

NASA
Office of Procurement White Paper on Coronavirus Response for
Preservation of the Space Industrial Base and/or Mission Operational Readiness

Summary of NASA's Communication with NASA Contractors:

- **March 10 Coronavirus Message issued to the NASA Contractor Community.** Letter was to inform contractors of NASA's operating status, travel guidance, sources of information relative to coronavirus; NASA telework day; and encourage teleworking during the coronavirus situation.
- **March 18 Provided Stage 3 Contractor Notification template to Procurement Officers for use when their Center went to Stage 3.** Stage 3 notification made contractors aware that restricted access to specific NASA facility and mandatory telework in place for Government personnel; identified mission essential onsite activities for each contractor; provided safety and health guidance relative to coronavirus; travel guidance; and if impacts to contract performance due to coronavirus, instructions for notifying contracting officers. Center Procurement Offices issued letters to Contractors.
- **March 18 Provided Stage 4 Contractor Notification template to Procurement Officers for use when their Center went to Stage 4.** Stage 4 notification made contractors aware that specific NASA facility closed and mandatory telework in place for Government personnel; identified protecting life and critical infrastructure activities for each contractor; provided safety and health guidance relative to coronavirus; travel guidance; and if impacts to contract performance due to coronavirus, instructions for notifying contracting officers. Center Procurement Offices issued letters to Contractors.
- **March 23 issued Coronavirus Letter to the 13 Prime Contractors based on dollar value and program activities.** Letters requested that they evaluate the NASA work at their facilities that they can perform safely and provide the following information relative to the work they cannot perform.
 - Project Name
 - Contract Number
 - Facility name and location where work currently performed
- **March 25 issued Coronavirus Letter to 2 additional Prime Contractors based on dollar value and program activities.** Letters were identical to letters issued on March 23.
- **April 1 issued Coronavirus Letter to 15 Prime contractors based on dollar value and program activities.** Letters pertained to conducting essential critical business operations/functions for NASA during the COVID-19 situation.
- **All letters were developed as an Agency enterprise approach to maintain consistency across the multiple Procurement Offices.**

In parallel to the above communications with the NASA Contractor community and prior to the CARES Act being enacted into law, NASA's Office of Procurement and the Office of General Counsel worked to identify flexibilities with in the current laws, regulations, and polices that would enable the Agency to preserve the Readiness of of the Space industrial base and Mission Operational Readiness during this COVID-19 situation.

On March 24, 2020 issued a notification to the NASA Contractor Community, both on-site and off-site contractors to instruct them on the authorities that NASA would utilize to Preserve the Readiness of the Space Industrial Base and to maintain Mission Operational Readiness.

- Authorities identified:
 - FAR 52.242-15 Stop Work Order (Offsite), when a contractor informs us that they cannot safely perform work at their facilities, either due to state guidelines or their own internal assessment; and or applicable clause such as 52.212(4) T&C for Commercial Items
 - NFS 1852.242-72 Denied Access, when a NASA Facility is closed and there is no work that a Contractor or their employee can accomplish from a remote location.

NASA is not automatically issuing Stop Work Orders or Denied Access letters. To initiate either of these two events a contractor must follow the steps in the MEMORANDUM FOR NASA CONTRACTOR COMMUNITY issued on March 24th.

Step 1: Notify your contracting officer (phone or email).

Step 2: Click the link within the letter which records your request and formally notifies the Agency of your need of an Advance Agreement due to performance impacts due to COVID-19.

The Contracting Officer (CO) and Contracting Officer Representatives (COR) will work with you to complete the Advance Agreement. Within the advance agreements you will identify what work will continue, what work will not continue, and the quantity of staff that is impacted, including those that cannot telework. The Contractor shall also address NASA identified alternate work that potentially could be performed remotely, items such as training and documentation of process improvements, lessons learned, or other contract specific items (drawings, processes, etc.).

Step 3: The CO will create a Bilateral Modification to incorporate Advance Agreement into Contract.

Step 4: The contractor will either invoice in accordance with the Continuity of Work Invoicing Instructions and/or invoice in accordance Invoicing for Weather and Safety Leave Impacts. The Advance Agreement contains the invoicing instructions.

Continuity of Work Invoicing – Applies to ongoing work to include telework and alternate work. Invoice process is normal.

Invoicing for Weather and Safety Leave – Allows for monthly provisional billing

- a. Enables agencies to reimburse paid leave that contractors provide to keep their employees and subcontractors in a ready state when contractors cannot perform work.

- b. Enable NASA to track this cost separately for reporting purposes, we are asking Contractors to identify as weather and safety leave for charging and invoice purposes.
- c. Requires a separate invoice and must adhere to the instructions on the Advance Agreement for billing and labeling the invoice (COVID-19 nomenclature).
 - i. Invoice shall separate labor and non-labor expenses.
- d. Requires Contractor to flow down to subcontractors and employees.
- e. Requires Contractors that received loans that are forgiven through the CARE Act Authorizations will be required to identify those amounts and per the Division G of Public Law 116–127.

Step 5: Return to WORK/Operational Norms

- CO and Contractor finalize and reconcile provisional billing and close out the Advance Agreement.

With the passage of the CARES Act it compliments NASA other authorities and explicitly states Contracting Officers now have the authority to reimburse contractors and their subcontractors for paid leave given:

- A. The employees of the prime contractor or subcontractor cannot perform work due to a facility closure or other restriction;
- B. They cannot telework because their job duties cannot be performed remotely; and
- C. The employees are kept at a “ready state.”

NOTE: There is no change on NASA’s Office of Procurement process regarding the CARES Act.