



ARMED SERVICES BOARD OF CONTRACT APPEALS

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Telephone: (703) 681-8501
October 31, 2024

MEMORANDUM FOR:

UNDER SECRETARY OF DEFENSE (ACQUISITION & SUSTAINMENT)
ASSISTANT SECRETARY OF THE ARMY (ACQUISITION, LOGISTICS, & TECHNOLOGY)
ASSISTANT SECRETARY OF THE NAVY (RESEARCH, DEVELOPMENT & ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE (ACQUISITION, TECHNOLOGY & LOGISTICS)
ASSISTANT SECRETARY OF THE AIR FORCE (SPACE ACQUISITION & INTEGRATION)
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF THE DEFENSE LOGISTICS AGENCY

SUBJECT: REPORT OF TRANSACTIONS AND PROCEEDINGS OF THE ARMED SERVICES BOARD
OF CONTRACT APPEALS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024

This report is furnished under paragraph 9 of the Charter of the Armed Services Board of Contract Appeals, revised May 23, 2019. The statistics reflect the adjudication of appeals, petitions for contracting officer final decisions, applications for fees and costs under the Equal Access to Justice Act, and other matters of the Army, Navy, Air Force, Corps of Engineers, Defense Logistics Agency, Defense Contract Management Agency, other Defense agencies, Central Intelligence Agency, National Aeronautics and Space Administration, and the Washington Metropolitan Area Transit Authority.

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

A. Cases Docketed and Reinstated During FY2024 276

1. Source of Cases Docketed FYs 2020-2024

	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>	<u>FY24</u>
Army	81	62	48	52	49
Navy	115	49	114	49	58
Air Force	49	37	43	42	37
Corps of Eng.	164	166	113	105	71
DCMA	50	30	29	44	28
DLA	20	13	21	17	11
Other Agencies	8	16	12	7	10
Reinstated	<u>10</u>	<u>27</u>	<u>20</u>	<u>26</u>	<u>12¹</u>
TOTAL	497	400	400	342	276

¹During FY24 this category consisted of 4 Requests for Reconsideration and 8 Board Reinstatements.

B. Cases Disposed During FY2024

419

1. Source of Cases Disposed During FYs 2020-2024

	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>	<u>FY24</u>
Army	63	62	63	42	47
Navy	95	68	65	102	83
Air Force	47	43	39	52	49
Corps of Eng.	82	115	142	132	134
DCMA	45	62	55	22	22
DLA	18	26	14	15	63
Other Agencies	<u>13</u>	<u>15</u>	<u>19</u>	<u>10</u>	<u>21</u>
TOTAL	363	391	397	375	419

2. Rule 12 Proceedings ²	19	15	7	14	18
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3. Disposition of Disposed Cases

Sustained	65	68	101	88	59
Denied	58	61	41	44	67
Dismissed	<u>240</u>	<u>262</u>	<u>255</u>	<u>243</u>	<u>293</u>
TOTAL	363	391	397	375	419

In FY2024, the Board disposed of 126 cases on the merits. Of those dispositions, 46% of the decisions found merit in whole or in part. The Board dismissed 293 cases. In the majority of cases, a dismissal reflects that the parties have reached settlement.

4. During FY2024, the Board held 15 hearings, for a total of 83 days, adjudicating 34 cases.

C. Cases Pending FYs 2020-2024

Number of Cases Pending October 2020	947
Number of Cases Pending October 2021	954
Number of Cases Pending October 2022	957
Number of Cases Pending October 2023	927
Number of Cases Pending October 2024	784

Net decrease in Docket, FY2024	143
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² Board Rule 12, Small Claim Procedures: Expedited (\$50,000 or less/Small Business \$150,000 or less) 120 days for decision: Accelerated (\$100,000 or less) 180 days for decision.

1. Source of Cases Pending October 1, 2024

Army	149
Navy	140
Air Force	60
Corps of Eng.	257
DCMA	141
DLA	20
Other Agencies	<u>17</u>
TOTAL	784

2. Status of Cases Pending October 1, 2024

Awaiting Complaint	36
Awaiting Answer	20
Awaiting Election	74
Discovery	193
Hearing Set	85
Awaiting Transcript/Briefs	58
Suspended	202
Ready to Write	92
ADR Track	<u>24</u>
TOTAL	784

D. Motions Pending October 1, 2024

Dismiss for Failure to Prosecute	4
Dismiss for Failure to State a Claim	18
Dismiss for Lack of Jurisdiction	57
Dismiss – Multiple Bases	11
Dismiss or Suspend Under Board Rule 18	154
Dismiss – Settled/Withdrawn	40
Reconsideration	0
Summary Judgment ³	299
To Strike	50
Other	<u>143</u>
TOTAL	776

E. Board Decisions Appealed to the U.S. Court of Appeals for the Federal Circuit (CAFC)

In FY2024, the U.S. Court of Appeals for the Federal Circuit (CAFC) docketed 13 cases from Board decisions and had 19 cases pending at the close of the fiscal year. During FY2024, the CAFC disposed of 9 cases involving ASBCA decisions, 7 of which were affirmed, 1 of which was affirmed in part and vacated and remanded in part, and 1 of which was dismissed.

³ Figure includes motions for partial summary judgment.

F. Alternative Dispute Resolution (ADR) During FY2024

97 cases (including 5 off-docket matters) were voluntarily diverted from the regular trial docket to the Board's ADR program. 10 of these cases were settled, with the assistance of the mediator judge, without requiring formal mediation sessions. 5 were withdrawn. The remaining 82 were addressed in 35 ADR sessions, totaling 71 days. 67 of these cases were successfully resolved, 0 were unsuccessful, leaving 15 pending at the close of the fiscal year. An additional 14 cases are pending ADR sessions in FY 2025.



JOHN J. THRASHER
Chairman