



Member  
jpachter@smithpachter.com

8000 Towers Crescent Drive, Suite 900  
Tysons Corner, VA 22182  
P: (703) 847-6300  
F: (703) 847-6312

## John S. Pachter

A practitioner of government contract law for more than 50 years, Mr. Pachter has engaged in substantial litigation before the Boards of Contract Appeals, the United States Court of Federal Claims, Federal District Courts, and the United States Court of Appeals for the Federal Circuit. He has prosecuted bid protests before the Government Accountability Office, the General Services Board of Contract Appeals, the United States Court of Federal Claims and Federal District Courts.

Mr. Pachter's practice has involved dispute resolution in all areas of government contract law, including prime-subcontractor disputes, both in litigation and under alternative dispute resolution procedures.

In the bid protest area, Mr. Pachter's practice has involved agency best value determinations, past performance, meaningful discussions, task order contracts, sample task issues, organizational and personal conflicts of interest, cost realism analyses, competitive range controversies, technical evaluations, bid mistakes, and other issues.

Mr. Pachter has represented a number of clients in the debarment area, and obtained the first reversal in federal court of a Service Contract Act debarment. *Federal Food Service, Inc. v. Donovan*, 658 F.2d 830 (D.C. Cir. 1981).

He has also represented and counseled clients on fraud and compliance investigations, audits, corporate governance and ethics, and defense of qui tam actions. Other work has included defective pricing, cost determination, requests for equitable adjustment, licensing of intellectual property, subcontractor performance issues, small and small disadvantaged business matters, terminations for default and convenience, GSA schedule contracts, task order contracting, multiple awards, commercial products and requests for government information.

In 2012 Mr. Pachter was the first recipient of the Allan J. Joseph Excellence in Leadership Award, conferred by the ABA's Section of Public Contract Law. The award recognizes "exceptional effort and accomplishments" as well as "extraordinary contributions" to the Section.

In October 2007, the Department of the Army appointed Mr. Pachter to serve as Independent Monitor to supervise ITT Corporation's performance under an Administrative Compliance Agreement. ITT entered into that Agreement in connection with a Guilty Plea and Deferred Prosecution Agreement regarding violations of the Arms Export Control Act at the Night Vision component of ITT Defense Electronics & Services.

Since then Mr. Pachter has served as monitor in four additional matters. He has also served as an expert witness in several cases.

In 2004, the *Legal Times* recognized Mr. Pachter as a Leading Lawyer in Government Contracts. He has also been listed in *Virginia Super Lawyers*, and in *Chambers USA, America's Leading Lawyers for Business* and *Nationwide Leading Lawyers*.

## Practice Areas

- Government Contracts

## Education

George Washington University (J.D., with honors, 1966)  
George Washington University (L.L.M. in Government Procurement Law, 1970)  
Tulane University (B.A., 1963)

## Professional Qualifications

Professorial Lecturer in Law, George Washington University Law School, Government Contracts Program.  
Adjunct Professor, 1974-1980, The George Washington University, Dept. of Engineering

Administration, School of Engineering and Applied Science  
U.S. Army, Judge Advocate General's Corps, 1966-1970; Trial Attorney (Contract Appeals Division), 1969-1970

## Publications

### Author:

*Two KBR Cases Illuminate Kickback Risks For Contractors*, Law360 (Dec. 3, 2013).

*After Metcalf Construction: Putting the Winstar Genie Back in the Bottle*. 103 *Federal Contracts Report* 287, The Bureau of National Affairs, Inc., March 17, 2015.

*Independent Monitors: What They Do and How to Avoid the Need for Them*. 100 *Federal Contracts Report* 637, The Bureau of National Affairs, Inc., December 31, 2013.

*The Incredible Shrinking Contracting Officer*, 39 Public Contract L. J. 705 (2010)

*Personal Conflicts of Interest: A New Area for Regulation*, 93 *Federal Contracts Report* 103, The Bureau of National Affairs, Inc., February 9, 2010.

*The Strange Case of Long Island Savings Bank – Or How a Contract Self-Destructed into Voidness*. *The Procurement Lawyer*, Vol. 44, No. 1, Fall 2008.

*What is a Procurement? And Why Can't DOD and the Courts Get it Straight?*, 34 *Public Contract L. J.*, 1 (2004).

*The Need for a Comprehensive Judicial Remedy for Bid Protests*, 16 *Public Contract L. J.* 47 (1986).

*An Assessment of Bid Protests Under the CICA*, *Contract Management* (September 1985).

*Certification of Subcontractor Claims*, *ABA Public Contract Newsletter*, Vol. 19, No. 1, Fall 1983.

*The Equal Access to Justice Act - A Step Forward*, *ABA Public Contract Newsletter*, Vol. 16, No. 2, January 1981.

*Government Collection Techniques*, *The Government Contractor Briefing Papers*, No. 75-6 (December 1975).

*Set-Off As a Means of Collecting Government Contract Claims*, 3 *Public Contract L. J.* 163 (1970).

### Co-author:

*Kickbacks Result in Forfeiture of Claim*, 106 *Fed. Cont. Rep. (BNA)* No. 13, at 377 (Oct. 11, 2016).

*When Does a Company "Knowingly" Violate the Anti-Kickback Act?*, 106 *Fed. Cont. Rep. (BNA)* No. 9, at 265 (Sept. 13, 2016).

*A Sensible Outcome for False Claims in Universal Health Services*, 106 *Fed. Cont. Rep. (BNA)* No. 4, at 97 (July 26, 2016).

*A Look at False Claims Act Cases Through Scalia's Lens*, 105 *Fed. Cont. Rep. (BNA)* No. 14, at 310 (Apr. 12, 2016).

*Encouraging Signs for False Claims Act Litigation: Recent Decisions Aligned to Guide Supreme Court Review*, 105 *Fed. Cont. Rep. (BNA)* No. 3, at 67 (Jan. 26, 2016)

Feature Comment – *Past Performance As An Evaluation Factor-Getting It Right*, 41 *Government Contractor* 1, January 6, 1999.

*The FAR Part 15 Rewrite*, Briefing Papers 2d, No. 98?5, April 1998.

Feature Comment – *Source Selection Provisions of the FAR Part 15 Rewrite -- A Train Wreck Avoided*, 39 Government Contractor 578, December 10, 1997.

*Jumping On (or Off) the Eichleay Bandwagon: Do We Have a Sticky Wickham?*, 31 Procurement Lawyer 4, 1996.

Feature Comment – *Past Performance As An Evaluation Factor – Opening Pandora's Box*, 38 Government Contractor ¶ 280, June 12, 1996.

*Techniques for Applying Eichleay Overhead Recovery to Manufacturing Contracts*, 63 Federal Contracts Report 104, The Bureau of National Affairs, Inc., January 23, 1995.

*The CACI Decision - The Risk That Lack of a Delegation of Procurement Authority Voids the Contract*, 61 Federal Contracts Report 514, The Bureau of National Affairs, Inc., April 18, 1994.

*Recovering Legal Fees Under EAJA*, (82-2 Briefing Papers, Federal Publications, April 1982.

*Law for Engineers*, The George Washington University, 1975.

*Extraordinary Relief from Runaway Inflation -- A New Look at Public Law 85-804*, National Contract Management Journal, Fall 1974.

## **Professional Memberships**

Virginia State Bar

District of Columbia Bar

Federal and American Bar Associations (Chair, Section of Public Contract Law, 1991-1992; Section Delegate, ABA House of Delegates, 2005-present)

National Contract Management Association (Editor, NCMA Journal, 1983-1988;

Mid-Atlantic Regional Vice President, 1981-1983; President, Washington D.C. Chapter, 1979-1981)

Advisory Board, Federal Contracts Report, The Bureau of National Affairs, Inc.