

ARMY FEDERAL ACQUISITION REGULATION SUPPLEMENT

PART 1 -- FEDERAL ACQUISITION REGULATION SYSTEM

102-396), the Partnership Program (10 U.S.C. 2208(j)) or competition under the Arsenal Act (10 U.S.C. 4532(a)). See 17.9101.

(c) *Legal Participation.* Contracting officers' use of legal specialists shall be guided by the following:

(i) Legal counsel participates as a member of the contracting officer's team throughout the acquisition process, from acquisition planning through completion and close out of contracts.

(ii) Legal counsel reviews proposed contracting actions consistent with the availability of legal counsel and the complexity of the legal issues involved, in accordance with procedures established by the HCA, and as otherwise required by law, regulation or policy.

(iii) Legal counsel shall inform the contracting officer whether the proposed action is legally sufficient, give the details of any insufficiency, and provide a recommended course of action to overcome any insufficiency. Contracting officers should take steps to overcome legal objections related to the legal sufficiency of the proposed action.

(iv) Examples of actions normally requiring legal review may include, but are not limited to:

- (A) Acquisition plans;
- (B) Part 6 Justifications and Approvals and related Determinations and Findings;
- (C) Determinations and Findings;
- (D) Competitive source selections (FAR Subpart 15.6; also see FAR 15.805-1); and
- (E) Proposed deviations, and novel or experimental contracting approaches.

1.602-2-90 Contracting Officer's Representative.

This subsection supplements DFARS 201.602-2.

(5) See 53.9001 for a sample COR designation letter. The COR and the contractor shall be required to acknowledge receipt of the letter by signing in the designated block and returning the original copy to the contracting officer for retention in the contract file. This requirement also applies to terminations and amendments of COR designations. A copy shall be provided to the cognizant administrative contracting officer(s).

(5)(i) When one COR is to act for the contracting officer on more than one contract and the scope and limitations of authority are the same for all contracts, then one designation may be issued which references each contract under the designation.

(iii)(1) The designation of a COR shall remain in effect throughout the life of the contract concerned unless--

(i) Sooner revoked by the contracting officer; or

(ii) Automatically revoked upon separation of the COR from Government service.

(2) Terminations of designations of CORs shall be in writing and shall specify the effective date of the termination.

1.602-2-91 Appointment of ordering officers.

(a) *Policy.* The authority appointing the ordering officer shall state in the appointment letter that the ordering officer's authority may not be redelegated. See 53.9002 for a sample appointment letter.

(b) *Appointment and termination authority.* Ordering officers may be appointed pursuant to 1.603-1(2) for the purposes in (1) through (6), provided the authority appointing the ordering officer determines that the appointment is essential for the efficient operation of the contracting mission. The purposes for which ordering officers may be appointed and references to limitations of their authority are--

- (1) To make purchases using imprest funds (FAR 13.405);

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(2) To make over-the-counter purchases not exceeding \$2,500 using Standard Form 44 (FAR 13.505-3);

(3) To place delivery orders or oral calls against Brand Name Contracts published in Defense Personnel Support Center Supply Bulletins in the 10-500 or 10-600 series;

(4) To place orders against indefinite-delivery contracts awarded by contracting officers of the Military Departments for the preparation of personal property for shipment, Government storage and performing intra-city or intra-area movement, provided contract terms permit (see 47.271-4(f));

(5) To place Service Orders for Household Goods (DD Forms 1164) against Commercial Warehousing and Related Services for Household Goods contracts for military and civilian personnel subject to the criteria and procedures prescribed in Chapter 2, DoD 4500.34-R, provided that no service order shall be in excess of \$10,000; and

(6) To place delivery orders against indefinite-delivery contracts, in addition to those in (4), which are awarded by contracting officers of the Military Departments, provided the contract terms permit and provided all orders placed are within monetary limitations specified in the contract.

(c) Responsibilities of appointing authority.

(1) *Training and orientation.* The appointing authority or designee shall orient and instruct ordering officers either personally or in writing about--

(i) The proper use of the procedure(s) the ordering officer will be authorized to use;

(ii) The standards of conduct for Army personnel prescribed in DoD 5500.7-R and Procurement Integrity provisions of FAR 3.104; and

(iii) The preparation and submission of information for contracting action reporting purposes.

(2) *Surveillance.* The appointing authority shall provide technical supervision of ordering officers. At least once each year, physically review activities of ordering officers by examination of purchase documents and records. Any individual designated to perform this review must be well qualified in the contracting procedures used by ordering officers.

(i) Inspection or review findings shall be written and shall include specific comments as to whether or not the ordering officer is--

(A) Operating within the scope and limitations of authority delegated and FAR Subpart 3.1;

(B) Maintaining the standards of conduct prescribed in DoD 5500.7-R;

(C) Splitting purchase transactions to avoid monetary limitations;

(D) Delegating authority to others; and

(E) Submitting correct and timely information for reporting purposes.

(ii) Copies of inspection and review findings shall be retained for one year in the files of ordering officers and of inspectors or reviewers.

(iii) If an appointing authority finds that an ordering officer is not properly performing assigned duties or is failing to take prompt action to correct deficiencies noted in inspections or reviews, the appointing authority shall terminate the appointment of the ordering officer.

(3) *Termination.*

(i) The appointment of an ordering officer shall remain in effect until the ordering officer is reassigned or until the ordering officer's employment is terminated unless sooner revoked by the appointing authority or successor. No revocation shall be made to take effect retroactively.

(ii) Terminations of appointments shall be in writing except for terminations which result when the contracts expire.

(d) *Procedures.*

(1) Appointing authorities shall--

(i) Appoint ordering officers by a letter of appointment substantially in the format in Figure 1-2, but tailored to fit the circumstances of the appointment;

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- (ii) Maintain a file of appointments and justification for the appointments;
 - (iii) Require individuals appointed as ordering officers to acknowledge receipt of their letters of appointment and termination in writing;
 - (iv) Distribute letters of appointment to ordering officers, imprest fund cashiers, disbursing officers and other interested personnel as necessary; and
 - (v) Notify contractors of the names of ordering officers appointed to place delivery orders against their contracts unless the ordering officers are named in the contracts. Notifications to contractors may be accomplished by furnishing contractors with copies of the letters appointing ordering officers.
- (2) Appointing authorities shall also notify contractors, imprest fund cashiers, disbursing officers and other interested personnel of terminations of appointments of ordering officers in writing. This notification may be accomplished by furnishing copies of the termination of appointment letter.

1.602-3 Ratification of unauthorized commitments.

(b) Policy.

(3) Each HCA may delegate, without power of redelegation, the authority to approve ratification actions with respect to amounts of--

- (A) \$100,000 or less to a PARC; and
- (B) \$10,000 or less to chiefs of contracting offices.

(c)(7) See 1.602-3-90.

1.602-3-90 Ratification procedures.

(a) The individual making the unauthorized commitment shall forward documentation concerning the transaction to the individual's commander or agency head (or senior staff officer designated for this purpose). The documentation shall include--

(1) A signed statement describing the circumstances, the reason normal contracting procedures were not followed, what bona fide Government requirement necessitated the commitment, the benefit received and its value and any other pertinent facts; and

(2) All other relevant documents, including orders, invoices or other evidence of the transaction.

(b) If the commander or agency head (or senior staff officer designated for this purpose) concurs that the commitment should be ratified, the documentation described in paragraph (a) shall be forwarded to the chief of the contracting office with an endorsement that--

(1) Verifies the accuracy and completeness of the documentation;

(2) Describes the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action to be taken; and

(3) Provides a complete purchase description and funding for the ratifying contract.

(c) The chief of the contracting office to which a proposed ratification action has been forwarded shall assign the action to an individual contracting officer for processing. The contracting officer assigned shall be responsible for--

(1) Reviewing the case and determining the adequacy of all facts, records and documents furnished and obtaining any additional material required; and

(2) Preparing a summary of facts to include a recommendation as to whether or not the transaction should be ratified and reasons for the recommendation. A recommendation not to ratify should include a recommendation as to whether or not the matter should be processed under FAR Part 50 and DFARS Part 250 (Pub. L. 85-804), as a GAO claim or in some other appropriate way.

(d) Upon receipt and review of the complete file, the individual responsible for approving the ratification (see 1.602-3(b)(3)) may approve the ratification if it is considered to be in the best interest