

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD



MARC D. LOUD, SR.  
CHIEF ADMINISTRATIVE JUDGE

February 10, 2016

The Honorable Phil Mendelson, Chairman  
Council of the District of Columbia  
Committee of the Whole  
The John A. Wilson Building  
1350 Pennsylvania Avenue, NW, Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

In response to your letter dated January 11, 2016, please find herein the DC Contract Appeals Board's responses to the Committee of the Whole's preliminary questions for the March 7, 2016, FY15 (and FY16 to date), performance oversight hearing. Per your request, I have submitted both a hard copy and electronic copy of responses, and attachments have been avoided except where specifically requested.

Please contact me at (202) 727-6597 if I can be of additional assistance regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc D. Loud, Sr.", with a large, stylized flourish above the name.

Marc D. Loud, Sr.  
Chief Administrative Judge  
DC Contract Appeals Board



## DC CONTRACT APPEALS BOARD RESPONSES

1. Please provide, as an attachment to your answers, a current organizational chart for your agency with the number of vacant and filled FTEs marked in each box. Include the names of all senior personnel, if applicable. Also include the effective date on the chart.

**Response:** Please see Attachment 1.

2. Please provide, as an attachment, a Schedule A for your agency which identifies all employees by title/position, current salary, fringe benefits, and program office as of January 10, 2016. The Schedule A also should indicate any vacant positions in the agency. Please do not include Social Security numbers.

**Response:** Please see Attachment 2.

3. Please list all employees detailed to or from your agency, if any. For each employee identified, please provide the name of the agency the employee is detailed to or from, the reason for the detail, the date of the detail, and the employee's projected date of return.

**Response:** Not applicable.

4. (a) For fiscal year 2015, please list each employee whose salary was \$110,000 or more. For each employee listed provide the name, position title, salary, and amount of any overtime and/or bonus pay.

(b) For fiscal year 2016, please list each employee whose salary is or was \$110,000 or more. For each employee listed provide the name, position title, salary, and amount of any overtime and/or bonus pay as of the date of your response.

**Response:** Please see the table below. The Board did not pay overtime/bonus pay to any employees in FY2015 or FY2016 to date.

Year	Name	Position/Title	Salary
FY2015	Marc D. Loud, Sr.	Chief Administrative Judge	\$167,885
	Monica C. Parchment	Administrative Judge	\$165,569
	Maxine E. McBean	Administrative Judge	\$165,569
	Thane Tuttle	Clerk of Court	\$116,699
FY2016	Marc D. Loud, Sr.	Chief Administrative Judge	\$172,921
	Monica C. Parchment	Administrative Judge	\$170,536
	Maxine E. McBean	Administrative Judge	\$170,536
	Mark Poindexter	General Counsel	\$123,088
	Andrew Smith (resigned 12/2015)	Attorney Advisor	\$124,906
	Thane Tuttle	Clerk of Court	\$120,200

- Please list, in descending order, the top 25 overtime earners in your agency for fiscal year 2015. For each, state the employee's name, position or title, salary, and aggregate overtime pay.

**Response:** Not applicable.

- For fiscal years 2015 and 2016 (to date), please provide a list of employee bonuses or special award pay granted that identifies the employee receiving the bonus or special pay, the amount received, and the reason for the bonus or special pay.

**Response:** Not applicable.

- For fiscal year 2016 (to date), please list each employee separated from the agency with separation pay. State the amount and number of weeks of pay. Also, for each, state the reason for the separation.

**Response:** CAB Attorney Advisor Andrew Smith resigned from his position, effective December 23, 2015, and received 20 hours of annual leave pay-out in the amount of \$701.39 (net of taxes).

- For fiscal years 2015 and 2016 (to date), please state the total number of employees receiving worker's compensation payments.

**Response:** Not applicable.

- For fiscal years 2015 and 2016 (to date), please list, in chronological order, all intra-District transfers to or from the agency.

**Response:** Not applicable.

- Please list, in chronological order, every reprogramming of funds into and out of the agency for fiscal years 2015 and 2016 (to date). Include a "bottom line" that explains the revised final budget for your agency. For each reprogramming, list the reprogramming number, the date, the amount, and the rationale.

**Response:** Please see the table below. CAB's FY2015 budget at the beginning of the fiscal year was \$1,426,098. CAB's FY2015 budget at the end of the fiscal year was \$1,297,315. The reprogrammed funds were needed for the Public Employee Relations Board (PERB) to cover its projected Non-personal Services (NPS) deficit.

REPROGRAMMINGS				
Transferor	Transferee	Amount of Reprogramming	Dates	Purpose of Reprogramming
Fiscal Year 2015				
AFO	CGO	\$65,000	6/18/2015	Cover projected NPS deficit for PERB
AFO	CGO	\$40,000	8/24/2015	Cover projected NPS deficit for PERB
AFO		\$23,783		FY15 Supplemental Reduction
Fiscal Year 2016				
N/A				

11. For fiscal years 2015 and 2016 (to date), please identify any special purpose revenue funds maintained by, used by, or available for use by your agency. For each fund identified, provide: (1) the revenue source name and code; (2) the source of funding; (3) a description of the program that generates the funds; (4) the amount of funds generated annually by each source or program; and (5) expenditures of funds, including the purpose of each expenditure.

**Response:** Not applicable.

12. Please list all memoranda of understanding (MOU) either entered into by your agency or in effect during fiscal years 2015 and 2016 (to date). For each, describe its purpose, indicate the date entered, and provide the actual or anticipated termination date.

**Response:** Pursuant to D.C. Official Code § 2-360.03(b), the Board has statutory authority to enter into fee-for-service agreements to resolve contract disputes and bid protests for District agencies or other public entities exempt from our jurisdiction. In this regard, MOUs were in effect in FY2015 with the Washington Convention and Sports Authority (WCSA), the District of Columbia Health Benefit Exchange Authority (HBEA) and the District Department of Energy and Environment (DOEE). In FY2016, The WCSA MOU is continuing, and the DOEE and HBEA MOUs were renewed.

13. D.C. Law requires the Mayor and the Chief Financial Officer to submit to the Council, simultaneously with a proposed budget submission, actual copies of all agency budget enhancements requests, including the “Form B” for all District agencies (See D.C. Code § 47-318.05a). In order to help the Committee understand agency needs, and the cost of those needs for your agency, please provide, as an attachment to your answers, all budget enhancement requests submitted by your agency to the Mayor or Chief Financial Officer as part of the budget process for fiscal years 2015 and 2016.

**Response:** Please see the table below.

BUDGET ENHANCEMENTS					
Transferor	Transferee	Amount of Enhancement	FTEs	Dates	Purpose of Enhancement
Fiscal Year 2014					
N/A					
Fiscal Year 2015					
District	AFO	\$300,000.00	2		Support new attorney positions in the Adjudication program.
Fiscal Year 2016					
N/A					

14. Please list each grant or sub-grant received by your agency in fiscal years 2015 and 2016 (to date). List the date, amount, purpose of the grant or sub-grant received, and explain how the grant is allocated if it is a multi-year grant.

**Response:** Not applicable.

15. Please list all currently open capital projects for your agency as of the date of your response, including those projects that are managed or overseen by another agency or entity. Include a brief description of each, the total estimated cost, expenditures to date,

the start and completion dates, and the current status of the project. Also, indicate which projects are experiencing delays and which require additional funding.

**Response:** Not applicable.

16. Please list all pending lawsuits that name your agency as a party. Please identify which cases on the list are lawsuits that potentially expose the city to significant liability in terms of money and/or change in practices. The Committee is not asking for your judgment as to the city's liability; rather, we are asking about the extent of the claim. For those claims identified, please include an explanation about the issues for each case.

**Response:** Not applicable.

17. (a) Please list and describe any investigations, studies, audits, or reports on your agency or any employee of your agency that were completed at any time in fiscal years 2015 or 2016 (to date). (b) Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency.

**Response:** Not applicable.

18. Please list, in chronological order, all employee grievances filed against your agency in fiscal years 2015 and 2016 (to date). Also, list any earlier grievance that is still pending in any judicial forum. For each, give a brief description of the matter as well as the current status.

**Response:** Not applicable.

19. In table format, please list the following for fiscal years 2015 and 2016 (to date) regarding the agency's use of SmartPay (credit) cards for agency purchases: (1) individuals (by name and title/position) authorized to use the cards; (2) purchase limits (per person, per day, etc.); and (3) total spent (by person and for the agency).

**Response:** The following table is based upon transaction posting dates by the P-Card issuing bank, JP Morgan Chase. The FY2016 data is current through January 26, 2016. Richard Rothschild was an Attorney Advisor and authorized P-Card user until his retirement from the Board in FY2015. Uday Berry, Program Assistant, and Mark Poindexter, General Counsel, are currently authorized P-Card users.

Fiscal Year	Authorized User	Single Purchase Limit	Daily Limit	Monthly Limit	Total
FY2015	Richard Rothschild	\$5,000	N/A	\$20,000	\$22,976.17
FY2015	Uday Berry	\$5,000	N/A	\$20,000	\$3,421.99
FY2016	Uday Berry	\$5,000	N/A	\$20,000	\$5,315.79
FY2016	Mark Poindexter	\$5,000	N/A	\$20,000	\$0

20. (a) In table format, please provide the following information for fiscal years 2015 and 2016 (to date), regarding your agency's use of cellular phones and mobile devices: (1) individuals (by name and title/position) authorized to carry and use such devices; (2) total annual expense (FY) for each individual's use; and (3) justification for such use (per person). If the list is more than one page in length, you may provide it as an attachment.

(b) Please describe how your agency manages and limits its mobile, voice, and data costs, including cellular phones and mobile devices.

**Response:** Please see table below. The CAB Appeals Clerk also serves as the Board’s Agency Telecommunications Coordinator (ATC), and in this capacity provides reports to the Chief Administrative Judge on any Board employee exceeding the monthly usage ceiling set by the telecommunications plan. For fiscal years 2015 and 2016 (through December 2015) the Board has been in compliance with monthly plan usage fees.

Staff Member	Position	FY2015 Costs	FY2016 Costs (through Dec. 2015)	Justification
Marc Loud, Sr.	Chief Administrative Judge	\$698.81	\$170.17	Critical Contact
Maxine McBean	Administrative Judge	\$1,332.54	\$291.97	Critical Contact
Monica Parchment	Administrative Judge	\$1,012.74	\$173.67	Critical Contact
Jason Edwards	Attorney Advisor	N/A	\$254.39	Critical Contact
Mia House	Appeals Clerk-ATC	\$950.27	\$163.17	Critical Contact
Mark Poindexter	General Counsel	N/A	\$254.39	Critical Contact
Andrew Smith	Attorney Advisor	N/A	\$254.39	Critical Contact
Thane Tuttle	Clerk of Court	\$947.43	\$163.17	Critical Contact
Albert Wilcox	Protest Clerk – IT Support	\$652.81	\$163.17	Critical Contact

21. (a) Does your agency have or use one or more government vehicle? If so, for fiscal years 2015 and 2016 (to date), please list any vehicle the agency owns. You may group the vehicles by category (e.g., 15 sedans, 33 pick-up trucks, three transport buses, etc.).

(b) Please list all vehicle accidents involving your agency’s vehicles for fiscal years 2014, 2015, and 2016 (to date). Provide: (1) a brief description of each accident; (2) the type of vehicle involved; (3) the justification for using such vehicle; (4) the name and title/position of the driver involved; and (5) whether there was a finding of fault and, if so, who was determined to be at fault.

**Response:** Not applicable.

22. D.C. Law requires the Mayor to pay certain settlements from agency operating budgets if the settlement is less than \$10,000 or less than two years old (see D.C. Code § 2-402(a)(3)). Please itemize each charge-back to your agency for a settlement or judgment pursuant to D.C. Code § 2-402.

**Response:** Not applicable.

23. (a) D.C. Law prohibits chauffeurs, take-home vehicles, and the use of SUVs (see D.C. Code §§ 50-203 and 50-204). Is your agency in compliance with this law? Please explain any exceptions.

(b) If there are exceptions, please provide the following: (1) type of vehicle (make, model, year); (2) individuals (name/position) authorized to have the vehicle; (3) jurisdictional residence of the individual (e.g., Bowie, MD); and (4) justification for the chauffer or take-home status.

**Response:** Not applicable.

24. In table format, please provide the following information for fiscal years 2015 and 2016 (to date) regarding your agency's authorization of employee travel: (1) individuals (by name and title/position) authorized to travel outside the District; (2) total expense for each trip (per person, per trip, etc.); and (3) justification for the travel (per person and trip).

**Response:** Not applicable.

25. Please provide and itemize, as of January 10, 2016, the current number of When Actually Employed (WAE), term, and contract personnel within your agency. If your agency employs WAE or term personnel, please provide, in table format, the name of each employee, position title, the length of his or her term, the date on which he or she first started with your agency, and the date on which his or her current term expires.

**Response:** The Board currently has one WAE employee, no contract personnel, and no term employees. The Board's sole WAE employee is Norman Menegat, Attorney Advisor. Mr. Menegat provides extra support with legal research/writing as requested by Board judges. He was first hired on May 19, 2014, and his current term will expire on June 30, 2016.

26. Please provide, as an attachment, a copy of your agency's current annual performance plan as submitted to the Office of the City Administrator.

**Response:** Please see Attachment 3. The Board's FY2016 annual performance plan has been submitted to the Office of the City Administrator through the Office of the Chief Technology Officer's Quickbase application.

27. What are your top five priorities for the agency? Please provide a detailed explanation for how the agency expects to achieve or work toward these priorities in fiscal years 2016 and 2017.

**Response:** The top five priorities for the Board are as follows: 1) To complete the final elimination of the legacy appeals case backlog, and prevent the occurrence of any future case backlogs; 2) To increase the Board's compliance rate to 100% for closing Protest cases within 60 business days of filing; 3) To display all Board records not subject to protective order on the public website and convert all protest and appeals cases filed before 1985 to digital; 4) To continue to review and update the Board's technology needs, including data server migration in coordination with OCTO and DC-Net; and 5) To research issues pertaining to, and best practices for, FY2017 implementation of a CAB Mediation/ADR program.

### **1. Final Elimination Of Legacy Backlog Appeals And Preventing The Occurrence Of Future Case Backlogs.**

The Board's caseload consists largely of two, distinct types of cases: **protests** (*i.e.*, adversarial proceedings wherein a disappointed bidder challenges a contract award or solicitation) and **appeals** (*i.e.*, adversarial proceedings generally conducted by hearing wherein either the government or a contractor under an existing contract initiates a claim for damages asserting a breach of contract performance). For purposes of clarity, this

section regarding legacy and non-legacy cases applies to the Board’s appeals docket only. The Board has never had a backlog on its protest docket (see separate discussion below).

*History and Definition of Legacy Backlog.* The three current CAB Judges inherited an appeals backlog that developed during the critical period FY2006-FY2010. The Board uses the term “legacy backlog” to refer to those appeals cases that became backlogged during FY2006-FY2010. During that period, approximately 50% of the appeals docket (42/85) became either dormant or aged due to (1) a 98% increase in the number of appeals filed; (2) a five-year continuous vacancy in one of the Board’s three judge positions; and (3) the aggregate filing of over 13,000 documents with Board judges.<sup>1</sup>

The table below chronicles the five-year development of the Board’s legacy backlog, and the yellow highlighted section tracks the annual percentage increase in newly filed appeals cases from the benchmark year (*i.e.*, FY2006).

Year	New Appeals	%+FY06	# of CAB Judges	Total# Cases/Yr	Average # Cases Per Judge
FY2005	35	n/a	3	101A/127	42 (including 34 appeals)
FY2006	14	n/a	2	88A/129	64.5 (including 44 appeals)
FY2007	22	60%	2	88A/116	58 (including 44 appeals)
FY2008	30	120%	2	102A/129	64.5 (including 51 appeals)
FY2009	23	63%	2	105A/154	77 (including 53 appeals)
FY2010	35	150%	2	113A/164	82 (including 57 appeals)

The current Board has experienced tremendous success eliminating the above described legacy backlog. As of FY2016 (to date), the Board has eliminated 41 of the original 42 backlogged cases (98% reduction), and will eliminate the final case in FY2016. The table below identifies the number of legacy appeals cases eliminated each fiscal year since the appointment of the current Judges:

Fiscal Year	Legacy Cases Closed	Pending Legacy Cases
2010	1	41
2011	11	30
2012	5	25
2013	5	20
2014	17	3
2015	0	3
2016 (to date)	2	1

*Preventing The Occurrence of Future Backlogs.* Having inherited a huge backlog upon their initial appointments, and having worked assiduously to eliminate it, current Board judges are determined to prevent future backlogs on the appeals docket. To sustain performance sufficient to meet this goal, several multiyear actions have been taken:

- *Stabilizing the Appointment of Board Judges.* For the past five years, there have been no judge vacancies on the Board. This is important to note because the original legacy backlog was caused largely by a five-year continuous vacancy in one of the Board’s three judge positions (FY2006-FY2010). The Board must acknowledge the Executive Office of the Mayor, the Office of Boards and Commissions, and the Council of the District of Columbia for their hard work stabilizing the Board.

<sup>1</sup> See, e.g., the CAB’s FY2013 and FY2014 to date Performance Hearing responses to the Committee of the Whole’s questions (February 3, 2014, Response No. 25).



Because of the efforts of the aforementioned, the current judges have been seamlessly reappointed between FY2012-FY2016 in such manner as has allowed them to provide uninterrupted service expediting case resolution.

- *Increasing the Number of Budgeted FTE Attorney Positions.* Prior to FY2013, the Board had no budgeted FTE attorney positions to address existing and/or prevent future backlogs. Since FY2013, the Board has worked collaboratively with the Office of the Chief Financial Officer, the Mayor, and the Council of the District of Columbia to create three FTE attorney positions (one added in FY2013 and two added in FY2015). These positions are required to assist judges with the management of the Board's voluminous docket, which includes the **annual** filing of over 2,000 documents and 31,000 pages of litigation materials.
- *Rigorous Case Management And Annually Prioritizing The Closure Of All Cases That Are Three Years Or Older.* Finally, preventing the occurrence of any future backlogs will require rigorous case management by Board judges and staff. In this regard, the Board's case management requirements are that (1) Scheduling Orders be issued within 45 days of case filing; (2) that the Scheduling Orders include discovery and motions cut-off deadlines; and (3) that each Scheduling Order include a trial date that is 2.5 years or less from the date of initial filing. In addition, Board judges manage their dockets each year to prioritize the closure of all cases that are three years (or more) old as a first priority (absent exigent circumstances). Docket meetings are held to review progress.

## **2. Increase The Board's Compliance Rate To 100% For Closing Protest Cases Within 60 Business Days Of Filing.**

Although protest cases constituted 17% of the total FY2015 CAB docket (10/58), delays in resolution can hinder prompt delivery of vital government services. For this reason, the Board has always prioritized closing protest cases with 60 business days of filing. Additionally, the Board is under a statutory mandate to do so. D.C. Official Code § 2-360.08(d). The Board will continue to increase performance in this area until 100% compliance is reached (in FY2015, the Board closed 91% of protests within the 60 day timeline). To reach full 100% compliance, the Board will benefit from the newly-hired FTE attorneys and will explore greater use of "predictive outcome evaluations". (A predictive outcome evaluation occurs when a Judge provides a preliminary oral indication of the likely case outcome prior to issuance of a final written decision.)

## **3. Continue The Mission Of Displaying All Board Case Records On The Public Website, Including Full Digital Conversion of the Board's Closed Files.**

One of the Board's top priorities is to continue to provide the highest level of transparency possible. The Board has been praised by the Washington Business Journal (WBJ) for having "the most transparent database" of any government agency covered by the WBJ.<sup>2</sup> In that regard, the Board will continue the prompt display of all material filed in pending and closed cases (not subject to protective order) to the Board's website for

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<sup>2</sup> Michael Neibauer, *D.C. Contract Appeals Board Tackles Backlog*, WASHINGTON BUSINESS JOURNAL, Nov. 11, 2011, at BizBeat.

public display. We discuss briefly below the two types of case records (pending and closed files) that are uploaded to the Board’s public website.

*Display of Pending Case Files on Public Website.* In FY2015, parties submitted 728 pleadings, motions, or other materials with the Board totaling 22,157 pages of material. One of the Board’s top priorities is to ensure that all filings made in open cases are uploaded to the public website within three business days of filing. For FY2015 and FY2016 to date, all filed materials (except materials filed under protective order) were successfully uploaded to the public website. In order to maintain a successful level of performance, the Board’s Appeal and Protest Clerks are tasked with uploading all new case materials within three business days of filing. The Clerks prepare a monthly “uploads” report, which is reviewed by the Chief Judge. The table below includes total filings and total pages filed with the Board from FY2012-FY2015:

FY2012	FY2013	FY2014	FY2015
2,463 Filings 38,392 Pages	1,764 Filings 33,920 Pages	1,361 Filings 28,821 Pages	728 Filings 22,157 Pages

*Closed Files.* In addition to filings made in pending cases, the Board has closed older cases consisting entirely of paper filings. The digital archiving of these cases will provide for better preservation and retrieval than paper records. Once digitized, these files can be imported into the Boards document management system and then uploaded to the public website. One of the Board’s top priorities, therefore, is to ensure that all hard copy case files are digitized and uploaded. From its founding in 1953 to the present, 2,505 cases have been filed with the Board. To date, the Board has uploaded complete records for 1,581 cases to its website, including all digitized cases from 1985-2015. One of the Board’s top priorities is to ensure that the remaining 924 hard copy case files are digitized and uploaded. During FY2016-FY2017, the Board has prioritized completion of a multiyear plan for the digitization of all remaining CAB case records, including identifying resource needs as pertains to budget, existing staff, and/or contract personnel. In addition, CAB will continue to inventory, scan, convert, and upload pre-digital age files within authorized funding levels.

**4. Review And Update CAB’s Technology Needs And Best Practices For Courtroom Database Management Software.**

The Board uses Worksite Server to store all litigation case records, and populates case data from WorkSite Server to the public website through FileSite. In addition, the Board accesses its e-file and serve program (File & ServeXpress) to obtain several basic types of reports (total motions, orders, dismissals *etc.*) filed within a defined period, total number of filings made in a particular case (*e.g.*, Motions To Extend), and other raw metrics. However, the Board currently lacks the capacity to create recurrent Order templates, or to conduct management level queries of integrated data-sets. For example, much of the data appearing in various tables in this report was obtained manually through the review and compilation of information appearing in several disparate Board reports.

Consistent with available resources, one of the Board’s top FY2016-FY2017 priorities is to continue to review best practice options for acquiring a relational database suitable for the Board’s needs. In FY2016-FY2017, the Board also expects to replace a number of aging technology assets, including our WorkSite Server (acquired in 2007) and our main

office printer and scanner. These initiatives will be pursued within authorized funding levels. In addition, the Board will continue working with representatives of OCTO and DC-Net on the migration of its data server to OCTO's Enterprise Cloud Infrastructure (ECI). At present, the Board believes the ECI server migration would allow the Board to enjoy the following technology benefits and improvements:

- Leverage enterprise-class datacenters which, (a) are highly scalable, highly redundant and highly available (99.999% uptime), (b) continuously meet or exceed state and regulatory compliance and security hosting requirements, and (c) seamlessly allow CAB to migrate compute workloads in order to meet current and future business processing needs;
- Provide role-based access to only authorized CAB users, and monitor all server access using enterprise security monitoring systems;
- Enjoy file and folder-level encryption capabilities (including encryption of data backup to tape);
- Utilize co-located datacenter which provides agencies with an infrastructure they can leverage as part of their disaster recovery plan to ensure uninterrupted business operations in the event of a catastrophic event in the District;
- Lowers total cost of ownership (TCO); and
- Reduces physical server footprint throughout the District as a result of the District's "greener" datacenters initiative.

##### **5. Research Issues Pertaining To, And Best Practices Regarding The Implementation Of, A Best In Class CAB Alternative Dispute Resolution/Mediation Program.**

The use of mediation and other alternative dispute resolution techniques have increasingly proven to be important tools in the effective and efficient disposition of disputes. Matters that would ordinarily take months or years to resolve through traditional litigation models, can be resolved in a fraction of the time (and often with far greater party satisfaction and buy-in) through the use of alternative dispute resolution. Indeed, at the inception of each case, the Board encourages mediation/settlement through its Scheduling Orders. Moreover, the Presiding Judge in each case encourages mediation/settlement at the pretrial conference in each case.

One of the Board's top FY2016-FY2017 priorities is to build upon its existing commitment to the use of alternative dispute resolution by researching and developing a template for a "best in class" ADR program. In this regard, the Board intends to confer with key stakeholders, and to review best practices across a wide spectrum of knowledge experts, including but not limited to:

- The experiences of our federal contract appeals board counterparts who, pursuant to The Contract Disputes Act, 41 U.S.C. §§ 7101 *et seq.*, are required to provide an alternative dispute resolution vehicle for litigants. Our review will include

determining the effectiveness of the federal Interagency Alternative Dispute Resolution Working Group (“IADRWG”), which was established in 1998 to (1) coordinate multi-agency ADR initiatives; (2) promote best practices and programs across agencies; and (3) disseminate policy and guidance newsletters.<sup>3</sup>

- Meetings with District stakeholders, including representatives from the Office of the Chief Financial Officer, the Executive Office of the Mayor, the Office of the Attorney General, the Board of Contract Appeals Bar Association, the D.C. Bar (Government Contracts section), the American Bar Association, and representatives from the D.C. Court of Appeals and the D.C. Superior Court.
- The expertise of other resources including, but not limited to, the National Center for State Courts, the Council for Court Excellence, the National Judicial College, and the Judicial Arbitration and Mediation Services (JAMS) (an organization composed largely of retired judges providing ADR, mediation, special master, and neutral referee services).

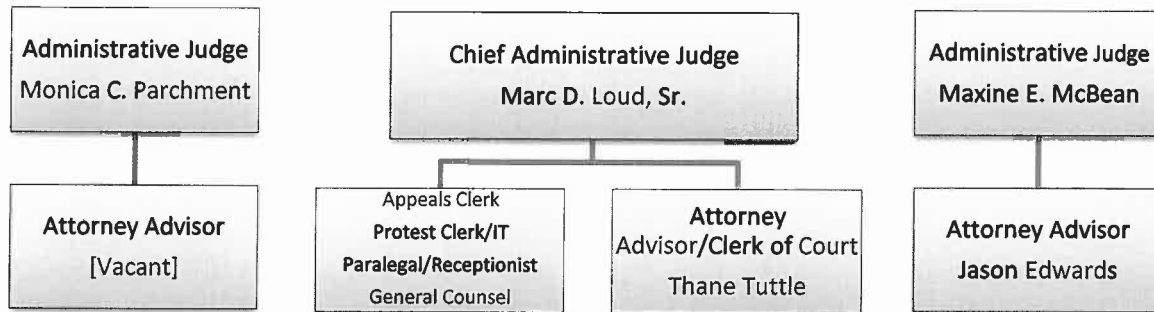
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<sup>3</sup> See The Interagency ADR Working Group, <http://www.adr.gov/about-adr.html>.



**DC CONTRACT APPEALS BOARD  
FY2015-2016 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 1  
DC CONTRACT APPEALS BOARD  
ORGANIZATIONAL CHART  
(Effective February 10, 2016)**





**DC CONTRACT APPEALS BOARD  
FY2015-2016 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 2  
CAB SCHEDULE A STAFF LISTING  
(Effective January 10, 2016)**

**AF0 - Schedule A as of January 10, 2016**

	Title	Vac Stat	Salary	Fringe Benefits	Program
1	Chief Admin Judge	F	172,921	30,607	1090/Performance Management
2	Admin Judge	F	170,536	30,185	2001/Adjudication
3	Admin Judge	F	170,536	30,185	2001/Adjudication
4	General Counsel	F	123,088	21,787	2001/Adjudication
5	Clerk of Court	F	120,200	21,275	2001/Adjudication
6	Attorney Advisor	V	119,116	21,084	2001/Adjudication
7	Attorney Advisor	F	101,267	17,924	2001/Adjudication
8	Staff Assistant	F	69,387	12,281	2001/Adjudication
9	Administrative Officer	F	65,839	11,654	2001/Adjudication
10	Attorney Advisor	F	59,825	10,589	2001/Adjudication
11	Program Support Assistant	F	44,302	7,841	2001/Adjudication



**DC CONTRACT APPEALS BOARD  
FY2015-2016 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 3  
CAB FY2016 PERFORMANCE PLAN**

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**FY 2016 PERFORMANCE PLAN**  
**District of Columbia Contract Appeals Board**  
**(Draft of September 30, 2015)**

**MISSION**

The mission of the Contract Appeals Board (CAB) is to provide an impartial, expeditious, inexpensive, and knowledgeable forum for hearing and resolving contractual disputes, protests, and debarments and suspensions involving the District and its contracting communities.

**SUMMARY OF SERVICES**

The Contract Appeals Board reviews and determines de novo protests of District contract solicitations and/or awards, appeals by contractors of District contracting officer final decisions on contractor claims, claims by the District against a contractor, appeals by contractors of suspensions and/or debarments, and contractor appeals of interest payment claims under the Quick Payment Act.

**PERFORMANCE PLAN DIVISIONS**

- Adjudication
- Contract Appeals Board (Agency Management Program)<sup>1</sup>

**AGENCY WORKLOAD MEASURES**

Measure	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual
Number of contract solicitation and award protests filed	25	24	18
Number of appeals by contractors of District contracting officer final decisions filed	28	12	8
Number of cases by the District against contractors filed	0	0	0
Number of appeals by contractors of suspensions or debarments filed	0	0	0
Number of contractor appeals of interest payment claims under the Quick Payment Act filed	1	0	0

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<sup>1</sup>The Contract Appeals Board is a relatively small agency with only 10 full-time equivalents. Therefore, the agency's FY16 Performance Plan is not organized by budget division because there is significant overlap between budget programs.



**OBJECTIVE 1: Promote public confidence in the integrity of the procurement process through equitable, timely, efficient, and legally correct adjudication of disputes and protests.**

**INITIATIVE 1.1: Continue significant reductions to the number of open appeal cases that are 3 years or older by September 2016.**

During the current Board Judges' tenures beginning in FY2011, CAB has reduced the total docket of appeals cases from 113 (FY2011) to 48 at the close of FY2015. The decrease results from closing 92% of an historic appeals backlog, conducting trials in 40 government contract cases in three years, and closing a record 105 cases in FY14-15. In addition, the Board is committed to reducing the number of appeals cases that are three years or older to less than 5%. **Completion date: September 2016.**

**INITIATIVE 1.2: Complete digital archiving and loading into the database of all dispute cases decided between 1985-1988, and all protest cases decided between 1985-1988, permitting web-based retrieval and full-text searching capability by the parties with pending cases and the public.**

Digital archiving provides for better preservation and retrieval than paper records. Once digitized, the Board's case files can be imported into its document management system and database. The database is linked to the Board's public website which contains a series of searching options for users, such as searching documents by case number and full-text searching. This functionality provides a unique level of accessibility and transparency for litigants -- particularly those who are self-represented, the contracting community and the public. From FY11 to FY15, the Board digitized and uploaded 717 cases to the public website. In FY16, the Board will continue to digitize and upload historical cases to the public website, focusing on appeals cases decided from 1985 to date and protest cases decided from 1985 to date. **Completion date: September 2016.**

**OBJECTIVE 2: Enhance the Board's ability to efficiently and inexpensively manage and adjudicate cases.**

**INITIATIVE 2.1: Expand and improve law student intern program.**

Expeditious case disposition, including pretrial case management in appeal cases, requires meticulous attention to detail in tracking all pleadings, researching case precedent, and drafting memoranda, orders and opinions. In FY15, CAB received 1,346 documents in open cases, and CAB Judges reviewed over 22,150 pages of material filed with the Board. In this regard, the Board has established a voluntary multi-year Law Clerk program dating back to 2011. We have subsequently expanded the program to include all local law schools, and have engaged Law Clerks from American, Georgetown, George Washington, Howard University and the University of the District of Columbia law schools. The program is likely to continue in FY16, providing CAB Judges and Attorney Advisors with law students or recent law graduates to assist in the efficient, effective and fair resolution of CAB matters. **Completion date: September 2016.**

**OBJECTIVE 3: Educate government and private contracting parties on resolving disputes through alternative dispute resolution methods.**

**INITIATIVE 3.1: Meet with stakeholders to promote ADR methods.**

In FY16 the CAB (through Board members or other appropriate personnel) will continue to educate stakeholders on mediation and other ADR opportunities. At the inception of

each case, CAB encourages mediation/settlement through Scheduling Orders. Further, the Presiding Judge encourages mediation/settlement at the pretrial conference in each case. The Board is examining ways to expand in-house mediation and ADR opportunities for litigants. In FY16, the Board will continue to build upon its capacity to offer meaningful settlement/mediation opportunities to litigants. We anticipate that these efforts will result in litigants requesting dismissal in up to 30% of the cases closed by the Board in FY16. **Completion date: September 2016.**

### KEY PERFORMANCE INDICATORS-Contract Appeals Board

Measure	FY 2014 Actual	FY 2015 Target	FY 2015 Actual	FY 2016 Projection	FY 2017 Projection	FY 2018 Projection
Percentage of protests resolved within 60 business days.	82%	95%	91%	95%	95%	95%
Percentage of appeals cases decided within 4 months of the case being ready for decision.	84%	90%	80%	90%	90%	90%
Percentage of new cases using electronic filing system.	100%	100%	100%	100%	100%	100%
Percentage of decisions sustained on appeal.	100%	100%	100% <sup>2</sup>	100%	100%	100%
Percentage of cases closed by the Board in the current fiscal year that are electronically archived to permit web-based retrieval and full-text searching capability.	100%	100%	100%	100%	100%	100%
Percentage of pending cases that are 3 years old or less.	80%	100%	71%	85%	90%	95%

<sup>2</sup>Excludes one, pending case which was affirmed by the DC Superior Court, reversed and remanded by a panel of the DC Court of Appeals and is currently on appeal, en banc, to the DC Court of Appeals.