

U.S. Department of Energy

Washington, D.C.

ORDER

DOE 4200. 4A

8-21-89

SUBJECT: SELECTION, APPOINTMENT, AND TERMINATION OF APPOINTMENT OF CONTRACTING OFFICERS

1. PURPOSE. To set forth requirements and procedures for the selection, appointment, and termination of appointment of all Department of Energy (DOE) contracting officers.
2. CANCELLATION. DOE 4200.4, SELECTION, APPOINTMENT, AND TERMINATION OF CONTRACTING OFFICERS, of 9-6-83.
3. REFERENCES.
 - a. DOE 3410.1B, TRAINING, of 2-29-88, which assigns responsibilities to authorize training assignments for Departmental employees.
 - b. DOE 4210.3C, PROCUREMENT MANAGEMENT ASSISTANCE REVIEW PROGRAM, of 10-29-87, which establishes the DOE procedures for ensuring continuing evaluation and improvement of the quality, effectiveness and efficiency of DOE contracting activities involved in procurement and sales contracting, financial assistance, and financial incentives.
 - c. Executive Order 12352, "Federal Procurement Reforms," of 3-17-82, which directs the heads of executive agencies to work jointly with the Office of Federal Procurement Policy to provide the broad policy guidance and overall leadership necessary to achieve procurement reform, including the identification of desirable Governmentwide procurement system criteria, such as minimum requirements for training and appointing contracting officers.
 - d. Public Law 98-191, Section 16, Office of Federal Procurement Policy Act, which requires the heads of each executive agency to designate a Procurement Executive to be responsible for the management direction of the procurement system, and to develop and maintain a procurement career management program to assure an adequate professional work force.
 - e. Public Law 95-91, Department of Energy Organization Act, which provides contracting authority to the Secretary of Energy.

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Deputy Assistant Secretary for
procurement and Assistance
Management

- f. Redelelegation Order No. 0204-98.1, of 6-14-82, which delegates authority to the Director of Procurement and Assistance Management to take the necessary actions to obligate public funds and to sell products and services.
- g. Title 10, Code of Federal Regulations, Part 600, DOE Financial Assistance Rules, which sets forth policy and procedures for the award and administration of DOE grants and cooperative agreements.
- h. Title 10, Code of Federal Regulations, Chapter II, Subchapter I, Sales Regulations, which sets forth policies and procedures for the award and administration of DOE sales contracts.
- i. Title 10, Code of Federal Regulations, Part 1010, Conduct of Employees Regulations, which provides guidance concerning the ethical standards applicable to all DOE employees, and contains particular guidance governing the conduct of contracting officers.
- j. Title 41, Code of Federal Regulations Chapter 201, Subtitle E, Federal Information Resources Management Regulations (FIRMR), which is the primary regulation for most Federal agencies, including DOE, with regard to the acquisition of automatic data processing (ADP) equipment, supplies, and services.
- k. Title 48, Code of Federal Regulations, Chapter 1, Federal Acquisition Regulation (FAR), which is the primary regulation for use by all Federal agencies in their acquisition of supplies and services with appropriated funds.
- l. Title 48, Code of Federal Regulations, Chapter 9, DOE Acquisition Regulation (DEAR), which implements FAR within DOE where further implementation is needed and supplements FAR when coverage is needed for subject matter not covered in the FAR.

4. DEFINITIONS.

- a. Contracting Activity describes a DOE organizational element which has the authority to award and administer contracting and financial assistance instruments.
- b. Contracting Officer is a Departmental employee authorized to enter into, administer, and/or terminate contracts, financial assistance awards, leases, and/or sales contracts and make related determinations and findings.

- c. Contracting Officer Representative (COR) is a Government employee formally designated to act as an authorized representative for specified functions, such as technical monitoring, which do not involve a change in the scope, price, terms, or conditions of a contract or financial assistance instrument.
- d. Designating Official or Appointing Official is a head contracting activity who has been authorized to appoint contracting officers.
- e. Financial Assistance is the transfer of money or property by DOE to a recipient to accomplish a public purpose of support or stimulation authorized by Federal statute_. For purposes of this Order, financial assistance includes grants, cooperative agreements, loans, loan guarantees, price supports, guaranteed price agreements, and guaranteed market or purchase agreements.
- f. Head of the Contracting Activity (HCA) is the head of a Departmental Element who has been delegated authority by the Deputy Assistant Secretary for Procurement and Assistance Management: to award and administer contracts, sales contracts, and/or financial assistance instruments; to appoint contracting officers; and to exercise the overall responsibility for managing the contracting activity.
- g. Interagency Acquisition, for. purposes of this Order, is an acquisition in which the Department agrees to reimburse another Federal agency for materials or services to be provided by that Federal agency to DOE.
- h. Procurement Executive is an individual designated by the Secretary pursuant to section 16(3) of the Office of Federal Procurement Policy Act for management direction of the acquisition system of the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency. The Deputy Assistant Secretary for Procurement and Assistance Management has been designated the Procurement Executive for DOE.
- i. Procurement or Acquisition means the acquiring by contract with appropriated funds of supplies or services, including construction, by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated.

- j. Resident Engineer is a contract monitor on one or more construction contracts who has been given limited authority to issue certain changes to the contract affecting the price and/or completion time.
- k. Sales Contract is a legal agreement under which DOE will provide to a non-Federal source products or services, such as energy research and development and related technical and analytical services, oil , nuclear waste disposal, and interim storage services. Excluded from this type of agreement are sales of electricity by the power administrations and sales under international treaties.

5. BACKGROUND.

- a. In DOE, contracting authority flows by legislation to the Secretary of Energy. The Secretary has delegated this authority to the Assistant Secretary, Management and Administration, who has redelegate it to the Deputy Assistant Secretary for Procurement and Assistance Management. This authority empowers the Deputy Assistant Secretary for Procurement and Assistance Management to redelegate it further to heads of contracting activities and to establish dollar threshold limitations for Departmental elements entering into contracts, financial assistance instruments, and sales contracts. Under such delegations, the heads of contracting activities are responsible for the appointment of contracting officers and, to the degree delegated, for the award and administration of procurement contracts, financial assistance instruments, and sales contracts.
- b. One of the functions of the Procurement Executive is to establish clear lines of contracting authority and accountability through an effective contracting officer certification program. This program is intended to ensure that only trained and qualified procurement and financial assistance professionals serve as DOE contracting officers.
- c. DOE contracting officers fill a critical role in accomplishing Departmental missions. As an agent of the United States with very specific authority and responsibilities, the contracting officer establishes binding legal relationships that obligate the Government to pay for supplies and services received, to deliver property sold, and to provide financial assistance for the support of energy programs. The contracting officer's delegated authority assumes professional responsibilities over and above the organizational responsibilities inherent in his or her position. Capable employees well qualified by experience, education, training , and proficiency in procurement and/or financial assistance are required to carry out the responsibilities associated with the authority of a contracting officer.

- d. The Federal Acquisition Regulation, subpart 1.603, requires that each Federal department or agency formulate procedures governing the selection, appointment, and termination of appointment of contracting officers.
- e. The issuance of this Order, with its requirements for the minimum qualifications for contracting officers, shall not render any existing appointments invalid. However, current appointments received pursuant to waivers under DOE Order 4200.4, dated 9-6-83, may be rescinded, if the conditions of the waiver have not been fulfilled. In such cases, any new appointment of the individual as a contracting officer must be accomplished pursuant to this Order.
- f. The negotiation and approval of agreements to assign individuals on temporary detail either to or from the Department, as authorized by the Intergovernmental Personnel Act or other personnel regulations, will not be considered to be a procurement function covered by this Order. However, all such agreements which involve the obligation and expenditure of DOE funds must be coordinated with the cognizant finance office to certify funds availability prior to approval of the proposed personnel action.

6. POLICY.

- a. In selecting individuals to serve as contracting officers, work experience in procurement or financial assistance, formal education, specialized training, business acumen, judgment, character, reputation, and ethics shall be considered.
- b. Contracting officers will be appointed only where a clear need exists and then only to the extent required for effective execution of assigned responsibilities and duties.
- c. Contracting authority shall be limited within the bounds of organizational needs.
- d. All selections and appointments of individuals as contracting officers shall be based on the qualifications of the individual, not on the position within the organization.
- e. Limits on contracting officer authority shall be implemented through the requirement for higher levels of review rather than by dollar limitations, i.e., a contracting officer may have unlimited signature authority as long as the appropriate level of review and concurrence above the contracting officer has been obtained prior to award.

- f. Individuals appointed as contracting officers are authorized by that appointment to exercise contracting officer's authority subject to:
- (1) The limitations contained in the FAR, FIRM, and other Federal issuances and the acquisition, financial assistance, and sales regulations and policies of the Department; and
 - (2) Any limitations specified on the SF-1402; and
 - (3) Any further limitations consistent with those contained in the contracting activity's directive on contracting officer authorities.

7. RESPONSIBILITIES.

- a. Deputy Assistant Secretary for Procurement and Assistance Management, in the capacity as Procurement Executive, shall:
- (1) Monitor the implementation of, and adherence to, the provisions of this Order.
 - (2) Periodically review and, if necessary, modify the content of this Order to assure consistency with pertinent laws, Executive orders, regulations and the Departmental organizational structure.
- b. Heads of Contracting Activities shall:
- (1) Establish and maintain procedures and files to ensure that the selection, appointment, and termination of appointment of contracting officers and Contracting Officer Representatives are accomplished in accordance with this Order.
 - (2) Establish and exercise appropriate level of oversight when the need exists to issue Certificates of Appointment to individuals who have been appointed pursuant to the HCA Appointment Determination procedures outlined in Chapter II, paragraph 4 of this Order.
 - (3) Provide updated contracting officer data on a quarterly basis to the Procurement Executive or designee.

c. Heads of Departmental Elements shall:

- (1) Prepare recommendations for designations of Contracting Officer Representatives (CORs), in accordance with this Order.
- (2) Ensure that each nominee for COR designation meets the qualifications set forth in this Order.
- (3) Ensure that CORs comply with the terms and conditions of their designation.

BY ORDER OF THE SECRETARY OF ENERGY:



DONNA R. FITZPATRICK
Assistant Secretary
Management and Administration

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CHAPTER I

SELECTION

1. OBJECTIVES. The primary objective of the contracting officer certificate of appointment program is to appoint only those persons who are fully qualified to obligate the Government to the expenditure of public funds or the sale of property or services. A secondary objective is to promote the use of a resident engineer or contracting officer's representative when the more comprehensive authority of a contracting officer is not needed.
2. CONFLICT OF INTEREST. Because of his or her unique responsibilities, a contracting officer is a "supervisory employee," as defined by section 601(a) of the Department of Energy Organization Act, and is therefore subject to the conflict of interest restrictions set forth in Title VI, Part A, of the Act. Of particular note is the provision which prohibits a "supervisory employee" (and therefore a contracting officer) from receiving compensation from, holding any official relation with, or owning stocks or bonds of, any energy concern. In order to insure compliance with this provision, individuals nominated for appointment as contracting officer shall complete DOE F 2000.2, "Report of Prior Employment," for review by the DOE Headquarters designating official and the Assistant General Counsel for General Law. Where the nominee is employed at a DOE field activity, these forms should be forwarded to the Assistant General Counsel through the appropriate field counsel's office. Clearance must be received from the Assistant General Counsel for General Law prior to the appointment or reappointment of a contracting officer. After appointment contracting officers must complete "Report of Financial Interests" (DOE F 3735.1) on an annual basis and these reports shall also be forwarded for review to the Assistant General Counsel for General Law.
3. CONTRACTING OFFICER QUALIFICATIONS.
 - a. Qualifications for contracting officers are set forth in Attachment I-1 and are categorized by the functional areas in which the authority is to be delegated.
 - b. Designating officials may establish additional qualifications as appropriate. For example, additional qualifications may be established for those authorized to sign incentive and award-fee contracts.
 - c. Where authority is to be delegated in two or more functional areas (e.g., small purchases and financial assistance instruments), all of the applicable qualifications and experience for each area apply, except the identical qualifications or portions thereof shall not be cumulative.

- d. The qualification requirements apply to all proposed appointments of personnel who are not DOE contracting officers or resident engineers on the effective date of this Order. However, the minimum qualifications for grants and cooperative agreements set forth in Attachment I-1 should be used in lieu of those contained in the prior version of this Order when reviewing any appointments issued pursuant to waivers during the period from 9-6-83 to the effective date of this Order. See paragraph 4 below, for the requirements related to contracting officer representatives.
- e. The HCA is authorized to determine "equivalency of training courses and previous on-the-job training for the minimum qualifications set forth in Attachment I-1 of this Order. The basis for such equivalency determinations shall be in writing and furnished to the Procurement Executive or designee for their information along with a copy of the Certificate of Appointment.
- f. In addition to meeting the minimum qualifications, the nominee shall be recommended by his or her supervisor as being well qualified for the appointment on the basis of his or her experience, education, training, business acumen, judgment, character, reputation, and ethics.
- g. Several professional organizations offer certification or certificate programs which require taking specific courses or passing examinations. Examples of these are the National Contract Management Association's "Certified Professional Contract Manager (CPCM);" the Air Force Institute of Technology's "Professional Designation in Contract Management (PDCM);" and the "Certified Professional Property Manager" offered by the National Property Management Association. The HCA may consider these types of certifications as equivalent to specific courses on a case-by-case basis.
- h. University courses in the procurement field are reviewed by an interagency board sponsored by the Federal Acquisition Institute. The Office of Policy, Headquarters, can provide a list of those university programs and courses that have been approved. HCAs may consider such courses as equivalent to , courses listed in Attachment I-1, on a case-by-case basis.
- i. Contracting officers are encouraged to participate in a continuing education and refresher training program at their own initiative in order to remain informed of current acquisition and assistance matters. Those courses listed as highly desirable in Attachment I-1 are recommended in the functions listed.

4. COR QUALIFICATIONS.

- a. The minimum qualification requirements for selection and appointment as a Contracting Officer's Representative (COR) are either one year's experience as a COR under a Federal contract or 24 hours of formal education in basic Government procurement. The DOE sponsored course titled 'Contract Administration for Technical Representatives' is preferable to other similar courses available to meet this requirement. The HCA may develop an in-house course for COR training as a substitute for the formal education requirement, provided that the course covers essentially similar material.
- b. Additionally, CORs on support service contracts are required to have a minimum of 24 hours of formal education in basic Government procurement, regardless of experience.
- c. The senior program official (Head of Departmental Element or designee) shall ensure that a nominee meets the qualification requirements before nominating the individual as COR.
- d. It is emphasized that Attachment I-1 lists minimum qualification requirements. On any individual contract, the senior program official and the contracting officer should consider the level of experience and education of a proposed COR in view of the dollar value and complexity of the anticipated contract, prior to designating a COR. Similarly, senior program officials should nominate CORs with qualifications appropriate to the value and complexity of contract actions, and should provide necessary training resources to potential CORs. Qualifications of CORs shall be documented in a central file.

5. RESIDENT ENGINEERS. Engineers who are selected for delegation of authority to approve and issue change orders must be Federal employees, must have completed at least a 40-hour training course in Government construction contracting and have had at least a year of appropriate Government experience as a contracting officer representative, project manager, or other equivalent experience prior to being appointed a resident engineer.

QUALIFICATIONS FOR CONTRACTING OFFICERS

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING 1/</u>	<u>HIGHLY DESIRABLE 2/</u>
Negotiated/Sealed Bid Procurement Contracts, Interagency Agreements, and Sales Contracts	At least 5 years of progressively complex and responsible experience in negotiation/sealed bidding and performing business administration of procurement. Extensive experience in the GS-1102 or GS-1105 job series, or directly comparable military experience and prior experience as a contracting officer, is highly desirable.	At least 200 class hours covering the following subjects: Basic Procurement Cost and Price Analysis I Contract Administration Contract Negotiation Contract Law Property Management and Real Estate	Construction Contracting Research and Development Contracting Incentive and Award Fee Contracts Contracting for Commercial Services Cost and Price Analysis II Contract Administration ADP Procurement Architect/Engineering Contracting
Grants and Cooperative Agreements	At least 3 years of progressively complex and responsible experience in negotiating and performing business administration of grants and/or cooperative agreements. Extensive experience in grants and/or cooperative agreements and prior experience as a contracting officer is highly desirable	At least 100 class hours covering the following subjects; Federal Financial Assistance Administration Cost and Price Analysis I Federal Assistance Law Administration of Research Grants	Property Management and Real Estate Contract Negotiation Contract Administration Cost & Price Analysis Contract Law Basic Procurement

- 1/ The number of class hours required must be taken from among the courses listed. Courses with titles that are different than those listed herein may be substituted, provided the subject matter and content are essentially equivalent.
- 2/ Courses are not required for appointment.

RECOMMENDATION FOR APPOINTMENT

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING 1/</u>	<u>HIGHLY DESIRABLE 2/</u>
Loans and Loan Guarantees	At least 1 year of progressively complex and responsible experience in negotiating and performing business administration of price supports, guaranteed market agreements, loans, and loan guarantees. Banking experience is highly desirable.	Cooperative Agreements Cost Principles for Colleges and Universities Cost Principles for Non-Profit Organizations Cost Principles for State and Local Governments	
Price Supports and Guaranteed Market Agreements		At least 80 class hours covering the following: Contract Law Cost and Price Analysis I	Construction Contracting Contract Negotiation Architect/Engineering Contracting Basic Procurement Property Management and Real Estate

- 1/ The number of class hours required must be taken from among the course listed. Courses with titles that are different from those listed herein may be substituted, provided the subject matter and content are essentially equivalent.
- 2/ Courses are not required for appointment.

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING 1/</u>	<u>HIGHLY DESIRABLE 2/</u>
Small Purchases	At least 1 year of experience negotiating and performing business administration of procurement, preferably including at least 6 months of small purchases.	At least 40 class hours covering the following subjects: Basic Procurement Small Purchases/Federal Supply Schedules	Contract Law Sealed Bidding
Administration	Same as experience for each functional area except all years are reduced by 50 percent.	Same subjects for each functional area except class hours are reduced by 50 percent.	

1/ The number of class hours required must be taken from among the courses listed. Courses with titles that are different from those listed herein may be substituted, provided the subject matter and content are essentially equivalent.

2/ Courses are not required for appointment .

CHAPTER II

APPOINTMENT

1. DESIGNATING OFFICIAL. The head of the contracting activity is a designating official authorized to appoint contracting officers. The head of the contracting activity may not delegate such authority.
2. RECOMMENDATION FOR APPOINTMENT. To provide for the determination of need and the satisfaction of qualification requirements, a completed document for each nominee contracting officer entitled "Recommendation for Appointment" shall be signed by the supervisor of the position occupied or to be occupied by the individual nominated to be a contracting officer and concurred in by the designating official prior to signing the applicable SF-1402, "Certificate of Appointment. " This document shall clearly state why it is necessary for a contracting officer to be appointed within the organization. A suggested format for the recommendation is provided in Attachment II-1.
3. PERSONAL QUALIFICATIONS STATEMENT. Prior to signing a Recommendation for Appointment, the supervisor shall review a personal qualifications statement prepared and signed by the nominee contracting officer. A current SF-171, "Application for Federal Employment," should provide the required information. As a minimum, the qualifications statement shall include the following:
 - a. Description of formal education completed and degrees earned;
 - b. List of all training completed in business administration, law, accounting, or related fields and completion of specialized courses in the field of Government acquisition, assistance instruments, and sales;
 - c. A schedule of courses required to meet minimum qualifications for appointment if minimum qualifications have not been met;
 - d. List of any professional affiliations;
 - e. Description of previous positions held, Federal and industry, that were related to the responsibilities and authorities of a contracting officer; and
 - f. Statement of whether the person has previously held a contracting officer certification and, if so where.

4. HCA APPOINTMENT DETERMINATION. Whenever a nominee does not meet the minimum qualification requirements, as set forth in Attachment I-1, and the HCA cannot make the determination that the nominee has adequate education or experience to reasonably substitute for the requirements, appointment may be made based upon a written determination, with supporting rationale, by the HCA with approval by the Procurement Executive or designee, that such appointment is necessary to meet mission requirements. This determination shall be entitled "HCA Appointment Determination," and shall address any proposed limitations and/or internal controls which will be used to ensure that the nominee's acquisition efforts are monitored, and that contracting authority will not be exceeded or abused. The nominee shall also receive necessary training and education to ensure an understanding of the duties of a contracting officer. This determination shall not replace the "Recommendation of Appointment" discussed elsewhere in this Order. Upon approval, the HCA may appoint the nominee a contracting officer, subject to the limitations set forth in the determination and conditions of approval. If at any time the HCA can determine that the contracting officer has gained adequate education and/or experience to meet the qualification requirements, or to substitute for the requirements as discussed in Chapter I, paragraph 3, the HCA may withdraw the appointment made under this determination procedure, and issue an appointment under ordinary procedures, with appropriate limitations and controls.
5. CERTIFICATE OF APPOINTMENT. The SF-1402 shall be completed in accordance with FAR 1.603-3. Attachment 11-2 is an example of a completed Certificate. Only designating officials are authorized to sign the Certificates.
6. AREAS OF APPOINTMENT. Certificates of Appointments for Contracting Officers shall specify on their face the functional areas to which authority has been delegated. The functional areas of delegation are:
 - a. Procurement contracts including interagency acquisition;
 - b. Small purchases;
 - c. Grants and cooperative agreements;
 - d. Price supports or guaranteed price agreements;
 - e. Guaranteed market or purchase agreements;
 - f. Loans and loan guarantees; and
 - g. Sales contracts.

7. ADMINISTRATION APPOINTMENT.

- a. An individual may be appointed as a contracting officer with authority limited to post-award or administrative activities of contracts and/or financial assistance. The designation for "administration only" should appear on the face of the SF 1402. Examples of the types of functions appropriate for an "administration only" appointment are:
 - (1) Negotiation and agreement upon the industrial relations or personnel costs associated with management and operating contracts, as contemplated by DEAR 970.3101-6(b);
 - (2) Negotiation of and agreement to overhead, general and administrative, or other indirect expense rates;
 - (3) Establishment of final indirect cost and billing rates;
 - (4) Property administration; and
 - (5) Issuance of change orders and other contract modifications associated with construction contracts.
- b. Where the contract administration functions to be performed by an individual do not require modification of contracts or financial assistance instruments, the person should be designated as a contracting officer representative as described in paragraph 8 below, rather than appointed as a contracting officer for "administration only," except no appointments are required for individuals involved in the monitoring and oversight of management and operating contracts.

8. CONTRACTING OFFICER'S REPRESENTATIVES.

- a. Qualified Government personnel may act as the authorized representative(s) of a contracting officer. A contracting officer's representative (COR) shall be designated by name and position title, and must meet the qualifications set forth in Chapter I. Such appointment shall be in writing and shall contain specific instructions delineating actions which the representative may take for the contracting officer, as well as types of actions which the representative may not take. Appointments may be made for technical monitoring; inspection; approval of shop drawings; testing; approval of samples; engineering evaluation; monitoring schedules and deliverables; and other functions not involving a change in the scope, price, or terms or conditions of a contract. The contracting officer's representative may rely upon others or assign others to assist in carrying out certain of his/her functions (e.g., monitoring of individual tasks), but the ultimate responsibility for such functions shall remain with the designated contracting officer's representative.

- b. A person who is assigned to and performing within a contracting office, and who is under the supervision of the contracting officer, does not require designation as a representative to perform assigned duties. The contracting officer shall not authorize employees who are not contracting officers to sign any contractual document or letter for which the signature of a contracting officer is required.
 - c. The HCA may determine that an individual's appointment as COR, notwithstanding the individual's lack of minimum qualifications, is in the best interest of the Government, provided authority is limited to the absolute minimum necessary to effectively monitor the contract and controls are established to ensure the authority to be delegated is not exceeded or misused. Such determinations shall be documented on a case-by-case basis.
9. RESIDENT ENGINEERS. Resident engineers meeting the qualifications in Chapter I, paragraph 5, may be appointed with authority to issue change orders in accordance with the procedures described in FAR Subpart 43.2. Such appointments may be made in those instances in which a construction contract is being performed at a location where it is not feasible for the contracting officer to issue all necessary change orders. The authority shall be in writing and shall be limited to a specific contract, and such authority shall expire with the completion of the contract. The authority shall be limited to issuance of individual change orders up to the level of estimated value authorized by the contracting officer. In no event shall the level exceed \$25,000. The contracting officer shall sign the modification to the contract which definitizes the change order.
10. DISTRIBUTION OF CERTIFICATES. Promptly after each appointment, the contracting activity shall distribute the applicable documents in accordance with Attachment 11-3, "Distribution Requirements." The completed personal qualification statement for appointment as contracting officer is subject to the Privacy Act of 1974 and shall be maintained in a secure location with unauthorized access thereto prohibited.
11. INTERNAL DIRECTIVE ON APPOINTMENT LIMITATIONS.
- a. Each contracting activity shall prepare an internal directive on contracting officer authorities which provides for the maintenance of an up-to-date data base which identifies all the contracting activity's contracting officers, CORs, and resident engineers, and the limitations imposed on them. Identification of the contracting officer in the data base may be made either by name or position, or both; however, the identification of the contracting officer on the certificate shall be by name only.
 - b. The internal directive may limit authority to any particular category or categories of action (e.g., sealed bid contracts or nondiscretionary grants).

- c. The internal directive may impose restrictions against the performance of contracting officer functions on actions which an individual has personally processed as the cognizant contract specialist.
 - d. The internal directive should outline the system used to track experience and training of resident engineers. Distribution of this directive shall be made in accordance with Attachment 11-3.
12. CONTRACTING OFFICER'S SIGNATURE. Individuals appointed as contracting officers shall be instructed that when signing as a contracting officer, the term "Contracting Officer" shall be set forth beneath or appropriately near the place of signature. In addition, the individual organizational position title may be set forth if considered pertinent.

RECOMMENDATION FOR APPOINTMENT

The following findings and determinations are made pursuant to applicable laws and regulations:

1. There is a clear and convincing need to appoint a contracting officer for the following reason (quantify where practicable): _____
2. The nominee contracting officer is an employee of or detailed to the U.S. Department of Energy.
3. The nominee contracting officer will occupy the following organizational position, responsible for the processing of acquisition, financial assistance instruments, and/or sales: Director of Contracting Branch
4. The nominee's attached personal qualifications statement has been evaluated and (check as applicable):

 X The nominee's experience, education, and training meet **the established DOE minimum** qualifications.

 The determination to nominate pursuant to Alternative Appointment Procedures is attached.

5. The nominee's **knowledge of the Federal Acquisition Regulation, the Department of Energy Acquisition Regulation, the Department of Energy Financial Assistance Rules, and other applicable laws, Executive orders, and regulations affecting acquisition, financial assistance instruments, and sales, as appropriate,** is adequate for the appointment.
6. The nominee's business acumen, judgment, character, reputation, and ethics are sound.
7. The nominee has completed DOE F 3735.1, "Report of Financial Interests," and DOE F 2000.2, "Report on Prior Employment," and these forms have been cleared by the Assistant General Counsel for General Law, GC-43.
8. The nominee is well qualified for the appointment.

SUPERVISOR:

Thomas Point
(Signature of supervisor of position to be held by the nominee contracting officer)

8-15-89
(Date)

Mary Ann Smith
(Typed Name)

Washington Operations Office
(Contracting Activity). (Title).

CONCUR:

Leonard B. Blockworth
(Signature of HCA)

Certificate of Appointment

Under authority vested in the undersigned and in conformance with
Subpart 1.6 of the Federal Acquisition Regulation

Mary Ann Smith

is appointed

Contracting Officer

for the

United States of America

Subject to the limitations contained in the Federal Acquisition Regulation and to the following:

No restrictions

Unless sooner terminated, this appointment is
effective as long as the appointee is assigned to:

Washington Operations Office
(Organization)

Department of Energy
(Agency/Department)

Manager, Washington Operations Office
(Signature and Title)

4/20/88
(Date)

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(Page)

CERTIFICATE OF APPOINTMENT

D I S T R I B U T I O N R E Q U I R E M E N T S

<u>Document</u>	<u>D i s t r i b u t i o n</u>						
	A	B	C	D	E	F	G
Certificate of Appointment	X		X	X	X	X	
Recommendation for Appointment			X			X	
Personal Qualifications Statement			X			X	
Letter of Termination of Appointment	X		X	X	X	X	
Local Directive on Appointments (including periodic updates)		X	X	X	X	X	
HCA Appointment Determination	X		X	X	X	X	
Appointment as COR			X	X			
Appointment as Resident Engineer			X	X	X		

D i s t r i b u t i o n K e y

- A. Contracting officer (original)
- B. Contracting officer (copy)
- C. Contracting activity file
- D. Cognizant finance office (copy)
- E. U.S. Department of Energy
Assistant General Counsel
for General Law (GC-43)
- F. U.S. Department of Energy
Office of Review and Analysis (MA-43)
Washington, DC 20585
- G. Contractor

CHAPTER III

TERMINATION OF APPOINTMENT

1. REVOCATION OF APPOINTMENT.

- a. The appointment of a contracting officer may be revoked, by letter, at any time by the designating official, and the related Certificate should be destroyed or defaced. Reasons for such termination may include:
 - (1) The clear and convincing need for appointment no longer exists;
 - (2) The effective period of the appointment has expired;
 - (3) The appointee no longer meets required qualifications;
 - (4) The appointee is reassigned from the position held at the time the appointment became effective;
 - (5) The appointee has retired, resigned, or otherwise terminated employment;
 - (6) The appointee has failed to comply with applicable laws and regulations; or
 - (7) The appointee has failed to comply with applicable statutes and/or regulations governing conflict of interest or the conduct of DOE employees.
- b. Revocations of appointment which may adversely affect official job classification shall be coordinated with the cognizant personnel office.

2. RELOCATION WITHIN THE DEPARTMENT.

- a. On occasion an individual who has been appointed as a contracting officer by one Departmental Element will be transferred to another DOE organizational element. In this instance, the appointment shall be terminated.
- b. Where the gaining organization determines there is a clear and convincing need to reappoint the individual as a contracting officer the following steps shall be taken:
 - (1) The documentation supporting the initial or latest appointment shall be obtained from the losing organization.
 - (2) Upon determining that the individual is fully qualified, the gaining organization will prepare a new certificate and make distribution as set forth in this Order.

(3) The transmittal letter shall include the name of the office of previous appointment.

3. DISTRIBUTION OF LETTER OF TERMINATION OF APPOINTMENT. The letter terminating a contracting officer's appointment must have the same distribution as that of the Certificate of Appointment (see Attachment II-3).

02-14-92

SUBJECT: SELECTION, APPOINTMENT, AND TERMINATION OF APPOINTMENT OF
CONTRACTING OFFICERS

- 1. PURPOSE. To transmit revised pages to DOE 4200.4A, SELECTION, APPOINTMENT AND TERMINATION OF APPOINTMENT OF CONTRACTING OFFICERS, of 8-21-89.
- 2. EXPLANATION OF CHANGE. Updating of contracting officer data to the Procurement Executive has been changed from quarterly to semiannually. Training experience requirements for appointment as a contracting officer have been clarified.
- 3. FILING INSTRUCTIONS.

<u>Remove Page</u>	<u>Dated</u>	<u>Insert Page</u>	<u>Dated</u>
5 and 6	8-21-89	5	8-21-89
		6	2-14-92
Atch I-1, pages I-5 through I-7 (and I-8)	8-21-89	Atch I-1, pages I-5 through I-7 (and I-8)	2-14-92

- a. After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:



JOHN J. NETTLES, JR.
Director of Administration
and Human Resource Management

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Procurement,
Assistance and
Program Management

- d. The Federal Acquisition Regulation, subpart 1.603, requires that each Federal department or agency formulate procedures governing the selection, appointment, and termination of appointment of contracting officers.
- e. The issuance of this Order, with its requirements for the minimum qualifications for contracting officers, shall not render any existing appointments invalid. However, current appointments received pursuant to waivers under DOE Order 4200.4, dated 9-6-83, may be rescinded, if the conditions of the waiver have not been fulfilled. In such cases, any new appointment of the individual as a contracting officer must be accomplished pursuant to this Order.
- f. The negotiation and approval of agreements to assign individuals on temporary detail either to or from the Department, as authorized by the Intergovernmental Personnel Act or other personnel regulations, will not be considered to be a procurement function covered by this Order. However, all such agreements which involve the obligation and expenditure of DOE funds must be coordinated with the cognizant finance office to certify funds availability prior to approval of the proposed personnel action.

6. POLICY.

- a. In selecting individuals to serve as contracting officers, work experience in procurement or financial assistance, formal education, specialized training, business acumen, judgment, character, reputation, and ethics shall be considered.
- b. Contracting officers will be appointed only where a clear need exists and then only to the extent required for effective execution of assigned responsibilities and duties.
- c. Contracting authority shall be limited within the bounds of organizational needs.
- d. All selections and appointments of individuals as contracting officers shall be based on the qualifications of the individual, not on the position within the organization.
- e. Limits on contracting officer authority shall be implemented through the requirement for higher levels of review rather than by dollar limitations, i.e., a contracting officer may have unlimited signature authority as long as the appropriate level of review and concurrence above the contracting officer has been obtained prior to award.

f. Individuals appointed as contracting officers are authorized by that appointment to exercise contracting officer's authority subject to:

- (1) The limitations contained in the FAR, FIRM, and other Federal issuances and the acquisition, financial assistance, and sales regulations and policies of the Department; and
- (2) Any limitations specified on the SF-1402; and
- (3) Any further limitations consistent with those contained in the contracting activity's directive on contracting officer authorities.

7. RESPONSIBILITIES.

a. The Director, Office of Procurement, Assistance and Program Management, in the capacity as Procurement Executive, shall:

- (1) Monitor the implementation of, and adherence to, the provision of this Order.
- (2) Periodically review and, if necessary, modify the content of this Order to assure consistency with pertinent laws, Executive orders, regulations and the Departmental organizational structure.

b. Heads of Contracting Activities shall:

- (1) Establish and maintain procedures and files to ensure that the selection, appointment, and termination of appointment of contracting officers and Contracting Officer Representatives are accomplished in accordance with this Order.
- (2) Establish and exercise appropriate level of oversight when the need exists to issue Certificates of Appointment to individuals who have been appointed pursuant to the HCA Appointment Determination procedures outlined in Chapter II, paragraph 4 of this Order.
- (3) Provide updated contracting officer data on a semiannual basis to the Procurement Executive or designee.

Vertical line denotes change.

QUALIFICATIONS FOR CONTRACTING OFFICERS

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING</u> 1/	<u>HIGHLY DESIRABLE</u> 2/
Negotiated/Sealed Bid Procurement Contracts, Interagency Agreements and Sales Contracts	At least 5 years of progressively complex and responsible experience in negotiation/ sealed bidding and performing business administration of procurement. Extensive experience in the GS-1102 or GS-1105 job series, or directly comparable military experience and prior experience as a contracting officer, is highly desirable.	At least 200 class hours covering the following subjects: Basic Procurement Cost and Price Analysis Contract Administration Contract Negotiation Contract Law Acquisition Management Seminar (Advanced)	Construction Contracting Advanced Cost Type Contracts Contracting for Commercial Services Cost and Price Analysis (Advanced) Contract Administration ADP Procurement Architect/Engineering Contracting
Grants and Cooperative Agreements	At least 3 years of progressively complex and responsible experience in negotiating and performing business administration of grants and/or cooperative agreements. Extensive experience in grants and/or cooperative agreements.	At least 100 class hours covering the following subjects: Federal Financial Assistance Basic Procurement Cost and Price Analysis Contract Administration Contract Law	Property Management Contract Negotiation Cost and Price Analysis (Advanced)

1/ Procurement and assistance skills training courses identified in Section 111 of the Professional Skills Training Program Course Directory, available from the Headquarters Employment Development and Training Division (AD-72), satisfy these requirements. Other courses, with substantially equivalent course content, also satisfy these requirements.

2 / Courses are not required for appointment.

Vertical line denotes change.

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING</u> 1/	<u>HIGHLY DESIRABLE</u> 2/
Loans and Loan Guarantees	At least 1 year of progressively complex and responsible experience in negotiating and performing business administration of price supports, guaranteed market agreements, loans, and loan guarantees. Banking experience is highly desirable.	At least 80 class hours covering the following subjects: Contract Law Cost and Price Analysis	Construction Contracting Contract Negotiation Architect/engineering Contracting Basic Procurement
Price Supports and Guaranteed Market Agreements			

1/ Procurement and assistance skills training courses identified in Section 111 of the Professional Skills Training Program Course Directory, available from the Headquarters Employment Development and Training Division (AD-72), satisfy these requirements, Other courses, with substantially equivalent course content, also satisfy these requirements.

2/ Courses are not required for appointment.

Vertical line denotes change.

<u>FUNCTION</u>	<u>EXPERIENCE</u>	<u>MINIMUM TRAINING 1/</u>	<u>HIGHLY DESIRABLE 2/</u>
Small Purchases	At least 1 year of experience negotiating and Performing business administration of procurement, preferably including at least 6 months of small purchases.	At least 40 class hours covering the following subjects: Basic Procurement Small Purchases/Federal Supply Schedules	Contract Law Sealed Bidding
Administration	Same as experience for each functional area except all years are reduced by 50 percent.	Same subjects for each functional area except class hours are reduced by 50 percent.	

^{1 /} Procurement and assistance skills training courses identified in Section 111 of the Professional Skills Training Program Course Directory, available from the Headquarters Employment Development and Training Division (AD-72), satisfy these requirements. Other courses, with substantially equivalent course content, also satisfy these requirements.

^{2 /} Courses are not required for appointment.

