

2901.603-71 Contracting Officer's Technical Representatives (COTR).

(a) At the time a COTR is to become responsible for a contract, task order, or delivery order, the contracting officer must issue a written letter of delegation informing the individual by name of his or her authority, including a delineation of applicable limitations and responsibilities. This applies to contracts awarded by the Department of Labor and those awarded by other agencies, such as Federal Supply Schedule Contracts or Economy Act transactions. Only the contracting officer cognizant of the contract action may make a COTR delegation. However, a contracting officer at any level above the cognizant contracting officer may sign the delegation letter, following his or her determination of its accuracy, completeness, and sufficiency.

(b) The functions of a COTR typically may include such actions as inspecting, testing, and accepting contract line items, monitoring the contractor's performance, controlling Government-furnished property, reviewing and approving and/or recommending to the contracting officer approval/disapproval of vouchers/invoices, etc. An individual COTR may have only the duties specifically identified in a written delegation to him or her by name (i.e., COTR duties may not be delegated to a position) and has no authority to exceed them.

(c) Contracting officers may not delegate to the COTR the following authorities:

(1) The authority to issue task or delivery orders against a contract or any of the agreements defined under FAR 16.7;

(2) The authority to change any of the terms and conditions of a contract or any of the agreements defined under FAR 16.7;

(3) The authority to sign contracts or contract modifications;

(4) The authority to write letters to the contractor that will affect the cost or schedule of the contract. The authority to otherwise write letters to a contractor must require the COTR to send a copy of the letters to the contracting officer for the contract file;

(5) The authority to approve contractors' final invoices under cost-reimbursement contracts. However, the COTR must make a final payment recommendation to the contracting officer; or

(6) The authority to commit the Government to any adjustments to the price or cost of the contract or order (e.g., the contracting officer must sign all pre-negotiation and price negotiation memoranda including those which may be combined into one document for those adjustments valued at \$100,000 or less).

(d) The contracting officer's delegation must include the admonition that the COTR may be personally liable for unauthorized commitments. Contracting officer authority to sign or authorize contractual instruments must not be delegated through a COTR designation or by any means other than a contracting officer warrant.

(e) The contractor must be notified of the COTR designation in writing and a copy of the COTR letter of appointment also must be provided to the contractor. The contracting officer must provide the COTR with a copy of the COTR designation notification that was sent to the contractor.

(f) The letter delegating COTR authority must include the contract number, and must include the following information, at a minimum:

- (1) Contracting officer's and contract specialist's/administrator's name and telephone number;
- (2) COTR's specific authority and responsibilities;
- (3) COTR's specific limitations, including the admonition that the COTR may be personally liable for unauthorized commitments;
- (4) Detailed description of the types of files and the content of the files to be maintained by the COTR;
- (5) Reference to meeting applicable requirements for ethics, procurement integrity, no conflict of interest, and proper standards of conduct, including a copy of FAR part 3, and other regulations, statutes, or directives governing these topics (e.g., 5 CFR part 2635 Standards of Conduct);
- (6) A requirement that the COTR acknowledge receipt and acceptance of the letter and return it to the contracting officer;
- (7) A description of the training required and information on obtaining such training.

(g) *Applicability.* The eligibility requirements of this subpart must apply to all individuals who are designated by the contracting officer as COTRs.

(h) *Eligibility standards.* To be determined eligible for an appointment as a DOL COTR, the following standards must be met:

- (1) The candidate must attend and successfully complete a minimum of a 16-hour basic COTR course; and
- (2) The candidate must attend a minimum of 1 hour of training specifically in procurement ethics, either through courses offered periodically by the Department of Labor, another federal agency's program, or a commercial vendor.

(i) *Limitations.* Effective May 27, 2004, each COTR appointment made by the contracting officer must clearly state that the representative is not an authorized contracting officer and does not have the authority under any circumstances to:

- (1) Award, agree to award, or execute any contract, contract modification, notice of intent, or other form of binding agreement;
- (2) Obligate, in any manner, the payment of money by the Government;
- (3) Make a final decision on any contract matter which is subject to the clause at FAR 52.233-1, Disputes; or
- (4) Terminate, suspend, or otherwise interfere with the contractor's right to proceed, or direct any changes in the contractor's performance that are inconsistent with or materially change the contract specifications.

(j) *Termination.*

- (1) Termination of the COTR's appointment must be made in writing by a contracting officer and

must give the effective date of the termination. The contracting officer must promptly modify the contract once a COTR termination notice has been issued. A termination notice is not required when the COTR's appointment terminates upon expiration of the contract.

(2) COTRs may be terminated for reasons (not an exhaustive listing) such as exceeding their authorities and limitations, conflicts of interest, unethical conduct, failure to perform, reassignment/resignation/retirement, and upon completion of the contract to which assigned.

(k) *Waivers*. No individual may serve as a COTR on any contract without the requisite training and signed COTR certificate for the file. In the rare event that there is an urgent requirement for a specific individual to serve as a COTR and the individual has not successfully completed the required training, the HCA may waive the training requirements and authorize the individual to perform the COTR duties.

Parent topic: Subpart 2901.6 - Career Development, Contracting Authority, and Responsibilities