

Global Reimbursement Checklist

Applicability:

This global checklist applies to contractor requests for reimbursement, pursuant to section 3610 of the CARES Act, that seek a global reimbursement at a business unit (or segment) level when the Defense Contract Management Agency (DCMA) is acting as the Cognizant Federal Agency Official (CFAO) on behalf of the Department (unless another DoD organization retains the CFAO responsibilities for the contractor business unit (or segment)). For the purposes of this checklist, the term CFAO is recognized as the Administrative Contracting Officer (ACO) or component contracting officer responsible for the duties identified in FAR 42.302(a)(5), (a)(9), (a)(11), and (a)(12) at a contractor business unit (or segment) level. A business unit (or segment) is understood to mean the organizational level in a company where settlement can be reached by a Corporate or Divisional ACO (for the largest contractors) or an ACO or component contracting officer (for other contractors).

Early engagement efforts will minimize the data necessary to establish a rough order of magnitude (ROM) cost impact due to section 3610 paid leave costs and provide the contracting officer with the information needed to pursue funding. The CFAO will advise the contractor if funding may be available.

If funds are potentially available, the contractor may submit a request to be established as an affected contractor and for reimbursement under section 3610 in accordance with this guidance. Section 3610 reimbursement requests are limited to incurred costs only and should not include projected estimates. Section 3610 reimbursement to a contractor will be limited to the paid leave costs incurred by the contractor and allocable to its DoD contracts, including applicable subcontractor costs under its contracts. Section 3610 reimbursement shall not include paid leave costs incurred by the contractor allocable to any subcontracts. Any section 3610 reimbursement requests for paid leave costs incurred while performing as a subcontractor should be submitted to the appropriate prime contractor.

The initial section 3610 reimbursement request and any subsequent section 3610 reimbursement requests should be coordinated with the CFAO prior to submission, and submitted in a similar manner to the initial section 3610 reimbursement request.

1. Notice of Intent to Request Reimbursement under Section 3610: Early Engagement.

(a) A contractor may provide a ROM of its paid leave costs that will be included in its section 3610 reimbursement request (covered paid leave costs) to the CFAO. The intent of the ROM is to allow the CFAO to check if funds are available.

(b) The data in the ROM should include, but is not limited to—

(1) Total covered paid leave costs incurred to date for the contractor's employees of a business unit (or segment) only (excluding its subcontractor's covered paid leave costs);

(2) ROM of covered paid leave costs for its subcontractors;

(3) ROM breakdown of the contractor's total business base between DoD contracts, other Government contracts, subcontracts performed by contractor under DoD and other Government contracts, and all other commercial business (expressed by percentage);

(4) ROM breakdown of contract type (cost reimbursable and firm-fixed-price) for—

(i) The contractor's DoD contracts;

(ii) Other Government contracts; and

(iii) Subcontracts performed by the contractor under other contractor's DoD and other Government contracts (expressed by percentage of contract values or allocation base or other appropriate measure);

(5) ROM breakdown of the contractor's DoD component (Military Department, Defense Agency, Defense Field Activity), and other Government contracts (expressed by percentage of contract values or allocation base or other appropriate measure); and

(6) As discussed during early engagement, any other high-level data the CFAO would need to assess the ROM for funding purposes.

(c) The CFAO will notify the contractor of the funds availability status. Once the CFAO determines that funds may be available, the process will move forward to establish the contractor's affected contractor status and for the contractor to submit its section 3610 reimbursement request(s).

2. Contractor Identification and Contracts/Task Orders/Delivery Orders.

The CFAO should require the contractor to provide a narrative supporting its assertion that it is an affected contractor, and require contractor section 3610 requests for global reimbursement to provide a list of all contracts/task orders/delivery orders impacted during the period for which the contractor seeks affected contractor status. CFAOs should require inclusion of the following information for the listed items:

- (a) Contract/Task Order/Delivery Order Number(s).
- (b) Commercial and Government Entity (CAGE) code(s).
- (c) Contract Type(s).
- (d) Awarding DoD Component(s).
- (e) Primary Agency Point(s) of Contact (i.e., Contracting Officer(s)).
- (f) Time Period Covered by the Section 3610 Reimbursement Request.

3. Section 3610 Circumstances Narrative and Information on Affected Contractor Status.

The contractor should provide a request to be established as an affected contractor, with a narrative supporting its request. The contractor should identify the circumstances that impacted it as a result of the public health emergency declared for COVID-19, and why it decided to provide paid leave to its employees and/or subcontractors to keep them in a ready state for which it is requesting section 3610 reimbursement. The narrative should include—

(a) An explanation as to why it was necessary to provide paid leave to its employees and/or subcontractor(s) to maintain a ready state;

(b) That the covered paid leave costs do not include leave for which an employee was otherwise paid (e.g., leave that is provided through company policy, employment contract, or labor agreement);

(c) That covered paid leave was provided to, and taken by, the employees and/or subcontractor(s) no earlier than March 27, 2020, and no later than September 30, 2020;

(d) Identification of facility closures or restrictions that precluded employees and/or subcontractors from performing at their normal work location(s), including closure/restriction date range(s) and specifics;

(e) An explanation of why job duties could not be performed remotely for labor categories provided paid leave for which the contractor is seeking reimbursement under section 3610;

(f) That the section 3610 reimbursement request does not result in a total of paid work and paid leave charges that exceed an average of 40 hours per week per employee; and

(g) That the company business unit (or segment) has not requested to be established as an affected contractor by any other DoD contracting officer.

4. Contractor Submission of Global Section 3610 Reimbursement Requests.

(a) The CFAO should require the contractor to provide information to support any audit of costs incurred, for each contract/task order/delivery order when requesting section 3610 reimbursement. The Government may audit the billed costs in order to ensure accuracy and compliance with the law. The CFAO should require the contractor to ensure that requested costs are not part of any other submission, either as a prime contractor or subcontractor.

(b) The section 3610 reimbursement request should include the following information at a contract/task order/delivery order level (*the CFAO may request detailed supporting documentation be tailored to adequately address specific circumstances*)—

(1) The total amount of paid leave costs requested by the contractor for section 3610 reimbursement by DoD;

(2) The cost accounting practice(s) used by the business unit (or segment) to allocate section 3610 costs to cost objectives (whether existing, disclosed practices, or new ones);

(3) A sufficiently detailed breakdown of the section 3610 costs incurred by the business unit (or segment) supporting the amount allocable to each affected contract/task order/delivery order;

(4) The identification of any impacts to direct labor rates;

(5) For section 3610 costs classified as direct, the amount charged to each contract/task order/delivery order, including the following:

(i) Identification of eligible hours (i.e., those hours meeting the criteria identified in DFARS 231.205-79(a)(1)(ii) under Class Deviation 2020-O0013) for each affected contract/task order/delivery order;

(ii) When requested by the CFAO, sample data to support the hours by employee to determine labor category, actual hours actually worked, etc.; and

(iii) Why direct labor job duties could not be performed remotely for labor categories subject to section 3610 paid leave.

(6) Inclusion of subcontractor(s) section 3610 reimbursement requests (see section (c), below, for more details of necessary supporting information);

(7) For section 3610 costs classified as indirect—

(i) A calculation of the relevant pool(s), allocation base(s), and rate(s) used to allocate the cost to cost objective(s);

(ii) Identification/description of DoD, other Government, and commercial participation in the allocation base(s);

(iii) The allocation of the section 3610 costs to each contract/task order/delivery order (in a format similar to an incurred cost proposal schedule or cumulative allowable cost worksheet); and

(iv) Why indirect labor job duties could not be performed remotely for labor categories subject to section 3610 paid leave; and

(8) Company-specific guidance on section 3610 or COVID-19 related paid leave.

(c) *Subcontractor Reimbursement Requests.*

(1) *Supporting Information.* For all subcontractor section 3610 reimbursement requests, the CFAO should require the prime contractor to provide, for each subcontractor, the same supporting information/documentation as outlined above in paragraph 4(b). However, if they meet the criteria, subcontractors may use the abbreviated checklist. If the subcontractor does not routinely provide such information to the prime contractor (e.g., due to competition or proprietary data concerns), the subcontractor should provide the amount of its section 3610 reimbursement request to the prime contractor, for inclusion in the prime contractor's section 3610 reimbursement request, and submit all other supporting information directly to the CFAO under separate cover.

(2) *List of Impacted Subcontractors.* The CFAO should require the prime contractor's section 3610 reimbursement request to include a listing of all subcontractor(s) requesting section 3610 reimbursement. The list should include the following information for the listed items:

- (i) Subcontract Number(s).
- (ii) CAGE Code(s).
- (iii) Subcontract Type(s).
- (iv) Associated Prime Contract Number(s).
- (v) Time Period Covered by the Subcontractor Section 3610 Reimbursement Request.
- (vi) Contractor Proposed Amount for Subcontractor Section 3610 Reimbursement.

(3) *Affected Contractor.* The CFAO should require the prime contractor to evaluate each subcontractor's section 3610 reimbursement request submission and provide, with its own section 3610 reimbursement request, an opinion to the CFAO as to whether the subcontractor is an affected contractor and, if so, its analysis of whether the subcontractor's paid leave costs are allowable under section 3610. The prime contractor must not commingle subcontractor information with its own.

(4) *Representations*. The CFAO shall require that subcontractor section 3610 reimbursement requests included in a prime contractor's section 3610 reimbursement request provide all of the representations in section 8, below.

5. Certified Cost or Pricing Data.

In accordance with FAR 15.403-4(a)(1)(iii), when the value of a price adjustment associated with an individual contract or subcontract included in a contractor's overarching section 3610 reimbursement request exceeds the threshold for obtaining certified cost or pricing data at FAR 15.403-4(a)(1), when applicable, certified cost or pricing data shall be obtained for only those individual contracts or subcontracts in accordance with FAR 15.403-4.

6. Reimbursement Request Submission Format.

The contractor should submit the section 3610 reimbursement request in a format acceptable to the CFAO, including the calculations of the requested section 3610 reimbursement amount, traceable to the supporting data submitted in accordance with the above. Any data, documentation, and information provided to support the contractor's section 3610 reimbursement request should be provided in electronic format, whenever possible.

7. Identification of Other Credits that May Reduce Relief Provided under Section 3610.

(a) Contractors are eligible for other sources of funds that may result in credits or loan forgiveness. The maximum reimbursement a contractor is authorized to receive under section 3610 shall be reduced by the amount of loan forgiveness a contractor receives pursuant to division G of the Families First Coronavirus Response Act (Pub. L. 116-127) or under the CARES Act (Pub. L. 116-136), or any other credit allowed by law that is specifically identifiable with the public health emergency declared on January 31, 2020, for COVID-19.

(b) The CFAO should require contractors to reduce any section 3610 reimbursement amount requested and any section 3610 reimbursement received upon receipt of credits or loan forgiveness, outlined above. If the contractor receives any applicable credit or loan forgiveness subsequent to its submission of a section 3610 reimbursement request, the contractor must notify the CFAO within 30 days of receipt of the credit or loan forgiveness and must agree to a modification reducing the amount of section 3610 reimbursement by the amount of the credit or loan forgiveness received.

8. Representations.

(a) The CFAO shall require contractors to provide the following representations with section 3610 reimbursement requests:

(1) All paid leave included in the request for reimbursement was specifically paid to keep the employees and/or subcontractors in a ready state;

(2) The contractor segregated and reported the actual costs of the section 3610 paid leave payments, traceable to the individual employee charges;

(3) The section 3610 reimbursement request excludes any paid leave costs associated with the contractor's work as a subcontractor to another contractor;

(4) All impacted subcontractors have been afforded an opportunity to submit a request for reimbursement of section 3610 paid leave costs, and eligible subcontractor section 3610 reimbursement requests received and as appropriate are incorporated into the contractor's section 3610 reimbursement request for the contractor to pay to the subcontractor;

(5) The section 3610 reimbursement request has been reduced by any applicable credit or loan forgiveness the contractor has received that is/are specifically identifiable to the public health emergency declared on January 31, 2020, for COVID-19;

(6) The costs included in the section 3610 reimbursement request have not been requested elsewhere in another section 3610 reimbursement request; and

(7) The section 3610 reimbursement request is made in good faith, and the supporting data is accurate and complete to the best of the contractor's knowledge.

(b) The representations should be dated and include the signature and title of a designated individual within the company with the authority to sign and commit on behalf of the contractor. The contractor should explain any exceptions to these representations within its section 3610 reimbursement request.