

Department of Energy

939.001

policies and requirements for inspection and acceptance under construction contracts.

936.7101 Construction contracts.

(a) Inspection services may be performed by the architect-engineer responsible for the design. Inspection services may not be procured from a construction contractor with respect to its own work.

(b) When one contractor is to inspect the work of another, the inspection contractor will be given written instructions defining its responsibilities and stating that it is not authorized to modify the terms and conditions of the contract, to direct additional work, to waive any requirements of the contract, or to settle any claim or dispute. Copies of the instructions will be given to the contractor who is to be inspected, with a request to acknowledge receipt on a copy to be returned to the contracting officer. In this manner, both contractors are on express notice of the authority and limitations of the authority of the inspecting contractor.

PART 937—SERVICE CONTRACTING

Subpart 937.70—Protective Services Contracting

937.7040 Contract clauses.

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

Subpart 937.70—Protective Services Contracting

SOURCE: 58 FR 36151, July 6, 1993, unless otherwise noted.

937.7040 Contract clauses.

The contracting officer shall insert the clause at 952.237-70 entitled “Collective bargaining agreements—protective services” in all protective services solicitations and contracts involving DOE-owned facilities requiring continuity of services for public safety and national defense reasons. See also, 922.103-5, Contract clauses, which prescribes use of the clause at FAR 52.222-

1, Notice to the Government of Labor Disputes.

PART 939—ACQUISITION OF FEDERAL INFORMATION PROCESSING RESOURCES BY CONTRACTING

Subpart 939.0—Scope of Part

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Subpart 939.1—Federal Information Resources Management Regulation (FIRMR) System

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Subparts 939.7-939.9 [Reserved]

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939.1003-70 Purchase of Energy Efficient Computers (Energy Star)

Subparts 939.11-939.43 [Reserved]

Subpart 939.44—Subcontracting Policies and Procedures

939.4470 Contractor acquisitions of FIP resources.

Subparts 939.45-939.53 [Reserved]

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

SOURCE: 60 FR 39873, Aug. 4, 1995, unless otherwise noted.

Subpart 939.0—Scope of Part

939.001 Scope.

This part sets forth the policies that apply to the contracting for Federal Information Processing (FIP) resources by the Department of Energy (DOE).

Subpart 939.1—Federal Information Resources Management Regulation (FIRMR) System

939.101-5 Arrangement of part.

For consistency with the FIRMR and the FAR, part 939 is arranged in 54 subparts. Within each subpart, sections and subsections are numbered to correspond to like divisions of the FIRMR where the intent of the part 939 sections and subsections is to implement the FIRMR. Where the specific section or subsection is intended to supplement the FIRMR, or where specific FIRMR coverage does not exist, the section or subsection number is assigned a number of 70 or above.

939.104-1 Deviations from the FIRMR.

(a) Only the General Services Administration (GSA) can authorize class deviations and individual deviations from the FIRMR. Within DOE, contracting officers shall submit requests for deviations from the FIRMR to the Headquarters Office of Clearance and Support for approval and subsequent processing with GSA.

(b) *Approval Requirements.* The Head of the Contracting Activity (HCA), after coordination with local counsel, shall concur in requests for deviations prior to submission to the Office of Clearance and Support. The Procurement Executive shall approve all requests for deviations prior to submission of the request to GSA.

939.106-3 Contracting authority and responsibilities.

(a) In instances where a specific acquisition delegation of procurement authority is not required under (FIRMR) 41 CFR 201-20.305-3, Specific Acquisition Delegations, each HCA may acquire FIP resources up to 50 percent of the regulatory delegation thresholds prescribed in (FIRMR) 41 CFR 201-20.305-1, Regulatory Delegations, unless different thresholds have been established either in the HCA's delegation of contracting authority, or in a specific agency delegation from GSA under (FIRMR) 41 CFR 201-20.305-2, Specific Agency Delegations of Procurement Authority (DPA); or, in internal DOE guidance documents.

(b) The contracting officer is responsible for ensuring compliance with all terms, conditions, and limitations imposed on DOE under a specific acquisition Delegation of Procurement Authority (DPA).

(c) The contracting officer shall not award a contract, or a modification to an existing contract, when the value of the FIP resources portion of the award, including the value of any options, exceeds DOE's delegated FIP procurement authority redelegated to the HCA by the DSO. Where the anticipated award value of the FIP resources portion of the contract, or modification to the contract, exceeds DOE's delegated procurement authority, DOE shall obtain a revised delegation from GSA prior to award. Where the anticipated award value of the FIP resources portion of the contract, or modification to the contract, exceeds the HCA's redelegated procurement authority for that acquisition, the contracting officer shall have the redelegation revised, in accordance with internal DOE guidance documents, prior to award.

Subparts 939.2-939.5 [Reserved]

Subpart 939.6—Competition Requirements

939.602-270 Outdated FIP equipment.

Solicitations and contracts for, or using, outdated FIP equipment shall be submitted to the Office of Clearance and Support for review and approval. The Office of Information Management shall review these documents and make the decision whether to allow the acquisition or use of outdated FIP equipment.

Subparts 939.7-939.9 [Reserved]

Subpart 939.10—Specifications, Standards, and Other Purchase Descriptions

939.1003-70 Purchase of Energy Efficient Computers (Energy Star).

Executive Order 12845, "Purchase of Energy Efficient Computers by Federal Agencies," requires agencies to acquire microcomputers, including personal computers, monitors, and printers,

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that meet the "Energy Star" requirements established by the Environmental Protection Agency for energy efficiency. Solicitations for microcomputers and peripheral equipment, issued after October 21, 1993, are required to include a requirement that equipment meet the "Energy Star" standard, unless an exemption has been provided by the Head of the Contracting Activity as authorized under section 1(a) of Executive Order 12845.

**Subparts 939.11-939.43
[Reserved]**

Subpart 939.44—Subcontracting Policies and Procedures

939.4470 Contractor acquisitions of FIP resources.

(a) *Management and operating (M&O) contracts.* Except as provided in paragraph (c) of this section, M&O contractors and their subcontractors shall not be used to acquire FIP resources unrelated to the mission of the M&O contract either for sole use by DOE employees or employees of other DOE contractors, or for use by other Federal agencies or their contractors.

(b) *Other than M&O contracts.* Where it has been determined that a contractor (other than an M&O contractor or its subcontractor) will acquire FIP resources either for sole use by DOE employees or for the furnishing of the FIP resources as government-furnished property under another contract, DOE will obtain any needed procurement authority from GSA prior to having the contractor acquire the FIP resources.

(c) *Consolidated contractor acquisitions.* When common FIP resource requirements in support of DOE programs have been identified and it is an-

anticipated that the consolidation of such requirements will promote cost or other efficiencies, the Designated Senior Official for Information Management may authorize an M&O contractor to acquire FIP resources for use by the following:

- (1) One or more other contractor(s) performing on-site at the same DOE-owned or -leased facility as the M&O contractor, or
- (2) Other M&O contractors.

**Subparts 939.45-939.53
[Reserved]**

PART 941—ACQUISITION OF UTILITY SERVICES

Subpart 941.2—Acquiring Utility Services

Sec.

941.201-70 DOE Directives.

941.201-71 Use of subcontracts.

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

SOURCE: 61 FR 41710, Aug. 9, 1996, unless otherwise noted.

Subpart 941.2—Acquiring Utility Services

941.201-70 DOE Directives.

Utility services (defined at FAR 41.101) shall be acquired in accordance with FAR part 41 and DOE Directives in subseries 4540 (Public Services).

941.201-71 Use of subcontracts.

Utility services for the furnishing of electricity, gas (natural or manufactured), steam, water and/or sewerage at facilities owned or leased by DOE shall not be acquired under a subcontract arrangement, except as provided for at 48 CFR 970.0803 or if the prime contract is with a utility company.