

U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 541.1A

Approved: 10/27/00

This directive was reviewed and certified as current and necessary by (Enter Name), (Enter Title) Director, Office of Management, Budget and Evaluation/Chief Financial Officer, XX-XX-XXXX.

**SUBJECT: APPOINTMENT OF CONTRACTING OFFICERS AND CONTRACTING
OFFICER'S REPRESENTATIVES**

1. OBJECTIVES.

- a. To establish procedures governing the selection, appointment, and termination of contracting officers and for the appointment of contracting officer's representatives.
- b. To ensure that only trained and qualified procurement and financial assistance professionals, within the scope of this Order, serve as contracting officers.

2. CANCELLATION. DOE O 541.1, APPOINTMENT OF CONTRACTING OFFICERS AND CONTRACTING OFFICER REPRESENTATIVES, dated 4-30-96.

3. APPLICABILITY.

- a. DOE Elements. This Order applies to all DOE elements, including National Nuclear Security Administration (NNSA).
- b. Exemptions.
 - (1) Appointment requirements for contracting officers established by this Order do not apply to the following (see paragraph 3b(2)):
 - (a) These purchases and purchase methods have their own appointment/authorization requirements.
 - 1 Government Purchase Card (also known as GSA SmartPay Card) program purchases generally limited to the micro-purchase threshold at FAR 13.301.
 - 2 U.S. Government National Credit Card, Standard Form 149 (Federal Property Management Regulation 101-38.8).
 - 3 Standard Form 44 (FAR 13.306).
 - 4 Imprest fund (FAR 13.305).

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Deputy Assistant Secretary for Procurement
and Assistance Management

5 Purchase of transportation tickets on a common carrier and travel-related purchases while on official travel.

- (b) Appointment of Heads of Contracting Activities (HCAs) with delegated contracting officer authority are made by the Procurement Executive without the need for the appointment process described in this Order.
 - (c) An employee assigned to and performing within a contracting activity under the direct supervision of the contracting officer does not require designation as a representative to perform assigned duties.
- (2) Notwithstanding the exemptions to appointment requirements discussed in paragraph 3b(1), the requirements in paragraphs 4h and 4i and the responsibility in paragraph 5c(5) are applicable as stated in these paragraphs.
 - (3) Contracting officer's representative designations are not required for financial assistance actions.

4. REQUIREMENTS.

- a. All persons to be appointed contracting officers must be Federal employees of DOE or detailed to the Department and, except as provided in paragraph 4b, all persons to be appointed contracting officers must meet the qualifications set forth in Attachment 1. Contracting officers who hold a warrant as of the effective date of this Order must complete the qualification requirements set forth in Attachment 1 within 18 months of the effective date of this Order. Failure to do so may result in revocation of their warrant.
- b. An individual who does not meet the qualifications in Attachment 1 may be appointed as a contracting officer by the HCA provided—
 - (1) a written determination is made, with supporting rationale, explaining why such an appointment is necessary to meet mission requirements;
 - (2) the determination has the concurrence of the Procurement Executive or his designee; and
 - (3) the HCA making the appointment establishes as part of the determination a training plan detailing how the individual will meet the requirements set forth in Attachment 1. The individual will have 18 months from the date of appointment to meet the requirements set forth in Attachment 1. Failure to do so may result in revocation of the warrant.
- c. Contracting officers must comply with applicable requirements in statutes, regulations, Executive Orders, Policy Letters of the Office of Federal Procurement Policy, DOE Acquisition Letters and Financial Assistance Letters, and DOE directives and other Federal agencies' procurement policies and procedures.

- d. All contracting officers and contracting officer's representatives are required to file either a Confidential Financial Disclosure Report (SF 450) or a Public Financial Disclosure Report (SF 278). If a nominee has not previously filed a financial disclosure report, upon being nominated, one must be filed for review by local field counsel (for field employees) or the Office of Assistant General Counsel for General Law (for Headquarters employees). A financial disclosure report is required as a part of the appointment process only if the employee has not previously filed a new entrant or the most recent annual report.
- e. Supervisors of positions to be occupied by a contracting officer appointed on Certificate of Appointment, Standard Form 1402 (SF 1402) must—
 - (1) review a personal qualifications statement prepared and signed by the nominee contracting officer and
 - (2) complete and sign a Recommendation for Appointment document for each nominee (see format example, Attachment 4). The document must include a statement to the effect that there is a clear and convincing need to appoint a contracting officer for reasons identified in the document.
- f. All SF 1402 certificates must be signed by the HCA; this authority must not be redelegated.
- g. A contracting officer whose authority is limited to the micro-purchase threshold at FAR 13.6 must be appointed in writing in accordance with procedures established by the HCA.
- h. A contracting officer whose authority is limited to Government Purchase Card (also known as "GSA SmartPay Card") program purchases not to exceed \$25,000 per transaction must be appointed in writing in accordance with procedures established by the HCA.
- i. Unless exempt in the FAR, DOE employees, and Federal employees detailed to DOE, with contracting authority must comply with the procurement integrity requirements of FAR section 3.104.
- j. Each contracting activity must issue an internal directive or other issuance on contracting officer authorities that—
 - (1) establishes and maintains an up-to-date data base of the contracting activity's contracting officers and contracting officer's representatives by name or by position and
 - (2) identifies the limitations on each of the identified personnel.

- k. When signing as a contracting officer, the title “contracting officer” must be written beneath or appropriately near the signature.
- l. An individual designated by a contracting officer to be a contracting officer’s representative must meet the qualifications set forth in Attachment 5. All contracting officer’s representative designations must be by name and position title.
- m. Documentation is required as follows:
 - (1) Qualification statements for the appointment of contracting officers must include, as a minimum, the following:
 - (a) a description of formal education completed and degrees earned.
 - (b) a list of—
 - 1 training completed in business administration, law, accounting, or related fields and
 - 2 specialized courses completed in Government acquisition, assistance instruments, and sales;
 - (c) a schedule of courses required to meet minimum qualifications;
 - (d) a list of professional affiliations;
 - (e) a description of previous related experience;
 - (f) a list of previous appointments as a contracting officer and the appointing organization;
 - (g) a copy of the Acquisition Career Development Program Certificate.
 - (2) SF 1402 certificates must be prepared in accordance with FAR 1.603-3 as follows:
 - (a) specifying, on the face of the SF 1402, the functional areas to which authority has been delegated (Attachment 3 lists the functional areas);
 - (b) designating, on the face of the SF 1402, “for administration only” for individuals with authority limited to post-award or administrative activities of contracts and/or financial assistance.

- (3) Contracting officer's representative appointments must be in writing and must include—
 - (a) name and position;
 - (b) instructions delineating actions that—
 - 1 may be taken for the contracting officer;
 - 2 may not be taken for the contracting officer.
- A copy of the certificate indicating completion of required training must be maintained with the appointment letter in the contracting officer's representative file maintained by the contracting activity.
- n. When a contracting officer is reassigned to a position other than that of a contracting officer, the following requirements apply.
 - (1) When the reassignment is within the same contracting activity—
 - (a) the appointment as a contracting officer (on SF 1402) must be revoked in writing by an official(s) at a level the HCA deems appropriate;
 - (b) the revocation must be coordinated with the cognizant personnel office if the revocation may affect the official job classification.
 - (2) When the reassignment is within the Department, the SF 1402 certificate is automatically terminated.
 - (3) A gaining organization that determines a need to reappoint the individual must—
 - (a) obtain documentation supporting the initial or latest appointment from the losing organization; the contracting officer must continue to file annual financial disclosure reports;
 - (b) prepare a new certificate;
 - (c) distribute the new certificate appropriately.

5. RESPONSIBILITIES.

- a. Director, Office of Procurement and Assistance Management, DOE, and NNSA Director of Procurement and Assistance Management in their capacity as Procurement Executive. Establish and maintain an effective contracting officer certification program to maintain clear lines of contracting authority and accountability.

- b. Heads of Departmental Elements including the NNSA (senior program officials) or their Designees. Ensure that nominees meet all qualification requirements before being nominated as contracting officer's representatives.
- c. Heads of Contracting Activities.
 - (1) Appoint contracting officers and sign all SF 1402 certificates; neither authority shall be redelegated.
 - (2) Use the criteria in Attachment 1, Contracting Officers Qualifications, when selecting contracting officers.
 - (3) Distribute documents in accordance with Attachment 2, Distribution Requirements.
 - (4) Establish procedures for the appointment of contracting officers in accordance with and as required in paragraphs 4g and 4h (Attachment 1 identifies desirable training).
 - (5) Issue an internal directive (or other issuance) as required by paragraph 4j.
- d. Assistant General Counsel for General Law or Local Field Counsel. Grants clearance of the nominee prior to his/her appointment or reappointment as a contracting officer or contracting officer's representative.
- e. Contracting Officers. Comply with the procurement integrity requirements in FAR 3.104 and all other requirements established for contracting officers.

6. REFERENCES.

- a. Federal Acquisition Regulation, especially its subpart 1.6, Career Development, Contracting Authority, and Responsibilities.
- b. Department of Energy Acquisition Regulation 901.6, Contracting Authority and Responsibilities.
- c. Office of Federal Procurement Policy, Policy Letter No. 92-3, Procurement Professionalism Program Policy—Training for Contracting Personnel, dated 6-24-92.
- d. DOE O 361.1, ACQUISITION CAREER DEVELOPMENT PROGRAM, dated 11-10-99.

7. CONTACTS.

- a. Information on general policy matters involving the appointment of a contracting officer can be obtained from the Office of Policy within the Office of Procurement and Assistance Management.
- b. Information on the process of appointing a contracting officer and the submission of documents to the Office of Procurement and Assistance Management can be obtained from the Office of Management Systems (Competition Advocate).
- c. Information on conflicts of interest can be obtained from local field counsel or from the Office of the Assistant General Counsel for General Law.

8. DEFINITIONS.

- a. “Contract” means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. Contracts do not include grants and cooperative agreements.
- b. “Contracting officer” means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. “Administrative contracting officer (ACO)” refers to a contracting officer who is administering contracts.
- c. “Contracting officer’s representative” means a Government employee who is formally designated to act as an authorized representative of the contracting officer for specified functions, such as technical monitoring, that do not involve a change in the scope, price, terms, or conditions of a contract. Under limited conditions, non-Government personnel may be appointed CORs. These appointments would be made on an as-needed basis and would not allow the performance of inherently Governmental functions by the COR. The Procurement Executive’s approval to appoint non-Government personnel as a COR must be obtained in advance of the designation.
- d. “Financial assistance” means the transfer of money or property to a recipient or subrecipient to accomplish a public purpose of support or stimulation authorized by Federal statute. For purposes of this Order, financial assistance instruments are grants and cooperative agreements and subawards.

- e. “Micro-purchase” means an acquisition of supplies or services (except construction), the aggregate amount of which does not exceed \$2,500, except in the case of construction, which is limited to \$2,000.
- f. “Resident Engineer” means 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.
- g. “Sales Contract” means 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 administration and sales under international treaties.
- h. “Simplified acquisition procedures” means the methods prescribed in Part 13 for purchasing supplies or services. The simplified acquisition threshold means \$100,000 except that, for any contract to be awarded and performed, or purchase to be made, outside the United States in support of contingency operation [as defined in 10 U.S.C. 101(a)(13)] or a humanitarian or peacekeeping operation [as defined in 10 U.S.C. 2302(8) and 41 U.S.C. 259(d)], the term means \$200,000.

BY ORDER OF THE SECRETARY OF ENERGY:



T.J. GLAUTHIER
Deputy Secretary

CONTRACTING OFFICER QUALIFICATIONS

Function	Experience	Minimum Training	Highly Desirable Training¹
Negotiation/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 as a contracting officer, is highly desirable.	Certified Level II under Contracting ACD Program	Architect/engineering contracting Construction contracting Advanced cost type contracts ADP procurement Contracting for commercial services
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.	Certified Level II under Contracting ACD Program and certified under FACD Program	Negotiation techniques Property management
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.	Certified Level II under Contracting ACD Program and certified under FACD program	Architect/engineering contracting

CONTRACTING OFFICER QUALIFICATIONS (continued)

Function	Experience	Minimum Training	Highly Desirable Training¹
Government purchase card and DOEC-Web for purchases up to \$25,000 (applies to open market purchases and Federal Supply Schedule purchases).	At least 6 months of Government purchase card and DOEC-Web buying for micro-purchases.	Half-day purchase card seminar, titled Guidelines and Operating Procedures for the Use of the Government Purchase Card conducted by the Office of Headquarters Procurement Services. 1-day Government-wide Purchase Card course. DOEC-Web operational training class conducted by the Office of Management Systems (MA-52); and Certified Level I under Purchasing ACD Program.	2-day Micro-Purchase Procedures course.

CONTRACTING OFFICER QUALIFICATIONS (continued)

Function	Experience	Minimum Training	Highly Desirable Training¹
Simplified acquisitions and orders against Federal Supply Schedules \$25,000 to \$100,000 (using the purchase card, DOEC-Web, purchase orders or delivery orders)	At least 1 year of purchase card and DOEC-Web buying for purchases up to \$25,000.	Same as purchases up to \$25,000	2-day Micro-Purchase Procedures course.
Individual transaction up to \$25,000 if using Government purchase card	As established by the head of the contracting activity.	At least 8 hours covering credit card purchases. (1) Self instruction using training materials from the Government purchase card program bank, (2) a 1-day training course on the Government purchase card program, or (3) other appropriate training as established by the head of contracting activity.	
Non-acquisition personnel with unrestricted warrant	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 as a contracting officer is highly desirable.	Certified Level II under Contracting ACD Program	
Non-1102, administrative warrant only.	Same as experience for each functional area except all years are reduced by 50 percent.	CON 101	CON 104 CON 210
Resident Engineer	At least one year of appropriate Government experience as a contracting officer's representative, project manager, or other equivalent experience.	At least 40 class hours covering Government construction contracting.	

CONTRACTING OFFICER QUALIFICATIONS (continued)

Function	Experience	Minimum Training	Highly Desirable Training¹
Real Property	At least 6 years of creditable experience in the Federal real estate field, at least 1 year of which is at the journeyman level (GS-11 or above) in four distinct areas of speciality: acquisition by other than lease; leasing except for leases executed under the delegation of lease acquisition authority from GSA; leasing under the delegation from GSA; and land management and disposal).	Certified under the DOE Real Estate Certification Program	

¹ Courses are not required for appointment

DISTRIBUTION REQUIREMENTS

Document	Distribution					
	Contracting Officer (Original)	Contracting Officer (Copy)	Contracting Activity File	Cognizant Finance Office	Counsel ¹	MA-52
Certificate of Appointment (SF 1402), or written appointment to award an individual micro-purchase or Government purchase card purchase up to \$25,000	T		T	T	T	T
Personal Qualifications Statement			T			T
Recommendation for Appointment			T			T
HCA Appointment Determination	T		T	T	T	T
Termination of Appointment	T		T	T	T	T
Local Directive (or other issuance) on Appointments		T	T	T		T
Appointment of Resident Engineer as an Administrative Contracting Officer with Limited Authority		T	T	T		
Appointment as a Contracting Officer's Representative		T	T		T	

¹ For Headquarters employees and for SF 278 filers.
U.S. Department of Energy
Assistant General Counsel for General Law (GC-80)
Headquarters

For field employees who file SF 450
Local Field Counsel

FUNCTIONAL AREAS OF DELEGATION

1. Procurement contracts including interagency acquisitions.
2. Purchases using simplified acquisition procedures (described in FAR Part 13; DEAR Part 913).
3. Grants and cooperative agreements.
4. Price supports or guaranteed price agreements.
5. Guaranteed market or purchase agreements.
6. Loans and loan guarantees.
7. Sales contracts.
8. Non-1102, Administration only.
9. Administration only, resident engineer, limited in authority as follows:
 - a. to issue change orders (term explained at FAR 4.43.2), with an estimated amount not to exceed \$50,000, in accordance with the procedures at Federal Acquisition Regulation subpart 43.2;
 - b. limited to a specific contract; the authority expires upon completion of the contract;
 - c. does not include authority to issue the modification to the contract to definitize the change order.
10. Real Property Management.

EXAMPLE

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 acquisitions, financial assistance instruments, and/or sales.
4. The nominee's attached personal qualifications statement has been evaluated and (check as applicable):

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

The determination to nominate pursuant to the procedures of paragraph 4b of the Order 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, and/or 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 Executive Branch Confidential Financial Disclosure Report (SF-450) or Executive Branch Public Financial Disclosure Report (SF 278) and has been cleared by the Assistant General Counsel for General Law (GC-80) or Local Field Counsel.
8. The nominee is well qualified for the appointment.

Supervisor:

Concur:

Signature of supervisor of position be
held by the nominee contracting officer

Date

Signature of Designating Official
Head of Contracting Activity

Date

Typed Name

Typed Name

EXAMPLE

**CONTRACTING OFFICER'S REPRESENTATIVE
QUALIFICATION REQUIREMENTS**

Experience	Minimum Training	Highly Desirable
Not applicable	Completion of Contract Administration for Technical Personnel	CON 101, Fundamentals of Contracting