

Department of Energy Might Pay for Overtime Associated with Training

Written by Nick Sanders
Thursday, 02 November 2017 00:00

Readers may recall we [pointed out](#) more than a year ago that labor costs associated with employee training were unallowable if incurred on overtime (FAR 31.205-44:

“

Overtime compensation for training and education is unallowable.

”

)

It doesn't make much sense, because sometimes the scheduled work takes up the full work week, and the only time left is overtime. But there it is and contractors have been gigged by DCAA for getting it wrong, regardless of the circumstances involved.

We are pleased to note that the Department of Energy just issued a DEARS [Class Deviation](#) that permits (but does not require) a contracting officer to approve them in advance. If there is no advance approval, the costs remain unallowable. (The Class Deviation says they are “expressly unallowable.”)

When would a contracting officer consider approving use of overtime for employee training? The Class Deviation provides three circumstances that could lead to approved training overtime. Overtime may be approved when necessary to—

1.

Meet essential delivery or performance schedules;

2.

Make up for delays beyond the control and without the fault or negligence of the contractor; or

3.

Eliminate foreseeable extended production bottlenecks that cannot be eliminated in any other way

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So – good job DOE!

As has become the norm, DOE is ahead of DoD with respect to managing its contractors' costs. We can only hope that the DAR Council gets tired of being the slow student in class, and starts taking similarly innovative common-sense steps.