

901.301-70

Recordkeeping Requirements for Safety Management (see 48 CFR (DEAR) 970.5204-2)—OMB number 1910-5103.

[61 FR 41704, Aug. 9, 1996, as amended at 62 FR 34861, June 27, 1997]

**Subpart 901.3—Agency Acquisition Regulations**

**901.301-70 Other issuances related to acquisition.**

In addition to the FAR and DEAR, there are other issuances which deal with acquisition. Among these are the Federal Property Management Regulations, the DOE Property Management Regulations, and DOE Directives.

**Subpart 901.6—Contracting Authority and Responsibilities**

**901.601 General.**

Contracting authority vests in the Secretary of Energy. The Secretary has delegated this authority to the Procurement Executive. The Procurement Executive has redelegated this authority to the Heads of Contracting Activities (HCA). These delegations are formal written delegations containing dollar limitations and conditions. Each HCA in turn makes formal contracting officer appointments within the contracting activity.

**901.602-3 Ratification of unauthorized commitments. (DOE coverage—paragraph (b))**

(b) (2) The Procurement Executive is authorized to ratify an unauthorized commitment.

(3) The ratification authority of the Procurement Executive in paragraph (b)(2) of this section is delegated to the Head of the Contracting Activity (HCA) for individual unauthorized commitments of \$25,000 or under. The ratification authority of the HCA is non-delegable.

**PART 902—DEFINITIONS OF WORDS AND TERMS**

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

48 CFR Ch. 9 (10-1-97 Edition)

**Subpart 902.2—Definitions Clause**

**902.200 Definitions clause.**

As prescribed by FAR Subpart 2.2, insert the clause at FAR 52.202-1, Definitions, but modify it to limit the definition, at paragraph (a) of the clause, to encompass only the Secretary, Deputy Secretary, or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission. The contracting officer shall also add a paragraph (d) (or (c) in case Alternate I is used), which defines "DOE" as meaning the United States Department of Energy and "FERC" as meaning the Federal Energy Regulatory Commission.

[50 FR 12183, Mar. 27, 1985]

**PART 903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

**Subpart 903.1—Safeguards**

Sec.

903.101 Standards of conduct.

903.101-3 Agency regulations.

903.104-11 Processing violations or possible violations under procurement integrity.

**Subpart 903.2—Contractor Gratuities to Government Personnel**

903.203 Reporting suspected violations of the Gratuities clause.

903.204 Treatment of violations.

**Subpart 903.3—Reports of Suspected Antitrust Violations**

903.303 Reporting suspected antitrust violations.

**Subpart 903.4—Contingent Fees**

903.408-1 Responsibilities.

**Subpart 903.5—Other Improper Business Practices**

903.502 Subcontractor kickbacks.

**Subpart 903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

903.603 Responsibilities of the contracting officer.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

## Department of Energy

903.502

SOURCE: 49 FR 11940, Mar. 28, 1984, unless otherwise noted.

### Subpart 903.1—Safeguards

#### 903.101 Standards of conduct.

##### 903.101-3 Agency regulations.

Detailed rules applicable to the conduct of DOE employees are set forth in 10 CFR part 1010.

[49 FR 11940, Mar. 28, 1984, as amended at 60 FR 47307, Sept. 12, 1995]

##### 903.104-11 Processing violations or possible violations under procurement integrity.

(a) Except for Headquarters activities, the individual within DOE responsible for fulfilling the requirements of (FAR) 48 CFR 3.104-11(a) (1) and (2) relative to contracting officer conclusions on the impact of a violation or possible violation of the procurement integrity requirements shall be the legal counsel assigned direct responsibility for providing legal advice to the contracting office making the award or selecting the source. The legal counsel is the Chief Counsel for the Operations Offices or the Energy Technology Centers; the Counsel, or the Chief Counsel, for the Support Offices or the Naval Reactors Offices; and the General Counsel for the Power Administrations. For Headquarters activities, the individual designated to perform the responsibilities in (FAR) 48 CFR 3.104-11(a) (1) and (2) regarding questions of disclosure of proprietary or source selection information and certification matters is the Assistant General Counsel for Procurement and Financial Assistance. The designated individual for other questions regarding (FAR) 48 CFR 3.104-11(a) (1) and (2) for Headquarters activities is the Assistant General Counsel for General Law (Designated Agency Ethics Official).

[59 FR 11198, Mar. 10, 1994]

### Subpart 903.2—Contractor Gratuities to Government Personnel

#### 903.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the

Head of the Contracting Activity (HCA) in writing detailing the circumstances. The HCA will evaluate the report and, if the report appears to substantiate the allegations, the matter will be referred to the Procurement Executive for disposition.

[49 FR 11940, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

#### 903.204 Treatment of violations.

Apparent violations will be processed in accordance with the debarment and suspension rules set forth at Title 10, part 1035, of the Code of Federal Regulations.

### Subpart 903.3—Reports of Suspected Antitrust Violations

#### 903.303 Reporting suspected antitrust violations.

(a) Potential anti-competitive practices, such as described in FAR 3.301, and antitrust law violations as described in FAR 3.303, evidenced in bids or proposals, shall be reported to the Office of General Counsel through the Head of the Contracting Activity with a copy to the Procurement Executive. The Office of General Counsel will provide reports to the Attorney General, as appropriate.

[50 FR 12183, Mar. 27, 1985, as amended at 59 FR 9104, Feb. 25, 1994]

### Subpart 903.4—Contingent Fees

#### 903.408-1 Responsibilities.

(b) Each Standard Form 119 completed in connection with a DOE contract, together with other relevant information, shall be reviewed by Counsel prior to the initiation of appropriate action.

### Subpart 903.5—Other Improper Business Practices

#### 903.502 Subcontractor kickbacks.

(b) Contracting officers shall report suspected violations of the Anti-Kickback Act through the Head of the Contracting Activity, or designee, to the Office of General Counsel.

**Subpart 903.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

**903.603 Responsibilities of the contracting officer.**

(a) When the needs of the Government cannot be reasonably supplied by sources other than employees of the Government or sources which are substantially owned or controlled by Government employees, the contracting officer, in accordance with FAR 48 CFR 3.602, may submit, through the HCA, a request to the Procurement Executive, with appropriate justification, for approval of an exception to the prohibitions contained in FAR 3.601.

[49 FR 11940, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

**PART 904—ADMINISTRATIVE MATTERS**

**Subpart 904.4—Safeguarding Classified Information Within Industry**

Sec.

904.401 Definitions.

904.402 General.

904.404 Contract clause.

**Subpart 904.6 [Reserved]**

**Subpart 904.7—Contractor Records Retention**

904.702 Applicability.

**Subpart 904.8—Contract Files**

904.803 Contents of contract files.

904.804-1 Closeout by the office administering the contract.

904.805 Disposal of contract files.

**Subpart 904.70—Foreign Ownership, Control, or Influence Over Contractors**

904.7000 Purpose.

904.7001 Applicability.

904.7002 Definitions.

904.7003 Disclosure of foreign ownership, control, or influence.

904.7004 Findings, determination, and contract award or termination.

904.7005 Solicitation provision and contract clause.

**Subpart 904.71—Prohibition on Contracting (National Security Program Contracts)**

904.7100 Scope of subpart.

904.7101 Definitions.

904.7102 Waiver by the Secretary.

904.7103 Solicitation provision and contract clause.

AUTHORITY: 42 U.S.C. 7254; 40 U.S.C. 486(c).

SOURCE: 49 FR 11941, Mar. 28, 1984, unless otherwise noted.

**Subpart 904.4—Safeguarding Classified Information Within Industry**

**904.401 Definitions.**

*Classified Information* means any information or material that is owned by, produced by or for, or is under the control of the United States Government, and determined pursuant to provisions of Executive Order 12356, April 2, 1982 (47 FR 14874, April 6, 1982), or prior orders, or as authorized under the Atomic Energy Act of 1954, as amended, to require protection against unauthorized disclosure, and is so designated.

*Restricted Data* means data which is defined in section 11, of the Atomic Energy Act of 1954, as amended, as "all data concerning: (1) Design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142."

[49 FR 11941, Mar. 28, 1984, as amended at 59 FR 9104, Feb. 25, 1994]

**904.402 General.**

(a) The basis of DOE's security requirements is the Atomic Energy Act of 1954, as amended.

(b) *DOE security regulations*. DOE regulations concerning national security information are codified at 10 CFR part 1045.

[49 FR 11941, Mar. 28, 1984, as amended at 60 FR 47307, Sept. 12, 1995]

**904.404 Contract clause.**

(d) The security clauses to be used in DOE contracts are found at 952.204. They are: