

(NTTAA) of 1995 (Public Law No. 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB, with explanations when EPA decides not to use available and applicable voluntary consensus standards.

During the development of the final rule, EPA searched for voluntary consensus standards that might be applicable. The search identified two voluntary consensus standards that were considered practical alternatives to the specified EPA test methods. An assessment of these and other voluntary consensus standards is presented in the preamble to the final rule (see 69 FR 46010, July 30, 2004). Today's notice of reconsideration does not propose the use of any additional technical standards beyond those cited in the final rule. Therefore, EPA is not considering the use of any additional voluntary consensus standards for this notice.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 18, 2005.

Stephen L. Johnson,
Administrator.

[FR Doc. 05-14533 Filed 7-28-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7945-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the North Sea Municipal Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is issuing this notice of intent to delete the North Sea Municipal Landfill Superfund Site (Site), located in Southampton, New York from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The EPA and the New York State Department of Environmental Conservation, have determined that responsible parties have implemented all appropriate response actions required. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final deletion of the North Sea Municipal Landfill Superfund Site without prior notice of this action because we view this as a noncontroversial revision and anticipate no significant adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no significant adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive significant adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments. If, after evaluating public comments, EPA decides to proceed with deletion, we will do so in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by August 29, 2005.

ADDRESSES: Written comments should be addressed to: Caroline Kwan, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 20th Floor, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Kwan, Remedial Project Manager, U.S. Environmental Protection Agency, 290 Broadway, 20th floor, New York, NY 10007-1866, (212) 637-4275; Fax Number (212) 637-4284; email address: kwan.caroline@epa.gov.

Information Repositories:

Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Environmental Protection Agency, Region 2, 290 Broadway, Superfund Record Center, Room 1828, New York, NY 10007-1866. Hours: Monday to Friday from 9 a.m. to 5 p.m., Telephone No. (212) 637-4308, Southampton College, Reference Department, 239 Montauk Highway, Southampton, New York 11968-4100, Hours: Monday to Friday till August 12, 2005 from 9 a.m. to 6 p.m., Closed from August 13 till September 5, reopening on September 6, Monday to Thursday from 10 a.m. to 9 p.m., Saturday: 12 p.m. to 5 p.m., Telephone No. 631-287-8379, The Rogers Memorial Library (Reference Department), 91 Coopers Farms Road, Southampton, New York 11968-4002, Hours: Monday to Thursday from 10 a.m. to 9 p.m., Friday: 10 a.m. to 7 p.m., Saturday: 10 a.m. to 5 p.m., Sunday: 1 p.m. to 5 p.m., Telephone No. (632) 283-0774.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Deletion which is located in the Rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9675; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: July 22, 2005.

George Pavlou,

Acting Regional Administrator, USEPA, Region 2.

[FR Doc. 05-15043 Filed 7-28-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF ENERGY

48 CFR Parts 909, 913, and 970

RIN 1991-AB62

Acquisition Regulation: Technical Revisions or Amendments To Update Clauses

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to amend its acquisition regulation to remove and add specified clauses, and revise certain

other clauses, currently contained in the Department of Energy Acquisition Regulation (DEAR). This rule also proposes to revise associated regulatory coverage, as necessary.

DATES: Written comments (three copies) on the proposed rulemaking must be received on or before August 29, 2005.

ADDRESSES: This notice of proposed rulemaking is available and comments may be submitted online at <http://www.Regulations.gov>. Comments may be submitted by e-mail to Michael.fischetti@hq.doe.gov. Comments may be mailed to: Michael P. Fischetti, ME-61, U.S. Department of Energy, Office of Procurement and Assistance Management, 1000 Independence Avenue, SW., Washington, DC 20585.

Comments by e-mail are encouraged.

FOR FURTHER INFORMATION CONTACT: Michael Fischetti at (202) 287-1304 or Michael.fischetti@hq.doe.gov.

SUPPLEMENTARY INFORMATION

I. Background

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- I. Review Under Executive Order 13211
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Approval by the Office of the Secretary of Energy

I. Background

The purpose of this rulemaking is to update various clauses within 48 CFR chapter 9 to specify contractor responsibility in the areas of performance, work authorization, and subcontract flow down provisions.

This rulemaking would modify current guidance contained in DEAR clauses concerning Debarment; Fast Payment Procedures; Laws, Regulations, and Directives; Work Authorization; Integration of Environment, Safety, and Health into Work Planning and Execution; and Facilities Management.

II. Section-by-Section Analysis

The Department of Energy proposes to amend the regulation as follows:

1. DEAR 909.406, Debarment, is proposed to be revised to permit a debarring official to debar a contractor, based upon a preponderance of the

evidence, for falsely certifying or otherwise representing itself as a small, small disadvantaged, women- or veteran-owned, or similar concern.

2. DEAR subpart 913.4 Fast Payment Procedure is proposed to be deleted in its entirety. DEAR 913.402 currently prohibits the use of fast payment procedures. Upon review of the Department's policy and the Federal Acquisition Regulation (FAR), DOE has determined that fast payment procedures could be used by DOE and that FAR coverage in subpart 13.4, Fast Payment Procedure, is adequate to protect the Department's interests. Removal of this section would permit DOE to use fast payment procedures under FAR 13.4.

3. DEAR 970.5204-2, Laws, Regulations, and DOE Directives, is proposed to be revised by adding the following three sentences to the end of paragraph (e): "Unless the contract specifically instructs the contractor regarding subcontract flow-down, the contractor shall be responsible for determining the appropriate implementation of the requirements, including the extent to, and manner in which, requirements should be reflected in subcontracts. In doing so, the contractor retains the same responsibility for performance and cost management that it has for all contract efforts. Specifically, the contractor shall not unnecessarily or imprudently flow down requirements to subcontracts and shall only incur costs that would be incurred by a prudent person in the conduct of a competitive business." This language is intended to emphasize the contractor's responsibility in effective cost management in flowing down prime contract requirements to its subcontractors.

4. DEAR 970.5211-1, Work Authorization, is proposed to be added, with prescriptive language in DEAR 970.1170-1 and a contract clause instruction in DEAR 970.1170-2. This clause incorporates requirements that are presently located in the contractor's requirements document attached to DOE Directive DOE O 412.1, Work Authorization System. The DOE O 412.1 currently establishes an assignment and control process for budget of estimated costs, description of work, and schedule of performance for individual work activities performed by designated contractors within the contract scope of work. The proposed clause would eliminate the need for a contractor requirements document by establishing the requirements as a DEAR clause.

5. DEAR 970.5223-1, Integration of Environment, Safety, and Health (ES&H) specifies contractor requirements

pertaining to ES&H. It is proposed to be modified by making some editorial changes to paragraphs (d) and (e) and adding the following three sentences to paragraph (h): "Unless the contract specifically instructs the contractor regarding subcontract flow-down, the contractor shall be responsible for determining the appropriate implementation of the requirements, including the extent to which, and manner in which, requirements should be reflected in subcontracts. In doing so, the contractor retains the same responsibility for performance and cost management that it has for all contract efforts. Specifically, the contractor shall not unnecessarily or imprudently flow down requirements to subcontracts and shall only incur costs that would be incurred by a prudent person in the conduct of a competitive business." This language is intended to emphasize the contractor's responsibility in effective cost management in flowing down prime contract requirements to its subcontractors.

6. DEAR 970.5237-2, Facilities Management, and the corresponding instruction at DEAR 970.37, Facilities Management Contracting, are proposed to be deleted. They currently provide guidance concerning site development planning, design criteria, energy management, and subcontract requirements. DOE directives, such as DOE O 430.1A, Life Cycle Asset Management, already provide sufficient guidance.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this rulemaking is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification

and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these proposed regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have significant economic impact on a substantial number of small entities. The rulemaking would not have a significant economic impact on small entities. While rule requirements may flow down to subcontractors in certain circumstances, the costs of compliance are not estimated to be large and, in any event, would be reimbursable expenses under the contract or subcontract.

Accordingly, DOE certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

Information collection or record keeping requirements contained in this rulemaking have been previously cleared under Office of Management and Budget paperwork clearance package Number 1910-0300. There are no new burdens imposed by this rulemaking.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this proposed rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order does require agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's proposed rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires a Federal agency to perform a written assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of \$100 million or more. This proposed rulemaking would only affect private sector entities, and the impact is less than \$100 million.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect family well-being. This rulemaking will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Approval by the Office of the Secretary of Energy

Issuance of this proposed rule has been approved by the Office of the Secretary of Energy.

List of Subjects in 48 CFR Parts 909, 913, and 970

Government procurement.

Issued in Washington, DC on July 20, 2005.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management, Office of Management Budget and Evaluation/Chief Financial Officer.

Robert C. Braden,

Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 909—CONTRACTOR QUALIFICATIONS

1. The authority citation for part 909 is revised to read as follows:

Authority: 42 U.S.C. 2201, 2282a, 2282b, 2282c, 7101 *et seq.*; 41 U.S.C. 418(b); 50 U.S.C. 2401 *et seq.*

909.406 Debarment.

2. In section 909.406–2, the section heading is revised and paragraph (e) is added to read as follows:

909.406–2 Causes for debarment. (DOE coverage—paragraphs (c) through (e)).

* * * * *

(e) The debarring official may debar a contractor, established by a preponderance of the evidence, such as an SBA determination, for falsely certifying itself as a:

- (1) Small Business Concern;
- (2) Small Disadvantaged Business Concern;
- (3) Women-Owned Small Business Concern;
- (4) Veteran-Owned Small Business Concern;
- (5) Service-Disabled Veteran-Owned Small Business Concern;
- (6) Historically Underutilized Business Zone Concern.

PART 913—SIMPLIFIED ACQUISITION PROCEDURES

3. The authority citation for part 913 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418(b); 50 U.S.C. 2401 *et seq.*

Subpart 913.4—[Removed]

4. Subpart 913.4 is removed.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

5. The authority citation for part 970 continue to read as follows:

Authority: 42 U.S.C. 2201, 2282b, 2282c, 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

Subpart 970.11—Describing Agency Needs

6. Sections 970.1170, 970.1170–1, and 970.1170–2 are added to read as follows:

970.1170 Work authorization.

970.1170–1 Policy.

Each contract for the management and operation of a DOE site or facility, and other contracts designated by the DOE or NNSA Procurement Executive, must contain a scope of work section that describes, in general terms, work planned and/or required to be performed. Work to be performed under the contract shall be assigned through the use of a work authorization to control individual work activities performed within the scope of work. Work authorizations must be issued prior to the commencement of the work and incurrence of any costs.

970.1170–2 Contract provision.

The Contracting Officer shall insert the clause at 48 CFR 970.5211–1, Work Authorization, in each solicitation and contract for the management and operation of a DOE site or facility and in other contracts designated by the DOE or NNSA Procurement Executive.

Subpart 970.37—Facilities Management Contracting

970.3770–2 [Removed and Reserved]

7. Section 970.3770–2 is removed and reserved.

Subpart 970.52—Solicitation Provisions and Contract Clauses for Management and Operating Contracts

8. Section 970.5204–2 is amended by revising the clause date and paragraph (e) to read as follows:

970.5204–2 Laws, regulations, and DOE directives.

* * * * *

Laws, Regulations, and DOE Directives (XXX–XXXX)

* * * * *

(e) Regardless of the performer of the work, the contractor is responsible for compliance with the requirements of this clause. The contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements. Unless

the contract specifically instructs the contractor regarding subcontract flow-down, the contractor shall be responsible for determining the appropriate implementation of the requirements, including the extent to, and manner in which, requirements should be reflected in subcontracts. In doing so, the contractor retains the same responsibility for performance and cost management that it has for all contract efforts. Specifically, the contractor shall not unnecessarily or imprudently flow down requirements to subcontracts and shall only incur costs that would be incurred by a prudent person in the conduct of a competitive business.
(End of clause)

9. Section 970.5211 is added to read as follows:

970.5211–1 Work authorization.

As prescribed in 970.1170–2, insert the following clause.

WORK AUTHORIZATION (XXX–XXXX)

(a) Work Authorization Proposal. Prior to the start of each fiscal year, the Contracting Officer (CO) or designee shall provide the contractor with program execution guidance in sufficient detail to enable the contractor to develop an estimated cost, scope, and schedule. In addition, the Contracting Officer may unilaterally assign work. The contractor shall submit to the Contracting Officer or other designated official, a detailed description of work, a budget of estimated costs, and a schedule of performance for the work it recommends be undertaken during that upcoming fiscal year.

(b) Cost Estimates. The contractor and the Contracting Officer shall establish a budget of estimated costs, description of work, and schedule of performance for each work assignment. If agreement cannot be reached as to scope, schedule, and estimated cost, the Contracting Officer may issue a unilateral work authorization, pursuant to this clause. The work authorization, whether issued bilaterally or unilaterally shall become part of the contract. No activities shall be authorized or costs incurred prior to Contracting Officer issuance of a work authorization or direction concerning continuation of activities of the contract.

(c) Performance. The contractor will perform work as specified in the work authorization, consistent with the terms and conditions of this contract.

(d) Modification. The Contracting Officer may at any time, without notice, issue changes to work authorizations within the overall scope of the contract. A proposal for adjustment in estimated costs and schedule for performance of work, recognizing work made unnecessary as a result, along with new work, shall be submitted by the contractor in accordance with paragraph (a) of this clause. Resolution shall be in accordance with paragraph (b) of this clause.

(e) Increase in Estimated Cost. The contractor shall notify the Contracting Officer immediately whenever the cost incurred, plus the projected cost to complete work is projected to differ (plus or minus) from the estimate by 10 percent. The contractor shall submit a proposal for modification in

accordance with paragraph (a) of this clause. Resolution shall be in accordance with paragraph (b) of this clause.

(f) Expenditure of Funds and Incurrence of Costs. The expenditure of monies by the contractor in the performance of all authorized work shall be governed by the "Obligation of Funds" or equivalent clause of the contract.

(g) Responsibility to achieve Environment, Safety, Health, and Security Compliance. Notwithstanding other provisions of the contract, the contractor may, in the event of an emergency, take that corrective action necessary to sustain operations consistent with applicable environmental, safety, health, and security statutes, regulations, and procedures. If such action is taken, the contractor shall notify the Contracting Officer within 24 hours of initiation and, within 30 days, submit a proposal for adjustment in estimated costs and schedule established in accordance with paragraphs (a) and (b) of this clause.

(End of clause)

10. The clause at section 970.5223–1 is amended by revising the clause date, paragraphs (d), (e), and (h) to read as follows:

970.5223–1 Integration of environment, safety, and health into work planning and execution.
* * * * *

Integration of Environment, Safety, and Health into Work Planning and Execution (XXX–XXXX)
* * * * *

(d) The System shall describe how the contractor will establish, document, and implement safety performance objectives, performance measures, and commitments consistent with DOE program guidance while maintaining the integrity of the System. The System shall also describe how the contractor will evaluate its effectiveness as well as maintenance and improvement processes.

(e) The contractor shall submit to the Contracting Officer documentation of its System for review and approval. Dates for submittal, discussions, and revisions to the System will be established by the Contracting Officer. Guidance on the preparation, content, review, and approval of the System will be provided by the Contracting Officer. The contractor will evaluate System implementation and effectiveness annually. Formal change control and maintenance of the System is required. On an annual basis, the contractor shall review and update, for DOE approval, its safety performance objectives, performance measures, and commitments consistent with DOE's program guidance and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be

integrated with the contractor's business processes for work planning, budgeting, authorization, execution, and change control.
* * * * *

(h) Regardless of the performer of the work, the contractor is responsible for compliance with the ES&H requirements applicable to this contract. Unless the contract specifically instructs the contractor regarding subcontract flow-down, the contractor shall be responsible for determining the appropriate implementation of the requirements, including the extent to which, and manner in which, requirements should be reflected in subcontracts. In doing so, the contractor retains the same responsibility for performance and cost management that it has for all contract efforts. Specifically, the contractor shall not unnecessarily or imprudently flow down requirements to subcontracts and shall only incur costs that would be incurred by a prudent person in the conduct of a competitive business.
* * * * *

970.5237–2 [Removed and reserved]
11. Section 970.5237–2 is removed and reserved.
[FR Doc. 05–14810 Filed 7–28–05; 8:45 am]
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