

CLIENT ALERT

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) Section 3610 — Billing and Contractual Relief for Government Contractors When Employees Cannot Work due to the COVID-19 Pandemic

March 27, 2020

The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), passed by Congress today, offers relief specifically targeted to federal contractors whose employees (1) cannot perform work on a “site that has been approved by the Federal Government” during the COVID-19 public health emergency due to facility closures or other restrictions and (2) cannot telework because their job duties cannot be performed remotely. Section 3610 of the CARES Act authorizes agencies to use any available funds to modify affected contracts – without consideration – to reimburse paid leave, including sick leave, that a contractor provides to keep its employees or subcontractors in a ready state. The authorized reimbursements may cover an average of 40 hours per week, “at the minimum applicable contract billing rates.” The maximum reimbursement must be reduced, however, by the amount of any credit the contractor is allowed pursuant to Division G (“Tax Credits for Paid Sick and Paid Family and Medical Leave”) of the recently enacted Families First Coronavirus Response Act, and by any other applicable credits that the contractor is allowed under the CARES Act.

The authorization of this relief is congressional acknowledgement of the critical role that contractors play in supporting the federal government and the need to ensure the availability of that support going forward. However, the CARES Act grants authority rather than mandating relief, which could lead to inconsistent application among various agencies. Affected contractors should watch for any forthcoming agency guidance and be prepared to educate government customers about this Congressional authorization.

Please Join Us for a Government Contracts Webinar

[Coronavirus Aid, Relief, and Economic Security Act \(“CARES Act”\) Section 3610 — Seeking Relief When Contractor Employees Cannot Perform as a Result of the COVID-19 Pandemic](#)

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For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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