

## CLIENT ALERT

### ASBCA Offers Mixed Bag on "Expressly Unallowable" and "Directly Associated" Costs

Sep.20.2018

On August 28, 2018, the ASBCA denied the parties' motions for reconsideration of *Raytheon Co.*, ASBCA No. 57743, *et al.* ([discussed here](#)). The Board reiterated that salaries of employees engaged in unallowable lobbying activities were "expressly unallowable" as "directly associated costs" because the relevant FAR provision states that costs "directly associated with" lobbying activity are unallowable, and although salaries are not spelled out as "directly associated" costs, it is "obvious" that salary costs are associated with unallowable lobbying costs. The Board also reiterated that Raytheon's airplane lease costs are not expressly unallowable, making a distinction that while Raytheon previously agreed not to charge such costs to the government (in which case they would be expressly unallowable and subject to level 2 penalties), Raytheon did not concede that the costs were unallowable under the FAR. In any case, the Board held that the government failed to pursue level 2 penalties earlier in the case, and cannot raise them now.

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

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