

**D05E01
Board of Public Works**

Operating Budget Data

(\$ in Thousands)

	<u>FY 08 Actual</u>	<u>FY 09 Working</u>	<u>FY 10 Allowance</u>	<u>FY 09-10 Change</u>	<u>% Change Prior Year</u>
General Fund	\$6,675	\$7,700	\$7,812	\$112	1.5%
Contingent & Back of Bill Reductions	0	0	-9	-9	
Adjusted General Fund	\$6,675	\$7,700	\$7,803	\$103	1.3%
Adjusted Grand Total	\$6,675	\$7,700	\$7,803	\$103	1.3%

- The fiscal 2010 allowance increases by \$103,145, or 1.3%, over the fiscal 2009 working appropriation.
- The primary sources of growth are the increases of \$82,976 to the grant for the Maryland Zoo in Baltimore (zoo) and \$35,418 to personnel spending to annualize fiscal 2009 salary increments.

Personnel Data

	<u>FY 08 Actual</u>	<u>FY 09 Working</u>	<u>FY 10 Allowance</u>	<u>FY 09-10 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 and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/08	1.00	11.11%

- No new regular or contractual positions are included in the fiscal 2010 allowance.
- The Board's Procurement Advisor position, which is required by statute, has been vacant since April 2007. **The board is asked to discuss its plans to fill this 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

Minority Business Enterprise Participation in Contracts Decreases: While the number of contracts with at least 25% involvement by Minority Business Enterprise's (MBE) has increased, a growing percentage of contracts have less than 10% MBE participation.

Issues

Maryland Zoo in Baltimore Financial Update: Audited financial statements and monthly attendance reports indicate the long-term financial viability of the zoo remains in jeopardy. **The zoo should discuss its future direction and financial prospects in light of its recent performance and difficult macroeconomic conditions.**

Recommended Actions

1. Adopt narrative requesting submission of audited financial statements and attendance reports.

Updates

Use of Contingent Fund: The entire appropriation in the contingent fund was utilized in fiscal 2008 for the first time since fiscal 2003.

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 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 unit 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, and funds to pay settlements and judgments against the State.

Performance Analysis: Managing for Results

Although BPW participates in Managing for Results (MFR), its principal charge is overseeing the stewardship of the State's assets. Quantitatively assessing the quality of that decisionmaking is difficult. After consistent high performance in responding to public information requests in a timely and satisfactory manner, customer service measures have been dropped from its MFR reporting in favor of statistics that provide greater detail on the State's procurement actions.

Exhibit 1 lists statewide contract submissions, modifications, and approvals for fiscal 2006 to 2010. In fiscal 2008, the value of contracts approved and modified by the board decreased by \$700 million and \$900 million, respectively. This change is largely due to the fact that several large statewide contracts were approved in fiscal 2007, such as the \$1.1 billion State employee prescription benefits contract and the \$300 million foster care maintenance contracts for the Department of Human Resources, while others were modified, such as alterations to employee health insurance contracts worth \$180 million. These actions elevated the dollar values to atypically high levels. No contract valued at over \$200 million was approved by the board in fiscal 2008. The decrease returns these measures to the range of the values of contracts approved or modified by the board in fiscal 2006.

Exhibit 1
Contract Approvals/Modifications and Dollar Values
Fiscal 2006-2010

	<u>2006</u> <u>Actual</u>	<u>2007</u> <u>Actual</u>	<u>2008</u> <u>Actual</u>	<u>% Change</u> <u>2007-8</u>	<u>2009</u> <u>Est.</u>	<u>2010</u> <u>Est.</u>
Contracts submitted for approval	663	670	646	-3.6%	670	670
Contracts approved	635	637	623	-2.2%	630	630
Total dollar value of contracts (\$ in billions)	\$2.1	\$2.8	\$2.1	-26.8%	\$2.5	\$2.5
Contract modifications submitted for approval	272	288	274	-4.9%	270	270
Contract modifications approved	260	281	259	-7.8%	260	260
Total dollar value of approved modifications (\$ in billions)	\$1.1	\$1.7	\$0.8	-55.9%	\$1.0	\$1.0

Source: Board of Public Works

Minority Business Enterprise Participation in Contracts Decreases

Section 14-302 of the Finance and Procurement Article sets the statewide Minority Business Enterprise (MBE) participation 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. **Exhibit 2** details the measures of agency attainment of these goals and procedures, which were tracked by the board for the first time in fiscal 2007.

Exhibit 2
MBE Participation in State Contracts
Fiscal 2007-2010

<u>Approved Contracts with MBE Participation:</u>	<u>2007</u> <u>Actual</u>	<u>2008</u> <u>Actual</u>	<u>2007</u> <u>% of Total</u>	<u>2008</u> <u>% of Total</u>	<u>2009</u> <u>Est.</u>	<u>2010</u> <u>Est.</u>
0% Participation	251	264	42.7%	42.4%	225	225
Between 1-10%	72	116	12.2%	18.6%	100	100
Between 10-25%	198	156	33.7%	25.0%	200	200
Greater than 25%	67	87	11.4%	14.0%	100	100
Total	588	623	n/a	n/a	625	625

MBE: Minority Business Enterprise

Source: Board of Public Works; Department of Legislative Services

D05E01 – Board of Public Works

MBE figures indicate that 87 contracts, or 14% of the total, met the State goal in fiscal 2008, up from 11% in fiscal 2007. Yet, outside of this improvement, the distributions between the remaining tranches indicate a decrease in overall MBE participation. The contracts having between 10-25% participation lost ground, as the number of approved contracts with between 0-10% MBE representation grew from 323 in fiscal 2007 to 380 in fiscal 2008. Moreover, the number of contracts with no MBE partner grew over the same time period. Thus, the majority of board-approved contracts have less than 10% MBE participation.

These results suggest that while a few MBEs have obtained a sizeable involvement in State procurements, a growing number of contracts have little to no MBE participation. While these figures track goals and not requirements, the reduction of at least minimal participation levels suggests a movement away from achieving the statewide objective. **The board should discuss procurement trends that correlate to the decrease in MBE participation.**

Competitiveness of Contracts

The board also gauges the competitiveness of State contracts by quantifying procurement award methods. The percentage distributions by contract award type, which are listed in **Exhibit 3**, are similar to the fiscal 2007 measures. The noted changes in fiscal 2008 are a decrease in the competitive sealed-bid category and an increase in the “Other” category. The “Other” award types include intergovernmental cooperative contracts, negotiated awards after unsuccessful bids, preference purchases, and Maryland architect and engineer (A&E) services awards. The board believes that the increase in these other award methods to over 25% of total contract approvals may be due to an increase in the number of BPW-approved contracts awarded under the A&E method. Furthermore, the board cites a reduction in construction-based contracts in favor of service-oriented ones for the decline in competitive sealed-bid awards. **The board is asked to comment on the changing nature of procurement awards. The Department of Legislative Services (DLS) recommends that BPW identify those award types now included in the “Other” category that are growing in usage as separate entries in all future MFR submittals.**

Exhibit 3
BPW Contracts Approved by Procurement Method
Fiscal 2007-2010

	<u>2007</u> <u>Actual</u>	<u>% of</u> <u>Total</u>	<u>2008</u> <u>Actual</u>	<u>% of</u> <u>Total</u>	<u>2009</u> <u>Est.</u>	<u>2010</u> <u>Est.</u>
Competitive sealed-bid	270	41.2%	230	32.9%	260	260
Competitive sealed-proposals	93	14.2%	98	14.0%	95	95
Single bid/proposal received	75	11.4%	76	10.9%	75	75
Sole source	51	7.8%	51	7.3%	50	50
Emergency or expedited	55	8.4%	62	8.9%	60	60
Other	112	17.1%	182	26.0%	120	120
Total	656	n/a	699	n/a	660	660

Source: Board of Public Works

Wetlands Administration

The board's Wetlands Administration unit conducts public hearings, prepares written recommendations, and issues licenses after approval by BPW in its role as coordinator of the State's wetlands licensing program. The chief MFR goal is to process at least 90% of license applications within 30 days. Achieving this goal has been complicated by two factors in the last several years. The first is the increasing incidence of extraordinary cases, *i.e.* those that require a public hearing, involve bonding or compensation, or require an extended review period because of the nature of the project. In fiscal 2008, 17 cases were deemed extraordinary and had an average processing time of 78 days, as their added requirements made meeting the goal unfeasible. The second factor is the introduction of a supplemental license review by the Maryland Department of the Environment that led to 11 cases exceeding the goal timeline.

Given the difficulties of tracking performance through this increasingly complex measure, the Wetlands unit has developed two new gauges: the percentage of cases where the board concurs with the unit's recommendations and the acreage of living shorelines created, a measure related to the unit's regulatory role in the enforcement of the Living Shoreline Protection Act of 2008. As future data points are received to allow trend identification, DLS will report on these new MFR measures.

Statewide Accounts

BPW's fiscal 2010 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.

Grants to Private Nonprofits

The fiscal 2010 allowance for grants to private nonprofits totals \$5,872,057 in general funds, which represents an increase of \$53,355 over the fiscal 2009 working appropriation.

- **Maryland Zoo in Baltimore:** The State has provided the Maryland Zoo in Baltimore (zoo) with a variety of grants to support its general operations over the past 17 years. These funds have resided in the BPW budget since 2004. The fiscal 2010 allowance includes \$5,225,218 in general funds for this grant, \$82,976 more than the fiscal 2009 working appropriation.
- **Historic Annapolis Foundation:** The fiscal 2010 allowance provides a \$507,000 general fund grant to the Historic Annapolis Foundation (HAF), which represents a \$36,000 decrease from the fiscal 2009 working appropriation. HAF leases 11 State-owned historic buildings in Annapolis and is contractually obligated to operate and maintain them. While the decreased funds in the allowance correspond to a lower operating cost grant, \$56,000 is included to continue HAF's capital improvement efforts to equip all State-owned properties with fire suppression sprinkler units. Fire sprinklers have been funded at 3 buildings thus far.
- **Council of State Governments:** A \$139,839 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 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 \$5,379 increase over fiscal 2009 levels and reflects an adjustment of CSG's membership fees, as approved by voting representatives from all 50 states.

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 2010 allowance includes \$213,125 in general funds for payments of civil judgments against the State. This is the same figure programmed for the fiscal 2009 budget and represents amounts owed under settlements in force through fiscal 2012.

Fiscal 2009 Actions

Impact of Cost Containment

BPW's general fund appropriation was reduced by a net of \$183,844. The largest reduction was to the grant for the zoo, whose total State funding was returned to fiscal 2008 levels when summed with State Aid to Education money. Other areas reduced were agency salaries corresponding to the vacant Procurement Advisor position, the HAF grant, agencywide fringe benefits, and printing expenses.

Proposed Budget

The fiscal 2010 allowance increases general funds for BPW by \$103,145, as shown in **Exhibit 4**. Pass-through grant items represent a net increase of \$52,355 due to an \$82,976 increase to the zoo operating grant and a \$36,000 reduction to the HAF grant.

Personnel expenses increased because of annualized fiscal 2009 increments worth \$37,351 and health insurance cost increases of \$23,006.

Impact of Cost Containment

Contingent and across-the-board reductions effected in this agency's budget delete \$5,400 of general funds for the deferred compensation match and \$3,497 of general funds in the expectation of savings in contractual services based on a favorable bidding climate.

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

How Much It Grows:	General Fund	Total
2009 Working Appropriation	\$7,700	\$7,700
2010 Allowance	<u>7,812</u>	<u>7,812</u>
Amount Change	\$112	\$112
Percent Change	1.5%	1.5%
 Contingent Reductions	 -\$9	 -\$9
Adjusted Change	\$103	\$103
Adjusted Percent Change	1.3%	1.3%
 Where It Goes:		
Personnel Expenses		
Increments and other compensation.....		\$37
Employee and retiree health insurance pay-as-you-go costs		23
Employee retirement		8
Deletion of Other Post Employment Benefits' liability prefunding		-3
Deferred compensation (after reducing fiscal 10 for contingent reductions).....		-5
Other fringe benefit adjustments.....		1
Other Changes		
Increase in grant to Maryland Zoo grant.....		83
Dues increase for Council of State Government membership		5
Printing charge increase from Comptroller's Office.....		5
Contract cost increase for Hunt Reporting services.....		2
Section 24 savings from rebidding of contracts		-4
Reduction in employee training and management studies		-5
Reduction from completion of computer replacement cycle in fiscal 2009.....		-7
Reduction to Historic Annapolis Foundation grant		-36
Other		-1
Total		\$103

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

Issues

1. Maryland Zoo in Baltimore Financial Update

Prompted by the need for \$5.61 million of emergency State funding in fiscal 2007 to prevent the Maryland Zoo in Baltimore from closing, the budget committees examined the financial health of the zoo during the 2008 session. The chief causes for concern were:

- low attendance;
- poor earned income from dwindling gate receipts, falling private donations, and disadvantageous contracts with in-park vendors;
- the subsequent increased need for public funds to replace dollars not generated through operations; and
- rising expenditures in the face of these falling revenues.

Consequently, the 2008 *Joint Chairman's Report* (JCR) requested the submittal of audited financial statements, monthly attendance reports, and a proposal on incentive-based grant funding to allow the committees to assess the progress of a new management team at the zoo.

Attendance Problems Persist

Exhibit 5 shows zoo attendance for fiscal 2007 and 2008 by visitor group type. There was a reduction in attendees over the time period, with school-related visitors, whose access to the grounds are provided free of charge as part of the State Aid for Education grant program, increasing more than any other category. General public attendance also rose by 3,277, or 2.2%, but these two areas of increase were more than offset by declines in member attendance and those entering the facility with passes. Two admission pricing changes impacted the number of attendees in fiscal 2008. First, the zoo eliminated the free opening weekend pricing policy, instead charging a reduced \$5 entrance fee. The number of visitors attending the opening weekend consequently fell from 30,000 people to 18,000. On the other hand, the zoo reduced the regular price of admission for adults from \$15 to \$11 in March 2008, in response to an MBA marketing study conducted by Loyola College in Maryland. The reduction was subsequently limited to mid-week and online ticket sales, as weekend prices returned to their previous levels in May 2008. While this strategy may have boosted attendance, it contributed to a reduction of net admissions income.

Exhibit 5
Maryland Zoo in Baltimore Attendance by Groups
Fiscal 2007-2008

	<u>2007</u> <u>Actual</u>	<u>2008</u> <u>Actual</u>	<u># Change</u> <u>2007-2008</u>	<u>% Change</u> <u>2007-2008</u>
General	146,870	150,147	3,277	2.2%
Member	114,537	107,358	-7,179	-6.3%
School	75,788	79,888	4,100	5.4%
Passes	4,122	3,123	-999	-24.2%
Events	7,834	8,453	619	7.9%
Total	349,151	348,969	-182	-0.1%

Note: For fiscal 2009, the zoo had received 150,873 visitors through December 15, 2008.

Source: Maryland Zoo in Baltimore

In fiscal 2009, attendance had reached 150,873 as of December 15, 2008. However, as part of cost-cutting measures, the zoo will be closed for an extra four weeks this winter, meaning that it will receive no visitors from December 15, 2008, through March 14, 2009. Therefore, to equal attendance totals from fiscal 2008, the zoo needs to more than double the number of visitors received in the year's first eight months to visit the facility in the final three and a half months of the fiscal year. However, even achieving the 350,000 visitor mark would not represent improvement, as this fiscal 2008 attendance total was more than 150,000 visitors below tallies posted earlier in the decade. **The zoo should comment on its projections for fiscal 2009 and 2010 attendance totals.**

Earned Income and Expenses

Exhibit 6 demonstrates the changes to revenues and expenses at the zoo from fiscal 2007 to 2008, as detailed in the audited financial statements.

Notable areas of revenue change were:

- Corporate donations, which the zoo had predicted would grow to \$550,000 in fiscal 2008, fell to the historic low of \$135,730 for sponsor and memberships.
- Gross admissions fell by nearly 20.0%, a function of the reduced entry price and the higher portion of visitors entering through the free school program. However, the move away from a policy that provided numerous discounted admissions, which fell by 71.7%, spurred net gate revenues to increase by 2.6%.

Exhibit 6
Maryland Zoo in Baltimore – Audited Financial Statements
Fiscal 2007-2008

	<u>2007 Actual</u>	<u>2008 Actual</u>	<u>\$ Change</u>	<u>% Change</u>
<u>Revenues</u>				
Public Funding	\$10,318,865	\$6,826,657	-\$3,492,208	-33.8%
Corporate (Sponsorship and Membership)	475,078	135,730	-339,348	-71.4%
General Support	1,318,401	1,455,546	137,145	10.4%
Membership	902,885	956,882	53,997	6.0%
Admission	2,300,463	1,851,010	-449,453	-19.5%
Less – Discounts	-691,726	-195,514	496,212	-71.7%
Net Admissions	1,608,737	1,655,496	46,759	2.9%
Contract Services (Aramark Payments)	120,947	203,975	83,028	68.6%
Attractions	191,311	192,458	1,147	0.6%
Fundraising Sales	168,616	165,753	-2,863	-1.7%
Programs	289,196	310,832	21,636	7.5%
Facility Rentals	89,755	90,247	492	0.5%
Other	208,423	216,923	8,500	4.1%
Totals	\$15,692,214	\$12,210,499	-\$3,481,715	-22.2%
<u>Expenses</u>				
Salaries and Wages	\$6,283,296	\$5,734,587	-\$548,709	-8.7%
Benefits	1,491,374	1,312,922	-178,452	-12.0%
Contract Labor	441,336	197,886	-243,450	-55.2%
Staff Developer	63,156	81,165	18,009	28.5%
<i>Personnel Subtotal</i>	<i>8,279,162</i>	<i>7,326,560</i>	<i>-952,602</i>	<i>-11.5%</i>
Space Rent	304,184	16,400	-287,784	-94.6%
Building Services	172,885	71,264	-101,621	-58.8%
Utilities	924,602	425,661	-498,941	-54.0%
In-house Maintenance	266,613	420,560	153,947	57.7%
Third Party Maintenance	331,641	801,566	469,925	141.7%
Vehicles	61,720	139,747	78,027	126.4%
<i>Occupancy Subtotal</i>	<i>2,061,645</i>	<i>1,875,198</i>	<i>-186,447</i>	<i>-9.0%</i>
Communications	102,531	98,090	-4,441	-4.3%
Management Information System	165,969	186,231	20,262	12.2%
<i>Technology Subtotal</i>	<i>268,500</i>	<i>284,321</i>	<i>15,821</i>	<i>5.9%</i>
Animals	462,982	497,552	34,570	7.5%
Professional Fees	794,171	690,192	-103,979	-13.1%
Insurance	156,067	234,375	78,308	50.2%

D05E01 – Board of Public Works

	<u>2007 Actual</u>	<u>2008 Actual</u>	<u>\$ Change</u>	<u>% Change</u>
Licenses and Dues	42,143	55,413	13,270	31.5%
Interest and Fees	163,293	212,093	48,800	29.9%
Office Supplies	59,823	52,278	-7,545	-12.6%
Photocopying	135,390	60,527	-74,863	-55.3%
Postage and Shipping	144,381	54,499	-89,882	-62.3%
Marketing and Graphics	1,087,526	494,587	-592,939	-54.5%
Event Expense	312,715	306,969	-5,746	-1.8%
Business Travel	82,842	55,340	-27,502	-33.2%
Miscellaneous	41,997	-208,165	-250,162	-595.7%
<i>General Subtotal</i>	<i>3,483,330</i>	<i>2,505,660</i>	<i>-977,670</i>	<i>-28.1%</i>
Totals	\$14,092,637	\$11,991,739	-\$2,100,898	-14.9%

Source: Maryland Zoo in Baltimore, Clifton Gunderson, LLP

-
- The Aramark concession contracts showed improvement under the new management team. While the food services portion of the contract is still underperforming, the overall arrangement yielded income that was \$70,000 higher in contract year 2008 (April 2007-March-2008) that it had been in the previous year. This increase means the zoo received profit equating to 11.4% of gross sales, as opposed to the fiscal 2007 7.0% return. The \$500,000 in general obligation bond funding approved by the General Assembly in fiscal 2009 to renovate the principal food service area should help improve sales in this lagging area by enhancing the attractiveness of the in-park dining options.

On the expense side, the zoo was successful in reducing spending in several areas:

- personnel expenses fell by \$952,600, led primarily by job reductions, duty consolidations, the departure of several contractual employees, and associated benefit expense reductions;
- marketing and graphics spending fell by \$592,939, or more than half of the previous year's total, as the zoo discontinued an unproductive direct mail marketing contract; and
- the third party maintenance category, however, increased by \$469,925 as specialists were contracted for roofing, plumbing, and general contracting needs to realize the fixes required to maintain American Zoological Association accreditation and comply with the U.S. Department of Agriculture upgrades. Baltimore City's forgiving of a \$473,000 water bill offset this increase in facility occupancy spending.

Public Funding Sources and the Impact of Cost Containment

The largest area of change in fiscal 2008 was in public funding, which declined by \$3.49 million. The public funds reduction stems primarily from the absence of the emergency

funding dollars provided by the State in fiscal 2007. **Exhibit 7** shows the State’s contributions to the zoo since fiscal 2004.

Exhibit 7
State Funding for the Maryland Zoo in Baltimore Operating Expenses
Fiscal 2006-2010
(\$ in Thousands)

	<u>2006</u> <u>Approp.</u>	<u>2007</u> <u>Approp.</u>	<u>2008</u> <u>Approp.</u>	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Allow.</u>
BPW Pass-through Appropriation	\$2,860	\$3,100	\$3,100	\$5,241	\$5,225
MSDE Funding for Educational Organizations	1,023	1,023	1,022	972	747
MSDE Jan. 31, 2007 Budget Amendment (113-07)	0	1,305	0	0	0
BPW 2007 Deficiency Appropriation	0	2,500	0	0	0
MSDE March 30, 2007 Budget Amendment (126-07)	0	1,800	0	0	0
Supplemental Budget #3 Add-on March 27, 2007	0	0	1,900	0	0
BPW July 11, 2007 Reduction to MSDE Grant	0	0	-50	0	0
BPW June 25 2008 Reduction to MSDE Grant	0	0	0	-49	0
BPW October 15, 2008 Reduction to Operating Grant	0	0	0	-99	0
BPW October 15, 2008 Reduction to MSDE Grant	0	0	0	-94	0
Total Operating Funding	\$3,883	\$9,728	\$5,972	\$5,972	\$5,972

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

Source: Board of Public Works

The fiscal 2010 allowance allocates the same amount of funding to the zoo that it received in fiscal 2008 and 2009. As Exhibit 7 shows, level funding is achieved by considering the BPW operating grant and the State Aid for Education together when describing total State funding. The inflationary increase planned in fiscal 2009 was incrementally reduced as cost containment actions as the BPW deleted funds from the appropriation throughout the year.

Other jurisdictions committed to increase funding in fiscal 2009. Baltimore City provides a \$600,000 operating grant annually, which is bolstered by \$420,000 in pass-through contributions for the zoo’s Veterinary Hospital mortgage payments. Baltimore County, Howard County and Harford County also provide funding to the zoo. The vast majority of county dollars comes from Baltimore County, which increased its fiscal 2009 commitment to \$400,000, over the \$250,000 it gave in fiscal 2008. No information is available on the proposed local jurisdiction contributions for fiscal 2010.

Fiscal 2009 Budget

Exhibit 8 outlines the zoo's fiscal 2009 budget, which indicates a continuation of the administrative distribution of resources developed by the new management team in fiscal 2008. Prominent differences to fiscal 2008 are:

- an increase in personnel expenditures of \$902,145 driven by a 5% salary increase provided to staff that also increased benefit expenses;
- the removal of emergency facility repair costs drops occupancy expenses by \$507,348;
- marketing expenditures are anticipated to grow by \$295,349 as new initiatives replace unprofitable efforts excised in the prior year;
- as for revenues, the net admissions target is programmed to be \$1.5 million, the lowest this figure has ever been;
- fundraising sales corresponding to in-park events are expected to triple and contribute \$530,000;
- public funding, as discussed above, is set to increase by \$790,743; and
- contract income from Aramark was erroneously omitted from the budget but is estimated to bring in approximately \$150,000 more than anticipated.

Given the changes to State funding and deteriorating economics conditions, **the zoo should comment on its ability to meet budgeted fiscal 2009 revenues.**

Exhibit 8
Maryland Zoo in Baltimore – Budget
Fiscal 2009

Revenues

Public Funding	\$7,617,400
Contributed Income	2,081,286
Memberships	900,006
Net Admissions	1,500,002
Earned Income	531,318
Other	141,100
Total Revenues	\$12,771,112

Expenses

Personnel	\$8,228,705
Occupancy	1,413,132
Other	2,886,300
Net Operating Expenses	\$12,528,137
Projected Surplus/(Deficit)	\$242,975

Source: Maryland Zoo in Baltimore

JCR Response

In response to the budget committees' request for a proposal of incentive-based grant funding to replace the current grant structure, the zoo submitted a report that dismissed such a possibility as unfeasible. The report categorized any such incentive structure as untenable unless it were purely supplemental to the current method of base grant funding, which does not link funds received to the quality of operational management. Furthermore, it stated that the base funding from the State should begin at \$9.2 million per year. Only with this figure as a base, which is \$3.0 million above current funding levels and \$5.0 million above the annual State funding authorized for the zoo before its 2006 financial crisis, would the zoo envision a dollar-for-dollar match of its earned income as acceptable. This belief is based on two premises: that the zoo is a \$16.5 million operation, and not the \$12.0 million concern its fiscal 2008 income statement indicates, and that the zoo is incapable of making up the difference through operational activities and its own fundraising efforts. While the zoo's expenses have reached the \$16.0 million range in recent years, it has only achieved the revenue side of the equation after the \$5.61 million injection of emergency funds in fiscal 2007 mentioned above that prevented the facility's closure. **The zoo should comment on the feasibility of maintaining a \$16.0 million annual business operation with the current income earning potential of the facility.**

Outlook for the Future

As the consolidated financial statements produced by Clifton Gunderson, LLP for the zoo state: “The Organization’s operating costs have significantly exceeded revenues that can be generated from zoo patrons over the past few years and the Organization has limited assets which can be converted into cash. This results in a lack of liquidity and concern about the ability to meet current obligations.” The past source of funding to allow this insolvency to continue has been the State of Maryland. As the State is faced with its own substantial fiscal constraints, its ability to further supplement the zoo is uncertain at best, as recent cost containment reductions indicate. Furthermore, another past source of funds for the zoo, the private sector, seems a similarly unreliable font of enhanced support as corporate entities face shrinking work forces and slimmer budgets that limit the amount of donated funds available for nonprofits like the zoo. Finally, the large infrastructure improvements needed to maintain accreditation and meet safety standards, let alone to convert the facility into a first-rate attraction, require millions of dollars in supplemental capital funding that cannot be matched by operational earnings. In sum, the long-term financial viability of the zoo remains in jeopardy. **The zoo should discuss its future direction and financial prospects in light of its recent performance and difficult macroeconomic conditions.**

Recommended Actions

1. Adopt the following narrative:

Improving Operational Reporting: Given the zoo’s continued financial difficulties, the committees request that the Maryland Zoological Society (MZS) submit:

- (1) audited financial statements for fiscal 2009; and
- (2) year-to-date monthly attendance figures for the zoo for fiscal 2010, in continuance of the practice begun in July 2008.

Information Request	Author	Due Date
Audited financials	MZS	November 1, 2009
Attendance report	MZS	Monthly

Updates

1. Use of Contingent Fund

Article III, Section 32 of the State Constitution, provides for a State contingent fund that BPW may allocate to supplement agency appropriations when these prove insufficient to meet salaries and operating expenses during the fiscal year. **Exhibit 9** shows the legislative appropriations and total expenditures from the fund from fiscal 2003 through 2008.

Exhibit 9
Board of Public Works Contingent Fund Usage
Fiscal 2003-2008

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Appropriation	\$750,000	\$750,000	\$750,000	\$750,000	\$500,000	\$750,000
Total Uses	750,000	86,175	549,200	636,716	354,461	750,000
Unspent Funds	\$0	\$663,825	\$200,800	\$113,284	\$145,539	\$0

Source: Board of Public Works

In fiscal 2008, the entire \$750,000 general fund appropriation was expended for the first time since fiscal 2003, as a balance remained in each of the previous four years that was reverted to the State general fund. The amounts, recipients, and justifications for the fiscal 2008 fund transfers are listed below:

- \$1,094 to the District Court of Maryland for Cecil County in payment of attorney's fees incurred during a State Prosecutor's Office investigation;
- \$344,098 to the State Board of Elections in payment of a judgment against the State for attorney's fees;
- \$69,725 to the State Board of Elections in payment of a judgment against the State for attorney's fees;
- \$100,000 to the University System of Maryland to fund a survey of teaching conditions; and
- \$235,083 to the Office of the Public Defender to cover panel attorneys, transcripts and other operating expenses not provided for in its budgeted appropriation.

D05E01 – Board of Public Works

Appendix 3 provides detail on the recipients of transfers from the contingent fund during the three prior fiscal years. No transactions have been recorded in fiscal 2009 thus far, and the fiscal 2010 allowance once again contains \$750,000 in general funds for the contingent fund.

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 2008					
Legislative Appropriation	\$7,520	\$0	\$0	\$0	\$7,520
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-732	0	0	0	-732
Cost Containment	0	0	0	0	0
Reversions and Cancellations	-114	0	0	0	-114
Actual Expenditures	\$6,674	\$0	\$0	\$0	\$6,674
Fiscal 2009					
Legislative Appropriation	\$7,870	\$0	\$0	\$0	\$7,870
Cost Containment	-184	0	0	0	-184
Budget Amendments	14	0	0	0	14
Working Appropriation	\$7,700	\$0	\$0	\$0	\$7,700

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

Fiscal 2008

- The board's general fund appropriation was reduced by a net of \$731,933. The primary reductions were transfers out of the contingent fund of \$418,823 to the State Board of Elections to settle legal fees related to judgments against the State, \$100,000 to the University System of Maryland to fund a survey of teaching conditions, and \$235,083 to the Office of the Public Defender to cover panel attorneys, transcripts and other operating expenses.
- These reductions were partially offset by a general fund increase of \$13,833 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 \$113,708, of which \$86,100 corresponds to the salary of the Procurement Advisor position that went unfilled for the entire fiscal year. Another \$11,258 represents the HAF's fire suppression project coming in under budget, while the remainder was due to two minor reversions from other programs.

Fiscal 2009

- A general fund increase of \$14,211, representing the 2% employee COLA transfer from DBM.
- As part of the June 25, 2008, fiscal 2009 cost containment action, \$41,942 of BPW's general fund appropriation was reduced. The savings were generated by holding the Board's Procurement Advisor position vacant and reducing the allotment for printing board meeting transcripts.
- As part of the October 15, 2008, fiscal 2009 cost containment action, \$141,902 of BPW's general fund appropriation was reduced. The savings were generated by reducing the grants to the zoo and HAF by \$98,758 and \$25,000 respectively. Also, fringe benefit appropriations were reduced as Other Post Employment Benefits prefunding of \$14,209 was ceased and statewide employee health insurance balances of \$3,935 were used in lieu of budgeted funds.

Audit Findings

Audit Period for Last Audit:	September 19, 2005 – January 31, 2008
Issue Date:	July 2008
Number of Findings:	2
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	

Finding 1: BPW did not ensure that grantees submitted required annual reports in a timely manner and annual reports were not always properly reviewed. The fiscal 2007 annual reports required in conjunction with two grant agreements were filed approximately six months after the due date. The board review of one report certified the information submitted by the grantee to be accurate, despite an erroneous accounting of the usage of State grant funds. The audit urged enforcement of deadline dates for the reports and tighter control over the annual grant report revision process.

Finding 2: BPW had not submitted annual reports on the State’s procurement system to the General Assembly, as required by State law. State law requires BPW to submit an annual report to the General Assembly on the State’s procurement system that includes information on actions necessary to improve effective broad-based competition in procurement activities. From fiscal 2004 to 2007, these reports had not been submitted. The BPW Procurement Advisor position is charged with completing these reports, but it has been vacant for over a year. The audit called for the submittal of these documents as required by law.

Board of Public Works Contingency Fund Usage Detail Fiscal 2005-2007

Detail	<u>Value</u>	<u>Recipient of Transfer</u>	<u>Reason for Transfer</u>
Fiscal 2007	\$56,000	Commission on Human Relations	Create State's Attorney position to implement procurement-related Commercial Nondiscrimination Policy
	8,489	T. Eloise Foster	Reimburse attorney's fees in connection with federal criminal investigation
	189,972	Stephen P. Amos	Payment of attorney's fees related to defense of criminal indictment ultimately dismissed
	70,000	Morgan State University	Defray travel costs for Morgan State choir to perform in Ghana
	<u>30,000</u>	Canal Place	Pay for annual leave payout and electricity costs not funded in budget
	\$354,461		
Fiscal 2006	\$100,000	Department of General Services	Outsourcing design review services for public school construction
	225,000	Department of Aging	Assist local agencies enroll Medicare beneficiaries in Part D program before penalty deadline
	6,716	Property Tax Appeals Board	Pay for annual leave payout not funded in budget due to unexpected retirement
	25,000	MD State Board of Contract Appeals	Pay for annual leave payout not funded in budget due to unexpected retirement
	220,000	Maryland State Police	Pay unanticipated Medevac helicopter maintenance costs and pilot overtime
	<u>60,000</u>	Morgan State University	Defray travel costs for Morgan State choir to perform in Prague
	\$636,716		
Fiscal 2005	\$288,000	Department of Juvenile Services	Cover the cost of an emergency generator and food services at Hickey School when closed for mold remediation
	41,000	State Ethics Commission	Unanticipated expenses incurred in the implementation of the Automated Financial Disclosure System
	10,200	Health Claims Arbitration Board	Pay for leave payouts for individuals separated from the former Health Claims Arbitration Office
	<u>210,000</u>	Michael Austin	Initial payment for the civil judgment against the State for wrongful conviction
	\$549,200		

Source: Board of Public Works

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

<u>Object/Fund</u>	<u>FY08 Actual</u>	<u>FY09 Working Appropriation</u>	<u>FY10 Allowance</u>	<u>FY09 - FY10 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	\$ 723,691	\$ 794,369	\$ 860,796	\$ 66,427	8.4%
02 Technical and Spec. Fees	14,000	22,500	24,000	1,500	6.7%
03 Communication	10,187	12,129	11,915	-214	-1.8%
04 Travel	4,481	5,400	5,400	0	0%
08 Contractual Services	36,829	53,223	53,450	227	0.4%
09 Supplies and Materials	14,590	14,200	12,200	-2,000	-14.1%
10 Equipment – Replacement	8,059	9,818	4,700	-5,118	-52.1%
12 Grants, Subsidies, and Contributions	5,860,250	6,782,827	6,835,182	52,355	0.8%
13 Fixed Charges	2,567	4,982	3,847	-1,135	-22.8%
14 Land and Structures	0	500	500	0	0%
Total Objects	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%
Funds					
01 General Fund	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%
Total Funds	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.

**Fiscal Summary
Board of Public Works**

<u>Program/Unit</u>	<u>FY08 Actual</u>	<u>FY09 Wrk. Approp.</u>	<u>FY10 Allowance</u>	<u>Change</u>	<u>FY09 - FY10 % Change</u>
01 Administration Office	\$ 648,587	\$ 725,275	\$ 781,114	\$ 55,839	7.7%
02 Contingent Fund	1,094	750,000	750,000	0	0%
05 Wetlands Administration	165,817	191,846	195,694	3,848	2.0%
10 Miscellaneous Grants to Private Nonprofit Groups	5,646,031	5,819,702	5,872,057	52,355	0.9%
15 Payments of Judgments Against the State	213,125	213,125	213,125	0	0%
Total Expenditures	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%
General Fund	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%
Total Appropriations	\$ 6,674,654	\$ 7,699,948	\$ 7,811,990	\$ 112,042	1.5%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.