

## **Attachment J-17.2**

### **Advance Agreement Coronavirus Disease 2019 (COVID-19) Pandemic**

**IDAHO ENVIRONMENTAL COALITION, LLC (IEC)**

**CONTRACT NO. 89303321DEM000061**

**Coronavirus Disease 2019 (COVID-19) Pandemic**  
**Advance Agreement (Revision 0)**  
**Per FAR 31.109**

**ORIGINAL – February 3, 2022 (Mod P00013)**  
**(retroactive to January 1, 2022)**

**Idaho Environmental Coalition, LLC (IEC)**  
**Advance Agreement – COVID-19 (“AA”)**

**References:**

1. Contracting Officer letter to J. MacRae from A. Nebeker, Contract No. 89303321DEM000061 - COVID-19 - Notice of the Department of Energy’s Intent to Incorporate a Contract Clause to Implement Guidance Issued by the Safer Federal Workforce Task Force Pursuant to Executive Order 14042 (CLN220017), dated October 5, 2021
2. Contracting Officer letter to J. MacRae from A. Nebeker, Contract No. 89303321DEM000061 - Use of Administrative Leave by Contractors for Receiving COVID-19 Vaccination/Boosters (CLN220481), dated January 3, 2022
3. PLN-6069, COVID-19 Pandemic Response Plan, Rev 0; and PLN-6070, COVID-19 Pandemic Reconstitution Plan, Rev. 1 (both blue sheeted from Fluor Idaho, LLC), submitted January 19, 2022
4. IEC’s Cost Benefit Analysis for Standby Charging Allowability, submitted January 26, 2022
5. Policy Flash No. 2022-14, Nationwide Preliminary Injunction on Vaccine Mandate for Federal Contractor Employees, dated December 10, 2021
6. Acquisition Letter No. AL-2021-07, Post CARES Act Paid Leave Costs, dated September 27, 2021
7. Memo from Norbert S. Doyle, Office of Environmental Management’s Head of Contracting Activity, Treatment of Workforce Impacts, Pay, and Benefits for “Ready to Work Personnel” After CARES Act Section 3610 Expiration Date, dated July 24, 2020
8. Memo from Norbert S. Doyle, Office of Environmental Management’s Head of Contracting Activity, Use of CARES Act Leave and NNSA’s CARES Act Guidance/Questions and Answers, dated May 1, 2020
9. COVID-19 Pandemic Advance Agreement (Revision 14) between Fluor-Idaho and DOE, dated October 28, 2021

**BACKGROUND**

In March of 2020, the World Health Organization declared the novel coronavirus (COVID-19) as a global pandemic. Following this declaration, President Trump announced the National Emergency Declaration for the COVID-19 pandemic. The effects of the pandemic continue to be felt on an International, Federal, State, and local level. This includes the Idaho Cleanup Project (ICP).

On January 1, 2022, the Idaho Environmental Coalition, LLC (IEC) assumed full responsibility for the Idaho Cleanup Project (ICP). This responsibility includes the health and safety of the entire ICP workforce while minimizing, to the maximum extent possible, the disruption of ICP operations during the evolution of COVID-19. This assumption of operations included the adoption and continuation of the predecessor contractor’s (Fluor-Idaho, LLC) COVID-19 Workers Safety program and protocols and the practices related to quarantine and COVID standby pay. The allowability of those costs previously agreed to by the Department of Energy (DOE) and Fluor-Idaho through a series of Advanced Agreements (AA) culminating in a COVID-19 Pandemic AA (Revision 14) between Fluor-Idaho and DOE, dated October 28, 2021.

On January 9, 2022, the Safer Federal Workforce Task Force (Task Force), comprising members from the Centers for Disease Control and Prevention (CDC), the Department of Veterans Affairs (VA), the Federal Emergency Management Agency (FEMA), the Federal Protective Service (FPS), the Office of Management and Budget (OMB), and the United States Secret Service (USSS), issued guidance changing, among other things, the duration for quarantines and isolation associated with COVID-19 symptoms, exposure, or testing positive for COVID-19. The guidance also changed the definition associated with “fully vaccinated status.” The Task Force guidance can be found at: [For Federal Contractors | Safer Federal Workforce](#).

## PURPOSE

The purpose of this AA between IEC and DOE (“Parties”) is to establish a mutual understanding of how special or unusual costs associated with COVID-19 will be managed and addressed both with respect to the continuation of the predecessor’s practices and protocols and the implementation of IEC changes related to updated Task Force guidance as of January 9, 2022. The AA defines the parameters of the special leave authority for employees and staff augmentation subcontractors who are in a “ready to work” position but are unable to perform their work duties and subsequently are directed by IEC to quarantine.

This AA also incorporates the DOE policy for COVID-19 vaccinations and boosters (Reference 2), the approved cost benefit analysis associated with “ready to work” personnel and use of special leave authority (Reference 4), and IEC’s approved COVID-19 workplace safety plan (Reference 3). IEC is operating under Phase 3 – Full Operations of its PLN-6070, COVID-19 Pandemic Reconstitution Plan, Rev. 1. Lastly, the AA references various COVID-19 guidance issued by DOE to assist IEC in the development of its COVID-19 policies and procedures.

While all costs are subject to review, this AA is intended to avoid ambiguous interpretation and possible subsequent disallowance or dispute based on unreasonableness, unallocability, or unallowability under the specific cost principles at FAR subpart 31.2. This AA will not prohibit the payment by DOE of costs incurred by the Contractor that are not anticipated or are in excess of those anticipated costs, provided they are otherwise reasonable, allowable, and allocable in accordance with FAR part 31. The Contracting Officer’s determination on cost allowability for COVID-19 Standby costs is based on the recent Acquisition Letter No. AL-2021-07, Post CARES Act Paid Leave Costs, dated September 27, 2021.

## AGREEMENT

As COVID-19 continues to evolve, IEC, to the maximum extent possible, will focus on limiting exposure risk to its employees<sup>1</sup> and staff augmentation subcontractors<sup>2</sup> to reduce the spread of the virus; minimizing impacts to the ICP mission; ensuring transparent and effective communication with employees and staff augmentation subcontractors, our customer, and stakeholders; and ensuring effective plans are in place to respond to any required isolated quarantines.

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<sup>1</sup> Applicable Building Trades (Force Account) direct-hired by IEC are considered employees for COVID-19 purposes and should adhere to the same guidance. Building Trades employees who have newly been called out of the Union hall to support Davis-Bacon scope are specifically excluded from this guidance.

<sup>2</sup> All designated staff augmentation subcontractors shall be paid in accordance with the current subcontract terms and conditions. All non-staff augmentation subcontractors, including, without limitation, managed task type subcontractors providing work under a task-based scope of work [i.e., Engineering Services (Engineering Work Requests), construction, maintenance] are not eligible to charge special leave authority (SLA) to the “COVID-19 Project-Related Costs” charge code. They will be paid in accordance with their subcontract terms and conditions.

Reference 1 provides DOE's intent to incorporate FAR Clause 52.223-99, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (OCT 2021) (DEVIATION), into the ICP contract. It was incorporated by unilateral contract modification P00005, dated October 13, 2021 (ICP End State contract clause I.228). This clause requires IEC to comply with all current guidance published by the Task Force. IEC's approved COVID-19 workplace safety plan also aligns with current Task Force guidance.

IEC intends to implement the current January 9, 2022, Task Force guidance on February 14, 2022, pending an expected decline in the recent surge of COVID-19 cases linked to the Omicron variant. Accordingly, the Parties agree that the practices and protocols established, and the Special Leave Authority (SLA) costs deemed allowable under Reference 9 (and the incorporated provisions and references therein), as adopted and continued and practiced by IEC, will likewise be considered as allowable under this AA until such time as the Task Force guidance of January 9, 2022, is implemented. After such implementation, the following controls:

**Special Leave Authority (SLA):**

SLA may be authorized when IEC management directs ICP personnel to quarantine when it is deemed necessary to protect the health and safety of the ICP workforce. IEC shall ensure policies are in place to prohibit employees from taking unemployment compensation and paid time off (PTO) or this SLA concurrently. Staff augmentation, subcontractors, and other non-staff augmentation subcontractors designated by IEC (and as permitted by the terms and conditions of their subcontracts) are eligible for SLA when deemed necessary and directed by IEC management. Part-time employees are also eligible according to their normal work schedule based on an average from the predecessor contractor's first quarter of fiscal year 2022 or the most recent average under a completed fiscal quarter of employment with IEC.

In alignment with the current Taskforce guidance, DOE provides authorization to IEC in directing its employees and staff augmentation subcontractors to quarantine (leave work or stay home) if there is an isolated COVID-19 outbreak to protect their health and safety. Employees and staff augmentation subcontractors may be authorized SLA up to five (5) consecutive regularly scheduled workdays or as may be subsequently defined by future applicable Task Force guidance. If an employee continues to be symptomatic or ill beyond the CDC defined period of required quarantine, the employee must transition to their normal PTO beginning on the next calendar day and beyond. At that point, the employee's illness will be treated the same as any other illness. It is IEC's management decision when to direct its employees and staff augmentation subcontractors to quarantine and how this SLA may be consistently implemented.

Further, IEC shall track use of all SLA ("ready to work" and unable to telework) as a direct cost.

SLA is not authorized for the following:

- Employees and staff augmentation subcontractors who are able to perform their work activities in a telework environment or for employees who elect to self-quarantine;
- Employees already out of the workplace on military leave or on short term disability (STD);
- Employees who are activated on military leave or who go on an approved STD claim that is unrelated to COVID-19;
- Employees who apply for and are approved for a Family Medical Leave (FML) covered claim that is unrelated to COVID-19; and
- Individuals employed by IEC under its Silver Tsunami Retirees Program are not eligible for SLA.

**Vaccines (includes boosters):**

Reference 2 provides Contracting Officer direction related to the use of administrative leave by contractors for receiving the COVID-19 vaccine and/or booster. This direction authorizes administrative leave for employees and family members to receive COVID-19 vaccinations and/or boosters, in addition to time allotted for possible side effects the employee and family members may experience from the vaccinations/boosters. While Reference 2 indicated up to 4 hours of administrative leave for the vaccine/booster, this AA provides clarification that such administrative leave is 4 hours of leave or a half workday. This is dependent upon an employee's approved work schedule, with the majority of ICP being on a 4x10 or 4x12 work schedule. For consideration of administration leave, the vaccination and/or booster must take place on a normal scheduled workday. Post vaccination illness may also be covered up to two working days, presuming the subsequent illness related to the vaccine and/or booster occurs on a normal scheduled workday. Absences for vaccination or post vaccination illness that do not align with the actual date of vaccination will not be covered. The administrative leave shall be tracked as COVID Standby with clear delineation of the vaccination/booster vs. "ready to work".

**COMMUNITY COMMITMENT**

In accordance with contract clause H.51, DOE-H-2045 Contractor Community Commitment, if requested in writing by the DOE-ID Contracting Officer, IEC shall provide all available Government property to support state and local government needs relative to COVID-19. IEC may, but shall not be compelled to, also make individual employees available to work with or for governmental, quasi-governmental, and other organizations in the southeast Idaho area toward achieving civic needs.

**CONCLUSION**

This AA shall be incorporated under the Master IDIQ contract and may be amended by written mutual agreement of the Parties as it is a living document due to the evolving nature. Any revised AA shall also be incorporated under the Master IDIQ contract. This AA, and any revision, is applicable to all active task orders.