

Funding

Subject: FW: Notice to Contractors regarding Government Shutdown

From: ARC Webmaster [<mailto:nsaarc@nsaarc.net>]

Sent: Friday, September 27, 2013 5:32 AM

To: diaz@research.ucsb.edu

Subject: Notice to Contractors regarding Government Shutdown

Dear Industry Partner,

In the event of a Government shutdown due to lack of appropriations, NSA will be sending home non-emergency Government personnel and Contractor personnel performing non-excepted functions. NSA will essentially be treating the shutdown the same way NSA handles a snow emergency (code red). In the absence of further guidance from the Contracting Officer, excepted contractor personnel will be the same as those routinely required to report during a scheduled (holiday) or unscheduled (weather-related) government closure.

As such, this shutdown period will be governed by MPOAS clause 352.211-9002 NOTICE: GOVERNMENT CLOSURES and therefore non-excepted work may not be performed at NSA facilities. This applies to contractors located CONUS and OCONUS, except those contractors in the CENTCOM AOR.

On-site contractor personnel working on NSA contracts shall not be granted access to Agency installations during closure situations unless they are designated as personnel required to perform excepted activities, which includes critical work already in process or work pursuant to instructions by the Contracting Officer. Agency Contracting Officers will issue letters to those contractors deemed to be performing excepted functions, including an authorized staffing level. Absent such written authorization, Contractors shall assume their personnel are not performing excepted functions and not report to the Government site. Excepted status may change depending on the length of the Government shutdown. Agency Contracting Officers will notify affected contractors if there is a change in the contractors status.

For contractors who are performing non-excepted work, performance under the contract may continue until all obligated funding has been exhausted. When funding exists on the contract and place of performance is a Government location, contractors will not be permitted access to Agency spaces and therefore cannot charge the Government. If the contract provides for both on-site and off-site place of performance and there is meaningful work for the contractor to perform at its facility, the CO or COR may agree to allow the contractor to perform work at the contractors facility during the shutdown until contract funds are exhausted.

For contractors that have contracts with obligated funding remaining, and place of performance is at the contractors facility, work may continue at the contractor facility until currently obligated funding is exhausted.

No additional funding will be provided for those contracts under which non-excepted work is performed. The Agency will be unable to exercise options for non-excepted contracts in advance of appropriations. Agency officials may not authorize at risk performance by contractors performing non-excepted activities or encourage contractor employees performing non-excepted functions to work. In addition to violating the Anti-Deficiency Act, there is no expectation that funds will ever be made available for non-exempt activities performed during a funding gap.

When obligated funds have been exhausted and contractors are provided written direction to perform excepted activities as described above, no funds will be available to pay for those services unless or until Congress

appropriates additional funding.

352.211-9002 NOTICE: GOVERNMENT CLOSURES (DEC 1997)

As prescribed at 311.404-90(a)(3), include the following in all solicitations and contracts (including SF1449) whenever contractor employees work at, or make deliveries to, Government facilities:

NOTICE: GOVERNMENT CLOSURES (DEC 1997)

a) Government Holidays:

New Year's Day - 1 January

Martin Luther King, Jr.'s Birthday - 3rd Monday in January

President's Day - 3rd Monday in February

Memorial Day - Last Monday in May

Independence Day - 4 July

Labor Day - 1st Monday in September

Columbus Day - 2nd Monday in October

Veteran's Day - 11 November

Thanksgiving Day - 4th Thursday in November

Christmas Day - 25 December

Any other day designated by Federal Statute, Executive Order or a Presidential proclamation.

When a holiday falls on a Sunday, the following Monday will be observed as a legal holiday. When a holiday falls on a Saturday, the preceding Friday is observed as a holiday by U.S. Government Agencies.

Unless authorized by the Contracting Officer or his duly authorized representative, the contractor shall not work UNDER MPO CONTRACT at any government facility on any holiday listed above nor should any deliveries under this contract be made to any government facility on those days.

The amounts in Section B of the contract include an allowance for holidays to be observed; and, accordingly, the government will not be billed for such holidays, except when services are required by the government and are actually performed on a holiday.

b) Administrative leave:

1) When the Government grants administrative leave to employees as a result of inclement weather, potentially hazardous conditions, or other special circumstances, contractor personnel working at the specific facility/location granted administrative leave shall also be dismissed. However, the contractor shall provide sufficient on-site personnel to perform the requirements of critical work already in process, if instructed by the Contracting Officer or duly authorized representative.

2) On-site personnel working on this contract shall not be granted access to Agency installations during closure situations unless they are designated as emergency or essential personnel required to perform the requirements of critical work already in process, or are otherwise instructed by the Contracting Officer or duly authorized representative. On-site personnel at another government facility shall only be granted access under terms agreed to with that Agency.

c) Except for emergency situations or when instructed by the Contracting Officer or duly authorized representative, the costs associated with the period of any such Agency closure shall not be a direct reimbursable cost under this contract. If authorized in accordance with the contractor's normal accounting

procedures, these costs MAY be reimbursable as an indirect cost using established indirect cost pools.

Regards,

The ARC Webmaster

As a registered vendor with the NSA/IC ARC you are agreeing to comply with Title 18 USC 1001.

Consequences: A violation of Title 18 USC 1001 may result in criminal sanctions or removal from the NSA/IC ARC registration.

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