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 DOE Federal Energy Management Program (FEMP). Any request for such concurrence should be included in the Utility Acquisition Plan. Alternatively, it may be made in a separate document submitted to the FEMP Utility Program Manager 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.,* low performance risk and cost risk. For NNSA programs, FEMP review and technical input may be obtained, but FEMP concurrence is not necessary.

(c) The requirements of FAR part 41 and this section shall be applied to a subcontract level acquisition for furnishing utility services to a facility owned or leased by DOE.

Parent topic: Subpart 970.41—Acquisition of Utility Services