

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD



MARC D. LOUD, SR.  
CHIEF ADMINISTRATIVE JUDGE

February 11, 2015

The Honorable Phil Mendelson, Chairman  
Council of the District of Columbia/Committee of the Whole  
1350 Pennsylvania Avenue, NW., Suite 504  
Washington, D.C. 20004

Dear Chairman Mendelson:

In response to your letter dated January 28, 2015, please find herein the D.C. Contract Appeals Board's responses to the Committee of the Whole's preliminary questions for the March 12, 2015, FY14 (and FY15 to date), performance oversight hearing. Per your request, I have submitted both a hard copy and an 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 over a circular scribble.

Marc D. Loud, Sr.  
Chief Judge  
D.C. Contract Appeals Board



## 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.

**ANSWER: Please see Tab 2.**

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 26, 2015. The Schedule A also should indicate any vacant positions in the agency. Please do not include social security numbers.

**ANSWER: Please see Tab 3.**

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.

**ANSWER: Not applicable.**

4 (a) For fiscal year 2014, 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 2015, 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.

**ANSWER: Please see the table below. The Board did not pay overtime/bonus pay to any employees.**

(INTENTIONALLY LEFT BLANK)

Year	Name	Position Title	Salary
FY14	Marc D. Loud, Sr.	Chief Judge	\$162,995
	Monica C. Parchment	Administrative Judge	\$160,747
	Maxine E. McBean	Administrative Judge	\$160,747
	Thane Tuttle	Clerk of Court	\$113,300
FY15	Marc D. Loud, Sr.	Chief Judge	\$167,885
	Monica C. Parchment	Administrative Judge	\$165,569
	Maxine E. McBean	Administrative Judge	\$165,569
	Thane Tuttle	Clerk of Court	\$116,699

5. Please list, in descending order, the top 25 overtime earners in your agency for fiscal year 2014. For each, state the employee's name, position or title, salary, and aggregate overtime pay.

**ANSWER: Not applicable.**

6. For fiscal years 2013, 2014, and 2015 (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.

**ANSWER: Not applicable.**

7. For fiscal year 2015 (to date), please list each employee separated from the agency with separation pay. State the amount and number of weeks equivalents. Also, for each, state the reason for the separation.

**ANSWER: Not applicable.**

8. For fiscal years 2013, 2014, and 2015 (to date), please state the total number of employees receiving worker's compensation payments.

**ANSWER: Not applicable.**

9. For fiscal years 2014 and 2015 (to date), please list, in chronological order, all intra-District transfers to or from the agency.

**ANSWER: Not applicable.**

10. Please list, in chronological order, every reprogramming of funds into and out of the agency for fiscal years 2014 and 2015 (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.

**ANSWER:** In FY14, \$31,113 was reprogrammed into the CAB budget on November 26, 2013, for the COLA Allocation for employees. In FY15 (to date), no funds have been reprogrammed into or out of CAB.

11. For fiscal years 2014 and 2015 (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.

**ANSWER: Not applicable.**

12. Please list all memoranda of understanding (MOU) either entered into by your agency or operational during fiscal years 2014 and 2015 (to date). For each, describe its purpose, indicate the date entered, and provide the actual or anticipated termination date.

**ANSWER:** The CAB 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 pursuant D.C. Code § 2-360.03(b). In this regard, MOUs were in effect in FY2014 with the Washington Convention and Sports Authority (WCSA), and the District Department of the Environment (DDOE). In FY15, the WCSA MOU is continuing, the DDOE MOU is being renewed, and a new MOU is being negotiated with the DC Health Benefit Exchange.

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 2014 and 2015.

**ANSWER: Not applicable.**

14. Please list each grant or sub-grant received by your agency in fiscal years 2014 and 2015 (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.

**ANSWER: 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.

**ANSWER: 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.

**ANSWER: 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 since October 1, 2011, and (b) Please list and describe any ongoing investigations, audits, or reports of your agency or any employee of your agency.

**ANSWER: The Board’s answer to question 17 parts (a) and (b) is “not applicable”.**

18. Please list, in chronological order, all employee grievances filed against your agency in fiscal years 2014 and 2015 (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.

**ANSWER: Not applicable.**

19. In table format, please list the following for fiscal years 2013, 2014, and 2015 (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).

**ANSWER: The following table is based upon transaction posting dates by the P-Card issuing bank, JP Morgan Chase. The FY15 data is current through 02-02-2015. Richard Rothschild is Attorney Advisor, and is authorized to use the P-Card.**

Fiscal Year	Authorized User	Single Purchase Limit	Daily Limit	Monthly Limit	Total
FY13	Richard Rothschild	\$2,500	\$2,500	\$10,000	\$38,387.66
FY14	Richard Rothschild	\$2,500	\$2,500	\$10,000	\$34,281.51
FY15	Richard Rothschild	\$5,000	N/A	\$20,000	\$11,012.80

20. (a) In table format, please provide the following information for fiscal years 2013, 2014, and 2015 (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.

**ANSWER: Please see the table below. The CAB Appeals Clerk also serves as the CAB Telecommunications Coordinator (ATC), and in this capacity provides reports to the Chief Judge on any CAB employee exceeding the monthly usage ceiling set by the telecommunications plan. For FYS 14 and 15 (to date), CAB has been in compliance with monthly plan usage fees.**

User	FY13 Costs	FY14 Costs	FY15 Costs to Date	Justification
Marc D. Loud/Chief Judge	\$697.52	\$689.22	\$173.37	Critical Contact
Monica C. Parchment/Judge	\$684.45	\$687.13	\$173.37	Critical Contact
Maxine E. McBean/Judge	\$2218.80	\$1168.56	\$446.17	Critical Contact
Thane Tuttle/Clerk of Court	\$805.16	\$939.19	\$162.87	Critical Contact
Mia House-Thomas/Appeals Clerk	\$843.44	\$645.	\$462.86	Critical Contact
Al Wilcox/Protest Clerk-IT Support	\$642.45	\$745.99	\$163.43	Critical Contact
Jessie Hernandez/Program Support	\$555.93	\$437.92	n/a	Critical Contact

21. (a) Does your agency have or use one or more government vehicles? If so, for fiscal years 2013, 2014, and 2015

(to date), please list these vehicles. 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 2013, 2014, and 2015 (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.

**ANSWER: 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 § 2402(a)(3)). Please itemize each charge-back to your agency for a settlement or judgment pursuant to D.C. Code § 2-402.

**ANSWER: 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 chauffeur or take-home status.

**ANSWER: Not applicable.**

24. In table format, please provide the following information for fiscal years 2013, 2014, and 2015 (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).

**ANSWER: Not applicable.**

25. Please provide and itemize, as of January 26, 2015, 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.

**ANSWER: CAB has one WAE employee, no contract personnel, and no term employees (except the Board's three Judges). The Board's sole WAE employee is Norman Meneget, Attorney Advisor. Mr. Meneget provides legal research/writing support to Judges, was first hired on May 19, 2014, and will expire on March 30, 2015.**

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.

**ANSWER: See Tab 4.**

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 2015 and 2016.

**ANSWER: See below.**

**D.C. Contract Appeals Board FY15/16  
Top Five Priorities**

- |   |
|---|
| <b>1. Resolve (by written Decision or otherwise) All Legacy Backlog Cases And Non-Legacy Appeals Cases Filed in 2012 or Earlier. (Accomplishment of this objective will both eliminate CAB's historic legacy backlog in appeals cases, AND prevent cases filed in 2012 from launching a second generation backlog.)</b> |
| <b>2. Increase CAB's Compliance Rate to 100% for Closing Protest Cases Within 60 Days of Filing.</b>  |
| <b>3. Display All CAB Records on the Public Website and Complete Digital Conversion of Closed Cases.</b>  |
| <b>4. (FY16) Upgrade Several Key Technology Assets, and Review Best Practice Options For Court Database Management Software.</b>  |
| <b>5. Sustain Operational Efficiencies Initiated in FY11 to Promote Expeditious Case Disposition.</b>   |

**RESOLVE ALL LEGACY BACKLOG CASES AND NON LEGACY APPEALS CASES FILED IN 2012 OR EARLIER.**

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 lawsuit for damages asserting a breach of contract performance). For purposes of clarity, the instant section regarding legacy backlogs, etc. applies to the Board's *appeals* docket only. The Board does not have a backlog on its protest docket (see separate discussion below).

***History and Definition of Legacy Backlog.*** The three recently appointed CAB Judges inherited an appeals backlog that developed during the critical period FY06-FY10. The Board uses the term *legacy backlog* to refer to those appeals cases that became backlogged during FY06-FY10. During that period, approximately 50% of the appeals docket became either dormant or aged (42/85). As the Board has noted during previous fiscal year performance hearings, the backlog developed when a confluence of several factors occurred over a five-year period: the number of Board Judges declined from three to two, the number of appeals cases filed with the Board increased by 98%, and the total number of filings submitted to the Board rose to 13,000.<sup>1</sup> As a result, the two Judges serving CAB between FY06-FY10 saw their personal dockets increase from 42 cases *each* in FY05 (the final year that the Board had three Judges) to 82 cases *each* by FY10.

The yellow highlighted section of the table below depicts the dramatic increase in the Board's docket from FY06-FY10, the number of Judges working at CAB during that period, and the resulting impact to each Judge's personal docket during the five-year period. The remaining section of the table (FY11-FY15) shows the decline in each Judge's total docket following the Board's return in FY11 to a full staffing complement of three Judges.

<sup>1</sup> See, e.g., the Board's FY13 and FY14 to date Performance Hearing responses to the Committee of the Whole's questions. February 3, 2014, Response #25.

	Appeals Filed	%+ FY06	# of CAB Judges	Total # Cases/Yr	Average # Cases Per Judge
FY05	35	n/a	3	101A/127	42 (including 34 appeals)
FY06	14	n/a	2	88A/129	64.5 (including 44 appeals)
FY07	22	60%	2	88A/116	58 (including 44 appeals)
FY08	30	120%	2	102A/129	64.5 (including 51 appeals)
FY09	23	63%	2	105A/154	77 (including 53 appeals)
FY10	35	150%	2	113A/164	82 (including 57 appeals)
FY11	26	n/a	1 (12 months) 1 (Oct.-Dec. 2010) 1 (Oct. '10-June '11) 1 (May '11-Sept. '11) 1 (July '11-Sept. '11)	118A/163	<b>N/A:</b> (During FY11, the Mayor and Council replaced former Board Judges and appointed the 3 current Judges. Because of staggered appointments, only one Judge appointed FY11 served a full 12 months in FY11. Therefore, it would be misleading to identify an "average case per Judge" metric because most Judges served in various increments of less than one year.)
FY12	23	n/a	3	105A/154	51 (including 35 appeals)
FY13	28	n/a	3	113A/152	50.6 (including 37 appeals)
FY14	12	n/a	3	103A/138	46 (including 34.3 appeals)
FY15	1	n/a	3	49A/56	

Thus, elimination of the *legacy backlog* has been a continuing "top priority" of the current Judges since their appointments were made in late FY10 and mid FY11. As of FY15, the current Board has eliminated 39 of the original 42 backlogged cases (92% reduction), and has prioritized elimination of the final three cases as a FY15 top priority. The table below identifies the number of legacy appeals cases eliminated each fiscal year since appointment of the current Judges:

Fiscal Year	Total No. Legacy Cases Closed	Pending Legacy Cases
FY10	1	41
FY11	11	30
FY12	5	25
FY13	5	20
FY14	17	3

**Elimination of Non-Legacy Appeals Cases Filed in 2012 or Earlier.** In addition to the legacy backlog, the Board has targeted an additional 19 appeals cases for closure in FY15. The additional 19 targeted cases were filed in 2012 (or earlier), were not part of the original legacy backlog but should be closed in FY15 to prevent them from causing a second generation backlog. In order to achieve the Board's goal, several multi-year actions have been taken:

- All Judges, staff Attorneys, law clerks, and support staff have been briefed on the Board's top priority of closing the final three legacy backlog cases AND resolving the 19 additional appeals cases noted herein. Each Judge has been given his/her list of cases to complete during FY15. Docket meetings are held to review progress.
- To support Judges better, CAB hired two FTE attorneys in FY15. Each new attorney will work exclusively with a single Judge to provide research/writing support to close priority cases, and assist with overall docket management (including, for example, motions practice, pretrial hearing preparation, protest research/writing support, etc.) In addition, CAB's law clerk program with area law schools (George Washington University

Law School, American University, Georgetown, Howard University Schools of Law, and UDC) will continue as necessary.

**INCREASE) CAB’s COMPLIANCE RATE TO 100% FOR CLOSING PROTEST CASES WITHIN 60 DAYS OF FILING.**

Although protest cases constitute 12% of the total FY15 CAB docket (7/56), delays in resolution can hinder prompt delivery of vital government services. For this reason, CAB has always prioritized closing protest cases within 60 days of filing. Additionally, CAB is under a statutory mandate to do so. D.C. Code § 2-360.08(d). The Board will continue to increase performance in this area until 100% compliance is reached (in FY14, CAB closed 80% of protests within the 60 day timeline (22/28), and the outliers were largely attributable to party requests for continuances, and/or the the resource depletion from closing a record number of appeals cases (52). To reach full 100% compliance, the Board will rely benefit from the two newly hired FTE Attorneys and will seek 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.

**CONTINUE THE MISSION OF DISPLAYING ALL CAB CASE RECORDS ON THE PUBLIC WEBSITE, INCLUDING FULL DIGITAL CONVERSION OF CAB CLOSED FILES.**

One of CAB’s top priorities is to continue to provide the highest level of transparency possible. In that regard, CAB will continue the prompt display of all materials filed in pending and closed cases to the Board’s website for public display. We discuss briefly below the two types of case records (pending and closed files) that are uploaded to the CAB public website.

**Display of Pending Case Files on Public Website.** In FY14, parties filed 1,361 pleadings, motions, or other materials with the Board totaling 28,821 pages of material. One of CAB’s top priorities is to ensure that all filings made in open cases are uploaded to the public website within three days of filing. For FY14 and FY15 to date, all filed materials (except materials filed under protective order) were successfully uploaded to the public website. In order to sustain a successful level of performance, the Board’s Appeals Clerk and Protest Clerk are tasked with uploading all new case materials within 3 days of filing. Clerks prepare a monthly “uploads” report, which is reviewed at staff meetings. The table below includes total documents and total pages filed with the Board from FY12-FY14:

Total Documents/Pages Filed in FY12	Total Documents/Pages Filed in FY13	Total Documents/Pages Filed FY14
2,463 Documents 38,392 Pages	1,764 Documents 33,920 Pages	1,361 Documents 28,821 Pages

**Closed Files.** In addition to filings made in pending cases, the Board has closed cases predating the digital age as to which conversion to digital is necessary prior to eventual upload to the CAB website. From its founding in 1953 to the present, 2481 cases have been filed with CAB. To date, CAB has uploaded 1,484 case files to the Board website, including all cases from 1985-2015. One of CAB’s top priorities is to ensure that the remaining 997 hard copy case files are digitized and uploaded. During FY15, CAB will use existing staff and an outside student to continue the scanning, conversion, and upload of pre-digital age files.

**UPGRADE SEVERAL KEY TECHNOLOGY ASSETS, AND REVIEW BEST PRACTICES FOR COURTROOM DATABASE MANAGEMENT SOFTWARE**

CAB uses WorkSite Server to store all litigation case records, and populates case data from WorkSite Server to the public website through FileSite. In addition, CAB accesses our e-file and serve program to obtain several basic

types of reports (total motions (orders, dismissals, etc.) filed within a defined period, total number or type of filings made in a particular case (e.g. Motions To Extend), etc. However, CAB lacks the capacity to create recurrent Order templates, or to conduct management level queries of integrated data-sets. For example, the data appearing in various tables in this report was obtained manually through the review and compilation of information appearing in several disparate CAB reports.

Consistent with available resources, one of CAB's top FY15 priorities is to review best practice options for acquiring a relational database suitable for Board needs. In addition, CAB has requested FY16 funding to replace a number of aging technology assets, including WorkSite Server (acquired in 2007), our main office printer and scanner (acquired in 2007), and to upgrade the existing courtroom technology to include video recording capacity. These initiatives will be pursued within authorized funding levels.

#### **SUSTAIN OPERATIONAL EFFICIENCIES INITIATED IN FY11 TO PROMOTE EXPEDITIOUS DISPOSITION (RECURTURALIZATION).**

In order to address the inherited appeals backlog it assumed in FY11, CAB initiated several practices to increase case regulation, review time-cycles, and prospects for mediation. Specifically, CAB policy now requires that (1) Scheduling Orders be issued within 45 days of case filing, (2) that the Scheduling Orders include discovery and motions cut-off deadlines, (3) and that each Scheduling Order include a trial date that is three years or less from the date of initial filing. Thus, since FY2011 parties filing new appeals cases have faced rigorous case management from inception. In addition, the Board instituted a practice in FY11 of using the pretrial hearing in each case as a forum to discuss concrete steps taken toward, and obstacles preventing, settlement. In FY14, settlements accounted for 54% of all case closures. The Board will continue assertive case management practices in FY15 and FY16.

# ORGANIZATIONAL CHART



# D.C. Contract Appeals Board Organization Chart

(Effective February 9, 2015)

Prepared By: Marc D. Loud, Sr./Chairman and Chief Administrative Judge  
(The Board does not have any vacancies.)



# SCHEDULE A

## As of January 26, 2015

Title	Name	Hire Date	VacStat	Grade	Step	Salary	Fringe Benefit	Gross Pay	Department Name	F/P Time	Reg/Temp/Term
ADMIN JUDGE	Parchment, Monica C	5/2/2011	F	17	0	165,569	35,266	200,836	Contract Appeals Board	F	Term
CHIEF ADMIN JUDGE	Loud, Marc D.	8/3/2010	F	18	0	167,885	35,759	203,644	Contract Appeals Board	F	Term
General Counsel	Rothschild, Richard K	3/22/2004	F	16	0	109,352	23,292	132,644	Contract Appeals Board	F	Reg
ADMIN JUDGE	McBean, Maxine E	8/1/2011	F	17	0	165,569	35,266	200,836	Contract Appeals Board	F	Term
Appeals Clerk	House Thomas, Mia	9/1/1988	F	11	7	63,923	13,616	77,539	Contract Appeals Board	F	Reg
Protest Clerk/AO	Wilcox, Albert L	11/24/2008	F	11	7	63,923	13,616	77,539	Contract Appeals Board	F	Reg
Clerk of Court	Tuttle, Thane Forrest	1/28/2013	F	9	0	116,699	24,857	141,556	Contract Appeals Board	F	Reg
Program Support Assistant	Berry, Jody	9/22/2014	F	8	1	40,436	8,613	49,049	Contract Appeals Board	F	Reg
*Attorney Advisor	Menegat, Norman	5/19/2014	F	15	0	WAE/15	WAE/15	WAE/15	Contract Appeals Board	P	WAE
Attorney Advisor	Nair, Amar	12/15/2014	F	14	1	98,316	20,941	119,257	Contract Appeals Board	F	Reg
Attorney Advisor	Cho, Kristina	1/12/2015	F	14	1	98,316	20,941	119,257	Contract Appeals Board	F	Reg

\*Mr. Menegat is a Grade 15 WAE Attorney who is paid an hourly rate of \$54.22 and is not guaranteed any hours. He provides legal research/writing support as requested on specific assignments approved by the Chief Judge.

# FY15 PERFORMANCE PLAN



**FY 2015 PERFORMANCE PLAN  
District of Columbia Contract Appeals Board**

**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**

<b>Measure</b>	<b>FY 2012 Actual</b>	<b>FY 2013 Actual</b>	<b>FY 2014 Actual</b>
Number of contract solicitation and award protests filed	30	25	24
Number of appeals by contractors of District contracting officer final decisions filed	23	28	12
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	N/A	1	N/A

<sup>1</sup> The Contract Appeals Board is a relatively small agency with only 8 full-time equivalents. Therefore, the agency's FY15 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 2015.**

During the current Judges tenure beginning in FY2011, CAB has reduced the total docket of appeals cases from 113 (FY2011) to 60 at the close of FY2014. The decrease results from closing 85% of an historic appeals backlog, conducting trials in 40 government contract cases in three years, and closing a record 78 cases in FY14. By the close of CY 2014, the Board expects to completely eliminate the legacy backlog. In addition, the Board will reduce the number of appeals cases that are three years or older to less than 5%. **Completion date: September 2015.**

**INITIATIVE 1.2: Complete digital archiving and loading into the database of all appeal 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 is very transparent for litigants, the contracting community and the public. From FY11 to FY14, the Board digitized and uploaded 662 cases to the public website. In FY15, the Board will continue to digitize and upload old cases to the public website, focusing on appeals cases decided from 1985 to date and protest cases decided from 1986 to date. **Completion date: September 2015.**

**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 FY14, CAB received an average of 1,361 court filings in open cases, and CAB Judges reviewed over 28,000 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 will continue in FY15, providing CAB Judges with law students or recent law graduates for up to 20-35 hours weekly. **Completion date: September 2015.**

**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 FY15 the CAB (through Board members or other appropriate personnel) will 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 in each case encourages mediation/settlement at the pretrial conference in each case. 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 30% of the cases closed by the Board in FY15. **Completion date: September 2015.**

**KEY PERFORMANCE INDICATORS – Contract Appeals Board**

Measure	FY 2013 Actual	FY 2014 Target	FY 2014 Actual	FY 2015 Projection	FY 2016 Projection	FY 2017 Projection
Percent of protests resolved within 60 business days.	96%	90%	82%	95%	95%	95%
Percentage of appeals cases decided within 4 months of the cases being ready for decision.	79%	90%	84%	90%	90%	90%
Percentage of new cases using electronic filing system.		100%	100%	100%	100%	100%
Percentage of decisions sustained on appeal.	100%	100%	100%	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 less than 3 years old.	N/A	N/A	80% <sup>2</sup>	100%	100%	100%

<sup>2</sup> CY14 is the final year that the Board will carry legacy backlog cases on our docket.