



Homeland  
Security

April 16, 2020

Subject: DHS Chief Procurement Officer Message for the DHS Contractor Workforce for  
Implementing CARES Act Section 3610

DHS Contractor Community,

DHS continues to respond to needs that result as COVID-19 impacts communities across the United States. The health and safety of the DHS government and contractor workforce remains the priority to meet our mission in securing the homeland. We must work together to remain healthy for the duration of this national emergency, recover from this pandemic and maintain DHS mission readiness.

The spread of COVID-19 has affected government contractors in several ways. Fortunately, we have regulatory flexibilities provided in the terms and conditions to assist in modifying contracts to provide adjustments if necessary. In the event the contracting officer directs changes to the terms and conditions of contract performance, which may include impacts due to COVID-19, the contractor may be entitled to an equitable adjustment to contract price using the standard FAR changes clauses, FAR 52.243-1 or FAR 52.243-2. Requests for equitable adjustment must be considered on a case-by-case basis. Contracting officers will review requests for equitable adjustments and take into consideration whether the costs would be allowable, allocable, and reasonable.

In addition, DHS is implementing HR 748, Section 3610 of the CARES Act (Enclosure 1). The CARES Act allows agencies to modify the terms and conditions of a contract, or other agreement, without consideration, to reimburse at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of Government and contractor personnel, but in no event beyond September 30, 2020.

This applies only to a contractor whose employees or subcontractors cannot perform work on a site that has been approved by the Federal Government, including a federally-owned or leased facility or site, due to facility closures or other restrictions, and who cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID-19. The maximum reimbursement authorized must be reduced by

the amount of credit a contractor is allowed pursuant to division G of Public Law 116–127 and any applicable credits a contractor is allowed under this Act.

DHS contracting officers will work closely with their contractors to determine the applicability of this relief to each contract, and to develop the implementing terms and conditions appropriate for the contract. At a minimum, these implementing terms will require Contractors to segregate and report any amount billed under this authority. This authority expires September 30, 2020.

We appreciate your continued support of the DHS mission.

Sincerely,

Soraya Correa  
Chief Procurement Officer

## **Enclosure 1**

### **SEC. 3610. FEDERAL CONTRACTOR AUTHORITY.**

Notwithstanding any other provision of law, and subject to the availability of appropriations, funds made available to an agency by this Act or any other Act may be used by such agency to modify the terms and conditions of a contract, or other agreement, without consideration, to reimburse at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of Government and contractor personnel, but in no event beyond September 30, 2020. Such authority shall apply only to a contractor whose employees or subcontractors cannot perform work on a site that has been approved by the Federal Government, including a federally-owned or leased facility or site, due to facility closures or other restrictions, and who cannot telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020 for COVID-19: *Provided*, That the maximum reimbursement authorized by this section shall be reduced by the amount of credit a contractor is allowed pursuant to division G of [Public Law 116-127](#) and any applicable credits a contractor is allowed under this Act.