

MILLER & CHEVALIER CORONAVIRUS TASK FORCE: U.S. GOVERNMENT CONTRACTING

Supply chain disruptions and labor shortages caused by the outbreak of the novel coronavirus have the potential to impact United States government contractors and subcontractors in many different ways.

Government contractors must comply with the performance, schedule and regulatory requirements in their contracts. Contractors often are subject to strict quality specifications and tight delivery deadlines. And they frequently must purchase components or deliver qualified products from designated sources or countries. If a contractor fails to meet its contract obligations, it can face termination, cost disallowances, liquidated damages, and other adverse actions.

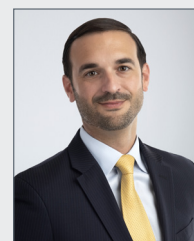
To mitigate potential performance risks arising from the spread of COVID-19, contractors should re-familiarize themselves with provisions in their contracts governing:

- ▶ Performance and schedule delays, including excusable delays
- ▶ Suspensions of work or stop work orders
- ▶ Changes
- ▶ Terminations of convenience
- ▶ *Force majeure* events, such as a pandemic
- ▶ Customer notification requirements
- ▶ Required or qualified sources of supply or labor
- ▶ Recoverability of increased costs of performance
- ▶ Domestic or foreign sourcing (Buy American Act, Trade Agreements Act)
- ▶ Prioritization of supplies and services, including under the Defense Production Act of 1950
- ▶ Limitation of liability and contractual indemnity

Contractors also should be mindful of opportunities to:

- ▶ Participate in procurements issued under rapid acquisition authorities
- ▶ Request indemnification for unusually hazardous or other high-risk contracting activities, including under P.L. 85-804 or the PREP Act

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