

**DEPARTMENT OF ENERGY
and
NATIONAL NUCLEAR SECURITY ADMINISTRATION**

DETERMINATION AND FINDINGS

**DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR)
CLASS DEVIATION
REGARDING DEAR 970.5232-3**

FINDINGS:

1. The authority of the Comptroller General to inspect the records of Government contractors is established by 41 U.S.C. section 241d(e), implemented by the FAR at section 15.209(b) and prescribed by contract clauses at section 52.215-2, Audit and Records - Negotiation. For DOE management and operating contracts, that authority is implemented and prescribed at paragraph (h) of the clause in the Department of Energy Acquisition Regulation at 970.5232-3, Accounts, Records and Inspection.
2. Section 871 of The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 and section 902 of Title IX of the Recovery Act formalize current practices permitting access for the Government Accountability Office to records and to interview current employees of contractors and subcontractors administering contracts.

DETERMINATION:

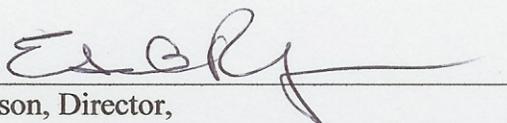
Pursuant to Chapter 1.1 of the DOE Acquisition Guide, I hereby determine that it is appropriate to authorize a class deviation to DEAR 970.5232-3, Accounts, Records and Inspection, to amend paragraph (h)(1) as follows:

- add “or subcontractor’s” after “contractor’s”
- add “and to interview any current employee regarding such transactions” after “hereunder”

This deviation is necessary to comply with the provisions of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 and Section 902 of the American Recovery and

Reinvestment Act described above. This class deviation shall be effective until the DEAR is amended to incorporate the amendments to the FAR and to implement these provisions.

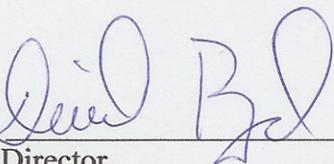
APPROVAL



Edward Simpson, Director,
Office of Procurement and Assistance Management
Department of Energy

DATE 6/29/09

APPROVAL



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

DATE 6/29/09