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

1 October 1996

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 1996

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 1996 (includes 96 reinstatements)	1105
B.	Appeals disposed of during FY 1996	1384
C.	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
	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
	Net Decrease in Docket, FY 1996	279

D. Source of Appeals Docketed FYs 1992-96

	FY 92	FY 93	FY 94	FY 95	FY 96
Air Force	355	266	311	251	169
Army	599	465	472	405	268
Navy	414	481	358	292	229
DLA	116	150	124	101	108
NASA		14	3	15	24
Other	67	68	133	149	211
Reinstated	161	107	132	110	96
TOTAL	1712	1551	1533	1323	1105

E. Status of Appeals Pending End of FY 1996:

Complaint Due	151
Answer Due	143
Discovery	745
To Be Set	77
Hearing Set	141
Transcript & Briefs Due	72
Suspense	17
Ready to Write	197
TOTAL	1543
Rule 12	72

F. Appeals Disposed of During FYs 1992-96

1. Origin of Appeals:	FY 92	FY 93	FY 94	FY 95	FY 96
Air Force	477	374	359	287	305
Army	636	689	450	551	429
Navy	472	393	487	357	349
DLA	170	258	182	97	126
NASA		2	9	8	11
Other Agencies	97	60	73	164	126
Admin. Disposals	29	46	23	14	28
2. Rule 12 Proceedings	276	261	238	180	147
3. Record only Dispositions	364	253	203	182	280
4. Disposition:					
Dismissed	1257	1251	1150	1083	969
Denied	283	262	225	227	216
Sustained	341	209	208	168	199
TOTAL	1881	1722	1583	1478	1384

Of the Board's 1,543 active appeals, the Army has 314 (20.4%), the Corps of Engineers has 175 (11.3%), the Navy has 519 (33.6%), the Air Force has 256 (16.6%), the DLA has 159 (10.3%), NASA has 32 (2.1%), and the remaining 88 appeals (5.7%) are from other sources. At the conclusion of FY 96, 13 of the appeals were court remands, 27 were applications under the Equal Access to Justice Act, 17 were motions for reconsideration, and 72 were being processed under Board Rule 12 (36 expedited and 36 accelerated).

At the close of FY 96, 38 ASBCA decisions were under review by the U.S. Court of Appeals for the Federal Circuit (including one Government appeal) and three maritime appeals were pending before District Courts. 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 42 times, covering 53 appeals and one pre-appeal dispute. The cases varied in amount from a few thousand dollars to tens of millions of dollars. Of the 42 requests, 21 were for binding ADR, 16 for a settlement judge, and 5 requests for minitrials. Our experience reflects that approximately nine out of ten ADR proceedings result in an agreement which resolves the dispute.

With the retirements of Judge Yannello in January and Judge Duvall in April, the number of ASBCA judges has dropped from a high of 37 to 27. 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