



COVID-19: Considerations for Subcontractors

ASM continues to closely monitor news about the coronavirus and its potential impact on the region's construction industry. This email provides several important links to the most current and continually updated information available from the state and federal government and also raises some questions you should consider. As a subcontractor, it is not too early to anticipate possible impacts to your business in the coming days and weeks.

With respect to existing construction contracts: are there provisions, such as a force majeure clause, which may excuse or minimize the impacts of your late performance? If so, what are the notice requirements for informing parties upstream? Conversely, does your contract provide for additional time and costs if you are delayed by others and who, when, and how do you notify them of this? If you are negotiating contracts now, what are some of the safeguards you may want to build in to protect your company from the potential and uncertain impacts of the virus? These are just a few of the things you and your attorney should consider as the impact of the virus unfolds in the upcoming days and weeks.

When it comes to insurance, generally, most policy language surrounding business interruption requires the claim be caused by a direct physical loss of or damage to property by a "covered peril" in order to trigger policy benefits. An epidemic, while it can certainly disrupt business operations and revenue, may not meet the standard of a covered claim under your policy due to the absence of such "direct physical loss." Contact your insurance agent with specific questions about the extent of your coverage.

If the current trend continues and the virus spreads, questions will arise about your workforce. Construction is unique and not the type of industry where workers can telecommute. For employees that may have had exposure to coronavirus either by traveling to certain countries, or by being in contact with an infected person, a 14-day quarantine is recommended. But this raises many questions for employers. [The Associated Industries of Massachusetts \(AIM\) put this helpful Q&A together for employers that address some of the questions that arise.](#)

- MA Department of Public Health Resource Page <https://www.mass.gov/resource/information-on-the-outbreak-of-coronavirus-disease-2019-covid-19>
- OSHA COVID-19 Webpage- including OSHA's Guidance on Preparing Workplaces for COVID-19 <https://www.osha.gov/SLTC/covid-19/>
- Centers for Disease Control and Prevention Resource Page <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- Centers for Disease Control and Prevention Employers Guide <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

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