

## SHELTER IN PLACE ORDERS; IS SOLID AN ESSENTIAL BUSINESS?

Mar 23 2020

As more state and local governments weigh “shelter in place” orders in an effort to combat the spread of COVID-19, many employees and managers have reached out to ask; what constitutes an “essential” business.

The answer is very clear SOLID is providing an essential service and is protected through the [Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#) from the US Department of Homeland Security, Cybersecurity & Infrastructure Security Agency (CISA).

In the event of a “shelter in place” order or a state’s COVID-19 mitigation initiative, the distinction between “essential” and “nonessential” is crucial in assessing what options are available to a business.

SOLID will maintain business operations because we have been identified as providing specified activities necessary to preserve life and essential infrastructure on the basis of facilities management.

Be advised that there will be uncertainty and lack of consistency state-to-state as to what is an “essential” business, and how authorities approach these issues. California, Georgia, and Connecticut have each incorporated parts of the CISA, and have embraced the National Infrastructure Protection Plan (NIPP). Rather than a federal mandate, the CISA guidance and listing is an advisory blue print for state and local governments; and businesses. It provides crucial guidance on balancing maintenance of critical infrastructure business functions with COVID-19 precautions.

States have taken different approaches on how closely they follow the CISA list. For example, the California Order implements it as its listing of “essential businesses” under that state’s order. Georgia and Connecticut provide listings of additional “essential businesses,”.

Other orders, however, have provided different “essential business” definitions – for example, the [Alameda County order](#) that affected San Francisco. [Pennsylvania](#), [New York](#), and New Jersey have also each defined their own lists of “essential” business among them:

“Facilities Support Services, Services to Buildings and Dwellings, Remediation and other waste management services”

[See Exhibit 1-A]

We feel confident having reviewed with multiple legal counsel that SOLID will not need to close unless specifically ordered. We will continue to run our essential business while minimizing exposure among employees required to perform their essential job functions.

Should for any reason a member of law enforcement or security block a SOLID employee's ability to access a job site because of a shelter order please contact:

**Manny Gomez MHRM SHRM-SCP**  
**SOLID Director of Human Resources**  
**704-650-4178**

## **CHALLENGING THE ORDERS**

Challenges can be made through a court system through the support of SOLID Human Resources. No employee should engage in any type of confrontation or conflict with a member of law enforcement or security. Any employee turned away from a job site should provide the legal agent the contact information for SOLID Human Resources. Any employee sent home early will receive minimum duration pay of 4 hours work.

Because of the nature of these shelter orders, the power to issue and enforce such orders are state specific and are based on state constitutional, frameworks. They must be reviewed on a case by case basis by anyone affected that wishes to understand their application, enforcement mechanisms, and judicial review availability and proceedings are available to challenge an order and HR will exercise that right if needed.

In short we have reviewed the federal and state specific shelter and mitigation orders and all have identified our business as "essential". Companies that supply the operations of these exempted businesses will continue to be considered "essential", and therefore will continue to operate as normal as possible.

So far, it is our understanding that all of the states we operate in have embraced the company's status as a first responder under FLSA, and the notion that we intend to continue operating as an essential business. After all we are supplying the cleaning and disinfecting of public facilities. Therefore providing the very mechanism that will eradicate the virus that has afflicted our Cities State of Emergency.

[Exhibit 1-A]

<b>Professional and Business Services</b>	<b>Professional, Scientific, and Technical Services</b>	Legal Services	No		
		Accounting, Tax Preparation, Bookkeeping, and Payroll Services	No		
		Architectural, Engineering, and Related Services	No		
		Specialized Design Services	No		
		Computer Systems Design and Related Services	No		
		Management, Scientific, and Technical Consulting Services	No		
		Scientific Research and Development Services	Yes		
		Advertising and Related Services	No		
		Other Professional, Scientific, and Technical Services	Yes		
	Management of Companies and Enterprises		No		
	<b>Administration and Support and Waste Management and Remediation Services</b>	<b>Administrative and Support Services</b>	Office Administrative Services	No	
			Facilities Support Services	Yes	
			Employment Services	No	
			Business Support Services	No	
			Travel Arrangement and Reservation Services	No	
			Investigation and Security Services	Yes	
			Services to Building and Dwellings	Yes	
			Other Support Services	No	
			<b>Waste Management and Remediation Services</b>	Waste Collection	Yes
				Waste Treatment and Disposal	Yes
Remediation and Other Waste Management Services		Yes			
Elementary and Secondary Schools		No			