

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD



MARC D. LOUD, SR.
CHIEF ADMINISTRATIVE JUDGE

February 15, 2018

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 19, 2018, please find herein the DC Contract Appeals Board's responses to the Committee of the Whole's preliminary questions for the March 7, 2018, FY17 (and FY18 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.", written in a cursive style.

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 31, 2018. The Schedule A also should indicate all 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, anytime this fiscal year (up to the date of your answer). 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 the detail began, and the employee's actual or projected date of return.

Response: Not applicable.

4. (a) For fiscal year 2017, please list each employee whose salary was \$125,000 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 2018, please list each employee whose salary is or was \$125,000 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 tables below. The Board did not pay overtime/bonus pay to any employees in FY2017 or FY2018 to date.

Year	Name	Position/Title	Salary
FY2017	Marc D. Loud, Sr.	Chief Administrative Judge	\$178,109
	Monica C. Parchment	Administrative Judge	\$175,652
	Maxine E. McBean	Administrative Judge	\$175,652
	Jason Edwards	Attorney Advisor	\$115,895
	Giovanna Jean-Baptiste	Attorney Advisor	\$112,155
	Mark Poindexter	General Counsel	\$140,727
	Thane Tuttle	Attorney Advisor/Clerk of Court	\$123,805

Year	Name	Position/Title	Salary
FY2018	Marc D. Loud, Sr.	Chief Administrative Judge	\$178,109
	Monica C. Parchment	Administrative Judge	\$175,652
	Maxine E. McBean	Administrative Judge	\$175,652
	Jason Edwards	Attorney Advisor	\$119,635
	Giovanna Jean-Baptiste	Attorney Advisor	\$115,895
	Mark Poindexter	General Counsel	\$145,123
	Thane Tuttle	Attorney Advisor/Clerk of Court	\$123,805

5. Please list, in descending order, the top 25 overtime earners in your agency for fiscal year 2017. For each, state the employee's name, position or title, salary, and aggregate overtime pay.

Response: Not applicable.

6. For fiscal years 2017 and 2018 (through January 31), 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.

7. For fiscal years 2017 and 2018 (through January 31), 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 Administrative Officer Albert Wilcox retired from his position, effective July 5, 2017, and on August 1, 2017, received 249 hours of annual leave payout in the amount of \$4,868.71 (net of taxes).

8. For fiscal years 2017 and 2018 (through January 31), please state the total number of employees receiving worker's compensation payments.

Response: Not applicable.

9. Please provide the name of each employee who was or is on administrative leave in fiscal years 2017 and 2018 (through January 31). In addition, for each employee identified, please provide:

(1) their position; (2) a brief description of the reason they were placed on leave; (3) the dates they were/are on administrative leave; (4) whether the leave was/is paid or unpaid; and (5) their current status (as of January 31, 2018).

Response: Not applicable.

10. For fiscal years 2017 and 2018 (through January 31), please list, in chronological order, all intra-District transfers to or from the agency. Give the date, amount, and reason for the transfer.

Response: Please see the tables below.

Intra-District Transfer FY 2017

No	Date	Transfer to	Purpose	FY 2017
1	11/1/2016	Department of Public Works - DPW*	Fleet Service	\$ 131.65
2	9/1/2017	Department of Public Works - DPW*	Fleet Service	\$ 192.35
3	9/30/2017	Department of Public Works - DPW*	Fleet Service	\$ 45.00
4	10/6/2016	Office of Contract and Procurement - OCP	Purchase Card Funding	\$ 17,117.40
5	6/26/2017	Office of Chief Technology Officer	IT Cloud Services and Telephone	\$ 12,231.11

Intra-District Transfer FY 2018

No.	Date	Transfer to	Purpose	FY 2018
1	12/30/2017	Office of Finance and Resource Management - OFRM	Telephone, Teletype, Telegram, ETC	\$ 800.00
2	12/31/2017	Department of Public Works - DPW*	Fleet Service	\$ 369.00
3	10/2/2017	Office of Contract and Procurement - OCP	Purchase Card Funding	\$ 15,000.00
4	12/30/2017	Office of Chief Technology Officer	Telephone, Teletype, Telegram, ETC	\$ 365.00

*CAB does not utilize Fleet Service Vehicles but is automatically assessed these fees annually by DPW.

11. Please list, in chronological order, every reprogramming of funds into or out of the agency for fiscal years 2017 and 2018 (through January 31). Include a “bottom line” that explains the revised final budget for your agency. For each reprogramming, list the reprogramming number (if submitted to the Council for approval), the date, the amount, and the rationale.

Response: Not applicable.

12. Please list, in chronological order, every reprogramming *within* your agency during fiscal year 2018 to date. Include known, anticipated intraagency reprogrammings. For each, give the date, amount, and rationale.

Response: The Board has not reprogrammed any funds within our agency in fiscal year 2018 to date. To the extent that the Board anticipates intra-agency reprogrammings in fiscal year 2018, we will supplement our answer accordingly.

13. For fiscal years 2017 and 2018 (through January 31), please identify each 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. For (4) and (5) provide specific data for fiscal years 2016, 2017, and 2018 (as of January 31) and give starting and ending balances. You may wish to present this information first as a list (for numbers 1-5) and then as separate tables for numbers 4 and 5.

Response: Not applicable.

14. Please provide a table showing your agency Council-approved original budget, revised budget (after reprogrammings, etc.) for fiscal years 2016, 2017, and the first quarter of 2018. In addition, please explain the variances between fiscal year appropriations and actual expenditures for fiscal years 2016 and 2017.

Response: Please see tables below.

CAB FY 16 Budget					
CSG	Comp Source Group Title	FY 2016 Original Budget	FY 2016 Revised Budget	FY 2016 Actual	Variance
0011	REGULAR PAY - CONT FULL TIME	\$ 608,114.69	\$ 608,114.69	\$ 600,444.91	\$ 7,669.78
0012	REGULAR PAY - OTHER	\$ 555,712.00	\$ 555,712.00	\$ 549,359.76	\$ 6,352.24
0013	ADDITIONAL GROSS PAY	\$ -	\$ -	\$ 1,201.02	\$ (1,201.02)
0014	FRINGE BENEFITS - CURR PERSONNEL	\$ 205,997.32	\$ 205,997.32	\$ 172,098.58	\$ 33,898.74
0020	SUPPLIES AND MATERIALS	\$ 8,500.00	\$ 8,500.00	\$ 3,960.24	\$ 4,539.76
0031	TELEPHONE, TELEGRAPH, TELEGRAM, ETC	\$ 9,000.00	\$ 9,000.00	\$ 315.00	\$ 8,685.00
0040	OTHER SERVICES AND CHARGES	\$ 24,499.99	\$ 24,499.99	\$ 28,523.71	\$ (4,023.72)
0041	CONTRACTUAL SERVICES - OTHER	\$ 24,623.00	\$ 24,623.00	\$ 13,867.30	\$ 10,755.70
0070	EQUIPMENT & EQUIPMENT RENTAL	\$ 12,660.00	\$ 12,660.00	\$ 7,906.23	\$ 4,753.77
		\$ 1,449,107.00	\$ 1,449,107.00	\$ 1,377,676.75	\$ 71,430.25

CAB FY 17 Budget					
CSG	Comp Source Group Title	FY 2017 Original Budget	FY 2017 Revised Budget	FY 2017 Actual	Variance
0011	REGULAR PAY - CONT FULL TIME	\$ 668,458.48	\$ 668,458.48	\$ 668,355.09	\$ 103.39
0012	REGULAR PAY - OTHER	\$ 529,414.10	\$ 529,414.10	\$ 531,896.89	\$ (2,482.79)
0013	ADDITIONAL GROSS PAY	\$ -	\$ -	\$ 8,336.83	\$ (8,336.83)
0014	FRINGE BENEFITS - CURR PERSONNEL	\$ 220,408.56	\$ 220,408.56	\$ 193,321.36	\$ 27,087.20
0020	SUPPLIES AND MATERIALS	\$ 10,110.00	\$ 10,110.00	\$ 358.72	\$ 9,751.28
0031	TELEPHONE, TELEGRAPH, TELEGRAM, ETC	\$ 9,000.00	\$ 9,000.00	\$ 280.00	\$ 8,720.00
0040	OTHER SERVICES AND CHARGES	\$ 24,999.86	\$ 24,999.86	\$ 18,242.28	\$ 6,757.58
0041	CONTRACTUAL SERVICES - OTHER	\$ 25,000.00	\$ 25,000.00	\$ 31,845.92	\$ (6,845.92)
0070	EQUIPMENT & EQUIPMENT RENTAL	\$ 5,000.00	\$ 5,000.00	\$ 636.54	\$ 4,363.46
		\$ 1,492,391.00	\$ 1,492,391.00	\$ 1,453,273.63	\$ 39,117.37

CAB FY 18 Budget				
CSG	Comp Source Group Title	FY 2018 Original Budget	FY 2018 Revised Budget	FY 2018 YTD Actual
0011	REGULAR PAY - CONT FULL TIME	\$ 675,635.35	\$ 675,635.35	\$ 168,063.35
0012	REGULAR PAY - OTHER	\$ 529,414.10	\$ 529,414.10	\$ 146,418.38
0014	FRINGE BENEFITS - CURR PERSONNEL	\$ 203,653.37	\$ 203,653.37	\$ 47,960.74
0020	SUPPLIES AND MATERIALS	\$ 12,110.00	\$ 12,110.00	\$ 364.95
0031	TELEPHONE, TELEGRAPH, TELEGRAM, ETC	\$ 9,000.00	\$ 9,000.00	\$ -
0040	OTHER SERVICES AND CHARGES	\$ 27,609.18	\$ 27,609.18	\$ 1,792.37
0041	CONTRACTUAL SERVICES - OTHER	\$ 26,000.00	\$ 26,000.00	\$ 4,829.15
0070	EQUIPMENT & EQUIPMENT RENTAL	\$ 7,000.00	\$ 7,000.00	\$ -
		\$ 1,490,422.00	\$ 1,490,422.00	\$ 369,428.94

15. Please list all memoranda of understanding (MOU) either entered into by your agency or in effect during fiscal years 2017 and 2018 (through January 31). 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 FY2017 with the Washington Convention and Sports Authority (WCSA) (entered into on January 5, 2010), the District of Columbia

Health Benefit Exchange Authority (HBEA) (entered into on June 23, 2015) and the District Department of Energy and Environment (DOEE) (entered into on August 19, 2015). In FY2018, the WCSA MOU is continuing, and the DOEE and HBEA MOUs were renewed through September 30, 2018. In addition to its adjudication services agreements, on June 21, 2017, the Board entered into a MOU with OCTO for Enterprise Cloud and Infrastructure Services (ECIS) maintenance of the Board's application and file servers. In FY2018 the Board's OCTO-ECIS MOU is continuing.

16. 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 2016 and 2017.

Response: Please see Attachment 3.

17. 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.

18. 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.

19. (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 2017 or 2018 (through January 31).

Response: Not applicable.

- (b) Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency.

Response: There are no ongoing investigations, audits, or reports of the Board or its employees. In December 2017, however, the Office of Contracts and Procurement (OPIC Division) completed a preliminary review of the Board's PCard transactions for the month of October 2017 (there were two such transactions). In substance, the review preliminarily concluded that although CAB's two transactions were not inappropriate, (1) the Board should have uploaded a PDF invoice to PaymentNet when recording a transaction for training sponsored by the Board of Contract Appeals Bar Association,

and (2) the Board should have sourced a \$14.95 office supply acquisition through a District CBE (or DSS vendor) rather than an online retailer. The Board responded to OCP's draft report on January 12, 2018, and is awaiting the final report.

20. How many grievances have been filed by employees or labor unions against agency management? Please list each of them by year for fiscal years 2016, 2017, and 2018 (through January 31). Give a brief description of each grievance, and the outcome as of January 31, 2018. Include on the chronological list any earlier grievance that is still pending in any judicial forum.

Response: Not applicable.

21. (a) Please describe the agency's procedures for investigating allegations of sexual harassment or misconduct committed by or against its employees.

Response: The Board is committed to addressing any allegations of sexual harassment or misconduct committed by or against its employees fairly and expeditiously in accordance with the policy and procedures outlined in Mayor's Order 2017-313, Sexual Harassment Policy, Guidance and Procedures (December 18, 2017) (Mayor's Order) as applied to independent agencies. A copy of the Mayor's Order has been provided to all Board staff. The Board's General Counsel has been designated as its "Sexual Harassment Officer" to review and investigate such allegations as well as recommend appropriate disciplinary action and/or referrals. The Board also notes that the Office of Human Rights maintains concurrent jurisdiction (if requested by the complainant) pursuant to Section VI of the Mayor's Order and other applicable law.

(b) List and describe each allegation received by the agency in FY17 and FY18, to date, and the resolution of each as of the date of your answer.

Response: Not applicable.

22. In table format, please list the following for fiscal years 2017 and 2018 (through January 31, 2018) 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 PCard issuing bank, JP Morgan Chase. The FY2018 data is current through January 31, 2018. Uday Berry, Program Assistant, and Mark Poindexter, General Counsel, are currently authorized PCard users.

Fiscal Year	Authorized User	Single Purchase Limit	Daily Limit	Monthly Limit	Total
FY2017	Uday Berry	\$5,000	N/A	\$20,000	\$24,457.56
FY2017	Mark Poindexter	\$5,000	N/A	\$20,000	\$0
FY2018 (through 1/31/2018)	Uday Berry	\$5,000	N/A	\$20,000	\$2,761.43
FY2018 (through 1/31/2018)	Mark Poindexter	\$5,000	N/A	\$20,000	\$0

23. Please provide a list of all procurements for goods or services for use by your agency over \$10,000 for fiscal years 2017 and 2018 (through January 31). Give a brief explanation of each, including the name of the contractor, purpose of the contract, and the total dollar amount of the contract. Exclude from this answer purchase card (SmartPay) purchases.

Response: Not applicable.

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

Response: 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 2017 and 2018 (through November 2017) the Board has been in compliance with monthly plan usage fees.

- (b) In table format, please provide the following information for fiscal years 2017 and 2018 (through January 31), 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 20 individuals, group the answer by program, giving the total number of FTEs for that program as well as the number of cellular phones and mobile devices.

Response: Please see table below. FY2018 data is available through November 30, 2017.

Staff Member	Position	FY2017 Costs	FY2018 Costs (through November 30, 2018)	Justification
Marc Loud, Sr.	Chief Administrative Judge	\$579.90	\$97.18	Critical Contact
Maxine McBean	Administrative Judge	\$1,057.90	\$177.18	Critical Contact
Monica Parchment	Administrative Judge	\$650.03	\$108.98	Critical Contact
Jason Edwards	Attorney Advisor	\$579.50	\$97.18	Critical Contact
Mia House	Appeals Clerk-ATC	\$580.18	\$97.18	Critical Contact
Mark Poindexter	General Counsel	\$579.90	\$97.18	Critical Contact
Andrew Smith	Attorney Advisor	\$207.86	\$0.02	Critical Contact
Thane Tuttle	Clerk of Court	\$579.50	\$97.18	Critical Contact
Albert Wilcox	Protest Clerk – IT Support	\$579.90	\$97.18	Critical Contact

25. (a) Does your agency have or use one or more government vehicles? If so, for fiscal years 2017 and 2018 (through January 31), please list any vehicle the agency owns, leases, or has assigned to it. You may group the vehicles by category (e.g., 15 sedans, 33 pick-up trucks, three transport buses, etc.).

Response: Not applicable.

(b) Please list all vehicle accidents involving your agency's vehicles for fiscal years 2016, 2017, and 2018 (through January 31). Provide: (1) a brief description of each accident; (2) the type of vehicle involved; (3) the name and title/position of the driver involved; (4) the justification for using such vehicle; and (5) whether there was a finding of fault and, if so, who was determined to be at fault.

Response: Not applicable.

26. D.C. Law requires the Mayor to pay certain settlements from agency operating budgets if the settlement is less than \$10,000 or results from an incident within the last two years (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.

27. (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?

Response: Not applicable.

(b) Please explain all exceptions, if any, and 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 chauffeur or take-home status.

Response: Not applicable.

28. In table format, please provide the following information for fiscal years 2017 and 2018 (through January 31) regarding your agency's authorization of employee travel: (1) each trip outside the region; (2) individuals (by name and title/position) authorized to travel outside the region; (3) total expense for each trip (per person, per trip, etc.); and (4) justification for the travel (per person and trip).

Response: Please see table below.

Fiscal Year	Travel Dates	CAB Staff	Event	Total Expenses	Justification
2017	August 10-13, 2017	Judge Maxine McBean	American Bar Association Annual Meeting (New York, NY)	\$925 (Meeting Registration and Hotel)	Professional Development
2018 (through January 31, 2018)	n/a	n/a	n/a	n/a	n/a

29. Please provide and itemize, as of January 31, 2018, 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 or contract, the date on which

he or she first started with your agency, and the date on which his or her current term expires.

Response: Please see table below. While there are no current Board vacancies, the term of one Board Judge is set to expire on July 28, 2018.

No.	Title	Name	Hire Date	Expiration Date	Length
1	Administrative Officer	Wilcox, Albert L	9/5/2017	3/16/2018	6 Months
2	Attorney Advisor	Menegat, Norman	5/19/2014	9/30/2018	4.3 Years

30. What efforts has your agency made in the past year to increase transparency? Explain.

Response: Except for matters subject to protective order due to confidential financial data or trade secrets, etc., the Board posts all Opinions, Orders, and pleadings from litigated cases to our website within three days of filing. As a result, the Board's website currently includes Opinions, Orders and filings for all digitized Board cases filed between 1985-2018 (to date). For FY17 and FY18 to date, the Board's website also includes an online calendar of upcoming trials and pre-trials, with links allowing visitors to access pleadings from the calendared cases (current through January 2019). Except as to matters subject to protective order, members of the public are always welcome to attend Board proceedings. Finally, the Board posts a hard copy listing of all upcoming trials/pretrials in the hallway directly adjoining our office suite.

31. What efforts will your agency be making to increase transparency? Explain.

Response: The Board will continue taking the actions noted in the Response to Question #30 above, and will undertake periodic review of such additional measures as will further promote transparency.

32. Please identify any legislative requirements that your agency lacks sufficient resources to properly implement. Explain.

Response: Not applicable.

33. Please identify any statutory or regulatory impediments to your agency's operations.

Response: There are no current statutory or regulatory impediments to the Board's operations. To the extent that on-going internal reviews result in Board concerns regarding our statutory/regulatory environment, we will bring those matters to the Committee's attention.

34. Did your agency receive any FOIA requests in fiscal year 2017? If yes, did the agency file a report of FOIA disclosure activities with the Secretary of the District of Columbia? If available, please provide a copy of that report as an attachment.

Response: Please see Attachment 4.

35. For purposes CBE agency compliance purposes, what is your agency's current adjusted expendable budget; how much has been spent with SBEs; and what percent of your agency's expendable budget was spent with SBEs? Further, where SBEs were not

available, how much has been spent with CBEs, and what percent of CBE spending, relative to your current expendable budget? How many CBE waivers (including dollar amount) did the agency submit? What efforts has the agency taken to reduce the number of CBE waivers submitted? What is the CBE spending goal for your agency per the DSLBD SBE Opportunities Guide (Green book)? Give this answer for fiscal years 2016, 2017 and 2018 (through January 31).

Response: Please see table below. During the relevant period (FY2016 - FY2018 through January 31, 2018), the Board is not aware of any expenditures made with CBEs (as opposed to SBEs) and has submitted no CBE waiver requests.

Fiscal Year	Adjusted Anticipated Expendable Budget	CBE/SBE Spending Goal*	Amount Spent with SBEs	Percentage of Adjusted Anticipated Expendable Budget Spent with SBEs	Percentage of CBE/SBE Spending Goal Met
FY16	\$25,266.00**	\$12,633.00	\$22,842.71	90.41%	180.82%
FY17	\$33,880.88	\$16,940.44	\$18,812.65	55.52%	111.05%
FY18 (through January 31, 2018)	\$24,614.78***	\$12,307.39	\$5,241.39	21.29%	42.58%

*While DSLBD's FY16 Green Book refers to a "CBE Spending Goal" for the Board, the FY17 and FY18 Green Books refers only to a "SBE Spending Goal".

**The Board's FY16 adjusted anticipated expendable budget of \$25,266.00 was adjusted downward by DSLBD from the \$50,000 budget reflected in the FY16 Green Book.

***The Board's FY18 adjusted anticipated expendable budget of \$24,614.78 was adjusted downward by DSLBD from the \$38,314.00 budget reflected in the FY18 Green Book.

36. 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 5.

37. (a) What are your agency's key performance indicators and what has been your agency's performance (for each of these KPIs) in fiscal year (or calendar year) 2016, 2017, and 2018 (through the first quarter).

Response: The Board's KPI's are maintained and reported on an annual, fiscal year basis. Please see the table below.

Measure	FY 2016 Target	FY2016 Actual	FY 2017 Target	FY2017 Actual	FY 2018 Projection
Percentage of protests resolved within 60 business days.	95%	83%	95%	87%	95%
Percentage of appeals cases decided within 4 months of the case being ready for decision.	90%	92%	90%	80%	90%
Percentage of new cases using electronic filing system.	100%	100%	100%	100%	100%
Percentage of decisions sustained on appeal.	100%	N/A ¹	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%
Percentage of pending cases that are 3 years old or less.	85%	75%	90%	93%	95%
Percentage of cases resolved through settlement. ²	30%	73%	30%	48%	50%

(b) What KPIs have been dropped (or changed) since 2014? List each specifically and explain why it was dropped or changed.

Response: While the pending case target was previously adjusted to better reflect incremental progress and goals, the Board has not dropped or changed its KPIs since 2014. As part of its broader initiative relating to expanding the use of Alternative Dispute Resolution in its cases, in FY16-17 the Board added an additional KPI to track cases ultimately resolved through settlement or other voluntary resolution actions.

38. 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 2017 and 2018.

Response: The Board's top five priorities are listed below. The Committee will note that the Board has generally identified these same priorities for the past several years. That is because the priorities are dynamic in nature. The Board believes that if we focus

¹Excludes one case which was affirmed in part and reversed in part by a panel of the DC Court of Appeals in FY16.

²Settlement refers to those cases: (1) withdrawn by the protester/appellant; (2) jointly dismissed by the parties; or (3) dismissed after the District takes voluntary corrective action, including cancellation of the solicitation/award.

on these five priorities each year, our mission will be continuously fulfilled and service to our stakeholders will be optimized.

1. Transparency: Continue Displaying All Board Case Records On The Public Website and Maintaining the Board’s Online Hearing Calendar.

One of the Board’s several strengths and a continuing top priority is transparency. In that regard, the Board has been praised by the Washington Business Journal (WBJ) for having “the most transparent database” of any government agency in the region.³ In FY18/19, the Board will continue the prompt website display (i.e., within three days of filing) of all material filed in pending and closed cases (not subject to protective order). The Board will also continue to post all upcoming trial and pretrial hearing dates on its website calendar (presently updated through January 2019). With respect to the Board’s database of case records, 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 FY2017, parties submitted 1,933 pleadings, motions, or other materials with the Board totaling 41,742 pages of material. One of the Board’s top priorities is to ensure that all filings made in pending cases are uploaded to the public website within three business days of filing. For FY2017 and FY2018 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 Clerk is tasked with uploading all new case materials within three business days of filing. The Clerk prepares 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 FY2013-FY2017:

FY2013	FY2014	FY2015	FY2016	FY2017
1,764 Filings 33,920 Pages	1,361 Filings 28,821 Pages	728 Filings 22,157 Pages	1,783 Filings 35,737 Pages	1,933 Filings 41,742 Pages

Closed Files. In addition to filings made in “pending” cases, the Board has “closed” cases from the pre-digital era consisting entirely of paper filings. The Board is in the process of digitally converting and archiving these files to provide for better preservation and retrieval than paper records. Once digitized, these files can be imported into the Board’s 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. Through the end of FY17, the Board has uploaded complete records for 1,661 cases (out of a total of 2,576 cases filed between 1953-2017). One of the Board’s top priorities is to ensure that the remaining hard copy case files are digitized and uploaded. The Board will continue, within authorized funding levels, to inventory, scan, convert, and upload pre-digital age files.

³ Michael Neibauer, *D.C. Contract Appeals Board Tackles Backlog*, WASHINGTON BUSINESS JOURNAL, Nov. 11, 2011, at BizBeat.

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

The Board has always prioritized closing protest cases within 60 business days of filing, and is under a statutory mandate to do so. D.C. Official Code § 2-360.08(d). In FY2017, the Board closed 87% of protests within the 60 day timeline. Although, a number of factors may extend case closure timelines (e.g., Motions for Continuance, multi-party protests, general Motions Practice, etc.), the Board will continue to increase performance in this area until 100% compliance is reached. In this regard, the Board conducts case accountability meetings to remain on track with closure deadlines.

3. 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 case filings (and filing types), and other data. In FY2017, the Board worked with representatives of OCTO and DC-Net to migrate its application and file servers to OCTO’s Enterprise Cloud Infrastructure System (ECIS). This initiative was undertaken to ensure that the Board’s technology environment does not pose security risks to the District.

The Board will continue to review its technology environment. In this regard, the Board is currently interviewing for an IT Specialist position. Once filled, the Board will continue to engage in on-going technology assessments and improvements.

4. Pursue Settlement of Cases on the Board’s Docket and Research Best Practices Regarding The Implementation Of A CAB Alternative Dispute Resolution/Mediation Program.

The Board had an excellent record of case settlement in FY2017 (48%), and intends to continue identifying factors which contribute to settlement between the parties. The Board’s five-year record for case settlement is below:

Percentage of Board Cases Settled Between FY13-FY17.

FY17	FY16	FY15	FY14	FY13
48%	73%	36%	54%	40%

We will continue to emphasize case settlement as a top Board priority.

5. Preventing The Occurrence Of Future Case Backlogs and Updating CAB Rules.

The Board will continue to prioritize pre-emptive measures and strong case management to prevent case backlogs on our appeals docket. The Board does not have a case backlog on either its appeal or protest docket at present. (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).

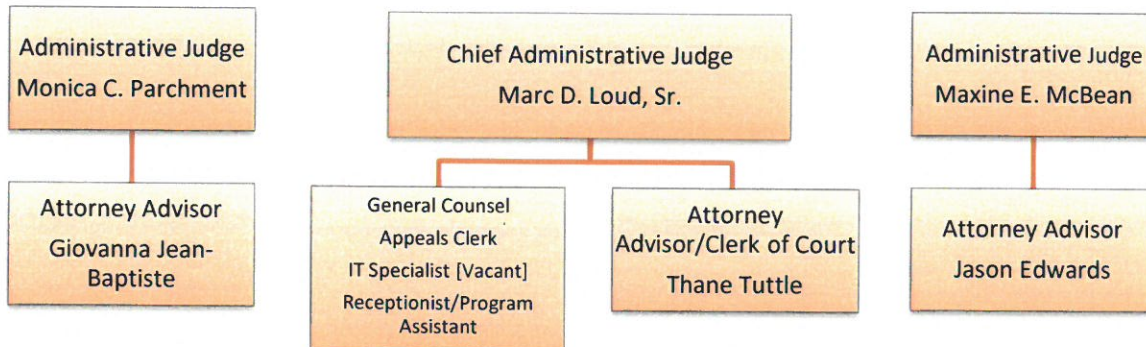
The Board will continue to implement the following measures to prevent against the development of case backlogs:

- *Stabilizing the Appointment of Board Judges.* Since the close of FY11, there have been no judge vacancies on the Board. This is important to note because previous Board backlogs were caused largely by a five-year continuous vacancy in one of the Board's three judge positions (FY2006-FY2010). Because of the efforts of the Executive Office of the Mayor, the Office of Boards and Commissions, the Council of the District of Columbia, and the Board, the three current judges have been seamlessly reappointed between FY2012-FY2017 in such manner as has allowed them to provide uninterrupted service. We look forward to continued stabilization in the future. While there are no current Board vacancies, the term of one Board Judge is set to expire on July 28, 2018.
- *Maintaining the Current Number of Budgeted and Staffed FTE Attorney Positions.* Prior to FY2013, the Board had no budgeted FTE attorney positions. Since FY2013, three FTE attorney positions have been created (one added in FY2013 and two added in FY2015). These positions are necessary to assist judges with the management of the Board's voluminous docket, which included approximately 42,000 pages of litigation materials filed in FY2017. The three attorney positions are currently filled, and maintaining full staffing levels will continue to be a top Board priority.
- *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 no more than 2.5 years 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). Accountability meetings are routinely held by Judges to adhere to timeline requirements.
- *Rules Update.* Finally, a continuing priority will be the updating of the Board's rules for litigants practicing before it. In FY17, the Board was given statutory authority to promulgate its own rules ("The Contract Appeals Board Rulemaking Amendment Act of 2017"). As the Committee may recall, the Board's rulemaking authority was part of the FY2018 Budget Support Act clarifying the Board's authority under the Procurement Practices Reform Act of 2010 to issue procedural rules for our cases. The Board is currently updating its rules in this regard and expects finalization during FY18 and/or early FY19.



**DC CONTRACT APPEALS BOARD
FY2017-2018 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 1
DC CONTRACT APPEALS BOARD
ORGANIZATIONAL CHART
(Effective February 15, 2018)**





**DC CONTRACT APPEALS BOARD
FY2017-2018 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 2
CAB SCHEDULE A STAFF LISTING
(Effective January 31, 2018)**

AFO - Schedule A as of January 31, 2018

No.	Title	Vac Stat	Salary	Fringe Benefits	Prgm Code
1	CHIEF ADMIN JUDGE	F	\$ 178,109.04	\$ 30,100.43	1090/Performance Management
2	ADMIN JUDGE	F	\$ 175,652.53	\$ 29,685.28	2001/Adjudication
3	General Counsel	F	\$ 145,123.00	\$ 24,525.79	2001/Adjudication
4	ADMIN JUDGE	F	\$ 175,652.53	\$ 29,685.28	2001/Adjudication
5	STAFF ASSISTANT	F	\$ 73,295.00	\$ 12,386.86	2001/Adjudication
6	Administrative Officer	F	\$ 34,820.50	\$ 5,884.66	2001/Adjudication
7	Clerk of Court	F	\$ 123,805.97	\$ 20,923.21	2001/Adjudication
8	Program Support Assistant	F	\$ 48,365.00	\$ 8,173.69	2001/Adjudication
9	Attorney Advisor	F	\$ 63,468.52	\$ 10,726.18	2001/Adjudication
10	Attorney Advisor	F	\$ 119,635.00	\$ 20,218.32	2001/Adjudication
11	Attorney Advisor	F	\$ 115,895.00	\$ 19,586.26	2001/Adjudication
12	IT Specialist	V	\$ 67,814.00	\$ 11,460.57	2001/Adjudication

WAE - Employee



**DC CONTRACT APPEALS BOARD
FY2017-2018 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 3
FY2019 BUDGET ENHANCEMENT REQUEST**

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FY 2019 PROGRAM ENHANCEMENT - FORM 2
Agency Program Enhancement Request Details

I. Request Snapshot

Agency Code: AFO

Agency Title: DC Contract Appeals Board

Point of Contact: Marc D. Loud, Sr. Chief Administrative Judge

Date: January 10, 2018

Enhancement Title: FY19 NPS Shortfall Adjustment

This request is priority #1 of 1 enhancement request submitted for this agency

Total Amount of Local Funds:

Non-Personal Services (NPS) Funds: \$22,000

FTEs: 0

Is this Enhancement a One-time Cost?: No

Type of Cost? Recurring

Estimate cost for outgoing years? Same

II. Rationale

What problem for the District are you aiming to address?

The DC Contract Appeal Board lacks sufficient NPS funding for mission-critical expenditures under the proposed FY19 budget.

What are the reasons why this problem exists?

Although we initially believed that the Board could fulfill its mission within the FY19 MARC, we have since learned that: (1) salary increases/steps to five (5) CAB positions will increase PS costs by \$14,666 from FY18 to FY19; and that (2) the FY18 PS budget is actually underfunded by \$21,484 (\$1,205,049 FY18 budgeted vs. \$1,226,533 FY18 costs)(the total FY19 PS delta is \$36,150). The FY19 MARC makes up the difference in these two areas by transferring \$41,331 from the FY19 NPS to the FY19 PS. The net result is that the Board will be approximately \$22,000 short in the FY19 NPS budget.

How does this enhancement address this problem and its underlying reasons?

The requested \$22,000 enhancement to CAB's FY19 NPS budget will pay for recurring OCTO Enterprise Cloud and Infrastructure Services (ECIS) (not reflected in the proposed FY19 budget and priced at \$11,951 annually), and approximately \$10,000 in recurring actual FY17 expenditures which would be cut if the proposed FY19 NPS MARC (\$40,388) remained in place. Once finalized, the FY19 budget will support 10 FTEs, including three Judges, one General Counsel, three Attorney Law Clerks, one Receptionist, one Appeals/Protest Clerk, and one IT Specialist (hiring expected to be completed in 2QFY18).

Will legislative support be required? No.

III. FY 2019 Mayoral Priorities

In FY 2019, OBF will be prioritizing enhancement requests that help advance key Mayoral priorities (listed below). Please note, you may submit requests that do not fit with one of the key Mayoral priorities.

Does your enhancement request advance on the FY 2019 key Mayoral priorities? If yes, please note which one(s) and how your request enhances the priority. N/A

FY 2019 Mayoral Priorities

Improve Outcomes for Children and Youth

- Expand the availability and affordability of high-quality childcare*
- Address the needs of communities and individuals most impacted by violence*
- Expand opportunities that will further close the K-12 achievement gap*

Increase Prosperity across all 8 Wards

- Expand efforts to produce, preserve, and protect affordable housing*
- Reduce health disparities with a focus on health equity*
- Continue efforts to make homelessness rare, brief and non-recurring*
- Put more DC residents on a pathway to the middle class*

Back to Basics: Enhance DC government services

- Strengthen the DC transportation and mobility infrastructure and experience*
- Take the DC government customer service experience to the next level*

Explanation:

IMPORTANT: If you are requesting resources to launch a new program or service, or a significant expansion of your current services, you must also complete sections IV, and V. Incomplete submissions will be returned. N/A

III. Draft Project Plan

Please complete this draft project plan to depict how the project management related to the use of these requested funds would be handled. Complete as best you can, with the understanding that this draft project plan may evolve if/once the enhancement is granted.

Project Owner: (Who is the single person who will be *most* responsible for this initiative?)
[If the project owner would need to be hired, please specify which current staff member will own the project until that person is hired]

Name:
Title:
Email:
Phone:

Other Key Team members (Add more as needed):

Name:
Title:
Role in this project:

What other agencies or stakeholders would be critical to this project's success, and what communication have you had with them already?

Project Timeline: (Place expected milestones, by month. Some months may be blank.)

Preparation for project launch, end of prior Fiscal Year

June 2018:

July:

Aug:

Sept:

Fiscal Year starts, funds disbursed

Oct:

Nov:

Dec:

Jan 2019:

Feb:

March:

April:

May:

June:

July:

Aug:

Sept:

IV. Draft Project Evaluation

Please complete this draft project evaluation to describe evidence that already supports the initiative, metrics that will demonstrate its success, and significant risk and success factors.

What evidence supports the likelihood that this initiative will achieve the desired outcome? Please describe outcomes from similar efforts that have been undertaken before in the District and/or in other cities. If possible, include lessons from both successes and