



**Office of General Counsel
Real Property Division**



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The Problem:

- Most agreements require indemnity clauses - usually either by tariff or by the submission of standard contracts to PSCs
- Federal Government precluded from providing indemnity by:
 - Anti-deficiency Act – 31 U.S.C. 665(a)
 - Adequacy of Appropriations Act – 41 U.S.C. 11



Exception: Utility Contracts

- GAO decision sets the foundation for exception for utility contracts
 - 59 Comp. Gen. 705
- But it's a narrow exception
 - B-197583, January 19, 1981



Application to Interconnection Agreements

Keys: Required source

Required service

Tariff or PSC action on contract

Rejection of Gov't contract



Issue: Choice of Laws

Generally Federal law is dominate, but Congress has made exceptions.

Disputes Clause: FAR v. PUC

40 U.S.C. 591 – Purchase of electricity consistent with State law



GSA Areawide Contract Changes

New exhibit “D” – for Utility Standard agreements

Changes in the body of the contract to reference indemnities, choice of law, etc. in such standard agreements