|  |  |
| --- | --- |
|  | **Design and Construction**  an iso 9001:2008 certified organization |
| Contract Payment Audit Group, 35th Floor, Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12242  Phone: (518) 485-8823 |

**Emergency Labor and Material Contracts - Payment and Procedure Reference Sheet**

* Contractors are required to review the **Labor and Material Emergency Contract Payment Submission Manuals for Contractors and Subcontractors**; and the **Emergency Payment Guideposts**. These three documents can be found on the OGS website: http://www.ogs.ny.gov/BU/DC/forms/EmergencyForms.asp
* **Scope of work** is determined and directed by designated OGS staff. All contractors must adhere to the original scope, unless otherwise instructed. Field conditions that may affect the required scope of work are to be presented to OGS field staff as soon as practical. OGS will not reimburse work requested by any facility or other State agency representatives without the express direction of OGS.
* **Daily Labor, Material and Expense Reports** are to be completed each day and verified by the EIC within 48 hours. Provide a detailed description of the day’s work at the top of each form. BDC 268s will list each worker, trade, hours in and out of work site. BDC 269s will record the materials and quantities used that day. The BDC 269 will also list the equipment used that day, and the number of hours the equipment was in operation. It will not reflect materials or equipment purchased or brought to the site unless used in that day’s work. BDC 268s and 269s will not be used to “make up” missing items at the end of the billing cycle.
* **Overhead activities** are covered by the contractor’s bid markup percentage. This includes project management, support and supervisory staff time for meetings, scoping and coordination activities. Only hands-on workers are eligible for reimbursement.
* **Subcontractors** may not begin work on a project without Vendor Responsibility approval following a competitive bidding process and subsequent approval of the EIC. All subcontractors over $15,000 require either three bids or a 3-bid waiver. All subcontracts require an authorization letter from the EIC, regardless of the cost or bid status. There are detailed instructions and a flow chart in the Guideposts.
* **Failure to comply with the subcontractor approval process may result in the contractor and subcontractor receiving no bid markup percentage on subcontractor services.**  Pending an evaluation of specific circumstances, the Subcontractor may be reimbursed only actual, reasonable, and necessary costs.
* **Vendors and material suppliers** with orders totaling more than $15,000 over the life of the project require either three bids or a 3-bid waiver. They must be approved by Vendor Responsibility on a BDC 329; and by authorization letter from the EIC.
* **Time for travel** from shop or home will be reimbursed per union agreement or pre-existing company precedence, with proof that travel is paid on non-public projects. Proof will be required at time of payment request. **Shop time** for fabrication requires prior approval by EIC. Record all time on BDC 268s daily, separate from on-site working time.
* **Overnight travel** is only for companies outside a 50-mile radius from the worksite. Requires EIC pre-approval on a BDC 270. Overnight expenses are not eligible for a bid markup percentage. Companies within 50 miles will commute daily.
* **Payment by contractors to subcontractors:** NYS Finance Law, Section 139-f, 2, provides that the contractor shall pay subcontractors and suppliers within seven calendar days from the date of payment by OGS. Generally, the contractor shall not retain more than 10% of each payment to subcontractors and suppliers. All monies due are to be paid in full within seven calendar days of receipt of final payment from OGS. All subcontractors and suppliers are held to the same criteria. If a contractor is considering a subcontract, it is recommended they become familiar with the State Finance Law.
* **Contract documents** can be found in the Master Specifications: http://www.ogs.ny.gov/BU/DC/generalInfo/MasterSpecMF04default.htm

**Division 00 - Contract Requirements**

* 007214   General Conditions Short Form Contract
* 007303 Supplementary Conditions Cost Plus Fixed Fee Contract (if applicable)
* 007304   Supplementary Conditions Cost Plus Percentage Fee Contract