

FirstEnergy  
GENERAL CONTRACT ADMINISTRATION PROVISIONS  
(Non-craft labor contractors)  
Revised: 04-01-2021

*For contractors not signatory to AFL-CIO building and construction trades unions*

**Clarifications and additional requirements above and beyond those related to specific topics covered under FirstEnergy Service Company General Terms and Conditions for Purchase of Labor Services are contained within this document. These requirements do not replace the General Terms and Conditions, but rather require additional rigor and performance of the parties. These additional requirements shall be satisfied in conjunction with the General Terms and Conditions.**

## **1.0 PURCHASE ORDER**

Contractor shall commence performance of the Work on the date specified by Purchaser in a Purchase Order delivered to Contractor. Purchaser will not release Contractor to perform Work until (i) Purchaser has received from Contractor a signed acknowledgement-indicating acceptance of the Purchase Order and (ii) Contractor has submitted, and Purchaser has accepted, evidence of appropriate insurances as required by the Purchase Order.

## **2.0 ACCEPTABLE CHARGES – COST REIMBURSABLE WORK**

### **2.1 LABOR**

Compensation for time worked by Contractor's employees is only reimbursable if previously agreed upon and approved by Purchaser. Purchaser shall only pay for Contractor's actual labor performed as part of the scope authorized under the Agreement for which Purchaser has received and accepted billing rates, performance, and accurate timesheets. The same shall hold true for labor performed by any subcontractor employed by Contractor. Provisions for reimbursable items such as per diems, travel and living expenses (if applicable), shall be addressed separately.

#### **2.1.1 BILLING RATES**

Within 10 calendar days of Agreement award or prior to mobilization, whichever occurs first, Contractor shall submit to Purchaser hourly billing rates, if not submitted prior to award. Purchaser shall review and verify these rates for accuracy and composition prior to adopting and incorporating them into the Purchase Order or respective Agreement. The billing rates must be approved and incorporated by Purchaser before Contractor invoices may be accepted and processed for payment.

#### **2.1.2 SUPERVISION AND STAFF**

Purchaser shall only pay for Contractor's actual supervision and staff time worked at Purchaser's location. Purchaser shall not pay for any Contractor supervision or staff holiday time not worked. Any additional cost to Contractor shall be considered built into Contractor's overhead and profit markup. Purchaser shall not pay for overhead or other mark-ups applied to supervision and staff billing rates.

#### **2.1.3 TIMESHEETS**

Contractor shall submit daily (by no later than the time-of-day specified by Purchaser's Representative for the particular Station) to Purchaser for approval, timesheets representing labor performed by Contractor or Contractor's subcontractor for Work performed on the preceding workday and signed by Contractor. Timesheets shall represent Work for only a single shift and only a single Purchase Order. Timesheets approved by Purchaser shall not be altered. If an adjustment is identified, a new timesheet must be submitted and shall include only the adjustments mutually agreed upon by Purchaser and Contractor.

Each timesheet submitted by Contractor shall include the following information at a minimum:

- Contractor's name
- Contractor's unique timesheet number
- Work location
- Outline Agreement number
- Release Purchase Order number

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- Work Order number and Operation Number
- Work date and shift
- Description of Work performed
- Full name of Contractor's employees
- Classification
- Hours worked separated by straight time, overtime, and premium time
- Per diem, when applicable
- Signature of Contractor's superintendent or authorized representative and date signed

Under no circumstances shall Contractor timesheets be accepted more than two (2) weeks after the subject Work date.

**2.2 SMALL TOOLS, EXPENDABLES, MINOR EQUIPMENT, PERSONAL SAFETY EQUIPMENT, CONSUMABLE MATERIAL**

Charges for the use of such items, meeting the definitions below, are to be included in the total hourly labor-billing rate, and are not to be billed separately.

Contractor shall provide evidence upon Purchaser's request for the initial cost of small tools or minor equipment used on the job to determine the classification of those items. Any tool or equipment meeting the criteria of a small tool, defined as items that have an initial cost of \$4,000 or less, shall be classified as a small tool, thereby superceding any other classification and/or reference elsewhere in this document.

Charges for Miscellaneous Expendable Materials shall include, but not be limited to, items that have an initial cost of \$4,000 or less, such as ice, water containers, drinking cups, soap, paper towels, toilet paper, and soapstone. These items are manpower dependent as to the quantities required on the job.

Charges for personal safety equipment shall include, but not be limited to, items that have an initial cost of \$4,000 or less, such as gloves, hard hats and liners, welding sleeves, welding hoods, goggles with lens, first aid supplies, coveralls, and respirators.

**2.3 PLANT ADDITION - MATERIALS**

Purchaser will reimburse Contractor for consumable materials that become a Plant Addition (defined as equipment, tool, material or consumable item added to the physical plant (e.g., structural steel, pipes, fittings, conduit, lighting, concrete, gravel, sand, etc.)), or is consumed in the process of making a Plant Addition (e.g., weld rod, gases, etc.) and the consumable item is identified as being reimbursable per the Agreement. All consumable items for which Contractor requests separate reimbursement shall be identified on the PLANT ADDITION PRICING LIST.

**2.4 MATERIALS**

Materials will be paid at Contractor's cost, including freight and taxes (where applicable), less any trade or cash discounts, when such purchase is authorized by Purchaser and supported by a copy of the vendor's invoice.

Contractor's mark-up shall be applied only to actual material and freight charges. Taxes are reimbursable, but shall not be applied with the mark-up.

Contractor is expected to utilize the services of Purchaser's third party shipping vendor for deliveries of materials to Purchaser's stations.

Materials used shall be submitted daily for Purchaser's approval on the timesheet or material log (Form X-3995).

**2.5 EQUIPMENT**

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Compensation for equipment provided by Contractor and used in the performance of the Work is only reimbursable if previously agreed upon and approved by Purchaser. Rates for equipment shall be as identified in the Agreement (see EQUIPMENT REIMBURSEMENT RATES).

For outage Work and other large projects, Contractor shall submit to Purchaser the Contractor equipment log (Form X-3994) for verification by Purchaser. Contractor equipment log (Form X-3994) shall be approved daily by Purchaser's Representative. All equipment shall be clearly identified (serial number/name) so the reimbursement rates can be easily determined.

When mutually agreed, Contractor may use equipment rented from a third party. For any third party equipment rental, Purchaser may pay for this equipment at actual invoiced cost plus a mark-up not to exceed two and one-half percent (2.5%) of the invoiced cost. Purchaser must approve the rental rates prior to equipment use, and such rates shall not exceed one hundred (100%) of the "Rental Rate Blue Book for Construction Equipment" value. Subject to prior approval by Purchaser, Contractor shall be reimbursed for the costs of fuels and lubricants supplied by Contractor, with no added mark-up, for engine-driven equipment if such costs are not included in the third party equipment rental rate. The total markup billed to Purchaser for equipment rented by subcontractors shall not exceed two and one-half percent (2.5%) of the third party rental invoiced cost. Third party rentals that fall under the definition of small tools shall not be paid.

Contractor shall submit to Purchaser for approval billing rates and pricing sheets for equipment not incorporated into the original Agreement. Purchaser shall not accept invoicing for items without prior acceptance of billing rates and sufficient support documentation.

Equipment mobilization/demobilization charges that are not incorporated in the Agreement shall be listed on a daily timesheet or Contractor equipment log (Form X-3994). No mobilization/demobilization charges will be paid for equipment already on location.

### **2.6 SUBCONTRACTED SERVICES**

Compensation for work performed by any subcontractor employed by Contractor shall only be reimbursable if previously agreed upon and approved by Purchaser. The actual markups and other provisions for reimbursement for subcontractor work shall be as identified in the Agreement, and in accordance with the requirements of Sections 2.1, 2.2, 2.3, 2.4, and 2.5 above.

### **2.7 SPECIALTY / MISCELLANEOUS SERVICES**

The percentage mark-up for specialty/miscellaneous services provided by Contractor that do not require or employ craft labor (such as medical services and inspection and testing services) shall be as listed in the Agreement.

### **2.8 MANAGEMENT FEE**

Where Purchaser has requested Contractor to manage the work of Purchaser's third party contractor(s), Contractor shall be paid a management fee.

In such cases, "managing work" shall consist of Contractor coordinating Purchaser's third party contractor(s) daily activities in an ongoing effort to avoid access or schedule issues. Contractor may assist Purchaser with daily safety, quality and/or productivity oversight of Purchaser's third party contractor(s).

### **2.9 SPECIAL PROTECTION EQUIPMENT AND TESTING**

Unless otherwise specified, Contractor shall be reimbursed for the cost of equipment and testing to comply with site safety/health practices and/or applicable laws, rules and regulations for Potentially Hazardous Materials (see Contractor Safety Requirements Section 1.7, p.11) for 1) working in areas which are being tested for such materials, or 2) working in areas which have been tested for such materials, but for which the results have not yet been received, or 3) working in areas which have been tested and determined to have levels of such materials

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which exceed the Occupational Safety and Health Administration (OSHA)-permissible exposure limits. Contractor shall be compensated in accordance with the SPECIAL PROTECTION EQUIPMENT AND TESTING REIMBURSEMENT CHARGES.

Contractor has the responsibility to immediately notify the Purchaser's Representative in those situations where Contractor has reason to believe there may be or has determined that there is the presence of potentially hazardous materials, and will be using the necessary equipment and performing the required testing. Failure on the part of the Contractor to provide such notification to Purchaser may result in Purchaser's refusal to compensate Contractor for its costs of such equipment and testing.

### **3.0 ACCEPTABLE CHARGES – FIRM AND UNIT PRICE WORK**

Contractor and Purchaser shall mutually agree on progress of completed Work on a monthly basis, or more frequently if determined by Purchaser. The agreed level of completion progress shall serve as the basis for acceptable charges. Only those charges submitted by Contractor that have been mutually agreed upon and satisfy the terms of the Agreement shall be deemed acceptable. Material and services must be received and accepted by Purchaser and satisfy all obligations of the Agreement to be deemed acceptable charges.

Contractor shall submit detailed information on completed Work in accordance with the reporting requirements of the Station as provided to Contractor by the Purchaser's Representative.

Contractor shall only perform Work on a firm and unit price basis after specific written authorization is received from Purchaser. Purchaser shall not pay for unauthorized work performed by Contractor.

### **4.0 CHANGES**

#### **4.1 CHANGES IN WORK**

Purchaser shall have the right at any time during the term of the Agreement to add, subtract, or modify any Work to be performed by Contractor. Purchaser shall authorize such changes in Work by either Change Order, Release Purchase Order, or other documented means, such as a Contract Services Change Order, etc. Compensation to Contractor for such changes shall be in accordance with the provisions of Sections 2.0 and 3.0, above.

#### **4.2 CHANGE ORDER**

A Change Order is required anytime a principle change to the Scope of Work or terms of the Agreement is necessary. Such a change shall be incorporated into the Agreement by processing a Change Order. A Change Order may be initiated by Purchaser and/or at the request of Contractor. No Work under this Agreement that requires a Change Order may proceed until a respective Change Order has been issued, approved by both Purchaser and Contractor, and incorporated into the Agreement under the Purchase Order. A Change Order shall be required for the following principle changes:

- Major additions/deletions to the Scope of Work
- Major/significant change in method of performing services work
- Change in termination/expiration date
- Change to specific/major milestone dates
- Changes to commercial terms
- Changes to billing rates
- Changes to material/consumable pricing
- Changes to material markup rates
- Changes to equipment reimbursement rates

#### **4.3 RELEASE PURCHASE ORDER**

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The Purchaser's Representative shall issue a Release Purchase Order to further delineate or specify Scope of Work under this Agreement for tracking and control purposes. While a Release Purchase Order is used for tracking and control purposes, it shall not be used to alter the principle scope or terms of the Agreement. A principle change to the Agreement shall require a Change Order. Once authorized and issued by Purchaser, Contractor is required to sign the Release Purchase Order signifying acceptance for the performance of Work under the Release Purchase Order in accordance with the terms of the Agreement and return the form to Purchaser's Representative prior to the commencement of work. Upon receipt of the signed Release Purchase Order, Purchaser shall release Contractor to perform work.

The Release Purchase Order serves as an instrument by which:

- Scope of Work is defined
- Expenditure approval is authorized
- Progress is tracked and managed
- Costs are incurred and invoiced

Each Release Purchase Order shall be a separate contractual obligation. All labor, materials, and equipment shall be invoiced per individual Released Purchase Order. Each Contractor invoice shall indicate the facility, Release Purchase Order number, Work Order and/or Operation number, description of the service rendered, itemized pricing, and any required support documentation. Released Purchase Orders are used by Purchaser to monitor and control costs. Invoices submitted without the required information including Release Purchase Order number and Agreement number will be rejected.

#### **4.4 CONTINUANCE OF WORK**

Should Contractor assert that any Work is extra and requires a Change Order or a Release Purchase Order, then Contractor shall notify Purchaser in accordance with the requirements of the Increases clause of the Agreement. Purchaser shall have the right to direct Contractor to immediately proceed with the Work while Purchaser evaluates Contractor's request.

In the event that a price/schedule adjustment is not promptly agreed upon by the parties for a Purchaser issued Change Order or Release Purchase Order, Purchaser nevertheless shall have the right to direct Contractor to immediately proceed with the Work while the parties continue to seek resolution on a price/schedule adjustment.

#### **5.0 TAXES**

Any sales and use taxes that Contractor is required by law to pay will be reimbursed at cost.

For those Agreements that cross state lines (such as blanket Agreements in place to cover multiple locations), requested unit prices for contractor-supplied material shall include all contractor costs with the exception of state sales tax. Contractor shall add the appropriate sales tax for the state where Work is performed.

#### **6.0 INVOICING AND PAYMENT/COMPENSATION**

Invoices shall be submitted as specified in the Purchase Order, except that invoices submitted electronically will have additional requirements.

Each invoice shall clearly identify and include all applicable information, as specified in the Agreement, such as Purchaser approved timesheets, material and equipment logs, etc. Subcontractor and any third party invoices or related documentation must be included.

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Material invoices shall have adequate evidence showing Contractor's actual net cost. If required by Purchaser, invoicing for non-owned or third party rentals shall include copies of appropriate Blue Book pages clearly identifying equipment and rental.

Each invoice shall also include Contractor's contact name, phone number and fax number for directing questions on the invoice. Incorrect/rejected invoices will be returned to Contractor's address printed on invoice.

Contractor shall submit invoices on a monthly basis, or more frequently if specified in the Purchase Order. Purchaser shall pay invoices in accordance with the Agreement terms provided each invoice is correct and is accompanied by appropriate support documentation at the time of submittal. By default or unless otherwise specified in the Agreement, invoices deemed correct and accurate will be processed per the payment terms on the Purchase Order with the actual payment date calculated using the date of receipt of Contractor's invoice as the baseline date. Purchaser shall reject invoices submitted by Contractor with invoice dates earlier than the Work dates represented under the invoice. Any invoices rejected by Purchaser shall be revised and resubmitted by Contractor...

Purchaser reserves the right to reject and return incorrect or unsupported invoices received. Rejected invoices will be returned to Contractor within 30 days of receipt. Invoices resubmitted by Contractor shall include a new invoice date or be subject to rejection for failing to do so.

Billing rates shall be submitted to Purchaser for review, verification, and incorporation into the Agreement prior to submittal of respective invoices. Invoices received and subject to billing rate verification will be placed on hold or returned to Contractor until such time that billing rates are received and verified.

Timely submission of invoices by Contractor to Purchaser is critical to Purchaser's project management, budgeting and reporting functions, and therefore Purchaser requires that invoices for Work performed be submitted as stated above. Late invoices result in Purchaser incurring additional administrative cost and effort, the value of which is difficult to ascertain, and therefore, to offset such costs and efforts and not to impose a penalty, Purchaser shall be entitled to deduct ten percent (10%) from the amount of any Contractor invoice submitted more than ninety (90) days after completion of the Work related thereto. Contractor agrees that Purchaser shall be excused from all liability to pay for Work for which an invoice is not submitted to Purchaser for payment within one hundred eighty (180) days after the completion of the Work related thereto.

## **7.0 SUBCONTRACTORS**

Purchaser shall not recognize any direct relationship with any subcontractors.

Contractor shall submit with Proposal a list of subcontractors expected to be utilized on the project.

Contractor shall not subcontract more than 30% of the on-site services portion of the total Agreement value without approval of Purchaser.

Purchaser requires written notification of Contractor-selected subcontractors before a contract is executed between Contractor and subcontractor. Purchaser reserves the right to reject or dismiss any Contractor-selected subcontractor. Purchaser also reserves the right to require immediate discontinuance of any subcontractor Work for which written notification has not been provided.

Contractor shall have full authority over and responsibility for the performance of all portions of the work, including any subcontract work, and shall not be relieved of Contractor's full responsibility for the proper performance and completion of the Work because of such subcontracting.

All subcontractors shall abide by the terms and provisions included in the Agreement documents. Contractor shall provide each subcontractor with notice of this obligation and require subcontractors to acknowledge their agreement to be bound by these terms.

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A Subcontracting Plan may be required to be submitted by Contractor depending on the size and scope of the Work. The Subcontracting Plan will be kept on file by Purchaser for the duration of the Work. Failure to provide a Subcontracting Plan or failure to comply with its requirements may disqualify a contractor from eligibility of performing work for Purchaser..

## **8.0 MEETINGS**

### **8.1 PRE-MOBILIZATION MEETING**

A pre-mobilization meeting may be held to discuss and communicate various requirements of the scope of Work including appropriate safety procedures, etc. The meeting shall include Contractor's principals who will be directly involved with the project and/or Work. Contractor shall also invite Subcontractor Representatives. There will be no reimbursement for the cost of Contractor's/Subcontractor's personnel to attend this meeting.

### **8.2 MISCELLANEOUS MEETINGS**

Purchaser's Representative may call and conduct meetings at any time to discuss the project and/or the Work with Contractor. Contractor shall provide proper personnel to attend such meetings. Contractor's Representative must be available to attend periodic meetings with site safety personnel, and site coordination meetings to discuss such items as accomplishments, look-ahead plans, potential conflicts, restricted work areas, etc. Contractor's Representative shall also be available for periodic meetings with local Building and Trades organizations regarding labor relations.

There will be no reimbursement for the cost of Contractor's non-site assigned personnel to attend these meetings as such cost is a component of Contractor's overhead and profit markup.

## **9.0 ACCEPTANCE OF WORK**

Contractor shall issue to Purchaser written Notice of **Final Completion** stating that Contractor has satisfied all requirements for Final Completion, and all other contractual requirements, including, but not limited to the following provisions:

- Completion of insulation, painting, final clean-up, final grading, and any other portion of the Work applicable under this Agreement, which does not affect the operability, safety and mechanical and electrical integrity of the Station.
- All items listed on the Punch List mutually developed and agreed to by Purchaser and Contractor is complete and correct. Contractor is responsible and shall perform corrective measures to remove defects, deficiencies and/or discrepancies related to all Work performed under this Agreement. Failure of Purchaser to advise Contractor of any defects, deficiencies and/or discrepancies shall not relieve Contractor from its obligations to perform the Work strictly in accordance with the Agreement and to correct any such faulty work.
- Contractor has furnished Purchaser with all manuals and instruction books necessary to operate and maintain the equipment in a safe, efficient and effective manner.
- All Contractor's and subcontractors' personnel, supplies, equipment, waste materials, rubbish and temporary facilities have been removed from the work site.
- Contractor has verified that all other provisions have been performed as required by Contractor in a manner satisfactory to Purchaser.
- Contractor has delivered to Purchaser the Contractor's Final Release Certificate and Indemnity Form covering all work. To the extent that Contractor's Final Release Certificate and Indemnity excludes any

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lien and/or claim for which written notice has been given, an appropriate amount shall be withheld from retention due Contractor to indemnify Purchaser against any such lien and/or claim which is excluded from Contractor's Final Release Certificate and Indemnity. Contractor's Final Release Certificate and Indemnity shall be effective upon receipt of payment of Contractor of the payments then due.

Purchaser shall accept Final Completion on the part of Contractor through formal written acknowledgement once Purchaser is satisfied that Final Completion has been achieved. Upon Purchaser's acceptance of Final Completion and resolution of all disputes, Contractor is entitled to payment for all Work performed and any remaining monies withheld.