Part 1 -Charter

1. There is created the Armed Services Board of Contract Appeals which is hereby designated as the authorized representative of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy and the Secretary of the Air Force, in hearing, considering and determining appeals by contractors from decisions of contracting officers or their authorized representatives or other authorities on disputed questions. These appeals may be taken (a) pursuant to the Contract Disputes Act of 1978 (41 U.S.C. Sect. 601, et seq.), (b) pursuant to the provisions of contracts requiring the decision by the Secretary of Defense or by a Secretary of a Military Department or their duly authorized representative, or (c) pursuant to the provisions of any directive whereby the Secretary of Defense or the Secretary of a Military Department or their authorized representative has granted a right of appeal not contained in the contract on any matter consistent with the contract appeals procedure. The Board may determine contract disputes for other departments and agencies by agreement as permitted by law. The Board shall operate under general policies established or approved by the Under Secretary of Defense for Acquisition, Technology and Logistics and may perform other duties as directed not inconsistent with the Contract Disputes Act of 1978.

2. Membership of the Board shall consist of attorneys at law who have been qualified in the manner prescribed by the Contract Disputes Act of 1978. Members of the Board are hereby designated Administrative Judges. There shall be appointed from the Judges of the Board a Chairman and two or more Vice-Chairmen. Appointment of the Chairman and Vice-Chairmen and other Judges of the Board shall be made by the Under Secretary of Defense for Acquisition, Technology and Logistics, the General Counsel of the Department of Defense, and the Assistant Secretaries of the Military Departments responsible for acquisition. The Chairman may designate a Judge of the Board to serve as an Acting Chairman or Acting Vice Chairman.

3. It shall be the duty and obligation of the Judges of the Armed Services Board of Contract Appeals to decide appeals on the record of the appeal to the best of their knowledge and ability in accordance with applicable contract provisions and in accordance with law and regulation pertinent thereto.

4. The Chairman of the Board shall be responsible for establishing appropriate divisions of the Board to provide for the most effective and expeditious handling of appeals. The Chairman shall designate one Judge of each division as the division head. The Chairman may refer an appeal of unusual difficulty, significant precedential importance, or serious dispute within the normal decision process for decision by the senior deciding group. The division heads and the Chairman and Vice-Chairmen, together with, if applicable, the author of the decision so referred, shall constitute the senior deciding group of the Board. The decision of the Board in cases so referred to the senior deciding group shall be by majority vote of the participating Judges of that group. A majority of the Judges of a division shall constitute a quorum for the transaction of the business of each, respectively. Decisions of the Board shall be by majority vote of the Judges of a division participating and the Chairman and a Vice-Chairman, unless the Chairman refers the appeal for decision by the senior deciding group. An appeal involving a small claim as defined by the Contract Disputes Act of 1978 may be decided by a single Judge or fewer Judges of the Board than herein before provided for cases of unlimited dollar amount, under accelerated or expedited procedures as provided in the Rules of the Board and the Contract Disputes Act of 1978.

5. The Board shall have all powers necessary and incident to the proper performance of its duties. The Board has the authority to issue methods of procedure and rules and regulations for its conduct and for the preparation and presentation of appeals and issuance of opinions.

6. Any Judge of the Board or any examiner, designated by the Chairman, shall be authorized to hold hearings, examine witnesses, and receive evidence and argument A Judge of the Board shall have authority to administer oaths and issue subpoenas as specified in the Contract Disputes Act of 1978. In cases of contumacy or refusal to obey a subpoena, the Chairman may request orders of the court in the manner prescribed in the Contract Disputes Act of 1978.

7. The Chairman shall be responsible for the internal organization of the Board and for its administration. He shall provide within approved ceilings for the staffing of the Board with non-Judge personnel, including hearing examiners, as may be required for the performance of the functions of the Board. The Chairman shall appoint a Recorder of the Board. All personnel shall be responsible to and shall function under the direction, supervision and control of the Chairman. Judges shall decide cases independently.

8. The Board will be serviced by the Department of the Army for administrative support as required for its operations. Administrative support will include budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security administration, supplies, and other administrative services. The Departments of the Army, Navy, Air Force and the Office of the Secretary of Defense will participate in financing the Board's operations on an equal basis and to the extent determined by the Under Secretary of Defense (Comptroller). The cost of processing appeals for departments and agencies other than those in the Department of Defense will be reimbursed.

9. Within 30 days following the close of a calendar quarter, the Chairman shall forward a report of the Board's proceedings for the quarter to the Under Secretary of Defense for Acquisition, Technology and Logistics, the General Counsel of the Department of Defense, the Assistant Secretaries of the Military Departments responsible for acquisition, and to the Director of the Defense Logistics Agency. The Chairman of the Board will also furnish the Secretary of Defense, the General Counsel of the Department of Defense, the Secretaries of the Military Departments, and the Director of the Defense Logistics Agency, an annual report containing an account of the Board's transactions and proceedings for the preceding fiscal year.

10. The Board shall have a seal bearing the following inscription: "Armed Services Board of Contract Appeals." This seal shall be affixed to all authentications of copies of records and to such other instruments as the Board may determine.

11. This revised charter is effective May 14, 2007.

APPROVED:

Kenneth J. Krieg

Under Secretary of Defense

(Acquisition, Technology and Logistics)

(signed)

William J. Haynes II

General Counsel of the Department of Defense

(signed)

Claude M. Bolton, Jr.

Assistant Secretary of the Army

(Acquisition, Logistics, & Technology)

(signed)

Delores M. Etter

Assistant Secretary of the Navy

(Research, Development & Acquisition)

(signed)

Sue C. Peyton

Assistant Secretary of the Air Force (Acquisition)

(signed)

Parent topic: APPENDIX A - ARMED SERVICES BOARD OF CONTRACT APPEALS