



# **CONTRACT APPEALS BOARD**

## **FY 2023 PERFORMANCE ACCOUNTABILITY REPORT**

**JANUARY 16, 2024**

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## **1 CONTRACT APPEALS BOARD**

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*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.

*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 claims under the Quick Payment Act.

## 2 2023 ACCOMPLISHMENTS

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Accomplishment	Impact on Agency	Impact on Residents
<p>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).</p>	<p>Promotes efficiency and transparency in the disposition of cases before the Board.</p>	<p>Promotes efficiency and transparency in the disposition of cases before the Board.</p>

(continued)

Accomplishment	Impact on Agency	Impact on Residents
<p>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 <a href="http://www.cab.dc.gov">www.cab.dc.gov</a>. 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 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 transparency.</p>	<p>Promotes the Board's continuing commitment to transparency and legacy case scholarship.</p>	<p>Promotes the Board's continuing commitment to transparency and legacy case scholarship.</p>

(continued)

Accomplishment	Impact on Agency	Impact on Residents
<p>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 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; (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.</p>	<p>Maintains the Board's utilization of current and future-facing technology in the area of case management.</p>	<p>Maintains the Board's utilization of current and future-facing technology in the area of case management.</p>

### 3 2023 OBJECTIVES

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#### Strategic Objective

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Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.

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.

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.

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## 4 2023 OPERATIONS

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Operation Title	Operation Description
<b>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.</b>	
Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models: Daily Service	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.
<b>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.</b>	
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: Key Project	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.

## 5 2023 STRATEGIC INITIATIVES

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In FY 2023, Contract Appeals Board had 2 Strategic Initiatives and completed 100%.

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Title	Description	Update
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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 & ServeXpress platform to the Board server and to the public website for transparency/public viewing

Completed to date: Complete

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:

(1) digitize and preserve millions of pages from the Board's earliest cases (1950s-1970s),

(2) add these legacy records to the Board's already extensive case search database as fully searchable PDFs

<https://cab.dc.gov/node/1656651>, and

(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,

<https://washingtontechnology.com/contracts/2022/06/federal-court-system-eyes-expanded-push-cloud/368709/>.

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

<https://legaltechnology.com/2021/09/13/imanage-announces-end-of-life-for-desksite-filesite-and-idol-indexer/>, 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 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,

(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

[https://www.ncsc.org/\\_data/assets/pdf\\_file/0013/20830/2020-04-02-intro-to-ai-for-courts\\_final.pdf](https://www.ncsc.org/_data/assets/pdf_file/0013/20830/2020-04-02-intro-to-ai-for-courts_final.pdf) and

(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., <https://newsroom.accenture.com/news/accenture-launches-mynav-green-cloud-advisor-to-help-companies-realize-sustainability-goals-through-the-cloud.htm>.

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.

Completed to date: Complete  
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](http://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.

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## 6 2023 KEY PERFORMANCE INDICATORS AND WORKLOAD MEASURES

### Key Performance Indicators

Measure	Directionality	FY 2021	FY 2022	FY 2023 Q1	FY 2023 Q2	FY 2023 Q3	FY 2023 Q4	FY 2023	FY 2023 Target	Was 2023 KPI Met?	Explanation of Unmet KPI
<b>Increase public confidence in the DC procurement process through the efficient, effective and fair disposition of public contracting disputes.</b>											
Percent of Protests resolved within 60 business days	Up is Better	100%	88.5%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	95%	Met	
Percent of decisions sustained on appeal	Up is Better	Not Available	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	No applicable incidents	100%		
Percent of Appeals resolved within 4 months of the cases being ready for decision	Up is Better	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	90%	Met	
Percent of pending Appeals that are three years old or less	Up is Better	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	100%	Met	
<b>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.</b>											
Percent of cases resolved through settlement	Up is Better	40.9%	41%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	52.6%	50%	Met	
<b>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.</b>											
Percent of new cases using electronic filing system	Up is Better	91.2%	92.3%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	76%	100%	Unmet	While the Board encourages all litigants to utilize its electronic case filing system, alternative filing options, such as filing by mail and hand-delivery, remain under the Board's Rules of Procedure to ensure Access to Justice is not impaired due to any technology limitations.

Key Performance Indicators *(continued)*

Measure	Directionality	FY 2021	FY 2022	FY 2023 Q1	FY 2023 Q2	FY 2023 Q3	FY 2023 Q4	FY 2023	FY 2023 Target	Was 2023 KPI Met?	Explanation of Unmet KPI
Percent of cases closed by the Board in the current fiscal year that are electronically archived to permit web-based retrieval and full-text searching capability	Up is Better	100%	100%	Annual Measure	Annual Measure	Annual Measure	Annual Measure	100%	100%	Met	

Workload Measures

Measure	FY 2021	FY 2022	FY 2023 Q1	FY 2023 Q2	FY 2023 Q3	FY 2023 Q4	FY 2023
<b>Increase use of ADR in resolving disputes before CAB through researching, developing and applying best practices in mediation and other alternative dispute resolution models</b>							
Number of Scheduling Orders issued encouraging settlement	34	26	Annual Measure	Annual Measure	Annual Measure	Annual Measure	25
Number of cases resolved through settlement/voluntary withdrawal	9	16	Annual Measure	Annual Measure	Annual Measure	Annual Measure	10
<b>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</b>							
Number of archived protest and appeals cases digitized and uploaded to the public website	1	1	Annual Measure	Annual Measure	Annual Measure	Annual Measure	2348
Number of new cases filed and processed electronically	31	24	Annual Measure	Annual Measure	Annual Measure	Annual Measure	19
Number of documents filed in new cases	1,574	1,538	Annual Measure	Annual Measure	Annual Measure	Annual Measure	1441