



GSA Office of Government-wide Policy

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MEMORANDUM FOR ALL GSA HEADS OF CONTRACTING ACTIVITY

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SUBJECT: Preparing for Potential Acquisition Performance Impacts Due to Novel Coronavirus (COVID-19)

Purpose

This memorandum provides guidance on managing potential contract administration issues related to Novel Coronavirus (COVID-19).

To preserve human life and property, GSA has an interest in ensuring contractor employees are safe and do not potentially transmit the COVID-19 virus. In that role, GSA is actively preparing for different eventualities that may result as COVID-19 continues to affect communities across the United States.

The following guidance is designed to highlight the existing need for flexibility in responding to potential challenges and to point to some of the available tools.

Impact of COVID-19 may vary around the country. Until or unless your management team advises you otherwise, direct your contractors to reach out to your contracting officers if they believe performance of the contract is in conflict with guidance from the Center for Disease Control (CDC).

A new Public Health Emergencies topic page has been added to the Acquisition Portal.¹ It will be regularly updated to provide guidance to the workforce.

The spread of the COVID-19 virus may affect federal contractors in several ways, making ongoing communication with your contractors especially critical. Although Government contractors should have preparedness plans in place, and should be continuing contract performance, there may be factors outside their control which result in interruptions or delays. Examples could

¹ See the "Public Health Emergencies" topic page at <https://insite.gsa.gov/employee-resources/acquisition-purchases-and-payments/acquisition-portal/acquisition-by-topic/public-health-emergencies>

include shut down of global supply chains, non-availability of federal employees to review and accept deliverables, potential closure of Federal facilities, or quarantined contractor personnel. It is important to work with the contractor to find solutions that will avoid or minimize such interruptions or delays.

Federal contracts provide for excusable delays². If this solution meets mission needs, establishing new due dates may be the simplest solution. If it doesn't, it may be appropriate to re-procure elsewhere if possible, without negative consequence to the contractor. If an interruption or service gap occurs outside of an excusable delay, be flexible in finding a solution.

All available options should be considered including telework for contract employees or contract modifications that are in the Government's best interest.

Contracts Lending Themselves to Telework

FAR 7.108 makes clear that we should not generally discourage contractors from permitting their employees to telework. If a contract already permits contractors to telework, it may be advantageous to work with the contractor's program manager to permit additional telework.

Many Federal contracts can be performed without contractor personnel working on site. If a contract does not currently permit contractor employees to telework, but the work can be performed remotely, it may be advantageous to work with the contractor's program manager to permit contractor employees to telework on a case-by-case basis for an agreed upon amount of time. If a contract does permit contractor employees to telework, it may be advantageous to work with the contractor's program manager to increase the amount of telework allowed.

Contracts Not Lending Themselves to Telework

If your contract requires services which must be performed at a Government facility, consider being flexible on contract completion dates.

The contracts have clauses that will help you manage COVID-19 issues as they arise. The Government may suspend or stop performance through clause 52.242-14, *Suspension of Work* and 52.242-15, *Stop Work Order*. These clauses provide certain rights and responsibilities to contractors as well as to GSA.

In addition, contracts contain a changes clause (i.e., FAR 52.243-1, FAR 52.243-2, FAR 52.243-3 or FAR 52.212-4(c)). This clause permits GSA to make changes which may aid in responding to COVID-19.

² For example, see clauses 52.249-14, 52.212-4(f) (for commercial item contracts), or 52.211-13 and 552.211-13 (for construction contracts).

Conclusion

Throughout this situation, contracting officers should proactively engage with contractors and program offices to address potential service delivery issues before they occur.

As GSA learns more about these challenges, FAQs and other tools will be added to the Public Health Emergencies topic page.

Attachment 1 - Decision Trees (Pending)

Attachment 2 - FAQs (Pending)
