

# NAVIGATING THE GOVERNMENT MARKET DURING THE CORONAVIRUS PANDEMIC



NAVIGATING THE  
GOVERNMENT MARKET  
DURING THE  
**CORONAVIRUS  
PANDEMIC**



ABRAHAM  
XIONG

CHARLENE  
FITZPATRICK

**LIVE WEBINAR**



Abraham Xiong, CEO

[abe@govcontractors.org](mailto:abe@govcontractors.org)

3190 NE Expressway, Suite 110

Atlanta, GA 30341

(404) 955-8080

[www.govassociation.org](http://www.govassociation.org)



Charlene Fitzpatrick

[charlene@h3cllc.com](mailto:charlene@h3cllc.com)

4314 Kingston Gate Cove,

Atlanta GA 30341

(678) 653-4299

[www.h3cllc.com](http://www.h3cllc.com)

## DISCLAIMER:

- ❖ This webinar and session is for informational and educational purposes only.
- ❖ It does not constitute legal or professional advice.
- ❖ Every effort has been made to provide accurate information.
- ❖ Please do your own due diligence and consult professional advice, as necessary.

## NOTES:

- ❖ This webinar is being recorded
- ❖ If you have comments or questions, type it in the chat area
- ❖ We'll check the chat area and unmute you as needed

- ❖ How will you prepare for the challenges ahead?
- ❖ What type of grants, loans or other assistance are available?
- ❖ If there is a recession, what you can do to stay afloat?
- ❖ What are the contracting opportunities in the eye of this chaos?
- ❖ How to reposition your company to maintain and grow your revenue?
- ❖ If you're on an existing contract, what should you do?
- ❖ What HR policies you need to consider and implement?
- ❖ How to prepare your employees to do remote work?
- ❖ How to manage your staff and manage their workload?
- ❖ How to communicate with compassion to motivate your staff and avoid legal issues?
- ❖ How to put in place your Emergency Preparedness Plan?

**Join me every Wednesday at 12noon**  
**Online Webinar**

[www.GovAssociation.org/events](http://www.GovAssociation.org/events)

## AS AN EMPLOYER, WHAT DO YOU NEED TO CONSIDER

- ❖ Charlene Fitzpatrick with H3C
- ❖ Download employer guide:
- ❖ [www.govassociation.org/coronavirus](http://www.govassociation.org/coronavirus)





## PilieroMazza PLLC attorneys shared these thoughts:

- ❖ Advise employees on office hygiene during the outbreak;
- ❖ Advise employees on what to do if they have symptoms associated with a possible COVID-19 infection;
- ❖ Reserve the right to send employees home if exhibiting symptoms;
- ❖ Require workers who have recently been to affected areas or have been in contact with a COVID-19-positive person to self-quarantine at home;
- ❖ Communicate with employees on developments as soon as possible, including notice of an employee testing positive for COVID-19, while maintaining the worker's confidentiality.
- ❖ Revisit telework.

## **\$2 Trillion Dollar Senate Bill Bi-Partisan Approval**

- ❖ \$500B: Loans to distressed companies
  - ❖ \$50B: Loans to passenger air carriers
- ❖ \$350B: Small business loans
  - ❖ \$10B: Payroll loans / debt payment with SBA as Guarantor
- ❖ \$250B: Unemployment benefits
- ❖ \$150B: State/local governments
- ❖ \$130B: Hospitals
- ❖ \$250B: Direct payments to individuals



## **\$250B to individuals:**

- ❖ \$1200: Individuals earning up to \$75K
- ❖ \$2400: Married couples earning up to \$150K
- ❖ Additional \$500 per child in the family
- ❖ Scaled down by income to \$99,000 for singles / \$198,000 for couples without children

# What Regulations You Need to Know

- ❖ The Defense Production Act (“DPA”)
  - ❖ Codified at 50 U.S.C. § 4501 et seq.
  
- ❖ Defense Priorities and Allocation System (DPAS),
  - ❖ codified at 15 C.F.R. § 700 et seq.,
  
- ❖ Give the U.S. government the authority to “[jump the line](#)” and force contractors to prioritize sales of goods to the government before selling to consumers or other private purchasers.

# What happens if performance is interrupted due to COVID-19?

- ❖ Federal Acquisition Regulation (FAR) clauses allow for excusable delays in the event of an "epidemic" or "quarantine restrictions."
- ❖ **FAR 52.242-14, FAR 52.242-15: Suspension of Work or Stop-Work Order Clause**
- ❖ This clause may be used by the government to order all or part of the work stopped for up to 90 days, after which the government must either cancel the order or terminate the contract for default or convenience. If the clause is cancelled, the contractor is required to resume work. For this clause to apply, the order must be in writing and issued by the contracting officer.

# What happens if performance is interrupted due to COVID-19?

- ❖ **FAR 52.249-14 EXCUSABLE DELAYS** (for cost reimbursement and time and material contracts),
- ❖ Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- ❖ Also permit the government to “Terminate for Convenience.”

# What happens if performance is interrupted due to COVID-19?

- ❖ FAR 52.249-8 Default (Fixed-Price Supply and Service contracts)
- ❖ FAR 52.212-4 (commercial contracts).
- ❖ Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- ❖ In addition, FAR 52.243-1 and/or FAR 52.243-2
- ❖ Provide for obtaining an equitable adjustment for increased work.

## Holland & Knight offered this advice for dealing with COVID-19:

❖ [www.hklaw.com](http://www.hklaw.com)

- ❖ Take inventory of your contracts and personnel and make an action plan to address contract demands and health and safety concerns;
- ❖ Document all wind-down and start-up costs. Create separate accounting categories.
- ❖ Consider employee reassignment, paid vacations and/or training;
- ❖ Document communications/actions;
- ❖ If performance is impossible, seek expense recovery as soon you can.



## If you are a Subcontractor with a Prime what should you consider

- ❖ Contracts between prime contractors and subcontractors are considered commercial contracts (even if they contain FAR/DFARS or other flow-down clauses).
- ❖ Most commercial contracts do contain a **force majeure** clause that excuses delay.
- ❖ Those same clauses, however, may or may not have the same protections as in prime contracts.
- ❖ Subcontracts also may not prohibit prime contractors from seeking goods and services elsewhere if a subcontractor cannot fulfill their obligations.

## Potential Procurement Delays:

- ❖ RFP/RFQ release or due dates may be pushed out
- ❖ These delays are due to the government focusing on emergency acquisitions as well as the loss of productivity as employees work and/or recover from illness at home.

## CONTRACTING OPPORTUNITIES:

- ❖ FAR 18.2 Emergency Acquisition Flexibilities
  - ❖ Sole source under emergency regulations
- ❖ <https://www.acquisition.gov/content/subpart-182-emergency-acquisition-flexibilities>
- ❖ Biomedical Advanced Research and Development Authority (BARDA) Broad Agency Announcement (BAA)
- ❖ <https://beta.sam.gov/opp/1b46a4169fcb4902b9c4fcb5bf981f7/view>
- ❖ Search for Health Centers which may need your support
- ❖ [www.findahealthcenter.hrsa.gov](http://www.findahealthcenter.hrsa.gov)

## CONTRACTING OPPORTUNITIES:

- ❖ Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
- ❖ <https://www.congress.gov/bill/116th-congress/house-bill/6074/text>

**SBA Loan Process:**  
**(see SBA power point)**

NAVIGATING THE  
GOVERNMENT MARKET  
DURING THE  
**CORONAVIRUS  
PANDEMIC**



ABRAHAM  
XIONG

CHARLENE  
FITZPATRICK

**LIVE WEBINAR**



Abraham Xiong, CEO

[abe1@govcontractors.org](mailto:abe1@govcontractors.org)

3190 NE Expressway, Suite 110

Atlanta, GA 30341

(404) 955-8080

[www.govassociation.org](http://www.govassociation.org)



Charlene Fitzpatrick

[charlene@h3cllc.com](mailto:charlene@h3cllc.com)

4314 Kingston Gate Cove,

Atlanta GA 30341

(678) 653-4299

[www.h3cllc.com](http://www.h3cllc.com)



## JOIN US EVERY WEDNESDAY @ 12NOON Eastern Time

- ❖ How will you prepare for the challenges ahead?
- ❖ What type of grants, loans or other assistance are available?
- ❖ If there is a recession, what you can do to stay afloat?
- ❖ What are the contracting opportunities in the eye of this chaos?
- ❖ How to reposition your company to maintain and grow your revenue?
- ❖ If you're on an existing contract, what should you do?
- ❖ What HR policies you need to consider and implement?
- ❖ How to prepare your employees to do remote work?
- ❖ How to manage your staff and manage their workload?
- ❖ How to communicate with compassion to motivate your staff and avoid legal issues?
- ❖ How to put in place your Emergency Preparedness Plan?

[www.GovAssociation.org/events](http://www.GovAssociation.org/events)