

SECTION J, APPENDIX D

PERSONNEL APPENDIX

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1.0 Introduction

This Appendix sets forth certain Contractor Human Resources Management policies and related expenses that have cost implications under this Contract and are not covered explicitly in the Federal Acquisition Regulations (FAR) or Department of Energy Acquisition Regulations (DEAR) cost principles. This Appendix identifies those costs deemed eligible for reimbursement when incurred in keeping with FAR 31.201-2. The Contractor may seek Contracting Officer approval prior to incurring costs not specifically identified as allowable in the Contract however any contractor human resources costs incurred that are outside of this appendix may be deemed unallowable. Costs associated with personnel policies for Pantex employees will be governed by the Personnel Appendix approved for Contract DE-NA0001942, until a new Personnel Appendix is incorporated into the Contract via a contract modification. The Contractor shall identify and treat all unallowable costs and directly associated unallowable costs in accordance with the criteria set forth in FAR 52.230-2, *Cost Accounting Standards*, including but not limited to placing unallowable costs in appropriate allocation bases. No later than 120 days after the start of the Contract Transition Period, the Contractor shall submit a plan and timeline to address the items in the Personnel Appendix Section J, Appendix D, consistent with Section J, Appendix S, *Human Resources*, Section 2.4. The Contractor and Contracting Officer, within 60 days of full contract performance, shall meet to negotiate the terms of a new Personnel Appendix for implementation within 120 days of full contract performance.

All of the Contractor's personnel policies shall comply with the terms and conditions of this Contract including but not limited to FAR part 31, *Contract Cost Principles and Procedures*. For purposes of cost reimbursement, if there is a conflict between the Contractor's policies and the terms of this Contract, the Contract will govern. Nothing in this Personnel Appendix makes costs allowable or reasonable that would otherwise be unallowable or unreasonable.

In situations where changes may set a precedent among the Department of Energy/National Nuclear Security Administration (DOE/NNSA) contractors, the Contractor will consult with the Contracting Officer regarding program changes and cost reimbursement prior to implementation, even if there is no expected increase in cost. This requirement is not intended to prohibit the Contractor from taking advantage of efficiency gains realized from new and innovative approaches in providing human resource services.

The Contractor shall establish effective management review procedures and internal controls to ensure that requirements set forth herein are met. Management controls shall be put into place (*see* DEAR 970.5203-1) to ensure that Human Resources Programs of the Contractor:

- (1) Are market-based as evidenced by comparisons with applicable industry comparators;
- (2) Fulfill the requirements of the DOE/NNSA mission, meet strategic direction of DOE/NNSA, and are in the best interests of the Government;

- (3) Are adopted to support the business needs of the Contractor and/or local conditions above;
- (4) Apply to all employees of the Contractor engaged in the work under this Contract, to the extent practicable, irrespective of the place of performance of work, and are consistent with collective bargaining agreements, as applicable;
- (5) Are documented in Contractor policies and/or in Summary Plan Descriptions and are available to DOE/NNSA;
- (6) Are in compliance with rules and regulations incorporated into this Contract and applicable laws; and
- (7) Are affordable within the constraints of the resources available to the Contractor.

Either party may request revisions to this Appendix. The parties agree to consider in good faith any such request. When revisions to this Appendix are made, a contract modification will be executed to effect the changes.

This Contract, including this Appendix is for the exclusive benefit and convenience of the parties hereto. Nothing contained herein shall be construed as granting, vesting, creating, or conferring any right of action or any other right or benefit upon past, present, or future employees of the Contractor, or upon any other third party.

This Appendix applies to all non-bargaining employees at the site. Sections 3.0 (ii) and 4.0 below set forth allowable costs associated with bargaining unit employees.

2.0 Definitions

The following term as used in this Appendix has the meaning defined herein.

- (i) Exempt Employee: Employees who are not eligible for overtime pay because they are executive, administrative or professional employees and meet other applicable criteria under the Fair Labor Standards Act (FLSA) and FLSA implementing regulations.
- (ii) Non-Exempt Employee: Employee not meeting the definition of “Exempt Employee.”

3.0 Compensation

- (i) General

The Compensation System program costs directly attributable to compensation provided to Contractor Employees will be allowable under this Appendix (to the extent not unallowable under other terms and conditions of the Contract, *e.g.*, § H-26).

- (ii) Overtime

- (1) The use of overtime is allowable. The Contractor shall maintain

adequate internal controls to ensure that employee overtime is authorized only if cost effective and necessary to ensure performance of work under this Contract. The Contractor shall submit to the Contracting Officer overtime utilization reports no later than 30 days after the end of the fiscal year for the fiscal year that just ended. The Contractor shall notify the Contracting Officer when it is likely that overtime usage as a percentage of exempt and non-exempt base payroll may exceed, or is likely to exceed 4% of total payroll. The Contracting Officer may request a plan to lower the overall overtime rate as a percentage of payroll.

For purposes of further defining language used below, hours worked is intended to describe hours charged where work was performed, while time paid is intended to describe all hours paid.

- (2) *Extended Workweek and Flextime:* When deemed essential to the performance of work under this Contract, the Contractor may establish an extended workweek for Exempt Employees. Exempt Employees assigned to an extended workweek may be paid straight time for designated hours worked in excess of 45 hours in a week. If the Contractor intends to establish an extended workweek or flextime, a plan explaining the pay, schedule, eligibility, criteria, and mission need shall be submitted to the Contracting Officer for advance approval.

(iii) Variable Pay

Consistent with Section J, Appendix S, *Human Resources*, Section 3.0 *Compensation*, Section 3.2.4, the Contractor is authorized to fund an incentive compensation program for non-Key Personnel through a recurring incentive compensation (variable pay) authorization not to exceed 2% of the total annual base salary of the previous plan year.

(iv) Shift Differential Pay

Shift differentials may be paid to eligible employees. Proposed shift differentials shall be approved by the Contracting Officer prior to implementation.

(v) Call-In Emergency Pay

The Contractor may pay Non-Exempt Employees, who are called during off time to report for a work assignment outside their standard work schedule to respond to an emergency, a minimum of four (4) hours pay for time worked at straight time rate or overtime rate as the circumstance may require at the time of the called-in emergency.

(vi) Special Pay Programs and Allowances

Special pay and allowances may be paid to employees in specific work

environments or to address mission needs, and shall be approved in advance by the Contracting Officer.

(vii) Approval of Individual Compensation Actions in Excess of Salary Range

The Contractor shall obtain Contracting Officer approval for any proposed employee's salary in excess of the Contractor-established salary range for the position occupied by the employee 30 days prior to the effective date.

(viii) Severance Pay

Severance schedule to be included here upon approval by Contracting Officer as required in Section J Appendix S, *Human Resources*, Section 3.0, Compensation, Section 3.2.6.

(ix) Pay in Lieu Of Notice

In the event an Exempt Employee of the Contractor resigns, and the Contractor determines the services of such Employee cannot be productively utilized during the period of notice or if his/her presence at the work site during the notice period is not desired, the Contractor may pay the employee at his/her base pay for two (2) weeks in lieu of continuing the employee's employment for two weeks.

4.0 Labor Relations – Collective Bargaining Agreements

Costs of wages and benefits to employees represented by unions and all other costs and expenses incurred pursuant to the provisions of collective bargaining agreements and revisions thereto are allowable costs provided the Contractor adheres to requirements provided in Section J Appendix S, *Human Resources*, Section 5.0, *Labor Relations*.

The incumbent contractor is a party to collective bargaining agreements with the following unions:

- The Metal Trades Council of Amarillo Texas and Vicinity, AFL-CIO.
- The Pantex Guards Union.
- West Texas Building Trades.

Expenses associated with employee representation activities that are not prohibited by Section 302 of the Labor Management Relations Act, 29 U.S.C. § 186, or any other applicable law or regulation, are allowable costs.

5.0 Group Insurance and Legally Required Payments

Costs incurred in implementing, administering, and funding comprehensive DOE/NNSA approved group insurance plans are allowable. Administrative costs associated with the effective administration of the plans include such items as publicizing, enrolling, maintaining records, and providing employees with assistance

in understanding and collecting their benefits.

5.1 Displaced Workers Medical Benefits Program (DWMBP)

The Contractor may provide Displaced Workers Medical Benefits to displaced workers if provision of such benefit is set forth in the Contractor's workforce restructuring plan that is approved by DOE/NNSA (see Section J, Appendix S, *Human Resources*, Section 6.2 Reductions in Contractor Employment – Workforce Restructuring).

Benefits under the DWMBP are available to displaced workers who are not eligible for health insurance coverage under another plan (e.g., another employer's health plan, the Contractor's retiree medical plan, a spouse's medical plan, or Medicare). Generally, DWMBP benefits are as follows (note: NNSA may approve Contractor workforce restructuring plans that include less years of coverage):

1. For the first 12-month period after the termination date, the Contractor shall continue to pay the employer portion of the medical premium and the separated employee will pay a premium equal to the monthly premium paid by active employees for the type and level of coverage the separated employee has at the termination date.
2. Beginning in the second year after the termination date, the separated employee will be responsible for one-half of the full Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) rate for this coverage and the Contractor shall pay the remainder.
3. Beginning in the third and final year of the DWMBP, the separated employee will be responsible for paying the full COBRA. At the end of the third year the employee's coverage eligibility ends.

6.0 Retirement Plans

Reasonable costs involved in implementing, administering, and funding DOE/NNSA approved pension and 401(k) plans are allowable. Reasonable administrative costs associated with the effective administration of the plans include such items as publicizing, enrolling, maintaining records, and providing employees with assistance in understanding and collecting their benefits.

Only compensation reimbursed by DOE/NNSA under the Contract is authorized to be considered as pensionable earnings for purposes of the DOE/NNSA approved pension plans.

- (i) The Contractor shall administer the following plans:

Qualified Plans – Pantex

- Retirement Plan for Bargaining Unit Employees of the Metal Trades Council of Consolidated Nuclear Security, LLC Consolidated Nuclear Security, LLC Retirement Plan for Bargaining Unit Members of the Pantex Guards Union
- Consolidated Nuclear Security Retirement Plan for Non-Bargaining Pantex Location Employees
- Consolidated Nuclear Security 401(k) for Bargaining Pantex Location Employees
- Consolidated Nuclear Security 401(k) Plan for Non-Bargaining Pantex Location Employees

- (ii) Qualified Defined Contribution Plan

Contractor funds contributed on behalf of participating employees whose employment was terminated, that never vested pursuant to the provisions of the plan, shall be used to offset the Contractor's contributions obligated to be made on behalf of other participants in the plan. In the event this Contract with the Contractor is terminated, funds not committed to participants pursuant to provisions of the 401(k) plans listed above in effect for Pantex Plant employees shall be returned to DOE/NNSA.

7.0 Paid Time Off

The Contractor shall submit a plan for Paid Time Off programs. Paid Time Off programs are considered to be one of the benefit plans that must be submitted pursuant to Section J Appendix S, *Human Resources*, Section 2.0 *Workforce Transition*, Section 2.2.1.

- (i) Military Leave of Absence

The Contractor shall submit a plan for a Military Leave of Absence for training that provides benefits consistent with the provisions established in 5 U.S.C. 6323 for federal employees. The Contractor shall submit a plan for active-duty military leave for Contracting Officer approval that, at minimum, complies with all applicable provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the requirement of the previous sentence.

- (ii) Weather and Safety Leave

The Contractor may provide to eligible employees Weather and Safety Leave (WSL) for a condition that prevents employees from safely traveling to or performing work on site. WSL is allowable subject to the limitations in this

paragraph. WSL leave is only available to employees who cannot telework. To the extent the Contractor seeks to provide WSL to eligible employees for a period longer than 24 hours, the Contractor must seek prior approval from the Contracting Officer. WSL cannot exceed 40 hours per week. The Contractor shall have policies and procedures to track WSL and ensure employees do not receive both WSL and paid time off.

(iii) Security Leave (Suspension of Access Authorization)

1. If the access authorization of a Contractor employee is suspended by direction of the Manager (as that term is defined in 10 C.F.R. 710.5), the Contractor shall transfer the employee to work not requiring access authorization if such work is available, without reducing the employee's base compensation. If the Contractor determines that no work is available in an uncleared area to which the employee may be transferred, the Contractor shall notify the Contracting Officer the reasons for the determination.
2. Subject to the Contracting Officer's concurrence that no such work is available, the Contractor may place the employee on leave with pay at his/her base compensation. If an employee who is continuing to receive compensation files a timely request for a hearing pursuant to 10 CFR part 710, such base compensation shall be continued until the Contractor receives notification in writing of the initial Administrative Judge's decision.
 - a. If the decision of the Administrative Judge is for revocation of access authorization, the Contractor may compensate the employee as set forth herein.
 - 1) In the event the employee was transferred to another position where such access authorization is not required, compensation may, thereafter, be the base compensation applicable to the new position, and such compensation shall continue until final disposition of the case under DOE procedures as set forth in 10 CFR Part 710.
 - 2) In the event a job transfer was not arranged (i.e., the employee was placed on a leave with pay), the employee shall be placed on leave without pay effective the date the Contractor received written notification of the initial Administrative Judge's decision. The employee shall remain on leave without pay until final disposition of the matter.
 - 3) If at any stage of the access authorization procedure following a suspension or at the conclusion of the administrative review process provided under 10 CFR Part 710, the employee's access authorization is

reinstated, the Contractor will offer the employee reinstatement in the same or a comparable position to the one held prior to suspension, if available. The employee may be reimbursed for the difference between the employee's base wage or salary and actual earnings, including earnings from other employment, during the period of suspension.

8.0 Training and Education

(i) General Provisions

- (1) The Contractor can provide training and education directly related to the employee's current position or to another position to which the employee may reasonably be moved.
- (2) The Contractor shall establish written procedures outlining a system of approval for all requests for training and education. Such system shall provide an approval structure for in-house and outside training programs and educational assistance. Local colleges and universities shall be utilized as primary sources.
- (3) Per FAR 31.205-44, overtime compensation for training and education is unallowable.

(ii) Training

- (1) Internal Training Programs - Internal training programs may include but are not limited to orientation, job training, supervisory training, and executive development. Such training programs may be conducted during an employee's workday or after hours. Reasonable costs of in-house training including necessary equipment, materials, and instructor personnel are allowable.
- (2) External Training Programs - Employees may be selected by the Contractor to participate in job related training courses, technical meetings, professional society meetings, seminars, conferences, and other specialized training courses away from the site(s) facilities. Allowable costs for such training courses may include employee's regular pay, travel, and subsistence expenses in accordance with the Federal Travel Regulation (FTR), and the cost of tuition, fees, and course materials. Conference management shall be managed in accordance with the DOE/NNSA conference management requirements.

(iii) Education

- (1) The Contractor shall submit a plan for any proposed education programs for approval by the Contracting Officer.

9.0 Travel, Relocation, and Subsistence

- (i) The Contractor may pay transportation, lodging, meals, and incidental expenses for employees required to travel in conjunction with the performance of work under this Contract. Travel costs shall be allowable to the extent they are incurred in accordance with the FAR, DEAR, and FTR and do not exceed the maximum per diem rates in effect at the time of travel set forth in the FTR, prescribed by the General Services Administration.
- (ii) The Contractor may deviate from this Appendix in specific instances where the deviation: (A) is determined in writing by the Contracting Officer to be economically advantageous to DOE/NNSA; and (B) conforms to applicable regulations and law. The Contractor will maintain records of all deviations, justifications, and approvals for audit review.
- (iii) Relocation expenses are allowable for eligible Exempt Employees. Relocation expenses shall be incurred in accordance with the provisions, limitations, and exclusions of the FAR and the FTR.

10.0 Recruiting

Allowable costs of personnel recruitment may be allowable when appropriate. Examples of allowable costs include but are not limited to the following: education programs; summer internship programs; nominal costs for promotional items for recruitment purposes; employment advertising; services of staffing sourcing vendors; services of employment agencies at rates not in excess of standard commercial rates; participation in corporate recruiting activities; campus recruiting; career fairs; and operation of recruiting stations.

11.0 Special Employee Activities

- (i) Recreation and Morale Building Benefits

A recreation and morale building program may be proposed by the Contractor for Contracting Officer approval. The funding for this program shall not exceed \$50 per employee per year.

- (ii) Employee Recognition Programs

An employee recognition program may be proposed by the Contractor for Contracting Officer approval.

12.0 Community Involvement and Outreach

The Contractor shall develop and submit to the Contracting Officer a Community

Outreach Plan for approval. This plan may authorize employees to participate in educational and community outreach. The salaries, wages, and fringe benefits of employees while engaged in such approved activities will be treated as allowable costs.

Educational and community outreach does not include activities conducted by elected or appointed officials during an employee's regularly scheduled workday. Compensation associated with educational and community outreach outside of the employee's normal work schedule shall not be reimbursed under the Contract.

The Contractor shall submit a report annually, no later than November 1, to the Contracting Officer on the types of usage and number of hours utilized in the fiscal year that ended the previous September 30. Some examples of permissible educational and community outreach include, but are not limited to:

- Promotion of Science, Technology, Engineering, and Mathematics in the educational setting (elementary school through higher education institutions)
- Science Bowl and Science Fairs
- Blood bank drives
- Charity drives
- United Way campaigns

13.0 Parent Organization Support

- (i) The Contractor may loan, at no cost to the Government, individuals working under this Contract to other operations of parent organization on a non-interference basis as determined by the Contractor. Loans longer than six months, regardless of the level of effort, require Contracting Officer approval.
- (ii) The Contractor may borrow employees from its parent organization for incidental work under this contract. The Contractor shall develop an annual plan for Contracting Officer approval describing the number of technical positions being sought to enhance Contract performance. This plan should include details such as the positions being sought, benefit to the Government, the internal process to execute the loans, estimated cost of the execution of the plan, and any restrictions on reach back employees while at the site.
- (iii) Reimbursement of costs associated with a short-term parent organization support must be reasonable and allowable in accordance with this Contract. The cost of wages and fringe benefits, and associated burdens of employees from Parent Organizations may not exceed the cost of what the Contractor would pay if the loaned employee were a Contractor employee.
- (iv) The Contractor shall follow the requirements including living allowances for parent organization support consistent with the requirements for Contractor Domestic Extended Personnel Assignments contained in NNSA NAP 540.2 *NNSA M&O Off-Site Extended Duty Assignments*.