



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Recommendations for Reimbursing Contractors' Paid Leave Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act



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Memorandum

To: Andrea Brandon
Deputy Assistant Secretary, Budget, Finance, Performance and Acquisition

From: Mark Lee Greenblatt 
Inspector General

Subject: Management Advisory – *Recommendations for Reimbursing Contractors' Paid Leave Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act*

Section 3610 of the CARES Act allows the U.S. Department of the Interior (DOI) to reimburse its contractors and their subcontractors for any paid leave, including sick leave, that they provide to keep their employees or subcontractors in what the section refers to as a “ready state.” To do this, the act permits the DOI to modify, without consideration, the terms of existing contracts or other agreements to reimburse contractors for this paid leave, using the minimum applicable contract billing rates (not to exceed an average of 40 hours per week). This memorandum offers three recommendations that, if implemented, will improve the DOI’s consistent application and oversight of Section 3610.

Claims under Section 3610 present oversight challenges to the DOI since the eligible leave expenditures may include costs that would, under other circumstances, be considered unallowable to the Government. In addition, contracting officials have limited—or no—visibility into the expenses claimed by or reimbursed to contractors through the CARES Act assistance program. Claims under Section 3610 may also present a higher fraud risk because contractors could be eligible for reimbursement from multiple agencies through the CARES Act. It will be incumbent upon contracting officials to oversee contractor activity and obtain appropriate documentation to accurately identify reimbursable expenses that qualify for this relief. DOI contracting officials and attorneys in the Office of the Solicitor have reported to us that the DOI is already receiving Section 3610 claims from contractors, making the need for consistent policies even more urgent.

With these challenges in mind, we recommend taking the following actions to prevent fraud, waste, and abuse:

1. Require contractors to segregate leave costs claimed under Section 3610 in their invoices and accounting. Invoices for these expenses should provide detailed information about the paid leave requested for reimbursement, including:
 - a. The names of the individuals who claimed leave
 - b. The individuals’ hourly pay rates

- c. Hours and days for which reimbursement is requested
 - d. Applicable and allowable indirect cost rates for each individual
2. Establish internal controls and guidelines so that all reimbursements of costs related to Section 3610 are identified, segregated, recorded, invoiced, and paid accordingly, to ensure that:
- a. The DOI has defined the terms and conditions under which contractors and subcontractors are eligible for reimbursement under Section 3610
 - b. The DOI has established and implemented policies and procedures to address consistent evaluation and application of Section 3610 claims
 - c. Contractors and subcontractors have paid out the leave to the employees associated with their reimbursement claims to the DOI
 - d. Prime contractors reimburse their subcontractors from the funds the DOI paid them
 - e. Contractors are not double billing the Federal Government by submitting invoices for the same hours to multiple Federal agencies, State agencies, and the private sector, or for funds collected through other means under the CARES Act (e.g., Small Business Administration grants and loans)
 - f. Contractors are providing supporting documentation if submitting claims under simplified acquisitions and fixed-type contracts (purchase orders/delivery orders), where hourly rates are not routinely established
3. Require letters of certification, on company letterhead, from all contractors and their subcontractors that request reimbursement of these expenses. All such certifications should include:
- a. A false statement certification, as detailed in 18 U.S.C. § 1001, in which the signer states that the invoice is accurate to the best of their knowledge and that it complies with Section 3610
 - b. A statement that the invoicing is only to reimburse paid leave due to the COVID-19 pandemic and not to augment fees, profits, or costs associated with suspended contracts
 - c. A statement certifying that the contractor is not submitting expenses that were or are expected to be recovered under any other Federal payment, allowance, tax, or other credit specifically related to the COVID-19 pandemic
 - d. A clause stating that after receiving the funds from the Government, prime contractors will reimburse their subcontractors within a specified period

- e. The signature of the company owner or president, or a senior executive such as a vice president, chief financial officer, treasurer, or controller

Please provide a written response to us within 90 days describing the actions you have taken, or plan to take, to address each recommendation, as well as target dates for these actions and the titles of the officials responsible for implementing them. You may email your response to doioigreferrals@doioig.gov.

In accordance with the IG Empowerment Act of 2016, we intend to publish this memorandum on our website, in redacted form, no later than 3 days from the date we issue it to you. Within the next 10 business days, a representative from our Office of Investigations will contact you, or your designee, to discuss the memo and the status of your response. If you have any questions or need further information concerning this matter, please contact Matthew Elliott, Assistant Inspector General for Investigations, at 202-208-5745.

cc: George Triebsch, Chief of Staff, Assistant Secretary for Policy, Management and Budget
Megan Olsen, Director, Office of Acquisition and Property Management
Kathryn Bender, Chief of Staff, Office of Acquisition and Property Management

