



U.S. Small Business
Administration

Office of Government Contracting FAQs for Coronavirus

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What if I am unable to fulfill the Federal government contract awarded to me because of the Coronavirus?

- Your first obligation as a prime contractor on a Federal government contract is to complete performance on that contract.
- If you do not perform at a satisfactory level on a Federal government contract, the contracting officer may have to terminate your firm for non-performance.
- Should your firm be terminated – for convenience or default – on a Federal government contract, it is possible you may not receive another Federal contract due to documented poor past performance.

For any potential performance interruptions, contractors should review their contracts to see what, if any, latitude or remedy for performance delays are available.

- While most commercial contracts have a *force majeure* clause that excuses performance under extreme circumstances, including pandemics, government contracts do not typically utilize this kind of commercial language.
- Instead, contracts usually contain Federal Acquisition Regulation (FAR) and other agency-specific regulations.

For any potential performance interruptions, contractors should review their contracts to see what, if any, latitude or remedy for performance delays are available.

- Some cost-reimbursement, time-and-material, and labor-hour government contracts contain **FAR Clause 52.249-14 – Excusable Delays**. This FAR clause, if inserted into the contract, provides that the Contractor shall not be in default because of any failure to perform if the failure arises from causes beyond the contractor's control. Such circumstances include:

If the failure arises from causes beyond the control and without the fault or negligence of the contractor.

- Examples of these causes are:

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- (1) acts of God or the public enemy,
- (2) acts of the Government in either its sovereign or contractual capacity,
- (3) fires,
- (4) floods,
- (5) epidemics,
- (6) quarantine restrictions,
- (7) strikes,
- (8) freight embargoes and
- (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the contractor.

For any potential performance interruptions, contractors should review their contracts to see what, if any, latitude or remedy for performance delays are available.

- Notably, the government still reserves the right to terminate the contract for convenience if there is a delay in contractual deliverables to the government subject to the clause above.
- Further, all Federal government commercial contracts should contain FAR Clause 52.212-4(f), which provides that the contractor shall be liable for default unless non-performance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence such as acts of God or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather and delays of common carriers.

For any potential performance interruptions, contractors should review their contracts to see what, if any, latitude or remedy for performance delays are available.

- The contractor shall notify the contracting officer, or in the case of a subcontractor – the Prime’s contracting officer, **in writing as soon as it is reasonably possible** after the commencement of any excusable delay.
- Providing official notification will set forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the contracting officer of the cessation of such occurrence.

For any potential performance interruptions, contractors should review their contracts to see what, if any, latitude or remedy for performance delays are available.

- Contractors should take note that *this clause **requires** contractors to notify the contracting officer in writing “as soon as it is reasonably possible”* and mitigate any potential impact.
- With or without this clause, contractors would be wise to be in **frequent communication** with their government counterparts to set expectations and develop a plan.

What happens if government worksite or personnel is unavailable, making it difficult or impossible to fulfill my Federal government contract?

- Contractors should communicate in advance with agencies and determine the effects if it is possible that government employees will not be at their worksites and not be able to supervise a contract properly.
- It is best to complete tasks that may be done without government guidance and continue to attempt to reach the point of contact on the contract.
- Contractors **should not** make significant changes to schedule, scope, deliverable, or cost without formal approval to do so.

Note: Contractors may also be entitled to wind down and startup costs if performance is not possible due to the government's unavailability.

What if I'm a subcontractor on a Federal contract? How are subcontracts impacted?

- Contracts between a Prime contractor and its subcontractor(s) are considered commercial contracts.
- Subcontractors are encouraged to review agreements with their Prime Contractor representative to fully understand their obligations and recourse options in the event of impact to performance due to the coronavirus.
- As noted above, many commercial contracts contain a *force majeure* clause that provides for excusable delay for things like epidemics, quarantine restrictions, etc.
- However, it is important to know that these agreements often allow prime contractors to seek goods and services from other sources if a subcontractor cannot fulfill its obligations for an excused reason.

Who, in SBA, can I contact if I have questions regarding the impact of the Coronavirus on my Federal contract?

- An SBA Procurement Center Representative (PCR) is an excellent resource to address questions regarding the impact to a contract.
- In addition to contract questions, the PCR may be able to address – or will refer you to someone who can answer – issues regarding small business size standards, certificates of competency, and subcontracting.
- The main mission of the PCR is to assist small businesses win federal contracts through advocacy and access.
- PCRs also conduct market research, assist small businesses with payment issues, provide counseling on the contracting process, and more.

PCR Contacts for Wisconsin

MR. RYAN CLEARY

Procurement Center
Representative
U.S. Small Business
Administration
Office of Government
Contracting, Area IV
500 W. Madison Street – Suite
1150
Chicago, IL 60661-2511
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MR. STEVEN A. SZALO

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Tel: (309) 782-6159
Email: steven.szalo@sba.gov

Disaster Loan Assistance

Economic Injury Disaster Loans (EIDL)

What is an Economic Injury Disaster Loan?

- It is a low-interest federal loan issued by the SBA to alleviate economic injury small businesses or private non-profits are experiencing injury and, in this case, injury caused by the Coronavirus (COVID-19). They become available once a county or state gets an Economic Injury Disaster Loan assistance declaration also issued by the SBA.
- SBA's Economic Injury Disaster Loans (EIDL) offer up to \$2 million in assistance and can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing.

Economic Injury Disaster Loans (EIDL)

- These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The interest rate is 3.75% for small businesses without credit available elsewhere; businesses with credit available elsewhere are not eligible. The interest rate for non-profits is 2.75%.
- The application may be accessed here:

<https://disasterloan.sba.gov/ela/>

Economic Injury Disaster Loans (EIDL) Assistance

Assistance contacts

- Phone: 800-659-2955 7a to 9p ET seven days a week
- Website: www.sba.gov/disaster
- Phone: 800-659-2955 7a to 9p ET seven days a week
- Individuals who are deaf or hard-of-hearing can call 800-877-8339
- **Wisconsin's SBA office will also offer daily webinars starting Saturday, March 21 to answer your questions--register now:**

Register for 10 am webinars: <http://ow.ly/eKOR50yRB1q>

Register for 2 pm webinars: <http://ow.ly/gQLU50yRAVH>

SBA Disaster Loan Assistance

ORGANIZATION	LOCATIONS	PHONE	EMAIL/WEBSITE
SBA	Milwaukee Madison	414-297-3941 608-441-5263	Wisconsin@sba.gov
SBDC Network	13 offices statewide	Answerline 800-940-7232	Find local contacts at https://business.wisconsin.edu/about/covid-19/
WI Women's Business Initiative Corp.	Milwaukee, Madison, Racine, Kenosha, Appleton, Green Bay, La Crosse		info@wwbic.com www.wwbic.com
Western WI Women's Business Center	Independence, Eau Claire		www.successfulbusiness.org
SCORE	Milwaukee Madison Marshfield	414-297-3942	Score.28@scorevolunteer.org Counseling.28@scorevolunteer.org madison.Score@scorevolunteer.org ch.admin0535@scorevolunteer.org
Veterans Business Outreach Center	Statewide	608-204-8909	ltaylor@wwbic.com

All locations are working remotely. Contact by phone or email.

WEDC announces targeted grants to small businesses suffering losses due to coronavirus emergency 3.18.20

\$5 million grant program to assist “smallest of the small” businesses around state

The goal of the Small Business 20/20 program is to support small businesses and micro-enterprises adversely economically impacted by the COVID-19 Virus.

Applications for business assistance must be processed through the CDFIs and not WEDC. WEDC plans to identify the participating CDFIs within the next two weeks.

For more information visit: <https://wedc.org/blog/wedc-announces-targeted-grants-to-small-businesses-suffering-losses-due-to-coronavirus-emergency/>

SBA - Wisconsin Offices

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Phone: 414-297-3941

Wisconsin District Office

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