

CLIENT ALERT

No Double-Dipping: Board Lacks Jurisdiction Over New Theories Asserted in Government's Amended Answer

Apr. 29, 2016

In *AeroVironment, Inc.* (Mar. 30, 2016), following an apparent settlement of the government's cost disallowance claim, the ASBCA denied the government's request to amend its answer (in order to "clarify" entitlement to additional *quantum*) because the proposed amendments constituted new "claims" that required new final decisions. Acknowledging that parties may ordinarily revise *quantum* without running afoul of jurisdictional concerns, in this case the Board found that the proposed amendments (which were premised on a new interpretation of FAR Parts 31 and 42, a different calculation methodology, and greatly increased the monetary stakes), involved different "operative facts" and "would alter the 'essential nature' and fundamental basis of the claim asserted in the final decisions," over which the Board lacked jurisdiction.

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

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