

PART 917 - SPECIAL CONTRACTING METHODS

Authority: 42 U.S.C. 7101 and 50 U.S.C. 2401

Source: 49 FR 11974, Mar. 28, 1984, unless otherwise noted.

Subpart 917.6 - Management and Operating Contracts

917.600 Scope of subpart.

(a) This subpart implements FAR 17.7, Management and Operating Contracts. Departmental policies, procedures, provisions, and clauses for awarding and administering management and operating contracts—whether they implement or supplement the Federal Acquisition Regulation and parts 901 through 952 of this chapter—are found in part 970.

(b) This subpart applies to all Department of Energy management and operating contracts.

917.602 Policy.

(a) The Secretary must authorize any use of a management and operating contract.

(b) The Department of Energy's policy is to use full and open competition when awarding management and operating contracts.

(c) A management and operating contract may be extended at the end of its term without full and open competition only when justified under a statutory authority listed in FAR 6.103 and only when the Secretary approves the extension.

917.603 Identifying management and operating contracts.

A management and operating contract is characterized both by its purpose and by the special relationship it creates between Government and contractor. The following criteria can generally be applied in identifying management and operating contracts:

(a) Government-owned or -controlled facilities must be utilized; for instance-

(1) In the interest of national defense or mobilization readiness;

(2) To perform the agency's mission adequately; or

(3) Because private enterprise is unable or unwilling to use its own facilities for the work.

(b) Because of the nature of the work, or because it is to be performed in Government facilities, the Government must maintain a special, close relationship with the contractor and the

contractor's personnel in various important areas (e.g., safety, security, cost control, site conditions).

(c) The conduct of the work is wholly or at least substantially separate from the contractor's other business, if any.

(d) The work is closely related to the agency's mission and is of a long-term or continuing nature, and there is a need-

(1) To ensure its continuity; and

(2) For special protection covering the orderly transition of personnel and work in the event of a change in contractors.

Subpart 917.70 - Cost Participation

Source: 61 FR 41706, Aug. 9, 1996, unless otherwise noted.

917.7000 Scope of subpart.

(a) This subpart describes DOE's policy on cost participation for organizations performing research, development, and/or demonstration projects under DOE prime contracts. It does not apply to work or projects performed for DOE by other Federal agencies.

(b) "Cost participation" is a general term meaning any situation in which the Government does not fully reimburse the performer for all allowable costs needed to accomplish the project. It includes cost sharing, cost matching, cost limitations (direct or indirect), in-kind contributions, and similar arrangements.

917.7001 Policy.

(a) When DOE funds research, development, and/or demonstration efforts with the goal of eventual private-sector commercialization—and when DOE reasonably expects the performer to receive current or future economic benefits beyond the contract—DOE policy is to require cost participation. DOE may provide full funding for early-stage development when technical challenges remain significant.

(b) When deciding whether to require cost participation, and when assessing current and future economic benefits to the performer, DOE will consider technical feasibility, projected economic viability, societal and political acceptability of commercial application, and the potential impact of other DOE-supported projects in competing technologies.

(c) DOE will determine the appropriateness, method, and amount of cost participation on a case-by-case basis.

(d) Cost participation is required for demonstration projects unless the Under Secretary grants an exemption. For this subpart, “demonstration projects” include demonstrations of technological advances, field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for exploring, developing, producing, transporting, converting, and using energy resources.

Subpart 917.72 - Program Opportunity Notices for Commercial Demonstrations

Source: 61 FR 41706, Aug. 9, 1996, unless otherwise noted.

917.7200 Scope of subpart.

(a) This subpart describes DOE’s policy for using a program opportunity notice to accelerate demonstrations showing technical feasibility and commercial potential for beneficial non-nuclear energy sources and technologies.

(b) This subpart applies to demonstrations performed by individuals, educational institutions, commercial or industrial organizations, private entities, and State or local governments. It does not apply to other Federal agencies. Demonstration projects include demonstrations of technological advances, field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for exploring, developing, producing, transporting, converting, and using non-nuclear energy resources.

917.7201 Policy.

917.7201-1 General.

(a) DOE seeks proposals that accelerate demonstrations of the technical, operational, economic, and commercial feasibility—and environmental acceptability—of specific energy technologies, systems, subsystems, and components. DOE will issue program opportunity notices to share information on the scientific and technological areas within DOE’s programs. From time to time, DOE will issue these notices for demonstrations involving various forms of non-nuclear energy and energy technology use.

(b) Each program opportunity notice must, at a minimum, describe the demonstration’s goal, the award schedule, evaluation criteria, program policy factors, the level of cost detail required, and proposal submission instructions. Program policy factors are considerations that, while not indicators of a proposal’s individual merit (such as technical excellence, capability, or cost), are essential in selecting proposals that best support program objectives when considered as a group. All such factors must be predetermined and included in the notice so proposers understand that factors outside their control may influence the selection process.

Subpart 917.73 - Program Research and Development Announcements

Source: 61 FR 41707, Aug. 9, 1996, unless otherwise noted.

917.7300 Scope of subpart.

(a) This subpart describes DOE's policy for using a program research and development announcement (PRDA) to solicit and select proposals from the private sector for research, development, and related activities in the energy field.

917.7301 Policy.

917.7301-1 General.

(a) DOE uses PRDAs to inform potential proposers of areas where DOE is interested in research, development, and related work. DOE seeks ideas that can support research, development, and related activities in the energy field. DOE also encourages participation by small businesses, small disadvantaged businesses, and women-owned small businesses in PRDA-related work.

(b) A PRDA should not replace standard acquisition procedures when the requirement can be clearly defined. It also should not discourage submission of unsolicited proposals. If a proposer submits a proposal as an unsolicited proposal but the topic falls within the scope of an active PRDA, DOE will treat the proposal as if submitted under the PRDA or return it to the proposer, at the proposer's option. A PRDA must not be used in competitive situations where DOE should instead negotiate a study contract to obtain analysis and recommendations for a later request for proposals.

Subpart 917.74 - Acquisition, Use, and Disposal of Real Estate

Source: 61 FR 41707, Aug. 9, 1996, unless otherwise noted.

917.7401 General.

A DOE Certified Realty Specialist must be involved in any acquisition of real estate, as required by 917.7402. Special situations may arise under cost-type contracts when the performer must acquire real estate or interests in real estate to perform the contract or subcontract. These acquisitions may include:

- (a) Purchase on DOE's behalf or in the performer's name, with title eventually vesting in the Government.
- (b) Lease agreements where DOE reimburses the contractor for pre-approved lease costs.
- (c) Temporary interests—such as easements, licenses, or permits—that DOE funds.

917.7402 Policy.

DOE applies the following policies and procedures when acquiring real estate:

- (a) Real estate acquisitions must be mission essential; effectively, economically, and efficiently managed and used; and disposed of promptly when no longer needed.
- (b) Acquisitions must be justified with documentation describing the need, general requirements, cost, acquisition options with recommended method, site investigation reports, the recommended site, property appraisal reports, and review and approval by the applicable DOE Certified Realty Specialist in accordance with DOE Order 430.1C or its successor.
- (c) For lease acquisitions, in addition to paragraphs (a) and (b):
 - (1) Leases funded by one-year appropriations must not exceed one year.
 - (2) Leases for special-purpose space funded by no-year appropriations may exceed one year if approved by a DOE Certified Realty Specialist.
 - (3) Leases must contain a cancellation clause that limits the Government's obligation to no more than rent owed through the earliest cancellation date plus a reasonable cancellation payment.
 - (4) Leases must comply with Government laws, regulations, and DOE Order 430.1C or its successor.
- (d) Any real property action requires involvement of the applicable DOE Certified Realty Specialist.

917.7403 Contract clause.

Include clause 952.217-70, Acquisition of Real Property, in contracts (including modifications) where contractor acquisition of real property is expected.

PART 952 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.217-70 Acquisition of real property.

Insert the following clause when required by 917.7403:

Acquisition of Real Property (DEVIATION MAY 2026)

(a) The Contractor will obtain prior approval from the Contracting Officer when acquiring or proposing to acquire real property in performance of this contract by:

(1) Purchase, either on the Government's behalf or in the Contractor's name, with title eventually vesting in the Government.

(2) Lease, where DOE reimburses the costs as a reimbursable contract cost.

(3) Temporary interests—such as easements, licenses, or permits—for which the Government pays the full cost.

(b) The Contractor will justify and execute all real property acquisitions according to the Contracting Officer's instructions.

(c) The Contractor will include the substance of this clause, including this paragraph (c), in any subcontract under which property described in paragraph (a) will be acquired.

(End of clause)