

ARMED SERVICES BOARD REPORT FOR END-FISCAL YEAR 2022

Copyright 2023 Richard D. Lieberman, Consultant & Retired Attorney

On November 1, 2022, the Armed Services Board of Contract Appeals (“Board”) reported on its transactions and proceedings for FY 2022. The Board submits its report annually, pursuant to its Charter. The report covers FY 2018 through FY 2022 and shows the Board is quite active.

Cases docketed remain constant from FY 2021 to 2022, with 400 cases in the latter years. The Navy and the Corps of Engineers accounted for about half of all cases docketed in FY 2022.

During FY 2022, the Board disposed of 397 cases. Of these, 101 were sustained on the merits, 41 were denied on the merits and 255 were dismissed. These statistics indicate that of the 142 cases disposed on the merits 71 percent found merit in whole or in part.

During FY 2022, the Board held 23 hearings, for a total of 89 days, adjudicating 87 cases.

During FY 2022, 125 cases were diverted from the Board’s regular docket to Alternative Dispute Resolution (“ADR”). Six of these cases were settled, 9 were withdrawn and 105 were successfully resolved. Three cases were unsuccessful, leaving 2 pending at the close of FY 2022.

At the end of FY 2022, the Board had 957 cases pending, about the same as in previous years.

In FY 2022, the U.S. Court of Appeals for the Federal Circuit docketed 10 appeals from Board decisions, and had 29 appeals pending at the close of the fiscal year. During FY 2022, the Court disposed of 17 appeals involving Board decision, 12 of which were affirmed, 2 dismissed and one of which was reversed and remanded.

Takeaway. The Board remains a very viable venue for contract appeals. The sustains and denies indicate a very fair review of cases.

For other helpful suggestions on government contracting, visit:

Richard D. Lieberman’s FAR Consulting & Training

at <https://www.richarddlieberman.com/>, and Mistakes in Government Contracting

at <https://richarddlieberman.wixsite.com/mistakes>.