PGI PART 1 – FEDERAL ACQUISITION REGULATIONS SYSTEM

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PGI SUBPART 1.6 – CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

(Revised August 30,2022 through PROCLTR 2022-13)

PGI 1.601 General.

(a)(S-90) The DLA Acquisition Director designates DLA HCAs, subject to the following limitations:

(i) Designations authorizing exercise of all HCA contracting authority require that the designee is—

(A) A member of the Senior Executive Service (SES);

(B) Contracting Professional Certification; and,

(C) Current in completion of Continuous Learning Points (CLPs)

(ii) Designations authorizing exercise of restricted HCA contracting authority require that the designees is—

(A) A GS-15;

(B) Contracting Professional Certification; and

(C) Current in completion of CLPs.

(B) This type of designation is for MSCs that do not have an SES in the HCA role. The DLA Acquisition Director will clearly define the restrictions in the designation memorandum. The restrictions include, but are not limited to, actions not delegable below the HCA level, such as ratifications above the SAT (FAR 1.602-3(b)(2)); or actions delegable only to the GO/FO/SES level, such as those related to Procurement Integrity Act violations (FAR 3.104-7(b) and (g)). See the Signature Matrix at the DLA Acquisition – J7 SharePoint site under Shared Documents (Signature_Matrix-Authorities_and_Responsibilities-9.25.2023.xlsx (dps.mil) for a complete list of required approval levels and delegation limitations.

(a)(S-91) When a designated HCA for an MSC is not available to act, the order of elevation is as

follows:

(i) The Deputy Commander of the MSC will act as the HCA if the Deputy Commander is—

(A) An SES;

(B) Contracting Professional Certification; and

(C) Current in completion of CLPs.

(ii) When the Deputy Commander of the MSC does not meet the qualifications at (a)(S-91)(i) of this section, or meets the qualifications but is not available to act, the Commander of the MSC will act as the HCA if the Commander is—

(A) A General Officer/Flag Officer or an SES;

(B) Contracting Professional Certification; and

(C) Current in completion of CLPs.

(iii) The DLA Acquisition Deputy Director will act as the HCA—

(A) If neither the Deputy Commander nor the Commander of the MSC meets the qualifications at (a)(S-91)(i) or (ii) of this section, or meets the qualifications but is not available to act; or

(B) In the absence of the SPE for authorities retained by the SPE under a designation of restricted HCA contracting authority (see (a)(S-90)(ii) of this section).

(iv) The DLA SPE (including the DLA Vice Director when acting as SPE in the absence of the DLA SPE) will act as the HCA in the absence of—

(A) An MSC HCA and any qualified acting MSC HCA as listed above; or

(B) The HCA for procuring organizations for which the DLA Acquisition Deputy Director is HCA.

PGI 1.602-3 Ratification of unauthorized commitments.

(c) Use the following checklist as prescribed at 1.602-3 Ratification of unauthorized commitments. (c)(S-90):

Ratification of Unauthorized Commitments Checklist

I. Responsibilities of the contracting office that made the unauthorized commitment:

1. [ ] Provide a signed statement addressing the following:

a. [ ] Circumstances that led to the unauthorized commitment;

b. [ ] Name of the employee who made the commitment;

c. [ ] Date of commitment;

d. [ ] Government requirement that necessitated the commitment;

e. [ ] Reason(s) employee did not follow normal procurement procedures;

f. [ ] Whether the Government derived any benefit from the goods or services received;

g. [ ] Cost of the goods or services; and

h. [ ] Any other pertinent facts.

2. [ ] Provide all orders, original invoices, and other documentary evidence of the transaction.

II. Responsibilities of the supervisor of the employee who made the unauthorized commitment:

1. [ ] Provide an endorsement to the contracting officer concurring with the recommendation to ratify. Include the following:

a. [ ] Verification the documentation is accurate and complete.

b. [ ] Documentation of corrective action(s) taken or proposed to prevent a recurrence.

2. [ ] Provide complete purchase request and appropriate funding, with documentation—

a. [ ] Supporting the funding decision; and

b. [ ] Consultation with Office of Counsel, if applicable.

The obligation is generally chargeable to the fiscal year when the unauthorized commitment occurred; or, if such funds are unavailable, from currently available funds.

III. Responsibilities of the contracting officer:

1. Prepare a determination and findings (D&F). Include the following:

a. [ ] Summary statement of facts;

b. [ ] Office of Counsel coordination;

c. [ ] Recommendation for approval of ratification action or other disposition (see 1.602-3 Ratification of unauthorized commitments. (d) if requesting relief on a quantum meruit basis);

d. [ ] Documentation of corrective action(s) taken or proposed to prevent a recurrence; and

e. [ ] Documentation affirming the circumstances meet the following limitations in FAR 1.602-3(c):

(i) [ ] The contractor provided supplies or services to the Government, and the Government accepted those supplies or services; or the Government otherwise obtained or will obtain a benefit resulting from performance of the unauthorized commitment.

(ii) [ ] The ratifying official has the authority to enter into a contractual commitment.

(iii) [ ] The resulting contract would otherwise have been proper if made by an appropriate contracting officer. The Government was not otherwise precluded by law from procuring the supplies or services.

(iv) [ ] The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable.

(v) [ ] Payment is not for unallowable costs.

(vi) [ ] The contracting officer recommends payment.

(vii) [ ] Proper type of funds are available and were available at the time the unauthorized commitment was made.

(viii) [ ] The ratification is in accordance with any other limitations prescribed under local/regional procedures.

(d) Nonratifiable claims.

Use the following checklist as prescribed at 1.602-3 Ratification of unauthorized commitments. 1.602-3 Ratification of unauthorized commitments. 1.602-3 Ratification of unauthorized commitments.:

Quantum Meruit Checklist.

I. The contracting officer shall—

1. Obtain the following from the office that received the voluntary goods or services:

a. [ ] A written statement detailing the circumstances that led to contractor performance without a contract and/or a lapse in contract coverage; and

b. The following documentation:

(i) [ ] Contractor claim;

(ii) [ ] Contractor invoices; and

(iii) [ ] Correspondence related to the claim.

2. Obtain a statement from the contractor addressing—

a. [ ] The contractor’s knowledge or understanding regarding a lack of contract;

b. [ ] Why the contractor performed or allowed performance without a contract;

c. [ ] Why the contractor believes it is entitled to relief;

d. [ ] Why the contractor’s performance meets the good faith test; and

e. [ ] Address and contact information of contractor and, if applicable, legal counsel.

3. [ ] Consult Office of Counsel to help determine whether the circumstances warrant requesting relief on a quantum meruit basis, and obtain documentation of discussion.

II. Justification. The contracting officer shall prepare the justification. Include the following:

1. [ ] Introductory paragraph providing an overview of the claim.

2. Background paragraph that includes—

a. [ ] A detailed explanation of how and when the contractor performance without a contract and/or

a lapse in contract coverage occurred.

b. [ ] Information regarding knowledge of Government employee(s) involved; and

c. [ ] Dates of events.

3. [ ] Analysis paragraph explaining how the circumstances warrant requesting relief on a quantum meruit basis. Include documentation of the following:

a. [ ] The goods or services would have been a permissible procurement had correct procedures been followed;

b. [ ] The Government received and accepted a benefit;

c. [ ] The contractor acted in good faith; and

d. [ ] The amount to be paid represents a reasonable value of the benefit received.

4. [ ] Recommendation paragraph with request for relief.

5. [ ] Description and documentation of individual and systemic corrective action(s) the supervisor or other authority have taken or have proposed to take to prevent recurrence.

DO NOT INCLUDE ANY PERSONNEL DISCIPLINARY ACTION, WHICH IS PRIVACY ACT PROTECTED.

6. Attach the following:

a. [ ] Documentation obtained from the office that received the voluntary goods or services and from the contractor (see Section I); and

b. [ ] Letter for CAE signature issuing initial notice and determination to the claimant.