

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD



MARC D. LOUD, SR.  
CHIEF ADMINISTRATIVE JUDGE

January 11, 2024

The Honorable Brianne K. Nadeau, Chairperson  
Council of the District of Columbia  
Committee on Public Works and Operations  
The John A. Wilson Building  
1350 Pennsylvania Avenue, NW., Suite 108  
Washington, DC 20004

Dear Chairperson Nadeau:

In response to the email dated December 15, 2023, from your Legislative Analyst, Amanda Chulick, please find herein the DC Contract Appeals Board's responses to the Committee on Public Works and Operations' FY23/FY24 (to date) performance hearing questions. We are happy to provide supplemental responses to questions as determined by the Committee upon request.

In FY23/FY24 (to date), the Board continued to prioritize prompt case closure.<sup>1</sup> In fact, the start of FY24 marked the 9<sup>th</sup> consecutive year that the Board has not had an aged case or docket backlog. Moreover, in closing cases promptly the Board has continued to bring the highest level of expertise and accuracy to our work. In this regard, the DC Courts have affirmed the Board in five **consecutive** cases dating back to 2019.<sup>2</sup>

The Board looks forward to meeting with the Committee for our annual performance hearing on February 15, 2024, at 9:30 am. In the interim, please contact me at (202) 727-6597 if I can be of additional assistance regarding this matter.

Sincerely,

/s/ Marc D. Loud, Sr.

Marc D. Loud, Sr.  
Chief Administrative Judge

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<sup>1</sup> In FY23, the Board averaged 36 days to close protest cases and approximately 1.3 years to close appeals cases (i.e., those cases where the parties are generally entitled to a trial prior to disposition). See Board Response to Q46. In FY24, to date, the average closure periods are 58 days for protests and approximately 44 days for one appeal case (voluntary withdrawal of premature appeal). *Id.*

<sup>2</sup> The five consecutive cases are *D.C. v. D.C. Contract Appeals Board*, 263 A.3d 480 (2022); *Black Creek Integrated Systems Corp v. District Department of Corrections* (D.C. Court of Appeals No. 19-AA- 757)(issued August 8, 2022); *BRSI LP d/b/a Benefit Recovery v. D.C. Contract Appeals Board*, (D.C. Super. Ct. CA No.2022 CA 000344 P (MPA)(issued August 30, 2022); *Spectrum Management, LLC v. D.C. Contract Appeals Board*, (D.C.Super. Ct. CA No. 2019 CA001266 P(MPA)(issued September 11, 2019) and *Rustler Construction, Inc. v. District of Columbia*, 211 A.3d 187 (D.C. 2019). No CAB cases were decided by the DC Courts in FY23. In FY24, to date, one CAB case has been dismissed by the DC Courts on jurisdictional grounds.



## DC CONTRACT APPEALS BOARD RESPONSES

### AGENCY ORGANIZATION

1. 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.

**Response:** Please see Attachment 1. All Board positions are currently filled.

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

**Response:** No changes have been made to the Board's organizational chart during the previous year.

3. 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 indicate if any position must be filled to comply with federal or local law.

**Response:** Please see Attachment 2. No Board positions must be filled to comply with federal or local law.

4. Please provide a list of vacant positions during FY 23 and FY 24, to date. Please note whether the position is currently filled and length of time current vacancies have been open.

**Response:** In FY24 to date, the Board does not have any vacant positions. During FY23, the Board had one vacancy: a Receptionist/Program Support Assistant position. The latter position was filled on September 25, 2023, and has been continuously filled since that date.

5. 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:** There have been no employees detailed to or from the Board during FY23 or in FY24, to date.

6. 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.

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

**Response:** The Board collaborates with the federal Boards of Contract Appeals (i.e., the Armed Services BCA, the Postal Services BCA, the Civilian BCA, etc.) and the Maryland Board 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, and organizes joint training exercises, panel discussions, and case reviews for members. Individual CAB Judges and Attorneys are also associated with the District of Columbia Bar Association (various sections, including the Government Contracts Section), the Bar of the Supreme Court of the United States and the National Association of Women Judges American Bar Association (Judiciary and Public Contract Sections).

**AGENCY BUDGET AND SPENDING**

8. 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 23 and the first quarter of FY 24. Please detail any over- or under-spending and if the agency had any federal funds that lapsed.

**Response:** The Table below summarizes the requested data for FY23 and the first quarter of FY24. Attachment 3 provides supporting program, activity and funding source data for FY23 and the first quarter of FY24 in much greater detail.

	FY23	FY24 (through 12/31/2023)
Council-approved budget	\$1,984,453.48	\$1,968,361.00
Revised Budget	\$1,960,998.48	n/a
Actual Spending	\$1,898,297.27	\$400,113.05
Federal Funds Lapse	n/a	n/a

9. Please provide a list of all budget enhancement requests (including capital improvement needs) for FY 23 or FY 24. For each, include a description of the need and the amount of funding requested.

**Response:** The Board had no budget enhancement requests for FY23 or FY24.

10. Please list, in chronological order, each reprogramming that impacted the agency in FY 23 and FY 24, to date, including those that moved funds into the agency, out of the agency, and within the agency. For each reprogramming, list the date, amount, rationale, and reprogramming number.

**Response:** The Board had no reprogrammings in FY23 or FY24, to date.

11. For FY 23 and FY 24, 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:

- a. The revenue source name and code;
- b. The source of funding;
- c. A description of the program that generates the funds;
- d. The amount of funds generated by each source or program;
- e. Expenditures of funds, including the purpose of each expenditure; and
- f. The current fund balance.

**Response:** Not applicable.

12. Please list any statutory mandates that the agency lacks sufficient resources to fully implement, or implementation that is contingent on filling current vacancies.

**Response:** Not applicable.

**AGENCY OPERATIONS**

13. Please describe new statutory mandates of the agency as of FY 24 and their current implementation status.

**Response:** Not applicable.

14. Please list all reporting requirements in the District of Columbia Code or Municipal Regulations that the agency is required to complete in FY 23 and FY 24, 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.

Reporting Requirement	Due Date	Compliance (explanation)
EOM FOIA Report	February 1 (annually)	Yes
OCA Performance Accountability Report	January 15 (annually)	Yes
OCA Performance Plan	September 30 (annually)	Yes
DCHSEMA COOP Plan	October 1 (annually)	Yes
DSLBD CBE/SBE Spending Review Reports	Quarterly	Yes
OCP Account Review Team (ART) Reports (PCard)	Monthly (10th)	Yes
OCA Key Performance Measures/Workload Update	October 15 (annually)	Yes
BEGA Public and Confidential Financial Disclosure Reports	May 15 (annually)	Yes
OHR Sexual Harassment Data Collection Act Report	November (annually)	Yes

15. Please list and describe any regulations promulgated by the agency in FY 23 or FY 24, to date, and the status of each.

**Response:** Not applicable.

16. Please explain any significant impacts on your agency of legislation passed at the federal or local level during FY 23 and FY 24, to date.

**Response:** Not applicable.

17. What are the agency’s top five priorities? Please explain how the agency expects to address these priorities in FY 24.

**Response:** The Board’s top five priorities are listed below. The Board believes that if we focus on these priorities and adapt promptly to changing circumstances, our mission will be continuously fulfilled.



**1. Sustain the Board’s 100% Compliance Rate 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 FY23, the Board closed 100% of protests within the 60-business day timeline, and will aspire to do so throughout FY24. Although several 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.

**2. Sustain the Board’s 100% Compliance Rate for Closing Appeals Cases No Later Than Three Years after the Initial Filing Date.**

The Board will continue to prioritize pre-emptive measures and strong case management to close all Appeals cases within three years of the initial filing date. The Board does not have any backlogged cases (appeals or protests) and has not had any for nine consecutive years. Case backlogs undermine public confidence in the District’s contract dispute resolution process. Case backlogs also impair access to justice, as they increase the risk that key witnesses and/or documentary evidence may be unavailable at trial.

**3. Transparency: Continue Displaying All Board Case Records on the Public Website.**

The Board has long been recognized regionally as having one of “the most transparent database(s)” of any government agency.<sup>3</sup> Sustaining transparency continues to be a top Board priority. In this regard, the Board aims to upload all records filed in our cases to the public website within three business days of filing (except materials filed under protective order). Uploads are automated through the Board’s iManage Document Management System (after initial staff screening to protect confidential data). For additional transparency, the Board’s website also includes an online trial calendar (presently updated through October 2025). As noted, the Board’s commitment to transparency is long-standing, and the Table below captures data for the upload of case records during the past five years:

	<b>FY23</b>	<b>FY22</b>	<b>FY21</b>	<b>FY20</b>	<b>FY19</b>
Documents Filed	1,441	1,537	1,574	2,043	1,376
Pages Filed	26,263	26,774	36,447	64,595	27,735
Legacy Documents Uploaded <sup>4</sup>	40,831	1	11	0	0
Legacy Pages Uploaded	1.2 Million	unknown	unknown	0	0

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

<sup>4</sup> “Legacy” refers to formerly hard copy records in Board cases filed between the years 1953-1985. In FY23, the hard copy records were uploaded to the Board’s website. The hard copy records were digitized for upload in FY22.

#### **4. Provide an Efficient and Secure Day-to-Day Technology Environment for the Board and its Stakeholders and Develop a Board Five-Year IT Strategic Plan.**

The Board prioritizes the provision of an efficient and secure technology environment on a day-to-day basis for all key assets including servers, computers, printers, etc., and the Board’s unique adjudicatory and transparency assets including, but not limited to, the Board website, File & ServeXpress, the iManage Document Management and File Site Server systems, and the Digital Court Recording (DCR) system. In addition, the Board prioritizes the completion (and continual updates) of a Five-Year IT Strategic Plan. The Board’s day-to-day technology environment and long-term planning must include scalability, transparency, and access to justice considerations. In addition, the IT plan must envision collaborative work with OCTO and third-party vendors (as appropriate) to provide security tools/updates on a continuous basis (e.g., Multi-Factor Authentication, Cyber Security Training, Crowdstrike Anti-Malware, etc.).

#### **5. Provide Maximum Possible Efficiency in Services to All CAB Stakeholders During the Continuing Remote and Hybrid-Remote Work Models.**

The Board will prioritize maximum efficiency and access of services to all CAB stakeholders during the continuing remote and hybrid-remote work models. This includes maintaining an open CAB office daily during business hours with appropriate staffing for public-facing positions, provisioning remote CAB staff with necessary work tools to perform duties (including Judges in the issuance of Board Opinions and Orders), and continuing to offer litigants digital tools like File & ServeXpress and Webex to initiate, proceed with, and conclude litigation. In addition, the Board will offer hearings in-person (or virtually) as appropriate and upon request of the parties. In this regard, the Board has completed its Virtual Hearings Protocol, which serves as policy and procedural guidance for remote hearings. See Attachment 4.

18. What are the metrics 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.

<b>Contract Appeals Board Key Performance Measures (KPIs)</b>	
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. <sup>5</sup>

19. Please provide a copy of the agency’s FY 23 performance plan, if one was prepared. Please explain which performance plan objectives were completed in FY 23. If they were not completed, please provide an explanation.

**Response:** Please see Attachment 5. Aside from the single exception noted below, all Board performance plan objectives were completed in FY23. The sole exception is that the Board

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<sup>5</sup>Settlement 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.

achieved 76% compliance with its goal of having all new cases initiated by electronic filing.<sup>6</sup> While 100% electronic filing by parties remains the Board's goal, Access to Justice considerations (e.g., self-represented party considerations; access to adequate computer and internet technologies, etc.) require the Board to accept manual filings from parties.

20. Please provide a copy of your agency's FY 24 performance plan as submitted to the Office of the City Administrator, if one was prepared. Please identify any performance objectives or measures which have been added, modified or dropped since FY 23.

**Response:** Please see Attachment 6. Beginning with FY23, the Board has increased its KPI target from 90% to 100% for pending Board appeals cases that are 3 years old or less.

21. Please describe any new initiatives or programs that the agency implemented in FY 23 and FY 24, to date, to improve the operations of the agency. Please describe any funding utilized for each initiative or program and the results, or expected results, of each initiative.

**Response:** The Board has not implemented any new initiative or program in FY24, to date. In FY23, the Board implemented two new initiatives. First, the Board uploaded 40,831 searchable legacy case records to our public website (at an FY23 cost of \$15,300). Second, the Board migrated its iManage Document Manage system to the cloud (at an FY23 cost of \$71,960). Both initiatives were completed successfully without any disruption to the public and/or users of the system. Both initiatives sustain the Board's commitment to ongoing transparency, and facilitate maintenance of an efficient and up-to-date technology infrastructure.

22. Please provide the Committee with:

- a. 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 23 and FY 24, to date;

**Response:** Not applicable.

- b. A list of travel expenses, arranged by employee for FY 23 and FY 24, to date, including justification for travel;

**Response:** Not applicable.

- c. A list of total workers' compensation payments paid in FY 23 and FY 24, to date, including the number of employees who received workers' compensation payments, in what amounts, and for what reasons.

**Response:** Not applicable.

23. For FY 23 and FY 24, to date, what was the total agency cost for mobile communications and devices, including equipment and service plans?

**Response:** In FY23, the Board spent a total of \$6,204.72 for mobile communications and devices, including equipment and service plans. In FY24 (through October 2023), the Board has spent \$681.45 for these services.

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<sup>6</sup> In FY23, four dispute cases were filed electronically via File & ServeXpress; one dispute case was filed by hand-delivery. In FY23, fifteen protest cases were filed electronically via File & ServeXpress; four protest cases were filed by hand-delivery; and one protest case was submitted by electronic mail.

24. Please list in descending order the top 25 overtime earners in your agency in FY 23 and FY 24, 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.

25. For FY 23 and FY 24, 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 FY23, the Board issued an accrued annual leave payout upon employee resignation as noted below, but did not issue any employee bonuses or special pay. For FY24 (to date), the Board has not issued employee bonuses, special pay, or separation pay, but has been working with DCHR to fund a retirement arrearage regarding the employee resignation referenced herein. The Board will update the Committee when the arrearage has been finalized.

Fiscal Year of Separation	Payment Date	CAB Employee Name	Payment Amount	Reason For Payment
FY23	December 13, 2022	Uday Berry	\$9,252.91	Accrued Leave Payout Upon Resignation

26. 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 over the past several years. Routine, required trainings related to agency operations conducted by District offices or agencies such as OCA, OHR, OCTO, HSEMA, DSLBD, 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, private/not-for-profit educational institutions, and other providers.

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
PubKLaw Annual Review 2024	February 2024	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	PubKLaw (various moderators and panelists)	1 (Attorney Advisor)
HBR Consulting/iManage	December 2023	Search Like A Pro - iManage Work 10	HBR Consulting/iManage instructor	1 (Appeals Clerk)
Antonin Scalia Law School's LEC Civil Justice Academy	November 2023	Survey of State Civil Justice Legislative Developments	Various panelists	1 (Board Judge)
Adobe	November 2023	Advanced Adobe Pro	Adobe instructor	1 (Appeals Clerk)

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
MCLEZ Webinars	October 2023	CLE Presentations: -Update on NLRB Cases, Guidance and Rulemaking -Aliant Law – Economic Crime Conference -Ethical Issues During the Discovery Process -Ethical Issues When Taking or Defending Depositions -Through the Smoke: Legal Trends and Gun Violence -Water Law: Water Rights, Droughts, and a Flood of Legal Issues (Part I) -Gambling as an Addiction – Not Worth the Gamble -Demystifying Computers for Attorneys -Free Expression and Social Media -How CRMS Can Help Your Legal Practice -Sexual Harassment, Attorneys, and Social Media	MCLEZ (various moderators and panelists)	1 (Attorney Advisor)
Adobe	October 2023	Introduction to Adobe Pro	Adobe instructor	1 (Appeals Clerk)
Adobe	October 2023	Intermediate Adobe Pro	Adobe instructor	1 (Appeals Clerk)
Corporate Counsel Business Journal (CCBJ)	September 2023	No Hallucinations Here: GenAI, ChatGPT and Impacts on Litigation	CCBJ (various panelists)	1 (General Counsel)
Microsoft	August 2023	Enable Your Frontline Workforce with Microsoft 365 and Teams	Microsoft moderators	2 (IT Director, IT Specialist)
HBR Consulting/iManage	August 2023	iManage Desksite Cloud System	HBR Consulting/iManage staff	1 (IT Specialist)
Cloudflare	July 2023	Hacktivist activity and latest DDoS threats	Cloudflare moderators	1 (IT Director)
Microsoft	July 2023	Three Ways Surface with Windows 11 unlocks flexible work	Microsoft moderators	2 (IT Director, IT Specialist)
DC Bar	March 2023	Bias and Prejudice: They Don't Stop at the Courthouse Door	DC Bar panelists	1 (Board Judge)
DC Bar	March 2023	Converting Downtown Office Buildings to	DC Bar panelists	1 (Board Judge)

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
		Housing: Does it Work?		
Microsoft	February 2023	Microsoft – Worldwide Desktop As A Service 2022 - 2023 Vendor Assessment – Feb 2023	Microsoft moderators	1 (IT Director)
Amazon Web Services	February 2023	AWS Cloud	AWS moderators	1 (IT Director)
Amazon Web Services	February 2023	AWS Solutions – Focus Immersion Days	AWS moderators	1 (IT Director)
PubKLaw Annual Review 2023	January 2023	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	PubKLaw (various moderators and panelists)	1 (Attorney Advisor)
Microsoft Licensing Bootcamp (LBC)	January 2023	Presentations on licensing Microsoft 365 (and expensive add-ons) including: -Power Apps, including Power BI -Dynamics 365 -SQL Server and SQL in Azure -Office client suites -Windows Server and Azure VMs -Windows Client OS and Virtual Desktops	Microsoft LBC (various moderators and panelists)	1 (IT Director)
MCLEZ Webinars	October 2022	CLE Presentations: -Sexual Harassment, Attorneys, & Social Media -Free Expression & Social Media -Demystifying Computers for Attorneys -Ethical Issues When Taking or Defending Depositions -Ethical Issues During the Discovery Process -Update on NLRB Cases, Guidance, and Rulemaking	MCLEZ (various moderators and panelists)	1 (Attorney Advisor)
Dell Data Protection	October 2022	Focus on Ransomware	Dell moderators	1 (IT Director)
Amazon Web Services	July 2022	Presentations on implementing robust data & analytics strategies to improve performance, reduce costs, and garner deeper insights from data.	AWS Public Sector Database and Analytics Modernization Week (various moderators and panelists)	1 (IT Director)

Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
GMU Law & Economics Center Webinar: Civil Justice Review of the Supreme Court's 2021-2022 Term	July 2022	Presentations on important civil justice-related developments that occurred this past term that are so critical to the everyday operation of the courts, to our understanding of the jurisdictional reach of the courts, and to the health of the economy overall.	GMU Law & Economics Center (various moderators and panelists)	2 (Board Judges and General Counsel)
BCABA Annual Judge Panel Webinar Program	March 2022	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	BCABA, Inc. (various moderators and panelists)	1 (Attorney Advisor)
PubKLaw Annual Review 2022	January 2022	Presentations on key government contracts decisions and other recent developments in government contracts law and practice	PubKLaw (various moderators and panelists)	1 (Attorney Advisor)
DC Bar Legal Ethics Webinar	October 2021	Presentation on Legal Ethics with DC BEGA	DC Bar (various moderators and panelists)	1 (Attorney Advisor)
MCLEZ Webinars	October 2021	CLE Presentations -Freedom of Information Act: 2021 Update -Taking Depositions in the New Virtual Era -Security and Confidentiality for Providing Legal Services Remotely -Patent Law Basics -Google LLC v. Oracle America, Inc. -Paperless Office & E-Discovery Techniques -Ethical Issues – Pro Bono Representation	MCLEZ (various moderators and panelists)	1 (Attorney Advisor)
BCABA Annual Program	October 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)
2019 National Bar Association Convention	July 2019	The National Bar Association was founded in 1925 and represents the interests of	NBA (various moderators and panelists)	1 (Board Judge)



Training	Date(s)	Subject	Training Provider	Number of Agency Staff Participating
		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.		
2019 American Constitution Society for Law and Policy (ACS) Annual Convention	June 2019	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
ABA Public Contract Law Federal Procurement Institute	March 2019	Distinguished panelists from government, industry, private law practice, and academia 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)
BCABA Annual Program	October 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)
Government Contracts In-House Training	September 2018	Topics in Construction Delays & Scheduling (II).	Federal Publication Seminars (Jeremy Becker-Welts, Esq.)	3 (Attorney Advisors)
Smart Contracts	July 2018	Smart Contracts: Exploring the Legal Risks and Business Benefits of Blockchain	American Law Institute (ALI) (WebEx)	1 (Board Judge)
2018 American Constitution Society for Law and Policy (ACS) Annual Convention	June 2018	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
Boards of Contract Appeals Bar Association (BCABA) Annual Program	October 2017	Presentations on key government contracts decisions and other recent developments in government	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
		contracts law and practice		
American Bar Association (ABA) 2017 Annual Meeting	August 2017	Presentations on recent developments in the law and related practice topics	ABA (various moderators and panelists)	1 (Board Judge)
Excel 2010 (Part 2)	July 2017	Use of MS Excel 2010 (Part 2)	New Horizons Computer Learning Center	1 (Appeals Clerk)
2017 American Constitution Society for Law and Policy (ACS) Annual Convention	June 2017	Presentations on recent developments in Constitutional Law	ACS (various moderators and panelists)	1 (Board Judge)
Excel 2010 (Part 1)	April 2017	Use of MS Excel 2010 (Part 1)	New Horizons Computer Learning Center	1 (Appeals Clerk)
Government Contracts In-House Training	September 2016	Topics in Construction Delays & Scheduling	Federal Publication Seminars (Jeremy Becker-Welts, Esq.)	6 (Board Judges and Attorney Advisors)

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

- a. A detailed description of the information tracked within each system;

**Response:** The Board currently maintains two electronic databases:

1. File & ServeXpress – CAB’s Case Management System
2. iManage – CAB’s Case Document Storage Repository

**File & ServeXpress** – The File & ServeXpress database serves as CAB’s no-cost case management system. It is hosted at the vendor’s cloud data center location. File & ServeXpress is an industry leader and permits the digital filing and legal service of all pleadings, Board issuances, contract records, case materials and other submissions filed in Board cases. File & ServeXpress also stores litigant contact information, case history, case assignment and other pertinent case data. Finally, File & ServeXpress is a relational database that permits select management level queries upon request. File & ServeXpress (and/or its predecessors) has been in use by the Board since 2002.

**iManage Document Management System** – CAB uploads all documents filed at File & ServeXpress into CAB’s second primary database: the iManage Document Management System. The initial upload includes both sealed and unsealed records. All unsealed case records are then uploaded to the CAB public website. Servers which support the iManage system and case search feature on the public website, were migrated to the vendor’s cloud in FY23. CAB has two licenses for iManage front-end software (iManage Desksite) that permit authorized CAB staff to perform the case file upload operations noted herein.

- b. The age of the system and any substantial upgrades that were made in FY 23 or FY 24, to date, or that are planned for the system;

**Response:** **File & ServeXpress** was formed in 2012 through the merger of Case FileXpress and File & Serve (a former Lexis Nexis company). No substantial upgrades were made to the system in FY23 or FY24 to date. File & ServeXpress is an industry leader

that serves more than 1,300 courts and over 200,000 registered users. The company has fully staffed Product Management and Information Technology divisions that routinely upgrade existing, and bring new, features to market.

The **iManage Case Document Management System** was acquired by the Board in 2009. Prior to FY23, the system was hosted on two OCTO on-premises servers. In FY23, the system was migrated to the vendor’s cloud-based servers. The move aligned with the vendor’s transition from provisioning on-premises servers, and ensures that CAB receives ongoing security and other software upgrades and is future-ready for emerging software applications.

c. Whether the public is currently granted access to all or part of each system; and

**Response:** The public (supported by the iManage system) is granted free access to all Board litigation records on the public website (except materials sealed by a protective order). Attorneys of record in cases pending before the Board have access to File & ServeXpress as it relates to the adjudication of their cases.

d. Whether the public could be granted access to all or part of each system.

**Response:** Through the Board’s public website, the public has access to all case records filed with File & ServeXpress and/or stored in iManage except confidential records sealed by protective order.

28. Please provide a list of all studies, research papers, reports, and analyses that the agency prepared or funded during FY 23 and FY 24, to date. Please submit a digital copy to the Committee of any study, research paper, report, or analysis that is complete.

**Response:** Not applicable.

**CONTRACTING AND PROCUREMENT**

29. For FY 23 and FY 24, 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 former Program Assistant Uday Berry or General Counsel Mark Poindexter as authorized by the Board.

Entry No.	Post Date of Expenditure	Amount of Expenditure	General Purpose
Uday Berry (Cardholder)			
1	10/11/2022	\$50.65	Cable
2	10/25/2022	\$880.00	Legal Periodical Subscription (2 Subscriptions)
3	10/25/2022	\$92.00	Office Supplies (new employee business cards)
4	11/08/2022	\$50.65	Cable
Mark Poindexter (Cardholder)			
5	12/08/2022	\$461.93	Office Support - Answering Service
6	12/08/2022	\$2,934.33	Software License - Bomgar

Entry No.	Post Date of Expenditure	Amount of Expenditure	General Purpose
7	12/09/2022	\$4,899.00	Software Licenses - Adobe
8	12/13/2022	\$136.40	Office Support – Temp Services
9	01/05/2023	\$47.35	Cable
10	01/05/2023	\$119.35	Office Support – Temp Services
11	01/09/2023	\$313.76	Office Support – Answering Service
12	02/07/2023	\$282.94	Office Support – Answering Service
13	02/07/2023	\$59.80	Cable
14	03/03/2023	\$282.89	Office Support – Answering Service
15	03/03/2023	\$59.80	Cable
16	04/04/2023	\$59.80	Cable
17	04/05/2023	\$283.06	Office Support – Answering Service
18	04/19/2023	\$570.00	Court Reporter
19	04/19/2023	\$136.40	Office Support – Temp Services
20	05/05/2023	\$282.82	Office Support – Answering Service
21	05/05/2023	\$59.80	Cable
22	05/25/2023	\$359.98	Office Equipment - Monitors
23	05/29/2023	\$106.30	ABA Legal Publication
24	06/05/2023	\$298.27	Office Support – Answering Service
25	06/05/2023	\$59.80	Cable
26	06/05/2023	\$199.90	Computer Equipment - Monitor
27	07/04/2023	\$59.80	Cable
28	07/06/2023	\$283.01	Office Support – Answering Service
29	07/21/2023	\$400.00	Courtroom A/V Diagnostics
30	07/21/2023	\$1,615.00	Courtroom A/V Repair
31	08/04/2023	\$59.80	Cable
32	08/04/2023	\$298.64	Office Support – Answering Service
33	08/14/2023	\$59.80	Cable
34	08/17/2023	\$3,401.15	Computer Equipment – Computer (via OCP Waiver)
35	08/23/2023	\$8,246.38	Courtroom Recording DCR System (via OCP Waiver)
36	09/12/2023	\$704.48	Office Furniture (desk chair)
37	09/18/2023	\$1,131.11	Office Furniture (equipment storage cabinet)
38	09/18/2023	\$92.00	Office Supplies (new employee business cards)

39	10/16/2023	\$935.00	Legal Periodical Subscription (2 Subscriptions)
40	10/16/2023	\$113.85	Office Support – Answering Service
41	11/02/2023	\$59.80	Cable
42	11/02/2023	\$599.90	Software License - Adobe
43	11/06/2023	\$48.41	Office Support – Answering Service
44	11/10/2023	\$119.42	Office Supplies – Notary Kit
45	11/10/2023	\$49.14	Office Supplies – Notary Stamp
46	12/04/2023	\$355.00	Public Contracting Annual Review Seminar
47	12/04/2023	\$59.80	Cable
48	12/05/2023	\$87.75	Office Support – Answering Service
49	12/19/2023	\$98.88	Courtroom Equipment – UPS Battery Backup
	<b>Total FY23-FY24 (through 12-31-2023) PCard Expenditures</b>	<b>\$31,965.10</b>	

30. Please list and provide a copy of all memoranda of understanding (“MOU”) entered into by your agency during FY 23 and FY 24, 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 7 and table below.

	<b>MOA/MOU/Service Agreement Title</b>	<b>Date Entered (Active Status)</b>
1	DC Commission on the Arts and Humanities Art Bank Loan Agreement	10-29-2015 (active until terminated)
2	LEXISNEXIS File & Serve Service Agreement	9-13-2012 (active until terminated)
3	MOA Between CAB and DC Health Benefits Exchange Authority	4-22-2021 (renewed for Option Year Three on 7-20-2023; terminates 9-30-2024)
4	MOA Between CAB and DC Retirement Board	1-23-2023 (renewed for Option Year One on 9-18-2023; terminates 9-30-2024)
5	MOU Between CAB and DOEE	8-5-2021 (renewal for FY24 pending) <sup>7</sup>
6	MOU Between CAB and DC Department of Small and Local Business Development	3-17-2023 (renewal related to DES System Software pending)
7	MOU Between CAB and OCTO (ECIS Services)	6-21-2027 (active until terminated)
8	MOU Between CAB and OCTO (Office 365 Enterprise License)	10-30-2018 (active until terminated)
9	MOU Between CAB and Washington Convention Center Sports Authority	1-5-2010 (active until terminated)
10	Thomson Reuters/West Publishing FY24 Service Agreement and Quote	8-1-2023 (active until 9-30-2024)

31. Please list each contract, procurement, and lease entered into or extended by your agency during FY 23 and FY 24, to date. For each contract, please provide the following information where applicable:

<sup>7</sup> A District Department of Energy and Environment (DOEE) MOU terminated by its terms on September 30, 2021, and a one-year renewal for FY24 is pending finalization.

- a. The name of the contracting party;
- b. The nature of the contract, including the end product or service;
- c. The dollar amount of the contract, including amount budgeted and amount actually spent;
- 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
<b>FY23</b>								
FY23 (10-16-2022)	PO674675	Younts Consulting	Annual iManage Software Agreement	\$869.78	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (11-23-2022)	PO677739	Total Office Products	Annual Copier Maintenance Agreement	\$2,666.67	FY23	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (11-29-2022)	PO677945	West Publishing	Annual Legal Research Software Licenses	\$9,525.72	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (12-19-2022)	PO679426	Younts Consulting	Import and Legacy Case Services	\$31,050.00 (\$15,300.00 actual spend)	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (7-10-2023)	PO679426v2	Younts Consulting	Import and Legacy Case Services	\$31,050.00 (\$15,300.00 actual spend)	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (7-18-2023)	PO679426v3	Younts Consulting	Import and Legacy Case Services	\$31,050.00 (\$15,300.00 actual spend)	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (1-6-2023)	PO680770	Younts Consulting	iManage Cloud Migration Services	\$60,767.00 (\$71,960.75 actual spend)	FY23	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY23 (7-27-2023)	PO680770v2	Younts Consulting	iManage Cloud Migration Services	\$75,000.00 (\$71,960.75 actual spend)	FY23	OCP procurement – PO awarded to	Mark Poindexter, CAB General Counsel/N/A	Local

FY (Issue Date)	Purchase Order	Contracting Party	Service	Amount	Term	Competitively Bid	Contract Monitor/Activity Results	Funding Source
						proprietary software vendor		
<b>FY24</b>								
FY24 (10-6-2023)	PO696812	Total Office Products	Annual Copier Maintenance Agreement	\$2,422.99	FY24	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY24 (10-13-2023)	PO697333	West Publishing	Annual Legal Research Software Licenses	\$10,002.00	FY24	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY24 (10-25-2023)	PO698402	Walton & Green Consultants	Temporary Support Services	\$2,000.00	FY24	OCP procurement – PO awarded to DCSS/SBE vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY24 (11-14-2023)	PO699670	HBR Global/HBR Consulting LLC	Technical Support Services	\$7,500.00	FY24	OCP procurement – PO awarded to proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local
FY24 (pending for April 2024)	<i>Pending</i>	<i>HBR Global/HBR Consulting</i>	Annual iManage Licensing	\$24,000.00 (est.)	FY24-FY25	Anticipated OCP procurement – proprietary software vendor	Mark Poindexter, CAB General Counsel/N/A	Local

32. 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 responses to items 3, 4, 5 and 9 in Q30 above, and Attachment 7.

33. 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 current, FY24 adjusted expendable budget for CBE compliance is \$23,443.57. The Board’s current, FY24 adjusted approved SBE spending goal is \$11,721.79. In FY24, to date, the Board has spent \$3,290.33 with SBEs, reflecting 14% of the Board’s current adjusted expendable budget and 28% of the Board’s adjusted approved SBE spending goal. In FY23, the Board spent \$24,769.82 with SBEs as against its SBE spending goal of \$17,541.25 (141% of goal).

34. 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.



## **LEGAL, LEGISLATIVE AND REGULATORY ACTIONS**

35. Please list all settlements entered into by the agency or by the District on behalf of the agency in FY 23 or FY 24, 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.

36. Is CAB currently party to any active non-disclosure agreements? If so, please provide all allowable information on all such agreements, including the number of agreements and the department(s) within OHR associated with each agreement.

**Response:** Not applicable.

37. Does CAB require non-disclosure agreements for any employees or contractors?

**Response:** Not applicable.

38. Please list the administrative complaints or grievances that the agency received in FY 23 and FY 24, to date, broken down by source. Please describe any changes to the agency policies or procedures that have resulted from complaints or grievances that were resolved in FY 23 or FY 24, to date.

**Response:** Not applicable.

39. Please provide the number of FOIA requests for FY 23, and FY 24, 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 estimate number of FTEs required to process requests, the estimated number of hours spend responding to these requests, and the cost of compliance.

**Response:** The Board received one FOIA request in FY23 and has not received any FOIA requests in FY24, to date. Because the Board had no documents responsive to the FY23 FOIA request, that request was categorized as "other disposition" for reporting purposes. The FY23 FOIA request took one FTE approximately two hours to complete at a cost (based on the preparer's hourly pay rate) of \$174.80.

40. Please list and describe any ongoing investigations, audits, or reports on the agency or any employee of the agency that were completed during FY 23 and FY 24, to date.

**Response:** Not applicable.

41. What efforts has your agency made during FY23 to increase transparency? Please explain.

**Response:** In FY23, the transparency of Board litigation records took a gigantic leap forward. In April 2023, the Board uploaded 40,831 newly digitized case records in searchable format for public access at [www.cab.dc.gov](http://www.cab.dc.gov). The newly uploaded records add approximately 1.2 million pages of case materials to the Board's existing records database. These records may be searched on the Board's website using keyword, date, case name or other search protocols. In addition, all records in newly filed FY24 cases will continue to be uploaded to the Board's website within three business days of filing (excluding records sealed to protect confidential data pursuant to Board Orders). Further, the Board maintains an online trial calendar at the

public website which lists all scheduled trials through October 2025, and CAB proceedings are open to the public except as to sealed exhibits and/or protected materials per Board order.

42. What efforts will your agency be making in FY24 to increase transparency? Please explain.

**Response:** Please see response to Q41 above.

**CONTRACT APPEALS BOARD**

43. Please provide a list of each Board member, and the dates their terms will expire.

**Response:** The following persons currently serve the Board with distinction. Please see the table below for term expiration dates. (The Mayor’s Office of Talent and Appointments maintains records and manages the process pertaining to Board member appointments.)

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*
Nicholas A. Majett, Administrative Judge	September 17, 2019	July 28, 2023*
Monica C. Parchment, Administrative Judge	June 27, 2017	July 28, 2024*

\*Continues to serve.

44. Please list the number of cases that were open at the beginning of FY 22, at the beginning of FY 23, 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. The Board understands this inquiry to relate to cases open at the beginning of FY23, at the beginning of FY24 and currently open. 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 10/1/22 (FY23)	Cases Open on 10/1/23 (FY24)	Cases Currently Pending (as of December 31, 2023) (average number of calendar days open)
Protest	1	6	2 (50.5)
Contractor Appeal	5	7	11(418.7)
District Claim*	0	0	0
Quick Payment Act Claim	1	0	0
Public-Private Partnership Act Claim	0	0	0
Appeal from Debarments and Suspensions	1	1	1(794)(settled 9/25/23 dismissal agreement due)

\*Excludes “set-off” or other counter claims to the initial contractor’s appeal.

45. 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 23 and FY 24, 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	FY23 Cases Settled (average number of calendar days from filing to settlement)	FY24 Cases Settled through December 31, 2023 (average number of calendar days from filing to settlement)
Protest	6 (26.2)	1 (30)
Contractor Appeal	3 (489.6)	1 (44)
District Claim*	0	0
Quick Payment Act Claim	1 (516)**	0
Public-Private Partnership Act Claim	0	0
Appeal from Debarments and Suspensions	0	0

\*Excludes “set-off” or other counter claims to the initial contractor’s appeal. \*\*This appeal included four claims in addition to a Quick Payment Act claim.

46. Please list the number of cases closed, and the average number of days closed cases were open, in FY 23 and FY 24, 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 also that 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	FY23 Cases Closed (average number of days from filing to resolution)	FY24 Cases Closed through December 31, 2023 (average number of days from filing to resolution)
Protest	15 (36.4 business days)	6 (58.2 business days)
Contractor Appeal	3 (489.6 calendar days)	1 (44 calendar days)***
District Claim*	0 (0)	0 (0)
Quick Payment Act Claim	1 (516)**	0 (0)
Public-Private Partnership Act Claim	0 (0)	0 (0)
Appeal from Debarments and Suspensions	0 (0)	0 (0)

\*Excludes “set-off” or other counter claims to the initial contractor’s appeal. \*\*This appeal included four claims in addition to a Quick Payment Act claim. \*\*\*Voluntary withdrawal of premature appeal.

47. Please share with the Committee an update on the work of the Board’s IT Director in FY 23 and FY 24 to date, including the status of the Five-Year IT plan.

**Response:** In FY23, the Board's IT Director played a critical role in three key technology projects. First, the IT Director helped oversee the Board’s upload of 40,831 searchable digitized case records (totaling approximately 1.2 million pages) to the Board’s public website. Second, the IT Director helped oversee the successful migration of the Board's iManage case records system to the vendor’s cloud. The move eliminates Board reliance on on-premises servers, assures that routine security and maintenance upgrades occur automatically, and positions Board technology for emerging software applications that will only be supported in the cloud environment. Third, the IT Director assisted the Board with the implementation of a replacement court recording system for Board proceedings. The new system replaced one no longer supported by the vendor, and can record fully remote, hybrid and in-person proceedings. Further, the IT Director completed the CAB Five-Year IT Strategic Plan. The Plan remains under review by the Board. Preliminarily, the IT Plan sets forth three primary goals: Future Readiness and Security, User Friendly Systems, and Technology Automation and Integration. The Plan schedules out device refresh cycles for personal computers/peripherals, identifies critical Board software and infrastructure needs (Adobe, Westlaw, Microsoft Office Suite, Bomgar, File & ServeXpress, iManage, host servers/security), and assesses opportunities for systems integration/automation (e.g., recommends researching the integration of File & ServeXpress with iManage). Finally, the IT Director coordinated monthly with OCTO on connectivity, security patches, server storage capacity, and other technology related issues

pertaining to CAB staff and operations. In FY24 to date, the IT Director has continued to oversee the on-going tasks associated with iManage migration, Legacy and current records uploads, the Board's courtroom recording technology upgrade, device refresh/assessment, the Board's future readiness, and especially ensuring across-the-board security protection for the Board's technology assets.

48. Please describe any actions the Board has taken to solicit feedback from its public database users on the user-friendliness of the database (ease of accessibility; searchability; navigability).

**Response:** The Board has finalized a user questionnaire, which will be available on the Board's website beginning February 2024. For FY23 and FY24 to date, the Board's website has invited all users to submit website feedback to the "Ask The Director" website page.

49. Please provide the Committee with an update on the Board's digitization and archiving project, including how many of the scanned physical case records have been delivered to the DC Archives.

**Response:** The Board's digitization project was successfully completed in FY23, during which 40,831 digitized case records were uploaded to the Board's public website. The original legacy case paper records are in boxes at the Board's office. The Board's goal is to transfer these records to the DC Archives, beginning in FY26 depending upon funding. The Board estimates that approximately \$18,000 will be needed to meet the DC Archives' updated records indexing requirements, and plans to include a funding request pertaining thereto in the appropriate budget cycle.

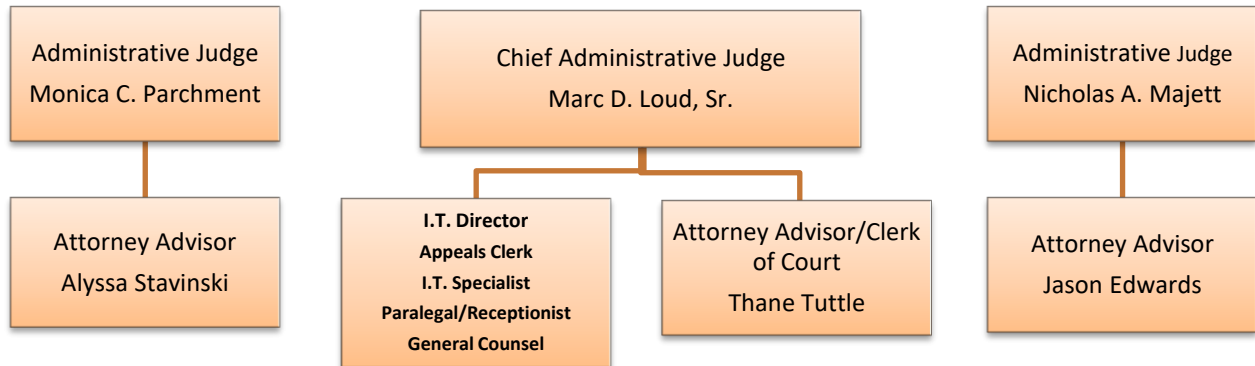
50. Please describe the Board's efforts to increase access to small businesses and pro se litigants who need to raise a claim before the Board.

**Response:** The Board's efforts to increase access to small businesses/pro se litigants include the posting on our website Resource page of a direct link to the DC Bar's Pro Bono Center. Upon being taken to the link, the message provides: "The Pro Bono Center's Small Business Legal Assistance Program supports entrepreneurs serving low-income neighborhoods. Establishing small businesses in low-income communities creates employment opportunities for residents. For low-income entrepreneurs, a small business also provides a way for its owners to create and build wealth that can be passed on to their families. The Small Business Legal Assistance Program presents a great way for the transactional legal community to assist in D.C. economic development through pro bono service." DC Bar Pro Bono Center, <https://www.dcbbar.org/pro-bono/what-we-do/nonprofit-small-business-legal-assistance>. In addition to the above, the Board's efforts to increase access to small businesses/pro se litigants included a provision in our 2020 wholesale procedural rules revision which ensures that those who may not have access to electronic filing may nonetheless file their Board protest or appeal by mail or by hand-delivery to the Board's office.



**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 1  
DC CONTRACT APPEALS BOARD  
Organizational Chart  
(As of December 31, 2023)**





**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 2  
DC CONTRACT APPEALS BOARD  
Schedule A  
(As of January 9, 2024)**

Position Number	Title	Hire Date	Grade	Step	Salary	Fringe	FTE x Dis	Fund Name	F/P Time	Reg/Tem	Work Scl	WAE	Employee NTE Dt
1 00003040	ADMIN JUDGE	5/2/2011	17	0	201706.1	34491.75	1	LOCAL FUNDS	F	Term	F	N	9/30/2024
2 00006341	CHIEF ADMIN JUDGE	8/3/2010	18	0	204527	34974.12	1	LOCAL FUNDS	F	Term	F	N	9/30/2024
3 00011739	General Counsel	7/27/2015	15	7	181792	31086.43	1	LOCAL FUNDS	F	Reg	F	N	
4 00013299	ADMIN JUDGE	10/7/2019	17	0	201706.1	34491.75	1	LOCAL FUNDS	F	Term	F	N	9/30/2024
5 00018016	STAFF ASSISTANT	9/1/1988	11	10	84167	14392.56	1	LOCAL FUNDS	F	Reg	F	N	
6 00050893	Supervisory IT Specialist	4/13/2020	14	0	158116.2	27037.87	1	LOCAL FUNDS	F	Reg	F	N	
7 00077391	Clerk of Court	1/28/2013	9	0	142169.5	24310.98	1	LOCAL FUNDS	F	Reg	F	N	
8 00077392	Program Support Assistant	9/25/2023	8	4	53969	10302.24	1	LOCAL FUNDS	F	Reg	F	N	
9 00085519	Attorney Advisor	8/12/2015	14	7	154556	26429.08	1	LOCAL FUNDS	F	Reg	F	N	
10 00087310	Attorney Advisor	10/11/2022	14	2	133088	22715.84	1	LOCAL FUNDS	F	Reg	F	N	
11 00094107	Information Technology Special	4/1/2019	11	5	73677	12536.85	1	LOCAL FUNDS	F	Reg	F	N	





**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 3  
DC CONTRACT APPEALS BOARD  
FY23 and FY24 (to date) Program/Activity/Funding Source Data  
(As of 12/31/2023)**

**FY23**

Program Description	Cost Center	Account	Account Description	Project	Award	Sum of Initial Budget	Sum of Commitment	Sum of Obligation	Sum of Expenditure	Sum of Available Budget		
PERFORMANCE AND STRATEGIC MANAGEMENT	50086	7012006	TERM FULL TIME	000000	000000	\$196,589.70	\$0.00	\$0.00	\$204,006.68	(\$7,416.98)		
		7014008	MISC FRINGE BENEFITS	000000	000000	\$33,420.25	\$0.00	\$0.00	\$0.00	\$33,420.25		
		7014022	DC HEALTH BENEFIT FEES	000000	000000	\$0.00	\$0.00	\$0.00	\$708.62	(\$708.62)		
		7014003	HEALTH BENEFITS	000000	000000	\$0.00	\$0.00	\$0.00	\$15,695.53	(\$15,695.53)		
		7014015	OPTICAL PLAN	000000	000000	\$0.00	\$0.00	\$0.00	\$92.80	(\$92.80)		
		7014002	GROUP LIFE INSURANCE	000000	000000	\$0.00	\$0.00	\$0.00	\$431.51	(\$431.51)		
		7014016	DENTAL PLAN	000000	000000	\$0.00	\$0.00	\$0.00	\$318.86	(\$318.86)		
		7014019	MEDICARE CONTRIBUTION	000000	000000	\$0.00	\$0.00	\$0.00	\$2,800.59	(\$2,800.59)		
		7014013	RETIREMENT CONTRIBUTION - CIVIL SERVICE	000000	000000	\$0.00	\$0.00	\$0.00	\$14,280.49	(\$14,280.49)		
		7152001	P-CARD CLEARING ACCOUNT	000000	000000	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
AJUDICATION SERVICES - AFO	50086	7111002	OFFICE SUPPLIES	000000	000000	\$9,256.00	\$0.00	\$0.00	\$131.11	\$924.89		
				400799	100231	\$0.00	\$0.00	\$0.00	\$17,197.58	\$2.42		
		7012006	TERM FULL TIME	000000	000000	\$387,756.61	\$0.00	\$0.00	\$402,386.03	(\$14,629.42)		
		7132001	CONTRACTUAL SERVICES - OTHER	000000	000000	\$121,250.00	\$0.00	\$0.00	\$90,797.20	\$26,322.24		
				401570	100532	\$0.00	\$0.00	\$0.00	\$0.00	\$810.00		
				401530	2001420	\$0.00	\$0.00	\$0.00	\$0.00	\$320.56		
		7014008	MISC FRINGE BENEFITS	000000	000000	\$228,082.50	\$0.00	\$0.00	\$0.00	\$228,082.50		
		7014022	DC HEALTH BENEFIT FEES	000000	000000	\$0.00	\$0.00	\$0.00	\$2,380.80	(\$2,380.80)		
		7014003	HEALTH BENEFITS	000000	000000	\$0.00	\$0.00	\$0.00	\$61,133.85	(\$61,133.85)		
		7011001	CONTINUING FULL TIME	000000	000000	\$953,905.20	\$0.00	\$0.00	\$916,296.34	\$27,606.86		
		7014015	OPTICAL PLAN	000000	000000	\$0.00	\$0.00	\$0.00	\$578.82	(\$578.82)		
		7014002	GROUP LIFE INSURANCE	000000	000000	\$0.00	\$0.00	\$0.00	\$639.23	(\$639.23)		
		7014016	DENTAL PLAN	000000	000000	\$0.00	\$0.00	\$0.00	\$1,800.96	(\$1,800.96)		
		7014009	RETIREMENT CONTRIBUTION - FICA	000000	000000	\$0.00	\$0.00	\$0.00	\$72,383.45	(\$72,383.45)		
		7131009	PROF SERVICE FEES & CONTR	000000	000000	\$40,738.22	\$0.00	\$0.00	\$21,173.25	\$12,883.04		
				401766	100629	\$0.00	\$0.00	\$0.00	\$0.00	\$220.00		
		7014019	MEDICARE CONTRIBUTION	000000	000000	\$0.00	\$0.00	\$0.00	\$18,791.68	(\$18,791.68)		
		7014020	RETIREMENT	000000	000000	\$0.00	\$0.00	\$0.00	\$49,196.01	(\$49,196.01)		
		7171009	IT SOFTWARE ACQUISITIONS	000000	000000	\$10,500.00	\$0.00	\$0.00	\$0.00	\$0.00		
				401248	1003991	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
		7171003	PURCHASES EQUIPMENT & MACHINERY	000000	000000	\$2,955.00	\$0.00	\$0.00	\$0.00	\$0.00		
		7013007	TERMINAL LEAVE	000000	000000	\$0.00	\$0.00	\$0.00	\$4,012.35	(\$4,012.35)		
		7014021	DC METRO BENEFITS	000000	000000	\$0.00	\$0.00	\$0.00	\$600.00	(\$600.00)		
		7131011	OFFICE SUPPORT	000000	000000	\$0.00	\$0.00	\$0.00	\$461.93	\$0.00		
				400799	100231	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		
								<b>\$1,984,453.48</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,898,297.27</b>	<b>\$62,701.21</b>
		Column18	Column	Column11	Column12	Column25	Column27	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
								<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
								\$1,984,453.48	\$0.00	\$0.00	\$1,898,297.27	\$62,701.21

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## FY24 (through 12/31/2023)

Fund	Fund Description	Program	Program Description	Cost Center	Account	Account Description	Project	Award	Sum of Initial Budget	Sum of Commitment	Sum of Obligation	Sum of Expenditure	Sum of Available Budget				
1010001	LOCAL FUNDS	100154	PERFORMANCE AND STRATEGIC MANAGEMENT	50086	7012006	TERM FULL TIME	000000	0000000	\$204,527.01	\$0.00	\$0.00	\$43,265.31	\$161,261.70				
					7014008	MISC FRINGE BENEFITS	000000	0000000			\$34,974.12	\$0.00	\$0.00	\$0.00	\$34,974.12		
					7014022	DC HEALTH BENEFIT FEES	000000	0000000			\$0.00	\$0.00	\$0.00	\$149.49	(\$149.49)		
					7014003	HEALTH BENEFITS	000000	0000000			\$0.00	\$0.00	\$0.00	\$3,362.81	(\$3,362.81)		
					7014015	OPTICAL PLAN	000000	0000000			\$0.00	\$0.00	\$0.00	\$19.58	(\$19.58)		
					7014002	GROUP LIFE INSURANCE	000000	0000000			\$0.00	\$0.00	\$0.00	\$91.08	(\$91.08)		
					7014016	DENTAL PLAN	000000	0000000			\$0.00	\$0.00	\$0.00	\$67.26	(\$67.26)		
					7014019	MEDICARE CONTRIBUTION	000000	0000000			\$0.00	\$0.00	\$0.00	\$592.98	(\$592.98)		
					7014013	RETIREMENT CONTRIBUTION - CIVIL SERVICE	000000	0000000			\$0.00	\$0.00	\$0.00	\$3,028.57	(\$3,028.57)		
					150012	P-CARD CLEARING	10086	7152001	P-CARD CLEARING ACCOUNT	000000	0000000		\$0.00	\$0.00	\$0.00	\$98.88	(\$98.88)
					500034	ADJUDICATION SERVICES - AFO	50086	7111002	OFFICE SUPPLIES	000000	0000000		\$7,558.00	\$0.00	\$0.00	\$0.00	\$4,058.00
										401825	1000655		\$0.00	\$0.00	\$0.00	\$0.00	\$3,500.00
							400799	1000231		\$0.00	\$0.00	\$0.00	\$1,048.85	(\$1,048.85)			
							7012006	TERM FULL TIME	000000	0000000	\$403,412.27	\$0.00	\$0.00	\$85,337.18	\$318,075.09		
							7132001	CONTRACTUAL SERVICES - OTHER	000000	0000000	\$43,910.24	\$0.00	\$9,500.00	\$12,424.99	\$21,985.25		
							7014008	MISC FRINGE BENEFITS	000000	0000000	\$237,795.35	\$0.00	\$0.00	\$0.00	\$237,795.35		
							7014022	DC HEALTH BENEFIT FEES	000000	0000000	\$0.00	\$0.00	\$0.00	\$681.88	(\$681.88)		
							7014003	HEALTH BENEFITS	000000	0000000	\$0.00	\$0.00	\$0.00	\$14,064.99	(\$14,064.99)		
							7011001	CONTINUING FULL TIME	000000	0000000	\$987,203.68	\$0.00	\$0.00	\$207,903.85	\$779,299.83		
							7014015	OPTICAL PLAN	000000	0000000	\$0.00	\$0.00	\$0.00	\$144.27	(\$144.27)		
							7014002	GROUP LIFE INSURANCE	000000	0000000	\$0.00	\$0.00	\$0.00	\$143.77	(\$143.77)		
							7014016	DENTAL PLAN	000000	0000000	\$0.00	\$0.00	\$0.00	\$437.26	(\$437.26)		
							7014009	RETIREMENT CONTRIBUTION - FICA	000000	0000000	\$0.00	\$0.00	\$0.00	\$11,542.23	(\$11,542.23)		
							7131009	PROF SERVICE FEES & CONTR	000000	0000000	\$48,980.33	\$0.00	\$0.00	\$0.00	\$48,980.33		
							7014019	MEDICARE CONTRIBUTION	000000	0000000	\$0.00	\$0.00	\$0.00	\$4,165.67	(\$4,165.67)		
							7014020	RETIREMENT	000000	0000000	\$0.00	\$0.00	\$0.00	\$11,542.15	(\$11,542.15)		
		<b>1010001 Total</b>									<b>\$1,968,361.00</b>	<b>\$0.00</b>	<b>\$9,500.00</b>	<b>\$400,113.05</b>	<b>\$1,558,747.95</b>		
		Grand Total									\$1,968,361.00	\$0.00	\$9,500.00	\$400,113.05	\$1,558,747.95		



**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 4  
CAB Virtual Hearings Protocol**

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**DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)**

On March 11, 2020, the Mayor of the District of Columbia declared a State of Emergency and Public Health Emergency due to the COVID-19 pandemic. See Mayor's Order 2020-045 (March 11, 2020) and Mayor's Order 2020-046 (March 11, 2020). While the Public Health Emergency ended on July 25, 2021, the Mayor's authority to declare a Public Emergency currently, pending DC Council approval, extends until March 17, 2022. See Mayor's Order 2021-147 (December 20, 2021); B24-0572, Public Emergency Extension Emergency Amendment Act of 2021 (December 20, 2021).

In light of the ongoing public emergency, and until further notice, the DC Contract Appeals Board ("CAB" or "the Board") shall provide parties the option of conducting "fully-virtual" or "hybrid" proceedings in all matters currently pending and subsequently filed before the Board. Unless otherwise instructed by the Chief Judge or the Presiding Judge in any case, all status conferences shall be conducted remotely via telephone/conference call; all pre-hearing conferences (whether fully-virtual or hybrid) shall be conducted remotely via the Webex™ by Cisco ("Webex") video-sharing platform ([www.webex.com](http://www.webex.com)); and all evidentiary hearings (whether fully-virtual or hybrid) shall be conducted remotely via Webex. Instructions for participating in these remote proceedings before the Board are set forth herein.

The parties participating in these remote proceedings agree to waive any challenges to the finality or lawfulness of an award, decision, ruling, determination or any other disposition by the Board on the basis that the proceeding was not conducted in-person. The Board may, as appropriate, permit in-person proceedings during a declared Public Health Emergency or Public Emergency.

*DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)*

## **Instructions for Participating in Remote (Telephonic, Fully-Virtual and Hybrid) Proceedings Before CAB**

As a general matter, the parties<sup>1</sup> must familiarize themselves and their witnesses with the technological platform that will be used to conduct the proceeding. All participants should be able to communicate clearly during the proceedings and the participants should readily be able to access and view any exhibits used in the proceeding. Unless otherwise ordered, the proceedings before the Board addressed by this protocol include Status Conferences, Prehearing Conferences and Evidentiary Hearings (including Hearings on the merits).

**General Requirements:** Parties and witnesses shall, at all times during remote proceedings before the Board, properly comport themselves in the same manner as if they were appearing before the Board in person. Parties and witnesses appearing via video conference as outlined below should wear appropriate business attire. The Presiding Board Judge, in his or her sole discretion, may suspend and continue any proceeding to enforce these general requirements.

The video or audio recordation of status conferences, prehearing conferences and evidentiary hearings by any persons other than Board staff as directed by the Board is **strictly prohibited**. The Presiding Board Judge, in his or her sole discretion, may suspend and continue any proceeding to the extent there are any unresolvable technical interruptions or unauthorized access issues.

### **A. Telephone Status Conferences**

The Board utilizes status conferences to address informally “housekeeping” matters related to pending cases. Status conferences may be requested by motion of a party or ordered *sua sponte* by the Board. Unless otherwise ordered, all status conferences shall be conducted remotely by telephone conference call.

Notice: Status conferences will be scheduled by Board Order, email and/or telephone notice to all parties of record. The notice will provide parties with the date, time and dial-in instructions for the status conference.

Unless otherwise provided, the Board’s City-Wide Messaging conference dial-in numbers are as follows:

- *Citywide messaging dial-in number:* 1-866-702-3464
- *Participant Code (to be used by the parties):* 9533834

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<sup>1</sup> For purposes of the Board’s Remote Proceedings Protocol, the terms “party” or “parties” shall include self-represented litigants as well as those represented by legal counsel before the Board.

## **B. Remote Prehearing Conferences (Fully-Virtual or Hybrid)**

Prehearing conferences are formal proceedings held shortly prior to an evidentiary hearing. They allow the Board and the parties to organize anticipated documentary and testimonial evidence expected to be introduced at the evidentiary hearing as well as resolve any other pending issues prior to the hearing. This results in a more efficient and effective evidentiary hearing process. The Presiding Judge will manage the prehearing conference.

Notice: The Board will provide all parties notice of the prehearing conference through a scheduling order. Unless otherwise ordered, scheduling orders will be issued to the parties via the Board's e-filing platform, File&ServeXpress (<https://secure.fileandservexpress.com>). A weblink to the scheduling order will be posted to the Board's website's public calendar entries for the case. (<https://cab.dc.gov/page/courtroom-calendar>).

Unless otherwise ordered, at least seven (7) business days prior to the prehearing conference, the parties should submit by email to the Board's Clerk's Office ([mia.house@dc.gov](mailto:mia.house@dc.gov)) a list containing the email addresses and phone numbers of all parties seeking to participate in the prehearing conference. At least three (3) business days prior to the prehearing conference, the Board's Clerk's Office will email a Webex invitation link (containing the Webex meeting number) to those parties previously identified, permitting them access to fully participate in the prehearing conference. A Webex link for the public to observe (see and hear, only) the prehearing conference will be included in the Board's calendar entry for the matter. Participants in, and public observers of, the prehearing conference should contact the Board at least two (2) business days prior to the conference should any special accommodations be required.

Note that for fully-virtual prehearing conferences, the Board, parties, party-counsel, witnesses and court reporter shall appear remotely via Webex. For hybrid prehearing conferences, the Board may be present physically in its main courtroom at 441 4<sup>th</sup> Street NW, Suite 350-N, Washington, DC 20001; however, the parties, party-counsel, witnesses and court reporter shall appear remotely unless otherwise ordered by the Board.

Recordation: A video and audio recording via Webex of the prehearing conference will be maintained by the Board. Any other video or audio recording of the prehearing conference made without prior permission from the Board is strictly prohibited.

*DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)*



**Exhibit Preparation:** Please see Section C (Remote Evidentiary Hearings) below for instructions on preparing Exhibits.

**Practice Session:** Prior to the prehearing conference, the Board may schedule a mandatory remote hearing practice session. This will allow parties to familiarize themselves with such Webex features as sharing exhibits, examining witnesses, raising objections and other features to be used during the prehearing conference and subsequent trial.

### **C. Remote Evidentiary Hearings (Fully-Virtual and Hybrid)**

Evidentiary hearings are formal, administrative trial-type proceedings before the Board. Evidentiary hearings allow the parties to present evidence (e.g., documents and witnesses) in support of their litigation position, as well as impeach the evidence offered by the opposing parties. The Board will ensure the evidentiary hearing is conducted fairly and efficiently in accordance with applicable law.

**Notice:** The Board will provide all parties notice of the evidentiary hearing through scheduling order. Unless otherwise ordered, scheduling orders will be issued to the parties via the Board's e-filing platform, File&ServeXpress (<https://secure.fileandservexpress.com>). A weblink to the scheduling order will be posted to the Board's website's public calendar entries for the case. (<https://cab.dc.gov/page/courtroom-calendar>).

Unless otherwise ordered, at least seven (7) business days prior to the evidentiary hearing, the parties should submit by email to the Board's Clerk Office ([mia.house@dc.gov](mailto:mia.house@dc.gov)) a list containing the email addresses and phone numbers of all parties and witnesses seeking to participate in the evidentiary hearing. At least three (3) business days prior to the hearing, the Board's Clerk's Office will email a Webex invitation link (containing the Webex meeting number) to those parties and witnesses previously identified, permitting them access to fully participate in the evidentiary hearing. A Webex link for the public to observe (see and hear, only) the evidentiary hearing will be included in the Board's calendar entry for the matter. Participants in, and public observers of, the evidentiary hearing should contact the Board at least two (2) business days prior to the evidentiary hearing should any special accommodations be required.

Note that for fully-virtual evidentiary hearings, the Board, parties, party-counsel, witnesses and court reporter shall appear remotely via Webex. For hybrid evidentiary hearings, the Board may be present physically in its main courtroom at 441 4<sup>th</sup> Street NW, Suite 350-N, Washington, DC 20001; however, the parties, party-counsel, witnesses and court reporter shall appear remotely unless otherwise ordered by the Board.

*DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)*



**Recordation:** Unless otherwise ordered, a video and audio recording via Webex of the evidentiary hearing will be maintained by the Board. In addition, a certified court reporter familiar with the Webex platform and retained by the District (not the Board) will monitor and prepare a transcription of the evidentiary hearing.

**Exhibits:** Unless otherwise ordered, exhibits that will be referenced in the prehearing conference and evidentiary hearing should be prepared as follows:

- (1) Unless otherwise ordered, all exhibits should be “bundled” for each party (i.e., prepared as one merged and searchable pdf, have a Table of Contents, be marked indicating the offering party and ordered sequentially, e.g. PX-1 for Protestor’s Exhibit 1; AX-1 for Appellant’s Exhibit 1; I(name)X-1 for Intervenor’s Exhibit 1; and DX-1 for District’s Exhibit 1) and filed with the Board at least three (3) business days prior to the prehearing conference or evidentiary hearing. A copy of the exhibits should be filed via the File&ServeExpress platform as well as emailed to the Board’s Clerk’s Office ([mia.house@dc.gov](mailto:mia.house@dc.gov)) for utilization during the proceeding.
- (2) Rebuttal exhibits should be marked at the time of submission (e.g., PRX-1, ARX-1, I(name)RX-1, DRX-1) and filed with the Board as marked within five (5) business days after the close of the hearing.
- (3) Parties should confer with opposing parties to determine what exhibits are stipulated and what evidentiary objections each side is maintaining and avoid duplicate exhibits.
- (4) The Board may provide Drop Box (<https://www.dropbox.com>) or other remote file storage link and instructions to the parties if, upon notification by the parties, the exhibit files are too large to be accepted by the Board’s e-filing system. No emailing of the proposed exhibits to the Board’s Clerk’s Office is required if the Board utilizes remote file storage to receive the files.
- (5) Parties should practice using the screenshare function on Webex and have exhibits readily accessible on their computers to screenshare as necessary and permitted by the Presiding Judge and Board Judge.
- (6) Parties should provide their witnesses with relevant exhibits prior to the evidentiary hearing.

**Witnesses:** Unless otherwise ordered, parties should adhere to the following requirements regarding witnesses participating in remote evidentiary hearings before the Board:

- (1) Witnesses should appear by the Webex video-conferencing platform. Other platforms may not be supported.

*DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)*

- (2) If a witness does not have the capability for videoconferencing and can only call in on the phone, then, unless otherwise ordered by the Presiding Judge, the witness cannot testify regarding any exhibits. Please also see Item 16 regarding witness testimony by telephone.
- (3) A party calling the witness is responsible for ensuring the witness has a separate video and audio feed.
- (4) A party should not attempt to “share” a connection with a witness.
- (5) All witnesses should be prepared to present a valid form of identification to verify their identity to the Board over the video feed.
- (6) It is the responsibility of the party offering the witness to ensure that the witness has the link to the proceedings and that all exhibits are available to the witness, including those of opposing parties.
- (7) At no point during witness testimony shall parties communicate with the testifying witness without the permission of the Board Judge.
- (8) Witnesses shall not communicate with anyone during their testimony.
- (9) Rule of Sequestration: If, upon motion by a party or *sua sponte*, the Presiding Judge invokes the Rule of Sequestration (i.e., ensuring witnesses do not hear, and therefore possibly be influenced by, the testimony of other witnesses in the evidentiary hearing), the witnesses will either be asked to login to Webex when it is their turn to testify, or to sit in a Webex “waiting room” while the evidentiary hearing is proceeding.
- (10) All parties and witnesses shall affirm that they will act in accordance with the Board’s procedures. The witness affirmation shall include a statement that the witness is testifying under oath, based upon his or her own knowledge, and that the witness certifies that no one, other than authorized video conference participants, are present in the room in which they are testifying.
- (11) If a witness experiences technical difficulty during his or her testimony, the proceeding will be stopped to allow the party and the witness to resolve the issue.
- (12) Witnesses should wear proper attire for a courtroom and be in a distraction-free environment. Witnesses shall turn off ringers and alerts that make noise and not engage in any other activities while testifying. Witnesses should mute their microphone when not being addressed.
- (13) The parties should ensure that the Webex displays the witness’s proper name.
- (14) Witnesses should let the party or Board Judge finish speaking before answering questions. When an objection is made, witnesses should stop speaking and let the Board Judge rule on the objection.

*DC Contract Appeals Board  
Remote Proceedings Protocol  
(January 2022)*

(15) Procedure for disconnection: Parties should advise the witness to attempt to re-enter the meeting if they are inadvertently disconnected and instruct the witness to contact the party by phone or email for further instructions if they are unable to rejoin the Webex hearing.

(16) Testimony by Telephone: In exceptional circumstances, the Board may, upon written or oral motion, permit a witness to participate in an evidentiary hearing by telephone. This will depend on the reason, nature of the witness and subject of the witness's testimony, and whether a telephonic examination will not prejudice the presentation of any party. Parties may be required to hire a notary to administer the oath to the witness at the witness' location if the Board cannot actually observe the witness. Please also see Item 2.

Post-Evidentiary Hearing Submissions: Please refer to the Board's Post-Evidentiary Hearing Order for post-hearing submissions requirements and deadlines.



**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 5  
DC CONTRACT APPEALS BOARD  
FY23 Performance Plan**



Contract Appeals Board FY2023

Agency	Contract Appeals Board	Agency Acronym	CAB	Agency Code	AF0	Agency Glossary
To edit agency and POC information press your agency name (underlined and in blue above).						
Agency Performance POCs	Mark (CAB) Poindexter	Agency Budget POCs	Mark (CAB) Poindexter	Fiscal Year	2023	Add Current Quarter Data
Select Measures to highlight in PAR						

FY2023 Agency Accomplishments

Please add up to 3 agency accomplishments to be shared out in your Agency's Performance Accountability Report.	Add Accomplishment			
	What is the accomplishment that your agency wants to highlight?		How did this accomplishment impact residents of DC?	How did this accomplishment impact your agency?
	For the 9th consecutive year, the Board closed FY23 with no backlogged cases on our docket. In FY23, CAB closed 19 cases, including four appeals and 15 protests. Of the FY23 appeals that were closed, the Board resolved 100% of them within four months of the case being ready for final decision. As of the close of FY23, the Board did not have any pending appeals case more than three years old. Of the protests decided in FY23, 100% were closed within 60 business days of filing. As FY24 opened, all pending Board protest cases were less than 60 business days old. In addition to the above, 52.6% of Board cases closed in FY23 were resolved through settlement. Finally, parties with cases before the Board filed over 26,000 pages of litigation materials in FY23. To promote transparency, all such materials can be reviewed on the Board's website (except those sealed by Board Order to protect confidential information).	Promotes efficiency and transparency in the disposition of cases before the Board.	Promotes efficiency and transparency in the disposition of cases before the Board.	
	In FY23, CAB celebrated a significant milestone in our commitment to on-going and total Transparency. By transparency, we mean giving the public convenient access to Board Decisions, Orders, party filings, contract records, contracting officer decisions, vendor/government claims, IFB/RFP protest documents, and other submissions filed in Board cases (excluding records sealed pursuant to Board Orders). In FY23, the Board uploaded 40,831 newly digitized case records in searchable format for public access at www.cab.dc.gov. The newly uploaded records add approximately 1.2 million pages of case materials to the Board website, making it a massive and transparent database containing available Board case records from our earliest filings to the present. Users of the Board's search lens of thousands of formerly unavailable litigation documents from the 1950s-1999. (Available Board records from 2000-2023 are already on the Board's website in searchable format.) The addition of these newly digitized case records further CAB's longstanding commitment to transparency. As early as 2011, the CAB was recognized locally by the Washington Business Journal as having one of the most comprehensive databases of ANY government agency. The Board's upload of the 40,831 newly digitized records evidence our continuing commitment to transparency.	Promotes the Board's continuing commitment to transparency and legacy case scholarship.	Promotes the Board's continuing commitment to transparency and legacy case scholarship.	
In FY23, the DC Contract Appeals Board officially migrated our iManage case search and repository system to the cloud. The benefits from iManage migration to the cloud will be instant for CAB and our website users: (1) CAB will avoid the deleterious effect of losing vendor support for iManage in December 2023. After December 2023 our iManage vendor will only support cloud-based applications which would have effectively locked the Board out of security patches, routine maintenance checks, and (especially) scalability in the newly emergent world of AI features; (2) CAB will gain instant access to the vendor's cloud-based iManage host server which has the training and expertise needed to support a powerful and highly specialized legal app like iManage. CAB's on-premises host server will no longer support the iManage app, and thus expensive third-party maintenance costs for host server upgrades will be eliminated; (3) After the migration, CAB website uploads can be done from any authorized device at any time and location because the cloud based-iManage is also browser based. (Currently, CAB uploads can only be done on devices that have VPN and/or other specialty District remote-access software installed.) In addition, the cloud based iManage will be future ready, on the latest version (Worksite 10 vs the Version 9.4 that CAB currently uses), will automatically update to newer versions, and (as noted) be compatible with newly emerging AI products.	Maintains the Board's utilization of current and future-facing technology in the area of case management.	Maintains the Board's utilization of current and future-facing technology in the area of case management.		

2023 Objectives

Objective Number	Strategic Objective	# of Measures	# of Operations	Add Key Performance Indicator
1	Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.	4	0	Add Key Performance Indicator
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	1	Add Key Performance Indicator
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	1	Add Key Performance Indicator
TOT		7	2	

2023 Key Performance Indicators

Measure	Highlight in PAR	Directionality	Frequency of Reporting	FY2019 Actual	FY2020 Actual	FY2021 Actual Report	FY2022 Actual Report	FY 2023 Target Report	FY 2023 Quarter 1	FY 2023 Quarter 2	FY 2023 Quarter 3	FY 2023 Quarter 4	FY 2023 Report	Wa 20. KPI Me
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (4 Measure records)														
Percent of Protests resolved within 60 business days		Up is Better	Annually	100%	94.1%	100%	88.5%	95%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met
Percent of decisions sustained on appeal		Up is Better	Annually	100%	No Applicable Incidents	No Applicable Incidents	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	No applicable incidents	



OCA: District Performance P... -

Measure	Highlight in PAR	Directionality	Frequency of Reporting	FY2019 Actual	FY2020 Actual	FY2021 Actual Report	FY2022 Actual Report	FY 2023 Target Report	FY 2023 Quarter 1	FY 2023 Quarter 2	FY 2023 Quarter 3	FY 2023 Quarter 4	FY 2023 Report	Wa 20: KPI Me
Percent of Appeals resolved within 4 months of the cases being ready for decision		Up is Better	Annually	81.3%	92.9%	100%	100%	90%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met
Percent of pending Appeals that are three years old or less		Up is Better	Annually	100%	100%	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met
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 Measure)														
Percent of cases resolved through settlement		Up is Better	Annually	55.6%	50%	40.9%	41%	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	52.6%	Met
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; searching by the parties with pending cases and the public. (2 Measure records)														
Percent of new cases using electronic filing system		Up is Better	Annually	100%	83.3%	91.2%	92.3%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	76%	Unmet
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	Annually	100%	100%	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met

2023 Operations

Operations Header	Operations Title	Operations Description	Type of Operations	Add Workload Measure	Add Strategic Initiative
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	Add Workload Measure	Add Strategic Initiative
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	Add Workload Measure	Add Strategic Initiative

2023 Workload Measures

Measure	New Measure/Benchmark Year	Highlight in PAR	Frequency of Reporting	FY2020 Actual	FY2021 Actual	FY2022 Actual	FY 2023 Quarter 1	FY 2023 Quarter 2	FY 2023 Quarter 3	FY 2023 Quarter 4	FY 2023 Report
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 Measure records)											
Number of Scheduling Orders issued encouraging settlement			Annually	24	34	26	Annual Measure	Annual Measure	Annual Measure	Annual Measure	25
Number of cases resolved through settlement/voluntary withdrawal			Annually	18	9	16	Annual Measure	Annual Measure	Annual Measure	Annual Measure	10
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 Measure records)											
Number of archived protest and appeals cases digitized and uploaded to the public website			Annually	0	1	1	Annual Measure	Annual Measure	Annual Measure	Annual Measure	2,348
Number of new cases filed and processed electronically			Annually	21	31	24	Annual Measure	Annual Measure	Annual Measure	Annual Measure	19
Number of documents filed in new cases			Annually	2,043	1,574	1,538	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1441

2023 Strategic Initiatives

Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date	Is this Initiative focused on Wards 7 and/or 8?	Does this initiative support the Resilient DC Strategy?	Is this initiative related to an American Rescue Plan Act (ARPA) enhancement?	Is this initiative focused on enhancing racial equity?	Add Initiative Update
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 Initiative records)							
Migration of iManage Case Management Software to Cloud-Based Storage	This initiative will secure a vendor to migrate the Board's on-premises iManage Case Document System to the vendor's cloud. The iManage system populates all case files from the File & ServeExpress platform to the Board server and to the public website for transparency/public viewing	09-30-2023					
Legacy Case Files Upload to Public Website	This initiative will allow the Board to contract with a vendor to upload over 1,000,000 pages of Board case files to the public website. These legacy case records date back as early as the Board's founding in 1951 up to circa 1985. Board records from 1985 to the present are already on the website.	09-30-2023					

2023 Initiative Updates

Add Current Quarter Initiative Updates

Strategic Initiative Title	Initiative Status Update	% Complete to date	Confidence in completion by end of fiscal year (9/30)?	Status of Impact	Supporting Data	Reporting Quarter
Legacy Case Files Upload to Public Website (3 Initiative Update records)						
Legacy Case Files Upload to Public Website	OCP issued PO679426 "FY23 CAB iManage Import Services and Legacy Application" on December 19, 2022. A project kick-off meeting was held on January 9, 2023.	0-24%	High	Incremental		Q1
Legacy Case Files Upload to Public Website	2QFY23 saw the data sorting, filename updating and user testing of the pending uploaded legacy case files (approximately 41,000 public case files). The final stage of this process is the uploading of these legacy cases to the Board's public website in early 3QFY23.	50-74%	High	Demonstrable		Q2
Legacy Case Files Upload to Public Website	The DC Contract Appeals Board celebrated a significant milestone in our commitment to on-going and total transparency! By transparency, we mean giving the public convenient access to Board Decisions, Orders, party filings, contract records, contracting officer decisions, vendor/government claims, IFB/RFP protest documents, and other submissions filed in Board cases (excluding records sealed pursuant to Board Orders). Effective April 18, the Board uploaded 40,831 newly digitized case records in searchable format for public access at www.cab.dc.gov. The newly uploaded records add approximately 1.2 million pages of case materials to the Board website, making it a massive and transparent database containing available Board case records from our establishment in 1953 to the present.  Users of the Board's website can now search for Opinions in some of the Board's oldest known cases (Capitol Engineering, January 17, 1958), as well as search tens of thousands of formerly unavailable litigation documents from the 1950s-1999. (Available Board records from 2000-2023 are already on the Board's website in searchable format.) The addition of these newly digitized case records further CAB's longstanding commitment to transparency. As early as 2011, the CAB was recognized locally by the Washington Business Journal as having one of the most comprehensive databases of ANY government agency. The Board's upload of the 40,831 newly digitized records evidence our continuing commitment to having one of the most comprehensive government records databases.	Complete	High	Transformative		Q3
Migration of iManage Case Management Software to Cloud-Based Storage (4 Initiative Update records)						
Migration of iManage Case Management Software to Cloud-Based Storage	OCP issued PO680770 "FY23 CAB iManage Cloud Migration Update" on January 6, 2023. Project kick-off date to be scheduled.	0-24%	High	Incremental		Q1
Migration of iManage Case Management Software to Cloud-Based Storage	2QFY23 saw additional, "go-live" project planning including IT resource identification and utilization for the iManage Case Document System cloud migration project, currently slated to be completed in early 4QFY23.	25-49%	High	Incremental		Q2
Migration of iManage Case Management Software to Cloud-Based Storage	The Board is finalizing end-user testing of iManage case data prior to cloud migration. Complete migration and training is expected to be completed July/August 2023.	75-99%	High	Demonstrable		Q3



Strategic Initiative Title	Initiative Status Update	% Complete to date	Confidence in completion by end of fiscal year (9/30)?	Status of Impact	Supporting Data	Reporting Quarter
Migration of iManage Case Management Software to Cloud-Based Storage	<p>On July 27, 2023, the DC Contract Appeals Board officially migrated our iManage case search and repository system to the cloud. (The iManage system is the software application that allows CAB staff to upload case records to the Board's public website as fully searchable PDFs.) When the Board reached this milestone on July 27, it capped a much broader multiyear effort to:</p> <p>(1) digitize and preserve millions of pages from the Board's earliest cases (1950s-1970s),</p> <p>(2) add these legacy records to the Board's already extensive case search database as fully searchable PDFs <a href="https://cab.dc.gov/node/1656651">https://cab.dc.gov/node/1656651</a>, and</p> <p>(3) migrate our entire case search database from the now archaic "on-premises" application and server model to the newer (and increasingly standard) "cloud-based" application and server model. (CAB may be among court pioneers in offering a cloud-based case search tool ... the federal court system launched a cloud migration initiative in 2022. See, generally, <a href="https://washingtontechnology.com/contracts/2022/06/federal-court-system-eyes-expanded-push-cloud/368709/">https://washingtontechnology.com/contracts/2022/06/federal-court-system-eyes-expanded-push-cloud/368709/</a>.)</p> <p>The benefits from iManage migration to the cloud will be instant for CAB and our website users:</p> <p>(1) CAB will avoid the deleterious effect of losing vendor support for iManage in December 2023. After December 2023 our iManage vendor will only support cloud-based applications <a href="https://legaltechnology.com/2021/09/13/immanage-announces-end-of-life-for-desk-site-filesite-and-idol-indexer/">https://legaltechnology.com/2021/09/13/immanage-announces-end-of-life-for-desk-site-filesite-and-idol-indexer/</a>, which would have effectively locked the Board out of security patches, routine maintenance checks, and (especially) scalability in the newly emergent world of AI features,</p> <p>(2) CAB will gain instant access to the vendor's cloud-based iManage host server (which CAB will not have to maintain in-house). After migration, the iManage host server will be supported by the vendor's team, which has the training and expertise needed to support a powerful and highly specialized legal app like iManage. CAB's on-premises host server will no longer support the iManage app, and thus expensive third-party maintenance costs for host server upgrades will be eliminated,</p> <p>(3) After the migration, authorized CAB website uploads can be done from any authorized device at any time and location because the cloud based iManage is also browser based. (Currently, CAB uploads can only be done on devices that have VPN and/or other specialty District remote-access software installed.) In addition, the cloud based iManage will be future ready, on the latest version (Worksite 10 vs the Version 9.4 that CAB currently uses), will automatically update to newer versions, and (as noted) be compatible with newly emerging AI products <a href="https://www.ncsc.org/_data/assets/pdf_file/0013/20630/2020-04-02-intro-to-ai-for-courts_final.pdf">https://www.ncsc.org/_data/assets/pdf_file/0013/20630/2020-04-02-intro-to-ai-for-courts_final.pdf</a> and</p> <p>(4) Finally, the migration may lead to lower carbon emissions as energy consumption at the OCTO data center attributable to CAB's on-premises server may be reduced. (The discussion regarding reduced carbon emissions has been written about in the context of various company migrations, see, e.g., <a href="https://newsroom.accenture.com/news/accenture-bunches-mynav-green-cloud-advisor-to-help-companies-realize-sustainability-goals-through-the-cloud.htm">https://newsroom.accenture.com/news/accenture-bunches-mynav-green-cloud-advisor-to-help-companies-realize-sustainability-goals-through-the-cloud.htm</a>.)</p>	Complete		Transformative		Q4

2022 Unfinished Initiatives

Title	Description	% Complete from Prior FY	Status Update	Explanation	Anticipated Completion Date	Add Initiative Update
No Strategic Initiative records found						

2022 Unfinished Initiative Updates

Strategic Initiative Title	Anticipated completion date	New Initiative Created for FY21	No Longer an Initiative	Initiative Status Update	% Complete to date	Confidence in completion by anticipated completion date?	Status of Impact	Explanation of Impact (Limited to 550 Characters)	Supporting Data	Reporting Quarter
No Initiative Update records found										

2023 ARP Key Performance Indicators

Measure	New Measure/Benchmark Year	Highlight in PAR	ARPA: Required by Treasury	Directionality	ARPA Expenditure Code	ARPA Initiative	ARPA Sub-Initiative	ARPA Project Name	FY2019 Actual	FY 2020 Target	FY2020 Actual	FY2021 Target	FY2021 Actual
No Measure records found													

2023 ARP Workload Measures

Measure	Highlight in PAR	ARPA Project Name	New Measure/Benchmark Year	ARPA: Required by Treasury	ARPA Expenditure Code	ARPA Initiative	ARPA Sub-Initiative	FY2020 Actual	FY2021 Actual	FY2022 Actual	FY 2023 Quarter 1	FY 2023 Quarter 2	FY 2023 Quarter 3
No Measure records found													

Update Notes

Add Note	Section	Note for Publication	Publish in
No Note records found			

Administrative Information

Record ID# 928  
Performance Plan ID 928





**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 6  
DC CONTRACT APPEALS BOARD  
FY24 Performance Plan**

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**Contract Appeals Board FY2024**

Agency Contract Appeals Board Agency Acronym CAB Agency Code AF0 Agency Glossary  
 To edit agency and POC information press your agency name (underlined and in blue above).  
 Agency Performance POCs Mark (CAB) Poindexter Agency Budget POCs Mark (CAB) Poindexter Fiscal Year 2024  
 Add FY24 Targets

**2024 Objectives**

Add Strategic Objective

Objective Number	Strategic Objective	# of Measures	# of Operations	Add Key Performance Indicator
1	Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.	4	0	Add Key Performance Indicator
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	1	Add Key Performance Indicator
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	1	Add Key Performance Indicator
<b>TOT</b>		<b>7</b>	<b>2</b>	

**2024 Key Performance Indicators**

Measure	New Measure/Benchmark Year	Directionality	Frequency of Reporting	FY2019 Actual	FY 2020 Target	FY2020 Actual	FY2021 Target	FY2021 Actual Report	FY2022 Target	FY2022 Actual Report	FY 2023 Target	FY2023 Actual Report	FY 2024 Target
<b>1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (4 Measure records)</b>													
Percent of Protests resolved within 60 business days		Up is Better	Annually	100%	95%	94.1%	95%	100%	95%	88.5%	95%	100%	95%
Percent of decisions sustained on appeal		Up is Better	Annually	100%	100%	No Applicable Incidents	100%	No Applicable Incidents	100%	100%	100%	No Applicable Incidents	100%
Percent of Appeals resolved within 4 months of the cases being ready for decision		Up is Better	Annually	81.3%	90%	92.9%	90%	100%	90%	100%	90%	100%	90%
Percent of pending Appeals that are three years old or less		Up is Better	Annually	100%	90%	100%	90%	100%	90%	100%	100%	100%	100%
<b>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)</b>													
Percent of cases resolved through settlement		Up is Better	Annually	55.6%	50%	50%	50%	40.9%	50%	41%	50%	52.6%	50%
<b>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 Measure records)</b>													
Percent of new cases using electronic filing system		Up is Better	Annually	100%	100%	83.3%	100%	91.2%	100%	92.3%	100%	76%	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	Annually	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

**2024 Operations**

Operations Header	Operations Title	Operations Description	Type of Operations	Add Workload Measure	Add Strategic Initiative
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Operations Header	Operations Title	Operations Description	Type of Operations	Add Workload Measure	Add Strategic Initiative
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	Under Board Rule 217, CAB offers alternative dispute resolution in all cases, including the use of Board Judges as Neutrals in Mediation. Even in cases where ADR is not requested, the Board encourages settlement through initial scheduling orders, on-going status conferences, and pretrial conferences. The Board will continue to provide meaningful settlement/mediation opportunities in all proceedings.	Daily Service	Add Workload Measure	Add Strategic Initiative
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	The Board's current database of appeal, protest and debarment/suspension cases permitting web-based retrieval and full text searching includes nearly all records from 1958 to the present. Case records in all newly filed cases are uploaded to the public website within 3 business days of filing.	Key Project	Add Workload Measure	Add Strategic Initiative

2024 Workload Measures

Measure	New Measure/ Benchmark Year	Frequency of Reporting	FY2021 Actual Report_PAR	FY2022 Actual Report	FY2023 Actual Report
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 Measure records)					
Number of Scheduling Orders issued encouraging settlement		Annually	34	26	25
Number of cases resolved through settlement/voluntary withdrawal		Annually	9	16	10
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 Measure records)					
Number of archived protest and appeals cases digitized and uploaded to the public website		Annually	1	1	2,348
Number of new cases filed and processed electronically		Annually	31	24	19
Number of documents filed in new cases		Annually	1,574	1,538	1,441

2024 Strategic Initiatives

Strategic Initiative Title	Strategic Initiative Description	Proposed Completion Date
No Strategic Initiative records found		

2024 ARP Key Performance Indicators

Measure	New Measure/ Benchmark Year	Directionality	ARPA Expenditure Code	ARPA Initiative	ARPA Sub-Initiative	ARPA Project Name	FY2019	FY 2020 Target	FY2020	FY2021 Target	FY2021	FY2022 Target	FY2022
No Measure records found													

2024 ARP Workload Measures

Measure	ARPA Project Name	New Measure/ Benchmark Year	ARPA Expenditure Code	ARPA Initiative	ARPA Sub-Initiative	FY2021 Actual	FY2022 Actual	FY2023 Actual Report
No Measure records found								

Update Notes

Add Note	Section	Note for Publication	Publish in
No Note records found			

Administrative Information

Record ID# 1090  
Performance Plan ID 1090

Created on Jan. 23 at 3:37 PM (EST). Last updated by [Anderson, Carl](#) on July 31 at 2:42 PM (EDT). Owned by [Katz, Lia](#).





**DC CONTRACT APPEALS BOARD  
FY2023-2024 PERFORMANCE OVERSIGHT RESPONSES**

**ATTACHMENT 7  
DC CONTRACT APPEALS BOARD  
MOUs/MOAs/Service Agreements**

	<b>MOA/MOU/Service Agreement Title</b>	<b>Date Entered (Active Status)</b>
1	DC Commission on the Arts and Humanities Art Bank Loan Agreement	10-29-2015 (active until terminated)
2	LEXISNEXIS File & Serve Service Agreement	9-13-2012 (active until terminated)
3	MOA Between CAB and DC Health Benefits Exchange Authority	4-22-2021 (renewed for Option Year Three on 7-20-2023; terminates 9-30-2024)
4	MOA Between CAB and DC Retirement Board	1-23-2023 (renewed for Option Year One on 9-18-2023; terminates 9-30-2024)
5	MOU Between CAB and DOEE	8-5-2021 (renewal for FY24 pending) <sup>8</sup>
6	MOU Between CAB and DC Department of Small and Local Business Development	3-17-2023 (renewal related to DES System Software pending)
7	MOU Between CAB and OCTO (ECIS Services)	6-21-2027 (active until terminated)
8	MOU Between CAB and OCTO (Office 365 Enterprise License)	10-30-2018 (active until terminated)
9	MOU Between CAB and Washington Convention Center Sports Authority	1-5-2010 (active until terminated)
10	Thomson Reuters/West Publishing FY24 Service Agreement and Quote	8-1-2023 (active until 9-30-2024)

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<sup>8</sup> A District Department of Energy and Environment (DOEE) MOU terminated by its terms on September 30, 2021, and a one-year renewal for FY24 is pending finalization.

# EXHIBIT 1



October 29, 2015

Marc D. Loud  
Chief Administrative Judge  
One Judiciary Square  
441 4th St. NW Suite 350N  
Washington, DC 20001

**RE: DC Commission on the Arts and Humanities Art Bank Loan Agreement**

Dear Mr. Loud:

The DC Commission on the Arts and Humanities is pleased that your agency is interested in borrowing artworks from our Art Bank Collection through the DC Creates Public Art Program. This letter is a loan agreement ("Agreement") detailing the terms under which we will loan to you the artworks ("Works") to display at the locations ("Locations") listed on Attachment A.

During the Term, we will:

- Select and loan to you, a maximum of 12 Works with corresponding plaques identifying the Work title and the artist.
- Install the Works at the listed Location at our cost.
- Evaluate and respond in a timely manner to your requests or inquiries regarding a Work.
- Assess the maintenance needs of the Works annually and, at our cost, perform reasonable maintenance on each Work.
- Determine, within a reasonable time of becoming aware of damage to a Work, a maintenance plan to repair that Work, if feasible. We may remove, at our cost, the Work for repair or for any other reason, and we will inform you whether we are going to return the Work to you. We are under no obligation to return the removed Work.
- Seek your prior approval if our Work removal or repair may severely limit or impede movement immediately around each Work.
- Designate a person ("Art Bank Collections Manager") on Attachment A as our point of contact for your Art Contact, as defined below, for all issues related to the Works. We will update you if this information changes.
- Remove, at our cost, each Work at the end of the Term.

During the Term, you will:

- Display the Works at the Locations for no less than two years from the date of this Agreement (“Term”).
- Designate a person (“Art Contact”) on Attachment A as your authorized point of contact for the Art Bank Collections Manager for all issues relating to the Works. You will update us if this information changes. You may delegate logistical arrangements to your Art Contact.
- Submit your requests in writing for Work installation, relocation or removal. These requests must be signed by our Executive Director or a D.C. Councilmember before arrangements are made.
- Provide us and our installation and maintenance vendors with unobstructed access, during business hours and after our reasonable advance notice, to each Location to install, maintain, repair or remove Works during the Term.
- Not damage the Works or do anything that could potentially damage a Work.
- Pay for all loss of or damage to Works at your Locations and for all costs associated with removing and repairing Works that are damaged at your Locations.
- Acknowledge that we are not responsible for installing or moving anything that is not a Work at your Location, including existing plaques, certificates or other personal items. You will repair and pay for all holes in walls that may be associated with hanging Works.
- Notify us at least 30 business days before you 1) move or renovate the Location and want to relocate the Works (“Relocation”); 2) want to replace a Work with another Work in the Art Bank Collection (“Replacement”); or 3) want us to remove a Work from a Location before the end of the Term (“Removal”). You understand that DCCAH must schedule all Relocation, Replacement and Removal services. If you provide this notice to us before the end of the Term, you will pay all costs associated with Relocation, Replacement or a Removal, which costs we will bill to you when those services are complete.
- Not, without our prior written consent, remove, relocate, or change the condition of any Work or its frame, if applicable, nor attach, affix, hang anything from a Work.
- Notify us promptly when you become aware of any damage to or theft of any Work. You will not attempt to repair or repair a Work without our prior written approval. We may terminate the loan if there is recurring damage to or thefts of artwork.

We may terminate this Agreement and recover the Works for any reason with reasonable advance notice to you. You may terminate this Agreement and return the Works for any reason by sending to us written notice at least 30 days before you wish us to remove the Work.

At the end of the Term, each Work will be returned to the Art Bank Collection and made available to new agencies requesting artwork. However, you may request our written consent and approval in order to extend the loan for a consecutive Term.

You understand that we retain the title, right and interest in and to each Work, and that our artists retain copyright in their Work. You will not own or obtain any copyrights in the Work through this Agreement. You may not, without our prior written consent, reproduce any Work for any reason.

This Agreement supersedes all prior oral and written agreements on the same subject and may only be changed in writing signed by both parties. You may not, without our prior written consent, assign your rights and obligations under this Agreement, in whole or in part. If you agree to this Agreement, please sign below, keep a copy, and return the signed original to us. If you have any questions, please call us at the number below.

Once again, thank you for your interest.

Signed,  
**DC COMMISSION ON THE ARTS AND HUMANITIES**

---

Lisa Richards Toney  
Interim Executive Director

**Accepted by:**

Agency: Contract Appeals Board

Signed: 

Name: Marc D. Loud, Sr.

Title: Chief Administrative Judge

Address: One Judiciary Square  
441 4th St. NW Suite 350N  
Washington, DC 20001



**ATTACHMENT A  
WORKS AND LOCATIONS**

DCCA will loan to you, during the Term, the following Works:

Title of Work	Artist	Size	Accession Number	Location
Red Line Study	Sheila Crider		DCCA2003.035	
The Vest	Luis Flores		DCCA2006.033	
Three Vessels	Susan Goldman		DCCA2001.210	
Deconstructed Convention Center 6/01	Linda Hesh		DCCA2002.084	
Red Ladder at Convention Center 1/02	Linda Hesh		DCCA2002.089	
Untitled	David Hubbard		DCCA1990.001	
The Hollow Men	David Hubbard		DCCA1998.083	
In a Dark Time	David Hubbard		DCCA1998.084	
In the Image of the Creator	David Hubbard		DCCA1998.085	
Untitled Purple JK188	Jae Ko		DCCA2007.045	
Bushman with a Sacred Bird	Percy Martin		DCCA2007.221	
Details of St. Mar 6/20	Percy Martin		DCCA2007.222	
Ochre Fields	Joyce McCarten		DCCA2001.208	
Slow Stars in Africa	Joyce McCarten		DCCA2001.209	
Frisbee Dog II	Caroline Thorington		DCCA2009.091	

**Art Contact:**

Name: Mia House-Thomas  
 Position: Appeals Clerk  
 Phone: (202)727-6597  
 Email: [mia.housethomas@dc.gov](mailto:mia.housethomas@dc.gov)

**Art Bank Collections Manager:**

Zoma Wallace  
 Phone: (202) 724-5613 office (202) 286-5783 cell  
 Email: [zoma.wallace@dc.gov](mailto:zoma.wallace@dc.gov)

# EXHIBIT 2

**LEXISNEXIS® FILE & SERVE  
SERVICE AGREEMENT**

This Agreement ("Agreement") is made and entered into as of March 14, 2012 (the "Effective Date") by and between LexisNexis, a division of Reed Elsevier Inc., a Massachusetts corporation ("LNFS"), and the District of Columbia Contracts Appeals Board with its principal address at 441 4<sup>th</sup> Stree NW #350 Washington, D.C. 20001 (the "BOARD").

WHEREAS, LNFS offers a single flexible solution to issues faced by courts in the management of a diverse set of cases, workflow and information management needs, offering feature sets and functionality tailored to each court's specific needs; and

WHEREAS, LNFS offers a variety of services, which support the majority of case types found in any general jurisdiction court, in addition to supporting more resource intensive, complex litigation cases that have multiple parties, a high volume of filing and service activity, long duration, large documents, and frequent changes to case participants; and

WHEREAS, the BOARD wishes to engage LNFS in the provision of electronic filing and service services;

NOW, THEREFORE, LNFS and the Board agree as follows:

**Section 1. Definitions**

Whenever used in this Agreement with initial letters capitalized, the following terms will have the following specified meanings:

**"Authorized User"** means any (a) BOARD employee or authorized agent acting on behalf of the BOARD and within the scope of the BOARD's business; and (b) independent contractor or consultant performing information technology services for the BOARD who (in either case) has agreed to be bound by the terms and conditions of this Agreement and the LNFS standard user agreement on LNFS's Web Site, and has been authorized in writing by the BOARD to access, use and otherwise deal with the File & Serve System pursuant to the license under Section 4.1. The BOARD acknowledges that the Authorized Users will not include any person acting for agencies or entities other than the BOARD, whether or not part of the same federal, state or local government as the BOARD.

**"BOARD Documents"** means pleadings and other legal documents filed with the Court through the File & Serve System.

**"BOARD User Identification"** means the unique user identification name and password issued or otherwise assigned to each Authorized User for access to and use of the File & Serve System.

**"Database Information"** means all or a portion of the Court's public case and docket files, as the same are periodically updated by the Court, to be made available to LNFS as set forth in the Implementation Guidelines.

**"Embedded Third Party Software"** means any software acquired or licensed by LNFS from a third party that is utilized as part of the File & Serve System.

**"Enhancement"** means any correction, modification, customization, revision, enhancement, improvement, update, upgrade, new release or other change that is released generally by LNFS for users which are situated similarly to the Court.

**“Unauthorized Use”** means any use, reproduction, distribution, disposition, possession, disclosure or other activity involving the File & Serve System, BOARD Documents or Information that is unlawful or otherwise is not expressly authorized under this Agreement or in writing by LNFS.

**“User Documentation”** means the user manuals, online documentation and other materials relating to the File & Serve System provided to the BOARD and any Authorized User by LNFS.

## **Section 2. Services and Implementation**

### **2.1 LNFS Duties.**

**2.1.1 Services.** LNFS will perform for the BOARD such Services as may be reasonably necessary to carry out the Implementation Guidelines, including, without limitation, actions to: (a) enable registered users to electronically file with the Court under the File & Serve System; (b) configure the File & Serve Services for the BOARD using court profile settings; (c) enable the BOARD's staff to access the File & Serve Services; (d) maintain data and documents related to transactions using the File & Serve System; and (e) use commercially reasonable efforts to maintain and display the Court's list of Filing Fees to users of the File & Serve System.

### **2.2 BOARD Duties.**

**2.2.1** The BOARD shall: (a) provide LNFS with a copy of all applicable rules governing electronic filing of documents with the Court or, if there are no such rules in effect as of the Effective Date, shall use its best efforts to promptly enact rules governing electronic filing of documents with the Court and shall, in either event, promptly provide (or make available) to LNFS all updates to such rules; (b) provide LNFS with a detailed listing of the Filing Fees; and (c) provide LNFS with timely advance notice (not less than thirty (30) days prior to the effective date for such change) of any change in the Filing Fees so that the File & Serve System may be updated prior to the effective date of such change. Notwithstanding anything else to the contrary in this Agreement, no File & Serve Services shall be required of LNFS pursuant to this Agreement before the time that the Court enacts rules governing electronic filing of documents with the BOARD and has provided a copy of all such rules to LNFS.

**2.2.2** In addition to the duties specified in Section 2.2.1, the BOARD shall: (a) transfer to LNFS all Database Information to be hosted on the File & Serve System; and (b) provide timely Database Information updates to LNFS for the purpose of maintaining current Database Information in the File & Serve System.

**2.3 Coordination; Cooperation.** The parties will consult and cooperate to coordinate the Services with the BOARD's other operations (e.g., to ensure that the Services do not unduly interfere with the BOARD's other operations, to ensure that the BOARD's other operations do not unduly interfere with the Services, and to provide for reasonably effective, efficient, expeditious and orderly performance of the Services). The BOARD and LNFS shall cooperate in assisting one another to meet timetable and target schedules required under this Agreement. The BOARD shall provide timely access to information, shall promptly respond to requests for approvals, and shall make available knowledgeable personnel and decision-makers in the BOARD for support as specified in the timetable in the Implementation Guidelines as well as for consultation and meetings needed to resolve open issues.

**2.4 Schedule and Level of Effort.** LNFS will use commercially reasonable efforts to perform the Services in accordance with any schedule set forth in the Implementation Guidelines, subject to the availability of knowledgeable and authorized BOARD personnel to LNFS as needed.

**2.5 Changes.** LNFS and the BOARD acknowledge and agree that it is impossible to identify in advance all aspects of a project of this magnitude and complexity and that the specifications set forth in the Implementation Guidelines and this Agreement may be modified during the Term of this Agreement. Any change in the Services will be subject to agreement of the parties, which agreement will not be unreasonably withheld. Either party may, from time to time, propose changes in the Services to be performed under the Implementation Guidelines (including, but not limited to, additions to the Services, the deletion of Services, changes in the schedule, order or priority of particular Services and changes in the items to be furnished by the BOARD). If any agreed upon change in the Services causes an increase or decrease in the time required for the performance of any Services, then the schedules for performance of such Services will be equitably adjusted. If the parties agree upon any such change and related adjustments, the parties will prepare, agree upon and sign an amendment to the Implementation Guidelines or other written instrument evidencing such agreement.

### **Section 3. Support and Training**

**3.1 Help Desk.** LNFS will provide telephone support to the BOARD and Authorized Users relating to the use and operation of the File & Serve System (other than problems with hardware, Internet or online access, or operating system software or other third party software) as set forth on the LNFS Web Site. While LNFS will use reasonable commercial efforts to respond to inquiries from the BOARD and Authorized Users, LNFS assumes no responsibility to resolve any problem or defect in the File & Serve System, except as expressly provided herein.

**3.2 Training.** LNFS will provide a commercially reasonable level of training to the BOARD and Authorized Users concerning the use and operation of the File & Serve System.

### **Section 4. License**

**4.1 LNFS License to BOARD.** Subject to the restrictions and limitations set forth in Sections 5.1 and 5.2, other provisions of this Agreement and the LNFS standard user agreement on LNFS's Web Site, LNFS hereby grants to the BOARD a nonexclusive, nontransferable license to do the following during the Term: (a) enable any Authorized User to access and use the BOARD Documents and Information available through the File & Serve System via personal computers in connection with the BOARD's normal processes; (b) enable any Authorized User to receive, copy, store, search and upload the BOARD Documents and Information available through the File & Serve System in connection with the Court's normal court processes; (c) provide or otherwise make available the BOARD Documents and Information accessible through the File & Serve System to the general public, via an Authorized User, onsite at the BOARD's location for fair use with or without charge; provided, that the BOARD maintains appropriate safeguards and restrictions on bulk copying or redistribution from the File & Serve System of the BOARD Documents and Information that would interfere with LNFS's ability to generate revenue and continue to operate and maintain the File & Serve System; and further provided that only Authorized Users be allowed direct access to the File & Serve System; and (d) use the User Documentation as reasonably required in connection with the exercise of the rights granted under (a), (b) and (c) of this Section. The Court will maintain the Original Documents filed with the Court through the File & Serve System internally with appropriate safeguards. If the Court is required by law or otherwise to provide a copy of any BOARD Documents or Information to any third party provider, it will require reasonable restrictions on bulk copying or assist in seeking payment to LNFS equal to LNFS's then-effective fee schedule for copying and printing such BOARD Documents or Information.

### **Section 5. General Restrictions and Limitations**

**5.1 Access to the File & Serve System.** Section 4.1 sets forth the entirety of the BOARD's right to access, use and otherwise deal with the File & Serve System. Without limiting the generality of the foregoing, the license granted in Section 4.1 does not include the right to, and the BOARD will not

directly or indirectly, (a) enable any person or entity other than an Authorized User to access and use the BOARD Documents or Information; (b) enable any person or entity other than an Authorized User to receive, copy, store, search, upload, distribute and make available the BOARD Documents or Information available through the File & Serve System; (c) modify or create any derivative work based upon the File & Serve System; (d) grant any sublicense or other rights in or to the File & Serve System; (e) reverse engineer, disassemble or decompile all or any portion of the File & Serve System or attempt to discover or recreate the source code to any software that is part of the File & Serve System; (f) remove, obscure or alter any Proprietary Rights notice related to the File & Serve System; or (g) engage in or permit its employees or agents to engage in any Unauthorized Use.

**5.2 Embedded Third Party Software Restrictions and Limitations.** The license granted under Section 4.1 above as it relates to any Embedded Third Party Software is further subject to any restrictions and limitations specified in the terms and conditions displayed with or referenced in any such Embedded Third Party Software.

**5.3 Equipment, Services and Facilities.** Unless otherwise specified in the Implementation Guidelines, the BOARD is solely responsible for providing, installing and maintaining at its own expense all equipment, facilities and services necessary to access and use the File & Serve System, including, without limitation, all computer hardware and software, modems, printers, telephone service and Internet access. Without limiting the foregoing, the BOARD will provide and maintain a proper environment for uninterrupted access to and use of the File & Serve System and will provide all equipment, services and facilities described in the System Requirements. The BOARD also is solely responsible for providing all consumable supplies necessary to enable use of the File & Serve Services by the BOARD and any Authorized User.

**5.4 Passwords.** Each Authorized User will be issued or otherwise assigned a BOARD User Identification to access and use the File & Serve System. The BOARD is solely responsible for ensuring the security and maintaining the confidentiality of all BOARD User Identifications. The BOARD acknowledges that any action taken under a BOARD User Identification will be deemed to have been performed by the BOARD. The BOARD will immediately notify LNFS of any Unauthorized Use of any BOARD User Identification or any other breach of security known to it. In the event of any Unauthorized Use or breach of security, the BOARD will take all actions reasonably requested by LNFS to terminate such Unauthorized Use or breach of security. Use of any BOARD User Identification other than as provided in this Agreement will be considered a breach of this Agreement by the BOARD. When any BOARD users leave the employment of the BOARD or no longer need access, the BOARD is responsible for notifying LNFS using the remove user functionality on the File & Serve Services.

**5.5 Modifications.** LNFS may alter or modify the File & Serve System from time to time including portions thereof without notice. Such alterations and modifications, or both, may include, without limitation, addition or withdrawal of features, data, information, products, services, software or change in instructions. LNFS will provide the BOARD with reasonable advance notice of any substantial modification to the user interface for the File & Serve System.

## **Section 6. Fees**

**6.1 Access Fees.** LNFS will make the File & Serve Services available to the BOARD and Authorized Users. The sole charge for such access shall be the Standard Fees set forth on Exhibits B.

**6.2 Filing and Other Court Fees.** LNFS will, on behalf of the BOARD and as an accommodation to the BOARD, collect all Filing Fees for BOARD Documents filed pursuant to this Agreement from users of the File & Serve System and will initiate payment of such Filing Fees to the Court in accordance with, and subject to in all respects, within 24 hours (excluding weekends and

holidays observed by LNFS, the Court or the U.S. Federal Reserve Bank) of acceptance by the Court's clerk of courts of the filing to which the fee relates.

LNFS shall not be responsible for payment of any Filing Fees owed to the Court by any users of the File & Serve System. Payment of any such fees shall be the sole responsibility of the user of the File & Serve System who submits the BOARD Documents to the File & Serve System for filing with the Court. If a user of the File & Serve System fails to pay the required Filing Fee for services rendered to such user pursuant to this Agreement, the Court will provide such assistance, as may reasonably be requested by LNFS, to enable LNFS to collect any amounts owed to it by such user for Filing Fees paid to the Court by LNFS on behalf of such user. The BOARD shall notify and instruct all users of the File & Serve System that users are to address all credit and refund requests related to Filing Fees directly to the Court. The BOARD shall, after confirming that such user paid such Filing Fee to LNFS, handle and distribute all such credit and refunds directly to the user. LNFS may terminate or suspend access rights for users of the File & Serve System who fail to pay all amounts owed to LNFS in a timely manner. LNFS will notify the BOARD of any non-paying users.

#### **Section 7. Term and Termination**

**7.1 Term.** The term of the license granted under Section 4.1 will commence as of the Effective Date and will continue, unless otherwise terminated in accordance with Section 7.2, for an initial term of three years. Thereafter, this Agreement shall automatically renew for successive additional two-year terms unless either party gives the other notice of termination at least six months prior to the expiration of the then current term.

**7.2 Termination.** If either party commits a material breach or is in material default under this Agreement, then the other party may give such party written notice of the breach or default. If the breaching or defaulting party fails to cure the breach or default within thirty (30) days after receipt of such notice (or such later date as may be specified in such notice), then the Term will terminate without any further notice or action by the terminating party.

**7.3 Effect of Termination.** Upon termination of the Term, the license granted under Section 4.1 of this Agreement will terminate and the BOARD will immediately discontinue use of the File & Serve System. Sections 7, 8, 9, 10, 11, 12 and 13, together with all other provisions that may reasonably be interpreted as surviving termination, will survive any termination of the Term. For thirty (30) days after the effective date of any termination or expiration of this Agreement, the BOARD shall have the right to download from a file transfer protocol ("FTP") site designated by LNFS an electronic version of all publicly filed BOARD Documents and Database Information related to the BOARD which are available on the File & Serve System.

#### **Section 8. Proprietary Rights**

**8.1 LNFS Proprietary Rights.** The File & Serve System, File & Serve Services, LNFS Technology and LNFS Web Site (including the URL) constitute or otherwise involve valuable Proprietary Rights of LNFS. No title to or ownership of the File & Serve System, File & Serve Services, LNFS Technology or LNFS Web Site, or any Proprietary Rights associated therewith is transferred to the BOARD or any third party under this Agreement.

**8.2 Protection of Proprietary Rights.** The BOARD will not infringe or violate, and will take appropriate steps and precautions for the protection of, LNFS's Proprietary Rights. Without limiting the generality of the foregoing, the BOARD will (a) maintain access and use restrictions sufficient to prevent any Unauthorized Use; (b) not make the File & Serve System, File & Serve Services or LNFS Technology available to any third party without the prior written consent of LNFS; and (c) otherwise use its best efforts to prevent any Unauthorized Use.



**8.3. BOARD Documents, Database Information.** Subject in all respects to the rights granted to LNFS under this Agreement, the BOARD hereby retains all rights it possesses in and to the Original Documents and the Database Information. Neither the BOARD nor, to the BOARD's knowledge, any other party claims any copyright in any BOARD Documents or Database Information. Both LNFS and the BOARD shall have the right to provide copies of BOARD Documents filed through the File & Serve Services and Database Information retained in File & Serve Services to any person requesting such copies, provided that such BOARD Documents are not "Under Seal" by the Court, which rights shall survive the termination of this Agreement. For those portions of the BOARD Documents and Database Information which the Court places "Under Seal", the BOARD shall follow the procedures outlined in the Implementation Guidelines. If a BOARD Document is not correctly indicated as "Under Seal" by the Court, LNFS shall not be responsible for restricting access to such BOARD Document.

#### **Section 9. Limited Warranty and Remedies**

**9.1 Information and BOARD Documents.** The BOARD acknowledges that LNFS does not edit, and cannot verify, the completeness, propriety or accuracy of any Information available through the File & Serve System. LNFS has no control over the contents of any BOARD Document filed with the BOARD through the File & Serve System and will not be responsible for any claimed loss of privilege or other claimed injury due to disclosure of sealed, confidential or privileged information in any BOARD Document. WITHOUT LIMITING THE FOREGOING, THE BOARD FURTHER ACKNOWLEDGES THAT LNFS MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY BOARD DOCUMENTS FILED WITH THE COURT THROUGH THE FILE & SERVE SYSTEM.

**9.2 Performance Warranty.** LNFS warrants to the BOARD that the File & Serve System will, when properly operated, be capable of performing the functions described in the User Documentation. If the File & Serve System fails to comply with the warranty set forth in this Section, LNFS will, at its expense, use commercially reasonable efforts to supply patches, workarounds or other corrections.

**9.3 Exclusions.** LNFS's warranties do not apply to any (a) use not in accordance with this Agreement or the User Documentation; (b) modification, damage, misuse or other action of the BOARD or any third party; or (c) use of the File & Serve System in combination with any other goods, services or items not provided by LNFS.

**9.4 DISCLAIMER.** THE WARRANTY AND REMEDIES SET FORTH IN THIS SECTION 9 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF LNFS AND REMEDIES OF THE BOARD, EITHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY ERROR, DEFECT, DEFICIENCY, MISDELIVERY, INFRINGEMENT OR NONCOMPLIANCE IN THE FILE & SERVE SYSTEM, FILE & SERVE SERVICES OR ANY SOFTWARE, SERVICES OR OTHER ITEMS PROVIDED BY OR ON BEHALF OF LNFS UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE).

**9.5 Embedded Third Party Software.** Except as otherwise agreed upon by the parties in writing, the warranties, obligations and liabilities of LNFS and the BOARD's remedies with respect to any Embedded Third Party Software will be limited to whatever recourse may be available against the third party provider of such Embedded Third Party Software and are subject to such additional



restrictions and other limitations as may be displayed in or referenced by such Embedded Third Party Software.

**9.6 Remedies.** As its sole remedy, if LNFS substantially fails to satisfy or perform its duties and obligations in this Agreement, the BOARD may exercise the following remedial actions. Substantial failure to satisfy or perform its duties and obligations shall be defined to mean significant insufficient, incorrect or improper performance, or inaction by LNFS relating to a material duty or obligation of LNFS under this Agreement.

A. Suspend LNFS's performance pending necessary corrective action as specified by the BOARD without LNFS's entitlement to adjustment in the performance schedule; and/or

B. Request the removal from work on the project of employees or agents of LNFS whom the BOARD justifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the contract the BOARD deems to be contrary to the public interest or not in the best interest of the BOARD; and/or

C. Terminate this Agreement subject to, and in accordance with, the requirements of Section 7.2.

#### **Section 10. Limitations of Liability**

**10.1 Specific Events.** The following is a non-exclusive list of events and occurrences for which LNFS disclaims any and all liability for any losses or damages incurred by any party as a result thereof:

- i) Problems relating to telephone lines or other transmission or receiving devices or equipment not entirely within LNFS's exclusive control;
- ii) Unavailability of telephone lines or other electronic transmission lines or equipment for connectivity to the Internet (including but not limited to any LNFS supplied telephone or electronic transmission lines in use) that results in the inability to reach LNFS for the purpose of document transmission or receipt;
- iii) Transmission errors and system failures, except transmission errors and system failures resulting from the gross negligence or willful misconduct of LNFS or its employees or agents;
- iv) Any alteration or destruction of material transmitted through the File & Serve Services;
- v) Alteration or destruction of information on the BOARD's computer service or elsewhere resulting from the transmission of computer "viruses," other damaging or destructive software or software components, or acts of computer hackers;
- vi) The speed, access, security, or delivery of documents via the Internet;
- vii) Any failure or interruption of the Internet or data or material transmitted thereon, whether caused by hackers or otherwise; and
- viii) Any actions of any third party who is not an employee or agent of LNFS.

**10.2 No Consequential Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR ANY LOSS OF PROFIT, REVENUE, DATA, BUSINESS OR USE) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**10.3 Time Limitation on Asserting Claims.** No claim, regardless of form, which in any way arises out of or relates to this Agreement, the File & Serve System, or the use of, or inability to use the File & Serve Services or access the BOARD Documents or Information, may be made, nor action based upon such claim brought, by any party more than one year after the basis for asserting the claim is discovered or should have been discovered by the party desiring to assert it.

#### **Section 11. Arbitration**

Any controversy or claim arising out of or relating to this Agreement, which is not settled by reasonable negotiations between the parties, will be settled by arbitration that will be binding on all parties. Each party expressly agrees to be bound to any results of such arbitration and not to dispute in any way, at law or otherwise, the decision rendered by such arbitration. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The arbitration will be conducted by a single arbitrator and agreed rules if all parties can agree upon such arbitrator and rules, and if such agreement cannot be reached between the parties, the arbitration will be arbitrated by a single arbitrator in accordance with the rules of the American Arbitration Association, which decision will be binding on the parties. The arbitrator will be a person from the locality of Seattle, Washington, and the arbitration hearing will be held in Washington D.C. metropolitan area. Each party shall bear its own arbitration costs. However, the cost of the arbitrator shall be borne equally by the parties. Notwithstanding the foregoing, either party may, on good cause shown, seek a temporary restraining order and/or a preliminary injunction from a court of competent jurisdiction, to be effective pending the institution of the arbitration process and the deliberation and award of the arbitrator.

#### **Section 12. Confidentiality.**

**12.1** LNFS and the BOARD agree that they will not, during the term of this Agreement and for two years thereafter with respect to all Confidential Information (as hereinafter defined), disclose, nor permit any of their employees or agents to disclose, to any other person or entity any Confidential Information received from the other. Either party shall have the right to disclose Confidential Information to related agencies for the District of Columbia, or to its parent, or its parent's subsidiaries, and its and their employees and agents on a "need to know" basis only.

**12.2** The term "Confidential Information" means (a) proprietary or trade secret information which is clearly labeled or designated as confidential by the disclosing party, (b) information regarding technical specifications (except for minimum hardware and software requirements which will be required of Authorized Users) utilized by LNFS to implement and maintain the File & Serve System, (c) the provisions of this Agreement (unless disclosure is otherwise required by law), (d) the names and addresses of the LNFS vendors, contacts and customers, and (e) any financial, revenue, usage or transaction information provided to the BOARD by LNFS in connection with this Agreement or the services provided by LNFS under this Agreement.

**12.3** Confidential Information does not include any information which (a) is already known to the receiving party, (b) is or becomes publicly available, other than by unauthorized disclosure by a

party, (c) is lawfully disclosed to the receiving party free of any obligation of confidentiality, or (d) is required to be disclosed by the receiving party pursuant to applicable law.

### Section 13. Miscellaneous

**13.1 Modifications.** This Agreement may be changed by LNFS from time to time upon thirty (30) days advance notice (the "Notice of Change") to the BOARD. Upon receipt of any Notice of Change, if the BOARD does not agree to such change, the BOARD's sole remedy shall be to terminate the Agreement upon thirty (30) days advance notice (the "Termination Notice") served upon LNFS within thirty (30) days of the BOARD's receipt of the Notice of Change. Upon receipt of any Termination Notice pursuant to the terms of this Section 13.1, LNFS shall be permitted to revoke the subject Notice of Change by serving a Revocation Notice upon the BOARD within thirty (30) days of the date of its receipt of the Termination Notice, whereupon both the Notice of Change and the Termination Notice shall be of no force and effect. Notwithstanding the foregoing, any changes made pursuant to Section 2.5 shall not be subject to the provisions of this Section 13.1.

**13.2 Assignment.** This Agreement, and the license granted hereunder, may not be assigned by the BOARD to any third party. Subject to the foregoing, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective permitted successors and assigns.

**13.3 Nonwaiver.** No waiver of any of the terms and conditions of this Agreement will be effective unless set forth in a writing signed by both parties. Waiver of any breach of any term or condition of this Agreement will not be deemed a waiver of any prior or subsequent breach.

**13.4 Notices.** Any notice required or permitted to be given under this Agreement will be deemed properly made if given in writing and delivered in person, sent via facsimile or overnight courier, or mailed, properly addressed and stamped with the required postage, as follows:

If to LNFS:

Attn: General Counsel  
LexisNexis, a division of Reed Elsevier Inc.  
9443 Springboro Pike  
Miamisburg, Ohio 45342

or by telecopy to the above address at fax number 937-865-1211 with a confirmation copy sent by U.S. Mail to LNFS as specified above.

with a copy to:

LexisNexis File & Serve  
Attention: Vice President, Managing Director  
13427 N.E. 16<sup>th</sup> Street  
Bellevue, Washington 98005  
FAX: 425-467-4805

If to the BOARD:

District of Columbia Contracts Appeals Board  
441 4<sup>th</sup> Stree NW #350  
Washington, D.C. 20001  
Attention: Marc D. Loud, Sr. Chief Administrative Judge

or by telecopy to the above address at fax number \_\_\_\_ - \_\_\_\_ - \_\_\_\_ with a confirmation copy sent by U.S. Mail to the BOARD as specified above.

Either party may from time to time change its address or fax number for notices and other communications under this Agreement by giving the other party written notice of the change in accordance with this Section. All notices shall be effective upon receipt by the party to which the notice is directed.

**13.5 Governance of Terms.** In the event that any inconsistencies are found to exist between the terms and conditions of this Agreement and the terms and conditions of the Implementation Guidelines, the terms of this Agreement shall govern.

**13.6 Severability.** This Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render the same valid, enforceable and consistent with the original intent underlying such provision, and (b) such invalidity or unenforceability will not affect any other provision of this Agreement.

**13.7 Independent Contractors.** The parties are independent contractors. This Agreement will not be interpreted or construed to create or evidence any agency, partnership or similar relationship between the parties or to impose any agency, partnership or similar obligation or liability upon either party.

**13.8 Third Party Vendors.** The BOARD shall be responsible for causing all third party vendors it utilizes in connection with the BOARD's informational technology functions and this Agreement to adhere to, and agree to be bound by, the terms and conditions of this Agreement and the Implementation Guidelines, including, without limitation, adhering to all timelines and deliverables requirements and restrictive covenants.

**13.9 Force Majeure.** Neither party shall be liable to the other party for any loss or damage attributable to, and neither party shall be deemed to be in default hereunder as a result of any failure or delay in performance caused by force majeure. For purposes of this Agreement, the term "force majeure" shall include strike, lockout, earthquake, hurricane, flood, fire or other acts of God, nature, war, rebellion, civil disorders, laws, regulations, acts of civil or military authorities, unavailability of materials, carriers or communications facilities, and any other causes beyond the reasonable control of the party whose performance is affected. The party affected by an event constituting "force majeure" shall use all reasonable efforts to minimize the consequences of the same.

**13.10 Applicable Law.** This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the District of Columbia, U.S.A., without reference to its choice of law principles to the contrary.

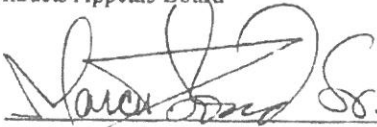
**13.11 Entire Agreement.** This Agreement sets forth the entire agreement of the parties relating to the subject matter hereof, and supersedes any and all prior agreements, between the parties with respect to the subject matter hereof.

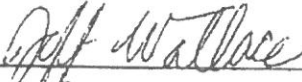
IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DC Contracts Appeals Board

LNFS:

LexisNexis, a division of Reed Elsevier Inc.

Sign: 

Sign: 

Name: Marc D. Lond, Sr.

Name: Jeff Wallace

Title: Chief Administrative Judge

Title: VP File & Serve

Date: Sept 13, 2012

Date: Sept. 11, 2012

LEXISNEXIS LEGAL DEPT  
REVIEWED BY: 

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**Exhibit A**  
**Implementation Guidelines**

Below is an outline of the various types of recommendations and guidance that is provided to the BOARD by the LNFS Implementation Team in providing consultative services in all the following areas. The LNFS Implementation Manager and the BOARD will work together for a final recommendation of the very specific Implementation Plan, which, depending on the project may include an Implementation Schedule and Project Plan, System and Technical Requirements and Analysis, Workflow Analysis, and a Data Analysis of the BOARD's provided data. Additional documentation and workflow procedures may also be provided as the project proceeds.

Based on discussions with BOARD personnel, the following options may be suggested for consideration to implement electronic filing within the BOARD.

**1. Case Identification**

- The scope of case type and case classes will be determined and identified for the File & Serve solution for e-filing and e-service of documents.

**2. Implementation Dates**

Dates will be provided for the implementation of the e-filing program that will be agreed upon between the BOARD and LNFS. Additional dates will be determined for BOARD and law firm training and other steps necessary for the implementation and as further specified in the Implementation Schedule that will be attached to the Implementation Plan.

**3. Technical and Hardware Overview**

The minimum technical hardware recommendations for the BOARD's e-filing project will be documented. In summary, the following minimum system requirements are recommended for all BOARD users who will be accessing the File & Serve System to review and access documents:

- Access to an Internet browser
- Adobe Acrobat Viewer, version 6.0
- Networked Printer - at least one for each department
- Windows 2000/NT Work Station or Windows 98
- Scanner with automated document feeder for Clerk(s)

**4. Onsite Document Storage & Archival**

The BOARD may receive copies of documents electronically filed for purposes of onsite storage and archive via the data transfer process with LNFS. This feature will allow for information to move between the BOARD's Case Management System and LNFS for more efficient data management.

**5. Collection of Court Fees**

A LNFS invoice will be provided to attorneys monthly for all fees.

**6. Data Transfer Options**

Document download is just one data transfer mechanism. This will facilitate the process of transmitting documents from the File & Serve System to the BOARD's document management system. This process requires the BOARD to select what it wants to receive in the nightly data files and PDF documents by using a UI checklist of data elements that are available to receive. The BOARD will maintain their own translation tables to format the data for their CMS. The transmitted data is available in Excel XML and Access files. The BOARD may create a process to receive the data from an FTP site. LNFS does not push the data to the BOARD's system directly. A logon and password for the FTP site for the BOARD will be set up.

**7. Law Firm Participation**

Address the requirement of attorneys to electronically file within all case types noted in the Implementation Plan. Under this requirement the attorneys will be mandated to participate in the electronic submittal of documents through the File & Serve System as a subscriber.

**8. Public Access Terminal**

Determine whether Public Access Terminals (PAT) will be located within the BOARD for access to case information by all non-subscribers and/or Pro Se litigants involved in e-file cases. The PAT can also be used to access and research publicly e-filed documents.

**9. Electronic Filing Court Order or Court Rules**

Address the court/judicial order that will mandate complete participation by attorneys in electronic filing and service in all designated case class and case types listed under case identification.

**10. Clerk Review**

LNFS provides Clerks the ability to log into the File & Serve System to view and review all filed documents in queue for clerk review. The Clerk may review the electronically filed document(s) for correctness including review of the document(s) attached, fees assessed, etc.



### **11. Change Control**

The File & Serve system is capable of providing Clerks and firm personnel the ability to update changes to a service list as needed. Necessary protocol for making such changes would be established and would include users submitting an online request for changes to service lists and case information within LNFS.

### **12. Training**

Times and locations for training all clerk and court staff utilizing LNFS for access and/or filing will be provided. The LNFS Implementation Manager and LNFS staff will also provide times and locations for training to all firms participating in designated e-filing cases.

### **13. Workflow Recommendations**

The LNFS Implementation Team may provide recommendations for changes to the BOARD's existing workflow in order to provide the most efficient implementation and use of the File & Serve system.

**Exhibit B**  
**Standard Service Fees**

**Serving Orders or Official Court Notices to Litigants**

- |   |   |
|---|---|
| A. To registered LNFS users who receive online service (e.g. Advanced users)  | A. <b>No charge</b>   |
| B. To registered LNFS users who do <u>not</u> receive <u>online</u> service (e.g. Basic users) for service via first class U.S. mail or fax | B. <b>\$0.10 per page, per firm plus postage for delivery of documents via U.S. mail (\$5.00 minimum)</b> |
|   | OR  |
|   | <b>\$0.20 per page, per firm for delivery of documents via fax (\$3.00 minimum)</b>                       |
| C. To parties who are <u>not</u> registered LNFS users for service via first class U.S. mail or fax   | C. <b>\$0.10 per page, per firm plus postage for delivery of documents via U.S. mail (\$5.00 minimum)</b> |
|   | OR  |
|   | <b>\$0.20 per page, per firm for delivery of documents via fax (\$3.00 minimum)</b>                       |
| D. To any person or entity via advanced U.S. mail delivery options (e.g. overnight delivery, certified, and return receipt requested)       | D. <b>Fees are as per the then-current LNFS fee schedule posted on the LNFS Web Site</b>                  |

# EXHIBIT 3

**EXERCISE OF OPTION YEAR THREE  
MEMORANDUM OF AGREEMENT BETWEEN THE  
DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY  
AND THE DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

Option Year Three (3) of the Memorandum of Agreement (MOA) of April 22, 2021, between the District of Columbia Health Benefit Exchange Authority and the District of Columbia Contract Appeals Board is hereby exercised pursuant to Section 5 of the MOA. Pursuant to Section 6 of the MOA, the not-to-exceed amount of Option Year Three is reduced to \$5,000 for fiscal year 2024. All other terms and conditions of the MOA remain the same.

**DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY**

BY:

**Yi-Ru Chen**

Digitally signed by Yi-

Ru Chen

Date: 2023.07.20

10:04:02 -04'00'

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Yi-Ru Chen

Senior Director of Programs and Operations

Date

**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

BY:

---

/s/ Marc D. Loud, Sr.

Marc D. Loud, Sr.

Chief Administrative Judge

July 20, 2023

Date

**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(c)(5), 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 conditions:

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(a)(5) and § 2-351.01 *et seq.*), HBX has procurement authority independent of the District of Columbia Office of Contracting and Procurement, subject to only certain provisions of the PPRA. Consistent with this authority, the Executive Board of HBX has adopted Contracting and Procurement Policies and Procedures (available at [https:// hbx.dc.gov/publication/dchbx-policies-and-procedures](https://hbx.dc.gov/publication/dchbx-policies-and-procedures)) (“HBXCPP”) to govern procurements of goods and services undertaken by HBX, including procedures for protests, contract claims, conflicts of interest, prohibited conduct and remedies.

2. CAB shall have jurisdiction to review and determine *de novo* appeals of final decisions by the HBX Executive Director, or designee, and HBX claims consistent with D.C. Code § 2-360.03(b). CAB acknowledges that HBX is largely exempt from the PPRA pursuant to D.C. Code § 2-351.05(c)(17) and § 31-3171.04(a)(5). The Parties agree that HBXCPP shall govern HBX-level proceedings and substantive issues on appeal and claims, as applicable, and that CAB proceedings shall be governed by CAB’s Rules of Procedure.

3. CAB shall provide the necessary services of its judges and staff and all appropriate resources pursuant to the terms of this MOA, 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 or virtually and may not require a court reporter.

4. All services shall 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 CAB for necessary services exceeding \$25,000 per fiscal year. Payment shall be made in accordance with the following terms:

a. HBX shall 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 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 District of Columbia 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 made via Direct Voucher (exception 22 of the Financial Management and Control Order No. 07-004A) on invoiced amounts in accordance with the terms of this MOU. Payments shall be made to CAB within fifteen (15) days of the invoice date. The amount paid by DCHBX shall not exceed the amount approved by this MOU..

c. Payment will be made only upon presentation of properly invoiced amounts containing supporting entries indicating: (i) the work provided, (ii) the applicable hourly rate (inclusive of salary and fringe benefits), and (iii) corresponding hourly increments, in accordance with the terms of this MOA. Invoices shall separate by CAB docket number the cost elements of each assigned dispute from HBX for which services are provided by CAB.

5. CAB and HBX may extend the term of this MOA by exercising a maximum of five (5) one-year (1) option periods. The total term of this MOA, including the exercise of any option year, may not exceed six (6) years. The Parties agree that this MOA shall expire on September 30 annually, 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. When exercising an option period, the Parties may decrease the not-to-exceed amount for that option period without further amending or modifying the MOU, notwithstanding Section 7.

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 (2) 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 Parties' points of contact responsible for administration of this MOA are:

HBX: Pedro Briones  
Attorney Advisor  
D.C. Health Benefit Exchange Authority  
1225 "I" Street NW, 4th Floor  
Washington, DC 20005



Phone: (202) 741-8887

CAB: Mark D. Poindexter  
General Counsel  
D.C. Contract Appeals Board  
441 4th Street NW, Suite 350N  
Washington, DC 20001  
Phone: (202) 727-2841

Either party may unilaterally change the point of contact 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:



4-22-2021

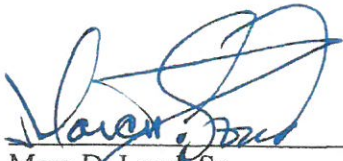
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Mila Kofman  
Executive Director

Date

**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

BY:



March 22, 2021

---

Marc D. Loud, Sr.  
Chief Administrative Judge

Date

# EXHIBIT 4

**EXERCISE OF OPTION YEAR ONE  
MEMORANDUM OF AGREEMENT BETWEEN THE  
DISTRICT OF COLUMBIA RETIREMENT BOARD  
AND THE DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

Option Year One (1) of the Memorandum of Agreement (MOA) fully executed on January 23, 2023, between the District of Columbia Retirement Board and the District of Columbia Contract Appeals Board is hereby exercised pursuant to Section 5 of the MOA. The not-to-exceed amount of Option Year One is \$10,000 for fiscal year 2024 pursuant to Section 6 of the MOA.

All other terms and conditions of the MOA remain the same.

**DISTRICT OF COLUMBIA RETIREMENT BOARD**

BY:



9/18/23

\_\_\_\_\_  
Gianpiero (JP) Balestrieri  
Executive Director

\_\_\_\_\_  
Date

**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

BY:



9/14/23

\_\_\_\_\_  
Marc D. Loud, Sr.  
Chief Administrative Judge

\_\_\_\_\_  
Date

**MEMORANDUM OF AGREEMENT BETWEEN  
DISTRICT OF COLUMBIA RETIREMENT BOARD  
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)), D.C. Official Code § 1-301.01(k) and § 31-3171.06(c)(5), and the authority of § 121(e) of the District of Columbia Retirement Reform Act, as amended (“Reform Act,” Pub. L. 96-122; D.C. Official Code § 1-711(e) and § 1-711(i)) and 7 DCMR § 1615.4, the District of Columbia Retirement Board (“DCRB”) and the District of Columbia Contract Appeals Board (“CAB”) agree that CAB shall serve as the hearing tribunal for certain DCRB protests, disputes and appeals. This memorandum of agreement (“MOA”) is made in accordance with the following terms and conditions:

1. DCRB is an independent agency of the government of the District of Columbia with exclusive authority and discretion to manage and control the District of Columbia Teachers’ Retirement Fund and the District of Columbia Police Officers and Fire Fighters’ Retirement Fund (collectively, the “D.C. Retirement Fund”) and to administer the benefits under the District of Columbia Teachers’ Retirement Plan and the District of Columbia Police Officers and Firefighters’ Retirement Plan (D.C. Official Code § 1-711(a)). The Reform Act provides DCRB with authority to promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business, and perform other functions necessary to carry out its responsibilities (D.C. Official Code § 1-711(e)). Under D.C. Official Code § 1-711(i)(1), DCRB has authority to enter into contracts with the governments of the District of Columbia and the United States and other public and private entities to the extent necessary to carry out its responsibilities under the Reform Act. DCRB’s statutory procurement and contracting authority is unencumbered by the provisions of the PPRA, as amended (D.C. Official Code § 2-351.05(c)(14)). Consistent with its independent authority, DCRB adopted revised District of Columbia Retirement Board Procurement Rules (“DCRBPR,” available at 7 DCMR §§ 1600 *et seq.*, effective December 21, 2021), to govern procurements of goods and services undertaken by DCRB including procedures for protests and disputes and appeals, contract claims, conflicts of interest, prohibited conduct and remedies. The rules provide that certain protests, disputes and appeals be heard and decided by the CAB pursuant to a written agreement with DCRB.

2. CAB shall have jurisdiction to hear and decide protests and disputes involving DCRB solicitation or awards with a dollar value greater than \$100,000 (DCRBPR at 7 DCMR § 1615.4) and to hear and decide appeals of decisions made by DCRB’s Executive Director involving solicitations or awards with a dollar value of \$100,000 or less (DCRBPR at 7 DCMR § 1615.30). CAB acknowledges that DCRB is exempt from the PPRA pursuant to D.C. Code § 2-351.05(c)(14). The Parties agree that DCRBPR shall govern both DCRB-level proceedings and substantive issues on DCRB matters heard and decided by CAB, as applicable, and that CAB

proceedings, including, but not limited to, the right of parties to appeal CAB final decisions to the appropriate District of Columbia Courts, shall be governed by CAB's Rules of Procedure.

3. CAB shall provide the necessary services of its judges and staff and all appropriate resources pursuant to the terms of this MOA, consistent with the manner in which CAB provides such services in cases under the PPRA. DCRB 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 or virtually and may not require a court reporter.

4. All services shall be provided on a cost reimbursable basis, in an amount not to exceed \$10,000 per fiscal year. This amount may be increased by agreement of the Parties, to reimburse CAB for necessary services exceeding \$10,000 per fiscal year. Payment shall be made in accordance with the following terms:

a. DCRB shall 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 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 District of Columbia 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 DCRB on a quarterly basis, and DCRB shall make prompt and full payment upon presentation of properly invoiced amounts. DCRB payments shall be made via Direct Voucher (exception 22 of the Financial Management and Control Order No. 07-004A and 7 DCMR § 1613.2(k) of the DCRBPR) on invoiced amounts in accordance with the terms of this MOA. Payments shall be made to CAB within fifteen (15) calendar days of the invoice date. The amount paid by DCRB shall not exceed the amount approved by this MOA.

c. Payment shall be made only upon presentation of properly invoiced amounts containing supporting entries indicating: (i) the work provided, (ii) the applicable hourly rate (inclusive of salary and fringe benefits), and (iii) corresponding hourly increments, in accordance with the terms of this MOA. Invoices shall separate by CAB docket number the cost elements of each assigned dispute from DCRB for which services are provided by CAB.

5. CAB and DCRB may extend the term of this MOA by exercising a maximum of four (4) one-year (1) option periods. The total term of this MOA, including the exercise of any



option year, may not exceed five (5) years. The Parties agree that this MOA shall expire on September 30 annually, unless terminated with thirty (90) calendar 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. When exercising an option period, the Parties may decrease the not-to-exceed amount for that option period without further amending or modifying the MOA, notwithstanding Section 7.

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 the D.C. Retirement Fund, 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 six (6) years from the date of expiration or termination of this MOA and, upon the request of DCRB or the District of Columbia or Federal Governments, make these documents available for inspection by duly authorized representatives of DCRB and other officials as may be specified by DCRB or the District of Columbia in their sole discretion.

12. The Parties to this MOA shall 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. DCRB shall abide by the provisions of the DCRBPR to procure the goods or services of the agent or third party, including, but not limited to, the retention and payment of court reporters consistent with CAB Rule 211 (Hearings).

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

DCRB            J.P. "Gianpiero" Balestrieri  
                    Executive Director  
                    District of Columbia Retirement Board  
                    900 7<sup>th</sup> Street NW, 2<sup>nd</sup> Floor  
                    Washington, DC 20001

CAB:            Mark D. Poindexter  
                    General Counsel  
                    D.C. Contract Appeals Board  
                    441 4th Street NW, Suite 350N  
                    Washington, DC 20001  
                    Phone: (202) 727-6597

Either Party may unilaterally change the point of contact 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 RETIREMENT BOARD**

BY:



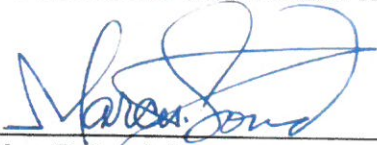
\_\_\_\_\_  
J.P. "Gianpiero" Balestrieri  
Executive Director

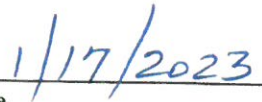
1/23/2023

\_\_\_\_\_  
Date

**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

BY:

  
\_\_\_\_\_  
Marc D. Loud, Sr.  
Chief Administrative Judge

  
\_\_\_\_\_  
Date

# EXHIBIT 5

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**DEPARTMENT OF ENERGY AND THE ENVIRONMENT**  
**AND**  
**CONTRACTS APPEAL BOARD**

**HEARING TRIBUNAL FOR SEU AND PACE CONTRACTS – FY 2021**

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**I. INTRODUCTION**

This Memorandum of Understanding (“MOU”) is entered into by the Department of Energy and Environment (“DOEE”) and the Contract Appeals Board (“CAB”), referred to individually as a “Party” and collectively the “Parties.”

## II. PROGRAM GOALS AND OBJECTIVES

Pursuant to the authority of section 1003(b) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-360.03(b)) ("PPRA"), DOEE and 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.

## III. SCOPE OF SERVICES

### A. RESPONSIBILITIES OF CAB

CAB shall:

1. Have jurisdiction to review and determine de novo appeals, protests, and DOEE claims consistent with section 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. 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 MOU and consistent with the manner in which CAB provides such services in cases under the PPRA.
3. Keep separate by CAB docket number the cost elements of each assigned dispute from DOEE for which services are provided by CAB.

### B. RESPONSIBILITIES OF DOEE

DOEE shall:

1. Make payment as specified in Section VI.B (Payment).
2. Provide 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.



**IV. DURATION OF MOU**

- A. This MOU shall be effective from the date of the last signature through September 30, 2021.
- B. The Parties may extend this MOU for up to four (4) fiscal years through one or more MOU amendments.
- C. The Parties intend for CAB to provide tribunal services through September 30, 2025.
- D. An extension is subject to the availability of funds at the time of the amendment.

**V. AUTHORITY FOR MOU**

- A. D.C. Official Code § 1-301.01(k).
- B. D.C. Official Code § 2-360.03(b).

**VI. FUNDING PROVISIONS**

**A. COST OF GOODS AND SERVICES**

- 1. The total cost of goods and services shall not exceed twenty thousand dollars (\$20,000).
- 2. Funding shall not exceed the actual cost of the goods and services. DOEE will reimburse CAB for actual costs incurred. "Actual costs" include:
  - a. All direct costs calculated as follows: each panel judge's actual hours spent on the case 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) CAB's actual overhead cost that covers reimbursement for all CAB resources provided under Section III.A 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; and
  - b. If the costs include funding for services through contracts or grants, "actual costs" may include fringe benefits, overhead, and profit paid pursuant to CAB's standard contracting or grant-making practices.
- 3. Funding shall be applied only to costs covered by this MOU.

**B. PAYMENT**

1. CAB shall submit monthly invoices to the DOEE Contact listed in Section XI.
2. CAB's itemized invoices for costs shall explain and document the amounts billed. For actual hours worked by CAB judges and staff, the invoice shall include a supporting brief entry of the work that was provided and hourly time billed to hour increments.
3. Within 30 calendar days after receiving proper invoices from CAB, DOEE shall make payments to CAB for goods and services provided, or respond in writing with a request for specificity or explanation for an unpaid amount. An intra-District transfer will be arranged by OFRM from DOEE to CAB.

**C. ANTI-DEFICIENCY**

The Parties acknowledge and agree that their respective obligations to fulfill financial obligations of any kind pursuant to any and all provisions of this MOU, are and shall remain subject to the provisions of the following laws, as amended: (1) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351; (2) the District of Columbia Anti-Deficiency Act of 2002, D.C. Official Code §§ 47-355.01-.08; (3) D.C. Official Code § 47-105; and (4) D.C. Official Code § 1-204.46.

**VII. COMPLIANCE AND MONITORING**

Performance by the Parties is subject to scheduled and unscheduled monitoring reviews by the funder(s) or other authorized officials.

**VIII. RECORDS**

- A. The Parties shall maintain receipts and other records documenting the work performed and expenditures of all funds for at least three years from the expiration or termination of this MOU.
- B. A Party receiving funds shall make these receipts and records available for inspection by the funders or other authorized officials upon request.
- C. If a grant or contract is used to provide goods or services under this MOU, the funded Party shall arrange to make grantee or contractor receipts and records available to the funders or other authorized officials upon request.

**IX. CONFIDENTIAL INFORMATION**

The Parties will use, restrict, safeguard, and dispose of all information related to services provided pursuant to this MOU in accordance with all relevant federal and District of Columbia statutes, regulations, and policies.

**X. APPLICABLE LAW**

The Parties shall comply with all applicable statutes, rules, and regulations whether now in force or later enacted or promulgated.

**XI. CONTACTS**

The following individuals or their designees are the contact points for this MOU:

FOR CAB:

Mark D. Poindexter  
General Counsel  
D.C. Contract Appeals Board  
441 4th Street N.W., Suite 350N  
Washington, DC 20001  
Phone: (202) 727-6597  
Email: mark.poindexter@dc.gov

FOR 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  
Email: taresa.lawrence@dc.gov

**XII. MODIFICATION**

This MOU, including any attachment to this MOU, except for a Party's written change in a contact under Section XI (Contacts), may be modified only through a written amendment signed by all Parties.

**XIII. TERMINATION**

- A. A Party may terminate this MOU in whole or in part by giving at least 30 calendar days written notice to the other Party.

- B. Except as provided for in Section XVI below, a Party providing goods or services that receives a notice of termination must immediately cease performance under this MOU, or, if that is not feasible, begin immediately to wind down performance.
- C. Except as provided for in Section XVI below, after receiving a notice of termination, a funded Party shall not be obligated to perform or provide further goods or services, other than winding down performance, supporting payment of invoices as specified in Section VI.B (Payment), complying with applicable laws, and honoring commitments to recordkeeping, reporting, monitoring, and confidentiality.

#### **XIV. DISPUTE RESOLUTION**

- A. The Parties will make every effort to resolve disputes concerning this MOU at the staff level.
- B. If the dispute cannot be resolved at the staff level, a Party may raise the dispute to the Director level.
- C. If the Directors are unable to resolve the dispute, a Party may refer the dispute to Office of the Chief Financial Officer for financial matters or to the Office of the City Administrator for other matters.

#### **XV. SIGNING AND COUNTERPARTS**

This MOU and any amendment may be signed by hand or electronically on the original version or a duplicate. It may be signed in counterparts, each separately and together constituting one and the same document.

#### **XVI. EXISTING PROTESTS, APPEALS, AND CLAIMS**

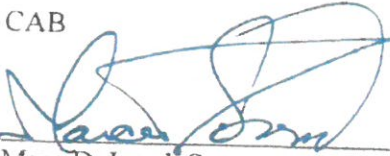
Section XIII notwithstanding, in the event of termination of this MOU, this MOU shall continue to apply to any protests, appeals, and claims being adjudicated by CAB at the time of termination pursuant to this MOU.

*This space intentionally left blank*

**XVII. SIGNATURES**

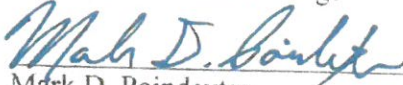
The Parties agree to this MOU.

CAB



Marc D. Loud, Sr.  
Chief Administrative Judge

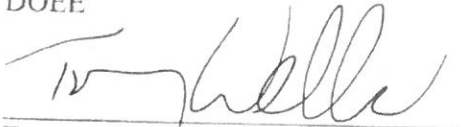
Date: March 23, 2021



Mark D. Poindexter  
General Counsel  
for legal sufficiency

Date: March 23, 2021

DOEE



Tommy Wells  
Director

Date: \_\_\_\_\_



Digitally signed by Beth Mullin  
Date: 2021.08.05 14:03:55 -04'00'

Beth Mullin  
Deputy General Counsel  
for legal sufficiency

Date: \_\_\_\_\_

# EXHIBIT 6



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD  
AND  
DISTRICT OF COLUMBIA DEPARTMENT OF SMALL AND LOCAL BUSINESS  
DEVELOPMENT  
FOR FISCAL YEAR 2023**

**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 Department of Small and Local Business Development (“**DSLBD**” 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**

Buyer Agency has requested that Seller Agency provide Salesforce licenses for access to DSLBD’s District Enterprise System (“**DES**”). Such licenses are mandatory to access the DES. To this end, Seller Agency will procure one or more licenses, on behalf of the Buyer Agency, under the terms of this MOU so that the Buyer Agency may perform the budget, special exception, and expenditure review processes as well as update contract information and create waivers. Further, pursuant to D.C. Official Code §§ 2-218.46 and 2-218.51, Agencies are required to request a waiver for contracts in excess of \$250,000, if it is unable to allocate the required percentage of a contract to a Certified Business Enterprise (“**CBE**”).

**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**

1. The Seller Agency must provide the projected costs of the goods/services under this MOU. This detail shall be provided in the table in Section VI.A.
2. The Seller Agency works with the Buyer agency to complete the Interagency funding process using District Integrated Financial System (DIFS) on, or before, June 16, 2023

**B. RESPONSIBILITIES OF BUYER AGENCY**

1. The Buyer Agency agrees to the terms, projected costs, and the funds' availability as associated with this MOU.
2. The Buyer Agency begins the Interagency funding process using DIFS within ten (10) days of the execution of the MOU.
3. The Buyer Agency shall create an Interagency Project and fund it through an Award in the amount set forth in Section VI.A of this MOU.
4. The Buyer Agency works with the Seller Agency to complete the Interagency funding process using DIFS on, or before, June 16, 2023.

**V. DURATION OF MOU**

The duration of this MOU shall begin on the execution date of this MOU by the Parties, and it shall expire on July 9, 2023, unless (1) terminated in writing by the Parties prior to expiration pursuant to Section VII of this MOU or (2) extended by the Parties in writing.

**VI. FUNDING PROVISIONS**

**A. COST OF GOODS/ SERVICES**

The total cost to the Buyer Agency for the goods and/or services provided under this MOU shall not exceed \$320.00 for Fiscal Year 2023. The total cost of the goods and/or services is based on the Seller Agency's estimate of the actual cost of the goods and/or services that will be provided under this MOU listed herein:

LICENSE	UNIT PRICE	QTY	TOTAL
Lightning Platform Starter Unlimited Edition/Gov Cloud Access/Encryption Access	\$147.78	2	\$295.56

The license (*i.e.*, Lightning Platform Starter Unlimited Edition) works in conjunction with "Gov Cloud Access" and "Encryption Access." The cost of these additional products is included with the aforementioned license cost.

**B. PAYMENT**

1. The Buyer Agency shall create an Interagency Project and fund it through an Award in the amount set forth in Section VI.A of this MOU. The Interagency Project shall be established in a manner that allows the Seller Agency to directly charge the Project for the costs the Seller Agency incurs in providing goods and/or services under this MOU. The financial transaction shall be completed between the Buyer Agency and the Seller Agency on, or before June 16, 2023.

2. The Seller Agency shall charge the Interagency Project only for the actual cost of goods and/or services provided under this MOU.
3. For each charge against the Interagency Project, the Seller Agency shall attach, to the Project, documentation that supports the charge, including invoices as applicable.

**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 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**

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

**VIII. COMPLIANCE WITH LAW**

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

**IX. COMPLIANCE MONITORING**

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

**X. RECORDS AND REPORTS**

- A. The Buyer Agency and 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 after the date of expiration or termination of this MOU.
- B. Both the Buyer Agency and Seller Agency shall have access to all records in the Interagency Project established pursuant to section VI.B. of this MOU.

**XI. TERMINATION**

- A. Either Party may terminate this MOU in whole or in part by giving thirty (30) calendar days advance written notice to the other Party.
- B. In the event of termination of this MOU, the Buyer Agency and Seller Agency shall reconcile any amounts due to the Seller Agency under this MOU. The Buyer Agency shall not remove funding from the Interagency Project established pursuant to section VI.B. of this MOU until the Seller Agency has drawn down the amounts due, except to the extent that the funding in the Interagency Project exceeds the amounts due to the Seller Agency.

**XII. NOTICES**

The following individuals are the contact points for each Party:

**CAB**

Mark D. Poindexter

\_\_\_\_\_  
Name

General Counsel

\_\_\_\_\_  
Title

441 4th Street NW, Ste. 350-N

\_\_\_\_\_  
Address

Washington, DC 20002

\_\_\_\_\_  
City State Zip Code

(202) 727-6597

\_\_\_\_\_  
Phone Number ( ) XXX-XXXX

mark.poindexter@dc.gov

\_\_\_\_\_  
Email Address

**DSLBD**

**Sirah Turner**

Administrative Services Manager

441 4<sup>th</sup> Street, NW, Suite 850N

Washington, DC 20001

Phone: (202) 770-6283

Email: [sirah.turner@dc.gov](mailto:sirah.turner@dc.gov)

**XIII. RESOLUTION OF DISPUTES**

All disputes arising under this MOU shall be referred to the individuals which are the contact points for each Party for resolution. If these individuals are unable to resolve such a dispute, the dispute shall be referred to the Directors of the Buyer Agency and the Seller Agency for resolution.

**XIV. CONFIDENTIAL INFORMATION**

The Parties shall use, restrict, safeguard, and dispose of all information related to goods and/or services provided under this MOU in accordance with all relevant federal and District statutes, regulations, and policies.

Signatures to follow

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

**BUYER AGENCY - CONTRACT APPEALS BOARD**

/s/ Marc D. Loud, Sr.

\_\_\_\_\_  
Name Marc D. Loud, Sr,  
Title Chief Administrative Judge

March 17, 2023  
\_\_\_\_\_  
Date

**SELLER AGENCY - DEPARTMENT OF SMALL AND LOCAL BUSINESS  
DEVELOPMENT**



\_\_\_\_\_  
Kristi C. Whitfield  
Director

03/17/2023  
\_\_\_\_\_  
Date



# EXHIBIT 7

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:**

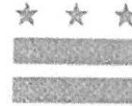
none

**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) (2011Supp.).

**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 or 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

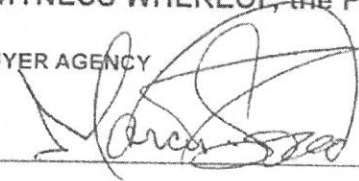
The Parties to this MOU will use, restrict, safeguard and dispose of all information related to services provided by this MOU in accordance with all relevant federal and local statutes, regulations, and policies. Information received by either Party in the performance of responsibilities associated with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



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

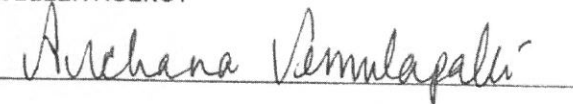
A. BUYER AGENCY

  
\_\_\_\_\_  
(Chief Judge)

Date: 6/12/17

CONTRACT APPEALS BOARD, DISTRICT OF COLUMBIA

B. SELLER AGENCY

  
\_\_\_\_\_

Date: 6/21/17

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

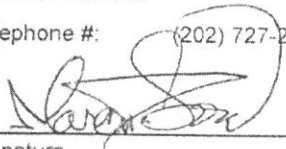
Agency Code: AF0

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
-----	----	-----	------	-------	-----	-----	------	-------	------	-----	-----	-----	--------

Seller

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

6/12/2017 10:39:55AM

TOOAF0-2017-0900

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	


# EXHIBIT 8

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



## MOU Routing Slip OCTO Executive Brief Form

<b>OCTO Department:</b> Infrastructure/ECIS		<b>Program Manager:</b> Anthony Watkis	
<b>Agency:</b> District of Columbia Contract Appeals Board (CAB)		<b>Dollar Amount:</b> \$1,003.20	
<b>Date Submitted:</b> 10/26/2018		<b>eMOU#:</b> TO0AF0-2019-01134	
<b>Project Description:</b> Office 365 Enterprise License			
<b>Risks:</b> • None			
<b>Challenges:</b> • None			
<b>Urgency:</b> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> Normal             <input type="checkbox"/> Rush             <input type="checkbox"/> Expedite           </div>			
APPROVAL FLOW			
NAME/CORRESPONDENCE SYMBOL	REQUIRED ACTION (S)	RELEASED	
		INITIAL	DATE
1. Project Coordinator, Cheryl Harris	Required	<i>CH</i>	10/26/2018
2. General Counsel, Pam Brown	Required	<i>PB</i>	10/26/2018
3. Chief of Staff, Carol Harrision	Required	<i>CAH</i>	10/26/2018
4. Interim CTO, Barney Krucoff	Required	<i>BK</i>	10/26/2018

<p>OFFICE OF THE CHIEF TECHNOLOGY OFFICER GOVERNMENT OF THE DISTRICT OF COLUMBIA</p> 	<p><b>MOU Executive Brief</b> <b>OCTO Division</b></p>
<p><b>OCTO Deputy/Executive:</b> Carol Harrison</p>	<p><b>Program Manager:</b> Anthony Watkis</p>
<p><b>Agency:</b> DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD (CAB)</p>	<p><b>Dollar Amount:</b> \$1,003.20</p>
<p><b>Date Submitted:</b> Oct 23 2018 4:26PM</p>	<p><b>eMOU#:</b> TO0AF0-2019-01134</p>
<p><b>Project Description:</b> 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.</p>	
<p><b>Risks:</b> None</p>	
<p><b>Challenges:</b> Collect the fund ASAP</p>	
<p><b>Urgency:</b>                      <input type="checkbox"/> Normal                      Rush                      <input type="checkbox"/> Expedite</p>	





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

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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 E1 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 E1 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 4<sup>th</sup> 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**

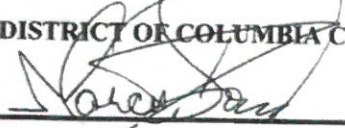
The Parties' Directors or designees shall resolve all adjustments and disputes arising from services performed under this MOU. The decision of the Parties' Directors related to any disputes referred shall be final. In the event that the Parties are unable to resolve a financial issue, the matter shall 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:**

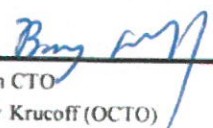
**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

  
\_\_\_\_\_

Marc Loud

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. Lund, 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
-----	----	-----	------	-------	-----	-----	------	-------	------	-----	-----	-----	--------

**Seller**

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

**eMOU Approval History**

10/23/2018 4:27:54  
PM

**TO0AF0-2019-01134**

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

# EXHIBIT 9



**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:

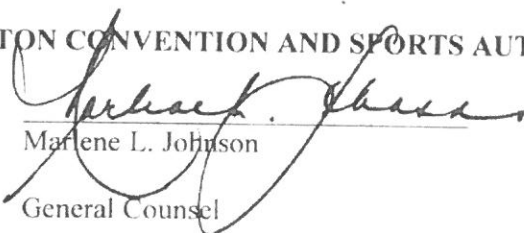
Authority: Marlene L. Johnson  
General Counsel  
Washington Convention and Sports Authority  
801 Mt. Vernon Place, N.W.  
Washington, D.C. 20001  
202-249-3219

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:

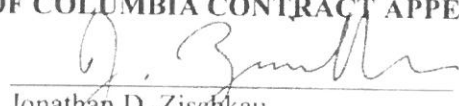
  
Marlene L. Johnson

TITLE: General Counsel

DATE: December 29, 2009

**DISTRICT OF COLUMBIA CONTRACT APPEALS BOARD**

BY:

  
Jonathan D. Zischkau  
Chief Administrative Judge

DATE:

1/5/2010

# EXHIBIT 10



THOMSON REUTERS

### Order Form

Order ID: Q-07199197

Contact your representative [alisha.reeves@thomsonreuters.com](mailto:alisha.reeves@thomsonreuters.com) with any questions. Thank you.

#### Sold To Account Address

Account #: 1000826130  
DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD  
441 4TH ST NW STE 350N  
WASHINGTON DC 20001-2714 US

“Customer”

#### Shipping Address

Account #: 1000826130  
DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD  
441 4TH ST NW STE 350N  
WASHINGTON DC 20001-2714 US

#### Billing Address

Account #: 1000826130  
DISTRICT OF COLUMBIA  
CONTRACT APPEALS BOARD  
441 4TH ST NW STE 350N  
WASHINGTON, DC 20001-2714  
US

This Order Form is a legal document between Customer and

- A. West Publishing Corporation to the extent that products or services will be provided by West Publishing Corporation, and/or
- B. Thomson Reuters Enterprise Centre GmbH to the extent that products or services will be provided by Thomson Reuters Enterprise Centre GmbH.

A detailed list of products and services that are provided by Thomson Reuters Enterprise Centre GmbH and current applicable IRS Certification forms are available at: <https://www.tr.com/trorderinginfo>

West Publishing Corporation may also act as an agent on behalf of Thomson Reuters Enterprise Centre GmbH solely with respect to billing and collecting payment from Customer. Thomson Reuters Enterprise Centre GmbH and West Publishing Corporation will be referred to as “Thomson Reuters”, “we” or “our,” in each case with respect to the products and services it is providing, and Customer will be referred to as “you”, or “your” or “Client”.

Thomson Reuters General Terms and Conditions apply to all products ordered, except print and is located at <http://tr.com/TermsandConditions>. In the event that there is a conflict of terms between the General Terms and Conditions and this Order Form, the terms of this Order Form control. This Order Form is subject to our approval.

Thomson Reuters General Terms and Conditions for Federal Subscribers is located at <https://static.legalsolutions.thomsonreuters.com/static/Federal-ThomsonReuters-General-Terms-Conditions.pdf> In the event that there is a conflict of terms between the General Terms and Conditions and this Order Form, the terms of this Order Form control. This Order Form is subject to our approval.

#### Online / Practice Solutions / Software Products

Material #	Product	Quantity	Unit	Charges	Minimum Term (Months)	Billing Frq	Order Type
42077755	Westlaw All Analytical, Enterprise access,	5	Attorneys	\$220.61	12	Monthly	Subscription

	Government						
42510228	Westlaw Edge National Primary Law, Enterprise access, Government	5	Attorneys	\$392.28	12	Monthly	Subscription
41933475	Westlaw Litigation Collection, Enterprise access, Government	5	Attorneys	\$220.61	12	Monthly	Subscription
41647998	PFX Keycite Alert Daily (Westlaw PRO™)	5	Attorneys	\$0.00	12	Monthly	Subscription

<b>Monthly Charges for Online/Practice Solutions/Software Products</b>	<b>\$833.50</b>
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#### Minimum Terms

Your subscription is effective upon the date we process your order ("Effective Date") and Monthly Charges will be prorated for the number of days remaining in that month, if any. Your subscription will continue for the number of months listed in the Minimum Term column above counting from the first day of the month following the Effective Date. Your Monthly Charges during the first twelve (12) months of the Minimum Term are as set forth above. If your Minimum Term is longer than 12 months, then your Monthly Charges for each year of the Minimum Term are displayed in the Attachment to the Order Form.

#### Post Minimum Terms

At the end of the Minimum Term, we will notify you of any change in Monthly Charges at least 60 days before each 12-month term starts. Either of us may cancel the Post-Minimum Term subscription by sending at least 30 days written notice.

**Federal Government Subscribers Optional Minimum Term.** Federal government subscribers that chose a multi-year Minimum Term, those additional months will be implemented at your option pursuant to federal law.

**Banded Product Subscriptions.** You certify your total number of attorneys (full-time and part-time partners, shareholders, associates, contract or staff attorneys, of counsel, and the like), corporate users, personnel or full-time-equivalent students is indicated in this Order Form. Our pricing for banded products is made in reliance upon your certification. If we learn that the actual number is greater or increases at any time, we reserve the right to increase your charges as applicable.

#### Miscellaneous

**Applicable Law.** If you are a state or local governmental entity, your state's law will apply, and any claim may be brought in the state or federal courts located in your state. If you are a non-governmental entity, this Order Form shall be interpreted under Minnesota state law and any claim by



one of us shall exclusively be brought in the state or federal courts in Minnesota. If you are a United States Federal Government subscriber, United States federal law will apply, and any claim may be brought in any federal court.

**Charges, Payments & Taxes.** You agree to pay all charges in full within 30 days of the date of invoice. You are responsible for any applicable sales, use, value added tax (VAT), etc. unless you are tax exempt. If you are a non-government customer and fail to pay your invoiced charges, you are responsible for collection costs including attorneys' fees.

**Excluded Charges And Schedule A Rates.** If you access products or services that are not included in your subscription you will be charged our then-current rate ("Excluded Charges"). Excluded Charges will be invoiced and due with your next payment. For your reference, the current Excluded Charges schedules are located in the below link. Excluded Charges may change from time-to-time upon 30 days written or online notice. We may, at our option, make certain products and services Excluded Charges if we are contractually bound or otherwise required to do so by a third party provider or if products or services are enhanced or if new products or services are released after the effective date of this ordering document. Modification of Excluded Charges or Schedule A rates is not a basis for termination under paragraph 9 the General Terms and Conditions.

<http://static.legalsolutions.thomsonreuters.com/static/agreement/plan-2-pro-govt-agencies.pdf>

**eBilling Contact.** All invoices for this account will be emailed to your e-Billing Contact(s) unless you have notified us that you would like to be exempt from e-Billing.

**Credit Verification.** If you are applying for credit as an individual, we may request a consumer credit report to determine your creditworthiness. If we obtain a consumer credit report, you may request the name, address and telephone number of the agency that supplied the credit report. If you are applying for credit on behalf of a business, we may request a current business financial statement from you to consider your request.

**Cancellation Notification Address.** Send your notice of cancellation to Customer Service, 610 Opperman Drive, P.O. Box 64833, Eagan MN 55123-1803

**Returns and Refunds.** You may return a print product to us within 45 days of the original shipment date if you are not completely satisfied. Please see <http://static.legalsolutions.thomsonreuters.com/static/returns-refunds.pdf> or contact Customer Service at 1-800-328-4880 for additional details regarding our policies on returns and refunds.

**Document Intelligence Product Specific Terms:** The following product specific terms shall apply to the Document Intelligence products on this order form, and are incorporated by reference: [www.ThomsonReuters.com/DocIntel-PST](http://www.ThomsonReuters.com/DocIntel-PST)

**Product Specific Terms and Information Security Controls:** The following product specific terms and information security controls shall apply to the HighQ products on this order form, and are incorporated by reference:

- HighQ Product Specific Terms <http://tr.com/HighQ-PST>
- HighQ Information Security Controls <http://tr.com/HighQ-InfoSec>

**Service Levels:** Thomson Reuters shall provide service availability, maintenance and support for the term of the Agreement. Details are available at: <http://tr.com/HighQ-SLA>

**Product Specific Terms.** The following products have specific terms which are incorporated by reference and made part of this Order Form if they apply to your order. They can be found at <https://static.legalsolutions.thomsonreuters.com/static/ThomsonReuters-General-Terms-Conditions-PST.pdf>. If the product is not part of your order, the product specific terms do not apply. If there is a conflict between product specific terms and the Order Form, the product specific terms control.

- Campus Research
- Contract Express
- Hosted Practice Solutions
- ProView eBooks
- Time and Billing
- West km Software
- West LegalEdcenter
- Westlaw
- Westlaw Doc & Form Builder
- Westlaw Paralegal
- Westlaw Patron Access
- Westlaw Public Records

#### Amended Terms and Conditions

**Government Non-Availability of Funds for Online, Practice Solutions or Software Products**

You may cancel a product or service with at least 30 days written notice if you do not receive sufficient appropriation of funds. Your notice must include an official document, (e.g., executive order, an officially printed budget or other official government communication) certifying the non-availability of funds. You will be invoiced for all charges incurred up to the effective date of the cancellation.

**Acknowledgement: Order ID: Q-07199197**

*Mark Poindexter*

\_\_\_\_\_  
Signature of Authorized Representative for order

Mark D. Poindexter

\_\_\_\_\_  
Printed Name

General Counsel, DC Contract Appeals Board

\_\_\_\_\_  
Title

August 1, 2023

\_\_\_\_\_  
Date

This Order Form will expire and will not be accepted after 9/24/2023.





THOMSON REUTERS

# Attachment

# Order ID: Q-07199197

Contact your representative [alisha.reeves@thomsonreuters.com](mailto:alisha.reeves@thomsonreuters.com) with any questions. Thank you.

### Payment, Shipping, and Contact Information

**Payment Method:**

Payment Method: Bill to Account

Account Number: 1000826130

This order is made pursuant to:

**Order Confirmation Contact (#28)**

Contact Name: Poindexter, Mark

Email: [mark.poindexter2@dc.gov](mailto:mark.poindexter2@dc.gov)

**eBilling Contact**

Contact Name Mark Poindexter

Email [mark.poindexter2@dc.gov](mailto:mark.poindexter2@dc.gov)

**Shipping Information:**

Shipping Method: Ground Shipping - U.S. Only

### Account Contacts

Account Contact First Name	Account Contact Last Name	Account Contact Email Address	Account Contact Customer Type Description
Jarvis	Tait	<a href="mailto:jarvis.tait@thomsonreuters.com">jarvis.tait@thomsonreuters.com</a>	EML PSWD CONTACT