

## 970.2904

cited in this subpart are available. Advice of Counsel should be sought as to the availability of such immunities or exemptions; and

(b) Acquire directly and furnish to contractors as Government furnished property, equipment, material, or services when, in the opinion of the Head of the Contracting Activity—

(1) Such direct acquisition will result in substantial savings to the Government, taking into consideration any additional administrative costs;

(2) Such direct acquisition will not have a substantial adverse effect on the relationship between DOE and its contractor; and

(3) Such direct acquisition will not have a substantial adverse effect on the DOE program or schedules.

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

### 970.2904 Contract clauses.

#### 970.2904-1 Management and operating contracts.

(a) Pursuant to 48 CFR 29.401-4(b), the clause at 48 CFR 52.229-10, State of New Mexico Gross Receipts and Compensating Tax, is applicable to management and operating contracts that meet the three conditions stated. The contracting officer shall modify paragraph (b) of the clause to replace the phrase “Allowable Cost and Payment” with the phrase “Payments and Advances.”

(b) Contracting officers shall include the clause at 970.5229-1, State and Local Taxes, in management and operating contracts.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

## Subpart 970.30—Cost Accounting Standards Administration

### 970.3002 CAS program requirements.

#### 970.3002-1 CAS applicability.

The provisions of 48 CFR part 30 and 48 CFR chapter 99 (FAR Appendix) shall be followed for management and operating contracts.

## 48 CFR Ch. 9 (10-1-14 Edition)

## Subpart 970.31—Contract Cost Principles and Procedures

### 970.3101-00-70 Scope of subpart.

(a) The Senior Procurement Executive is responsible for developing and revising the policy and procedures for the determination of allowable costs reimbursable under a management and operating contract, and for coordination with other Headquarters’ offices having joint interests.

(b) The Head of the Contracting Activity is responsible for following the policy, principles and standards set forth in this subpart in establishing the compensation and reimbursement provisions of contracts and subcontracts and for submission of deviations for Headquarters consideration and approval.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

### 970.3101-9 Advance agreements.

(i) At any time, in accordance with the contract terms and conditions, the contracting officer may pursue an advance agreement in connection with any cost item under a contract.

### 970.3101-10 Indirect cost rate certification and penalties on unallowable costs.

(a) Certain contracts require certification of the costs proposed for final payment purposes. Section 970.4207-03-02 states the administrative procedures for the certification provisions and the related contract clause prescription.

(b) If unallowable costs are included in final cost settlement proposals, penalties may be assessed. Section 970.4207-03-02 states the administrative procedures for penalty assessment provisions and the related clause prescription.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36373, July 22, 2009]

### 970.3102-3-70 Home office expenses.

(a) For on-site work, DOE’s fee for management and operating contracts, determined under the policy of and calculated per the procedures in 970.1504-1-3, generally provides adequate compensation for home or corporate office general and administrative expenses