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

31 October 1987

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 1987

This report is furnished pursuant to paragraph 9 of the Charter for the Armed Services Board of Contract Appeals, 1 July 1979. The statistics hereinafter set forth reflect the hearing, consideration, and determination of appeals originating in the Army, Navy, Air Force, Defense Logistics Agency (DLA), and other Defense agencies. Also included are appeals of various executive agencies.

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

A.	Appeals docketed during FY 1987 (Including 139 reinstatements)	2208
B.	Appeals disposed of during FY 1987	1801
C.	Number of Appeals Pending 1 October 1978	1163
	Number of Appeals Pending 1 October 1979	1221
	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
	Net Increase in Docket, FY 1987	407

D. Source of Appeals Docketed During FY 1987:

Army	786
Navy	627
Air Force	462
DLA	144
Other	50
Reinstated	139
TOTAL	2208

E. Status of Appeals Pending End of FY 1987:

Complaint Due	445
Answer Due	315
Discovery	866
To Be Set	163
Hearing Set	223
Transcript & Briefs Due	165
Suspense	133
Ready to Write	193
TOTAL	2503
Rule 12	143

F. Summary since 1 May 1949 (date of creation of ASBCA from predecessor boards):

Docketed	35,736
Reinstated	874
	36,610
Disposed of	34,107
TOTAL	2,503

Fiscal Year 1987 (FY 87) represented a year of significant transition for the Armed Services Board of Contract Appeals (ASBCA).

First, FY 87 witnessed significant changes in the Board's facilities. The most obvious improvement stems from the Board's relocation from its long-time home at the Hoffman Building in Alexandria to new offices at Skyline Six in Falls Church, Virginia. While this move caused significant disruption in the last month of the fiscal year due to packing, unpacking, reorganization, and the like, the Board expects the move to pay substantial dividends in the future. Of particular interest to the litigants was the addition of conference rooms adjoining the hearing rooms. Other positive points which should enhance Board productivity include an upgraded telephone system which should aid the parties in contacting board members and staff attorneys in addition to minimizing confusion stemming from conference calling, an expanded Recorder's office and mail room, and additional work surfaces for administrative judges and staff attorneys. Finally, the positive effects the new facilities should have on esprit de corps cannot be overemphasized.

Entering FY 88, the Board's personnel strength is at an all-time high. In FY 88, the Board will enjoy a cadre of thirty-seven administrative judges. The last three months of FY 87 witnessed the Board's hiring of nine administrative judges with excellent prior experience. The end of FY 87 also witnessed the implementation of the Board's law clerk honors program which increased the Board's corps of staff attorneys by including four recent law school graduates hired for one- and two-year terms.

During most of FY 87, however, the Board confronted near crisis personnel levels. As the result of a death, illnesses, and retirements, the Board's judge's ranks dropped to twenty-eight, with one judge serving as the Acting Recorder. Additional vacancies included the Board's Recorder, Chief Counsel, and both clerical and support staff positions.

The transition occurred just in time. During FY 87, the number of appeals docketed by the Board continued to increase at a startling rate which eventually resulted in a record average of 185 new appeals per month. In spite of a sustained effort by a lean Board in FY 87, this deluge of new appeals resulted in the Board's active docket climbing to 2,503, an imposing figure. Although this net increase (407 appeals, or 19.4 percent increase over the previous year) establishes a disheartening record, it is not without precedent--the Board suffered significant setbacks in FY 82 (293 appeals, or 22.5 percent) and FY 85 (345 appeals, or 19.9 percent). Further, these statistics fail to account for the additional burden imposed during FY 86 with the expansion of the boards' jurisdiction to award attorney's fees pursuant to the amendments to the Equal Access to Justice Act.

Returning to a positive note, aggressive docket management during the last three years has resulted in a record number of hearings being held at the Board's offices, across the country, and around the world. At the end of FY 87, only 163 appeals remained ready to be set for hearing. By way of comparison, 441 hearings were ready to be set at the close of FY 85.

Barring a substantial growth in the average number of new appeals, the Board expects positive results in FY 88. The Board's plans include continued aggressive docket management with a focus on judge productivity.

PAUL WILLIAMS
Chairman

	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
7. Disposition:					
Settled	489	522	506	817	806
Dismissed (no reason given)	23	28	15	67	43
Dism/Rule 30	123	124	118	224	63
Dism/Rule 31	107	184	41	58	52
Lack of Jurisdiction	35	31	45	58	58
Dism/Withdrawn			121	113	176
Req. CO/Decision	---	56	47	60	83
Denied	192	205	226	286	242
Sustained	162	158	146	232	230
8. Days from date of docketing to date of decision:					
All appeals:					
Average	422	450	484	440	348
Median	263	297	299	273	196
Rule 12 appeals:					
Average	156	151	149	142	144
Median	137	149	130	134	133
9. Days from date appeal ready for decision to date decided:					
All appeals:					
Average	49	50	72	49	38
Median	1	4	7	7	5
Appeals in which formal opinion filed:					
Average	114	105	193	148	113
Median	29	19	53	51	38
All Rule 12 appeals:					
Average	14	16	13	18	15
Median	3	8	7	10	7

Appeals Disposed of During FY's 1983-87

1. Origin of Appeals:	FY 1983	FY 1984	FY 1985	FY 1986	FY 1987
Air Force	255	234	258	507	376
Army	425	524	463	623	719
DLA	157	218	232	165	134
Navy	212	267	251	549	481
Other Agencies	82	63	61	71	59
Admin. Disposals	0	29	28	23	32
2. Hearings and Days of Hearing:					
Hearings:					
In Washington, D.C.	56	46	58	74	52
Outside Washington, D.C.	151	169	181	239	190
Percentage outside Washington, D.C.	73%	79%	76%	76%	79%
Days of Hearing:					
In Washington, D.C.	142	100	175	206	137
Outside Washington, D.C.	278	349	393	687	470
Percentage outside Washington, D.C.	66%	78%	69%	77%	77%
3. Pre-Hearing Discovery (appeals in which ruling sought)	148	137	300	418	812
4. Pre-Hearing Conferences	49	114	228	298	231
5. Rule 12 Proceedings	205	229	262	354	396
6. Record only Dispositions	73	75	168	296	322