ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE SIX
5109 LEESBURG PIKE
FALLS CHURCH, VA 22041-3208

1 October 1997

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 1997

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, Defense Logistics Agency (DLA), and other defense agencies. Also included are appeals of various executive agencies which have been adjudicated under inter-agency arrangements, as provided in 41 U.S.C. § 607(c).

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

A.	Appeals docketed during FY 1997 (includes 96 reinstatements)	923
B.	Appeals disposed of during FY 1997	1141
C.	Number of Appeals Pending 1 October 1980	1259
	Number of Appeals Pending 1 October 1981	1301
	Number of Appeals Pending 1 October 1982	1594
	Number of Appeals Pending 1 October 1983	1695
	Number of Appeals Pending 1 October 1984	1729
	Number of Appeals Pending 1 October 1985	2074
	Number of Appeals Pending 1 October 1986	2096
	Number of Appeals Pending 1 October 1987	2503
	Number of Appeals Pending 1 October 1988	2355
	Number of Appeals Pending 1 October 1989	2321
	Number of Appeals Pending 1 October 1990	2462
	Number of Appeals Pending 1 October 1991	2367
	Number of Appeals Pending 1 October 1992	2198
	Number of Appeals Pending 1 October 1993	2027
	Number of Appeals Pending 1 October 1994	1977
	Number of Appeals Pending 1 October 1995	1822
	Number of Appeals Pending 1 October 1996	1543
	Number of Appeals Pending 1 October 1997	1325
	Net Decrease in Docket, FY 1997	218

D. Source of Appeals Docketed FYs 1993-97

	FY 93	FY 94	FY 95	FY 96	FY 97
Air Force	266	311	251	169	140
Army	465	472	405	268	284*
Navy	481	358	292	229	224
DLA	150	124	101	108	109
NASA	14	3	15	24	14
Other	68	133	149	211	64
Reinstated	107	132	110	96	88
TOTAL	1551	1533	1323	1105	923

*Includes 101 Corps of Engineer appeals

E. Status of Appeals Pending End of FY 1997 (includes 47 Rule 12s):

Complaint Due	124
Answer Due	130
Discovery	630
To Be Set	40
Hearing Set	132
Transcript & Briefs Due	62
Suspense	42
Ready to Write	165
TOTAL	1325

F. Appeals Disposed of During FYs 1993-97

1. Origin of Appeals:	FY 93	FY 94	FY 95	FY 96	FY 97
Air Force	374	359	287	305	177
Army	689	450	551	429	388*
Navy	393	487	357	349	375
DLA	258	182	97	126	106
NASA	2	9	8	11	22
Other Agencies	60	73	164	126	57
Admin. Disposals	46	23	14	28	16

*Includes 111 Corps of Engineer appeals

2. Rule 12 Proceedings	261	238	180	147	173
3. Record only Dispositions	253	203	182	280	165
4. Disposition:					
Dismissed	1251	1150	1083	969	823
Denied	262	225	227	216	175
Sustained	209	208	168	199	143
TOTAL	1722	1583	1478	1384	1141

Of the Board's 1,325 active appeals, the Army has 240 (18.1%), the Corps of Engineers has 167 (12.6%), the Navy has 394 (29.7%), the Air Force has 223 (16.8%), the DLA has 171 (12.9%), NASA has 26 (2.0%), and the remaining 104 appeals (7.8%) are from other sources. At the conclusion of FY 97, 2 of the appeals were court remands, 26 were applications under the Equal Access to Justice Act, 27 were motions for reconsideration, and 47 were being processed under Board Rule 12 (12 expedited and 35 accelerated).

At the close of FY 97, the U.S. Court of Appeals for the Federal Circuit had 37 cases on its docket relating to ASBCA decisions. There were also three appeals pending before District Courts relating to ASBCA decisions. No requests have been received from District Courts for an advisory opinion under the Cochran Amendment (see Federal Acquisition Streamlining Act of 1994 (P.L. 103-355, Section 2354)).

During the fiscal year, the parties requested the Board's ADR services 35 times, covering 57 appeals and three pre-appeal disputes. The cases varied in amount from ten thousand dollars to millions of dollars. Of the 35 requests, 13 were for binding ADR, while the remaining 22 requests were for non-binding ADR (21 requests for a settlement judge and 1 request for a minitrial).

The Board continues to struggle with the high-grade freeze and has not been able to hire a replacement judge since the spring of 1993.

Paul Williams

PAUL WILLIAMS
Chairman