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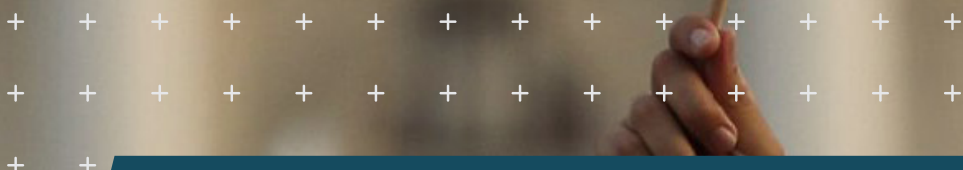
PERSONAL INSURANCE

RISK MANAGEMENT

SURETY

GOVERNMENT CONTRACTING

Markets in Focus



Economic Overview & Market Update

Q1 2024

ECONOMIC OVERVIEW

In 2023, government contracting witnessed dynamic shifts. Notable events included the implementation of critical initiatives such as the Infrastructure Investment & Jobs Act, CHIPS & Science Act, and Federal Acquisition Supply Chain Security Act. With a presence in Washington, D.C.,

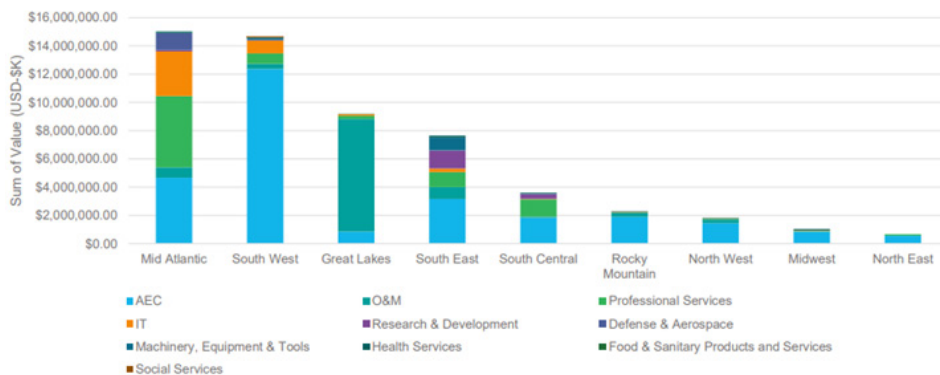
our Government Contracting Practice keeps a pulse on all federal, state, and local matters. We recognize contractors throughout the U.S. are presented with challenges and opportunities resulting from notable initiatives, and we highlight key areas to navigate those challenges.



INFRASTRUCTURE AND TECHNOLOGICAL RESILIENCE

The Infrastructure Investment & Jobs Act, CHIPS & Science Act, and Federal Acquisition Supply Chain Security Act collectively present a unique opportunity for American self-reliance across civil works, manufacturing, the microelectronics supply chain, research development, and national employment. In an overview, key sectors of the economy receiving substantial funds are highlighted, with a notable emphasis on architecture, engineering, and construction. Despite the national focus on cybersecurity, the primary financial investment is geographically concentrated in the mid-Atlantic and southwest regions. This allocation aligns with the broader goal of strengthening essential sectors critical to national resilience and economic advancement.

Q4 CY 2023 OPPORTUNITY VALUE DISTRIBUTION BY INDUSTRY, REGION



Source: Deltek GovWin IQ Database

We are seeing the convergence of billions of dollars invested in bolstering U.S. infrastructure and technology while the military is budgeting for increased expansion, focusing on overseas aid. Funding will be crucial as contractors implement projects and task orders. These projects and tasks require a plan and forecast when future demands for their products and services are based on speculation.



KEY INITIATIVES TO WATCH

CYBERSECURITY MATURITY MODEL

The Cybersecurity Maturity Model Certification (CMMC) builds on 20 years of patchwork regulations and self-assessment requirements for the contractors working with the Department of Defense (DOD).

The Department of Defense (DoD) will require a combination of self-reporting and third-party formal assessments. Contractors must certify that they maintain strict cybersecurity standards and processes, which will be closely tracked and tied to Requests for Proposals with the DOD.

KEY TAKEAWAYS:

- + The DoD published the final rule, CMMC 2.0 and industry anticipates it will be effective at the beginning of 2025. Savvy contractors are already working toward or have complied with the parts of the CMMC that apply to them.
- + The CMMC only applies to the Department of Defense. Other federal agencies, such as the Department of State, Department of Commerce, Homeland Security, etc., have their cyber security standards, which makes bidding contracts with different agencies even more complicated.
- + Contractors will have to be CMMC compliant to bid on contracts. This is an opportunity for contractors to bring their internal controls in line with the requirements.

**Click here to learn more about CMMC and
what Government Contractors need to know**

FALSE CLAIMS ACT

Under the Department of Justice, the False Claims Act (FCA) stipulates that anyone knowingly submitting false claims to the government is liable for three times the government's damages.¹ The U.S. is allowed to pursue perpetrators of fraud on its own, and the FCA allows private citizens to file suits on behalf of the government against those who have defrauded the government.

Qui tam suits are filed by private citizens, and those who successfully bring qui tam actions may receive a portion of the government's recovery. Private citizens who file the claims are considered whistleblowers. There are protections in place that prohibit retribution from their employer, under FAR 52.203-17, from "discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing" to an agency Inspector General or certain other.²

KEY TAKEAWAYS:

- + Companies with FCA exposure should work with a broker with the requisite directors & officers (D&O) liability expertise and experience crafting coverage for this unique risk.
- + Many D&O carriers may look to restrict coverage exposure, and without tailored language, there is a strong possibility a D&O policy will not cover an FCA claim.
- + D&O brokers experienced in the government contracting space closely track regulation, litigation, and carrier updates of FCA exposure and work to tailor coverage under defense costs where available.
- + Understanding the seven violation categories under the FCA is crucial to preventing penalties.

Click here to learn more about
the **seven violations under the
False Claims Act Initiatives**



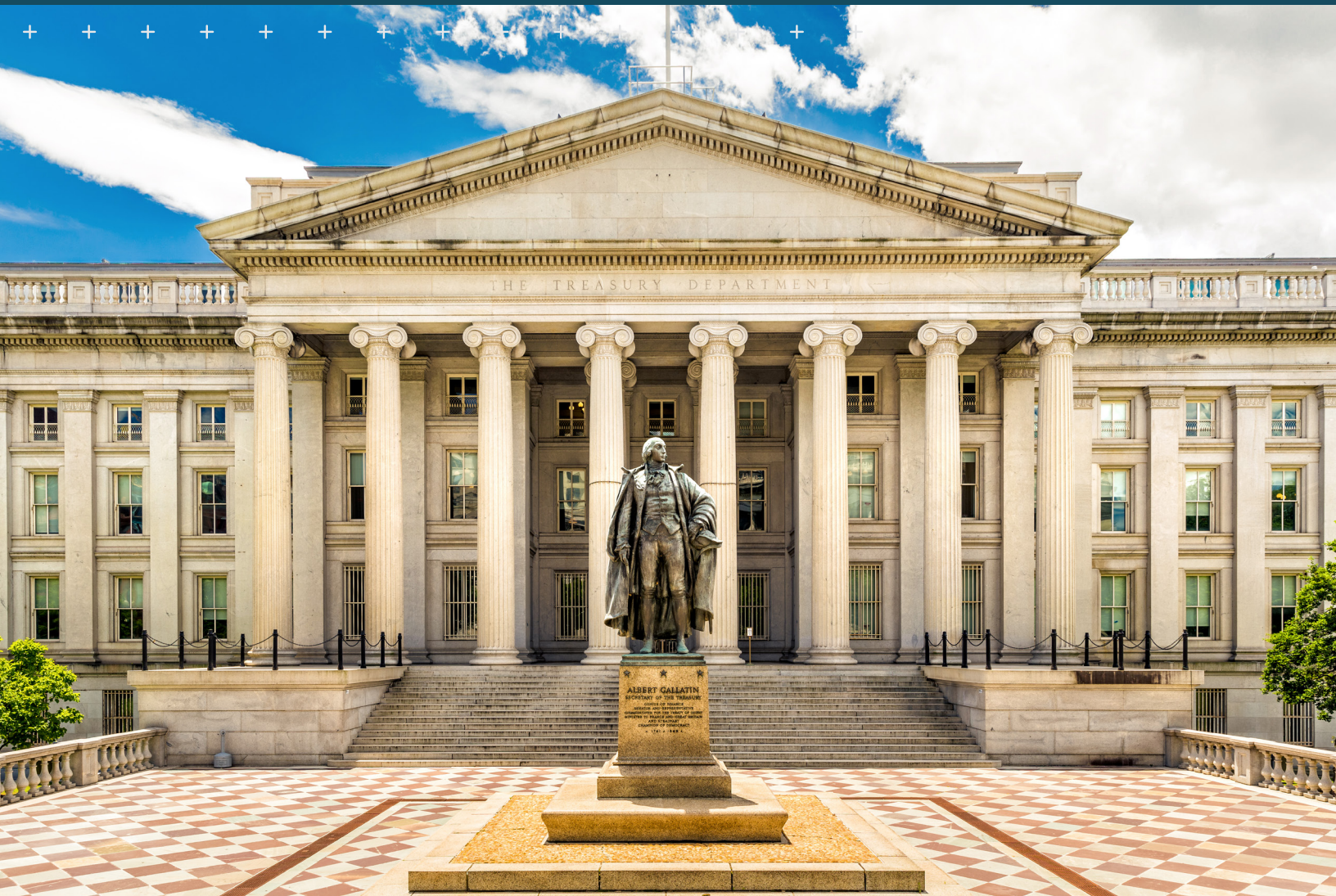
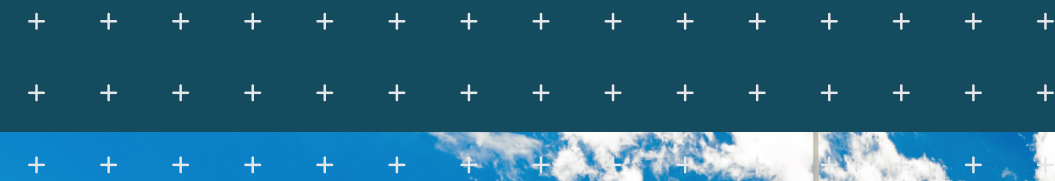
We expect a significant increase in the number and value of the claims because individuals who file claims that the Department of Justice successfully prosecutes are personally rewarded – up to 30% of the award. There is substantial motivation to file a qualified claim when considering there have been awards of up to \$250,000.

DAVIS BACON ACT

The Davis-Bacon Act requires contractors and subcontractors who work on federally funded construction projects to pay a government-determined wage. Wages are an essential line item when bidding on contracts. It is also the line item where contractors have the most flexibility in potentially underreporting wages, so their bids are lower than their competitors.

While the Davis Bacon Act applies to federal contracts for the construction, replacement, and repair of public buildings and public works, the related Service Contract Act applies to federal contracts for service-related work (as opposed to construction).

[Click here to learn more about the Davis Bacon and Service Contract Act](#)



PUBLIC SPENDING

SMALL BUSINESSES

The federal government requires that a certain percentage of each contract be “set aside” for small businesses. Small businesses can access opportunities and contracts that the larger contractors don't have. These small businesses have a time limitation and restrictions on how much they and their leadership can earn, if they plan to grow beyond the small business classification. A company is considered small depending on its operations and the types of contracts it has.

Companies making the transition out of small business classification often have several struggles, and leaping requires experience and the ability to anticipate and navigate those nuances. One of the critical challenges is crossing "No Man's Land," also known as the "Valley of Death" as these limits their small business protections. The competition with contractors who may have more significant resources and records of past performance on the larger contracts increases for those small businesses making the transition.

KEY TAKEAWAYS:

- + Planning is crucial for small businesses transitioning to the full and open marketplace.
- + Small business protections are no longer available when pursuing ample contract opportunities, and competition will continue.
- + Exposure to large contract opportunities will be limited if small businesses remain classified as minor business status.

INTERNATIONAL CONFLICTS AND THREATS

As global conflicts escalate, insurers exclude coverage for affected territories based on treaties, reinsurers' decisions, and underwriters' evaluations. The increase in international tensions has also increased the demand for contractors, with a historical ratio of 3 government contracting personnel to every military person, emphasizing the need for agility, mobility, and robust supply chains. The U.S. Army is budgeting for heightened engagement in conflicts, particularly in munitions. A responsive escalation process is crucial for contractors to safeguard their bottom line throughout the contract duration and wind down.

KEY TAKEAWAYS:

- + Insurance markets for high-threat situations are available. It is essential to have a strong relationship with a broker who specializes in government contracting and can help navigate challenging placements with the maximum breadth of coverage.
- + Contractors working in high-threat areas should have a risk management plan that can respond quickly.

GUIDANCE



BEGIN THE RENEWAL PROCESS EARLY

Partner with your broker early to prepare for any changes to increase greater renewal success.



PARTNER WITH INDUSTRY EXPERTS

It is important to work with your broker's industry experts who understand the business and the market for placing the specific risk. Collaborating with a team that can best represent your risk and partner with your operations is more important than ever during this disciplined market we are experiencing.



HIGHLIGHT CYBER SECURITY & PROACTIVE RISK MANAGEMENT

IMA has a team solely dedicated to managing cyber risks. They offer expert assistance, including coverage analysis, financial loss exposure benchmarking, contract language review, in-depth cyber threat analysis, and strategic development of comprehensive, high-value cyber insurance programs.



ENGAGE LOSS CONTROL TEAMS

Engage loss control teams before a claim begins by establishing strong loss control and risk mitigation with the help of your broker. We work with you to understand your financial goals and operational challenges so we can identify, develop, and deliver risk control solutions that strategically mesh with your objectives.



CONTRACT REVIEW

Our contract review teams add value to our client's overall risk management program by ensuring the indemnity language is market standard and doesn't expose our clients to unforeseen losses that may not be insurable.

Sources:

1 Civil Division U.S. Department of Justice. (n.d.). The False Claims Act. Department of Justice. <https://www.justice.gov/civil/false-claims-act#:~:text=The%20FCA%20provides%20that%20any,that%20is%20linked%20to%20inflation%20.>

2 FAR. (2023, June n.d.). Subpart 3.9 - Whistleblower Protections for Contractor Employees. Acquisitions.Gov. <https://www.acquisition.gov/far/subpart-3.9>



MORE THAN JUST INSURANCE

Based in North America, Parker, Smith & Feek is an integrated financial services company focused on protecting the assets of its widely varied client base through insurance, risk management and wealth management solutions. As an employee-owned company, Our 2,300-plus associates are empowered to provide customized solutions for their clients' unique needs.



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