

U.S. General Services Administration
CIVILIAN BOARD OF CONTRACT APPEALS

Fiscal Year 2022 Budget Request

CONTENTS

Appropriations Language	2
Background.....	2
Program Description	3
Amounts Available for Obligation	4
Explanation of Changes, Appropriated Dollars and FTE	5
Summary of the Request	5
Obligations by Object Classification	6

Appropriations Language

For expenses authorized by law, not otherwise provided for, for the activities associated with the Civilian Board of Contract Appeals, \$10,080,000, of which \$2,000,000 shall remain available until expended.

Background

In fiscal year (FY) 2022, 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 the CBCA appropriation for FY 2021 remained the same as FY 2020 at \$9,301 thousand, the Board was only able to cover the increase in its expenses for salaries, rent, and other program costs through significant cuts and deferring costs, many of which were only possible due to the effects of the COVID-19 pandemic on our operations. When our offices closed in March 2020, the CBCA cancelled all guard services and suspended all case-related travel. By the beginning of FY 2022, however, the CBCA expects significant cost increases will be associated with a return to normal operations. Our request for FY 2022 is therefore \$10,080 thousand. This amount is due to anticipated increases in the costs of salaries, awards, travel, rent, and GSA's Working Capital Fund, as well as the need to address deferred equipment maintenance and to create a modernized case filing and tracking system that would better serve the needs of the Board and the parties who appear before it. The CBCA also 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 case filing system and to address the unpredictable increased workload and travel costs related to the amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) which gave CBCA additional responsibility to arbitrate certain Federal Emergency Management Agency (FEMA) disputes without reimbursement or additional funding. Since 2019, the CBCA has arbitrated numerous disputes under this new jurisdiction. Although the FY 2021 appropriation included that amount (\$2,000 thousand) as available over a two-year period, we anticipate no carryover of funds into FY 2022 because of our increased costs and static appropriation in FY 2021.

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 Smithsonian Institution, and FEMA for Hurricanes Katrina and Rita.

U.S. General Services Administration
 Civilian Board of Contract Appeals

Amounts Available for Obligation

(Dollars in Thousands)

	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
Discretionary authority:			
Annual appropriation	\$ 9,301	\$ 9,301	\$ 10,080
Reimbursable authority:			
New authority	\$ 750	\$ 50	\$ 50
Change in uncollected payments	\$ -	\$ -	
Subtotal, reimbursable authority	\$ 750	\$ 50	\$ 50
Appropriation's authority, expiring	\$ (171)		
Total, obligations	\$ 9,130	\$ 9,351	\$ 10,130
Obligations, appropriated (annual)	\$ 9,130	\$ 9,301	\$ 10,080
Obligations, reimbursable	\$ -	\$ 50	\$ 50
<i>Net Outlays</i>	\$ 8,304	\$ 9,208	\$ 9,979

Explanation of Changes, Appropriated Dollars and FTE

(Dollars in Thousands)

	FY 2020		FY 2021		FY 2022
	FTE	Actual	FTE	Enacted	Request
	41	\$ 9,130	41	\$ 9,301	41
					\$ 10,080

Program Increases:

Personnel Compensation and Benefits	\$ 246
Travel and Transportation	\$ 30
Rent	\$ 191
Communications and utilities	\$ (5)
Advisory and assistance services	\$ 10
Contractual Services	\$ 165
Operation and maintenance of facilities	\$ 5
Operation and maintenance of equipment	\$ -
Supplies, Materials, and Equipment	\$ 137
Subtotal, Program Increases	\$ 779

Program Decreases:

Subtotal, Program Decreases	
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Total Adjustments	\$ 779
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Summary of the Request

The FY 2022 budget provides \$10,080 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.

U.S. General Services Administration
 Civilian Board of Contract Appeals

Obligations by Object Classification

(Dollars in Thousands)

	FY 2020 Actual	FY 2021 Enacted	FY 2022 Request
11.1 Full-time, permanent	\$ 4,186	\$ 4,476	\$ 4,644
11.3 Other than full-time permanent	\$ 147	\$ 220	\$ 226
11.5 Other personnel compensation	\$ 29	\$ 55	\$ 55
11.8 Special personnel services payments	\$ -	\$ -	\$ -
12.1 Civilian personnel benefits	\$ 1,345	\$ 1,430	\$ 1,502
13.0 Benefits for former personnel	\$ -	\$ -	\$ -
21.0 Travel and transportation of persons	\$ 10	\$ -	\$ 30
22.0 Transportation of things	\$ 1	\$ -	\$ -
23.1 Rental payments to GSA	\$ 2,642	\$ 2,435	\$ 2,626
23.2 Rental payments to others	\$ -	\$ -	\$ -
23.3 Communications and utilities	\$ 34	\$ 35	\$ 30
24.0 Printing and reproduction	\$ -	\$ -	\$ -
25.1 Advisory and assistance services	\$ 57	\$ 10	\$ 20
25.2 Other services from non-Federal sources	\$ 7	\$ 20	\$ 50
25.3 Other goods & services from Federal sources	\$ 405	\$ 495	\$ 630
25.4 Operation and maintenance of facilities	\$ 22	\$ 20	\$ 25
25.6 Medical care	\$ -	\$ -	\$ -
25.7 Operation and maintenance of equipment	\$ 20	\$ 25	\$ 25
26.0 Supplies and materials	\$ 127	\$ 10	\$ 120
31.0 Equipment	\$ 98	\$ 70	\$ 97
32.0 Land and structures	\$ -	\$ -	\$ -
33.0 Investments and loans	\$ -	\$ -	\$ -
41.0 Grants, subsidies, and contributions	\$ -	\$ -	\$ -
42.0 Insurance claims and indemnities	\$ -	\$ -	\$ -
43.0 Interest and dividends	\$ -	\$ -	\$ -
44.0 Refunds	\$ -	\$ -	\$ -
99.0 Obligations, Appropriated (Annual)	\$ 9,130	\$ 9,301	\$ 10,080
<i>Subtotal, PC&B</i>	\$ 5,707	\$ 6,181	\$ 6,427
<i>Subtotal, Non-labor</i>	\$ 3,423	\$ 3,120	\$ 3,653
99.2 Obligations, Reimbursable	\$ -	\$ 50	\$ 50
99.9 Total obligations	\$ 9,130	\$ 9,351	\$ 10,130