



## FY 2015 Performance Accountability Report District of Columbia Contract Appeals Board

### INTRODUCTION

The Performance Accountability Report (PAR) measures each agency's performance for the fiscal year against the agency's performance plan and includes major accomplishments, updates on initiatives' progress and key performance indicators (KPIs).

### MISSION

The Contract Appeals Board (CAB) reviews and determines de novo protests of District contract solicitations and/or awards, appeals by contractors of District contracting officer final decisions on contractor claims, claims by the District against a contractor, appeals by contractors of suspensions and/or debarments, and contractor appeals of interest payment claims under the Quick Payment Act.

### SUMMARY OF SERVICES

The Contract Appeals Board reviews and determines de novo protests of District contract solicitations and/or awards, appeals by contractors of District contracting officer final decisions on contractor claims, claims by the District against a contractor, appeals by contractors of suspensions and/or debarments, and contractor appeals of interest payment claims under the Quick Payment Act.

### OVERVIEW – AGENCY PERFORMANCE

The following section provides a summary of CAB performance in FY 2015 by listing CAB's top three accomplishments, and a summary of its progress achieving its initiatives and progress on key performance indicators.

### TOP THREE ACCOMPLISHMENTS

The top three accomplishments of CAB in FY 2015 are as follows:

- ✓ CAB is viewed regionally and nationally as a premier state agency in the complex field of government contracts adjudication. The Washington Post and the Washington Business Journal have noted CAB in recent articles for its "critical", "impartial", and "knowledgeable" case review, and for having "the most transparent database" of any government agency covered by the [the Washington Business Journal].
- ✓ In FY15 CAB continued its five-year trend of dramatically reducing the total number of open cases on its docket. At the close of FY15, CAB had 57 open cases on the docket, which represents a 50% decrease from the total number of open cases on the docket in FY11. Moreover, the current Board has closed 92% of a legacy case backlog of 42 cases pending at the time that current Board Judges were appointed in FY11. Ultimately, CAB's case closures

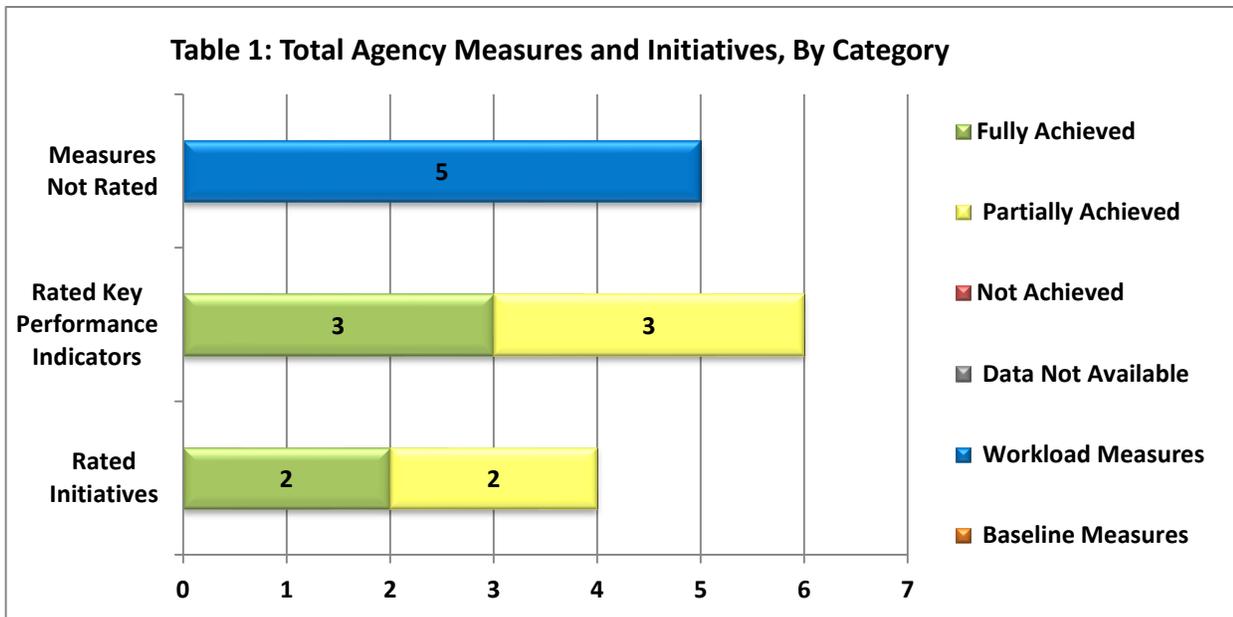


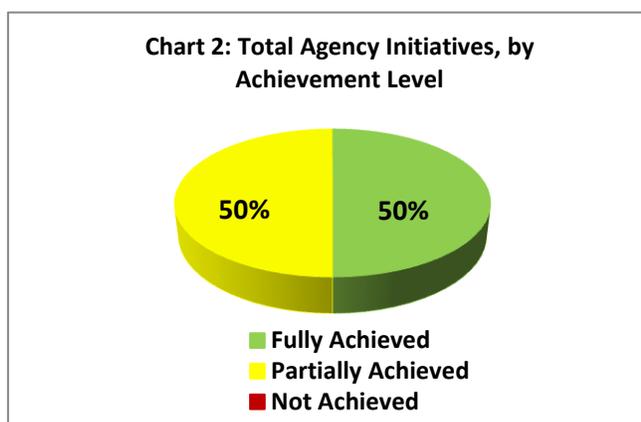
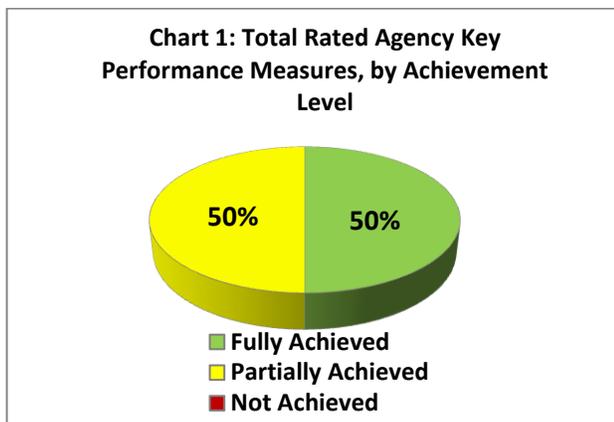
restore confidence in the integrity of District procurement, position District agencies to channel resources into service delivery, and reduces parties' exposure to judgment interest under D.C. Code Official § 2-359.09.

- ✓ In FY15 CAB continued its commitment to transparency, uploading 2,629 documents and 22,157 pages of litigation materials to its public website within three days of filing. CAB uploads all litigation materials to its public website within three days of filing (except filings subject to protective order under Board Rule 104). For the five-year period FY11 to FY15, CAB has uploaded approximately 156,530 pages of litigation materials to its public website.

**SUMMARY OF PROGRESS TOWARD COMPLETING FY 2015 INITIATIVES AND PROGRESS ON KEY PERFORMANCE INDICATORS**

Table 1 (see below) shows the overall progress the CAB made on completing its initiatives, and how overall progress is being made on achieving the agency's objectives, as measured by their key performance indicators.





In FY 2015, CAB fully achieved half of its initiatives and half of its rated key performance measures. Table 1 provides a breakdown of the total number of performance metrics CAB uses, including key performance indicators and workload measures, initiatives, and whether or not some of those items were achieved, partially achieved or not achieved. Chart 1 displays the overall progress being made on achieving CAB objectives, as measured by their rated key performance indicators. Please note that chart 2 contains only rated performance measures. Rated performance measures do not include measures where data is not available, workload measures or baseline measures. Chart 2 displays the overall progress CAB made on completing its initiatives, by level of achievement.

The next sections provide greater detail on the specific metrics and initiatives for CAB in FY 2015.

## PERFORMANCE INITIATIVES – ASSESSMENT DETAILS

**OBJECTIVE 1: Promote public confidence in the integrity of the procurement process through equitable, timely, efficient, and legally correct adjudication of disputes and protests.**

**INITIATIVE 1.1: Continue significant reductions to the number of open appeal cases that are 3 years or older by September 2015.**

During the current Judges tenure beginning in FY2011, CAB has reduced the total docket of appeals cases from 113 (FY2011) to 59 at the close of FY2014. The decrease results from closing 85% of an historic appeals backlog, conducting trials in 40 government contract cases in three years, and closing a record 80 cases in FY14. By the close of CY 2014, the Board expects to completely eliminate the legacy backlog. In addition, the Board will reduce the number of appeals cases that are three years or older to less than 5%. **Completion date: September 2015.**

- **Performance Assessment Key: Partially Achieved.** In FY15, Board continued to make significant progress in eliminating its legacy backlog, closing 92% of these cases. Moreover, the total docket of appeals has been reduced from 113 (FY11) to 48 at the close of FY15. The Board is committed to reducing the number of appeals cases that are three years or older to less than 5%.



**INITIATIVE 1.2: Complete digital archiving and loading into the database of all appeal cases decided between 1985-1988, and all protest cases decided between 1985-1988, permitting web-based retrieval and full-text searching capability by the parties with pending cases and the public.**

Digital archiving provides for better preservation and retrieval than paper records. Once digitized, the Board's case files can be imported into its document management system and database. The database is linked to the Board's public website which contains a series of searching options for users, such as searching documents by case number and full-text searching. This functionality is very transparent for litigants, the contracting community and the public. From FY11 to FY14, the Board digitized and uploaded 662 cases to the public website. In FY15, the Board will continue to digitize and upload old cases to the public website, focusing on appeals cases decided from 1985 to date and protest cases decided from 1985 to date. **Completion date: September 2015.**

- **Performance Assessment Key: Partially Achieved.** From FY11 to FY15, the Board digitized and uploaded 717 cases to the public website for viewing. In FY16 the Board will continue to digitize and upload historical cases to the public website while maintaining its commitment to upload all newly-filed cases within three days of filing.

**OBJECTIVE 2: Enhance the Board's ability to efficiently and inexpensively manage and adjudicate cases.**

**INITIATIVE 2.1: Expand and improve law student intern program.**

Expeditious case disposition, including pretrial case management in appeal cases, requires meticulous attention to detail in tracking all pleadings, researching case precedent, and drafting memoranda, orders and opinions. In FY14, CAB received an average of 1,361 court filings in open cases, and CAB Judges reviewed over 28,000 pages of material filed with the Board. In this regard, the Board has established a voluntary multi-year Law Clerk program dating back to 2011. We have subsequently expanded the program to include all local law schools, and have engaged Law Clerks from American, Georgetown, George Washington, Howard University and the University of the District of Columbia law schools. The program will continue in FY15, providing CAB Judges with law students or recent law graduates for up to 20-35 hours weekly. **Completion date: September 2015.**

- **Performance Assessment Key: Fully Achieved.** In FY15, the Board continued to develop its programmatic initiative to have licensed attorneys assigned to each Board Judge to further facilitate expeditious case disposition. This practice mirrors that of other DC court systems in which one or more attorneys are assigned to a judge as permanent Law Clerks. Having the assistance of student Law Clerks and permanent attorneys has greatly assisted the Board in making significant progress in eliminating its legacy backlog by 92% and reducing the total number of docketed appeals by nearly 60% and docketed protests by nearly 40% from FY11 to FY15.



**OBJECTIVE 3: Educate government and private contracting parties on resolving disputes through alternative dispute resolution methods.**

**INITIATIVE 3.1: Meet with stakeholders to promote ADR methods.**

In FY15 the CAB (through Board members or other appropriate personnel) will educate stakeholders on mediation and other ADR opportunities. At the inception of each case, CAB encourages mediation/settlement through Scheduling Orders. Further, the Presiding Judge in each case encourages mediation/settlement at the pretrial conference in each case. The Board will continue to build upon its capacity to offer meaningful settlement/mediation opportunities to litigants. We anticipate that these efforts will result in litigants requesting dismissal in 30% of the cases closed by the Board in FY15. **Completion date: September 2015.**

- **Performance Assessment Key: Fully Achieved.** In FY15, the Board resolved approximately 30% of its cases through settlement/voluntary withdrawal. As the Board develops in-house ADR opportunities in FY16 and beyond, we anticipate even higher ADR-driven resolution rates in the future, thereby improving the efficient and effective disposition of cases.

**KEY PERFORMANCE INDICATORS**

	KPI	Measure	FY 2014 YE Actual	FY 2015 YE Target	FY 2015 YE Revised Target	FY 2015 YE Actual	FY 2015 YE Rating	Budget Program
	1.1	Percent of protests resolved within 60 business days.	82%	95%		90.91%	95.69%	Contract Appeals Board
	1.2	Percentage of appeals cases decided within 4 months of the cases being ready for decision.	84%	90%		80%	88.89%	Adjudication
	1.3	Percentage of new cases using electronic filing system.	100%	100%		100%	100%	Contract Appeals Board
	1.4	Percentage of decisions sustained on appeal.	100%	100%		100%*	100%	Adjudication



●	1.5	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.	100%	100%		100%	100%	Adjudication
●	1.6	Percentage of pending cases that are 3 years old or less.	80%	100%		71.19%	140.48%	Adjudication

\*Excludes one pending case which was affirmed by the DC Superior Court, reversed and remanded by a panel of the DC Court of Appeals, and is currently on petition for rehearing/rehearing en banc with the DC Court of Appeals.

## WORKLOAD MEASURES – APPENDIX

### WORKLOAD MEASURES ●

Measure Name	FY 2013 YE Actual	FY 2014 YE Actual	FY 2015 YE Actual	Budget Program
Number of contract solicitation and award protests filed	25	24	18	Contract Appeals Board
Number of appeals by contractors of District contracting officer final decisions filed	28	12	8	Contract Appeals Board
Number of cases by the District against contractors filed (excluding counterclaims)	0	0	0	Contract Appeals Board
Number of appeals by contractors of suspensions or debarments filed	0	0	0	Contract Appeals Board



Number of contractor appeals of interest payment claims under the Quick Payment Act filed	1	0	0	Contract Appeals Board
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