

GOVERNMENT OF THE DISTRICT OF COLUMBIA
CONTRACT APPEALS BOARD



MARC D. LOUD, SR.
CHIEF ADMINISTRATIVE JUDGE

February 3, 2020

The Honorable Robert C. White, Jr., Chairman
Council of the District of Columbia
Committee on Facilities and Procurement
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 107
Washington, DC 20004

Dear Chairman White:

In response to your letter dated January 13, 2020, please find herein the DC Contract Appeals Board's responses to the Committee on Facilities and Procurement's prehearing questions for the February 13, 2019, FY19 (and FY20 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.", is written over a large, stylized circular flourish.

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



DC CONTRACT APPEALS BOARD RESPONSES

1. Please provide the agency's mission statement.

Response: 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, Quick Payment Act claims, Public-Private Partnership Act claims, and Debarments and Suspensions involving the District and its contracting communities.

2. Please list any statutory mandates that the agency lacks sufficient resources to fully implement.

Response: Not applicable.

3. Please list all reporting requirements in the District of Columbia Code or Municipal Regulations that the agency is required to complete in FY 19 and FY 20, to date. For each requirement, please list the date the report was required and the date it was produced. If the agency did not produce the report on the mandated timeline, please explain why.

Response: Please see table below. The Board also uploads all case filings (not subject to a Protective Order) to our public website, and publishes final decisions on Westlaw. In addition, the Board regularly submits groupings of final decisions to the DC Register.

Reporting Requirement	Due Date	Compliance (explanation)
FOIA Report	February 1 (annually)	Yes
Performance Accountability Report	January 15 (annually)	Yes
DSLBD CBE/SBE Spending Reports	Quarterly	Yes
EEO Officer/Counselor Reports	Monthly (15 th)	Yes
Account Review Team (ART) Reports (PCard)	Monthly (21 st)	Yes
Publishing of Final Decisions in DC Register	n/a	Yes (Board publishes its final decisions annually in April/May)
Key Performance Measures/Workload Report	October 15 (annually)	Yes
Public and Confidential Financial Disclosure Reports	May 15 (annually)	Yes

4. Please list and describe any regulations promulgated by the agency in FY 19 or FY 20, to date, and the status of each.

Response: On November 22, 2019, the Board issued a Notice of Proposed Rulemaking for the current Board rules, published at 66 D.C. Reg. 015488 (November 22, 2019). The revised rules harmonize the Board's practice procedures with the Procurement Practices Reform Act of 2010, D.C. Code §§ 2-351.01 et seq. (and other applicable law), and also correct longstanding

ambiguities or conflicts in existing Board rules. The Board submitted the rules for Final Rulemaking on January 31, 2020, and anticipates a D.C. Register publication date on or around February 21, 2020, with an effective date of April 6, 2020.

5. Please explain any significant impacts on your agency, if any, of any legislation passed at the federal or local level during FY 19 and FY 20, to date.

Response: Not applicable.

6. What are the agency's top five priorities? Please explain how the agency expects to address these priorities in FY 20.

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 listed priorities are dynamic in nature. The Board believes that if we focus on these priorities and adapt promptly to changing circumstances, our mission will be continuously fulfilled.

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.¹ In FY19/20, the prompt website display (i.e., within three days of filing) of all material filed in Board cases (not subject to protective order) remains a top priority. The Board will also continue to post all upcoming trial and pretrial hearing dates on its website calendar (presently updated through June 2021). 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 FY19, parties submitted 1,376 pleadings, motions, or other materials with the Board totaling 27,735 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 FY19 and FY20 to date, all filed materials (except materials filed under protective order) were timely uploaded to the public website. The upload of case files is reviewed monthly by the Chief Judge. The table below includes total filings and total pages filed with the Board in FY19. The table also compares FY19 filings to those from the previous four-year period (FY15-FY18).

	FY19	FY18	FY17	FY16	FY15
Documents Filed	1,376	1,461	1,933	1,783	1,346
Pages Filed	27,735	26,275	41,742	35,737	22,157

Closed Files. In addition to filings made in "pending" cases, the Board has "closed" cases from the pre-digital era consisting entirely of paper records. During FY20, the Board is under contract with an outside vendor to inventory, digitize and archive all closed case records

¹ Michael Neibauer, *D.C. Contract Appeals Board Tackles Backlog*, WASHINGTON BUSINESS JOURNAL, Nov. 11, 2011, at BizBeat.

from the pre-digital era. The Board anticipates that this contract will be completed prior to the close of FY20. Upon completion, all digitized records will be imported into the Board's document management system and uploaded to the Board's website.

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 FY19, the Board closed 100% of protests within the 60 business day timeline. In FY20 to date, the Board has closed 100% of protests within the 60 business 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 strive for 100% compliance. In this regard, the Board conducts case accountability meetings to remain on track with closure deadlines.

3. Assess The Board's Current Technology Environment And Develop A Five-Year I.T. Strategic Plan To Support The Board's Mission

The Board needs to continue offering parties the opportunity to adjudicate all cases through e-file and serve technologies. The Board currently offers its litigants e-file and serve access through File & ServeXpress, an industry leader. The Board needs to continue storing all litigation case records on Board servers, and populating those records to the public website through appropriate proprietary software. The Board currently stores litigation case records, and populates them to the public website, through iManage File Site and iManage Worksite Server software. The OCTO ECIS also provides secure cloud-based storage for Board case records. The Board's Five-Year I.T. Strategic Plan needs to provide on-going assessment of the existing technology environment (described above). The Board's Five Year I.T. plan also needs to position the Board to update existing technologies as advancements are being made in the broader fields of document, court and adjudication management. The Board is currently recruiting an I.T. Director to support the Board's mission and priorities in this regard.

4. Pursue Settlement of Board Cases And Research Best Practices Regarding The Implementation Of A CAB Alternative Dispute Resolution/Mediation Program.

The settlement of Board cases prior to trial or a final decision conserves resources, and prevents delays. The Board will continue to encourage settlement as part of case management strategies used by Judges. In FY19, the Board continued its record of settling a significant percentage of pending cases. The Board will continue prioritizing case settlement as an alternative to trial. The Board's five-year record for case settlement is below:

FY19	FY18	FY17	FY16	FY15
55%	55%	48%	73%	36%

5. Preventing The Occurrence Of Future Case Backlogs

The Board will continue to prioritize pre-emptive measures and strong case management to prevent case backlogs on our docket. Consistent with this priority, the Board does not currently have a backlog in any of its cases (protests, appeals, debarments/suspensions, Quick Payment Act claims).

The Board will continue to implement the following measures in this regard:

- *Preventing Judge Vacancies.* Since the close of FY11, there have been no judge vacancies on the Board. This is important to note because previous Board backlogs were correlated to extended periods when one or more judge positions remained vacant (e.g., a single judge vacancy during the years FY06-FY10). Because of the efforts of the Executive Office of the Mayor, the Mayor's Office of Talent and Appointments, and the Council of the District of Columbia, there are no current vacancies. The Board will continue working with all stakeholders to continue the current level of success in preventing Board vacancies.
- *Maintaining the Current Number of Budgeted and Staffed FTE Attorney Positions.* Prior to FY13, the Board had no budgeted FTE attorney positions. Since FY13, three FTE attorney positions have been created (one added in FY13 and two added in FY15). These positions are necessary to assist judges with the management of the Board's voluminous docket, which included over 27,000 pages of litigation materials filed in FY19. 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 Any Appeals Case That Is Three Or More Years Old.* Finally, preventing the occurrence of any future appeals case backlog will require rigorous case management by Board Judges and staff. (The Board has never had a protest case backlog.) As regards appeals cases, 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; (3) that each Scheduling Order include a trial date that is no more than 2 years from the date of initial filing; (4) case accountability meetings are held to prevent delays in case closure; and (5) cases requiring trial should be closed within three years of the initial filing date (absent mitigating factors).

7. What metrics are regularly used by the agency to evaluate its operations? Please be specific about which data points are monitored by the agency.

Response: Please see table below.

Contract Appeals Board Key Performance Measures (KPIs)	
1.	Percentage of protests resolved within 60 business days.
2.	Percentage of appeals cases decided within 4 months of the case being ready for decision.
3.	Percentage of new cases using electronic filing system.
4.	Percentage of decisions sustained on appeal.
5.	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.
6.	Percentage of pending appeals cases that are 3 years old or less.
7.	Percentage of cases resolved through settlement. ²

8.

Please provide a copy of the agency's FY 19 performance plan, if one was prepared. Please

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.

explain which performance plan objectives were completed in FY 19 and whether they were completed. If they were not completed, please provide an explanation.

Response: Please see Attachment 1. In FY19, the Board achieved its performance plan objectives of closing 100% of protest cases within 60 business days, having 100% of its appeals cases three-years old or less, having 100% of Board decisions sustained on appeal, having 55% of all cases settled prior to trial or final written decision, and having 100% of all new cases filed electronically. In FY19, the Board aimed to have 90% of all appeals cases resolved within 4 months of being ready for decision, and achieved an 81.3% compliance rate.

9. Please provide a copy of your agency's FY 20 performance plan as submitted to the Office of the City Administrator, if one was prepared.

Response: Please see Attachment 2.

10. Please describe any new initiatives or programs that the agency implemented in FY 19 and FY 20, to date, to improve the operations of the agency. Please describe any funding utilized for these initiatives or programs and the results, or expected results, of each initiative.

Response: The Board did not implement any new initiatives in FY19 and FY20 to date. In FY20, however, the Board finalized new procedural rules which will become effective April 6, 2020 (see our response to Question 4 above). In addition, for FY20 the Board is recruiting a new I.T. Director to assist with maintaining existing technology systems, and to plan for the future. The Committee will be updated regarding the new I.T. Director's recommended initiatives.

11. Please provide a current organizational chart for the agency, including the number of vacant, frozen, and filled positions in each division or subdivision. Include the names and titles of all senior personnel and note the date that the information was collected on the chart.

a. Please provide an explanation of the roles and responsibilities for each division and subdivision.

b. Please provide a narrative explanation of any changes made to the organizational chart during the previous year.

Response: Please see Attachment 3. As of October 1, 2019, the Board added the position of I.T. Director (Supervisory I.T. Specialist) to its organizational chart.

12. Please provide a current Schedule A for the agency which identifies each position by program and activity, with the salary, fringe benefits, and length of time with the agency. Please note the date that the information was collected. The Schedule A should also indicate if the position is continuing/term/temporary/contract or if it is vacant or frozen. Please separate salary and fringe and indicate if the position must be filled to comply with federal or local law.

Response: Please see table below.

Contracts Appeals Board as January 21, 2020													
	Title	Name	Posn Nbr	Hire Date	Vac Stat	Grade	Step	Salary	Fringe 15.6%	Prgm Code	Activity	Reg/Temp/Term	Funding Source
1	ADMIN JUDGE	Parchment, Monica C	00003040	5/2/2011	F	17	0	\$190,076.77	31,932.90	2001	2001	Term	Local
2	CHIEF ADMIN JUDGE	Loud, Marc D.	00006341	8/3/2010	F	18	0	\$192,735.00	32,379.48	1090	1010	Term	Local
3	General Counsel	Poindexter, Mark D	00011739	7/27/2015	F	15	5	\$161,798.00	27,182.06	2001	2001	Reg	Local
4	ADMIN JUDGE	Majett, Nicholas A	00013299	10/7/2019	F	17	0	\$190,076.77	31,932.90	2001	2001	Term	Local
5	STAFF ASSISTANT	House, Mia J	00018016	9/1/1988	F	11	10	\$79,314.00	13,324.75	2001	2001	Reg	Local
6	Supervisory IT Specialist		00050893		V	14	0	\$129,411.00	21,741.05	2001	2001	Reg	Local
7	Clerk of Court	Tuttle, Thane Forrest	00077391	1/28/2013	F	9	0	\$133,972.67	22,507.41	2001	2001	Reg	Local
8	Program Support Assistant	Berry, Uday	00077392	9/22/2014	F	8	6	\$53,815.00	9,040.92	2001	2001	Reg	Local
9	Attorney Advisor	Edwards, Jason	00085519	8/12/2015	F	14	5	\$137,553.00	23,108.90	2001	2001	Reg	Local
10	Attorney Advisor	Roundtree, Portia Marie	00087310	12/8/2019	F	14	2	\$125,415.00	21,069.72	2001	2001	Reg	Local
11	Information Technology Special	Ortiz, Angel	00094107	5/16/2018	F	11	4	\$67,452.00	11,331.94	2001	2001	Reg	Local

13. Please list all employees detailed to or from your agency. 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.

14. Please provide the Committee with:

- a. A list of all employees who received or retained cellphones, personal digital assistants, or similar communications devices at agency expense in FY 19 and FY 20, to date;

Response: Please see table below.

CAB Staff Member	Position	Justification
Marc D. Loud, Sr.	Chief Administrative Judge	Critical Contact
Nicholas Majett (FY20 only)	Administrative Judge	Critical Contact
Maxine McBean (FY19 only)	Administrative Judge	Critical Contact
Monica Parchment	Administrative Judge	Critical Contact
Jason Edwards	Attorney Advisor	Critical Contact
Mia House	Appeals Clerk-ATC	Critical Contact
Manuel Ortiz	IT Specialist	Critical Contact
Mark Poindexter	General Counsel	Critical Contact
Portia Roundtree (FY20 only)	Attorney Advisor	Critical Contact
Thane Tuttle	Clerk of Court	Critical Contact

- b. A list of all vehicles owned, leased, or otherwise used by the agency and to whom the vehicle is assigned as well as a description of all vehicle accidents involving the agency's vehicles in FY 19 and FY 20, to date;

Response: Not applicable.

- c. A list of travel expenses, arranged by employee for FY 19 and FY 20, to date, including justification for travel;

Response: The Board has incurred no travel expenses for employees in FY20 to date. In FY19, Judge McBean incurred \$538 in travel expenses to attend the National Bar Association Convention in New York, NY.

d. A list of total workers' compensation payments paid in FY 19 and FY 20, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

Response: Not applicable.

15. Please separately list each employee whose salary was \$100,000 or more in FY 19 and FY 20, to date. Provide the name, position number, position title, program, activity, salary, and fringe. In addition, state the amount of any overtime or bonus pay received by each employee on the list.

Response: Please see tables below. No CAB employees received overtime or bonus pay in FY19 or FY20 to date.

Contract Appeals Board FY2019													
	Title	Name	Posn Nbr	Hire Date	Vac Stat	Grade	Step	Salary	Fringe 16.6%	Prgm Code	Activity	Reg/Term p/Term	Funding Source
1	CHIEF ADMIN JUDGE	Loud, Marc D.	00006341	8/3/2010	F	18	0	187,121.36	30,126.54	1090	1010	Term	Local
2	ADMIN JUDGE	Parchment, Monica C	00003040	5/2/2011	F	17	0	184,540.55	29,711.03	2001	2001	Term	Local
3	General Counsel	Poindexter, Mark D	00011739	7/27/2015	F	15	5	157,085.00	25,290.69	2001	2001	Reg	Local
4	ADMIN JUDGE	McBean, Maxine E	00013299	8/1/2011	F	17	0	184,540.55	29,711.03	2001	2001	Term	Local
5	Clerk of Court	Tuttle, Thane Forrest	00077391	1/28/2013	F	9	0	130,070.55	20,941.36	2001	2001	Reg	Local
6	Attorney Advisor	Edwards, Jason	00085519	8/12/2015	F	14	4	129,618.00	20,868.50	2001	2001	Reg	Local
7	Attorney Advisor	Jean-Baptiste, Giovan	00087310	2/22/2016	F	14	3	125,689.00	20,235.93	2001	2001	Reg	Local
Contract Appeals Board FY2020 (through January 21, 2020)													
	Title	Name	Posn Nbr	Hire Date	Vac Stat	Grade	Step	Salary	Fringe 16.6%	Prgm Code	Activity	Reg/Term p/Term	Funding Source
1	CHIEF ADMIN JUDGE	Loud, Marc D.	00006341	8/3/2010	F	18	0	\$192,735.00	32,379.48	1090	1010	Term	Local
2	ADMIN JUDGE	Parchment, Monica C	00003040	5/2/2011	F	17	0	\$190,076.77	31,932.90	2001	2001	Term	Local
3	General Counsel	Poindexter, Mark D	00011739	7/27/2015	F	15	5	\$161,798.00	27,182.06	2001	2001	Reg	Local
4	ADMIN JUDGE	Majett, Nicholas A.	00013299	10/7/2019	F	17	0	\$190,076.77	31,932.90	2001	2001	Term	Local
5	Clerk of Court	Tuttle, Thane Forrest	00077391	1/28/2013	F	9	0	\$133,972.67	22,507.41	2001	2001	Reg	Local
6	Attorney Advisor	Edwards, Jason	00085519	8/12/2015	F	14	5	\$137,553.00	23,108.90	2001	2001	Reg	Local
7	Attorney Advisor	Roundtree, Portia Ma	00087310	12/8/2019	F	14	2	\$125,415.00	21,069.72	2001	2001	Reg	Local
8	Supervisory IT Specialist		00094107		V	14	0	\$129,411.00	21,741.05	2001	2001	Reg	local

16. Please list in descending order the top 25 overtime earners in your agency in FY 19 and FY 20, to date, if applicable. For each state the employee's name, position number, position title, program, activity, salary, fringe, and the aggregate amount of overtime pay earned.

Response: Not applicable.

17. For FY 19 and FY 20, to date, please provide a list of employee bonuses, special pay granted, or separation pay issued, that identifies the employee receiving the bonus, special pay, or separation pay, the amount received, and the reason for the bonus, special pay, or separation pay.

Response: For FY19 and FY20 to date, the Board did not award any employee bonuses or special pay. Please see table below for annual leave balance pay for two former employees.

Fiscal Year	Payment Date	CAB Staff Member	Position	Amount Paid	Reason for Payment
FY19	09/10/2019	Giovanna Jean-Baptiste	Attorney Advisor	\$11,279	Annual Leave Balance Payout
FY20	11/05/2019	Maxine E. McBean	Administrative Judge	\$17,656	Annual Leave Balance Payout

18. Please provide each collective bargaining agreement that is currently in effect for agency employees. Please include the bargaining unit and the duration of each agreement. Please note if the agency is currently in bargaining and the anticipated date of completion of each agreement in bargaining.

Response: Not applicable.

19. Please provide a list of any training or continuing education opportunities made available to agency employees. For each training or continuing education program, please provide the subject of the training, the names of the trainers, and the number of agency employees that were trained.

Response: Please see table below for training activities sponsored by the Board. Routine, required trainings related to agency operations conducted by District offices or agencies such as OCA, OCTO, OCP, BEGA, etc. are not listed. The Board has subscribed to West LegalEdcenter and PubKLaw Daily Digest for Government Contracts-related continuing legal education. Consistent with its operational needs and budgetary resources, the Board encourages all staff to participate in the relevant continuing education opportunities provided through District government agencies, UDC Community College Division of Workforce Development and private/not-for-profit educational institutions.

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
Government Contracts In-House Training	September 22, 2016	Topics in Construction Delays & Scheduling	Federal Publication Seminars (Jeremy Becker-Welts, Esq.)	6 (Board Judges and Attorney Advisors)
Excel 2010 (Part 1)	April 24, 2017	Use of MS Excel 2010 (Part 1)	New Horizons Computer Learning Center	1 (Appeals Clerk)
2017 American Constitution Society for Law and Policy (ACS) Annual Convention	June 8-10, 2017	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
Excel 2010 (Part 2)	July 24, 2017	Use of MS Excel 2010 (Part 2)	New Horizons Computer Learning Center	1 (Appeals/Protest Clerk)
American Bar Association (ABA) 2017 Annual Meeting	August 10-15, 2017	Presentations on recent developments in the law and related practice topics	ABA (various moderators and panelists)	1 (Board Judge)
Boards of Contract Appeals Bar Association (BCABA) Annual Program	October 25, 2017	Presentations on key government contracts decisions and other recent developments in government contracts law and	BCABA, Inc. (various moderators and panelists)	7 (Board Judges, Attorney Advisors and General Counsel)

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
		practice		
2018 American Constitution Society for Law and Policy (ACS) Annual Convention	June 7-9, 2018	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
Smart Contracts	July 3, 2018	Smart Contracts: Exploring the Legal Risks and Business Benefits of Blockchain	American Law Institute (ALI) (WebEx)	1 (Board Judge)
Government Contracts In-House Training	September 20, 2018	Topics in Construction Delays & Scheduling (II).	Federal Publication Seminars (Jeremy Becker-Welts, Esq.)	3 (Attorney Advisors)
BCABA Annual Program	October 9, 2018	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	BCABA, Inc. (various moderators and panelists)	7 (Board Judges, Attorney Advisors and General Counsel)
ABA Public Contract Law Federal Procurement Institute	March 13-16, 2019	Distinguished panelists from government, industry, private law practice, and academia will convene in Annapolis, Maryland to participate in the Annual Federal Procurement Institute (FPI), the flagship program of the ABA Section of Public Contract Law. The FPI will focus on the significant federal procurement developments over this past year and includes multiple networking opportunities.	ABA Public Contract Law Federal Procurement Institute	1 (Board Judge)
2019 American Constitution Society for Law and Policy (ACS) Annual Convention	June 6-8, 2019	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
2019 National Bar Association Convention	July 20-26, 2019	The National Bar Association was founded in 1925 and represents the interests of approximately 65,000 lawyers, judges, law professors and law students. The NBA is organized around 23 substantive law sections, 9 divisions, 12 regions and 80 affiliate U.S. and world chapters.	NBA (various moderators and panelists)	1 (Board Judge)

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
BCABA Annual Program	October 22, 2019	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	BCABA, Inc. (various moderators and panelists)	6 (Board Judges, Attorney Advisors and General Counsel)

20. Does the agency conduct annual performance evaluations of all its employees? If so, who conducts such evaluations? If not, what steps are taken to ensure that all agency employees are meeting individual job requirements?

Response: The Chief Judge conducts evaluations for Judges, the General Counsel, the Appeals/Protest Clerk, the I.T. Specialist, and the Paralegal/Receptionist. Each Judge conducts an evaluation of the Attorney assigned to him/her. Judges are evaluated and given feedback in real-time in accordance with a CAB internal Accountability process. In addition, the Chief Judge monitors the annual KPI outcomes as to all Judges on an on-going basis (e.g., Percent of pending Appeals cases that are three years old or less, Percent of protests resolved within 60 business days, etc.). All non-legal staff meet with the Chief Judge in group and individual meetings to review performance.

21. Please describe what strategies the agency is using to improve employee retention.

Response: The Board provides a collegial and supportive environment to carry out its mission, including competitive salaries and professional development opportunities. The Board acknowledges its good fortune in hiring and retaining outstanding professionals who are committed to the highest standards of public service.

22. For FY 19 and FY 20, to date, what was the total agency cost for mobile communications and devices, including equipment and service plans?

Response: In FY19, the Board spent a total of \$5,806.56 for mobile communications and devices, including equipment and service plans. In FY20, the Board has spent \$1,900.86 for these services.

23. For FY 19 and FY 20, to date, please list all intra-District transfers to or from the agency.

Response: Not applicable.

24. For FY 19 and FY 20, to date, please identify any special purpose revenue funds maintained by, used by, or available for use by the agency. For each fund identified, provide:

- The revenue source name and code;
- The source of funding;
- A description of the program that generates the funds;
- The amount of funds generated by each source or program;

- e. Expenditures of funds, including the purpose of each expenditure;
- f. The current fund balance.

Response: Not applicable.

25. For FY 19 and FY 20, to date, please list any purchase card spending by the agency, the employee making each expenditure, and the general purpose for each expenditure.

Response: Please see table below. All purchase card or “PCard” transactions during this period were made by Program Assistant Uday Berry as authorized by the Board.

Entry No.	Posting Date of Expenditure	Amount of Expenditure	General Purpose
1	10/04/2018	\$640.00	Office Services – A/V Repairs
2	10/04/2018	\$817.91	Software Support
3	10/05/2018	\$350.00	Professional Development
4	10/15/2018	\$97.72	Office Products & Supplies
5	11/16/2018	\$1,800.00	PubK Law Subscription
6	11/20/2018	\$49.87	Cable
7	12/07/2018	\$139.44	IT Products and Supplies
8	12/12/2018	\$49.87	Cable
9	01/10/2019	\$1,450.78	Westlaw Subscription
10	01/11/2019	\$57.97	Cable
11	02/08/2019	\$1,382.73	IT Products and Supplies
12	03/06/2019	\$371.88	IT Products and Supplies
13	03/07/2019	\$121.89	Cable
14	03/11/2019	\$760.00	Professional Development
15	03/15/2019	\$225.00	Office Products & Supplies
16	03/15/2019	\$215.00	Office Products & Supplies
17	03/27/2019	\$155.00	Office Services-Shredding
18	04/18/2019	\$325.00	Professional Development
19	04/24/2019	\$700.00	Professional Development
20	04/25/2019	\$121.89	Cable
21	04/29/2019	\$1,107.00	IT Products and Supplies
22	05/01/2019	\$262.98	Office Products & Supplies
23	06/13/2019	\$57.97	Cable
24	07/15/2019	\$1,934.38	Westlaw Subscription
25	07/30/2019	\$225.00	IT Consulting
26	08/05/2019	\$14.74	Office Products & Supplies

27	08/08/2019	\$1,511.24	Westlaw Subscription
28	08/08/2019	\$57.97	Cable
29	08/19/2019	\$63.92	Cable
30	08/23/2019	\$875.16	Office Products & Supplies
31	08/27/2019	\$255.27	Recruiting Support
32	08/27/2019	\$695.00	Recruiting Support
33	08/28/2019	\$349.00	Recruiting Support
34	08/29/2019	\$36.47	Recruiting Support
35	09/05/2019	\$339.79	Software Support
36	09/06/2019	\$1,429.42	IT Products and Supplies
37	09/12/2019	\$199.94	Office Services – Locksmith
38	09/17/2019	\$57.96	Cable
39	09/19/2019	\$227.36	Office Products & Supplies
40	09/19/2019	\$367.98	Office Products & Supplies
41	09/20/2019	\$503.74	Westlaw Subscription
42	09/20/2019	\$503.74	Westlaw Subscription
43	09/23/2019	\$1,519.90	IT Products and Supplies
44	10/03/2019	\$2,400.00	PubK Law Subscription
45	10/04/2019	(\$12.36)	Sales Tax Credit
46	10/17/2019	\$57.96	Cable
47	10/21/2019	\$300.00	Professional Development
48	10/24/2019	\$159.83	Office Products & Supplies
49	11/15/2019	\$325.00	Office Services - Copier
50	11/15/2019	\$57.96	Cable
51	11/20/2019	\$158.24	Office Products & Supplies
52	11/21/2019	\$349.00	Recruiting Support
53	11/21/2019	\$60.00	Recruiting Support
54	11/22/2019	\$1,300.00	Office Services - Appeals Record
55	12/10/2019	\$215.00	Office Products & Supplies
56	12/10/2019	\$2,905.63	Westlaw Subscription
57	12/16/2019	\$225.60	Recruiting Support
58	12/18/2019	\$57.96	Cable
59	12/23/2019	\$349.00	Recruiting Support
60	1/10/2020	(\$2,905.63)	Westlaw Subscription-Billing Credit
61	01/15/2020	\$675.00	Updated Board Judges Panel Website Photos
62	01/15/2020	\$167.00	Office Services-Shredding
Total FY19-FY20 PCard Expenditures		\$29,273.07	

26. Please list and provide a copy of all memoranda of understanding (“MOU”) entered into by your agency during FY 19 and FY 20, to date, as well as any MOU currently in force. For each, indicate the date on which the MOU was entered and the termination date.

Response: Please see Attachment 4. 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 FY19 and FY20 to date with the Washington Convention and Sports Authority (WCSA) (entered into on January 5, 2010), the District of Columbia Health Benefit Exchange Authority (HBX) (entered into on June 23, 2015) and the District Department of Energy and Environment (DOEE) (entered into on August 19, 2015). In FY20, the WCSA MOU is continuing, and the DOEE and HBX MOUs were renewed through September 30, 2020. 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 FY20 the Board’s OCTO-ECIS MOU is continuing. On October 26, 2018, the Board entered into a MOU with OCTO-ECIS for Office 365 Enterprise Licenses. That eMOU expired September 30, 2019. We understand that OCTO is negotiating District-wide FY20 rates for Office 365 Enterprise Licenses.

27. Please list all open capital projects and capital projects in the financial plan under the agency’s purview, including the amount budgeted, actual dollars spent so far, any remaining balances, and the status of the project. In addition, please provide a description of any projects which are experiencing delays or which require additional funding.

Response: Not applicable.

28. Please provide a table showing your agency’s Council-approved budget, revised, budget (after reprogrammings, etc.) and actual spending, by program, activity, and funding source for FY 19 and the first quarter of FY 20. Please detail any over- or under-spending and if the agency had any federal funds that lapsed.

Response: Please see tables below.

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FY 2019 EXPENDITURES								
Program Title	Activity Title	Appropriated Fund	Program	Activity	FY 2019 Approved Budget	FY 2019 Revised Budget	FY 2019 Expenditures	Variance
PERSONNEL	PERFORMANCE MANAGEMENT	100	1090	1090	\$ 213,905	\$ 213,905	\$ 217,367	\$ (3,461)
ADJUDICATION	ADJUDICATION	100	2001	2001	\$ 1,342,537	\$ 1,342,537	\$ 1,332,758	\$ 9,779
TOTAL					\$ 1,556,442	\$ 1,556,442	\$ 1,550,125	\$ 6,318

FY 2020 EXPENDITURES as of 12/31/2019								
Program Title	Activity Title	Appropriated Fund	Program	Activity	FY 2020 Approved Budget	FY 2020 Revised Budget	FY 2020 Expenditures	Variance
PERSONNEL	PERFORMANCE MANAGEMENT	100	1090	1090	\$ 218,558	\$ 218,558	\$ 59,724	\$ 158,833
ADJUDICATION	ADJUDICATION	100	2001	2001	\$ 1,605,131	\$ 1,605,131	\$ 458,690	\$ 1,146,441
TOTAL					\$ 1,823,689	\$ 1,823,689	\$ 518,414	\$ 1,305,275

29. Please provide a list of all budget enhancement requests (including capital improvement needs) made for FY 19, FY 20, or FY 21. For each, include a description of the need and the amount of funding requested.

Response: For FY19, the Board requested an enhancement of \$22,000 to cover: (1) salary increases/steps to five (5) CAB positions which increased PS costs by \$14,666 from FY18 to FY19; and (2) underfunding of the Board's FY18 PS budget by \$21,484 (\$1,205,049 FY18 budgeted vs. \$1,226,533 FY18 costs)(the total FY19 PS delta is \$36,150). While the FY19 MARC made up the difference in these two areas by transferring \$41,331 from the FY19 NPS to the FY19 PS, that resulted in an approximately \$22,000 shortfall in the FY19 NPS budget. The requested \$22,000 enhancement to CAB's FY19 NPS budget paid for recurring OCTO-ECIS charges (not reflected in the proposed FY19 budget and priced at \$11,951), and approximately \$10,000 in recurring actual expenditures. The Board did not request enhancements for its FY20 budget.

Please see the table below for an explanation of the Board's FY21 budget enhancement request in the total amount of \$51,837.

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- d. The term of the contract;
- e. Whether the contract was competitively bid;
- f. The name of the agency's contract monitor and the results of any monitoring activity;
and
- g. The funding source.

Response: Please see table below.

FY(Issue Date)	Purchase Order	Contracting Party	Service	Amount	Term	Competitively Bid	Contract Monitor/Activity Results	Funding Source
FY19 (10-24-2018)	PO593435	Mb Staffing	Temp Support Services	\$9,000	FY19	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY19 (11-21-2018)	PO595536	MVS	Annual Copier Service Agreement	\$3,930	FY19	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY19 (9-18-2019)	PO610425	THIHA	Office Conversion Construction	\$9,278.60	FY19	OCP/DGS procurement – PO awarded to SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY20 (10-17-2019)	PO614064	Walton and Green Consultants	Temp Support Services	\$5,000	FY20	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY20 (12-4-2019)	PO617616	Total Office Products	Annual Copier Service Agreement	\$3,324	FY20	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY20 (1-21-2020)	PO620072	SupreTech	Document Scanning and Archival Support	\$112,549	FY20	OCP procurement – competitive bid contract awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local

34. What is your agency's current adjusted expendable budget for CBE compliance purposes? How much has been spent with SBEs or CBEs? What percent of the agency's current adjusted expendable budget has been spent with SBEs or CBEs?

Response: The Board's FY20 adjusted expendable budget is \$128,688.88, with an adjusted approved SBE spending goal of \$64,344.44. In FY20, the Board has spent \$6,245.06 with SBEs, or approximately 5% of its adjusted expendable budget and 10% of its current SBE spending goal. The Board notes that these figures do not account for the \$112,549 currently obligated to

DCSS SBE SupreTech, Inc. under PO620072 (FY20 CAB Document Scanning and Archival Support Services Contract).

35. Please list all pending lawsuits that name the agency as a party. Identify which cases on the list are lawsuits that potentially expose the District to financial liability or will result in a change in agency practices and describe the current status of the litigation. Please provide the extent of each claim, regardless of its likelihood of success.

Response: Not applicable.

36. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY 19 or FY 20, to date, and provide the parties' names, the amount of the settlement, and if related to litigation, the case name and a brief description of the case. If unrelated to litigation, please describe the underlying issue or reason for the settlement (e.g. administrative complaint, etc.).

Response: Not applicable.

37. Please list the administrative complaints or grievances that the agency received in FY 19 and FY 20, to date, broken down by source. Please describe the process utilized to respond to any complaints and grievances received and any changes to the agency policies or procedures that have resulted from complaints or grievances that were resolved in FY 19 or FY 20, to date, describe the resolution.

Response: Not applicable.

38. Please describe the agency's procedures for investigating allegations of sexual harassment or misconduct committed by or against its employees. List and describe any sexual harassment allegations received by the agency in FY 19 and FY 20, to date, whether or not those allegations were resolved.

Response: The Board is committed to addressing any allegations of sexual harassment or misconduct committed by or against its employees fairly and expeditiously, and follows the policies 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. The Board's General Counsel has been designated as its "Sexual Harassment Officer" or "SHO" to review and investigate such allegations as well as recommend appropriate disciplinary action and/or referrals. The Board received no sexual harassment allegations in FY19 and FY20 to date.

39. Please list and describe any spending pressures the agency experienced in FY 19 and any anticipated spending pressures for the remainder of FY 20. Include a description of the pressure and the estimated amount. If the spending pressure was in FY 19, describe how it was resolved, and if the spending pressure is in FY 20, describe any proposed solutions.

Response: Not applicable.

40. Please provide the number of FOIA requests for FY 19, and FY 20, to date, that were submitted to your agency. Include the number granted, partially granted, denied and pending. In

addition, please provide the average response time, the estimated number of FTEs required to process requests, the estimated number of hours spent responding to these requests, and the cost of compliance.

Response: The Board processed one FOIA request in FY19, and has processed one FOIA request in FY20. The FY19 FOIA request was processed under the “other” disposition (i.e., no relevant information maintained by the Board); and no FY19 requests were partially granted, denied or pending. The FY19 FOIA request required a total of 20 minutes and a fraction of one FTE to process. The total dollar amount expended for processing the FY19 FOIA request was approximately \$25 (based on processor’s FY19 hourly rate).

The FY20 to date FOIA request was processed under the “other” disposition (i.e., no relevant information maintained by the Board); and, to date, no FY20 requests have been partially granted, denied or pending. The FY20 to date FOIA request required a total of 90 minutes and a fraction of one FTE to process. The total dollar amount expended for processing the FY20 to date FOIA request was \$116 (based on processor’s FY20 hourly rate).

41. Please identify all electronic databases maintained by your agency, including the following:

- a. A detailed description of the information tracked within each system;
- b. The age of the system and any substantial upgrades that were made in FY 19 or FY 20, to date, or that are planned for the system;
- c. Whether the public is currently granted access to all or part of each system; and
- d. Whether the public could be granted access to all or part of each system.

Response: Please see table below. Note that for the identified databases using proprietary software, the Board’s “maintenance” is limited to uploading, storing and/or disseminating documents.

Board Databases	Description	Age/Upgrades	Current Public Access	Possible Public Access
iManage Worksite/FileSite	Proprietary software used to assist the Board in maintaining its public case-access website	2003 - On-going upgrades by vendor	Full public access to database through CAB’s webpage portal	n/a
File&ServeXpress	Proprietary software used to assist the Board in case/docket management	2012 - On-going upgrades by vendor	Party access permitted through establishing an account with File&ServeXpress	CAB’s public website contains the same case records as File&ServeXpress

42. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency that were completed during FY 19 and FY 20, to date.

Response: Not applicable.

43. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or funded during FY 19 and FY 20, to date. Please submit a hard copy to the Committee of any study, research paper, report, or analysis that is complete.

Response: Not applicable.

44. If there are any boards, commissions, or similar entities for which your agency provides administrative support, please provide a chart listing the names, confirmation dates, terms, wards of residence, and attendance of each member. Include any vacancies. Please also attach agendas and minutes of each meeting in FY 19 and FY 20, to date, if minutes were prepared.

Response: Not applicable.

45. Please list any task forces, committees, advisory boards, or membership organizations in which the agency participates.

Response: The Board collaborates with the federal and the Maryland Boards of Contract Appeals through the Board of Contract Appeals Bar Association (BCABA). BCABA is the leading regional organization for Judges and litigation attorneys in the government contracts field. In FY19 and FY20, CAB Judges and attorneys participated in joint training exercises, panel discussions, and case reviews with other BCABA members.

46. Please list the names of each member of the Board, and the dates their terms will expire.

Response: Please see table below.

Board Member	Current Term Start Date	Current Term End Date
Marc D. Loud, Sr., Chairman and Chief Administrative Judge	July 10, 2018	July 28, 2022 (R22-0555)
Nicholas A. Majett, Administrative Judge	September 17, 2019	July 28, 2023 (R23-0209)
Monica C. Parchment, Administrative Judge	June 27, 2017	July 28, 2021 (R22-0147)

47. Please describe the plan implemented to ensure a smooth transition from Judge McBean to Judge Majett.

Response: The overall transition plan for Judge Majett has been implemented in accordance with previous Board transitions. (Chief Judge Loud and the CAB Team transitioned then-newly appointed Judges Monica C. Parchment and Maxine E. McBean in 2011.) While aspects of Judge Majett's transition may be on-going (as appropriate), the transition plan implemented to date has consisted of the following elements:

- Full Staff Meeting and Orientation Planning Session (9/26/19)
Prior to Judge Majett joining the Board, a full staff meeting was convened to plan a Welcome Reception and Orientation Day for Judge Majett. All staff were in attendance, and the Welcome/Orientation Agenda was finalized and calendared for October 7, 2019 (Judge Majett's first official day at CAB). In addition, Board staff completed (and implemented) a checklist of CAB's internal preliminary on-boarding requirements,

including creation of Westlaw, e-mail, File & ServeXpress, and network privilege accounts, and designation/cleaning of office space, furniture, etc.

- Judge Majett's Welcome Reception and Orientation Day (October 7, 2019)
The entire CAB Team welcomed Judge Majett as an official Boardmember at a breakfast reception and orientation held in the CAB Library. Judge Majett was sworn in as a Boardmember in the Board's courtroom immediately preceding the welcome breakfast. At the welcome, Judge Majett was presented with his judicial robe and business cards, and introduced to each member of the CAB Team. This was followed by a presentation on CAB's history (from 1953 to the present), and an overview of the Board's current docket and recent trends. Judge Majett was then trained on use of the Board's File & ServeXpress software, courtroom equipment, and online calendar for trial and pretrial hearings. Following this, the Board's General Counsel met with Judge Majett and reviewed the Code of Judicial Conduct, and relevant DC Code provisions (BEGA, Hatch Act, DC Personnel Manual). To close-out Orientation, Judge Majett met with staff Attorney Jason Edwards for a full briefing on each of the cases assigned to Judge Majett as Presiding Judge. The day closed with Judge Majett and Chief Judge Loud meeting one-on-one.
- Judge Majett Updated on Board Rules Project (October 10, 2019)
- Board Order Issued Officially Assigning Designated Cases to Judge Majett as Presiding Judge (October 15, 2019)
Chief Judge Loud issued Board Orders on October 15, 2019, officially reassigning designated cases to Judge Majett as Presiding Judge. (The assigned cases were previously assigned to former CAB Judge Maxine E. McBean, and were first vetted for potential conflicts of interest prior to making the official reassignment. No conflicts were noted.)
- Judge Majett's Bio Uploaded to the Board Website (11/18/19)
- Judge Majett Attends Senior Staff Meeting and His First Accountability Session (11/20/19)

48. Has the new Information Technology Director funded in the FY 20 budget been hired? If so, please provide the date the new Director has been hired, a description of the work completed by the Director thus far, and a listing of all currently filled positions that have Information Technology functions.

Response: The new I.T. Director has not been hired. The Board is currently scheduling interviews for the top applicants, and expects to make an offer by the final week in February 2020. The Board has one position with I.T. functions (I.T. Specialist/Grade 11).

49. Please provide a status update on the project to digitize and archive case files and records. Please provide the anticipated completion date for this project, a list of any contractors utilized for the project, a description of any planned reorganization of office space resulting from the completion of the project, and the procedure for digitizing and archiving all future case files.

Response: The DC Office of Contracting and Procurement awarded the “FY20 CAB Document Scanning and Archiving Support Services Contract” to DCSS/SBE vendor SupreTech, Inc. on January 13, 2020, with the attendant Purchase Order (PO620072) issued on January 21, 2020. The Board, through its Contract Administrator, has begun initial contact with the vendor regarding retrieval and processing logistics, and anticipates the project will be completed this fiscal year. The Board will use part of the reorganized space as a smaller storage area dedicated to maintaining active, paper submissions for cases on appeal. The Board will review several use-options for the remainder of the reorganized space, and update the Committee appropriately. The current e-filing rate for new Board cases is 100%, and the Board anticipates that future e-filing rates will also be 100%. To the extent that new cases are paper filed, the Board will use existing staff to digitize and archive future case records.

50. Please provide a listing of all goods, materials, and administrative services that were provided to the Board by the Office of the Attorney General pursuant to D.C. Code § 2-360.01(c) in FY 19 and FY 20, to date.

Response: Not applicable.

51. Please provide the total of fees received pursuant to D.C. Official Code § 2-360.03 and how those fees were used to improve the Board’s services and programs, including any incentive awards funded by the fees.

Response: Not applicable.

52. Please provide any fee-for-service agreements entered into by the Board pursuant to D.C. Official Code § 2-360.03(b).

Response: Please see Attachment 4.

53. Please provide an update on the Board’s effort to update its rules. Please describe any significant changes to the rules that have occurred in FY 19 and FY 20, to date.

Response: Please see the Board’s response to Question 4 herein. Many, but not all, of the Board’s rule changes were corrections to errors or ambiguities in existing rules. While not exhaustive by any means, the following is a representative sampling of some of the changes made to the Board rules:

- (100.5) Provides an updated name for the Government Accountability Office (identified as the General Accounting Office in existing rules);
- (204, 213.1) Rule authorizes Board specifically to take judicial notice of matters for purposes of the official record (modeled on federal BCAs);
- (103.2(b)) Clarifies that “electronic filing” does not include email filing;
- (104.1(b)) Clarifies procedures for obtaining protective orders in protests/appeals as to the initial filing, all subsequent filings, and the filing of redacted exhibits;
- (112.4) Rule modeled after federal BCAs that expressly clarifies that deposition testimony can only be used at trial under certain limited circumstances;
- (114.3) Rule that requires subpoenas to be issued at least 15 calendar days before the testimony (or other evidence) is to be provided (current Board rules are silent as to how

far in advance of event/trial a subpoena for witnesses must be issued; 15 days in advance models federal BCAs);

- (201) Newly added language clarifies that Complaints must now be filed to initiate an Appeal and shifts the former Complaint provisions to 201 (formerly in 204);
- (211.8) Rule expressly providing for the Exclusion of Witnesses from hearing (along with exceptions thereto)(this provides a rule for what is currently Board practice, and follows the federal BCA practice of having a specific rule to exclude witnesses in court during hearings);
- (305.4) Rule limits a protester's (or intervenor's) deadline to 5 days after receipt of Agency Report to request the District to supplement the Agency Record;
- (303.2) Deleted Rule 303.2. Rule required CAB to provide "Telephone Notice" to the District whenever a Protest is filed. Technology has superseded the need for telephone notice. In lieu of "Telephone Notice", the File & ServeXpress platform provides the District with notice that a protest has been filed via the Board's Acknowledgement Letter, and Board staff provides the District with a courtesy email notification of a new protest filing (rendering the former telephone notice rule obsolete); and
- (311.1) Rule gives the Board sufficient flexibility to conduct virtual hearings (and other advanced modes) as appropriate, and as technology advances in the future.

54. Please describe the status and efficiency of the Board's case management software. In the opinion of the Board are additional investments necessary to improve this software?

Response: The Board currently utilizes File&ServeXpress as its primary case management software. File&ServeXpress is an extremely efficient e-file/e-serve and case management system. It is both reliable and user-friendly for litigants, and is provided to the Board at no cost. In addition, the File&ServeXpress database is generally searchable. In the past, Board staff has had discussion with representatives of File&ServeXpress to explore the development of a protocol to support the Board in generating the Administrative Record for cases on appeal to the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. Those discussions are on-going. The Board is currently interviewing for an I.T. Director (an FTE position created in the FY20 budget cycle) with overall responsibility to maintain current systems, and plan for the future. Upon hiring, the new I.T. Director will conduct a full assessment of current systems and identify areas for improvement/replacement.

55. Please list the number of complaints filed by contractors with the Board in FY 19, and FY 20, to date.

Response: In FY19, 15 contract disputes were filed with the Board. In FY20 to date, two contract disputes have been filed.

56. Please list the number of cases that were open at the beginning of FY 19, at the beginning of FY 20, and that are currently open, and the average number of days that those cases had remained open, in each of the following categories:

- a. Protests of a solicitation or award of a contract addressed to the Board by any actual or prospective bidder, offeror, or the contractor who is aggrieved in connection with the solicitation or award of a contract;

- b. Any appeal by a contractor from a final decision by the contracting officer on a claim by a contractor, when the claim arises under or relates to a contract;
- c. Any claim by the District against a contractor, when such claim arises under or relates to a contract;
- d. Quick Payment Act claims;
- e. Public-Private Partnership Act claims; and
- f. Appeals from Debarments and Suspensions.

Response: Please see table below. Note that while this table reflects calendar days, the Board's statutory standard for the disposition of protest cases is 60 business days from the filing date. D.C. Official Code § 2-360-08(d)). The Board's adopted standard for the disposition of appeal cases is no later than three years after the initial filing date.

Case Type	Cases Open on 10/1/18	Cases Open on 10/1/19	Cases Pending at Present (average number of calendar days open)
Protest	4	4	1 (70)
Contractor Appeal	15	14	11 (299)
District Claim	0	0	0 (0)
Quick Payment Act Claim	0	0	0 (0)
Public-Private Partnership Act Claim	0	0	0 (0)
Appeal from Debarments and Suspensions	0	0	0 (0)

57. Please list the total number of cases that were resolved through alternate dispute resolution or mediation, and the average number of days from filing to resolution, in FY 19 and FY 20, to date, in each of the following categories:

- a. Protests of a solicitation or award of a contract addressed to the Board by any actual or prospective bidder, offeror, or the contractor who is aggrieved in connection with the solicitation or award of a contract;
- b. Any appeal by a contractor from a final decision by the contracting officer on a claim by a contractor, when the claim arises under or relates to a contract;
- c. Any claim by the District against a contractor, when such claim arises under or relates to a contract;
- d. Quick Payment Act claims;
- e. Public-Private Partnership Act claims; and
- f. Appeals from Debarments and Suspensions.

Response: Please see table below. “Cases Settled” refers to those cases: (1) withdrawn by the protester/appellant; (2) jointly dismissed by the parties; or (3) protests dismissed after the District takes voluntary corrective action, including cancellation of the solicitation/award. Note also that while this table reflects calendar days, the Board’s statutory standard for the disposition of protest cases is 60 business days from the filing date. D.C. Official Code § 2-360-08(d)). The Board’s adopted standard for the disposition of appeal cases is four months from the case being ready for decision.

Case Type	FY19 Cases Settled (average number of calendar days from filing to resolution)	FY20 Cases Settled (average number of calendar days from filing to resolution)
Protest	10 (31)*	4 (39)
Contractor Appeal	9 (332)	4 (284)
District Claim	0 (0)	0 (0)
Quick Payment Act Claim	0 (0)	0 (0)
Public-Private Partnership Act Claim	0 (0)	0 (0)
Appeal from Debarments and Suspensions	0 (0)	0 (0)

* This computation excludes any Board case settled after a final Board written decision has been issued.

58. Please describe any efforts made to expand the use of Alternative Dispute Resolution in FY 19 and FY 20, to date.

Response: The Board routinely offers parties an opportunity to seek settlement through Scheduling Orders (issued the first 45 days after filing in Appeals cases). In FY20, the Board has scheduled special status conferences in two cases to explore settlement. In one case, the parties agreed during the status conference to discuss settlement with their clients and report back to the Board in 30 days (still pending). In a second case, the parties requested that the Board postpone the status conference to allow them more time to explore settlement directly. Subsequent thereto, the case settled. The Board will continue making efforts in FY20 to encourage and offer settlement opportunities.

59. Please list the number of cases closed, and the average number of days closed cases were open, in FY 19 and FY 20, to date, in each of the following categories:

- a. Protests of a solicitation or award of a contract addressed to the Board by any actual or prospective bidder, offeror, or the contractor who is aggrieved in connection with the solicitation or award of a contract;
- b. Any appeal by a contractor from a final decision by the contracting officer on a claim by a contractor, when the claim arises under or relates to a contract;
- c. Any claim by the District against a contractor, when such claim arises under or relates to a contract;
- d. Quick Payment Act claims;
- e. Public-Private Partnership Act claims; and
- f. Appeals from Debarments and Suspensions.

Response: Please see table below. Note that while this table reflects calendar days, the Board's statutory standard for the disposition of protest cases is 60 business days from the filing date. D.C. Official Code § 2-360-08(d)). The Board's adopted standard for the disposition of appeal cases is no later than three years after the initial filing date.

Case Type	FY19 Cases Closed (average number of calendar days from filing to resolution)	FY20 Cases Closed (average number of calendar days from filing to resolution)
Protest	19 (61)*	9 (76)
Contractor Appeal	16 (644)	5 (323)
District Claim	0 (0)	0 (0)
Quick Payment Act Claim	0 (0)	0 (0)
Public-Private Partnership Act Claim	0 (0)	0 (0)
Appeal from Debarments and Suspensions	0 (0)	0 (0)

* This computation excludes any Board case settled after a final Board written decision has been issued.

60. How many cases were resolved through the accelerated disposition procedure described in D.C. Official Code § 2-360.04(c) in FY 19 and FY 20, to date?

Response: In FY19, one case was resolved utilizing the Boards accelerated disposition procedure; no cases have been resolved using this procedure in FY20, to date.

61. How many cases were resolved through the small claims procedure described in D.C. Official Code § 2-360.04(d) in FY 19 and FY 20, to date?

Response: None.

62. How many appeals of Board decisions were made to another tribunal in FY 18, and FY 19, to date, by the Chief Procurement Officer? By other parties? In how many appeals of Board decisions in FY 19, and FY 20, to date, was the decision of the Board fully upheld? Overturned in part?

Response: Please see table below. The Board understands this question to refer to FY19 and FY20, to date, appeals. In FY19 three appeals were filed. No appeals have been filed in FY20 through January 22, 2020. During the relevant period, a decision of the Board has been fully upheld, and no Board decisions have been overturned in whole or in part.

Fiscal Year	Total Cases Closed by CAB	Total Appeals to Other Tribunals Filed	Appeals filed to Other Tribunals by District	Appeals filed to Other Tribunals by Other Parties	Disposition
FY19	36	3	1	2	One appeal dismissed; two appeals pending
FY20	14	n/a	n/a	n/a	n/a

63. In how many cases were the Board's decisions on questions of fact set aside on appeal in FY 19 and FY 20, to date?

Response: None.

64. In how many cases in FY 19, and FY 20, to date, did the Board report the neglect or refusal of a subpoena to a judge of the Superior Court of the District of Columbia?

Response: None.

65. In how many cases in FY 19, and FY 20, to date, did the Chief Procurement Officer make a written determination that urgent and compelling circumstances that significantly affect the interest of the District would not permit waiting for the decision of the Board concerning a protest before performance may proceed?

Response: There were four such cases in FY19 and two cases in FY20, to date.

66. In how many cases in FY 19, and FY 20, to date, did the Board sustain a protest on the basis that an agency's determination of its minimum needs or of the best method of accommodating those minimum needs lacked a reasonable basis?

Response: None.

67. In how many cases in FY 19, and FY 20, to date, did the Board order, after a protest was sustained, that a contract awarded under a solicitation be terminated for the convenience of the District?

Response: None.

68. How many protests were dismissed by the Board in FY 19 and FY 20, to date, for being frivolous?

Response: None.

69. Which cases, if any, appealed to the District of Columbia Court of Appeals were decided in FY 19, and FY 20, to date? Who appealed CAB's decision in each case? What was the Court's decision in each case?

Response: Please see table below.

Party Appealing Decision	CAB Case No.	Court	Date Decided by DCCA	Disposition
District	D-1385	DCCA	7/3/2019	Board Affirmed
Rustler Construction, Inc.	D-1385	DCCA	7/3/2019	Board Affirmed

70. Is there anything else regarding the performance of the Board, not otherwise covered by these questions, that the Board would like to highlight for the Committee?

Response: In FY19, the Board closed 100% (16) of **Protest** cases within the statutorily required 60 business days. D.C. Code § 2-360.08(d). Moreover, the Board ended FY19 with a record

low pending **Appeals** cases (16), fifteen (15) of which are two-years old or less, and none of which are more than three (3) years-old.

Additionally in FY19, the Board's unique expertise in government contract adjudication was acknowledged by the DC Court of Appeals and the DC Superior Court in written opinions affirming two recent Board decisions: *Rustler Construction, Inc. v. District of Columbia*, 211 A.3d 187 (D.C. 2019), and *Spectrum Mgmt. LLC v. District of Columbia Board of Contract Appeals*, No. 2019 CA 001266 P (MPA) (D.C. Super. Ct. Sept. 11, 2019). In the 26 page *Rustler* case, Associate Judge John R. Fisher dismissed cross-petitions challenging the Board's damages award in a case involving roadway improvements, noting that the Board had "thoroughly scrutinized records" to support its factual analysis, and that its legal analyses of familiar (e.g., "critical path method") and less familiar (e.g., "jury verdict method") government contract issues was entirely correct.

The Board wishes to thank this Committee for the opportunity to provide a status on the Board's FY19 and FY20 to date performance. The Board acknowledges the teamwork conducted at CAB in furtherance of our mission.



**DC CONTRACT APPEALS BOARD
FY2019-2020 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 1
DC CONTRACT APPEALS BOARD
FY20 Performance Plan**

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Contract Appeals Board FY2020

Agency Contract Appeals Board

Agency Code AFO

Fiscal Year 2020

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.

Strategic Objectives

Objective Number	Strategic Objective
1	Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.
2	Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction.
3	Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public.

Key Performance Indicators

Measure	Directionality	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Target
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (4 Measures)					
Percent of Appeals resolved within 4 months of the cases being ready for decision	Up is Better	80%	84.2%	81.3%	90%
Percent of Protests resolved within 60 business days	Up is Better	87%	90.9%	100%	95%
Percent of decisions sustained on appeal	Up is Better	100%	No Applicable Incidents	100%	100%
Percent of pending Appeals that are three years old or less	Up is Better	92.9%	86.7%	100%	90%
2 - Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction. (1 Measure)					
Percent of cases resolved through settlement	Up is Better	48.4%	55.4%	55.6%	50%
3 - Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public. (2 Measures)					
Percent of new cases using electronic filing system	Up is Better	100%	100%	100%	100%
Percent 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	Up is Better	100%	100%	100%	100%

Operations

Operations Header	Operations Title	Operations Description	Type of Operations
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (1 Activity)			

Operations Header	Operations Title	Operations Description	Type of Operations
ADJUDICATION	Reduce the number of open appeal cases that are three years or older through docket review and strategic resource allocation	Working goal to reduce the number of cases that are three years or older to less than 5 percent.	Daily Service
2 - Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction. (1 Activity)			
ADJUDICATION	Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models	At the inception of each case, CAB encourages mediation/settlement through Scheduling Orders. Further, the Presiding Judge in each case encourages mediation/settlement during the pretrial conference. CAB will continue to build upon its capacity to offer meaningful settlement/mediation opportunities to litigants.	Daily Service
3 - Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public. (1 Activity)			
ADJUDICATION	Increase digital archiving and electronic filing of new cases to provide full-text searching and, therefore, greater transparency for litigants, the contracting community and the public	Completion of digital archiving and loading into the database of historical appeal and protest cases permitting web-based retrieval and full-text searching capability by the parties with pending cases and the public, while promoting electronic filing and uploading of documents in all newly filed cases.	Key Project

Workload Measures

Measure	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual
1 - ADJUDICATION (2 Measures)			
Number of new cases filed	48	46	35
Number of cases resolved	64	56	36
2 - ADJUDICATION (2 Measures)			
Number of Scheduling Orders issued encouraging settlement	48	46	35
Number of cases resolved through settlement/voluntary withdrawal	31	31	20
3 - ADJUDICATION (3 Measures)			
Number of archived protest and appeals cases digitized and uploaded to the public website	64	20	0
Number of new cases filed and processed electronically	48	46	35
Number of documents filed in new cases	1933	1461	1376

Strategic Initiatives

Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date
Increase digital archiving and electronic filing of new cases to provide full-text searching and, therefore, greater transparency for litigants, the contracting community and the public (2 Strategic initiatives)		

Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date
Completion of Scanning and Archiving of Pre E-Filed Board Cases	The Mayor and DC Council (as recommended by the Committee on Facilities and Procurement) allotted funding in FY20 for the Board to solicit contracting assistance to finalize scanning and archiving of remaining pre-e-filed cases at the Board.	09-30-2020
CAB IT Director	The Mayor and DC Council (as recommended by the Committee on Facilities and Procurement) allotted funding in FY20 for the Board to hire a senior IT Director to assist in bringing to the Board state-of-the-art courtroom technology related to e-filing, public accessibility, transparency and other mission-critical IT initiatives.	09-30-2020



**DC CONTRACT APPEALS BOARD
FY2019-2020 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 2
DC CONTRACT APPEALS BOARD
FY19 Performance Plan**

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Contract Appeals Board FY2019

Agency Contract Appeals Board

Agency Code AFO

Fiscal Year 2019

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.

• 2019 Strategic Objectives

Objective Number	Strategic Objective
1	Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.
2	Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction.
3	Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public.

• 2019 Key Performance Indicators

Measure	Directionality	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (4 Measures)					
Percent of pending cases that are three years old or less	Up is Better	75%	92.9%	86.7%	90%
Percent of appeals resolved within 4 months of the cases being ready for decision	Up is Better	91.7%	80%	84.2%	90%
Percent of Protests resolved within 60 business days	Up is Better	83.3%	87%	90.9%	95%
Percent of decisions sustained on appeal	Up is Better	Not Available	100%	No applicable incidents	100%
2 - Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction. (1 Measure)					
Percent of cases resolved through settlement	Up is Better	72.9%	48.4%	55.4%	50%
3 - Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public. (2 Measures)					
Percent of new cases using electronic filing system	Up is Better	100%	100%	100%	100%
	Up is Better	100%	100%	100%	100%

Measure	Directionality	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target
Percent 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					

• 2019 Operations

Operations Header	Operations Title	Operations Description	Type of Operations
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (1 Activity)			
ADJUDICATION	Reduce the number of open appeal cases that are three years or older through docket review and strategic resource allocation	Working goal to reduce the number of cases that are three years or older to less than 5 percent.	Daily Service
2 - Increase use of Alternative Dispute Resolution (ADR) in resolving cases without the need for traditional litigation models, resulting in faster, more efficient dispositions of cases and greater party satisfaction. (1 Activity)			
ADJUDICATION	Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models	At the inception of each case, CAB encourages mediation/settlement through Scheduling Orders. Further, the Presiding Judge in each case encourages mediation/settlement during the pretrial conference. CAB will continue to build upon its capacity to offer meaningful settlement/mediation opportunities to litigants.	Daily Service
3 - Create and maintain a highly efficient, transparent and responsive District government through the digital archiving and electronic filing of all Board cases permitting web-based retrieval and full-text searching by the parties with pending cases and the public. (1 Activity)			
ADJUDICATION	Increase digital archiving and electronic filing of new cases to provide full-text searching and, therefore, greater transparency for litigants, the contracting community and the public	Completion of digital archiving and loading into the database of historical appeal and protest cases permitting web-based retrieval and full-text searching capability by the parties with pending cases and the public, while promoting electronic filing and uploading of documents in all newly filed cases.	Key Project

• 2019 Workload Measures

Measure	FY 2016	FY 2017	FY 2018
1 - Reduce the number of open appeal cases that are three years or older through docket review and strategic resource allocation (2 Measures)			
Number of new cases filed	33	48	46
Number of cases resolved	48	64	56
2 - Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models (2 Measures)			

Measure	FY 2016	FY 2017	FY 2018
Number of Scheduling Orders issued encouraging settlement	33	48	46
Number of cases resolved through settlement/voluntary withdrawal	35	31	31
3 - Increase digital archiving and electronic filing of new cases to provide full-text searching and, therefore, greater transparency for litigants, the contracting community and the public (3 Measures)			
Number of archived protest and appeals cases digitized and uploaded to the public website	48	64	20
Number of new cases filed and processed electronically	33	48	46
Number of documents filed in new cases	1783	1933	1461

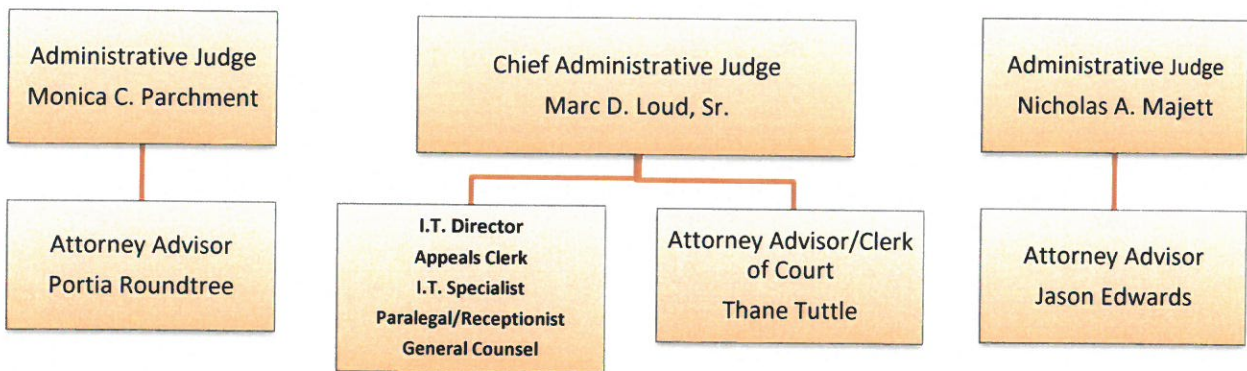
• 2019 Strategic Initiatives

Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date
No strategic initiatives found		



**DC CONTRACT APPEALS BOARD
FY2019-2020 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 3
DC CONTRACT APPEALS BOARD
ORGANIZATIONAL CHART
(Effective December 9, 2019)**





**DC CONTRACT APPEALS BOARD
FY2019-2020 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 4
DC CONTRACT APPEALS BOARD
CURRENT MEMORANDA OF UNDERSTANDING**


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OFFICE OF THE CHIEF TECHNOLOGY
OFFICER
GOVERNMENT OF THE DISTRICT OF COLUMBIA



MOU Routing Slip
OCTO Executive Brief
Form

OCTO Department: Infrastructure/ECIS		Program Manager: Anthony Watkis	
Agency: District of Columbia Contract Appeals Board (CAB)		Dollar Amount: \$1,003.20	
Date Submitted: 10/26/2018		eMOU#: TO0AF0-2019-01134	
Project Description: Office 365 Enterprise License			
Risks: • None			
Challenges: • None			
Urgency: <input type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite			
APPROVAL FLOW			
NAME/CORRESPONDENCE SYMBOL	REQUIRED ACTION (S)	RELEASED	
		INITIAL	DATE
1. Project Coordinator, Cheryl Harris	Required	CH	10/26/2018
2. General Counsel, Pam Brown	Required	PB	10/26/2018
3. Chief of Staff, Carol Harrision	Required	CAH	10/26/2018
4. Interim CTO, Barney Krucoff	Required	BK	10/26/2018

OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA ★ ★ ★ 		MOU Executive Brief OCTO Division	
OCTO Deputy/Executive: Carol Harrison		Program Manager: Anthony Watkis	
Agency: DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD (CAB)		Dollar Amount: \$1,003.20	
Date Submitted: Oct 23 2018 4:26PM		eMOU #: TO0AF0-2019-01134	
Project Description: This MOU covers CAB for the costs of the Microsoft Office 365 Enterprise license for total of 11 E1 licenses. Cost provided through OCTO's global contract. This amount will be paid to DELL by OCTO on behalf of CAB.			
Risks: None			
Challenges: Collect the fund ASAP			
Urgency: <input type="checkbox"/> Normal <input type="checkbox"/> Rush <input type="checkbox"/> Expedite			



MEMORANDUM OF UNDERSTANDING
BETWEEN
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD
AND
DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY
OFFICER
FOR FISCAL YEAR 2019

MOU Number: TO0AF0-2019-01134

I. INTRODUCTION

This Memorandum of Understanding ("MOU") is entered into between the **DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD (CAB or "Buyer Agency")** and the **District of Columbia OFFICE OF CHIEF TECHNOLOGY OFFICER ("OCTO" or "Seller Agency")**, collectively referred to herein as the "Parties" and individually as "Party."

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k);

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

This MOU covers CAB for the costs of the Microsoft Office 365 Enterprise license for total of 11 EI licenses. Cost provided through OCTO's global contract. This amount will be paid to DELL by OCTO on behalf of CAB.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

A. RESPONSIBILITIES OF SELLER AGENCY

The Seller Agency shall:

- (1) Enter into (if it has not yet entered into) and maintain a contract with Microsoft or a certified Microsoft reseller under which Microsoft Office 365 Enterprise EI cloud-based subscription plan services will be provided to each employee, contractor, or other Participating-Agency- designated person (hereinafter referred to as a "user") of Participating Agency, up to the number of users listed in Appendix A ;
- (2) Under the contract with Microsoft, OCTO shall ensure that the following minimum services will be provided to each user:
 - a. Email services through Outlook/Exchange online with a 50 GB mailbox per user (once the user's mailbox has been migrated to the cloud);

- b. OneDrive for Business with 1 TB of file storage per user;
- c. Skype for Business, allowing instant messages;
- d. Office Online only mode including Word, Excel, PowerPoint, and One Note;
- e. SharePoint Online; and
- f. Chat-based workplaces through Microsoft Teams

(3) OCTO shall provide a quarterly report to the Buyer agency. The quarterly report shall include the following information:

- a. The number of active Microsoft Office 365 Office Enterprise E1 user licenses provisioned to users within the Participating Agency;
- b. The total number of Microsoft Office 365 Office Enterprise E1 user licenses allocated to the Participating Agency (including both provisioned and unprovisioned licenses);
- c. The number of unprovisioned Microsoft Office 365 Office Enterprise E1 licenses allocated to the Participating Agency.

Appendix A

E1 Quantity :11 Unit Price : \$91.20

Total MOU cost for subscription: \$1,003.20

B. RESPONSIBILITIES OF BUYER AGENCY

The Buyer Agency shall make an intra-District transfer to OCTO as required by this MOU, in the amount set forth in Appendix A.

V. DURATION OF MOU

The duration of this MOU shall be for **Fiscal Year 2019**, and shall begin on the later of either **Oct 01, 2018**, or the last date of execution by the Parties, and shall expire on **Sep 30, 2019**, unless terminated in writing by the Parties prior to expiration pursuant to Section VII of this MOU.

VI. FUNDING PROVISIONS

A. COST OF SERVICES

The total cost for goods and/or services under this MOU shall not exceed **\$1,003.20** for Fiscal Year 2019. Funding for goods and/or services shall not exceed the actual cost of the goods and/or services provided, based on the rates provided in the budget, attached hereto as Appendix A.

Appendix A

E1 Quantity :11 Unit Price : \$91.20

Total MOU cost for subscription: \$1,003.20

B. PAYMENT

(1) Payment for the goods and/or services shall be made through an Intra-District advance by the Buyer

Agency to the Seller Agency based on the total amount of this MOU \$1,003.20.

a. Advances to the Seller Agency for the services to be performed and/or goods to be provided shall not exceed the actual costs of the goods or services or the amount of this MOU.

b. The Seller Agency shall receive the advance and bill the Buyer Agency through the Intra-District process only for those goods and/or services actually provided pursuant to the terms of this MOU.

(2) The Seller Agency shall provide the Buyer Agency with online access to listing of itemized services, as well as upon request of the Buyer Agency, which shall be available online at <https://services.dcnnet.dc.gov>.

(3) The Seller Agency shall:

a. Notify the Buyer Agency within forty-five (45) days prior to the close of the fiscal year if it has reason to believe that all of the advance will not be billed during the current fiscal year.

b. Return any excess advance to the Buyer Agency by September 30 of the current fiscal year.

(4) In the event of termination of this MOU, payment to the Seller Agency shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

C. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation, and that all provisions of this MOU, or any subsequent agreement entered into by the Parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. TERMINATION

Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.

VIII. NOTICES

The following individuals are the contact points for each Party:

CAB

Poindexter, Mark (CAB)

441 4th Street, NW, Suite 350-N

Washington, DC 20001

Phone: (202) 727-2841

Email : mark.poindexter@dc.gov

OCTO

Anthony Watkis

Program Manager

200 I ST SE, 5th Floor

Washington, D.C. 20003

Phone : 202-727-7498

Email : Anthony.Watkis@dc.gov

IX. MODIFICATIONS

This MOU may be modified only upon prior written agreement of the Parties. Modifications shall be dated and signed by the authorized representatives of the Parties.

X. CONSISTENT WITH LAW

The Parties shall comply with all applicable federal and District laws, rules and regulations whether now in effect or hereafter enacted or promulgated.

XI. COMPLIANCE AND MONITORING

The Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

XII. RECORDS AND REPORTS

The Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three (3) years from the date of expiration or termination of this MOU and, upon the Buyer Agency's or the District of Columbia's request, make these documents available for inspection by duly authorized representatives of the Buyer Agency or other officials of the District of Columbia as may be specified by the District of Columbia in its sole discretion.

XIII. PROCUREMENT PRACTICES ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent, contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01, et seq.) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES


The Parties' Directors or designees shall resolve all adjustments and disputes arising from services performed under this MOU. The decision of the Parties' Directors related to any disputes referred shall be final. In the event that the Parties are unable to resolve a financial issue, the matter shall be referred to the D.C. Office of the Chief Financial Officer, Office of Financial Operations and Systems.

XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and District statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

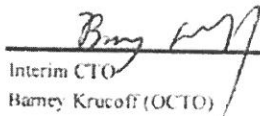
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD



Marc Lodd

Date: 10/25/18

DISTRICT OF COLUMBIA OFFICE OF THE CHIEF TECHNOLOGY OFFICER



Interim CTO

Barney Krucoff (OCTO)

Date: 10/30/18

INTRA-DISTRICT STANDARD REQUEST FORM
Government of District of Columbia

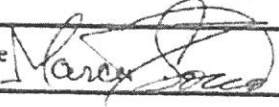
MOU Number: TO0AF0-2019-01134

Date of MOU: 10/23/2018

Buyer Information

Agency CAB
Name: Marc D. Land, Chief Judge
Name of Contact:
Telephone #: (202) 727-2841
MDL 10/25/18
202-727-6597

Agency AF0
Code:
Address: 717 14th Street NW
MDL 10/25/18
441 4th St., NW.
Suite 350N
Washington, D.C.
20001
Fax #:
Date: 10/25/18

Signature: 

Seller Information

Agency OCTO
Name:
Name of Contact:
Telephone #:

Agency TO0
Code:
Address: 200 I ST, SE WASHINGTON, DC
20003
Fax #:
Date:

Signature: _____

Service Information and Funding Codes

GOOD/
SERVICE:

Buyer

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
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Seller

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
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eMOU Approval History

10/23/2018 4:27:54
PM

TO0AF0-2019-01134

Step Name	Name	Status Name	Status Date	Comments
MOU Author Review	Shimul Saha (OCTO)	Approved	10/23/2018 4:27:45 PM	

OFFICE OF THE CHIEF TECHNOLOGY OFFICER

GOVERNMENT OF THE DISTRICT OF COLUMBIA



MOU Executive Brief
OCTO Division

OCTO Deputy/Executive:

Carol Washington

Program Manager:

Anthony Watkis

Agency:

Contract Appeals Board (CAB)

Dollar Amount:

\$11,951.11

Date Submitted:

Mar 29 2017 3:22PM

eMOU#:

TO0AF0-2017-0900

Project Description:

CAB has requested OCTO ECIS to migrate App and file server to the OCTO environment from CAB environment. OCTO will provide two new windows VM and one SQL vm with additional resources for this migration.

Risks:

none

Challenges:

none

Urgency:

☐ Normal

☐ Rush

☒ Expedite



MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRACT APPEALS BOARD
AND
OFFICE OF THE CHIEF TECHNOLOGY OFFICER
FOR FISCAL YEAR 2017

MOU Number: TO0AF0-2017-0900

I. INTRODUCTION

This Memorandum of Understanding (this "MOU") is entered into between the Contract Appeals Board, ("CAB" or "Buyer Agency") and the Office of the Chief Technology Officer, ("OCTO" or "Seller Agency"), collectively referred to herein as the "Parties".

II. LEGAL AUTHORITY FOR MOU

D.C. Official Code § 1-301.01(k) (2011 Supp.).

III. OVERVIEW OF PROGRAM GOALS AND OBJECTIVES

CAB has requested OCTO Enterprise Cloud and Infrastructure Services, ECIS to migrate their Application and file server to the OCTO environment. OCTO will provide two (2) new windows VM and one (1) SQL vm with additional resources for this migration.

IV. SCOPE OF SERVICES

Pursuant to the applicable authorities and in the furtherance of the shared goals of the Parties to carry out the purposes of this MOU expeditiously and economically, the Parties hereby agree as follows:

RESPONSIBILITIES OF SELLER AGENCY

Seller Agency is responsible to provide the resource below:

1. One (1) File server with (2 CPU, 2GB RAM, 875 GB storage and backup , OS 2012).
2. One (1) Application server with (2 CPU, 4GB RAM, 326 GB Storage and Backup , OS 2012).
3. One (1) SQL server with (2 CPU, 4GB RAM 320 GB Storage and Backup, SQL2012).

RESPONSIBILITIES OF BUYER AGENCY

CAB and/or its application vendors will be responsible for installing and configuring individual applications\ systems and databases on servers.

V. DURATION OF THIS MOU

PERIOD

The period of this MOU shall be for **Fiscal Year 2017** from **Oct 01, 2016** through **Sep 30, 2017** unless terminated in writing by the Parties pursuant to Section XI of this **MOU**.

EXTENSION

N/A

VI. FUNDING PROVISIONS

COST OF SERVICES

Total cost for goods and/or services under this MOU shall not exceed **\$11,951.11** for **Fiscal Year 2017**.

PAYMENT

Payment for the actual cost of the goods and/or services shall be made through an Intra-District advance by Buyer Agency to Seller Agency based on the total amount of this MOU.

ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that nothing in this MOU creates a financial obligation in anticipation of an appropriation and that all provisions of this MOU, or any subsequent agreement entered into by the parties pursuant to this MOU, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

VII. AMENDMENTS AND MODIFICATIONS

This MOU may be amended or modified only upon prior written agreement of the Parties. Amendments or modifications shall be dated and signed by the authorized representatives of the Parties.

VIII. CONSISTENT WITH LAW

The Parties shall comply with all applicable laws, rules and regulations whether now in effect of hereafter enacted or promulgated.

IX. COMPLIANCE AND MONITORING

Seller Agency will be subject to scheduled and unscheduled monitoring reviews to ensure compliance with all applicable requirements.

X. RECORDS AND REPORTS

Seller Agency shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOU for a period of no less than three years from the date of expiration or termination of this MOU and, upon the District of Columbia's request, make these documents available for inspection by duly authorized representatives of Buyer Agency and other officials as may be specified by the District of Columbia in its sole discretion.

XI. TERMINATION

Either Party may terminate this MOU in whole or in part by giving [14] calendar days advance written notice to the other Party. In the event of termination of this MOU, payment to the Seller Agency shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

XII. NOTICES

The following individuals are the contact points for each Party:

Contract Appeals Board

Poindexter, Mark (CAB)

(202) 727-2841

mark.poindexter@dc.gov

Office of the Chief Technology Officer

Anthony Watkis

Anthony.Watkis@dc.gov

XIII. PROCUREMENT PRACTICES REFORM ACT

If a District of Columbia agency or instrumentality plans to utilize the goods and/or services of an agent, contractor, consultant or other third party to provide any of the goods and/or services under this MOU, then the agency or instrumentality shall abide by the provisions of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-351.01, *et seq.*) to procure the goods or services.

XIV. RESOLUTION OF DISPUTES

The Director of CAB and the Chief Technology Officer, or their designees, shall resolve all disputes and/or adjustments resulting from goods or services provided under this MOU. In the event the parties cannot resolve a dispute, the matter shall be referred to City Administrator. The decision of the City Administrator related to any disputes referred shall be final. In the event the Parties are unable to resolve a financial issue, the matter shall be referred to the Office of Financial Operations and Systems.

XV. CONFIDENTIAL INFORMATION

The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and local statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with the performance of this MOU shall remain the property of the Buyer Agency.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as follows:

A. BUYER AGENCY



(Chief Judge)

Date: 6/12/17

CONTRACT APPEALS BOARD, DISTRICT OF COLUMBIA

B. SELLER AGENCY

Date:

OFFICE OF THE CHIEF TECHNOLOGY OFFICER

INTRA-DISTRICT STANDARD REQUEST FORM

Government of District of Columbia

MOU Number: TO0AF0-2017-0900

Date of MOU: 04/03/2017

Buyer Information

Agency Name: Contract Appeals Board

Agency Code: AF0

Name of Contact:

Address: 717 14th Street NW

Telephone #: (202) 727-2841

Fax #:

Date: 6/12/17

Signature

Seller Information

Agency Name: Office of the Chief Technology Officer

Agency Code: TO0

Name of Contact:

Address: 200 I ST, SE WASHINGTON, DC

Signature

Date:

Service Information and Funding Codes

GOOD/ SERVICE:

Buyer

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
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Seller

AGY	YR	ORG	FUND	INDEX	PCA	OBJ	AOBJ	GRANT	PROJ	AG1	AG2	AG3	AMOUNT
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eMOU Approval History

6/12/201 10:39:55AM

TO0AF0-2017-0900

Step Name	Name	Status	Status Date	Comments
MOU Author Review	Shimul Saha (OCTO)	Approved	3/29/2017	
OCTO Program Manager Review	Anthony Watkis (OCTO)	Approved	3/29/2017	
OCTO General Counsel Review	Brown, Pamela (DCHR) (OCTO)	Approved	4/3/2017 7:51:41PM	
Deputy CTO Review	Carol Washington (OCTO)	Approved	4/26/2017	
OCTO PMO Quality Control Review	Khaled Falah (OCTO)	Approved	4/26/2017	
OCFO General Counsel Review	Mills, Stacie (OCFO) (OCFO)	Approved	4/27/2017 4:33:11PM	legally sufficient
Strategic Investments Review	Tehsin Faruk (OCTO)	Approved	5/6/2017 11:53:42AM	

**MEMORANDUM OF AGREEMENT BETWEEN
DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY
AND
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

Pursuant to the authority of § 2-360.03(b) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 ("PPRA," D.C. Law 18-371; D.C. Official Code § 2-360.03(b)) and D.C. Official Code § 1-301.01(k) and § 31-3171.06(d)(1), the District of Columbia Health Benefit Exchange Authority ("HBX") and the District of Columbia Contract Appeals Board ("CAB") agree that CAB shall serve as the hearing tribunal for HBX claims and appeals. This memorandum of agreement ("MOA") is made in accordance with the following terms and provisions:

1. Under the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 et seq.) as amended by the Procurement Practices Reform Exemption Amendment Act of 2014, effective March 14, 2014 (D.C. Law 20-271; D.C. Official Code § 31-3171.04 and § 2-351.01 et seq.), HBX has procurement authority independent of the Office of Contracting and Procurement, subject to only certain provisions of the PPRA. Consistent with this authority, on September 10, 2014, the Health Benefit Exchange Authority Board adopted the District of Columbia Health Benefit Authority Contracting and Procurement Policies and Procedures (September 10, 2014) (available at <http://hbx.dc.gov/node/476592>) (hereinafter the "HBXCPP") to govern procurements of goods and services undertaken by the Authority, including procedures for protests, remedial actions and prohibited conduct. HBX has requested the CAB to serve as the hearing tribunal for appeals and HBX claims.

2. The CAB shall have jurisdiction to review and determine de novo appeals of final HBX decisions by the Executive Director or designated procurement officer and HBX claims consistent with D.C. Code § 2-360.03(a). The CAB acknowledges that HBX is exempt from the PPRA pursuant to D.C. Code § 2-351.05(c) (17). The parties agree that the HBXCPP will govern substantive issues on appeal and claims, as applicable, while the CAB proceedings will be governed by the Board's Rules of Procedure.

3. The CAB shall provide (a) the necessary services of its judges, and (b) the necessary services of its staff and all appropriate resources pursuant to the terms of this agreement, consistent with the manner in which CAB provides such services in cases under the PPRA. HBX is responsible for providing a court reporter for transcribing hearings as requested by CAB and per CAB rules. Periodic status conferences may be held telephonically and may not require a court reporter.

4. All services will be provided on a cost reimbursable basis, in an amount not to exceed \$25,000 per fiscal year. This amount may be increased by agreement of the parties, to reimburse the CAB for necessary services exceeding \$25,000 per fiscal year. Payment shall be made in accordance with the following terms:

a. HBX will reimburse CAB for the actual costs of services as follows: each panel judge's actual hours spent on the case (with a supporting brief entry of the work that is provided and hourly time billed to hour increments) multiplied by the sum of: (i) the judge's hourly salary rate, plus (ii) the applicable fringe benefits on the hourly salary rate as determined by the Office of Finance and Resource Management ("OFRM"), plus (iii) an overhead rate of 25 percent of the judge's hourly salary rate (this covers reimbursement for all CAB resources provided under Paragraph 3 above). In addition, the actual hours spent on the case by the CAB General Counsel and Attorney-Advisor shall be reimbursable multiplied by the sum of the applicable hourly rate including fringe benefits. Reimbursement for services rendered shall be calculated using the salary and fringe benefit amounts effective at the time services are rendered.

b. CAB shall submit invoices to HBX on a quarterly basis, and HBX shall make prompt and full payment upon presentation of properly invoiced amounts. HBX payments shall be by check payable to the District of Columbia Treasurer, and shall include the unique HBX Tax ID number, 46-1542132.

c. Payment will be made only upon presentation of properly invoiced amounts containing supporting entries indicating the work provided and corresponding hourly increments, in accordance with the terms of this MOA. The cost elements of each assigned dispute from HBX for which services are provided by CAB will be kept separate by CAB docket number.

5. The CAB and HBX may extend the term of this MOA by exercising a maximum of five (5) one (1) year option periods. The total term of this MOA, including the exercise of any option clause, may not exceed six (6) years. The parties agree that this MOA shall expire on September 30 annually and shall automatically renew, unless terminated with thirty (30) days written notice by either party.

6. The exercise of an option period is subject to the availability of funds at the time of the exercise of the option.

7. This MOA may be amended or modified only upon prior written agreement of the Parties. Amendments or modifications shall be dated and signed by the authorized representatives of the Parties. Either Party may terminate this MOA in whole or in part by giving ninety (90) calendar days advance written notice to the other Party. In the event of termination of this MOA, payment to CAB shall be held in abeyance until all required fiscal reconciliation, but not later than September 30 of the then current fiscal year.

8. Sections 6 and 7 notwithstanding, in the event of termination of this MOA, this MOA shall continue to apply to any matters being adjudicated by CAB pursuant to this agreement.

9. The Parties acknowledge and agree that nothing in this MOA creates a financial obligation in anticipation of an appropriation and that all provisions of this MOA, or any subsequent agreement entered into by the Parties pursuant to this MOA, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-deficiency Act, D.C. Official Code §§ 47-355.01-355.08, (iii) D.C. Official Code § 47-105, and (iv) D.C. Official Code § 1-204.46, as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly conditioned.

10. As this MOA is funded by the District of Columbia and to the extent this MOA is funded by the federal government, the Parties acknowledge that they may be subject to scheduled and unscheduled monitoring reviews and audits.

11. CAB shall maintain records and receipts for the expenditure of all funds provided pursuant to this MOA for a period of no less than two years from the date of expiration or termination of this MOA and, upon the District of Columbia's request or the federal government requests, make these documents available for inspection by duly authorized representatives of HBX and other officials as may be specified by HBX or the District of Columbia in their sole discretion.

12. The Parties to this MOA will use, restrict, safeguard and dispose of all information related to services provided by this MOA in accordance with all relevant federal and local statutes, regulations, and policies.

13. The Directors for the respective agencies, or their designees, shall resolve all disputes and/or adjustments resulting from goods or services provided under this MOA. In the event the Parties are unable to resolve a financial issue, the matter shall be referred to the Office of Financial Operations and Systems.

14. If goods or services of an agent or third party (e.g., contractor, consultant) are necessary under this Agreement:

- a. CAB shall abide by the provisions of the PPRA to procure the goods or services;
- b. HBX shall abide by the provisions of the HBXCPP to procure the goods or services of the agent or third party.

15. The points of contact responsible for administration of this MOA are:

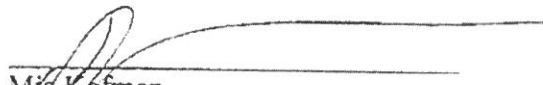
HBX: Melanie Williamson
Associate General Counsel
DC Health Benefit Exchange Authority
1225 I Street, N.W., 4th Floor
Washington, DC 20005
Phone: (202) 727-4063

CAB: Richard K. Rothschild
General Counsel
D.C. Contract Appeals Board
441 4th Street N.W., Suite 350N
Washington, DC 20001
Phone: (202) 727-4109

Either party may unilaterally change the identity of the person to whom the notice is to be given, or the address for the notice, with ten (10) calendar days advance written notice to the other Party.

DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

BY:


Mila Kofman

Mila

TITLE: Executive Director

DATE:

6/24/15

DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

BY:


Marc D. Loud, Sr.

TITLE: Chief Administrative Judge

DATE:

6/23/15

**MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN
DEPARTMENT OF ENERGY AND ENVIRONMENT
AND
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

Pursuant to the authority of § 1003(b) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 ("PPRA," D.C. Law 18-371; D.C. Official Code § 2-360.03(b)), the Department of Energy and Environment ("DOEE") and the District of Columbia Contract Appeals Board ("CAB") agree that CAB shall serve as the hearing tribunal for DOEE's contracts with the Sustainable Energy Utility ("SEU") contractor and the Energy Efficiency Financing Act ("EEFA") administrator. This memorandum of understanding ("MOU") is made in accordance with the following terms and provisions:

1. CAB shall have jurisdiction to review and determine de novo appeals, protests, and DOEE claims consistent with § 1003(a) of the PPRA (D.C. Official Code § 2-360.03(a)) and arising out of DOEE's contracts with the SEU contractor (D.C. Official Code § 8-1774.01) or the EEFA administrator (D.C. Official Code § 8-1778.45). Proceedings before the CAB shall be governed by the Board's Rules of Procedure.

2. CAB shall provide (a) the necessary services of its judges, and (b) the necessary services of its staff and all appropriate resources pursuant to the terms of this agreement and consistent with the manner in which CAB provides such services in cases under the PPRA. DOEE is responsible for providing a court reporter for transcribing hearings as requested by CAB and per CAB rules. Periodic status conferences may be held telephonically and may not require a court reporter.

3. All services will be provided on a reimbursable basis, in accordance with the following terms:

a. DOEE will reimburse CAB for all direct costs calculated as follows: each panel judge's actual hours spent on the case (with a supporting brief entry of the work that is provided and hourly time billed to hour increments) multiplied by the sum of: (i) the judge's hourly salary rate, plus (ii) the applicable fringe benefits on the hourly salary rate as determined by the Office of Finance and Resource Management ("OFRM"), plus (iii) an overhead rate of 25 percent of the judge's hourly salary rate (this covers reimbursement for all CAB resources provided under Paragraph 2(b) above). In addition, the actual hours spent on the case by the CAB General Counsel ("GC") and Attorney-Advisor shall be reimbursable multiplied by the sum of the applicable hourly rate and fringe hourly rate.

b. Billing for reimbursement for services pursuant to this MOU will be effected on a quarterly basis and will be submitted to DOEE by CAB. An intra-District transfer will be arranged by OFRM from DOEE to CAB.

c. The cost elements of each assigned dispute from DOEE for which services are provided by CAB will be kept separate by CAB docket number.

d. The total cost for services under this MOU shall not exceed twenty thousand dollars (\$20,000) for Fiscal Year (FY) 2015.

e. CAB and DOEE may extend the term of this MOU by exercising a maximum of five (5) one (1) year option periods. The total term of this MOU, including the exercise of any option clause, may not exceed six (6) years. Option periods may consist of a year, a fraction thereof, or multiple successive fractions of a year, and shall expire at the end of the applicable fiscal year. Each one (1) year option period shall take effect automatically unless either Party notifies the other in writing of its intent not to renew the option at least thirty (30) calendar days prior to the expiration of the MOU. The option shall be for one (1) fiscal year and is subject to the availability of funds.

f. The exercise of an option period is subject to the availability of funds at the time of the exercise of the option.

g. This MOU shall take effect when fully executed, and shall continue in effect through September 30, 2015, unless extended by the exercise of an option period pursuant to section (e) above.

h. Section (g) notwithstanding, in the event of termination of this MOU, this MOU shall continue to apply to any protests and appeals being adjudicated by CAB pursuant to this agreement.

4. The points of contact responsible for administration of this MOU are:

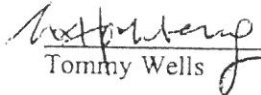
DOEE: Taresa Lawrence
Deputy Director
Department of Energy and Environment
1200 First Street N.E., 5th floor
Washington, DC 20002
Phone: 202-671-3313
Fax: 202- 535-2881

CAB: Mark D. Poindexter
General Counsel
D.C. Contract Appeals Board
441 4th Street N.W., Suite 350N

Washington, DC 20001
Phone: (202) 727-4109

DEPARTMENT OF ENERGY AND ENVIRONMENT

BY:

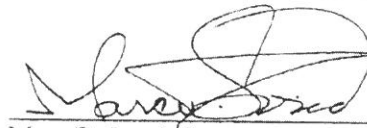

Tommy Wells

for TITLE: Director

DATE:

DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

BY:


Marc D. Loud, Sr.

TITLE: Chief Administrative Judge

DATE: August 19, 2015

**MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN
WASHINGTON CONVENTION AND SPORTS AUTHORITY
AND
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

Pursuant to the authority of the D.C. Code § 2-309.03(b) (2001 ed.), the Washington Convention Center and Sports Authority ("Authority") and the District of Columbia Contract Appeals Board ("CAB") agree that the CAB shall serve as the hearing tribunal for the Authority. This memorandum of understanding ("MOU") is made in accordance with the following terms and provisions:

1. The CAB shall have jurisdiction to review and determine *de novo* appeals, protests, and Authority claims consistent with D.C. Code § 2-309.03(a). Proceedings before the CAB shall be governed by the Board's Rules of Procedure ("Rules") except to the extent that the rules are inconsistent with, or impose substantive requirements, that exceed those provided for under the Authority's statutes and regulations relating to procurements. The CAB acknowledges that the Authority is exempt from the District of Columbia Procurement Practices Act (D.C. Code §§ 2-301.1, *et seq.*; the "Act") including the Act's requirement that there be a determination supported by substantial evidence that a procurement is urgent and compelling in order to proceed with award or performance of a contract during the pendency of a bid protest (*see* D.C. Code § 2-309.08(c)(2)) and the requirement that any decision of the Authority to proceed with such an award or performance is subject to review by the CAB (*see* D.C. Code § 2-309.08(c)(3)).

2. The CAB shall provide (a) the necessary services of its judges, and (b) the necessary services of its staff, the creation of an electronic docket of each case, conference and hearing rooms (where needed), and incidental legal research services, electronic and non-electronic courtroom equipment, and supplies directly related to any services and facilities provided by the CAB pursuant to the terms of this agreement. The Authority is responsible for providing a court reporter for transcribing hearings (where needed). Periodic status conferences are generally held telephonically and do not require a court reporter.

3. All services will be provided on a reimbursable basis, in accordance with the following terms:

a. The Authority will reimburse the CAB for all direct costs calculated as follows: the assigned judge's actual hours spent on the case (with a supporting brief description of the work for each day that services are provided and hourly time billed to quarter hour increments) multiplied by the sum of: (i) the judge's hourly salary rate, plus (ii) the applicable fringe benefits on the hourly salary rate as determined by the Office of Finance and Resource Management ("OFRM"), plus (iii) an overhead rate of 25 percent of the judge's hourly salary rate (this covers reimbursement for all CAB resources provided under Paragraph 2(b) above).

b. Billing for reimbursement for services pursuant to this MOU will be effected on a quarterly basis and will be submitted to the Authority by OFRM on behalf of the CAB. The Authority will effectuate payment to CAB via wire transfer as instructed by OFRM.

c. The cost elements of each assigned dispute from the Authority for which services are provided by the CAB will be kept separate by CAB docket number.

4. The points of contact responsible for administration of this MOU are:

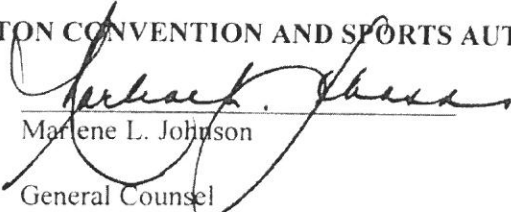
Authority: Marlene L. Johnson
General Counsel
Washington Convention and Sports Authority
801 Mt. Vernon Place, N.W.
Washington, D.C. 20001
202-249-3219

CAB: Richard K. Rothschild
General Counsel
D.C. Contract Appeals Board
717 14th Street, N.W.
Washington, DC 20005
(202) 727-4109

5. This MOU shall remain in effect until terminated by either party upon 60 days notice to the other party. In the event of termination, this MOU shall continue to apply to all ongoing proceedings covered by the MOU.

WASHINGTON CONVENTION AND SPORTS AUTHORITY

BY:



Marlene L. Johnson

TITLE: General Counsel

DATE: December 29, 2009

DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD

BY:


Jonathan D. Zischkau
Chief Administrative Judge

DATE:

1/5/2010