



DEFENSE CONTRACT AUDIT AGENCY
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Frequently Asked Questions: COVID-19

INTRODUCTION:

The COVID-19 national emergency is an unprecedented event that presents unique audit and cost allowability issues. The following FAQs do not address all topics or all provisions of the Families First Coronavirus Response Act (FFCRA) and Corona Virus Aid, Relief and Economic Security (CARES) Act. The answers in these FAQs are subject to revision based on Defense Pricing and Contracting (DPC) guidance. Please remember that only Contracting Officers make determinations about contract modifications, adjustments, and reimbursement under Section 3610 of the CARES Act. We will update this page as guidance is issued or changes are required.

FAQS:

1. Which entities are subject to the CARES Act?

Answer: The CARES Act applies to for-profit entities, small businesses, non-profit organizations as described in section 501(c)(3) of the Internal Revenue Code, Veterans organizations, and Tribal businesses described in the Small Business Act.

2. Can a contractor bill the Government for costs that are being paid through a Paycheck Protection Program (PPP) loan?

Answer: Yes, but the Government will be entitled to a credit if the PPP loan is subsequently forgiven. The Paycheck Protection Program (PPP) permits businesses to borrow money to fund business operations. Those loans may be forgiven if the proceeds are used for covered expenses during the covered time period, as defined in the law. FAR 31.201-1, Composition of Total Cost, states that total cost is the sum of the direct and indirect costs allocable to the contract less any allocable credits. Accordingly, to the extent that PPP credits are allocable to costs allowed under a contract, the Government should receive a credit or a reduction in billing for any PPP loans or loan payments that are forgiven.

3. Will deferring current payroll taxes to 2021 and 2022 change the contractor's incurred payroll taxes for the current period?

Answer: No. CARES Act Section 2302 permits deferral of payroll taxes to 2021 and 2022. The deferred payroll tax is a cost of the current accounting period that should be accrued, billed, and properly accounted for by the contractor. The cost will be

remitted to the IRS by the adjusted deadlines.

4. Should the contractor adjust its provisional billing rates if the contractor is deferring current payroll taxes to 2021 and 2022?

Answer: No. CARES Act Section 2302 permits deferral of payroll taxes to 2021 and 2022. The contractor's provisional billing rates were developed with payroll taxes included and the deferred payroll tax is still a cost of the current accounting period. The deferred taxes should be accrued, billed, and properly accounted for by the contractor. The cost will be remitted to the IRS by the adjusted deadlines.

5. Can payment of payroll taxes be deferred if a contractor has a PPP loan forgiven under Section 1106?

Answer: No. An employer who has a PPP loan forgiven in accordance with Section 1106 of the CARES Act is not eligible to defer payment of payroll taxes under the provisions of Section 2302.

6. Which leave costs can a contractor have reimbursed through CARES Act Section 3610?

Answer: CARES Act Section 3610 permits Agencies to reimburse contractors for certain leave costs related to COVID-19. In general, leave costs granted by a contractor to employees who are unable to work on-site due to a COVID-related closure or other event, and who also cannot telework, are reimbursable under this section at "contract billing rates." The Director, Defense Pricing and Contracting, has provided detailed guidance in this area and continues to do so as the legislative and contracting environment evolve. See the following link for current DPC guidance and FAQs: <https://www.acq.osd.mil/dpap/pacc/cc/COVID-19.html>.

7. Can a contractor receive CARES Act Section 3610 cost reimbursements and still receive payroll tax credits and PPP loan forgiveness?

Answer: No. A contractor may not be reimbursed through Section 3610 for leave costs that was reimbursed to the contractor through another credit. The Director, Defense Pricing and Contracting, has provided detailed guidance in this area and continues to do so as the legislative and contracting environment evolve. See the following link for current DPC guidance and FAQs: <https://www.acq.osd.mil/dpap/pacc/cc/COVID-19.html>.

8. Is there additional guidance on COVID-19 that applies to Nonprofits and Institutes of Higher Education (IHE) and where can I find it?

Answer: Yes. The Office of Management and Budget (OMB) has issued specific guidance that impacts Nonprofits and IHEs. OMB issued Memorandum No. M-20-17 dated March 19, 2020, to provide administrative relief to an expanded scope of recipients affected by the COVID-19 crisis. This memorandum itemizes actions that federal awarding agencies are authorized to take and requires awarding agencies to

maintain records on the level of particular exceptions provided to recipients. The OMB M-20-17 can be found at:

<https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf>.

In addition to this guidance, The Department of Defense issued a Frequently Asked Questions (FAQ) for DoD Research Proposers and Awardees Impacted by the Novel Coronavirus on the OMB memo, which provides additional clarification. The DoD FAQs can be found at:

<https://basicresearch.defense.gov/COVID-19/Frequently-Asked-Questions/>

9. Is the audit team responsible for considering the impact of COVID-19 on existing and future forward pricing engagements?

Answer: Yes. Auditing standards require auditors to consider the impact of known information up to the date of audit report issuance. The circumstances and manner in which each contractor and our audits have been impacted by COVID-19 will vary. Events such as layoffs, maximum telework, shut downs, slow-downs, new personal protective equipment, et cetera could impact forward pricing rates. Also impacted is to what degree historical data (prior to and during the COVID-19 national emergency) accurately represents future operations. Auditors should assess how the contractor's current and future operations have been impacted by COVID-19 and develop audit procedures to address identified risks.

If the contractor's proposal does not consider the potential impact of COVID-19 and the impact is significant enough that its disclosure is necessary to ensure the proposal is representative, the auditor should determine if the contractor plans to revise the proposal, notify the requestor, and take appropriate action.

10. Should forward pricing engagements always include a general scope limitation due to the potential impact of COVID-19 on the contractor's proposal?

Answer: No. The COVID-19 pandemic itself does not prevent auditors from complying with GAGAS on all audits. The manner in which a contractor's estimates are impacted as a result of COVID-19 and our ability to obtain sufficient appropriate evidence to form an audit opinion will vary. Therefore, a general scope limitation is not appropriate.

Consistent with existing guidance, the audit team should assess whether scope limitations exist in every audit. Reservations about the engagement (scope limitations) occur when the auditor is unable to obtain sufficient appropriate evidence. Scope limitations can refer to any unresolved problem the auditor had in complying with applicable GAGAS requirements (e.g., the auditor was not able to perform all the procedures that he or she considers necessary in the circumstances) or, in an agreed-upon procedures engagement, the specific procedures agreed to by the parties.

- When sufficient appropriate evidence for procedures (including procedures designed as a result of COVID-19 related risks) can be performed, no scope limitation would be required.
- When the auditor cannot perform all the procedures that he or she considers necessary in the circumstances, a scope limitation should be reported.
- Any concerns the auditor believes the reader should know about that do not rise to the level of a scope limitation should be discussed with the contracting officer prior to the report issuance and can be reported in the “Report on Other Matters” section.

11. If we observe the contractor extracting a report from its system via cloud meeting (e.g., Webex), is this sufficient or does the audit team need to observe the contractor in person to avoid a scope limitation?

Answer: The observation performed via cloud meeting may be sufficient. If, in the audit team’s professional judgment, the quality of the audit evidence obtained through the cloud meeting was sufficient for their intended purpose, then a scope limitation is not required. If this is the case, the audit team will not need to perform the observation in person after we resume normal operations.

12. Is a scope limitation always required for audits performed during the COVID-19 national emergency?

Answer: No, not always. The COVID-19 scope limitation discussed in MRD 20-PAS-001(R), Audit Alert on Limited Contractor Access Due to COVID-19, is similar to other scope limitations. The audit team should evaluate the audit evidence it received during the audit and its impact on the audit opinion. If the audit team has obtained sufficient appropriate audit evidence by performing alternative procedures that mitigate the risk of material misstatement to an acceptable level, then a scope limitation should not be reported.

13. Is a CAS Disclosure Statement revision creating a COVID-19 Leave cost category considered a cost accounting practice change requiring a cost impact proposal?

Answer: No, the establishment of a new cost category is not a cost accounting practice change requiring a cost impact proposal.