ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE 6
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8 November 2005

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 2005

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 2005	476
B.	Appeals disposed of during FY 2005	484
C.	Number of Appeals Pending 1 October 2000	1088
	Number of Appeals Pending 1 October 2001	906
	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
	Net Decrease in Docket, FY 2005	8

D. Source of Appeals Docketed FYs 2001-2005

	FY 01	FY 02	FY 03	FY 04	FY 05
Army	113	83	70	77	76
Navy	96	98	82	69	70
Air Force	101	67	42	49	72
Corps of Eng.	113	96	129	123	99
DLA & DCMA	41	39	44	71	88
Other Agencies	21	25	21	27	21
Reinstated	54	27	41	45	50
TOTAL	539	435	429	461	476

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E. Appeals Disposed of During FYs 2001-2005

	FY 01	FY 02	FY 03	FY 04	FY 05
1. Origin of Appeals:					
Army	161	76	106	92	94
Navy	165	177	127	98	114
Air Force	140	121	78	59	59
Corps of Eng.	140	108	94	145	130
DLA & DCMA	72	39	92	63	62
Other Agencies	39	34	36	23	21
Admin. Disposal	4	4	6	1	4
TOTAL	721	559	539	481	484
2. Rule 12 Proceedings	68	52	26	47	41
3. Disposition:					
Sustained	157	130	117	110	87
Denied	114	75	65	49	63
Dismissed	450	354	357	322	334
TOTAL	721	559	539	481	484

F. Status of Appeals Pending 1 October 2005 (includes ten Rule 12 appeals)

Complaint Due	67
Answer Due	111
Discovery	199
To Be Set	51
Hearing Set	58
Transcript & Briefs Due	37
Suspense	50
Ready to Write	71
TOTAL	644

Of the Board's 644 active appeals, the Army has 105 (16.3%), the Navy has 125 (19.4%), the Air Force has 80 (12.4%), the Corps of Engineers has 183 (28.4%), DLA and DCMA have 107 (16.6%), and the remaining 44 appeals (6.8%) are from other sources. At the conclusion of FY 2005, 10 of the appeals were being processed under Board Rule 12 (3 expedited and 7 accelerated), 11 were applications under the Equal Access to Justice Act, 5 were motions for reconsideration, and 5 were court remands.

In FY 2005, the Board disposed of 150 appeals on the merits. Of those dispositions, 58% of the decisions found merit for the contractor. The Board dismissed 334 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 11 appeals from Board decisions, and 12 appeals were pending at the end of the year.

During FY 2005, parties requested the Board's ADR services 39 times, covering 85 appeals and 55 undocketed disputes. Of the 39 requests, 10 were for binding ADR covering 20 appeals and 29 requests were for non-binding ADR covering 65 appeals and the 55 undocketed disputes. One request for a non-binding ADR, of an undocketed dispute, was withdrawn. Ten of the requests received during the year were pending at the close of the fiscal year: 4 requests for binding ADR, covering 5 appeals, and 6 requests for non-binding ADR, covering 8 matters. Of the 111 matters subject to non-binding procedures initiated and concluded during the year, 110 were successfully resolved.

PAUL WILLIAMS
Chairman