

CLIENT ALERT

ASBCA Dismisses "Conclusory" and "Unsupported" \$100M Government Claim

January 10, 2017

In *Lockheed Martin Integrated Systems, Inc.* (ASBCA Dec. 20, 2016), a case involving a \$100 million breach of contract claim stemming from purportedly unallowable direct subcontractor costs, the Board granted Lockheed Martin's motion to dismiss the Army's claim "for failure to state a claim on which relief could be granted," concluding that the government had "gone forward with a claim for over \$100,000,000...based on nothing more than a plainly invalid legal theory." Specifically, the Board held that final decisions based solely on an audit report's "conclusory assertions" and "unsupported conclusions" failed to satisfy the standards required by the Board's rules for a valid claim and that although prime contractors have a generalized responsibility to manage subcontractors, the Army failed to establish that Lockheed Martin had breached any particular contractual obligation, express or implied, and specifically that Lockheed Martin had no obligation to (1) obtain or audit incurred cost submissions from subcontractors; or (2) to retain documentation supporting prime contractor billings for longer than the contract's "applicable records retention" period.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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