

Contract Appeals Board FY2019

Agency Contract Appeals Board

Agency Code AFO

Fiscal Year 2019

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

Summary of Services The Contract Appeals Board reviews and determines protests of District contract solicitations and/or awards, appeals by contractors of District contracting officer final decisions on contractor claims, claims by the District against a contractor, appeals by contractors of suspensions and/or debarments, and contractor appeals of interest payment claims under the Quick Payment Act. PERFORMANCE PLAN DIVISIONS: Adjudication; Contract Appeals Board (Agency Management Program).

2019 Accomplishments

Accomplishment	Impact on Agency	Impact on Residents
In FY19, the Board completed a revision of its practice rules and will submit them for final rulemaking within the final 90 days of calendar year 2019. The revised rules harmonize the Board's practice procedures with the District's existing major procurement statutes, including, but not limited to, the Procurement Practices Reform Act of 2010, D.C. Code §§ 2-351.01 et seq., and the Public Private Partnership Act of 2014. The revised rules also correct longstanding ambiguities or conflicts in existing Board rules, and position the Board to keep its adjudication practices on par with emerging technology advancements impacting court operations (virtual hearings, digital file and service systems, etc.). Prior to FY19, the Board's practice rules were last updated on March 8, 2002. See 49 D.C. Reg. 2078 (2002).	Updating the Board's procedural rules harmonizes and modernizes the resolution of procurement protests and appeals before the Board, resulting in increased procedural efficiency for litigants.	Updating the Board's procedural rules harmonizes and modernizes the resolution of procurement protests and appeals before the Board, resulting in greater transparency for the residents of DC in the government contracts adjudication process.
In FY19, the Board received 27,735 pages of case filings in 1,376 distinct documents. The overwhelming majority of these documents have been uploaded to the Board's website for public viewing (the only documents not uploaded were the relatively small number of documents sealed pursuant to a Board Protective Order to protect confidential business trade secrets and other such information). All Board case materials are uploaded to the Board's public website within three (3) days of filing. The Board prioritizes transparency, and will continue to promptly upload newly filed case materials; and scan, upload and archive all remaining historical case records in FY20.	The Board's on-going technology initiatives and accomplishments promote transparency and aid in streamlining the Board's adjudication and supporting operations, thereby improving access to justice for the District of Columbia and its contracting communities.	The Board's on-going technology initiatives and accomplishments promote transparency and aid in streamlining the Board's adjudication and supporting operations, thereby improving access to justice for the District of Columbia and its contracting communities.
For the fifth year in a row, the Board excelled in closing cases timely and knowledgeably, continuing to inspire public confidence that all Board matters are administered expeditiously and with sound expertise. Thus in FY19, the Board closed 100% (16) of Protest cases within the statutorily required 60 business days. D.C. Code § 2-360.08(d). Moreover, the Board ended FY19 with a record low pending Appeals cases, fourteen (14), none of which are more than three (3) years-old, and thirteen (13) of which are two-years old or less. Additionally in FY19, the Board's unique expertise in government contract adjudication was publicly acknowledged by the DC Court of Appeals and the DC Superior Court in written opinions affirming two recent Board decisions: Rustler Construction, Inc. v. District of Columbia, 211 A.3d 187 (D.C. 2019), and Spectrum Mgmt. LLC v. District of Columbia Board of Contract Appeals, No. 2019 CA 001266 P (MPA) (D.C. Super. Ct. Sept. 11, 2019). In the 26 page Rustler case, Associate Judge John R. Fisher dismissed cross-petitions challenging the Board's damages award in a case involving roadway improvements, noting that the Board had "thoroughly scrutinized records" to support its factual analysis, and that its legal analyses of familiar (e.g., "critical path method") and less familiar (e.g., "jury verdict method") government contract themes was entirely correct. In FY19, five (5) Board cases on appeal to the DC Courts were resolved, and none of the five were reversed (one case was dismissed; two cases were withdrawn by the parties; and two cases (cross-appeals) were affirmed).	Promotes confidence in the fairness and efficiency of the District's government contracts adjudication and resolution processes.	Promotes confidence in the fairness and efficiency of the District's government contracts adjudication and resolution processes.

2019 Key Performance Indicators

Measure	Frequency	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Q1	FY 2019 Q2	FY 2019 Q3	FY 2019 Q4	FY 2019 Actual	KPI Status	Explanation
1 - Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes. (4 Measures)											

Measure	Frequency	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Q1	FY 2019 Q2	FY 2019 Q3	FY 2019 Q4	FY 2019 Actual	KPI Status	Explanation
Percent of pending cases that are three years old or less	Annually	92.9%	86.7%	90%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
Percent of appeals resolved within 4 months of the cases being ready for decision	Annually	80%	84.2%	90%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	81.3%	Nearly Met	Small appeals data set in FY19: 13 out of 16 cases resolved within 4 months/120 business days of being ready for resolution.
Percent of Protests resolved within 60 business days	Annually	87%	90.9%	95%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
Percent of decisions sustained on appeal	Annually	100%	No Applicable Incidents	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 party satisfaction. (1 Measure)											
Percent of cases resolved through settlement	Annually	48.4%	55.4%	50%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	55.6%	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 and full-text searching by the parties with pending cases and the public. (2 Measures)											
Percent of new cases using electronic filing system	Annually	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	
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	Annually	100%	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	Met	

2019 Workload Measures

Measure	FY 2017 Actual	FY 2018 Actual	FY 2019 Q1	FY 2019 Q2	FY 2019 Q3	FY 2019 Q4	FY 2019 Actual
1 - Reduce the number of open appeal cases that are three years or older through docket review and strategic resource allocation (2 Measures)							
Number of new cases filed	48	46	Annual Measure	Annual Measure	Annual Measure	Annual Measure	35
Number of cases resolved	64	56	Annual Measure	Annual Measure	Annual Measure	Annual Measure	36
2 - Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models (2 Measures)							

Measure	FY 2017 Actual	FY 2018 Actual	FY 2019 Q1	FY 2019 Q2	FY 2019 Q3	FY 2019 Q4	FY 2019 Actual
Number of Scheduling Orders issued encouraging settlement	48	46	Annual Measure	Annual Measure	Annual Measure	Annual Measure	35
Number of cases resolved through settlement/voluntary withdrawal	31	31	Annual Measure	Annual Measure	Annual Measure	Annual Measure	20
3 - Increase digital archiving and electronic filing of new cases to provide full-text searching and, therefore, greater transparency for litigants, the contracting community and the public (3 Measures)							
Number of archived protest and appeals cases digitized and uploaded to the public website	64	20	Annual Measure	Annual Measure	Annual Measure	Annual Measure	0
Number of new cases filed and processed electronically	48	46	Annual Measure	Annual Measure	Annual Measure	Annual Measure	35
Number of documents filed in new cases	1933	1461	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1376

2019 Operations

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

2019 Strategic Initiatives

Strategic Initiative Title	Strategic Initiative Description	Completion to Date	Status Update	Explanation for Incomplete Initiative
No strategic initiatives found				