

U.S. General Services Administration
CIVILIAN BOARD OF CONTRACT APPEALS
Fiscal Year 2023 Congressional Justification

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Appropriations Language

For expenses authorized by law, not otherwise provided for, for the activities associated with the Civilian Board of Contract Appeals, \$10,352,000, of which \$2,000,000 shall remain available until expended.

Background

In fiscal year (FY) 2023, the Civilian Board of Contract Appeals (CBCA), an independent tribunal housed within the General Services Administration (GSA), continues to have a separate appropriation from GSA's Operating Expenses appropriation. This separate appropriation reflects the independent nature of the CBCA and increases transparency to Congress and stakeholders by providing additional detail about the CBCA appropriation.

Because of the continuing effects of the COVID-19 pandemic, the CBCA is following the guidance of GSA in delaying resumption of on-site operations until the beginning of the third quarter of FY 2022. Therefore, the CBCA expects that FY 2023 will be the first fiscal year in which its expenditures will fully reflect normal operations. The requested appropriation for FY 2023 of \$10,352 thousand includes anticipated increases in the CBCA's expenses for salaries, benefits, awards, rent, security services, GSA's Working Capital Fund, and other program costs. In recent years, the Board had been able to meet its budget only due to the retirement of judges and support staff and reduction of services, such as the elimination of security guards during the pandemic while its offices were closed. The CBCA now anticipates hiring several judges and support personnel, however, to account for recent attrition and an increased workload. In addition, the CBCA must continue to address equipment maintenance requirements that had been deferred due to several years of reduced and stagnant funding. Finally, as the Board returns to in-person hearings, both in Washington, DC, and around the country, the CBCA expects to see a significant increase in the costs of travel and court reporting. We also have experienced and expect to continue to experience an increased workload resulting from the amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). That amendment gave the CBCA additional responsibility to arbitrate certain Federal Emergency Management Agency (FEMA) disputes without reimbursement or additional funding. Since 2019, the CBCA has arbitrated a significant number of disputes under this new jurisdiction.

The CBCA requests that a portion of the appropriation (\$2,000 thousand) be available until expended to allow for the flexibility to carry forward resources to continue creation of its new, modernized case filing and tracking system that will better serve the needs of the Board and the parties who appear before it.

Program Description

The CBCA provides the prompt, efficient, and inexpensive resolution of various disputes involving Federal executive branch agencies. The CBCA adjudicates contract disputes under the Contract Disputes Act (CDA) between Government contractors and all civilian executive agencies other than the National Aeronautics and Space Administration (NASA), the United States Postal Service (USPS), the Postal Regulatory Commission (PRC), and the Tennessee Valley Authority (TVA). Resolving CDA disputes can be accomplished by holding a hearing, deciding on the record, or achieving settlement through alternative dispute resolution (ADR). To accomplish this, the CBCA judges will hold a hearing or engage in ADR in the CBCA's offices or they will travel, at the CBCA's expense, to a mutually agreed upon location.

The CBCA also hears and decides other types of cases, including cases arising under the Indian Self-Determination Act; disputes between insurance companies and the Department of Agriculture's Risk Management Agency involving actions of the Federal Crop Insurance Corporation; claims by Federal civilian employees from all executive branch agencies (including Department of Defense agencies) for reimbursement of expenses incurred while on official temporary duty travel or in connection with relocation to a new duty station; claims by carriers or freight forwarders involving actions of GSA regarding payment for transportation services; and applications by prevailing private parties for recovery of litigation costs under the Equal Access to Justice Act.

In 2018, Congress amended the Stafford Act, 42 U.S.C. 5189a(d), to authorize (without additional funding) the Board to arbitrate disputes between applicants and FEMA as to eligibility for public assistance (or repayment of past public assistance) for disasters after January 1, 2016, when the disputed amount exceeds \$500 thousand or, for an applicant in a rural area, is at least \$100 thousand. As a result, the CBCA continues to arbitrate disputes under this statute. The CBCA travels for these cases at its own expense.

Finally, the CBCA provides ADR services to executive agencies on matters not covered by the CDA. The CBCA provides ADR services on a reimbursable basis to the Department of Energy National Laboratories, the Federal Aviation Administration, the Smithsonian Institution, and FEMA for Hurricanes Katrina and Rita.

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Amounts Available for Obligation

(Dollars in Thousands)

	FY 2021 Actual	FY 2022 Annualized C.R.	FY 2023 Request
Discretionary authority:			
Annual appropriation	\$ 9,301	\$ 9,301	\$ 10,352
Reimbursable authority:			
New authority	\$ -	\$ 50	\$ 50
Change in uncollected payments	\$ -		
Subtotal, reimbursable authority	\$ -	\$ 50	\$ 50
Appropriation's authority, expiring	\$ (84)	\$ -	\$ -
Unobligated balance, end of year	\$ (248)	\$ -	\$ -
Total, obligations	\$ 8,969	\$ 9,351	\$ 10,402
Obligations, appropriated (annual)	\$ 8,969	\$ 9,301	\$ 10,352
Obligations, reimbursable	\$ -	\$ 50	\$ 50
<i>Net Outlays</i>	\$ 9,064	\$ 9,208	\$ 10,249

Explanation of Changes, Appropriated Dollars and FTE

(Dollars in Thousands)

	FTE	FY 2021 Actual	FTE	FY 2022 Annualized C.R.	FTE	FY 2023 Request
	29	\$ 9,301	41	\$ 9,301	41	\$ 10,352

Program Increases:

Personnel Compensation and Benefits	\$ 574
Travel and Transportation	\$ 43
Rent	\$ 110
Communications and utilities	\$ (5)
Advisory and assistance services	\$ (20)
Contractual Services	\$ 199
Operation and maintenance of facilities	\$ 15
Operation and maintenance of equipment	\$ 15
Supplies, Materials, and Equipment	\$ 120
Subtotal, Program Increases	\$ 1,051

Program Decreases:

Subtotal, Program Decreases	
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Total Adjustments **\$ 1,051**

Summary of the Request

The FY 2023 budget provides \$10,352 thousand, of which \$2,000 thousand shall remain until expended, and 41 full time equivalent (FTE) for the CBCA. The budget also includes \$50 thousand in authority for reimbursable ADR services, in accordance with 5 U.S.C. § 573.

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Obligations by Object Classification

(Dollars in Thousands)

	FY 2021 Actual	FY 2022 Annualized C.R.	FY 2023 Request
11.1 Full-time, permanent	\$ 4,264	\$ 4,419	\$ 4,851
11.3 Other than full-time permanent	\$ 217	\$ 226	\$ 231
11.5 Other personnel compensation	\$ 57	\$ 55	\$ 56
12.1 Civilian personnel benefits	\$ 1,426	\$ 1,400	\$ 1,536
21.0 Travel and transportation of persons	\$ 1	\$ 2	\$ 45
23.1 Rental payments to GSA	\$ 2,489	\$ 2,571	\$ 2,681
23.3 Communications and utilities	\$ 21	\$ 15	\$ 10
25.1 Advisory and assistance services	\$ 58	\$ 40	\$ 20
25.2 Other services from non-Federal sources	\$ 26	\$ 38	\$ 55
25.3 Other goods & services from Federal sources	\$ 345	\$ 420	\$ 602
25.4 Operation and maintenance of facilities	\$ -	\$ 10	\$ 25
25.7 Operation and maintenance of equipment	\$ 3	\$ 10	\$ 25
26.0 Supplies and materials	\$ 34	\$ 15	\$ 125
31.0 Equipment	\$ 28	\$ 80	\$ 90
99.0 Obligations, Appropriated (Annual)	\$ 8,969	\$ 9,301	\$ 10,352
<i>Subtotal, PC&B</i>	\$ 5,964	\$ 6,100	\$ 6,674
<i>Subtotal, Non-labor</i>	\$ 3,005	\$ 3,201	\$ 3,678
99.2 Obligations, Reimbursable	\$ -	\$ 50	\$ 50
99.9 Total obligations	\$ 8,969	\$ 9,351	\$ 10,402