

**970.3102-05-18**

cost-type contracts. For purposes of designating the threshold, total compensation includes only the employee's salary and cash bonus or incentive compensation.

(7)(i) Reimbursable costs for compensation for personal services are to be set forth in the contract. This compensation shall be set forth using the principles and policies of 48 CFR 31.205-6, Compensation, as supplemented by this section, 970.3102-05-6, and other pertinent parts of the DEAR. Costs that are unallowable under other contract terms shall not be allowable as compensation for personnel services.

(ii) The contract sets forth, in detail, personnel costs and related expenses allowable under the contract and documents personnel policies, practices and plans which have been found acceptable by the contracting officer. The contractor will advise DOE of any proposed changes in any matters covered by these policies, practices, or plans which relate to personnel costs. Types of personnel costs and related expenses addressed in the contract are as follows: Salaries and wages; bonuses and incentive compensation; overtime, shift differential, holiday, and other premium pay for time worked; welfare benefits and retirement programs; paid time off, and salaries and wages to employees in their capacity as union stewards and committeemen for time spent in handling grievances, or serving on labor management (contractor) committees provided, however, that the contracting officer's approval is required in each instance of total compensation to an individual employee above an annual rate as specified in the contract.

(p)(1) Notwithstanding the costs cited in this subsection, incurred for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy, are unallowable. Allowable costs of executive compensation shall be determined pursuant to 48 CFR 31.205-6(p).

[65 FR 81009, Dec. 22, 2000, as amended at 75 FR 68219, Nov. 5, 2010]

**48 CFR Ch. 9 (10-1-14 Edition)**

**970.3102-05-18 Independent research and development and bid and proposal costs.**

(c) Independent Research and Development and Bid and Proposal costs are unallowable. However, contracting officer approved Laboratory Directed Research and Development costs and those costs incurred in support of the Department's various reimbursable programs are allowable.

**970.3102-05-19 Insurance and indemnification.**

The supplemental material on the costs of insurance and indemnification is found in 970.5228-1, Insurance-Litigation and Claims.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

**970.3102-05-22 Lobbying and political activity costs.**

(b) Costs of the following activities are excepted from 48 CFR 31.205-22, Lobbying and political activity costs, coverage, provided that the resultant costs are reasonable and otherwise fall into the following exceptions:

(1) Providing Members of Congress, their staff members or staff of cognizant legislative committees, in response to a request (written or oral, prior or contemporaneous) from Members of Congress, their staff members or staff of cognizant legislative committees, or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging or meals incurred by contractor employees for the purpose of providing such information or expert advice shall also be reimbursable, provided the request for such information or expert advice is a prior written request signed by a Member of Congress.

(2) Providing State legislatures or subdivisions thereof, their staff members, or staff of cognizant legislative committees, in response to a prior written request from a State legislator,

## Department of Energy

970.3102-05-46

or as otherwise directed by the Contracting Officer, information or expert advice of a factual, technical, or scientific nature, with respect to topics directly related to the performance of the contract or proposed legislation. In providing this information or expert advice, the contractor shall indicate to the recipient that it is not presenting the views of DOE. Reasonable costs for transportation, lodging, or meals incurred by contractor employees shall be reimbursable.

### 970.3102-05-28 Other business expenses.

(i) Reasonable costs associated with the establishment and maintenance of financial institution accounts in connection with the work hereunder are allowable, including, but not limited to, service charges, the cost of disbursing cash, necessary guards, cashiers, and paymasters. If payments to employees are made by check, facilities and arrangements for cashing checks may be provided without expense to the employees, subject to the approval of the contracting officer.

### 970.3102-05-30 Patent costs.

#### 970.3102-05-30-70 Patent costs and technology transfer costs.

(a) For management and operating contracts that do not include the clause at 970.5227-3, Technology Transfer Mission, the cost principle at 48 CFR 31.205-30 applies.

(b) For management and operating contracts that do include the clause at 970.5227-3, Technology Transfer Mission, the following patent and technology transfer costs are allowable—

(1) Costs of preparing invention disclosures, reports, and other patent related documents required by the contract;

(2) Costs of searching the art relating to invention disclosures;

(3) Costs incurred in connection with the filing and prosecution of patent applications for subject inventions, except where those costs are incurred as part of a privately funded technology transfer program recognized under the contract; and

(4) Other costs incurred in accordance with the patent rights clause and

the Technology Transfer Mission clause included in the contract.

[65 FR 81009, Dec. 22, 2000. Redesignated and amended at 74 FR 36373, July 22, 2009]

### 970.3102-05-33 Professional and consultant service costs.

(g) Section 931.205-33 is applicable to management and operating contracts under this part.

[66 FR 4627, Jan. 18, 2001]

### 970.3102-05-46 Travel costs.

(a) *Costs for transportation, lodging, meals, and incidental expenses.* (1) Costs incurred by contractor personnel on official company business are allowable, subject to the limitations contained in this subsection. Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge.

(2) Except as provided in paragraph (a)(3) of this subsection, costs incurred for lodging, meals, and incidental expenses (as defined in the regulations cited in paragraphs (a)(2)(i) through (iii) of this subsection) shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the—

(i) Federal Travel Regulation, prescribed by the General Services Administration (41 CFR chapters 300 through 304), for travel in the conterminous 48 United States, available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 922-002-00000-2;

(ii) Joint Travel Regulations, DoD Civilian Personnel, Appendix A, prescribed by the Department of Defense, for travel in Alaska, Hawaii, The Commonwealth of Puerto Rico, and territories and possessions of the United States, available on a subscription