

## 970.0404-2 General.

(a) Guidance regarding the National Industrial Security Program as implemented by the Department of Energy (DOE) may be found at subpart [904.4](#), Safeguarding Classified Information Within Industry. Additional information concerning contractor ownership when national security or atomic energy information is involved may be found at subpart [904.70](#). Information regarding contractor ownership involving national security program contracts may be found at subpart [904.71](#).

(b) Executive Order 12333, United States Intelligence Activities, provides for the organization and control of United States foreign intelligence and counterintelligence activities. DOE has established a counterintelligence program subject to this Executive Order which is described in DOE Order 475.1, Counterintelligence Program, or its successor. All DOE elements, including management and operating contractors and other contractors managing DOE-owned facilities which require access authorizations, should undertake the necessary precautions to ensure that DOE and covered Contractor personnel, programs and resources are properly protected from foreign intelligence threats and activities.

(c) For DOE management and operating contracts and other contracts designated by the Senior Procurement Executive, or designee, the clause entitled, "Conditional Payment of Fee, Profit, and Other Incentives - Facility Management Contracts," implements the requirements of section 234B of the Atomic Energy Act (see [904.402\(c\)\(1\)](#)) for the use of a contract clause that provides for an appropriate reduction in the fee or amount paid to the contractor under the contract in the event of a violation by the contractor or any contractor employee of any rule, regulation, or order relating to the safeguarding or security of Restricted Data or other classified information. The clause, in part, provides for reductions in the amount of fee, profit, or share of cost savings that is otherwise earned by the contractor for performance failures relating to the safeguarding of Restricted Data and other classified information.

**Parent topic:** [Subpart 970.04 - Administrative Matters](#)