

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

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1. PURPOSE.

- a. To establish procedures governing the selection, appointment, and termination of all components of Department of Energy (DOE), including National Nuclear Security Administration contracting officers (COs) by ensuring federal staff are developed appropriately, in accordance with the Office of Federal Procurement Policy (OFPP) memorandum on May 7, 2014, entitled “Revisions to the Federal Acquisition Certification in Contracting (FAC-C).” The objective of OFPP’s memorandum includes refreshing previously issued FAC- C memorandums (January 2006 and December 2008) to better align the FAC-C program with the Department of Defense’s (DoD’s) Defense Acquisition Workforce Improvement Act (DAWIA) contracting certification curriculum while strengthening the development of civilian agency contracting professionals.
- b. To ensure Contracting Officer Representatives (CORs)-now defined in the Federal Acquisition Regulations as “...individual, including a contracting officer’s technical representative (COTR), designated and authorized in writing by the contracting officer to perform specific technical or administrative functions,” are trained and appropriately developed.
- c. To ensure that federal project directors, certified under the Project Management Certification Development Program (PMCDP) are provided training to be CORs.

2. CANCELLATIONS. Cancels DOE O 541.1B, *Appointment of Contracting Officers and Contracting Officer Representatives*, dated 4-21-04. Cancellation of an Order does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Canceled Orders that are incorporated by reference in a contract remain in effect until the contract is modified to delete reference to requirements in the canceled Order.

3. APPLICABILITY.

a. Federal Acquisition Certification in Contracting (FAC-C).

The Federal Acquisition Certification in Contracting (FAC-C) Program is for Federal acquisition workforce members performing contracting and procurement activities and functions. The January 20, 2006, [Office of Management and Budget \(OMB\) Memorandum](#) established requirements for the program. The May 7, 2014, [OMB Memorandum](#) which became effective October 1, 2014, contained subsequent revisions to the standards to bring civilian agencies more in-line with DOD’s established education and training standard requirements and courses, as required of the Defense Acquisition Workforce Improvement Act (DAWIA). The

new memo details eight major changes to the education and knowledge requirement for COs. It also calls for a deeper knowledge of acquisition roles, responsibilities and tactics for success.

The Federal Acquisition Institute (FAI) develops and implements strategies to meet the needs of the current and future acquisition workforce for the Federal Acquisition Certification programs. FAC-C requirements are located on the [FAI Certification and Career Development website](#). As required in the [Office of Federal Procurement Policy \(OFPP\) Policy Letter 05-01](#), each agency has an Acquisition Career Manager (ACM) who ensures that the agency's acquisition workforce meets the requirements of the Letter. Visit the [FAI website](#) for a listing of federal Acquisition Career Managers (ACM) by federal agency and access to the ACM Guide for more information about the core ACM responsibilities via the Guides and Manuals page.

The education, training, and experience requirements found on the [FAC-C page](#) on the FAI website are cumulative. The applicant must complete the requirements for each level before moving to the next level. The applicant will need to complete FAC-C Level I before moving to FAC-C Level II and will need to complete FAC-C Level II before moving to FAC-C Level III.

GS-1102s, including all warranted COs regardless of series, shall earn a minimum of 80 continuous learning points every two years to maintain the GS-1102 federal acquisition certification. Civilian agencies shall generally follow the guidance provided by FAI on how these points can be earned (see [www.fai.gov](http://www.fai.gov)), and are encouraged to use continuous learning opportunities to assist individuals in obtaining core acquisition competencies, maintaining critical acquisition skills, and acquiring agency-specific training.

b. Federal Acquisition Certification for Contracting Officer Representatives (FAC-CORs).

The FAC-COR Program requirements are governed by the September 6, 2011, OFPP Memorandum on Revisions to the FAC-COR. This most recent memorandum revises and replaces the November 26, 2007, OFPP Memorandum on The Federal Acquisition Certification for Contracting Officer Technical Representatives (FAC-COTR) from OFPP, revising the competency requirements for CORs to establish a risk-based, three-tiered certification program for civilian agencies that better reflects the important role of the COR. The new FAC-COR requirements became effective as of January 1, 2012.

The FAI develops and implements strategies to meet the needs of the current and future acquisition workforce, including the [FAC-COR program](#). As noted on the FAI website, The FAC-COR is only one component of strengthening the COR function. Equally important is selecting the right individual to be a COR, ensuring that the COR understands the importance of his/her role, providing the individual adequate time and resources to perform the COR function, and building a culture of effective collaboration and communication between the CO and the COR.

Where the previous FAC-COTR had just one level of certification for all CORs, [the new FAC-COR has three levels of certification with varying requirements](#) for training, experience, and continuous learning, depending on the types of agreements being managed.

- c. All DOE Federal Organizational Elements, including National Nuclear Security Administration (NNSA) Organizations.

This Directive applies to all DOE Federal Organizational Elements. This Directive automatically applies to all DOE Federal Organizational Elements created after it is issued.

Note: Only the Administrator of NNSA can direct NNSA employees. Wherever this Directive gives direction to NNSA employees, it should be understood that direction is provided only for the convenience of the Administrator and is not intended to assume or replace the authority of the Administrator's direction.

- d. Contractors. This Order does not apply to contractors.

- e. Exceptions.

(1) Certification requirements for COs do not apply to the following.

- (a) Purchases and purchase methods that have the following appointment/authorization requirements:
- 1 Government-wide commercial purchase card program purchases are limited to the micro-purchase threshold,
  - 2 U.S. Government National Credit Card, Standard Form (SF) 149 (Federal Property Management Regulation 101-38.8),
  - 3 SF 44, Purchase Order-Invoice-Voucher (FAR 13.306),
  - 4 Imprest Fund and Third Party Drafts (FAR 13.305), and
  - 5 Purchase of transportation tickets on a common carrier and travel-related purchases while on official travel.
- (b) The Senior Procurement Executive (SPE), who is not required to follow the appointment process described in this Order.
- (c) Heads of contracting activities (HCAs) appointed by the SPEs.

- (d) An employee assigned to a contracting activity under the direct supervision of the CO does not require designation as a COR to perform assigned duties.
- (2) Notwithstanding the exceptions to appointment requirements discussed in paragraph 3d(1), the requirements in paragraphs 4i and 4j and the responsibility in paragraph 5c(4) are applicable as stated.
- (3) This Order does not apply to Real Estate Contracting Officers. Refer to [DOE Order 430.1 C](#), Real Property Asset Management.

#### 4. REQUIREMENTS.

- a. All COs must be Federal DOE/NNSA employees or Federal personnel detailed to the Department.
- b. Except as provided in paragraph 4c, all CO or COR nominees must meet the qualification requirements set forth in DOE O 361.1 C. Failure to meet those qualification requirements may result in revocation of a CO warrant or delegated authority as a COR.
- c. The HCA may request a temporary waiver from the SPE by following the process identified within the [OFPP May 7, 2014](#), that advises only the CAO, or SPE if so delegated, may waive the training requirements on a case-by-case basis in order to appoint a CO who has not yet obtained the required training and may appoint a CO who does not meet the qualification requirements defined in DOE O 361.1C if the following requirements are met;
  - (1) A determination is made by the HCA and submitted to the SPE requesting the temporary waiver, with supporting rationale in writing, explaining why the appointment is necessary to meet mission requirements. The determination should include consideration that the applicant is highly trained and skilled in exercising business judgment, being innovative and gaining efficiencies, all while being effective stewards of taxpayer dollars. Waivers shall only be granted for exceptional and compelling reasons. This authority may not be delegated further.
  - (2) 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 DOE O 361.1C within 18 months from the date of appointment. Failure to do so may result in revocation of the warrant for COs or of delegated authority as CORs.
- d. Upon being nominated, all COs and CORs who have not filed financial disclosure reports previously are required to file either confidential financial disclosure report (OGE Form 450) or public financial disclosure report (OGE Form 278e) for review by local counsel (for field employees that file the OGE Form 450) or the Office of Assistant General Counsel for General Law (for Headquarters

employees that file the OGE Form 450 and all employees Department wide that file the OGE Form 278e). The financial disclosure report is required as part of the appointment process only if the employee has not previously filed a new entrant report or the most recent annual report.

- e. Supervisors of positions to be occupied by a CO appointed on an SF 1402 must—
- (1) review a personal qualifications statement prepared and signed by the nominated contracting officer; and
  - (2) complete and sign a recommendation for appointment for each nominee (see format example, Attachment 1).

The document must include reasons that there is a clear and convincing need to appoint a CO. A file with all the required documents must be maintained.

- f. SF 1402 certificates must be signed by the HCA, who must not re-delegate this authority.
- g. In accordance with 10 CFR 603.120, a contracting officer may award a Technology Investment Agreements (TIA) only if the contracting officer's warrant authorizes the award and administration of a TIA. 10 CFR 603 provides a CO considerable latitude to negotiate provisions that vary from traditional, Government-unique requirements.

Therefore, a CO must possess a greater level of experience, business acumen, and judgment than is required for the award of standard assistance instruments. Since TIA COs will be required to operate in a relatively unstructured business environment, the qualification standards for awarding a TIA are:

- Level III contracting certification, as defined in the most recent version of DOE O 361.1, *Acquisition Career Development Program*;
- Federal Financial Assistance certification as defined in the most recent version of DOE O 361.1; and
- Completion of DOE TIA training.

Refer to [Federal Financial Assistance Letter 2006-03](#) for additional guidance on TIAs.

- h. A CO whose authority is limited to Government-wide commercial purchase card program purchases no more than \$25,000 per transaction must be appointed in writing in accordance with procedures established by the HCA. All transactions must be processed in accordance with [Acquisition Guide Chapter 13.1](#).

- i. Unless exempt in the FAR, DOE employees and Federal employees detailed to DOE with contracting authority must comply with the requirements of FAR section 3.104, Procurement Integrity.
- j. The following documentation is required for appointment of COs.
  - (1) Qualification statements, focused on the highest certification level achieved, which should list—
    - (a) formal education completed (Baccalaureate degree from an accredited institution or 24 semester hours of business-related college courses) and degrees earned [Contracting (GS-1102) Series Education Requirements - The Contract Specialist (GS-1102) Qualification Standard, established in consultation with OPM, establishes the education requirements for civilian GS-1102s (see [www.opm.gov](http://www.opm.gov))];
    - (b) training completed in business administration, law, accounting, and related fields (in FAITAS) -While training requirements for the FAC-C are closely aligned with the DAWIA training requirements, they are not identical (per the May 7, 2014, Memo on Revisions to the FAC-C from OFPP, changes to the FAC-C training requirements will be maintained on the FAI website under the [FAC-C Requirements](#));
    - (c) specialized courses completed in Government acquisition, assistance instruments, and sales;
    - (d) a current resume (demonstrating the experience, training and education required to qualify); and
    - (e) copies of previous CO appointment certificates (SF 1402).
  - (2) Supervisory recommendation for the appointment.
  - (3) [SF 1402](#) certificates must include on the face—
    - (a) the functional areas to which authority has been delegated (see Attachment 2 for a list of functional areas), and
    - (b) the designation, “For Administration Only,” for individuals whose authority is limited to post-award administrative contracting activities and/or Federal Financial Assistance (This designation does not include any authority to change cost, scope or schedule).
- k. CORs are nominated by the program office to the CO who will accept (or deny) the recommendation based on the nominee’s level of experience, depth of training and complexity of the award.

Note: The Federal Financial Assistance programs utilize the Technical Project Officer's (TPO) certification program for Federal Financial Assistance actions. Chapter 10 of DOE's [Acquisition Certifications Program Handbook](#) details DOE's TPO certification requirement.

- l. An individual designated as a COR must meet the qualifications (i.e., education, training, experience) set forth in DOE O 361.1C. All designated contracting officer representatives must be identified in FAITAS.
- m. CORs for management and operating, management and integration, and performance-based contracts must be designated formally, in writing, and will be subject to the requirements of this Order.
- n. COR appointments must be documented in writing and must include—
  - (1) name and position,
  - (2) instructions delineating actions that may or may not be taken on behalf of the CO, and
  - (3) copies of certificates indicating completion of training required under DOE O 361.1 C, which must be included with the appointment letter in the contracting officer representative's file that is maintained by the contracting activity as supporting documentation uploaded as part of the official contract file.
- o. When a CO is assigned to a new position, the following requirements apply.
  - (1) When reassignment is within the same contracting activity—
    - (a) the HCA must revoke the CO appointment (on SF 1402) in writing if no longer needed, and
    - (b) if the revocation may affect the employee's official job classification, it must be coordinated with the responsible personnel office.
  - (2) When reassignment is within the Department, the SF 1402 certificate is terminated automatically.
  - (3) The gaining organization that determines a need to reappoint the individual must—
    - (a) obtain documentation supporting the initial or latest appointment from the losing organization, and,
    - (b) issue a new SF 1402.

- (4) The CO must continue to file annual financial disclosure reports [pursuant to paragraph 4(d)].

5. RESPONSIBILITIES.

- a. Senior Procurement Executive (SPE). The appropriate DOE and NNSA SPE shall develop and maintain an acquisition career management program to ensure the development of a competent, professional workforce to support the accomplishment of agency mission, including the establishment of an effective CO certification program and maintains clear lines of contracting authority and accountability.
- b. Heads of All DOE Federal Organizational Elements or Designees.
  - (1) Ensure that nominees for COR meet all qualification requirements (OFPP and/or FAI websites) before being nominated.
  - (2) Ensure that the terms of paragraph 5c, below, are implemented.
- c. Heads of Contracting Activities.
  - (1) Appoint COs and sign all SF 1402 certificates. The FAITAS system shall be used to the maximum extent practicable. (NOTE: neither authority-HCA nor CO, will be re-delegated.)
  - (2) Use the criteria defined in DOE O 361.1 C when selecting COs.
  - (3) Establish procedures for appointing COs in accordance with requirements defined in paragraphs 4h and 4i of this Order. (DOE O 361.1C identifies required training.)
  - (4) Issue internal directives or other documentation as required.
- d. COs. Comply with the procurement integrity requirements in FAR 3.104.
- e. Assistant General Counsel for General Law or Local Field Counsel. Financial disclosure is an annual requirement for (specified) federal employees. GC certifies the financial disclosure submissions have been cleared (Executive Branch Confidential Financial Disclosure Report (OGE Form 450) or Executive Branch Public Financial Disclosure Report [OGE Form 278e]).
- f. Project Directors. Project directors are responsible for requesting and registering for the required training and maintaining their COR certification if the trained project director is delegated by the Contracting Officer (CO) to be a COR.

Their COR authority is commensurate with their responsibilities as determined by the CO. (See DOE O 361.1 C, *Acquisition Career Management Program*, dated 5-14-15, for requirements.)



6. DEFINITIONS.

- a. Administrative contracting officer (ACO). A contracting officer who is administering contracts.
- b. Chief Acquisition Officer (CAO). An executive level acquisition official responsible for agency performance of acquisition activities and acquisition programs created pursuant to [41 U.S.C. 1702](#).
- c. Contract. 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. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications.
- d. Contracting officer. A person with the authority to enter into, administer, and/or terminate contracts, federal financial assistance, and other transactions, 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.
- e. Contracting officer's representative (COR). Is an individual, including a contracting officer's technical representative (COTR), designated and authorized in writing by the contracting officer to perform specific technical or administrative functions.
- f. Federal Financial Assistance. The transfer of money or property to a recipient or sub-recipient to accomplish a public purpose of support or stimulation authorized by Federal statute. For purposes of this Order, Federal Financial Assistance instruments are grants, cooperative agreements, and sub-awards.
- g. Head of the Contracting Activity (HCA). The official who has overall responsibility for managing the contracting activity.
- h. Micro-purchase. Micro-purchase means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the [micro-purchase threshold](#) defined in FAR Part 2.1.
- i. Sales contract. 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 or oil/nuclear waste disposal and interim storage services. Excludes transmission and related services by the power marketing administrations and sales under international treaties.

- j. Simplified acquisition procedures. The methods prescribed in FAR [Part 13](#) for making purchases of supplies or services.
  - k. Senior Procurement Executive (SPE). The individual appointed pursuant to [41 U.S.C. 1702\(c\)](#) who is responsible 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.
  - l. Technology Investment Agreement (TIA) A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the Department of Energy's (DOE) research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. (ref. 10 CFR 603)
7. REFERENCES.
- a. DOE Acquisition Regulation 901.6, Contracting Authority and Responsibilities.
  - b. DOE O 361.1 C, *Acquisition Career Management Program*, dated 5-14-2015.
  - c. FAR Subchapter A, Part 1, Subpart 1.6, Career Development, Contracting Authority, and Responsibilities.
  - d. Office of Federal Procurement Policy, Policy Letter No. 05-01, Developing and Managing the Acquisition Workforce (April 15, 2005)
  - e. Office of Federal Procurement Policy (OFPP) memorandum on May 7, 2014, entitled "Revisions to the Federal Acquisition Certification in Contracting (FAC-C)."
  - f. FAI Website:  
<https://www.fai.gov/drupal/certification/certification-and-career-development-programs>.
8. CONTACTS. Questions concerning this Order should be addressed to the Acquisition Career Management Program Office, 202-287-1827.

BY ORDER OF THE SECRETARY OF ENERGY:



ELIZABETH SHERWOOD-RANDALL  
Deputy Secretary

**RECOMMENDATION FOR APPOINTMENT (EXAMPLE)**

The following findings and determinations have been made pursuant to applicable laws and regulations.

1. There is a clear and convincing need to appoint a CO for the following reason (quantify where practicable).
2. \_\_\_\_\_, the nominated CO, is an employee of or is detailed to the U.S. Department of Energy.
3. \_\_\_\_\_ will occupy the following organizational position: \_\_\_\_\_, which is responsible for \_\_\_\_\_. (This helps us to evaluate whether the need is justified by the mission and the work assigned.) The nominee's personal qualifications statement (attached) 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 4c of the Order is attached.
4. The nominee's knowledge of the Federal Acquisition Regulation, the Department of Energy Acquisition Regulation, the Department of Energy Federal Financial Assistance Rules, and other applicable laws, Executive Orders, and regulations affecting acquisition, Federal Financial Assistance, and/or sales, as appropriate, is adequate for the appointment.
5. The nominee's business acumen, judgment, character, reputation, and ethics are sound, all while being an effective steward of taxpayer dollars.
6. The nominee is well qualified for the appointment.
7. The nominee has completed an Executive Branch Confidential Financial Disclosure Report (OGE Form 450) or Executive Branch Public Financial Disclosure Report (OGE Form 278e) and has been cleared by the Assistant General Counsel for General Law (GC-56) or local field counsel.

Supervisor:

Concur:

\_\_\_\_\_  
Signature of Supervisor or Position  
Head of Contracting Activity

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Designating Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Typed Name



### **FUNCTIONAL AREAS OF DELEGATION**

The following are functional areas to which CO authority may be delegated when required in the performance of their duties. Each warrant issued must specify specific authorities:

1. Acquisitions, which includes interagency acquisitions.
2. Federal Financial Assistance, which includes grants and cooperative agreements.
3. Government-wide commercial purchase card purchases up to \$25,000 for open market purchases and Federal Supply Schedule purchases. Note: The requirements in FAR Part 8 apply to purchases at or below the micro-purchase limit.
4. Simplified acquisitions and orders against Federal Supply Schedules totaling \$25,000 to \$100,000 using the Government-wide commercial purchase card as the payment method, purchase orders, or delivery/task orders.
5. Individual transactions up to current micro-purchase threshold for services, supplies, and construction, if using Government-wide commercial purchase card.
6. Real property management.
7. Sales contracts.
8. Technology Investment Agreements.