MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Guidance on Place of Performance Contract Requirements

In March 2020, the Department of Defense (DoD) dramatically expanded the use of alternative work arrangements, including telework and remote work, for Service Members and DoD civilian employees to stem the spread of COVID-19. On March 20, 2020, Defense Pricing and Contracting (DPC) issued the guidance memorandum, titled “Contract Place of Performance – Public Health Considerations” (Attachment 1), which encouraged the extension of maximum telework flexibilities to contractors when contract services could be delivered from offsite locations without mission degradation. This shift from traditional government-directed workplaces to alternate work sites enabled continued mission accomplishment while supporting the Department’s force health protection measures.

The Department has experienced many unexpected benefits from the expanded telework flexibilities, resulting in increased efficiencies and effectiveness in the accomplishment of our mission. Use of telework has provided employment opportunities for new candidate pools, especially in traditionally hard to recruit areas; and afforded the workforce a greater quality of life during a very difficult time. Continuation of these flexibilities will position the Department to attract and retain those with the necessary skills and abilities needed to accomplish current and future missions.

On March 16, 2022, the Deputy Secretary of Defense issued memorandum, “DoD Workforce Guidance for Final Reentry of DoD Civilian Personnel” (Attachment 2) to provide the Department direction for the reentry of DoD civilians into the workplace. Our contracting professionals, in collaboration with program managers and requirements owners, must now consider the reentry guidance that will be provided to contractors.

Contracting officers are authorized to require on-site contractor performance in certain circumstances, subject to the requirements at Federal Acquisition Regulation 7.108, Additional
Requirements for Telecommuting. When exercising this authority, contracting officers should avoid specifying unnecessarily restrictive places of performance, to the maximum extent practicable, in accordance with section 875 of the National Defense Authorization Act for FY 2022. Additionally, as COVID-19 conditions continue to evolve, contracting officer’s FAR 7.108 determinations to require on-site contractor performance must also consider, and align with, the local installation commander’s force health protection guidance, specifically concerning workplace occupancy limits.

Subject to component guidance, and in coordination with program managers and requiring activities, I ask that contracting officers avoid specifying unnecessarily restrictive contract places of performance. To the maximum extent practicable, contracting officers should continue to allow contractors to have place of performance flexibilities, including telework and remote work, where contractual requirements can continue to be performed off-site, without mission degradation.

Contact the office of DPC, Contract Policy at osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil for questions regarding this memorandum.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachments:
As stated
MEMORANDUM FOR COMMANDER, UNITED STATES CYBER COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Contract Place of Performance – Public Health Considerations

Our nation is facing an unprecedented public health challenge given the Coronavirus disease (COVID-19) that requires our contracting officers to consider unprecedented flexibilities to ensure the mission is supported while supporting the whole-of-America effort to bend the curve and stem the spread of the pandemic. A significant part of our mission readiness is provided by our contractor partners who routinely work alongside service members and Government civilians at Department of Defense (DoD) installations and facilities.

To this end, we are asking that the same maximum telework flexibilities extended to DoD service members and civilians also be made available to contractors when contract services can be delivered, without mission degradation, while off-site. Given that keeping the total force safe and stemming the spread of COVID-19 is paramount to our entire nation, this flexibility should be allowed and encouraged, where appropriate, and done so without need for further consideration during this national emergency. Taking this step supports DoD’s three stated goals to the COVID-19 response: workforce safety, mission continuity, and supporting the whole-of-Government approach to addressing this national health emergency.

We believe that our contracting officers, working with their program managers and requirements owners, can craft an environment where the mission is able to be accomplished by all team members without undermining our public health efforts. Allowing our contractors flexibility in their place of performance during this COVID-19 crisis is a reasonable step. We rightfully entrust our contracting officers with an enormous amount of authority and responsibility, and they do not fail us. Now we ask them to balance mission support with the responsibility to address this national public health emergency.
My point of contact for this memo is Lt Col Bryan Lamb who can be reached at (703) 693-0497.

Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting
MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
COMMANDERS OF COMBATANT COMMANDS
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: DoD Workplace Guidance for Final Reentry of DoD Civilian Personnel

References: (a) Secretary of Defense Memorandum, “Guidance for Commanders’ Risk-Based Responses and Implementation of the Health Protection Condition Framework During the Coronavirus Disease 2019 Pandemic,” April 29, 2021

The impact of the coronavirus disease 2019 (COVID-19) continues to have a lasting effect not only on our country, but on the Department in the way we work to accomplish our mission. During this period, DoD personnel have demonstrated great resolve and dedication as the pandemic forced an unexpected cultural shift that required us to reimagine the way work is perceived and how to accomplish the mission. Whether working from home or remaining at the worksite, our workforce has repeatedly proven its tenacity, resiliency, and dedication. Everyone’s commitment to the Department’s mission and to each other is not only admirable and appreciated, but is a cornerstone to our success.

In the summer of 2021, we conducted listening sessions to learn from the experiences of the Total Force. We overwhelmingly heard concerns for a safe and healthy work environment and a desire for leaders to reimagine the “future of work” while promoting an inclusive culture regardless of worksite or status. Informed by the Secretary of Defense’s priorities and your feedback, we will continue to ensure our policies lay the foundation for responsive, data-driven decision making.

Even before the pandemic, DoD policy has been for telework to be actively promoted and authorized for the maximum number of positions to the extent that mission readiness is not jeopardized. The Under Secretary of Defense for Personnel and Readiness is reviewing and incorporating flexibilities such as telework into the Department’s civilian employee human capital strategies and personnel policies. These actions will improve the DoD civilian employee experience and leverage innovation and productivity gained through flexible workplace policies. Continuation of flexibilities used during the COVID-19 pandemic increases the DoD’s efficiency and effectiveness, as well as allows the Department to better attract and retain those with the necessary skills and abilities needed to accomplish current and future missions.

Some DoD civilian employees have been on full-time telework (with remote work treated as telework for the purposes of this memorandum) since the beginning of the COVID-19 pandemic and have not returned to the workplace other than on a de minimis basis. Other DoD
civilian employees have had work schedules that differ from their organization's regular schedules, such as shift work to maintain physical distancing or a flexible schedule related to dependent care. Supervisors must begin discussions with civilian employees in these two categories to make plans for their work locations and work schedules going forward. Specific reentry plans will be dependent on organizational needs, the Health Protection Condition framework, and force health protection guidance.

Absent an urgent and compelling mission need, DoD Components will provide 30-days advance notification in writing prior to recalling or adjusting the work schedules of DoD civilian employees in the two categories above. Personnel who have been able to accomplish the essential functions of their positions while teleworking throughout the duration of the COVID-19 pandemic or on the alternative work schedule will not typically be subject to a shortened notification period. Components may prescribe longer advance notice standards. Supervisors may adjust the work locations and work schedules for DoD civilian employees who are not in the two categories above based on organizational needs, the Health Protection Condition framework, and force health protection guidance and do not need to provide 30-days advance notification.

The Department fulfilled its national consultation rights (NCR) obligation to notify the appropriate labor organizations that have been granted NCR. Components must satisfy labor relations obligations at the various levels of exclusive recognition where such obligations exist. If Components choose to stagger final reentry based upon completion of negotiations, Components will disseminate updated local guidance, to include information regarding the final reentry of bargaining unit employees, and initiate the final reentry of bargaining unit employees in accordance with negotiated agreements. The Department is committed to working with union partners and has engaged with national unions for their input into its reentry guidance.

Components will comply with the requirements of the Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq., as amended, with respect to reentry of DoD civilian personnel into the workplace.

The attachment provides additional resources to assist Components in planning for final workplace reentry. Components are not required to issue supplemental guidance. Questions regarding reentry procedures or requirements should be routed to your Component-specified reentry point of contact.

Attachment:
As stated
RESOURCES FOR WORKFORCE FINAL RENTRY IMPLEMENTATION PLANNING

The following resources are available to assist Components in preparing for workforce reentry:

- **Force Health Protection Guidance**
  - Components should reference defense.gov for the latest guidance for the DoD on subjects such as mask-wearing, physical distancing, meetings, and travel.

  - https://www.chcoc.gov/content/additional-guidance-post-reentry-personnel-policies-and-work-environment
  - This guidance provides answers to common questions regarding agency authorities with respect to the subjects of telework, pay, hours of work, travel, labor relations, and employee relations.

- **Employee Assistance Programs**
  - As Components work through the reentry process, DoD supervisors and civilian employees are reminded that employee assistance programs are available as a resource during this transition period.