

### **Subpart 970.36—Construction and Architect-Engineer Contracts**

#### **970.3605 Contract clauses.**

##### **970.3605–1 Other contracts.**

The clause at 48 CFR 52.236–8, Other Contracts, shall be used in all management and operating contracts.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36374, July 22, 2009]

##### **970.3605–2 Special construction clause for operating contracts.**

The clause at 48 CFR 970.5236–1, Government Facility Subcontract Approval, shall be used in management and operating contracts when the contractor will not perform covered work with its own forces but may procure construction by subcontract.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36374, July 22, 2009]

### **Subpart 970.37—Facilities Management Contracting**

#### **970.3706 Performance-based acquisition.**

##### **970.3706–1 General.**

For policy and guidance on performance-based contracting for management and operating (M&O) contracts, see 970.1100.

[75 FR 68220, Nov. 5, 2010]

#### **970.3770 Facilities management.**

##### **970.3770–1 Policy.**

Contractors managing the Department of Energy (DOE) facilities shall be required to comply with the DOE Directives applicable to facilities management. The use of the DOE Directives is prescribed in 970.0470.

[75 FR 68220, Nov. 5, 2010]

#### **970.3770–2 [Reserved]**

### **Subpart 970.41—Acquisition of Utility Services**

#### **970.4102 Acquiring utility services.**

##### **970.4102–1 Policy.**

(a) Utility services defined at 48 CFR 41.101 for the furnishing of electricity, gas (natural or manufactured), steam, water, and/or sewerage to facilities owned or leased by Department of Energy (DOE) shall be acquired directly by DOE and not by a contractor using a subcontractor arrangement, except as provided in paragraph (b) of this subsection.

(b) Where it is determined to be in the best interest of the Government, a DOE contracting activity may authorize a management and operating contractor for a facility to acquire such utility service for the facility, after requesting and receiving concurrence to make such an authorization from the Director, Public Utilities Branch, Headquarters. Any request for such concurrence should be included in the Utility Service Requirements and Options Studies required by DOE Order 430.2, or its successor. Alternatively, it may be made in a separate document submitted to the Director of that office early in the acquisition cycle. Any request shall set forth why it is in the best interest of the DOE to acquire utility service(s) by subcontract, i.e., what the benefits are, such as economic advantage.

(c) The requirements of 48 CFR part 41, this section, and DOE Order 430.2, or its successor, shall be applied to a subcontract level acquisition for furnishing utility services to a facility owned or leased by DOE.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36374, July 22, 2009]

### **Subpart 970.42—Contract Administration**

#### **970.4207–03–02 Certificate of costs.**

(a) The contracting officer shall require that management and operating contractors provide a submission, pursuant to 970.5232–2–(j), for settlement of