

SBA Federal Contracting Guidance for Small Businesses Impacted by Coronavirus (COVID-19)

The past weeks have been unprecedented as the country comes to grips with the Coronavirus (COVID-19) global pandemic. We recognize that small business owners like you may continue to be impacted by events that lie ahead. SBA is here to support you as best we can. For updated information on guidance and resources available, visit:

- [SBA.gov/Coronavirus](https://www.sba.gov/coronavirus) for small businesses impacted by the pandemic
 - Information on the [Paycheck Protection Program](https://www.sba.gov/payprotection)
- [SBA.gov/Disaster](https://www.sba.gov/disaster) for information on SBA's **Economic Injury Disaster Loans (EIDL) and the Loan Advance**
- [Coronavirus.gov](https://www.cdc.gov/coronavirus) for current CDC business guidance on planning for and responding to the COVID-19 pandemic

COVID-19 contracting opportunities

- Small business contractors continue to play an important role in helping Federal agencies to respond during the COVID-19 pandemic. Opportunities remain available for small businesses to bid on contracts and contribute to the mission of agencies.
- All interested businesses must be registered in the U.S. Government's [System for Award Management](https://sam.gov) (SAM) site (regardless of federal agency involved).
- If already registered in SAM, be sure your company is also enrolled in SAM's "**Disaster Response Registry**" to do business with *any* federal agency.
 - If you don't know whether you are opted-in, review the "**assertions**" portion of your SAM profile. If the Disaster Response Registry is not activated, **edit your profile** and "opt-in" within the Assertions section. *This requires you to go through the entire SAM registration to access this capability; be sure to follow-through until you are told to "**submit**" your registration.*

- Additional information:

[FEMA](#)

[U.S. Army Corps of Engineers](#)

If your business has a current Federal contract and you are experiencing difficulties related to the COVID-19 pandemic, relief is available.

See below for specific guidance and contact your contracting officer as soon as possible to discuss options.

Businesses unable to fulfill awarded Federal contracts due to coronavirus

If your business is impacted due to the coronavirus pandemic to the point where you are unable to complete performance of an awarded Federal government contract, follow these steps:

1. **Assess your situation.** Could your business continue to perform the contract with some modifications to the terms? Outline potential options to present to your contracting officer and Business Opportunity Specialist, if appropriate.
2. **Review your contract(s)** to see what, if any, latitude or remedy for performance delays are available.
 - a. Some cost-reimbursement, time-and-material, and labor-hour government contracts may contain **FAR Clause 52.249-14 – Excusable Delays**. If included in your contract, the contractor would not be considered in default because of any failure to perform **if**:
 - **The failure arises from causes beyond the contractor’s control; and**
 - **Without the fault or negligence of the contractor.**

Examples of these causes include: acts of the government in either its sovereign or contractual capacity, epidemics, and quarantine restrictions. Note that the government still reserves the right to terminate the contract for convenience if there is a delay in contractual deliverables to the government subject to this FAR clause.

- b. All Federal government commercial contracts should contain **FAR Clause 52.212-4(f)**. If included, the contractor would not be liable for default if non-performance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence, including acts of the government in either its sovereign or contractual capacity, epidemics, quarantine, and delays of common carriers.
- c. Visit [Acquisition.gov/Coronavirus](https://www.acquisition.gov/Coronavirus) for more detailed information.

3. **Notify your contracting officer in writing** as soon as reasonably possible after you have experienced an excusable delay. If you are a subcontractor, notify your point of contact with **the Prime**. Be ready to suggest potential alternatives and/or remedies to mitigate any potential impact on deliverables.
4. **Even if you do not expect** delays, it is wise to be in frequent communication with your contracting officer to set expectations and develop a plan.

Government worksite or personnel unavailable

Contact your contracting office as soon as possible to determine potential effects if government employees will not be at their worksites and not able to supervise a contract properly. Continue to complete tasks that may be done without government guidance and continue to reach out to the point of contact on the contract. **DO NOT make significant changes to schedule, scope, deliverable, or cost without written approval to do so.**

Contractors may be entitled to wind down and startup costs if performance is not possible due to the government's unavailability. Check with your contracting officer if you are experiencing this issue.

Subcontractors on Federal contracts

If your business is impacted due to the COVID-19 pandemic to the point where you are unable to complete the performance of an awarded Federal government contract, review your agreement(s) with your point of contact with the Prime to fully understand your obligations and recourse options. Since contracts between a Prime contractor and its subcontractor(s) are considered commercial, not federal, contracts, it may contain a **force majeure clause** that provides for excusable delay for things like epidemics, quarantine restrictions, etc.

Be aware that these agreements often allow prime contractors to seek goods and services from other sources if a subcontractor cannot fulfill its obligations for an excused reason. Contact the Prime's Contractor Representative listed on your contract.

SBA contact for additional questions

An **SBA Procurement Center Representative (PCR)** is an excellent resource to address questions regarding the impact on a contract. In addition to contract questions, the PCR may be able to address – or will refer you to someone who can answer – issues regarding small business size determination, certificate of competency, and subcontracting.

The main mission of the PCR is to assist small businesses win federal contracts through advocacy and access. PCRs review many federal acquisition and procurement strategies before the policies are announced. This enables them to influence opportunities that should be set aside for small businesses. PCRs also conduct market research, assist small businesses with payment issues, provide counseling on the contracting process, and more. Visit the [PCR](#)



[Directory online.](#)

8(a) firms should contact their **Business Opportunity Specialist (BOS)** or their closest [SBA District Office](#).

Program Flexibilities During COVID-19

HUBZone Program

Principal office requirement extended under telework

SBA will determine affected firms' compliance with the principal office requirement by reviewing documentation showing where the firm's employees performed their work prior to the telework measures being put in place as a result of the COVID-19 pandemic.

- A firm that has placed employees on mandatory telework will be required to demonstrate compliance with the principal office requirement by providing documentation showing its compliance with this requirement **prior** to requiring telework; **AND**
- The firm will be required to provide documentation stating it placed all its employees on telework associated with social distancing in response to the COVID-19 pandemic, the teleworking measure is temporary in nature, and the employees will return to their normal work location once the teleworking measures have been lifted.

Maintenance of residency requirement/college student employees

SBA recognizes that some HUBZone employees are students whose schools have closed and have been sent home to locations outside the HUBZone, even though they may continue to work remotely. This situation could impact the firms' ability to maintain the 35% HUBZone residency requirement.

SBA will determine affected firms' compliance with the 35% HUBZone residency requirement by reviewing documentation showing where the impacted employee lived **prior** to the COVID-19 response measures being put in place. Accordingly, a firm that has a HUBZone employee that was required to move from student housing to a non-HUBZone location **AND** continues to work for the HUBZone firm may continue to be counted as a HUBZone resident by providing documentation showing:

1. The university/college closed the student's residence; and
2. The employee has been maintained on the payroll.

This applies only to students who were already on payroll at the time of the firm's application for certification or recertification and had residency established prior to the university closing student housing.



Maintenance of uninterrupted and continued employment

- SBA will allow HUBZone companies to place an employee in a **temporary** non-paid status, such as FMLA, to care for themselves or a sick family member during COVID-19. This provision is only allowed **if the firm attests to its intent to put such individuals back on payroll** after the period of extended sick leave.
- Revised HUBZone regulations (effective 12/26/19) allow firms to count “Legacy” HUBZone resident employees as permanent HUBZone resident employees if the firm can demonstrate that the employee was a HUBZone resident **for 180 days prior to** and **for 180 days following** the firm’s HUBZone certification or recertification.
- **There is no such exception for laid-off employees.** If a firm lays off an individual, that individual cannot be counted as a “legacy HUBZone employee” for any future HUBZone certification or recertification.

New annual recertification requirements on hold

SBA has delayed the implementation of the new annual recertification process because many firms may find it difficult to maintain compliance.

- A firm may maintain the certification status from its most recent certification and should be prepared to prove eligibility at the time of offer for any solicitations.
- A firm may voluntarily re-certify on its anniversary date if it chooses.

HUBZone expedited certification process

SBA may expedite the application of any firm that submits a **complete** package for certification and indicates that they intend to respond to a specified solicitation that relates to COVID-19.

Requests to waive or reduce HUBZone 35% residency requirement

This statutory requirement would necessitate congressional action to change.

Additional assistance & information

The following resources may be accessed for additional support:

- Click [here](#) to see if your area is a designated HUBZone.
- Send email with specific HUBZone questions to HUBZone@sba.gov.
- **Join our weekly call** to speak with a member of our HUBZone team:
Every Thursday, 2:00 – 3:00 p.m. EST
1-202-765-1264; access code 63068189#
- Access [application FAQs and document requirement checklists](#) by organizational structure



8(a) Business Development Program

Support to our 8(a) participants remains a priority amidst uncertainty in the federal marketplace. The SBA's team understands that each 8(a) participant is operating in a different stage of the program and may be presented with unique business decisions as it determines the extent of the impact of COVID-19 on its ability to operate and comply with program requirements during this time.

Voluntary program suspension

The SBA has determined that the President's declaration of a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak on March 13, 2020 constitutes a nationwide federal disaster declaration for the purposes of SBA's 8(a) program. Because of that, the SBA is empowered to invoke the 8(a) Business Development Program's voluntary suspension procedures.¹

The disaster voluntary suspension authority was implemented to allow affected firms to recover and continue to take full advantage of the 8(a) Business Development Program once they have done so. Consider a voluntary suspension only if your business is severely paralyzed and can no longer operate due to COVID-19.

- Under this procedure, any 8(a) Participant **may elect to suspend its participation in the program for a period of up to one year from the date of the disaster declaration** (March 13, 2020 through March 12, 2021).
- It can take up to **ten business days** to both **institute** a voluntary suspension and **lift** the suspension.
- If this option is exercised, the Participant would generally be ineligible for all forms of 8(a) Business Development Program assistance, including **new** competitive and sole source 8(a) contracts during the period of suspension and including 8(a) contracts which the Participant has self-marketed but have not yet been awarded.
- Suspended Participants remain obligated to complete previously awarded 8(a) contracts.
- A Participant may elect suspension **one time only** per disaster declaration and may request that the suspension be lifted at any time prior to the expiration of the requested suspension period.
- Once a Participant requests to lift the suspension, the assumption is that your company has sufficiently recovered and is capable of receiving program benefits and additional contracts once again.

¹ Pursuant to 13 C.F.R. § 124.305(h)(1)(iii)

- Approval of a Participant's decision to suspend is on a case-by-case basis and considers the totality of the Participant's position in the program. Keep in mind that the **the length of the suspension will be added to the concern's program term**; for example, if the company has six months left on its nine-year program, it will have six months remaining when the suspension is lifted. Seek guidance from your designated SBA BOS to determine the best solution for your business given your current situation.
- While the voluntary suspension is only available one time, the company would be eligible for voluntary suspension if they are affected by a **different** declared disaster.

If you are interested in learning more about the option to suspend your participation in the 8(a) Business Development Program, contact your designated SBA BOS at your [local SBA District Office](#).

Business Activity Targets Waiver

If you are concerned about meeting your Business Activity Target (BAT) due to impact by COVID-19, discuss your situation with your designated SBA BOS. In some cases, the sole-source restriction may not be imposed, allowing the firm to continue to benefit from receipt of contracts.

Additional Resources

Contact your **local SBA District Office** for local assistance with government contracting, certifications, financing, general business support, and more. Find your closest office at [SBA.gov/LocalAssistance](https://www.sba.gov/LocalAssistance).

Contact the **SBA Answer Desk** for general questions: answerdesk@sba.gov.