

The following are DPC issuances as of April 8, 2020 with the most recent issuance at the top.

Defense Pricing and Contracting (DPC) COVID-19 Guidance Provided for the Contracting Community

New

17. On April 8, 2020, DPC issued a class deviation to the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS) entitled, "CARES Act Section 3610 Implementation." This deviation addresses section 3610 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act which allows agencies to reimburse contractors for payment to workers who are prevented from working due to COVID-19 facility closures or other restrictions. The deviation provides a framework for contracting officers to assess any claimed allowable costs associated with the declared public health emergency, recognizing the importance of supporting affected contractors to ensure that, together, we remain a healthy, resilient, and responsive total force. In short order, a forthcoming implementation guidance memo and Frequently Asked Questions (FAQs) document will provide additional information.

Previously Reported

16. On April 6, 2020, DPC issued a policy memo entitled, "Change to the Delegation of Authority for Use of Other Transactions for Prototype Projects in Response to Coronavirus Disease 2019," notifying the workforce of the Under Secretary of Defense for Acquisition and Sustainment memo which temporarily approved delegation of authority for Other Transactions (OTs) for prototype project agreements and any follow-on production contract or OT specific to COVID-19 in excess of \$500 million. The memo also waives the requirement for advance Congressional notification. These changes remain in effect until the COVID-19 national emergency declaration is rescinded.
15. On April 3, 2020, DPC issued a class deviation to the DFARS entitled "Class Deviation 2020-O0012 – Undefined Contract Actions during the National Emergency for the Coronavirus Disease 2019." This deviation implements sections 13004 and 13005 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act to waive certain limitations to undefinitized contract actions (UCAs) if they are deemed necessary due to the national emergency caused by the COVID-19 pandemic. Specifically, this deviation removes the limit of 75% obligation on UCAs related to COVID.
14. On April 3, 2020, DPC issued a policy memo entitled, "Implementation of Class Deviation 2020-O0010—Progress Payment Rates," which provides answers to frequently asked questions (FAQs) from industry on a variety of topics related to progress payments, following the March 20 issuance of the deviation that raises the large business rate to 90% and the small business rate to 95%, to help with cash flow. One of the key FAQs (#1) clearly states that the "true up" of inception to date costs for industry will be paid.
13. On April 2, 2020, DPC issued a policy memo entitled "Department of Defense SmartPay® 3 Government-wide Commercial Purchase Card (GPC) Guidance for the Coronavirus Disease 2019 (COVID-19)," which offers information and guidance on card use in support of the pandemic.

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DPC provided this information, given the increased thresholds for using the card in support of emergencies.

12. On March 31, 2020, DPC issued a policy memo entitled “Reporting COVID-19 Related Actions to the Federal Procurement Data System” reminding the contracting community that it is crucial to accurately report new or amended contract actions to the Federal Procurement Data System (FPDS) in a timely fashion using the National Interest Action (NIA) code (P20C), added to FPDS on March 13, 2020. Timely and accurate use of the NIA code will help with data integrity and responding to COVID-19 spend questions.
11. On March 31, 2020, DPC distributed a Defense Contract Management Agency class Commercial Item Determination pertaining to the 2020 COVID-19 pandemic. The DPC memo contains an attachment with the DCMA determinations on various COVID related products/services that are determined to be commercial. The DPC memo helps to get the determination out broadly to the contracting workforce so they can leverage the CIDs as applicable, enabling them to use commercial procedures when buying identified supplies and services required by DoD in response to the COVID-19 pandemic will be urgent commercial item procurements.
10. On March 31, 2020, DPC added to its web site an Early Engagement Opportunity for the public to provide inputs on implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) in the acquisition regulations.
9. On March 30, 2020, DPC issued a policy memo entitled “Managing Defense Contracts Impacts of the Novel Coronavirus,” to provide overarching reminders about the availability of regulation authority to handle requests for equitable adjustments, stop work orders, and other contractual mechanisms to address the ongoing pandemic and spread of COVID-19. The memo was issued to address the range of scenarios the Military Components are facing, including companies that want to continue working but cannot (e.g., due to poor workforce health, inability to telework, inability to access facilities). It outlines relevant guidance, regulation, and laws in place to assist contracting officers to make the appropriate adjustments to each contract on a case-by-case basis to ensure the health and security of each contractor working with the Department of Defense and the Defense Industrial Base, while also maintaining productivity and readiness in the mission to support the warfighter.
8. On March 27, 2020, DPC issued a memo to the Defense Industrial Base entitled “Doing Business with the Department – Supporting the Response to COVID-19,” in response to offers from industry partners to provide needed medical resources and mission support services and military. The memo’s three-page attachment, “Contracting with the Department of Defense: A Step by Step Approach to the DoD Marketplace,” is designed to help partners who have not previously done business with the Federal government or the DoD. Industrial Policy helped distribute the memo to Industry Associations.
7. On March 27, 2020, to speed payment to contractors performing classified work, DPC issued a class deviation to the DFARS entitled “Class Deviation 2020-O0011 – Submission of Interim Vouchers under Classified Contracts.” This deviation enables classified contractors to submit interim vouchers directly to disbursing offices and bypass the step of submitting the voucher to the Defense Contract Audit Agency. On April 3, 2020, DPC issued Revision 1 to clarify interim vouchers should go directly to payment offices (not disbursing offices).

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6. On March 20, 2020, based on internal discussions and later industry feedback, we issued a class deviation to the DFARS entitled "Class Deviation 2020-00010 – Progress Payment Rates". This deviation raises the large business rate from 80% to 90% and from 90% to 95% for small business. The increased rates will apply once contracts are modified and stay into effect until the deviation is rescinded (once COVID-19 issues are past and industry cash flow returns to prior levels).
5. On March 20, 2020, based on additional feedback from industry, DPC issued a memo entitled "Contract Place of Performance – Public Health Considerations" that advised contracting officers to work with their contractors to provide as much flexibility for telework as possible as long as it did not degrade the mission (regardless of specific contract language not allowing for teleworking).
4. On March 20, 2020, based on DHS guidance, and Ms. Lord's subsequent memo to industry, DPC issued a policy memo entitled "Defense Industrial Base Contract Considerations". This memo identified Defense Industrial Base contractors that operate under a DX or DO rated order as critical infrastructure. And we gave flexibility to PEOs, HCAs and commander's as mission owners to identify as critical infrastructure other efforts performed under unrated orders. This direction would allow contractors to continue working if defined as critical, if there are state or local direction to shelter in place.
3. On March 10, 2020, after hearing some feedback from industry, DPC issued a memo entitled "Planning for Potential Novel Coronavirus Contract Impacts". This memo noted that DoD missions are accomplished by the total force (military, civilian and contractor personnel) and advised that the entirety of the workforce should monitor the CDC website for health and safety information. We strongly encouraged contracting officers to work with their requirements owners and program managers to ensure safety measures for the total workforce were taken while ensuring mission continuity. And, we noted that it is vital to be in close communication and coordination with all stakeholders including contractors.
2. On March 6, 2020 DPC issued a memo entitled "Emergency Acquisition Flexibilities – Disaster or Emergency Assistance Activities" reminding the workforce of the various procurement flexibilities that will come into play when/if the President declares a major disaster or emergency declaration. This reminder was made prior to POTUS' declaration.
1. On March 5, 2020 DPC issued a memo entitled "Continuation of Essential Contractor Services" reminding the contracting community in light of COVID-19 to use the provision and clauses in the Defense Federal Acquisition Regulation Supplement (DFARS) pertaining to mission essential functions and the responsibilities of contractors who have this clause in their contracts.

Availability of the Guidance:

All the publications noted above are posted on DPC's external website, specifically the page dedicated to COVID-19 issues. The link is identified below.

<https://www.acq.osd.mil/dpap/pacc/cc/COVID-19.html>

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This site also contains COVID-related publications by the Military Components, as well as the Office of Management and Budget, which are relevant to the contracting community.

We anticipate that additional guidance will be provided as new issues/questions arise and/or the situation continues.