

### 970.2770-3

operating contracts shall have technology transfer, including authorization to award Cooperative Research and Development Agreements (CRADAs), as a laboratory or facility mission under Section 11(a)(1) of the Stevenson-Wylder Technology Innovation Act of 1980, Public Law 96-480 (15 U.S.C. 3701 et seq., as amended). A management and operating contractor for a facility not deemed to be a laboratory or weapon production facility may be authorized on a case-by-case basis to support the DOE technology transfer mission including, but not limited to, participating in CRADAs awarded by DOE laboratories and weapon production facilities.

#### **970.2770-3 Technology transfer and patent rights.**

The National Competitiveness Technology Transfer Act of 1989 (NCTTA) established technology transfer as a mission for Government-owned, contractor-operated laboratories, including weapons production facilities, and authorizes those laboratories to negotiate and award cooperative research and development agreements with public and private entities for purposes of conducting research and development and transferring technology to the private sector. In implementing the NCTTA, DOE has negotiated technology transfer clauses with the contractors managing and operating its laboratories. Those technology transfer clauses must be read in concert with the patent rights clause required by this subpart. Thus, each management and operating contractor holds title to subject inventions for the benefit of the laboratory or facility being managed and operated by that contractor.

#### **970.2770-4 Contract clause.**

(a) The contracting officer shall insert the clause at 970.5227-3, Technology Transfer Mission, in each solicitation for a new or an extension of an existing laboratory or weapon production facility management and operating contract.

(b) If the contractor is a nonprofit organization or small business eligible under 35 U.S.C. 200 et seq., to receive title to any inventions under the contract and proposes to fund at private

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expense the maintaining, licensing, and marketing of the inventions, the contracting officer shall use the basic clause with its Alternate I.

(c) If the facility is operated for national security purposes and engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components, the contracting officer shall use the basic clause with its Alternate II.

## **Subpart 970.28—Bonds and Insurance**

### **970.2803 Insurance.**

#### **970.2803-1 Workers' Compensation Insurance.**

(a) *Policies and requirements.* (1) Workers' compensation insurance protects employers against liability imposed by workers' compensation laws for injury or death to employees arising out of, or in the course of, their employment. This type of insurance is required by state laws unless employers have acceptable programs of self-insurance.

(2) *Special requirements.* Certain workers' compensation laws contain provisions which result in limiting the protection afforded persons subject to such laws. The policy with respect to these limitations as they affect persons employed by management and operating contractors is set forth as follows:

(i) *Elective provisions.* Some worker's compensation laws permit an employer to elect not to be subject to its provisions. It is DOE policy to require these contractors to be subject to workers' compensation laws in jurisdictions permitting election.

(ii) *Statutory immunity.* Under the provisions of some workers' compensation laws, certain types of employers; e.g., nonprofit educational institutions, are relieved from liability. If a contractor has a statutory option to accept liability, it is DOE policy to require the contractor to do so.

(iii) *Limited medical benefits.* Some workers' compensation laws limit the liability of the employer for medical care to a maximum dollar amount or to a specified period of time. In such

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cases, a contractor's workers' compensation insurance policy should contain a standard extra-statutory medical coverage endorsement.

(iv) *Limits on occupational disease coverage and employers' liability.* Some workers' compensation laws do not provide coverage for all occupational diseases. In such situations, a contractor's workers' compensation insurance policy should contain voluntary coverage for all occupational diseases.

(3) *Contractor "employees' benefit plan"—self-insurers.* The policies and requirements set forth in paragraph (a)(2) of this section apply where management and operating contractors purchase workers' compensation insurance. With respect to self-insured contractors, the objectives specified in paragraph (a)(2) also shall be met through primary or excess workers' compensation and employers' liability insurance policy(ies) or an approved combination thereof. "Employees' benefit plans" which were established in prior years may be continued to contrast termination at existing benefit levels.

(b) *Assignment of responsibilities.* (1) Office of Resource Management, within the Headquarters procurement organization, other officials, and the Heads of Contracting Activities, consistent with their delegations of responsibility, shall assure management and operating contracts are consistent with the policies and requirements of paragraph (a) of this section.

(2) In discharging assigned responsibility, the Heads of Contracting Activities shall—

(i) Periodically review workers' compensation insurance programs of management and operating contractors in the light of applicable workers' compensation statutes to assure conformance with the requirements of paragraph (a) of this section.

(ii) Evaluate the adequacy of coverage of "self-insured" workers' compensation programs;

(iii) Provide arrangements for the administration of any existing "employees' benefit plans" until such plans" are terminated; and

(iv) Submit to the Office of Resource Management, within the Headquarters procurement organization, all pro-

posals for the modification of existing "employees' benefit plans."

(3) The Office of Resource Management, within the Headquarters procurement organization, is responsible for approving management and operating contractor "employees' benefit plans."

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36372, July 22, 2009]

### 970.2803-2 Contract clause.

The contracting officer shall insert the clause at 970.5228-1, Insurance—Litigation and Claims, in all management and operating contracts. Paragraphs (h)(3) and (j)(2) of that clause apply to a nonprofit contractor only to the extent specifically provided in the individual contract.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36372, July 22, 2009]

## Subpart 970.29—Taxes

### 970.2902 Federal excise taxes.

#### 970.2902-3 Other Federal tax exemptions.

(a) The exemption respecting taxes on communication services or facilities has been held to extend to such services when furnished to Department of Energy (DOE) management and operating contractors who pay for such services or facilities from advances made to them by DOE under their contracts.

(c) Where it is considered that a request for an additional exemption in the performance of a management and operating contract would be justified, a recommendation that such a request be made should be forwarded to the Chief Financial Officer, Headquarters.

(d) Where tax exemption certificates are required in connection with the taxes cited in this section, the Head of the Contracting Activity will supply standard Government forms (SF 1094, U.S. Tax Exemption Certificate) on request.

[65 FR 81009, Dec. 22, 2000. Redesignated and amended at 74 FR 36372, July 22, 2009]