ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE 6
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FALLS CHURCH VA 22041-3208

31 October 2007

MEMORANDUM FOR: THE SECRETARY OF DEFENSE
THE SECRETARY OF THE ARMY
THE SECRETARY OF THE NAVY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Report of Transactions and Proceedings of the Armed Services Board of Contract Appeals for the Fiscal Year Ending 30 September 2007

This report is furnished under paragraph 9 of the Charter of the Armed Services Board of Contract Appeals, revised 1 July 1979. The statistics reflect the adjudication of appeals of the Army, Navy, Air Force, Corps of Engineers, Defense Logistics Agency, Defense Contract Management Agency, and other defense agencies. Also included are appeals of various agencies which have been adjudicated under inter-agency arrangements.

The following statistics cover the activities of the Board during the reporting period and the current reserve of pending matters:

A. Appeals Docketed During FY 2007 — 624

B. Appeals Disposed During FY 2007 — 539

C. Appeals Pending

Number of Appeals Pending 1 October 2002	782
Number of Appeals Pending 1 October 2003	672
Number of Appeals Pending 1 October 2004	652
Number of Appeals Pending 1 October 2005	644
Number of Appeals Pending 1 October 2006	552
Number of Appeals Pending 1 October 2007	637
Net Increase in Docket, FY 2007	85

D. Source of Appeals Docketed FYs 2003-2007

	FY 03	FY 04	FY 05	FY06	FY07
Army	70	77	76	92	148
Navy	82	69	70	65	56
Air Force	42	49	72	62	208
Corps of Eng.	129	123	99	115	110
DLA & DCMA	44	71	88	55	53
Other Agencies	21	27	21	29	21
Reinstated	41	45	50	20	28
TOTAL	429	461	476	438	624

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E. Appeals Disposed During FYs 2003-2007

	FY 03	FY 04	FY 05	FY 06	FY07
1. Origin of Appeals					
Army	106	92	94	88	100
Navy	127	98	114	91	86
Air Force	78	59	59	72	119
Corps of Eng.	94	145	130	146	156
DLA & DCMA	92	63	62	93	54
Other Agencies	36	23	21	35	24
Admin. Disposal	6	1	4	5	0
TOTAL	539	481	484	530	539
2. Rule 12 Proceedings	26	47	41	33	29
3. Disposition					
Sustained	117	110	87	86	96
Denied	65	49	63	51	38
Dismissed	357	322	334	393	405
TOTAL	539	481	484	530	539

F. Status of Appeals Pending 1 October 2007

Complaint Due	83
Answer Due	49
Discovery	163
To Be Set	17
Hearing Set	60
Transcript & Briefs Due	45
Suspense	181
Ready to Write	39
TOTAL	637

Of the Board's 637 active appeals, the Army has 170 (26.7%), the Navy has 83 (13.0%), the Air Force has 156 (24.5%), the Corps of Engineers has 117 (18.4%), DLA and DCMA have 70 (11.0%), and the remaining 41 appeals (6.4%) are from other sources. At the conclusion of FY 2007, there were six appeals being processed under Board Rule 12 (one expedited and five accelerated), one application under the Equal Access to Justice Act, two motions for reconsideration, and one court remand. Effective 1 January 2007, motions for reconsideration were counted as reinstatements and included in the count of appeals docketed, disposed, and pending

In FY 2007, the Board disposed of 134 appeals on the merits. Of those dispositions, 71.6% of the decisions found merit in whole or in part. The Board dismissed 405 appeals. In the majority of cases, a dismissal reflects that the parties have reached a settlement. The U.S. Court

of Appeals for the Federal Circuit docketed 10 appeals from Board decisions, and 11 appeals were pending at the close of the fiscal year. Of the 18 dispositions by the Court of Appeals for the Federal Circuit involving appeals of ASBCA decisions, 14 were affirmances, three were dismissals and one was affirmed in part and reversed in part and remanded. One appeal, involving an ASBCA decision in a maritime matter, was appealed to and affirmed by a Federal District Court. During FY 07, the Board did not receive any requests from District Courts for an advisory opinion under the Cochran Amendment (41 U.S.C. § 609(f)).

During FY 2007, parties requested the Board's ADR services 36 times, covering 99 appeals and 8 undocketed disputes. Of the 36 requests, six were for binding ADR covering six appeals and 32 requests were for non-binding ADR covering 93 appeals and eight undocketed disputes. Twelve of the requests received during the year were pending at the close of the fiscal year. Of the 31 requests subject to non-binding procedures concluded during the year, not limited to FY 2007 requests, 29 were successfully resolved.

PAUL WILLIAMS
Chairman
Armed Services Board
of Contract Appeals