

New Relief for Government Contractors When Certain Employees Cannot Work due to COVID-19 Pandemic

By Patricia Anderson Pryor

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Meet the Authors



Patricia Anderson Pryor

Office Managing Principal

513-322-5035

Patricia.Pryor@jacksonlewis.com

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The [Coronavirus Aid, Relief, and Economic Security Act](#) (CARES) provides potential reimbursement to federal contractors whose employees (1) cannot perform work on a “site that has been approved by the Federal Government ” during the coronavirus (COVID-19) public health emergency due to facility closures or other restrictions, and (2) cannot telework because their job duties cannot be performed remotely.

CARES was passed by Congress and signed into law by President Donald Trump on March 27, 2020. (See our article, [President Trump Signs Coronavirus Aid, Relief, and Economic Security Act \(CARES\)](#).)

Section 3610 of CARES authorizes (*but does not require*) agencies to use any available funds appropriated under CARES or other laws to modify affected contracts (without requiring consideration) to reimburse paid leave, including sick leave, a contractor provides to keep its employees or subcontractors “in a ready state,” including to protect the life and safety of government and contractor personnel. This new provision will apply to leave up to “but in no event beyond” September 20, 2020.

The authorized reimbursements may cover an average of 40 hours per week per affected employee, “at the minimum applicable contract billing rates.”

Section 3610 also provides that the maximum reimbursement must be reduced 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 Families First Coronavirus Response Act, as well as by any other applicable credits allowed to the contractor under other provisions of the CARES.

As CARES authorizes but does not mandate that agencies modify contracts and provide reimbursement, an “all agency” memorandum is expected to guide contracting agencies on this new provision. Meanwhile, federal contractors that may benefit from this new law should consider contacting their contracting agency officers to begin discussions on getting reimbursement for paid leave.

Please contact a Jackson Lewis attorney if you have any questions.

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