through an additional tax.

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- The Denver Zoo, one of the zoos the report cites as an example case, receives 36% of its revenue, or \$7.6 million a year, from the tax, while its private support and operations-based income generate \$13.5 million.

Regional tax strategy unsubstantiated:

- The report refrains from elaborating on the timeline for enacting a regional tax or the political feasibility of levying it.

Membership revenue increase strategy inconsistent:

- The fiscal 2008 budget for membership recruitment has been reduced by \$200,000, but gains of 7% annually are expected for fiscal 2009 and 2010.

Projected growth of figures not clearly explained:

- Despite drops in all earned income statistics from fiscal 2006 to 2007, MZS forecasts gains in these same areas for fiscal 2008

MZS should comment on the basis for projected increases in revenues and its plans for a regional tax.

Improve Attendance

Ticket price issue not addressed:

- No timeline for the change in policy is provided for this option.

Counterintuitive arguments are made:

- The report's budget forecast for fiscal 2009 reduces mailing expenditure spending by \$118,650, but "direct mail" to solicit new members is later cited as a major source of maintaining and increasing income from membership.

Advertising not part of attendance improvement strategy:

- The report also cites a substantial reduction of \$350,000 in the advertising budget for fiscal 2008, which would suggest a greater drag downward on attendance.
- Free advertising through the efforts of MZS board members is put forward as an alternative.
- Communicating the facility enhancements to customers is not mentioned, as the report states the prime public relations objective of MZS is to "make sure that the public remains aware of the zoo."

No discussion of competition:

- The report explains that its core mission is to spread the message that MZS offers a unique experience in the Baltimore area.
- Competition from the larger, free National Zoo in Washington, DC impacts on its marketing is not discussed.

MZS should comment on how it plans to reduce ticket prices in the future, and how advertising will be utilized to increase attendance.

Possible Next Moves

In consideration of the lack of clarity regarding how the MZS operational changes will bring the zoo into fiscal solvency, several changes are worthy of consideration. A major concern is to reasonably outline the level of the State's commitment to the zoo as a cultural attraction, regardless of operator performance. A subsequent consideration is to address the failings MZS has exhibited as an operator charged with maximizing efficiencies in resource utilization and managing the facility as a "world-class zoo." There are several potential directions in which the State could move. Past precedent suggests that the State's intent is to continue funding the zoo, as feasible, although it is under no contractual obligation to do so. Withdrawing the grant in its entirety would certainly close the zoo, as the discussion above has indicated its dependence on State support.

Therefore, DLS recommends a funding formula that calculates the ceiling for the BPW pass-through grant as the sum of the zoo revenues that MZS has control over generating through its professional management, *i.e.*, earned income and private support. The calculation, which is proposed as fiscal 2009 budget bill language, would require MZS to provide audited annual financial statements to the budget committees and DLS which display the revenues it has generated from all sources. The State would provide funds to match half of the sum of projected private support and earned income revenues, as they are currently defined in the zoo's report at the beginning of each fiscal year. The remainder would be contingent upon verification of the audited figures and adjusted to reflect any differential between the projected levels and the actual result.

This structure would reward the zoo for increasing its revenues and, hopefully, avoid future emergency funding needs, as its public support would increase in-step with its profitability gains. The calculation would represent the maximum the grant could responsibly provide, although stellar performance over numerous years on the zoo's part could lead to the need to pull back the figure once fiscal stability had been achieved. If the zoo were to lose ground, its funding would fall in turn, requiring MZS to scale back operations to match a more limited budget, as it would agree not to seek further funding. MSDE grant funding, which operates on a specific service-delivery basis, would be unaffected.

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In calculating the funding level of the State grant for fiscal 2009, the zoo's projected fiscal 2008 private support (excluding in kind) of \$2,966,000 and its earned income of \$2,242,000 (net incomes from admissions and concessions) would determine the BPW grant's size, \$5,208,000. **Therefore, DLS recommends:**

- **Reducing the Governor's allowance by \$33,000, making the total grant for fiscal 2009 \$5,208,000, which equals the estimated fiscal 2008 sum of the zoo's earned income and private support.**
- **Requiring MZS to provide audited financial statements for fiscal 2007 and 2008 to the budget committees by November 1, 2008.**
- **Making half of the fiscal 2009 BPW grant funds, or \$2,604,000, contingent upon the budget committee's receipt and review of MZS' fiscal 2008 audited financial statements.**
 - **A dollar for dollar match would then be disbursed from the remaining half of the grant funds for all verifiable earned income and private support revenues generated by MZS, up to the limit of the fiscal 2009 grant.**
 - **Any funds not matched would revert to the general fund.**

This mechanism would create the ceiling of State funding for the zoo in a given year until it improves attendance and profitability of the zoo.

In the interim, given that MZS is an operator on the State's behalf, a Request for Qualifications (RFQ) procurement action for a zoo operator should be issued. The RFQ process would be beneficial as it would provide private sector comparison valuations of revenue potential and expenditure estimates for a zoo in Baltimore City, thus helping the State better understand the future value of its commitments. **The board is asked to comment on which State agency it believes to be best suited for the development and issuance of the procurement.**

Recommended Actions

1. Add the following language to the general fund appropriation:

, provided that this appropriation is reduced by \$33,000. Further provided that \$2,604,000 of this appropriation may not be expended until the Maryland Zoological Society (MZS) submits audited financial statements for fiscal 2007 and 2008 to the budget committees by November 1, 2008. The committees shall have 45 days to review and comment upon receipt of the financial statements. Further provided that it is the intent of the General Assembly that up to \$2,604,000 of the withheld allotment shall be released in an amount such that the full year appropriation from the Board of Public Works is equal to the lesser of \$5,208,000 or the actual earned income and private support revenues generated by MZS in its fiscal 2008 audited financial statement. Funds not released for this purpose shall revert to the general fund.

Explanation: This language reduces the grant to the Maryland Zoo in Baltimore by \$33,000, making the total grant for fiscal 2009, \$5,208,000. This equals the estimated fiscal 2008 sum of the zoo’s earned income and private support. It would further restrict one-half of the fiscal 2009 grant funds, or \$2,604,000, until MZS submits audited financial statements for fiscal 2007 and 2008 to the budget committees by November 1, 2008. Withheld funds would be released on a dollar for dollar basis to match actual earned income and private support revenues generated in fiscal 2008 by MZS, up to \$5,208,000. Any funds not matched would revert to the general fund.

Information Request	Author	Due Date
Submission of audited financial statements	Maryland Zoological Society	November 1, 2008

2. Adopt the following narrative:

Procurement Action Needed: The Maryland Zoological Society is an operator on the State’s behalf, and its underperformance does not preclude the possibility of a zoo’s success in Baltimore City. It is the intent of the committees that the Board of Public Works (BPW) should identify the State agency best suited for the development and issuance of a Request for Qualifications (RFQ) procurement action for a zoo operator and work with its designee to develop an RFQ. The board will report on the procurement timeline by July 1, 2008, and its results to the budget committees.

Information Request	Author	Due Date
RFQ for a new zoo operator – procurement timeline	BPW	July 1, 2008
Results of RFQ	BPW	When Available

Current and Prior Year Budgets

Current and Prior Year Budgets Board of Public Works (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2007					
Legislative Appropriation	\$7,434	\$0	\$0	\$0	\$7,434
Deficiency Appropriation	2,566	0	0	0	2,566
Budget Amendments	-151	0	0	0	-151
Reversions and Cancellations	-185	0	0	0	-185
Actual Expenditures	\$9,664	\$0	\$0	\$0	\$9,664
Fiscal 2008					
Legislative Appropriation	\$7,520	\$0	\$0	\$0	\$7,520
Cost Containment	0	0	0	0	0
Budget Amendments	14	0	0	0	14
Working Appropriation	\$7,534	\$0	\$0	\$0	\$7,534

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

Fiscal 2007

- A pass-through grant for the Maryland Zoo in Baltimore added \$2,500,000 in general funds to the fiscal 2007 BPW budget through a deficiency appropriation. A total of \$66,331 in BPW salary adjustments was also provided through deficiency funding.
- The board's general fund appropriation was reduced by a net of \$151,000. The primary reductions were transfers out of the BPW contingency fund transfer of \$70,000 to Morgan State University to fund travel costs of the University's Choir, and Canal Place, \$56,000 to the Commission on Human Relations to fund a staff attorney position approved by the board, and \$30,000 to Canal Place to cover annual leave payouts from unexpected retirements. These reductions were partially offset by a general fund increase of \$15,606 representing the 2% employee cost-of-living adjustment (COLA) transfer from the Department of Budget and Management (DBM) and a budget amendment that realigned telecom expenditures provided to the board's administration unit.
- There was a reversion of \$145,538 due to unspent appropriations in the contingency fund and three minor reversions from other programs.

Fiscal 2008

- A general fund amendment representing the 2% employee COLA transfer from DBM increased the fiscal 2008 budget by \$13,833.

Maryland Zoo in Baltimore – Comparative Institutions

	<u>Acres</u>	<u>Staff</u>	<u>Budget</u>	<u>Attendance</u>	<u>Adult Admission</u>	<u>Child Admission</u>	<u>Mammal Specimens</u>	<u>Metro Population</u>
Maryland Zoo in Baltimore	80	200	\$12,964,930	331,951	\$15.00	\$8.00	214	2,658,405
Potential Peer/Competitor Institutions:								
Albuquerque Biological Park (includes aquarium), NM	173	181	12,340,000	976,000	12.00	3.00	281	816,811
Cleveland Metroparks Zoo, OH	165	278	15,707,748	1,119,478	9.00	4.00	500	2,114,155
Dallas Zoo (includes aquarium), TX *	95	302	13,155,808	568,393	8.75	5.75	315	4,019,499
Forth Worth Zoo (includes aquarium), TX *	67	500	13,733,000	910,247	10.50	8.00	222	1,984,468
Jacksonville Zoo and Gardens, FL	70	210	7,673,000	634,000	11.00	6.50	352	1,277,997
Louisville Zoo, KY *	134	307	11,299,700	757,517	10.95	7.95	236	1,222,216
Lowry Park Zoo, Tampa, FL *	56	264	14,915,524	929,913	14.95	10.50	346	2,697,731
Memphis Zoo (includes aquarium), TN	36	180	11,378,924	761,930	13.00	8.00	760	1,274,704
Miami Metrozoo, FL	300	242	14,084,373	488,974	11.50	6.75	427	5,463,857
Nashville Zoo, Inc., TN	77	122	4,500,000	494,033	11.00	7.00	177	1,455,097
Phoenix Zoo, AZ	125	410	13,161,647	1,290,499	14.00	6.00	361	4,039,182
Pittsburgh Zoo (includes aquarium), PA	77	223	11,305,000	704,823	9.00	7.00	1442	2,370,776
San Francisco Zoological Gardens, CA	100	168	15,705,000	960,000	11.00	5.00	333	4,180,027
Smithsonian National Zoological Park (includes aquarium), Washington, DC	166	211	20,000,000	1,927,708	free	free	353	5,290,400
Zoo Atlanta, GA	39	253	12,000,000	741,500	17.99	12.00	155	5,138,223

* These four coexist with other zoos nearby. Dallas and Fort Worth are near each other; Louisville is near Cincinnati and Indianapolis; and Lowry Park is near Orlando attractions.

Additional zoos that coexist with larger zoos nearby include:

Connecticut's Beardsley Zoo, CT (near New York zoos)	32	63	\$2,200,000	260,000	\$8.00	\$6.00	140	900,440
Milwaukee County Zoo, WI (near Chicago)	192	278	19,125,303	1,307,492	9.75	6.75	482	1,509,981
Oakland Zoo, CA (near San Francisco)	45	155	5,259,000	540,000	9.00	5.50	222	4,180,027

	<u>Acres</u>	<u>Staff</u>	<u>Budget</u>	<u>Attendance</u>	<u>Adult Admission</u>	<u>Child Admission</u>	<u>Mammal Specimens</u>	<u>Metro Population</u>
Peer institutions as identified by the MD Zoo (purportedly based on zoo operations and metro area population):								
Columbus, OH (includes aquarium)	590	248	\$26,953,000	1,298,945	\$10.00	\$6.00	358	1,725,570
Denver, CO (includes aquarium)	80	282	19,653,425	1,711,593	11.00	7.00	802	2,408,750
St. Louis, MO (includes aquarium)	90	705	45,807,518	2,932,152	free	free	491	2,796,368
Woodland Park, Seattle, WA	92	301	25,117,119	1,043,804	10.50	7.50	244	3,263,497
Other comparison institutions identified by the MD Zoo:								
Minnesota Zoo, Minneapolis-St. Paul, MN (includes aquarium)	226	247	16,539,166	992,963	\$12.00	\$7.00	367	3,175,041
North Carolina Zoo, Asheboro, NC (includes aquarium)	500	362	1,400,000	708,000	\$10.00	\$6.00	249	685,378
Sedgwick County Zoo, Wichita, KS	247	144	7,334,900	502,367	\$9.00	\$5.00	433	592,126
Toledo, OH (includes aquarium)	62	754	20,890,270	916,546	\$10.00	\$7.00	203	653,695

Notes: Peer and other comparison institutions identified by the Maryland Zoo were provided for the DLS fiscal 2008 budget analysis of the Board of Public Works grant to the Maryland Zoo. Mammal species and specimen figures include marine mammals as applicable.

Sources: All zoo data are from the Association of Zoos and Aquariums 2007 member directory; population estimates as of July 2006 are from the U.S. Census Bureau, October 2007, <http://www.census.gov/population/www/estimates/CBSA-est2006> annual.html.

**Object/Fund Difference Report
Board of Public Works**

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	9.00	9.00	9.00	0	0%
Total Positions	9.00	9.00	9.00	0	0%
Objects					
01 Salaries and Wages	\$ 782,175	\$ 806,158	\$ 852,918	\$ 46,760	5.8%
02 Technical and Spec. Fees	16,060	22,500	22,500	0	0%
03 Communication	10,904	7,631	12,129	4,498	58.9%
04 Travel	4,205	5,400	5,400	0	0%
08 Contractual Services	34,521	53,805	57,702	3,897	7.2%
09 Supplies and Materials	11,516	10,020	14,200	4,180	41.7%
10 Equip. – Replacement	2,462	2,700	9,818	7,118	263.6%
12 Grants, Subsidies, and Contributions	8,797,270	6,620,414	6,906,585	286,171	4.3%
13 Fixed Charges	4,195	5,000	4,982	-18	-0.4%
14 Land and Structures	500	500	500	0	0%
Total Objects	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%
Funds					
01 General Fund	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%
Total Funds	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%

Note: The fiscal 2008 appropriation does not include deficiencies.

**Fiscal Summary
Board of Public Works**

<u>Program/Unit</u>	<u>FY07 Actual</u>	<u>FY08 Wrk Approp</u>	<u>FY09 Allowance</u>	<u>Change</u>	<u>FY08-FY09 % Change</u>
01 Administration Office	\$ 703,255	\$ 739,526	\$ 782,123	\$ 42,597	5.8%
02 Contingent Fund	198,461	750,000	750,000	0	0%
05 Wetlands Administration	163,283	174,188	198,026	23,838	13.7%
10 Miscellaneous Grants to Private Nonprofit Groups	6,409,118	5,657,289	5,943,460	286,171	5.1%
12 Miscellaneous Non-recurring Payments	1,976,566	0	0	0	0%
15 Payments of Judgments Against The State	213,125	213,125	213,125	0	0%
Total Expenditures	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%
General Fund	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%
Total Appropriations	\$ 9,663,808	\$ 7,534,128	\$ 7,886,734	\$ 352,606	4.7%

Note: The fiscal 2008 appropriation does not include deficiencies.