



Redstone Government Consulting

COVID-19 Forum

PRESENTERS:

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Disclaimer and Notes

- No CPE is being offered for this session.
- Information provided is as of today. Things are changing rapidly, and we expect to hold this session on a weekly basis, and we suspect many things we discuss today will continue to evolve.
- In the coming week's guests we will be asking others to join us for added perspective Cybersecurity, ITAR, Banking/Finance, Legal, Tax and others.
- Please submit questions as we go. We want to work those in particularly as it relates to our planned questions. We may run long in order to work in as many questions as possible and if we don't get to your questions today, we will retain for the next session.
- We are in our home offices like many of you.

3 Big Takeaways

1. Track it.
2. Document the business case.
3. Communicate with your customer(s).

Question #1

Q1: John, you spent a considerable portion of your career with both DCMA and DCAA and during that time you saw many contingency contracting environments whether it was during the gulf wars or responses to natural disasters domestically. What thoughts would you offer to our clients when working in this environment?

- Auditors including agencies IGs will be coming to look at cost after the fact - CARES Act has millions in it for IGs to review how and where the money went
- Auditors have perfect 20-20 hindsight
- Get all direction from the Government in writing
- Commission on Wartime Contracting
- While FEMA should be better at contingency contracting, HHS and other agencies may not



Question #2

Q1: Jamie, will you provide us with an overview of FFCRA, specifically regarding the Emergency Paid Sick Leave and Emergency Family and Medical Expansion Leave?

Emergency Paid Sick Leave Act

An employee qualifies if unable to work or telework due to a need for leave because the employee...

is caring for a son or daughter whose school or place of care is closed (or child-care provider is unavailable) for reasons related to COVID-19.

Benefit Due

- Just like the “regular FMLA,” up to 12 weeks of leave may be required, if the qualifying reasons remain in effect.
- Although the Act says that the first 14 days (80 hours) may be unpaid, in reality, the 5th qualifying reason for the Emergency Sick Leave applies, and thus if the employee chooses, the employer must pay the at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate.
 - Note that the employee may choose to use other forms of paid leave (PTO/vacation/sick).
- This same rate of pay is applicable for the remaining 10 weeks of additional paid leave available under this provision.

Emergency Paid Sick Leave Act

An employee qualifies if unable to work or telework due to a need for leave because the employee...	Benefit Due
1 - is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;	Employees taking leave shall be paid at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate.
2 - has been advised by a health care provider to self-quarantine related to COVID-19;	
3 - is experiencing COVID-19 symptoms and is seeking a medical diagnosis;	
4 - is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);	Employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate.
5 - is caring for a son or daughter whose school or place of care is closed (or child-care provider is unavailable) for reasons related to COVID-19; or	Employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate. Note that up to 10 weeks of additional paid leave is available for this reason under the Expanded Family Medical Leave. See Above.
6 - is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.	Employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate.

Question #3

Q3: Sheri/Jamie, we just saw the FFCRA bill passed in the last week and expect to see more stimulus actions going forward. What advice would you offer to contractors currently struggling with keeping pace with the speed of regulation? What resources are you guys using on a daily basis?

Question #4

Q4: Bob, there have been some concerns and/or discussions about contractors' ability to continually bill their clients. Has any legislature positively moved forward to protect government contractors?

- Updates progress payments (90% large, 95% small)
 - We received notice that we can increase progress billing rates up from 80% to 90%. We are a subcontractor the Prime. Is this on a current month basis or contract to date basis? Is there a date requirement as to when we can start 90%?
- Ellen Lord's comments on Defense Industrial Base

Question #5

Q5: Asa, What are essential vs non-essential businesses? Seems like it depends on each person's interpretation of the definition/guidelines.

DHS/DOD informational memos have been issued federally, and in those memos, they have identified certain industries/functions that are considered essential/critical; however, just about every state, county and municipality has issued their own guidance.

- What is essential depends on where you are and your contract.
- State/Local guidance will likely conflict with contractual guidance, so it is critical to coordinate with your Contracting Officer.

Question #6

Q6: Sheri/Jamie, What are the impacts to contractors subject to the SCA as a result of the FFCRA and its sick leave and EFMLA provisions?

- Dependent on Wage Determination (Fixed/Odd or Average/Even)
- Leave required under the FFCRA is NOT a “bona fide” benefit

Question #7, 8, 9

Sheri/Jamie:

Q7: How do we maintain medical coverage for our SCA employees who have been furloughed?

Q8: How do we treat temporary employees whose temporary assignment ends while they are out on medical leave? Can we terminate them at the end of the assignment period, or do we need to continue to pay them until they return from EPSLA/EFMLA?

Q9: What are some general considerations with regard to companies considering layoffs or furloughs?

- Furlough vs Layoff
- Consider eligibility, review plan documents and communicate with carriers
- COBRA
- Impact on eligibility for FFCRA paid leave



Question #10:

Q10: Jamie/Sheri, How are we going to pay for all of this?

- 100% tax credit for employers to apply against their quarterly Social Security tax contributions for
 - wages paid under the FFCRA requirements
 - as well as properly allocated health care expenses
- Documentation and Recordkeeping

Question #11

Q11: Jamie/Sheri, Can employers ask for proof of Corona virus health issues for which they request leave under the FFCRA? Similarly, may employers require documentation of school /childcare closures for which leave is requested?

Question #12

Q12: Sheri/Jamie, We have a contract that employs only 1099 independent contractors. How does the newly passed legislation impact them? Are we as "clients" engaged via a consulting agreement responsible for tracking impacts related to our contract and any additional payments related to the legislation or is that the consultant's responsibility? They enable us to perform our contract obligations.

Question #13

Q13: John, I have a client that is a sole source vendor bid 100% profit on a COVID-19 task. What should they do?

Case Study – Request for Equitable Adjustment

Example 1: Contractor employee working onsite at a government location. Employee was exposed to COVID-19 as a result of a government employee testing positive to CV-19. The Company was directed to test all employees who were in contact with the government employee. Several employees did test positive for CV-19 and are now required to quarantine.

Example 2: Contractor has an employee whose spouse has compromised immunity and does not want to risk coming into the office and has chosen to self-quarantine as a result.

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