

AGAR ADVISORY

**UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT
AGAR ADVISORY NO. 100**

USDA Contracting Officers Warrant Guidelines

INTRODUCTION: This Agriculture Acquisition Regulation (AGAR) Advisory provides information concerning appointment of warranted Contracting Officers, the scope of warrant authority, and the consequences of exceeding or inappropriately using warrant authority.

SUMMARY: Authority to enter into contractual relationships and commit the Government to the expenditure of public (taxpayer) funds is a delegated authority, which must be delegated in writing to the individual.

Unless otherwise authorized by the Senior Procurement Executive (SPE) in writing, the Head of Contracting Activity (HCA) and Head of Contracting Activity's Designee (HCAD) are the agency's appointing officials for Contracting Officers. The HCA and HCAD shall determine if the appointment is consistent with applicable requirements of the AGAR, the Federal Acquisition Regulation (FAR) and other delegations of authority.

Employees with delegated contracting authority are the only individuals legally authorized to bind the Government by executing contracts and signing determinations and findings required by the FAR. USDA is committed to ensuring that only highly qualified individuals are authorized to obligate contracts and orders with dollar values that exceed (or are expected to exceed) the micro-purchase threshold. FAR 1.603 describes the requirements for the selection, appointment, and termination of Contracting Officers. Limitations of authority are set for each Contracting Officer based on factors such as experience in acquisition, education, knowledge of acquisition methods, satisfactory completion of required acquisition training courses and continuous learning, understanding of acquisition laws and regulations, and personal integrity and professional conduct in exercising acquisition responsibilities.

Appointing officials shall issue warrants when there is an organizational need for a Contracting Officer. Factors such as volume of actions, complexity of work, and organizational structure shall be major considerations when determining whether to grant a warrant request. The appointing official shall assure the applicant has demonstrated an ability to apply applicable procurement laws, regulations, policies, and sound business judgment.

ACTION: Appointing officials shall grant Contracting Officer warrants in writing on a Certificate of Appointment (SF-1402). The certificate shall state the employee's name (not a position); limitations on the scope of warrant authority; and be displayed openly to the general public and agency personnel. The SF 1402 allows the employee to commit the Government to buy goods and services and obligate funds subject to any limitations as stated in the warrant. Appointing officials shall ensure employees nominated as Contracting Officers *after the issue date of this advisory*, meet the minimum warrant requirements shown in Attachment A of this Advisory which supersedes requirements originally outlined in AGAR Advisory 85 (warrants established prior to issue date of this advisory are grandfathered).

Contracting Officers have authority to sign contracts up to their delegated warrant authority as specified on the SF-1402. The HCAD shall specify the Contracting Officer's delegated warrant authority and warrant level on the SF-1402. The maximum warrant authority shall remain within the limitations specified in Attachment A, for the level at which the Contracting Officer is being certified. They also have authority to use Government-wide purchase cards as a payment mechanism for contractual actions over the micro-purchase threshold and up to their delegated warrant authority or \$1 million, whichever is less, after confirming the receipt of goods and services. Refer to Departmental Regulation 5013-6, or its updated version, for specific training and restrictions which govern purchase card use.

Contracting Officers shall not sign contracts, including modifications, options, estimated orders against an indefinite delivery contract, or any other agreement, that will result in the total amount of the contract exceeding their delegated warrant authority. Higher-level warranted Contracting Officers must sign the contract when amendments or modifications to orders and contracts cause the total amount of the contract to exceed the initial Contracting Officer's warrant limitation. If a Contract Specialist prepares the award, the Contracting Officer is responsible for assuring the signed document complies with all applicable laws, rules, and regulations.

Contracting Officers are legally responsible for their signed procurement documents. Contracting Officers cannot sign "for" or over the name of another Contracting Officer, or at a level exceeding the limitations stated on his or her warrant. For further reference concerning Contracting Officer authority and responsibilities see FAR 1.602.

Unauthorized commitments occur when Contracting Officers, or any other individual, make an agreement on behalf of the Government that is not binding because they lack authority to enter into an agreement, i.e., there is a lack of sufficient funding, use of funds is not approved, the warrant authority does not allow for the agreement made, etc. USDA HCAs and HCADs should take positive actions such as training, robust pre-award review procedures, etc. to preclude the occurrence of unauthorized commitments.

Ratifications to approve unauthorized commitments should be conducted in accordance with FAR 1.602-3 and by no lower than the chief of a contracting office. Ratifications may be approved if: (1) Supplies or services have been provided to and accepted by the Government, or the Government otherwise has obtained or will obtain a benefit resulting from performance of the unauthorized commitment; (2) The ratifying official has the authority to enter into a contractual commitment; (3) The resulting contract would otherwise have been proper if made by an appropriate contracting officer; (4) The contracting officer reviewing the unauthorized commitment determines the price to be fair and reasonable; (5) The contracting officer recommends payment and legal counsel concurs with the recommendation, unless agency procedures expressly do not require such concurrence; (6) Funds are available and were available at the time the unauthorized commitment was made; and (7) The ratification is in accordance with any other limitations prescribed under agency procedures.

If you have questions regarding this advisory, please contact Dorothy Lilly, Procurement Policy Division Chief by phone (202-690-2064) or by email Dorothy.Lilly@dm.usda.gov or Procurement.Policy@dm.usda.gov.

This advisory is available at <http://www.usda.gov/procurement/policy/advisories.html>.

EXPIRATION DATE: This advisory will remain in effect until cancelled.

[END]

Attachment A

Contracting Officer Warrant Authority For Contracting Officers and Heads of the Contracting Activity Designee				
Level	FAC-C Level	Minimum Years Experience	Continuous Learning Points	Maximum Warrant Authority
Level I	1	1	80 CLPs every two years	\$1M on Delivery/Task/Call Orders. Simplified Acquisition Threshold for all other procurements.
Level IIA	2	2	80 CLPs every two years	\$5M
Level IIB	2	3	80 CLPs every two years	\$10M
Level IIIA	3	4	80 CLPs every two years	\$20M
Level IIIB	3	5	80 CLPs every two years	Unlimited
Head of the Contracting Activity Designee	N/A Must have 160 hours of contract training		40 Hours of contract training every two years	Unlimited
<ul style="list-style-type: none"> • Contracting Officers are limited to awarding procurements up to their delegated amounts only. NOTE- Higher-level warranted Contracting Officers must sign the award when modifications or additional orders cause the total amount of the contract to exceed the initial Contracting Officer's warrant limitation. • All Contracting Officers must have 40 hours of construction and/or A/E training before awarding orders of at least \$25,000 (16 hours for less than \$25,000) in those specialized areas. 				

Attachment A (Continued)

Simplified Acquisition Warrant Authority					
Level	Minimum Education	Experience	Minimum Training	Maximum Authority	Continuous Learning Points
Simplified A	High School	6 months	60 hours – must include CON 237 “Simplified Acquisition Procedures” (available online at FAI.gov) or equivalent	\$25,000	80 CLP
Simplified B	High School	1 year	100 hours – must include CON 237 or equivalent contracting/purchasing related course	Simplified Acquisition Threshold	80 CLP
<ul style="list-style-type: none"> Contracting officers with Simplified A or B warrants are limited to writing orders (delivery, task, purchase, call) up to their delegated amounts using Simplified Acquisition Procedures. All Contracting Officers must have 40 hours of construction and/or A/E training before awarding orders of at least \$25,000 (16 hours for less than \$25,000) in those specialized areas. 					