

U.S. General Services Administration
CIVILIAN BOARD OF CONTRACT APPEALS
Fiscal Year 2024 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, \$10,597,000, of which \$2,000,000 shall remain available until expended.

Background

In fiscal year (FY) 2024, 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.

The requested appropriation for FY 2024 of \$10,597 thousand is for program costs. That amount is generally flat when compared to the previous fiscal year, despite anticipated increases in certain areas of the CBCA's expenses, such as salaries, benefits, awards, security services, and GSA's Working Capital Fund. The Board anticipates hiring several judges and support personnel in FY 2023 to account for recent attrition and an increased workload; no new hires are therefore anticipated for FY 2024. In addition, the CBCA will continue to address equipment maintenance requirements that had been deferred due to several years of reduced and stagnant funding. Finally, the Board expects to see a significant increase in the costs of travel and court reporting. We continue to experience an increased workload resulting from the amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), which 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 authority. In 2022, the number of cases arbitrated almost doubled from 27 cases to 52 cases.

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, and to better manage funding for its other program requirements.

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 2022 Actual	FY 2023 Enacted	FY 2024 Request
Discretionary authority:			
Annual appropriation	\$ 9,580	\$ 10,352	\$ 10,597
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	<u>\$ 9,248</u>	<u>\$ 10,402</u>	<u>\$ 10,647</u>
Obligations, appropriated (annual)	\$ 9,248	\$ 10,352	\$ 10,597
Obligations, reimbursable	\$ -	\$ 50	\$ 50
<i>Net Outlays</i>	<u>\$ 9,064</u>	<u>\$ 10,248</u>	<u>\$ 10,491</u>

Explanation of Changes, Appropriated Dollars and FTE
(Dollars in Thousands)

	FTE	FY 2022 Actual	FTE	FY 2023 Enacted	FTE	FY 2024 Request
	29	\$ 9,044	41	\$ 10,352	41	\$ 10,597
Program Increases:						
Personnel Compensation and Benefits						\$ 259
Travel and Transportation						\$ 5
Rent						\$ (98)
Transportation of things						\$ -
Communications and utilities						\$ 5
Advisory and assistance services						\$ 10
Contractual Services						\$ (9)
Operation and maintenance of facilities						\$ (18)
Operation and maintenance of equipment						\$ (20)
Supplies, Materials, and Equipment						\$ 111
Subtotal, Program Increases						\$ 245
Program Decreases:						
Subtotal, Program Decreases						
Total Adjustments						\$ 245

Summary of the Request

The FY 2024 budget provides \$10,597 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 2022 Actual	FY 2023 Enacted	FY 2024 Request
11.1 Full-time, permanent	\$ 3,975	\$ 4,851	\$ 4,845
11.3 Other than full-time permanent	\$ 228	\$ 233	\$ 202
11.5 Other personnel compensation	\$ 57	\$ 58	\$ 169
11.8 Special personnel services payments	\$ 107	\$ -	\$ -
12.1 Civilian personnel benefits	\$ 1,379	\$ 1,536	\$ 1,722
21.0 Travel and transportation of persons	\$ -	\$ 45	\$ 50
22.0 Transportation of things	\$ -	\$ -	
23.1 Rental payments to GSA	\$ 2,525	\$ 2,681	\$ 2,583
23.3 Communications and utilities	\$ 7	\$ 10	\$ 15
24.0 Printing and reproduction	\$ -	\$ -	\$ -
25.1 Advisory and assistance services	\$ 8	\$ 20	\$ 30
25.2 Other services from non-Federal sources	\$ 22	\$ 55	\$ 109
25.3 Other goods & services from Federal sources	\$ 456	\$ 597	\$ 534
25.4 Operation and maintenance of facilities	\$ 3	\$ 25	\$ 7
25.7 Operation and maintenance of equipment	\$ 32	\$ 25	\$ 5
26.0 Supplies and materials	\$ 180	\$ 125	\$ 154
31.0 Equipment	\$ 64	\$ 90	\$ 172
99.0 Obligations, Appropriated (Annual)	\$ 9,043	\$ 10,352	\$ 10,597
<i>Subtotal, PC&B</i>	\$ 5,746	\$ 6,679	\$ 6,938
<i>Subtotal, Non-labor</i>	\$ 3,297	\$ 3,673	\$ 3,659
99.2 Obligations, Reimbursable	\$ 1	\$ 50	\$ 50
99.9 Total obligations	\$ 9,044	\$ 10,402	\$ 10,647