

To Whom it May Concern

Please consider the recommendations below as you fashion a deviation and guidance to implement Section 3610 of HR 748, the CARES Act.

For cost-reimbursement type contracts and for fixed-price and T & M contracts, the clauses and guidance should consider and include:

- 1) reference to both the Contractor **AND** their subcontractors. The language of any clause and guidance should address submissions from subcontractors, specifically and particularly those below the level of privity for the prime. There will be a complex process of flowing such submissions up to the prime for submissions to the government for reimbursement, unless the government would prescribe a separate process. If the clause does not address and enable subcontractors in the supply chain for a contract to be included in submissions, then the clause will miss the intent of the statute and provide resources to a limited portion of the industrial base serving as a prime contractor.
- 2) a clarification and focus on employees that are “unable to perform.”
- 3) a definition of what is a facility “approved” by the Federal Government. This definition should consider the memo from USD Lord emphasizing the designation of the defense industrial base as an Essential Critical Infrastructure Workforce and include all places of work that workforce may perform on contract.
- 4) that the ability to submit for reimbursement is for each affected employee.
- 5) clarifications for CAS-type contracts that allowable costs includes applicable indirect burdens and fees.
- 6) that a failure of the parties to agree on the contractors reimbursement request should be considered under the disputes clause of the contract.

Thanks for considering these recommendations as you advance this guidance. Let me know if you have any questions.

Trey Hodgkins

