



# Contract Appeals Board (CAB) FY2016 Performance Accountability Report (PAR)

## **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 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 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. PERFORMANCE PLAN DIVISIONS Adjudication Contract Appeals Board (Agency Management Program

## Overview – Agency Performance

The following section provides a summary of CAB performance in FY 2016 by listing CAB’s top accomplishments, and a summary of its progress achieving its initiatives and progress on key performance indicators.

### Top Agency Accomplishments

Accomplishment	Impact on Agency	Impact on Residents
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 Washington Business Journal. CAB serves as the model of excellence (transparency, technologically) for Contract Appeals Boards nationwide.	Supports the Board’s mission of providing an impartial, expeditious, inexpensive, and knowledgeable forum for hearing and resolving contractual disputes and protests involving the District and its contracting communities.	Supports the District government’s mission of providing excellence in government for the citizens of the District of Columbia. Provides residents of DC technologically advanced access to government services related to the resolution of public contracting in an efficient, transparent and fair manner.
From FY11-FY16, CAB reduced its total docket from 116 cases to 44 cases, closed a record 325 cases, and reduced an historic backlog of late 1990s/early 2000s cases by 98% (closing 41 of 42 severely backlogged cases).	Supports the Board’s mission of providing an impartial, expeditious, inexpensive, and knowledgeable forum for hearing and resolving contractual disputes and protests involving the District and its contracting communities.	CAB’s case closures restore confidence in the integrity of District procurement, position District agencies to channel resources into service delivery, reduce parties’ exposure to judgment interest under D.C. Official Code Section 2-359.09, and free up resources to pursue other initiatives.
From FY11 to FY16, parties filed 192,267 pages of materials with the Board (including a record 35,737 pages filed in FY16), all of which have been uploaded to the CAB website for public viewing (except materials filed under seal pursuant to CAB Rule 104).	Supports the Board’s mission of providing an impartial, expeditious, inexpensive, and knowledgeable forum for hearing and resolving contractual disputes and protests involving the District and its contracting communities.	Supports the District government’s mission of providing excellence in government for the citizens of the District of Columbia. Provides residents of DC technologically advanced access to government services related to the resolution of public contracting in an efficient, transparent and fair manner.

In FY 2016, CAB had 6 Key Performance Indicators. Of those, 0 were neutral, and another 1 were not able to be reported by the end of the fiscal year. Of the remaining measures, 50% (3 KPIs) were met, 0% (0 KPIs) were nearly met, and 33% (2 KPIs) were unmet. In FY 2016, CAB had 4 Initiatives. Of those, 0% (0) were completed and 75% (3) were nearly completed, and 25% (1) were not completed. The next sections provide greater detail on the specific metrics and initiatives for CAB in FY 2016.

# FY16 Objectives

Division	Objective
Agency Management	Promote public confidence in the integrity of the procurement process through equitable, timely, efficient, and legally correct adjudication of disputes and protests.
Agency Management	Enhance the Board's ability to efficiently and inexpensively manage and adjudicate cases.
Agency Management	Educate government and private contracting parties on resolving disputes through alternative dispute resolution methods.

## FY16 KPIs

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

Measure	Target	Freq	Q1	Q2	Q3	Q4	Total	KPI Status	KPI Barriers
Percentage of decisions sustained on appeal	100	A							Data not available for FY16 due to exclusion of one pending case which was affirmed in part and reversed in part by a panel of the DC Court of Appeals in FY16.
Percentage of appeals cases decided within 4 months of the case being ready for decision	90	A					91.7	Met	
Percentage of new cases using electronic filing system	100	A					100	Met	
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	A					100	Met	
Percentage of protests resolved within 60 business days	95	A					83.3	Unmet	Target substantially met.
Percentage of pending cases that are 3 years old or less	85	A					75	Unmet	Target substantially met. Note that from FY11-FY16, CAB reduced its total docket from 116 cases to 44 cases, closed a record 325 cases, and reduced an historic backlog of late 1990s/early 2000s cases by 98% (closing 41 of 42 severely backlogged cases).

## FY16 Workload Measures

Measure	Freq	Q1	Q2	Q3	Q4	Total
Number of contract solicitations and award protests filed	A					29
Number of appeals by contractors of District contracting officer final decisions files	A					4
Number of cases by the District against contractors	A					0
Number of appeals by contractors of suspensions or debarments filed	A					0
Number of contractor appeals of interest payment claims under the Quick Payment Act filed	A					0

## FY16 Initiatives

### **Title: Continue significant reductions to the number of open appeal cases that are 3 years or older by September 2016.**

**Description:** During the current Board Judges' tenures beginning in FY2011, CAB has reduced the total docket of appeals cases from 113 (FY2011) to 48 at the close of FY2015. The decrease results from closing 92% of an historic appeals backlog, conducting trials in 40 government contract cases in three years, and closing a record 105 cases in FY14-15. In addition, the Board is committed to reducing the number of appeals cases that are three years or older to less than 5%.  
Completion date: September 2016.

**Complete to Date:** 75-99%

**Status Update:** CAB continues to make significant progress in the reduction of case aging. From FY11-FY16, CAB reduced its total docket from 116 cases to 44 cases, closed a record 325 cases, and reduced an historic backlog of late 1990s/early 2000s cases by 98% (closing 41 of 42 severely backlogged cases).

**If Incomplete, Explanation:** Please see status update.

### **Title: Complete digital archiving and loading into the database of all dispute 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.**

**Description:** 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 provides a unique level of accessibility and transparency for litigants – particularly those who are self-represented, the contracting community and the public. From FY11 to FY15, the Board digitized and uploaded 717 cases to the public website. In FY16, the Board will continue to digitize and upload historical 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 2016.

**Complete to Date:** 50-74%

**Status Update:** CAB is coordinating with the Office of Public Documents and DC Archivist to ensure proper protocols are followed in scanning and archiving historical case files

**If Incomplete, Explanation:** Please see status update.

### **Title: Expand and improve law student intern program.**

**Description:** 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 FY15, CAB received 1,346 documents in open cases, and CAB Judges reviewed over 22,150 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 is likely to continue in FY16, providing CAB Judges and Attorney Advisors with law students or recent law graduates to assist in the efficient, effective and fair resolution of CAB matters. Completion date: September 2016.

**Complete to Date:** 75-99%

**Status Update:** CAB has dedicated Attorney-Advisor staff to assist Board Judges in tracking all pleadings, researching case precedent, and drafting memoranda, orders and opinions. In FY16, CAB hosted a Summer Intern from George Washington University

**If Incomplete, Explanation:** Please see status update.

### **Title: Meet with stakeholders to promote ADR methods.**

**Description:** In FY16 the CAB (through Board members or other appropriate personnel) will continue to 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 encourages mediation/settlement at the pretrial conference in each case. The Board is examining ways to expand in-house mediation and ADR opportunities for litigants. In FY16, 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 up to 30% of the cases closed by the Board in FY16. Completion date: September 2016.

**Complete to Date:** 75-99%

**Status Update:** Ongoing initiative. The Board is examining ways to expand in-house mediation and ADR opportunities for litigants. The Board will continue to build upon its capacity to offer meaningful settlement/mediation opportunities to litigants. In FY16 these efforts resulted in litigants eventually settling 70% of cases pending at various levels of the adjudicatory process.

**If Incomplete, Explanation:** Please see status update.