

OMB Reminds Agencies to be Flexible in the COVID-19 Crisis

Written by Nick Sanders

Tuesday, 24 March 2020 00:00

On March, 20, 2020, the Office of Management and Budget (OMB) reminding Executive Agencies to be flexible with respect to contractor performance challenges during the COVID-19 crisis. Here's [a link](#) to the official Memo, entitled "Managing Federal Contract Performance Issues Associated with the Novel Coronavirus (COVID-19)."

Having given you the link, we are now going to quote extensively from the Memo, because so many of you will not click the link.

Federal contractors play a vital role in helping agencies meet the needs of our citizens, including the critical response efforts to COVID-19. ... This memorandum identifies steps to help ensure this safety while maintaining continued contract performance in support of agency missions, wherever possible and consistent with the precautions issued by the Centers for Disease Control and Prevention (CDC). Achieving these important goals - *and maintaining the resilience of our Federal contracting base*

- requires continued communication by agencies with their contractors, both small and large, and effective leveraging of flexibilities and authorities to help minimize work disruption.

(Emphasis added.)

But there's more!

Agencies are urged to work with their contractors ... to evaluate and maximize telework for contractor employees, wherever possible. ... Equally important, *agencies should be flexible in providing extensions to performance dates*

if telework or other flexible work solutions, such as virtual work environments, are not possible, or if a contractor is unable to perform in a timely manner due to quarantining, social distancing, or other COVID-19 related interruptions.

Agencies should take into consideration whether it is beneficial to keep skilled professionals or key personnel in a mobile ready state for activities the agency deems critical to national security or other high priorities.

Additionally, agencies should also consider whether contracts that possess capabilities for addressing impending requirements such as security, logistics, or other function, *may be retooled for pandemic response consistent with the scope of the contract*

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(Emphasis added. Again.)

But we're not done yet!

... agencies are encouraged to leverage the special emergency procurement authorities authorized in connection with the President's emergency declaration under section 501(b) of the ... the "Stafford Act". These flexibilities include increases to the micro-purchase threshold, the simplified acquisition threshold, and the threshold for using simplified procedures for certain commercial items, all of which are designed to reduce friction for contractors, especially small businesses, and the government and enable more rapid response to the many pressing demands agencies face. The availability of these flexibilities does not mean they will always be suitable, and agencies should exercise sound fiscal prudence to maximize value for each taxpayer dollar spent. At the same time, *the acquisition workforce should feel fully empowered to use the acquisition flexibilities, as needed* , consistent with good business judgment in response to this national emergency.

(Emphasis added. Yet again.)

The OMB Memo ends with a set of "Frequently Asked Questions." The FAQ addresses schedule delays and requests for equitable adjustments. We won't quote the answers here; we've already quoted enough from the Memo. However, we strongly recommend you read them yourself. We provided a link to the Memo in the first paragraph. If you didn't click the link then, we suggest you do so now.