



Insights: Publications

The ASBCA's Fraud Jurisdiction

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The Armed Services Board of Contract Appeals ("ASBCA") recently held that it has jurisdiction to determine whether a contractor bribed a high-ranking official of the Government of Jordan in an effort to obtain a Defense Logistics Agency fuel supply contract. *International Oil Trading Company*, ASBCA Nos. 57491 *et al*, 2018-1 BCA ¶ 36,985. The ASBCA took jurisdiction despite the fact that the allegation, if proven, would likely be a violation of the Foreign Corrupt Practices Act of 1977 ("FCPA"), 15 U.S.C. §§ 78dd *et seq.*, which the ASBCA does not have authority to enforce. This article will first discuss the theory or "hook" the ASBCA used to extend its jurisdiction to include the fraud related issues. The article will then review the case law concerning the Boards of Contract Appeals' jurisdiction to make their own factual determination of fraud, as opposed to relying upon findings of fraud made by a court of competent jurisdiction.