



ACQUISITION
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

FEB 26 2008

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITIONS EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(POLICY AND PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND LOGISTICS MANAGEMENT),
ASN (RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Theater Business Clearance Review Notification Update and Assignment of
Contract Administration

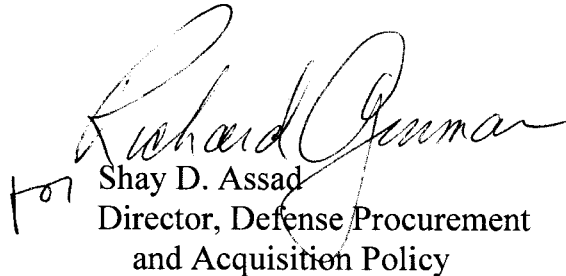
Reference: (A) Retroactive Iraq/Afghanistan Contract Compliance and Assignment of
Contract Administration, December 20, 2007 (copy attached)

My December 20, 2007, memorandum directed DoD acquisition agencies to perform a review of existing contracts to ensure they comply with USCENTCOM and Multi-National Forces-Iraq/Afghanistan policies and directives. All review and modification actions were to be completed and reported to the JCC-I/A no later than 1 April 2008. To date, JCC-I/A has seen minimal input from the acquisition agencies. To assist in the process, I am now asking that theater business clearance (TBC) review notifications be sent to the JCC-I/A as they are completed, rather than wait until April 1, 2007.

As a reminder, contracts subject to the review are ones that (1) will have contractor personnel in Iraq and/or Afghanistan after 1 April 2008; or (2) will deliver material to Iraq and/or Afghanistan after 1 April 2008 under FOB Destination terms using commercial transportation outside the Defense Transportation System (DTS); or (3) authorize contractor personnel, including subcontractors, to carry weapons in Iraq and/or Afghanistan regardless of contract end date.

The TBC process for new contracts has been working well; however, JCC I/A is seeing a lack of coordination with in-theater personnel responsible for approving billeting, dining, MWR and other authorized services. In-country billeting and life support pre-coordination is critical in ensuring contractors are adequately fed and housed upon arrival. The TBC Request Form includes an entry labeled, "Name of FOB Official Who Approved Billeting, Dining, MWR, etc if authorized." Please ensure the contracting officer confirms this approval has, in fact, taken place when requesting TBC.

The December 20 memorandum also contained contract administration assignment instructions. Contracting officers should be delegating contract administration functions for that portion of the contract that will require performance in-theater, to the JCC-I/A. In most cases, the quality assurance and property management functions will be the only functions that are delegated. Please review FAR 42.302(a), Assignment of Contract Administration, to determine which functions will be delegated for administration. To aid in contract delegation, a sample delegation letter and matrix version of 42.302(a) is attached and will also be posted to the CENTCOM website.


101 Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachments:
Sample Delegation Letter
Matrix Version of 42.302(a)

PCO ADD LETTERHEAD

Date

MEMORANDUM FOR Joint Contracting Command-Iraq/Afghanistan
Defense Contract Management Agency-Iraq/Afghanistan
IN TURN

SUBJECT: Delegation of Administrative Contracting Officer for Contract Number, Title

For the subject action, you are delegated ACO responsibilities for all contract requirements to be performed in Iraq and/or Afghanistan. In accordance with the Federal Acquisition Regulation, Subpart 42.302(a), you are authorized to perform the contract administration functions shown on the attached matrix. Unless otherwise indicated in writing by JCC-I/A, I understand this action will be further delegated to DCMA-Iraq/Afghanistan.

//signed, date//
PCO Signature Block

This effort is re-delegated to DCMA-Iraq/Afghanistan.

//name, date//
JCC-I/A TBC Cell

POC INFO:
CONTRACT NUMBER:

FAR 42.302 Delegation Matrix

	Delegated Function
<p>NOTE: Grey blocks indicate non-availability</p>	
(1) Review the contractor's compensation structure.	
(2) Review the contractor's insurance plans.	
(3) Conduct post-award orientation conferences.	
(4) Review and evaluate contractors' proposals under Subpart 15.4 and, when negotiation will be accomplished by the contracting officer, furnish comments and recommendations to that officer.	
(5) Negotiate forward pricing rate agreements (see 15.407-3).	
(6) Negotiate advance agreements applicable to treatment of costs under contracts currently assigned for administration (see 31.109).	
(7) Determine the allow ability of costs suspended or disapproved as required (see Subpart 42.8), direct the suspension or disapproval of costs when there is reason to believe they should be suspended or disapproved, and approve final vouchers.	
(8) Issue Notices of Intent to Disallow or not Recognize Costs (see Subpart 42.8).	
(9) Establish final indirect cost rates and billing rates for those contractors meeting the criteria for contracting officer determination in Subpart 42.7.	
(10) Attempt to resolve issues in controversy, using ADR procedures when appropriate (see Subpart 33.2); prepare findings of fact and issue decisions under the Disputes clause on matters in which the administrative contracting officer (ACO) has the authority to take definitive action.	
(11) In connection with Cost Accounting Standards (see 30.601 and 48 CFR Chapter 99 (FAR Appendix))--	
(i) Determine the adequacy of the contractor's disclosure statements;	
(ii) Determine whether disclosure statements are in compliance with Cost Accounting Standards and Part 31;	
(iii) Determine the contractor's compliance with Cost Accounting Standards and disclosure statements, if applicable; and	
(iv) Negotiate price adjustments and execute supplemental agreements under the Cost Accounting Standards clauses at 52.230-2, 52.230-3, 52.230-4, 52.230-5, and 52.230-6.	
(12) Review and approve or disapprove the contractor's requests for payments under the progress payments or performance-based payments clauses.	
(13) Make payments on assigned contracts when prescribed in agency acquisition regulations.	
(14) Manage special bank accounts.	
(15) Ensure timely notification by the contractor of any anticipated overrun or underrun of the estimated cost under cost-reimbursement contracts.	
(16) Monitor the contractor's financial condition and advise the contracting officer when it jeopardizes contract performance.	
(17) Analyze quarterly limitation on payments statements and recover overpayments from the contractor.	
(18) Issue tax exemption forms.	

FAR 42.302 Delegation Matrix

Delegated Function	
	NOTE: Grey blocks indicate non-availability
	(19) Ensure processing and execution of duty-free entry certificates.
	(20) For classified contracts, administer those portions of the applicable industrial security program delegated to the CAO (see Subpart 4.4).
	(21) Issue work requests under maintenance, overhaul, and modification contracts.
	(22) Negotiate prices and execute supplemental agreements for spare parts and other items selected through provisioning procedures when prescribed by agency acquisition regulations.
	(23) Negotiate and execute contractual documents for settlement of partial and complete contract terminations for convenience, except as otherwise prescribed by Part 49.
	(24) Negotiate and execute contractual documents settling cancellation charges under multiyear contracts.
	(25) Process and execute novation and change of name agreements under Subpart 42.12.
	(26) Perform property administration (see Part 45).
	(27) [Reserved]
	(28) Perform necessary screening, redistribution, and disposal of contractor inventory. (Note 6)
	(29) Issue contract modifications requiring the contractor to provide packing, crating, and handling services on excess Government property. When the ACO determines it to be in the Government's interests, the services may be secured from a contractor other than the contractor in possession of the property.
	(30) When contractors request Government property—
	(i) Evaluate the contractor's requests for Government property and for changes to existing Government property and provide appropriate recommendations to the contracting officer;
	(ii) Ensure required screening of Government property before acquisition by the contractor;
	(iii) Approve use of Government property on a noninterference basis in accordance with the clause at <u>52.245-9</u> , Use and Charges;
	(iv) Ensure payment by the contractor of any rental due; and
	(v) Ensure reporting of items no longer needed for Government production.
	(31) Perform production support, surveillance, and status reporting, including timely reporting of potential and actual slippages in contract delivery schedules.
	(32) Perform preaward surveys (see Subpart 9.1).
	(33) Advise and assist contractors regarding their priorities and allocations responsibilities and assist contracting offices in processing requests for special assistance and for priority ratings for privately owned capital equipment.
	(34) Monitor contractor industrial labor relations matters under the contract; apprise the contracting officer and, if designated by the agency, the cognizant labor relations advisor, of actual or potential labor disputes; and coordinate the removal of urgently required material from the strikebound contractor's plant upon instruction from, and authorization of, the contracting officer.
	(35) Perform transportation management services, including issuance and control of Government bills of lading and other transportation documents.

FAR 42.302 Delegation Matrix

	Delegated Function
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(36) Review the adequacy of the contractor's transportation management.	
(37) Review and evaluate preservation, packaging, and packing.	
(38) Ensure contractor compliance with contractual quality assurance requirements (see Part 46).	
(39) Ensure contractor compliance with contractual safety requirements.	
(40) Perform engineering surveillance to assess compliance with contractual terms for schedule, cost, and technical performance in the areas of design, development, and production.	
(41) Evaluate for adequacy and perform surveillance of contractor engineering efforts and management systems that relate to design, development, production, engineering changes, subcontractors, tests, management of engineering resources, reliability and maintainability, data control systems, configuration management, and independent research and development.	
(42) Review and evaluate for technical adequacy the contractor's logistics support, maintenance, and modification programs.	
(43) Report to the contracting office any inadequacies noted in specifications	
(44) Perform engineering analyses of contractor cost proposals.	
(45) Review and analyze contractor-proposed engineering and design studies and submit comments and recommendations to the contracting office, as required.	
(46) Review engineering change proposals for proper classification, and when required, for need, technical adequacy of design, producibility, and impact on quality, reliability, schedule, and cost; submit comments to the contracting office.	
(47) Assist in evaluating and make recommendations for acceptance or rejection of waivers and deviations.	
(48) Evaluate and monitor the contractor's procedures for complying with procedures regarding restrictive markings on data.	
(49) Monitor the contractor's value engineering program.	
(50) Review, approve or disapprove, and maintain surveillance of the contractor's purchasing system (see Part 44).	
(51) Consent to the placement of subcontracts.	
(52) Review, evaluate, and approve plant or division-wide small, small disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business master subcontracting plans.	
(53) Obtain the contractor's currently approved company- or division-wide plans for small, small disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business subcontracting for its commercial products, or, if there is no currently approved plan, assist the contracting officer in evaluating the plans for those products.	
(54) Assist the contracting officer, upon request, in evaluating an offeror's proposed small, small disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business subcontracting plans, including documentation of compliance with similar plans under prior contracts.	
(55) By periodic surveillance, ensure the contractor's compliance with small, small disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business subcontracting plans and any labor surplus area contractual requirements; maintain documentation of the contractor's performance under and compliance with these plans and requirements; and provide advice and assistance to the firms involved, as appropriate.	
(56) Maintain surveillance of flight operations.	
(57) Assign and perform supporting contract administration. (SEE NOTE 4)	

FAR 42.302 Delegation Matrix

Delegated Function	
	NOTE: Grey blocks indicate non-availability
	(58) Ensure timely submission of required reports.
	(59) Issue administrative changes, correcting errors or omissions in typing, contractor address, remittance address, computations which do not require additional contract funds, and other such changes (see 43.101).
	(60) Cause release of shipments from contractor's plants according to the shipping instructions. When applicable, the order of assigned priority shall be followed; shipments within the same priority shall be determined by date of the instruction.
	(61) Obtain contractor proposals for any contract price adjustments resulting from amended shipping instructions. Review all amended shipping instructions on a periodic, consolidated basis to ensure that adjustments are timely made. Except when the ACO has settlement authority, the ACO shall forward the proposal to the contracting officer for contract modification. The ACO shall not delay shipments pending completion and formalization of negotiations of revised shipping instructions.
	(62) Negotiate and/or execute supplemental agreements, as required, making changes in packaging subcontractors or contract shipping points.
	(63) Cancel unilateral purchase orders when notified of nonacceptance by the contractor. The CAO shall notify the contracting officer when the purchase order is canceled.
	(64) Negotiate and execute one-time supplemental agreements providing for the extension of contract delivery schedules up to 90 days on contracts with an assigned Criticality Designator of C (see 42.1105). Notification that the contract delivery schedule is being extended shall be provided to the contracting office. Subsequent extensions on any individual contract shall be authorized only upon concurrence of the contracting office.
	(65) Accomplish administrative closeout procedures (see 4.804-5).
	(66) Determine that the contractor has a drug-free workplace program and drug-free awareness program (see Subpart 23.5).
	(67) Support the program, product, and project offices regarding program reviews, program status, program performance and actual or anticipated program problems.
	(68) Monitor the contractor's environmental practices for adverse impact on contract performance or contract cost, and for compliance with environmental requirements specified in the contract. ACO responsibilities include--
	(i) Requesting environmental technical assistance, if needed;
	(ii) Monitoring contractor compliance with specifications requiring the use of environmentally preferable products, energy-efficient products, and materials or delivery of end products with specified recovered material content. This must occur as part of the quality assurance procedures set forth in Part 46; and
	(iii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance (see Subpart 23.4).
	(69) Administer commercial financing provisions and monitor contractor security to ensure its continued adequacy to cover outstanding payments, when on-site review is required.
	(70) Deobligate excess funds after final price determination.
	FROM FAR 42.302(b).
	The CAO shall perform the following functions only when and to the extent specifically authorized by the contracting

FAR 42.302 Delegation Matrix

	Delegated Function
NOTE: Grey blocks indicate non-availability	
office:	
(1) Negotiate or negotiate and execute supplemental agreements incorporating contractor proposals resulting from change orders issued under the Changes clause. Before completing negotiations, coordinate any delivery schedule change with the contracting office.	
(2) Negotiate prices and execute priced exhibits for unpriced orders issued by the contracting officer under basic ordering agreements.	
(3) Negotiate or negotiate and execute supplemental agreements changing contract delivery schedules.	
(4) Negotiate or negotiate and execute supplemental agreements providing for the deobligation of unexpended dollar balances considered excess to known contract requirements.	
(5) Issue amended shipping instructions and, when necessary, negotiate and execute supplemental agreements incorporating contractor proposals resulting from these instructions.	
(6) Negotiate changes to interim billing prices.	
(7) Negotiate and definitize adjustments to contract prices resulting from exercise of an economic price adjustment clause (see <u>Subpart 16.2</u>).	
(8) Issue change orders and negotiate and execute resulting supplemental agreements under contracts for ship construction, conversion, and repair.	
(9) Execute supplemental agreements on firm-fixed-price supply contracts to reduce required contract line item quantities and deobligate excess funds when notified by the contractor of an inconsequential delivery shortage, and it is determined that such action is in the best interests of the Government, notwithstanding the default provisions of the contract. Such action will be taken only upon the written request of the contractor and, in no event, shall the total downward contract price adjustment resulting from an inconsequential delivery shortage exceed \$250.00 or 5 percent of the contract price, whichever is less.	
(10) Execute supplemental agreements to permit a change in place of inspection at origin specified in firm-fixed-price supply contracts awarded to nonmanufacturers, as deemed necessary to protect the Government's interests.	
(11) Prepare evaluations of contractor performance in accordance with <u>Subpart 42.15</u> .	
(c) Any additional contract administration functions not listed in <u>42.302(a)</u> and (b), or not otherwise delegated, remain the responsibility of the contracting office.	
NOTE: Grey blocks indicate non-availability	