



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

20 March 2020

MEMORANDUM FOR ALMAJCOM-FOA-DRU
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FROM: SAF/AQ

SUBJECT: Creative Contracting Techniques for Maintaining the Financial Health of the
Defense Industrial Base

In facing these challenging times, Contracting Officers, in partnership with our Program Executive Officers and requirements owners, should take all prudent actions within their authority to minimize potential negative effects of contract disruptions arising from Coronavirus Disease 2019 (COVID-19). Contracting Officers should use every authority and flexibility at their disposal—including waiving regulations and modifying contract terms and conditions—to accomplish this mission.

We must also maintain our Defense Industrial Base as a matter of national security and as part of our nation's critical infrastructure. Frequent collaboration and communication among all parties impacted or potentially impacted by COVID-19 is critical. Transparency on decisions affecting contract performance and contractor personnel is essential. Prudent actions to keep our DIB healthy must be determined on a case-by-case basis. Each case will depend on the specific contract, the needs of the Air Force and Space Force, direction from local and state governments, and uncertainty from the current situation. To deal with these challenges, Contracting Officers, consistent with prior guidance, at a minimum should—

(a) Assess contract terms and conditions for appropriateness and necessity for changes, including relevant contract clauses, such as FAR 52.247-1 Government Delay of Work, FAR 52.249-14 Excusable Delays, FAR 52.242-14 Suspension of Work, DFARS 252.237-7023, Continuation of Essential Contractor Services, and FAR 52.242-15 Stop-Work Order.

(b) Coordinate with program offices and contractors to determine if contract work can be done via telework by the contractor's employees. Determine whether necessary resources are in place or can be implemented to accommodate telework, if appropriate. Determine whether telework is addressed adequately in the contract. If it is not, consider modifying the contract.

(c) Consider modifying contracts to provide cash flow relief, when feasible, such as:

- Changing progress payments levels through use of unusual progress payments. Required approvals should be sent directly to the decision authority and will be expedited.

- Payment of invoices that are not considered advanced payments can be accelerated, but no earlier than seven days with appropriate approval.
- Work with DCMA to reevaluate, reduce or cancel any withholds taken.
- Consider no-cost schedule extensions arising from COVID-19 and exercise discretion when applying penalty-type clauses such as liquidated damages.
- Consider creating tailored clauses to address special warranty or acceptance terms in lieu of cash withholds. Consult with SAF/AQC for examples.
- Advanced payments, where advisable, will be considered and approved on an expedited basis and should be forwarded directly to SAF/AQCP.

(d) Discuss contractor policies, collective bargaining unit agreements, and other agreements pertaining to paid leave and alternative forms of compensation.

(e) Consider the use of UCA procedures to accelerate contract awards in negotiations to accelerate sources of revenues for our Contractor partners.

(f) After consulting with PEOs, Wing Commanders, and requirements owners, take into account mission critical contracts (including Continuity of Operations, retention of critical contractor resources, and mission essential services) and make appropriate contract modifications, including temporary measures to most effectively and efficiently scale back operations on a short term basis.

Since protection of our Defense Industrial Base is a concern to the entire Department of Defense, OUSD may provide additional guidance including broader authorities. Of course, in the event the new guidance supersedes or renders the instructions in this memorandum unnecessary, follow the most current guidance.

Please direct any questions to Gerri Frye, SAF/AQCP, (571) 256-2367 or DSN 260-2367.



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