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 management 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 predetermination 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 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.

Parent topic: Subpart 970.44—Management and Operating Contractor Purchasing