

GOVERNMENT CONTRACTS AND LITIGATION SECTION



The District of Columbia Bar

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SUMMARY

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The letter voices the Section's concerns about proposed cuts in the funding for the District of Columbia Contract Appeals Board ("CAB"). The letter states that the CAB is an integral part of the D.C. procurement system and has been established by statute to be the exclusive administrative tribunal for deciding bid protests and contract claims. The cuts limit the CAB's FY '96 budget to \$511,000 and proposes that the CAB's staff of five full time positions be eliminated. The letter expresses the Section's concerns that the elimination of the Board's full time positions will severely impair the functioning of the CAB and may jeopardize D.C.'s entire procurement system. Time is critical since the D.C. budget is currently under consideration.

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October 10, 1995

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HAND DELIVERED

Mr. John W. Hill, Jr.
Executive Director
District of Columbia Financial
Responsibility and Management
Assistance Authority
One Thomas Circle, N.W., Suite 900
Washington, D.C. 20005

Re: FY '96 Appropriations for the Board of Contract Appeals, District of Columbia

Dear Mr. Hill:

We are writing on behalf of the District of Columbia Bar's Section on Government Contracts with respect to the District of Columbia Contract Appeals Board ("Board").¹ The Board has been established by statute to be the exclusive hearing tribunal to decide bid protests and contract claims involving the procurement of goods and services by the District of Columbia. D.C. Code 1-1189.1 and 1-1189.3.

The District of Columbia Subcommittees on both the House and Senate Appropriations Committee are now contemplating funding the Board's FY '96 budget at \$511,000. However, it is also adopting the Financial Control Board's recommendation that the Board's staff, currently five full time equivalent ("FTE") positions, be either eliminated or transferred to another agency of the D.C. government.

Unfortunately, nothing has been proposed to explain how the Board can function without employees. There is no proposal on whether the existing Board judges would be

¹ The views expressed herein represent only those of the Section on Government Contracts of the District of Columbia Bar and not those of the Bar or its Board of Governors.

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transferred, or replaced.² Further, no consideration appears to have been given to how disruptive such changes can be to the Board's pending cases, or the potential enormous legal liability the District may incur in taking such action.

At present, the District has thousands of open contracts which include dispute procedures which reference the Board as the sole forum to resolve disputes. If the Board is not staffed, the District could be found to be in violation of its statutes and could be found to be in breach of all of its contracts as soon as the current appropriation runs out.

None of these very important problems appear to have been considered in eliminating the FTE positions. While the Board's budget is a relatively small line item in the District's budget, its role in the District's procurement system is enormous and vitally important. We urge you to take steps to make sure that the Board's budget is passed with the FTE positions being filled.

The Section members are willing and eager to work with the Control Board to resolve this issue.

Sincerely yours,

Steven W. DeGeorge
Steven W. DeGeorge
Co-chair, Steering Committee
Government Contracts and
Litigation Section
District of Columbia Bar

cc: Dr. Andrew F. Brimmer, Chairman
c/o Brimmer & Co.
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² The Board by statute must be staffed by attorneys who "shall have experience in the areas of procurement and contract law." D.C. Code §1-1189.2. If the functions are transferred to another forum there is no assurance that the new resolving officials will possess the required statutory expertise in procurement matters.