



March 26, 2020

SPE Memo SPE-2020-08

MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES AND HEADS OF CONTRACTING ACTIVITY

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Date: 2020.03.26 10:07:12 -04'00'

SUBJECT: Guidance Regarding Acquisitions and Contracts for GSA Essential Critical Infrastructure Activities and Novel Coronavirus Disease 2019 (COVID-19)

1. Purpose.

Where possible, GSA has strongly encouraged contractors to permit their employees to work from home. This continues to be GSA's position. However, some work performed by GSA contractors must be performed on-site. Examples include work involving the construction, operation and maintenance of federally owned and leased facilities, working with classified information, and many other types of work for which an on-site presence is required.

As part of the response to Novel Coronavirus, state and local governments have issued mandatory shelter-in-place/stay-at-home or similar orders. Essential critical infrastructure activities are generally exempted from these orders.¹ This memorandum provides guidance on what constitute essential critical infrastructure activities and provides direction both for assisted acquisition and for GSA contracts and task orders. It permits Heads of Contracting Activity (HCAs) to issue letters to GSA contractors, attesting to the activities that are determined to be in support of essential critical infrastructure activities. The contractors, in turn, may permit their employees to carry these letters to demonstrate that they are working on essential critical infrastructure activities.

Contractors supporting essential critical infrastructure activities are expected to maintain staffing and work schedules necessary to meet contract requirements. In some cases, this may be the normal work schedules that had been in place before the declared national emergency and before issued state, county, or city shelter-in-place/stay-at-home or similar orders.

¹ For example, California's stay-at-home order exempts individuals "needed to maintain continuity of operations of the federal critical infrastructure sectors," at <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>.

2. Criteria for Identifying Critical Infrastructure.

The [Cybersecurity and Infrastructure Security Agency Act of 2018](#), Public Law No. 115-278, provides the Secretary of Homeland Security with authority to coordinate an effort of federal agencies to secure and protect America's critical infrastructure industry. In the President's [Coronavirus Guidelines for America](#), issued on March 16, 2020, he states that:

"If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule."

In a [Department of Homeland Security \(DHS\) Memorandum](#), dated March 19, 2020, attached below, DHS defines the criteria for being considered "Essential Critical Infrastructure Workers," i.e., performing work that is essential to continued critical infrastructure viability. DHS lists examples of workers who are considered to be performing such activities. Those contractors are expected to maintain staffing and work schedules necessary to meet contract requirements.

DHS considers "medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works" industries as part of the nation's essential critical infrastructure, as well as a wide variety of buildings that are owned or leased by the Federal government. For example, some Federally-owned or Federally-leased buildings can be classified as critical infrastructure if the business conducted in those buildings is supporting any of the categories in DHS's memo. Also, contractors performing on all rated orders placed under the Defense Priorities and Allocations System (DPAS) are considered to be performing essential critical infrastructure activities.²

Consequently, depending upon their particular facts and circumstances, activities performed on GSA contracts may be essential and necessary for continuity as part of our nation's essential critical infrastructure. Whether or not a contract is part of the essential critical infrastructure can be best determined at the local level. As such, GSA HCAs are best suited to make that determination. The authority to make this determination is not delegable. HCAs should look at the purpose of a contract to determine if the work under that contract is an essential critical infrastructure activity.

² The DPAS establishes procedures for the placement, acceptance, and performance of priority-rated contracts and orders, and is used to support the acquisition of industrial resources needed to support certain requirements. "Rated orders" provide for preferential acceptance and performance of a Government requirement by the private sector, such as expedited delivery or priority fulfillment, to allocate materials and services in such a manner as to support emergency preparedness and emergency response activities. See GSA Acquisition Letter MV-20-05, issued March 19, 2020 and any subsequent supplement.

3. What HCAs Are Authorized to Do to Facilitate Essential Critical Infrastructure Activities.

Regardless of any state, county, or city shelter-in-place/stay-at-home or similar order, GSA HCAs are authorized to issue a letter to contractors which attests (identifies and confirms) which activities have been determined by the [HCA](#) to be in support of GSA essential critical infrastructure activities. Our industry partners may find these attestations helpful when their employees have to engage with local officials to show they are exempt from shelter-in-place/stay-at-home or similar orders in order to carry out essential critical infrastructure activities under their GSA contracts and task orders.

HCAs are responsible for issuing the letters and contracting officers would send the letters to the appropriate contractors. Contracting officers are to copy the Emergency Operations Center (EOC) at eoc@gsa.gov when sending a letter to a contractor. For reference, attached to this Memorandum is a sample letter that could be sent to a contractor performing essential critical infrastructure activities.

HCAs should ensure any determination that a contract involves an essential critical infrastructure activity is properly documented. HCAs will maintain a record of all determinations made pursuant to this Memorandum.

4. Guidance for Offices Conducting/Administering Assisted Acquisitions for Department of Defense.

For GSA contracting officers conducting and administering assisted acquisitions for the Department of Defense (DoD), letters of attestation are authorized only if the DoD program office being serviced advises the contracting officer in writing that the work is in support of essential critical infrastructure, even for rated orders.³

5. Guidance for Offices Conducting/Administering Assisted Acquisitions for Civilian Agencies.

For GSA contracting officers conducting and administering assisted acquisitions for civilian agencies, letters of attestation are authorized only if the agency program office being serviced advises the contracting officer in writing that the work is in support of essential critical infrastructure.

³ DoD issued a Memorandum on March 20, 2020, identifying the “defense industrial bases” as a critical infrastructure sector.

https://www.acq.osd.mil/dpap/policy/policyvault/Defense_Industrial_Base_Contract_Considerations_DPC.pdf

6. Point of Contact.

Any questions regarding this memo may be directed to GSARPolicy@gsa.gov. Frequently Asked Questions (FAQs) related to this memo can be found [here](#).

Attachment

Sample Letter to Contractor Supporting Critical Infrastructure

[USE GSA LETTERHEAD]

DATE HERE

SUBJECT: COVID-19 EMERGENCY DECLARATIONS

The U.S. General Services Administration is a Federal agency responsible for protecting critical infrastructure for the American people and is a vital Federal partner in the response to and recovery from the COVID-19 national emergency.

The bearer of this letter is an employee of a contractor working to support an essential critical infrastructure project for the U.S. Government. This individual needs to travel to and from his/her place of work in order to provide support to America's critical infrastructure.

As stated in Attorney General Barr's memorandum of March 20, 2020, State and local governments have been advised that federal employees, including General Services Administration employees, must be able to travel in order to provide necessary official services to the public. According to the Department of Justice, the same is true of federal contractors who are directly supporting ongoing agency programs and missions.

As **INSERT [HCA] TITLE HERE**, I have the authority to determine which contractor employees and vendors are providing essential critical services and supplies for furtherance of the General Services Administration's mission. I authorize the bearer of this letter to identify that they are working under a contract with the General Services Administration and explain that they need to travel to the location at which this critical work is performed.

If any state, county, or local authority wishes to confirm the identity of the bearer of this letter and that their representation is accurate, the bearer of this letter may provide the name and contact information for the appropriate General Services Administration contracting officer or for the Emergency Operations Center at 202-219-0338.

Signature Block and Date