

Subpart 41.1 - General

Parent topic: [Part 41 - Acquisition of Utility Services](#)

41.100 Scope of part.

This part prescribes policies, procedures, and contract format for the *acquisition* of utility services. (See [41.102\(b\)](#) for services that are excluded from this part.)

41.101 Definitions.

As used in this part,

Areawide contract means a contract entered into between the General Services Administration (GSA) and a utility service supplier to cover utility service needs of *Federal agencies* within the *franchise territory* of the supplier. Each *areawide contract* includes an "Authorization" form for requesting service, connection, disconnection, or change in service.

Authorization means the document executed by the ordering agency and the utility supplier to order service under an *areawide contract*.

Connection charge means all nonrecurring costs, whether refundable or nonrefundable, to be paid by the Government to the utility supplier for the required connecting facilities, which are installed, owned, operated, and maintained by the utility supplier (see *Termination liability*).

Delegated agency means an agency that has received a written delegation of authority from GSA to contract for utility services for periods not exceeding ten years (see [41.103\(b\)](#)).

Federal Power and Water Marketing Agency means a Government entity that produces, manages, transports, controls, and sells electrical and water supply service to customers.

Franchise territory means a geographical area that a utility supplier has a right to serve based upon a franchise, a certificate of public convenience and necessity, or other legal means.

Intervention means action by GSA or a *delegated agency* to formally participate in a utility regulatory proceeding on behalf of all Federal *executive agencies*.

Multiple service locations means the various locations or delivery points in the utility supplier's service area to which it provides service under a single contract.

Rates may include rate schedules, riders, rules, terms and conditions of service, and other tariff and service charges, *e.g.*, facilities use charges.

Separate contract means a utility services contract (other than a GSA *areawide contract*, an *Authorization* under an *areawide contract*, or an interagency agreement), to cover the *acquisition* of utility services.

Termination liability means a contingent Government obligation to pay a utility supplier the unamortized portion of a *connection charge* and any other applicable nonrefundable service charge

as defined in the contract in the event the Government terminates the contract before the cost of connection facilities has been recovered by the utility supplier (see "*Connection charge*").

Utility service means a service such as furnishing electricity, natural or manufactured gas, water, sewerage, thermal energy, chilled water, steam, hot water, or high temperature hot water. The application of [part 41](#) to other services (*e.g.*, rubbish removal, snow removal) *may* be appropriate when the *acquisition* is not subject to the [41 U.S.C. chapter 67](#), Service Contract Labor Standards (see [37.107](#)).

41.102 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to the *acquisition* of utility services for the Government, including *connection charges* and *termination liabilities*.

(b) This part does not apply to-

(1) Utility services produced, distributed, or sold by another *Federal agency*. In those cases, agencies *shall* use interagency agreements (see [41.206](#));

(2) Utility services obtained by purchase, exchange, or otherwise by a Federal power or water marketing agency incident to that agency's marketing or distribution program;

(3) Cable television (CATV) and telecommunications services;

(4) *Acquisition* of natural or manufactured gas when purchased as a commodity;

(5) *Acquisition* of utilities services in foreign countries;

(6) *Acquisition* of rights in real property, *acquisition* of public utility facilities, and on-site equipment needed for the facility's own distribution system, or *construction/maintenance* of Government-owned equipment and real property; or

(7) Third party financed shared-savings projects authorized by [42 U.S.C. 8287](#). However, agencies *may* utilize [part 41](#) for any energy savings or purchased utility service directly resulting from implementation of a third party financed shared-savings project under [42 U.S.C.8287](#) for periods not to exceed 25 years.

41.103 Statutory and delegated authority.

(a) Statutory authority.

(1) The General Services Administration (GSA) is authorized by [40 U.S.C. 501](#) to prescribe policies and methods governing the *acquisition* and supply of utility services for *Federal agencies*. This authority includes related functions such as managing public utility services and representing *Federal agencies* in proceedings before Federal and state regulatory bodies. GSA is authorized by [40 U.S.C.501](#) to contract for utility services for periods not exceeding tenyears.

(2) The Department of Defense (DoD) is authorized by [10 U.S.C. 3201\(a\)](#) and [40 U.S.C. 113\(e\)\(3\)](#) to

acquire utility services for military facilities.

(3) The Department of Energy (DOE) is authorized by the Department of Energy Organization Act (42 U.S.C.7251, *etseq.*) to acquire utility services. DOE is authorized by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2204), to enter into new contracts or modify existing contracts for electric services for periods not exceeding 25 years for uranium enrichment installations.

(b) *Delegated authority.* GSA has delegated its authority to enter into utility service contracts for periods not exceeding ten years to DoD and DOE, and for *connection charges* only to the Department of Veteran Affairs. *Contracting* pursuant to this delegated authority *shall* be consistent with the requirements of this part. Other agencies requiring utility service contracts for periods over one year, but not exceeding ten years, *may* request a delegation of authority from GSA at the address specified in 41.301(a). In keeping with its statutory authority, GSA will, as necessary, conduct reviews of *delegated agencies' acquisitions* of utility services to ensure compliance with the terms of the delegation and applicable laws and regulations.

(c) Requests for delegations of *contracting* authority from GSA *shall* include a certification from the acquiring agency's *Senior Procurement Executive* that the agency has-

- (1) An established *acquisition* program;
- (2) Personnel technically qualified to deal with specialized utilities problems; and
- (3) The ability to accomplish its own pre-award contract review.