



File Code: 6320

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FROM: John M. Venaglia, Contracting Officer FOR:

SUBJECT: 2005 National Type 2 Initial Attack
(IA), and Type 2 Contract

Contracting Officer's Determination: PAYING FOR MEAL BREAKS

The question as to whether meals are paid while the crews are working suppression is not clearly answered in the national crew contract. For Project work the statement at G.4 Project Payments Clause states that "compensated meal periods are the exception, not the rule" makes it clear how to handle meal periods for projects. During a project the situation may or may not allow for actually taking a break. When it does we may take the resource off the clock during a meal, when it doesn't we can't take them off the clock for meals. This is because there is no guaranteed daily rate. Pay only hours worked.

Suppression. At G.2 (C) Guarantee, the contract states that "for each calendar day the crew is under-hire for at least 8 hours, the Government will pay not less than the following: (8 hours) x (number of crew members) x (Fire Suppression Rate specified...) or actual time worked, whichever is greater."

The definition of Time Under Hire is: "Time under hire shall start at the estimated departure time agreed upon when resources is ordered by the Government and ends by notification to the Contractor by the Government that (the) resource is released."

A normal break for a meal occurs during the initial 8 hours shift. The normal basis of payment during this time is on an hourly basis, however the guarantee overrides the normal basis of payment by dictating that while the crew is under hire all time counts towards the guarantee. This in no way is meant to discourage giving needed meal breaks when time and the fire situation allows for it during suppression activities. It does mean however, that during fire suppression activities while still in the initial 8 hours guarantee period, there is no need to record meal breaks. The reason why is simply that all time under hire counts towards the 8 hour guarantee, because the time starts at the estimated departure time, and ends by notification the resource is released.

You are not to release the resource for a meal during a normal shift if you intend to simply turn around and "rehire" them simply to avoid having to pay for the meal break. Nor are you to make any deductions for meals while the resource is under hire is suppression activities. Also, we are to allow meal breaks when the tactical commander allows for it.

