

(3) Ensure the review of individual purchasing actions of certain types, or above stated dollar levels, by the contracting officer pursuant to 48 CFR subpart 44.2 or as set forth in the contractor's approved system and methods; and

(4) Ensure that periodic appraisals of the contractor's management of all facets of the purchasing function, including compliance with the contractor's approved system and methods, are performed by the contracting officer. Such appraisals shall be performed through either of the following methodologies:

(i) Contractor Purchasing System Reviews, conducted in accordance with 48 CFR subpart 44.3; or

(ii) When approved by the contracting officer, contractor participation in the conduct of the Balanced Scorecard performance measurement and performance management system.

(c) In performing the reviews required by paragraphs (b)(1) and (2), and the appraisals required by paragraph (b)(4) of this subsection, HCAs shall assure that contracting officers determine that the contractors' written systems and methods are consistent with this subpart and the applicable terms and conditions of their contracts.

970.4401-2 Review and approval.

(a) The Heads of the Contracting Activities shall establish thresholds, by subcontract type and dollar level, for the review and approval of proposed subcontracting actions by each management and operating contractor under their cognizance. Such thresholds may not exceed the authority delegated to the Head of the Contracting Activity by the Senior Procurement Executive. In establishing these thresholds, the Heads of the Contracting Activities should consider such factors as the following:

(1) The nature of work to be performed under the management and operating contract;

(2) The size, experience, ability, reliability, and organization of the management and operating contractor's purchasing function;

(3) The internal controls, procedures, and organizational stature of the man-

agement and operating contractor's purchasing function; and

(4) Policies with respect to such reviews and approvals established by the Senior Procurement Executive.

(b) Prior approval shall be required for the subcontracting of any work a contractor is obligated to perform under a contract entered into under section 41, entitled Production of Special Nuclear Material, of the Atomic Energy Act of 1954, as amended.

(c) The Heads of the Contracting Activities shall take such action as may be required to insure compliance with the procedure for purchasing from contractor-affiliated sources or the purchase of specific items, or classes of items, which by the terms of the contract may require DOE approval.

(d) The Heads of the Contracting Activities may raise or lower the review and approval thresholds established pursuant to paragraph (a) of this subsection at any time. Such action may be considered upon the periodic review of the contractor's purchasing system, but in any case those adjusted thresholds may not exceed the approval authority delegated to the Head of the Contracting Activity by the Senior Procurement Executive.

(e) DOE approvals of specific proposed purchases pursuant to this subpart shall communicate that such approval does not relieve the management and operating contractor of any obligation under its prime contract with DOE; is given without prejudice to any rights or claims of the Government thereunder; creates no obligation on the part of the Government to the subcontractor, and is not a pre-determination of the allowability of costs to be incurred under the subcontract.

(f) Contracting officers shall assure that management and operating contractors establish and maintain subcontract files which contain those documents essential to present an accurate and adequate record of all purchasing transactions.

(g) Contracting officers shall assure that management and operating contractors document purchases in writing, setting forth the information and data used in determining that the purchases are in the best interest of the

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Government. The scope and detail of this documentation shall be consistent with the nature, dollar value, and complexity of the purchase.

(h) The Heads of the Contracting Activities shall assure that the contracting activity establishes and maintains files of the documents associated with the review and approval of subcontract actions subject to DOE review and approval. Those files shall include, among other necessary documentation, an appraisal of the proposed action by the contracting activity and a copy of the approving or disapproving document forwarded to the management and operating contractor, including a listing of any deficiencies, a listing of any required corrective actions, any suggestions, or other relevant comments.

970.4401-3 Advance notification.

(a) Contracting officers shall assure that the written description of the management and operating contractor's purchasing system and methods provides for advance notice to the DOE contracting officer of the proposed award of the following specified types of subcontracts, except as stated in paragraph (b) of this subsection:

(1) Pursuant to section 304(b) of the Federal Property and Administrative Service Act of 1949, as amended (41 U.S.C. 254(b)):

(i) Cost reimbursement-type subcontracts of any award value; and

(ii) Fixed price-type subcontracts which exceed the simplified acquisition threshold, or 5 percent of the total estimated cost of the prime contract.

(2) Purchases from contractor-affiliated sources over a value established by the HCA.

(b) Pursuant to section 602(d)13 of the Act (40 U.S.C. 474(13)) referred to in paragraph (a) of this section, the advance notification requirement for the types of purchases listed in paragraphs (a) (1) and (2) of this subsection shall not apply to subcontracts relating to functions derived from the Atomic Energy Commission.

(c) The advance notice shall contain, at a minimum, a description of work, estimated cost, type of contract or reimbursement provisions, and extent of competition, or justification for a non-

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competitive purchase procurement. The contracting officer may at any time request additional information that must be furnished promptly and prior to award of the subcontract.

970.4402 Contractor purchasing system.

970.4402-1 Policy.

(a) DOE contracts for the management and operation of its facilities, the design and production of nuclear weapons, energy research and development, and the performance of other services. These management and operating (M&O) contractors have been selected for their technical and managerial expertise and are expected to bring to bear these technical and managerial skills to accomplish the significant Federal mission(s) described in their contracts with, and work plans approved by, DOE.

(b) Purchasing done by management and operating contractors is one area in which the particular skills of the contractors will be brought to bear in order to more readily accomplish the contractors' assigned missions. The contracting procedures of the contractor's organization, therefore, form the basis for the development of a purchasing system and methods that will comply with its contract with DOE and this subpart.

970.4402-2 General requirements.

The following shall apply to the purchasing systems of management and operating contractors:

(a) The objective of a management and operating contractor's purchasing system is to deliver to its customers on a timely basis those best value products and services necessary to accomplish the purposes of the Government's contract. To achieve this objective, contractors are expected to use their experience, expertise and initiative consistent with this subpart.

(b) The purchasing systems and methods used by management and operating contractors shall be well-defined, consistently applied, and shall follow purchasing practices appropriate for the requirement and dollar value of the purchase. It is anticipated