

## **Subcontractor COVID-19 Toolbox, Partial Stop Work Advance Understanding**

The purpose of this document is to compile all Covid-19 related information and guidance into one place for N3B subcontractor reference.

### **1.0 Partial Stop Work (Ref: EMLA-2020-1385-03-001, Dated March 24, 2020)**

- Subcontractors impacted by the Stop Work may seek equitable adjustment for impacts associated with their inability to access the Site or perform authorized remote portable work, Pursuant to FAR 52.242-15.
- Employees who are able to perform their jobs remotely shall telework. Only hours worked may be charged to their subcontract/normal work charge codes. N3B in conjunction with the Subcontractor shall make every effort to identify work that can be performed remotely to maximize telework.
- Subcontractor must demonstrate work and impacted personnel were planned in the subcontract in order to be eligible for reimbursement of Stop Work related costs.
- Subcontractor must demonstrate personnel were planned, or had planned work in accordance with their subcontract/task order, in order to be eligible for reimbursement and any Leave charges must be clearly segregated from other costs in a separate invoice.
- Profit/Fee is unallowable on Covid-19 related costs invoiced and total time billed should be tracked and reported in or with the invoice.
- Contractors are responsible for supporting any claimed costs, including claimed Leave costs for their employees, with appropriate documentation and identifying credits that may reduce reimbursement i.e. reimbursement under the Coronavirus Aid, Relive and Economic Security Act (CARES Act). The associated costs will be considered allowable if not otherwise unallowable, meaning they must be allowable, allocable and reasonable.

### **2.0 CARES Act- Does not specifically apply directly to N3B Subcontractors via DOE Order 350.1, however is applicable directly to Subcontractors prior to requesting reimbursement through N3B's subcontract**

- The authority applies to N3B Contract 89303318CEM000007, subject to DOE Order 350.1, Contractor Human Resources Management Program, which includes section H.5, "Employee Compensation: Pay and Benefits."
- Subcontractors who are not covered by 350.1 (not a flow down in their subcontract) may seek recovery of certain costs under the Partial Stop Work.
- Subcontractor shall follow the same guidelines in the CARES Act if they are seeking recovery of costs related to COVID-19 under the Partial Stop Work.
- As a courtesy the implementation of Section 3610 of the CARES Act is attached hereto as a guideline.  
<https://www.energy.gov/management/downloads/pf-2020-22-guidance-using-doe-s-clauses-developed-implement-section-3610>

### **3.0 Cost Segregation**

- As of the date of the Partial Stop Work order from DOE (March 24, 2020), subcontractors shall commence segregation of COVID-19 related costs.
- Costs associated with Partial Stop Work shall be segregated by Subcontractor within Subcontractor's accounting system.
- Irrespective of Subcontract type, in order to be considered for reimbursement all impacts must be presented on a cost basis and shall not exceed subcontract or 40 hours per week per employee.

- Employee names, job titles, functions, rates and any other direct costs, such as equipment demobilization cost, shall be clearly delineated.
- Burden of proof for cost impacts lies with Subcontractor.
- If the cost is time based, such as staff augmentation or time and material, the Subcontractor must prove that hours billed are in line with the normal hours planned and are in line with the hours being charged between the actual hours work and any hours the subcontractor was unable to work due to COVID-19, per the subcontract, less profit/fee.
- If the cost is associated with a Firm Fixed Price subcontract, the Subcontractor must prove that the work was planned per their subcontract and that the costs being charged are in line with the subcontract, less fee/profit.

#### **4.0 Invoicing and Requests for Equitable Adjustments**

- To assist in Subcontractor cash flow, Subcontractors do not have to wait until 30 days after the end of the partial stop work period to assert rights to an equitable adjustment.
- Subcontractors may concurrently invoice for ongoing Partial Stop Work related costs when accompanied by a fully supported REA.
- The REA shall provide the segregated Partial Stop Work costs associated with COVID-19, broken out by cost element, with an accompanying narrative explanation of the allocability, allowability and reasonableness of the costs for the period of the invoice.
- No fee or profit may be included regardless of Subcontract type.
- Partial Stop Work REAs may be submitted no more frequently than monthly, per regular Subcontract Invoicing Terms.
- In order to be eligible for invoice payment, subcontractor will have to agree to provisional invoice payment terms including any necessary audits, release of claims and closeout adjustments.
- Subcontractor shall submit separate invoices for Work performed and invoiced and REAs for COVID-19 related costs for same time periods.
- Subcontractor shall not assert their right to an REA by referencing CARES Act or the Governor's Stay at Home order.
- Assertion of rights to an REA shall reference Partial Stop Work related to COVID-19.
- Subcontractor shall **certify** that they have ensured that subcontractor policies prohibit employees from taking both unemployment compensation and paid time off concurrently.

#### **5.0 Contractor Review**

- Contractor will review Subcontractors REAs for allowability, allocability and reasonableness per 48 CFR Part 31, Subpart 31.2- Contracts With Commercial Organizations ; the terms of the Subcontract, and the Partial Stop Work guidance provided by the Department of Energy.
- Subject to the Subcontract Obligation of Funds and Limitation of Funds, costs deemed allowable, allocable and reasonable will be included in Contractor's invoices and REAs to DOE.
- Upon payment by DOE, Contractor will pay subcontractors.
- Subcontract invoice payment terms do not apply to invoiced REA costs.

- At the conclusion of the Stop Work a single Subcontract Modification may be contemplated to equitably adjust and/ or realign the Subcontract, to include value and schedule if required by N3B.

#### **6.0 Telecommuting (Ref: N3B Telecommuting Agreement Form for Subcontractors)**

- Subcontractors who are teleworking should ensure they have a Telecommuting Arrangement Form on File with their Subcontract Administrator. If N3B does not have an executed form you are not eligible for payment for work performed off site in a telecommuting capacity.
- N3B will be executing a mass extension to all Direct N3B employees extending the “End Date” of the Telecommuting agreement to June 30, 2020. As such, all Subcontractor Telecommuting Agreements will be extended to June 30, 2020.

#### **7.0 Operational Excellence Initiative Program (Ref: DOE EM-LA AU Section 3.0)**

For subcontractors assigned Operational Excellence Initiative training by N3B Line Managers:

- For the portion of the OEI that was mandatory regardless of COVID-19, costs should be charged to the project and captured on a billable project charge code per normal business operations.
- For the OEI that would not have been mandatory and is truly a COVID charge, follow the directions below.
  - Subcontractors are responsible for recording their COVID-19 related costs and invoicing N3B separately,
  - COVID-19 costs shall be captured by Subcontractor, not by N3B’s Costpoint system. The N3B signature would come on the invoice approval.
- The N3B team has compiled core training for the OEI initiative through 6/18/2020 and is actively adding to our existing list. The goal is to complete all required training that we are able to offer remotely through the OEI program. If the date is extended past 6/18/2020, N3B will communicate the new schedule/date.

#### **Attachments:**

N3B Minimum Essential Operation and Partial Stop Work Due to COVID-19 Pandemic  
Basic Work Authorization for Charging for Subcontractors  
Telecommuting Arrangement Form for Subcontractors  
OEI Schedule through 6/18/20

**END OF DOCUMENT**