



March 18, 2020

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
1236 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
1705 Longworth House Office Building
Washington, D.C. 20515

Re: Support to Government Contractors Unable to Access Federal Facilities during the COVID-19 Pandemic

Dear Congressional Leaders:

The undersigned organizations write to seek your support for the issuance of adequate guidance to ensure the health and economic security of the thousands of federal government contractors that work side by side with federal employees each day in support of their mission. As the COVID-19 pandemic has reached federal offices forcing closures and quarantines, there has been inconsistent federal agency guidance and direction as to the treatment of contractors during this uncertain time.

We urge you to include language in the pending relief legislation to encourage the use of flexible work solutions, including telework and virtual work environments, for contractors, as appropriate. Moreover, as state and local governments consider further restrictions on business operations, we urge an exemption when appropriate for employees performing work deemed essential for national security, including but not limited to defense, intelligence and aerospace development and manufacturing.

Further, we request that the legislation require guidance to Federal Contracting Officers from the Office of Management and Budget to provide equitable adjustments to contractors who are unable to access the federal facility required to perform their duties, consistent with FAR Clauses 52.249-14 related to excusable delays and 52.249-8 (c) and (d) related to the occurrence of epidemics as excusable delays as it relates to the inability of a contractor to perform in a timely manner.

Accordingly, below is draft language for your consideration.

Bill Language:

The (OMB) Director, in consultation with the Office of Federal Procurement Policy, shall provide guidance to federal contracting officers to execute fully compensable equitable adjustments to contracts associated with any federal, state, or local government directive, decision or recommendation to limit access to a federal facility as a result of the COVID-19 epidemic that resulted in a federal contractor's inability to perform under a contract due solely to such decision.

Summary/Report Language:

Maintaining federal operations and contractor support

Government agencies are encouraged to utilize telecommuting alternatives to the greatest extent possible to provide ongoing program management and support to citizens. Federal agencies may decide to close, or limit access to, federal facilities to reduce physical contact. Such decisions equally impact contractors, who are required under the scope of their contracts to perform at those facilities. Telework and virtual work environments are also encouraged for contractor support whenever possible. Language has been included in the bill to authorize contract equitable adjustments in cases where federal facility access limitations or denials bar contractors from performing their duties as required. Congress supports an environment that allows federal employees and contractors to continue to deliver with minimal impact to normal operations.

We look forward to working with both chambers on this matter that directly impacts the health, safety and economic security of both the Federal contracting community and our Nation's industrial supply base. We appreciate your attention to this matter. Should you have any questions or wish to discuss further, please contact Kea Matory, at kmatory@ndia.org or Wes Hallman, at whallman@ndia.org.

Sincerely,

American Council of Engineering Companies
Associated General Contractors of America
Center for Procurement Advocacy (CPA)
U.S. Chamber of Commerce
Commercial Spaceflight Federation
CompTIA
Information Technology Industry Council
National Defense Industrial Association
Professional Services Council