

# DoD Issues Class Deviation and Guidance to Implement CARES Act Relief for DoD Contractors under Section 3610

Alert

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By Susan Warshaw Ebner and Eric Whytsell

Section 3610 of the CARES Act provides for funding to aid government contractors whose employees or subcontractors “cannot perform work on a site that has been approved by the federal government, including federally-owned or leased facility or site, due to facility closures or other restrictions” and cannot telework during the COVID-19 public health emergency. As noted in a previous [Stinson alert](#), section 3610 raised a number of questions. On April 8, 2020, DoD issued an immediately effective [Class Deviation](#) for section 3610 that attempts to strike a balance between the necessity of maintaining overall readiness and the importance of ensuring a responsible use of public funds for DoD contractors and subcontractors. [Related Implementation Guidance](#) and Implementation Guidance FAQs were issued the next day.

## Section 3610

Section 3610 of the CARES Act allows executive branch agencies, including DoD, to fund certain contractor costs for payment of leave, and to retain readiness where the contractor’s or its subcontractor’s employees cannot perform due to “closures or other restrictions” and they are “unable to telework because their job duties cannot be performed remotely during the public health emergency declared on January 31, 2020,” for the coronavirus (COVID-19). More particularly, the section facilitates, subject to the availability of funds, government reimbursement of a government contractor “at the minimum applicable contract billing rates not to exceed an average of 40 hours per week any paid leave, including sick leave,” where the contractor expends such funds “to keep its employees or subcontractors in a ready state, including to protect the life and safety of government and contractor personnel, but in no event beyond September 30, 2020.”

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## CONTACT

Eric Whytsell

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