

Nuclear Clauses for Onsite Services

Employee Protected Activities and Procedure Use and Adherence

Employee Protected Activities - Nuclear

a) In connection with the performance of on-Site Work at or in support of a TVA nuclear Site, Contractor shall comply, and is responsible for its Subcontractor(s)' compliance, with the following Applicable Laws (as amended) and the most current versions of the referenced policies:

1. 10 C.F.R. § 50.7 "Employee Protection" regulations of the Nuclear Regulatory Commission ("NRC") and Section 211 of the Energy Reorganization Act of 1974 (the "ERA"), which prohibit "discrimination" against employees for engaging in certain "protected activities," as these terms are defined by the U.S. Secretary of Labor and the NRC.
2. "TVA's PRINCIPLES, Commitment to Nuclear Safety," and TVA's Standard Program and Process (SPP)-11.8.4, "Expressing Concerns and Differing Views," which are available from the Contracting Officer and are available at TVA's Supplier Connections website.
3. TVA's Nuclear Power Group (NPG)-SPP-01.7, "Nuclear Safety Culture," which applies to any person performing Work at a TVA nuclear Site, and is available from TVA's Contracting Officer and at TVA's Supplier Connections website. NPG-SPP-01.7 describes and provides administrative guidance to support a healthy Nuclear Safety Culture (NSC) and a Safety Conscious Work Environment (SCWE).
4. NPG-SPP-01.7.4, "Adverse Employment Action and the Executive Review Board," which is available from TVA's Contracting Officer and at TVA's Supplier Connections website. NPG-SPP-01.7.4 is designed to help ensure that certain significant proposed personnel actions are adequately reviewed by Contractor and TVA in order to comply with NRC employee protection (10 C.F.R. § 50.7) requirements, TVA-SPP-11.8.4, "Expressing Concerns and Differing Views," and this Section. In addition, application of NPG-SPP-01.7.4 will assist in determining whether the proposed action could negatively impact a SCWE and allow for actions to mitigate any potential chilling effect resulting from those significant proposed personnel actions.

b) With respect to any current or former employee of Contractor or Subcontractor(s) (for purposes of this Section, "Covered Employee(s)") complaint or allegation relating to discrimination for engaging in protected activities (as defined herein), complaints under 10 C.F.R. § 50.7 or ERA § 211, or potential or actual adverse employment action that Contractor intends to or does take against such Covered Employee(s), related to the foregoing, Contractor shall:

1. notify TVA's CO, CTS, and one of the TVA Employee Concerns Staff Site Representative or TVA Employee Concerns Manager, in writing: (i) prior to (if possible), but in all cases, promptly after, it takes an adverse employment action against any Covered Employee, to enable TVA's Executive Review Board (ERB) to function in compliance with NPG-SPP-01.7.4); and (ii) within two working days after the earlier of Contractor or Contractor's Subcontractor's receipt of (x) a Covered Employee's allegation of discrimination because of engagement in protected activities, related to Work, or (y) notice of a Covered Employee's filing of a 10 C.F.R. § 50.7 or ERA § 211 complaint, provide TVA with Contractor's records of its actions, and a copy of any Covered Employee's allegations or complaint;
2. notify TVA's Employee Concerns Manager of any internal employee concerns program(s) that Contractor maintains, and provide TVA's Employee Concerns Manager an opportunity to review such program(s);

3. comply with, and handle and manage any complaints of discrimination for engaging in protected activities (as defined herein) or complaints under 10 C.F.R. § 50.7 or ERA § 211 in compliance with, the then-current revisions of the following policies and procedures, which are available from TVA's Contracting Officer and at TVA's Supplier Connections website: (1) TVA-SPP-11.8.4 (Expressing Concerns and Differing Views); (2) NPG-SPP-01.7.4 (Adverse Employment Action and the Executive Review Board); and (3) Procedure for Handling Complaints of Discrimination for Engaging Protected Activities against TVA Nuclear Contractor(s) and Their Subcontractors;
 4. aggressively pursue, or ensure that Contractor's Subcontractors aggressively pursue, any Covered Employee's allegation of discrimination for engaging in protected activity with respect to Work, and fully investigate such allegations,
 5. unless Contractor's interests vary significantly from TVA's, cooperate fully with TVA (represented by TVA's Office of General Counsel) or the TVA OIG (either of which may, at its option, conduct its own investigation of any allegation or complaint under this Section), provide TVA any investigative reports that it prepares as a result of any such allegation or complaint, and provide to TVA a full written description of any management action taken in response to any such allegation or complaint;
 6. ensure that no agreement affecting the compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by a Covered Employee pursuant to 10 C.F.R. § 50.7 or § 211 of the ERA contains any provision which would prohibit, restrict, or otherwise discourage a Covered Employee from participating in any protected activity as described in 10 C.F.R. § 50.7, including, but not limited to, providing information to NRC on potential violations of NRC's regulations or other matters within NRC's regulatory responsibilities; and
 7. include this Section, Employee Protected Activities for Nuclear Contractors, along with the flow-down requirement of this sentence and specifically including subsections b(1) and b(2) above as applicable, in all subcontracts of any tier entered into pursuant to this Contract, unless TVA consents in writing to exclude a particular subcontract or class of subcontracts.
- c. Contractor shall, at its sole expense, retain the services of legal counsel experienced in the handling of Covered Employee(s)' allegations or complaints against it or Its Subcontractor(s), based on 10 C.F.R. § 50.7 or ERA § 211 (or either or both), to ensure consistent handling of such matters. Subject to Contract Section 4 (Price and Payments), TVA may reimburse Contractor for certain legal expenses if it ultimately prevails in its defense of such allegations or complaints.
 - d. If Contractor or Its Subcontractor(s) fail to comply with any substantive or notification requirement stated or referenced in this Section: (1) such failure constitutes a default under this Contract, and (2) if and to the extent such failure results in NRC's or any other Governmental Authority's imposition of monetary or equitable penalties or sanctions on or against TVA (including, without limitation, a confirmatory order or additional nuclear Site inspection requirements), Contractor releases and will indemnify and defend TVA and its employees from and against such liabilities. Contractor's liabilities arising under this subsection will not be deemed special or consequential damages under this Contract.
 - e. Nothing in this Section in any way limits the TVA OIG's authority under the Inspector General Act, as amended, including the authority to subpoena documents.

Nuclear Procedure Use and Adherence

The following TVA nuclear power program procedure establishes minimum requirements for the use, preparation, revision, and approval of technical procedures that involve Work at TVA's nuclear plant Sites. TVA's Nuclear Power Group (NPG) applies NPG-SPP-01.2, "Administration of Site Technical Procedures," and its Attachments, to activities conducted at Browns Ferry Nuclear Plant, Sequoyah Nuclear Plant, and Watts Bar Nuclear Plant. Contractors and its Subcontractors whose Work involves or impacts the technical procedures referenced therein are required to comply with the latest revision of NPG-SPP-01.2, specifically including, without limitation, Section 3.2.1 of NPG-SPP-01.2, which describes responsibilities for procedure adherence and the consequences of failing to follow procedures, including the penalties associated with knowingly providing false, inaccurate, misleading, or incomplete statements or information under NRC regulations and other Applicable Laws.