Subpart 5601.6 - CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES

(Revised June 2018)

Parent topic: Part 5601 - THE FEDERAL ACQUISITION REGULATION SYSTEM

5601.601 General.

(1) Title 10, United States Code (U.S.C.), section 167(e)(4)(B), provides that the Commander, United States Special Operations Command, has the authority to exercise the functions of the Head Of Agency under Chapter 137 of Title 10, U.S.C., subject to the authority, direction and control of the Secretary of Defense. In addition, the Director of Defense Procurement has delegated to the Commander, USSOCOM, the authority to act as:

(i) Senior Procurement Executive (SPE) for USSOCOM, except for such actions that by terms of statute or any other delegation must be exercised by the Under Secretary of Defense (Acquisition and Technology); and,

(ii) Head Of Agency (HOA) for those functions prescribed by FAR and DFARS that are in addition to those exercised under Chapter 137 of Title 10, U.S.C., pursuant to 10 U.S.C., Section 167(e)(4)(B).

(2) The Commander, USSOCOM, has delegated all delegable HOA and SPE authority to the Director, Special Operations Forces Acquisition, Technology, and Logistics Acquisition Executive (SOAE). The SOAE establishes policies, directs, and supervises USSOCOM activities with respect to contracting, acquisition, and related matters. The USSOCOM Staff Judge Advocate is the legal advisor to the Commander, USSOCOM, and SOAE.

(i) The SOAE has further delegated the authority to exercise certain HOA functions to the DoP with the power of redelegation. Exceptions to this delegation include those actions reserved by FAR and DFARS for Senior Executive Service (SES) members, Flag Officers, General Officers, or the authority for the actions required by the agency head in the following:

FAR 1.404

FAR 6.501

FAR 19.201

FAR 19.505

FAR 19.812

FAR 27.303

FAR 34.003

FAR 34.005-6

FAR 35.014(b)

FAR 35.017-7

DFARS 201.404

DFARS 203.570-3

(ii) The following function cannot be delegated below the SES, Level IV (for USSOCOM the SPE):

FAR 32.006

PGI 206.302-1

(iii) In accordance with the FAR, the following functions are not delegable below the HOA:

FAR 23.506

FAR 27.306

(iv) The following function cannot be delegated below the Secretary of Defense:

DFARS 206.302-7

(v) The DoP shall maintain Head of Contracting Activity (HCA) authority as designated throughout the FAR and DFARS. This authority is delegable in the absence of the DOP as permitted by the FAR and DFARS.

(vi) The DOP or DDOP is responsible for the first-level performance appraisal of all military and civilian headquarters contracting division or field contracting office chiefs.

(3) Unless otherwise specified in SOFARS, the approval level for contracting actions shall be the Contracting Officer.

(4) The HOA authority to determine when acquisitions support contingency operations, humanitarian or peacekeeping operations, facilitate the provision of international disaster assistance, support response to emergency or major disasters, or facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack, is delegated to USSOCOM headquarters contracting divisions and field contracting office chiefs.

(i) Once the determinations have been made in writing and included in each file, the following authorities may be utilized:

FAR 13.000

FAR 13.201(g)

FAR 13.500(c)

FAR 18.2

DFARS 211.274-2(b)(1)

(5) *(Removed June 2018)*

5601.602 Contracting Officers.

(Revised November 2018)

(a) Based upon the authority of the USSOCOM Head of Agency Contracting Authority, the DoP shall issue all contracting officer warrants for the command.

(1) Limited Warrants – Any limitations identified on the warrant are based on the individual contract action.

(2) HCD/FCO Chiefs ultimately, have responsibility to ensure that limited authorities are utilized appropriately to meet organizational needs and are in the best interest of the government

(b) The office of the contracting officer must be organizationally situated to minimize any potential for undue influence and protect contracting officers from intra-organizational pressure to perform improper acts.

(c) Personnel in other than the 1102 classification series are prohibited from being appointed or serving as Contracting Officers. This requirement is not waivable on either an individual or class basis.

(d) Commanders and others having administrative supervision over contracting officers must bear in mind that actions exceeding the authority of a contracting officer are not binding on the Government. Therefore, they shall not direct, or otherwise exert influence, upon a contracting officer(s) to take such actions.

5601.602-1 Authority.

(Revised November 2013)

(b) It is the function of the USSOCOM Directorate of Procurement (SOF AT&L-K) to ensure that all the business decisions made in support of procurements are examined and the decisions are validated. Review and approvals will be conducted IAW Attachment 5601-1 and guidance found in the DCG. Ensure all the documents required to sustain the contracting action are included when submitting the decision for review and approval. Contracting officers shall maximize the use of electronic transmission for all documents submitted for review and approval to the appropriate SOF AT&L-K liaison officer.

(c) All documents and working papers will be marked and safeguarded in accordance with FAR 3.1 .

5601.602-2 Responsibilities.

(Removed June 2012, moved to 5601.604)

5601.602-2-90 Ordering Officers.

(Revised July 2013)

(a) The Contracting Officer is the appointing official for Ordering Officers. Ordering Officer authority is limited to the following:

(1) Micro-purchases in accordance with FAR 13.201(a), using the government purchase card or the SF 44;

(2) Micro-purchases in accordance with FAR 13.201(g) when approved by the DoP in accordance with 5613.306(a)(1) .

(3) Placing unilateral delivery orders against pre-priced, indefinite delivery type supply and service contracts up to $25,000, provided the contract terms so permit;

(4) Placing delivery orders or verbal orders for up to $25,000 against Federal Supply Schedule, The Federal Prison Industries, Inc., or the National Industries for the Blind or other Severely Handicapped; or

(5) Placing individual orders against indefinite delivery type contracts for the preparation of personal property for shipment by the government provided the contract terms so permit.

(b) Contracting officers must develop and conduct advanced ordering officer training sufficient to prepare the ordering officer for the increased responsibilities when authorized to purchase single actions greater than $3,000. Training must include but is not limited to:

(1) How to conduct FAR compliant competition;

(2) Proper documentation of competition results;

(3) Reporting actions in accordance with DFARS 204.6 ;

(4) Maintaining the order file.

(c) Contracting officers must conduct one hundred percent (100%) surveillance on all transactions over $3,000. Perform surveillance within thirty (30) days of transaction when such action will not compromise the mission of the deployment, organization, or unit.

5601.602-3 Ratification of Unauthorized Commitments. See DCG for required procedures.

Per the requirements of FAR 1.602-3(b)(2) and (3) , ratification authority for all actions shall be reviewed and approved per Attachment 5601-1 .

5601.602-3-90 Procedures. (Removed November 2018)

5601.603 Selection, Appointment, and Termination of Appointment.

5601.603-3 Appointment.

(Revised June 2021))

The Chief, Contracting Office, will forward nominations for Contracting Officer Appointment to their cognizant LNO who will after review, forward to SOF AT&L-KM/KX/KB as appropriate.

5601.603-3-90 Appointment of Contingency Contracting Officers.

(Revised September 2013-reorganization)

(a)All Contingency Contracting Officer (CCO) warrants are subject to the limitations of USSOCOM business and contract clearance procedures. Contingency warrants are further limited to the duration of the contingency or deployment and are only valid while actually deployed in support of a contingency operation. Selection procedures shall comply with paragraph 5601.603-3.

(b)All CCOs shall attend the Defense Acquisition University (DAU) Contingency Contracting Course (CON 234) prior to deployment. A waiver may be requested from the DOP if this requirement cannot be met due to the urgency and immediacy of the mission.

(c)All contracting office chiefs shall notify SOF AT&L-KX of the deployment and redeployment of contingency contracting officers to overseas locations when contracting authority is granted by a USSOCOM issued warrant.

5601.604 Contracting Officers Representative.

(Revised June 2021)

(a) The Contracting Officer (KO) shall request and the requiring activity (i.e. each Center, Component, and/or Theater Special Operations Command (TSOC)) shall nominate a Contracting Officer's Representative (COR) in accordance with DoD Instruction 5000.72, *DoD Standard for Contracting Officer's Representative (COR) Certification* for all service contracts, including construction unless the conditions at DFARS PGI 201.602-2(d)(v)(A) are met.

(b) The KO will determine if a single COR or multiple/alternate CORs (i.e. PCOR/TR) are required to assist in technical monitoring or administration of a contract.

(1) Primary Contracting Officer's Representative (PCOR) – PCORs may be assigned by the KO; PCOR responsibilities are non-delegable. The PCOR will serve as the senior technical advisor to the KO and will execute KO designated contract management responsibilities via a network of CORs. The PCOR may be responsible for functional oversight of KO-designated CORs but does not have any supervisory authority over the CORs.

(2) Technical Representative (TR) – The TR is designated by the COR via the TR letter of appointment and is accountable to the COR for performance of his or her designated duties and responsibilities.

(c) Minimum COR competencies, experience and training will be based on the contract's dollar value, complexity, and performance risk. One of the following types of standards will be assigned.

(1) Type A: Fixed-price contracts without incentives and low performance risk.

(2) Type B: Fixed-price contracts without incentives other than low performance risk; and other than fixed-price contracts. This includes everything other than Types A and C.

(3) Type C: Unique contract requirements that necessitate the COR have a higher education or specialized training beyond the Type B requirements.

(4) All COR training must be completed before undertaking COR responsibilities.

(d) Procedures.

(1) Contracting officers shall execute the COR appointment in the DoD Procurement Integrated Enterprise Environment (PIEE) Joint Appointment Module (JAM)

(i) IAW OUSD(AT&L) memorandum, dated February 10, 2014, Update to the Department of Defense Contracting Officer Representative Tracking Tool, classified contracts are waived from this requirement. The KO will accomplish an annual administrative review of COR files.

(ii) IAW SORDAC-K memorandum, dated December 1, 2014, "The Contracting Officer Representative Tracking Tool and Wide Area Work Flow e-Business Suite V5.6.0 Deployment Plan," contracts that are either reported in ECITS or are not for public release are waived from the CORT-T mandate.

(2) The COR must file and OGE 450 unless the KO determines that there is no conflict of interest between the contractor or and of its subsidiaries. If necessary, request legal review.

(e) DoDI 5000.72 Enclosure 4 COR Performance and Appraisal:

(1) The KO will provide an annual assessment on the COR's performance to the COR supervisor. If performance is inadequate, the KO must provide a written assessment and discuss performance with the COR. If reports or performance continue to be inadequate, notify both the COR and requiring activity or COR management that the COR designation is (will be) terminated and request nominations for a replacement COR. Only the KO can terminate appointment.

(2) The COR's supervisor will ensure COR participation in the pre-award process and performance of COR duties/responsibilities are properly addressed in the COR's annual performance appraisal.

(f) Examples of COR Responsibilities and Certification Requirements: See DoDI 5000.72 Enclosure 6.

(g) See DCG for templates to request COR support, COR designation, and COR termination.