

**BONNEVILLE PURCHASING INSTRUCTIONS
APPENDIX 14-A**

**CONTRACTING OFFICER'S TECHNICAL
REPRESENTATIVES' GUIDE FOR
CONTRACT ADMINISTRATION**

BONNEVILLE PURCHASING INSTRUCTIONS
Appendix 14-A - Contracting Officers' Technical Representatives' Guide
for Contract Administration

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SECTION 1 INTRODUCTION TO THIS GUIDE

This guide outlines the duties of those BPA personnel designated as Contracting Officer's Technical Representatives (COTRs), who perform supply, service, and construction contract (including intergovernmental contract) administration functions as an adjunct to their normal duties. Contracting Officers (COs) designate COTRs to perform technical contract administration functions. The COTR is an indispensable, key member of the contracting team. The COTR is still accountable, however, to his/her line supervisor for performance of regularly-assigned duties. For contract administration duties, however, the COTR reports directly to, and is accountable only to, the CO. The COTR's supervisor must allow sufficient time to ensure that the COTR can adequately monitor the contract for technical compliance.

This Guide is not directly applicable to the following:

Contracts for lease or purchase of real property;

Contracts involving power (such as purchase, wheeling, or sale of power), acquisition of conservation, energy efficiency products or services, or loans and loan guarantees for the acquisition of power or conservation; or

Grants and Cooperative Agreements (See Bonneville Financial Assistance Instructions)

Comments on the contents of this Guide and suggestions for its improvement should be directed to the Head of the Contracting Activity (HCA).

Effective August 2000, with implementation of an Enterprise Resource Planning (ERP) system, BPA has adopted the use of software applications to electronically transmit and store certain award documents and records as part of its official files. It is anticipated that some contract administration documents will be maintained as paper and electronic records. The benefit of storing contract administration data and records in the ERP system is the ease of information retrieval and access by those who administer contracts directly, as well as those who need current status information for project and work planning purposes.

The content of some Exhibits in this guide may be stored electronically within the ERP system. In particular, the ERP system contains various panels and data fields which can store the information found on Exhibit 14-A-4, COTR's Contract Administration File, Exhibit 14-A-5, COTR's Status Report, and Exhibit 14-A-9, Invoice Control Sheet. Some information can be entered into the system, such as narrative discussions of contract performance and status. Other data will be automatically generated by the system, such as the complete history of invoices received and certified to date. COTR's must receive training on the ERP system prior to receiving authorization to certify invoices within the system, and this training will educate the COTR on where various contract administration information is located.

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SECTION 2 ROLES AND RESPONSIBILITIES.

2.1 Contracting Officer's (CO) Role.

The CO's major post-award responsibilities include ensuring performance of all actions required for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of BPA in its contractual relationships. More specifically, in the course of administering the awarded contracts or intergovernmental contracts, the CO has ultimate legal and commercial accountability and is responsible for the activities of the COR and the COTR.

2.2 Contracting Officer's Representative's (COR) Role.

The COR supports the CO in administrative matters during any portion of the contract process. If no COR is designated, the CO will perform those duties.

2.3 Contracting Officer's Technical Representative's (COTR) Role.

The Contracting Officer's Technical Representative (COTR) is designated and authorized by the CO to perform technical contract administration activities for specific contract(s) on behalf of the CO. (See Exhibit 14-A-1 for Sample COTR Delegation Memorandum.) The COTR designation by the CO is most often based upon a responsible program or project manager's recommendation of a technically qualified candidate.

COTRs must complete a formal COTR training course (normally 24 hours), and be certified by Supply Chain as a BPA COTR. Supply Chain Services approves the COTR training coursework, which may be BPA or vendor provided, and issues the certifications. COTRs should have at least six months of experience in the technical field of activity that is the subject of the contract before they may be assigned to that role, and must attend refresher training as mandated.

It is essential that the COTR have the necessary qualifications and resources available, including time, to monitor the technical requirements of the contract. In order to be delegated authority to act as a COTR, the person must have completed training in contract administration activities, and have annually reviewed the Purchasing Standards of Conduct found in BPI Part 3 and BPI Appendix 3-A.

The job of COTR incorporates a number of responsibilities and duties. Typically the COTR:

- (a) Has a thorough technical understanding of all facets of the contract, including the planning of related contract administration activities;
- (b) Designates technically qualified field inspector(s), if needed to assist in contract administration activities (see Exhibit 14-A-2);
- (c) Conducts as necessary, in cooperation with the CO and field inspector(s), a pre-work conference, review of contractor's proposed progress schedule, work hours, safety and safety plan requirements, permits and approvals, subcontracts, and other contract-specific requirements;
- (d) Reviews contractor's schedule of need for BPA furnished material (if required) and coordinates those needs with BPA materials management staff, and resolves problems with processing of contractor material submittals;
- (e) Assures that ADP security, safety, labor standards and other screening of contractor and subcontractor personnel required by the contract are performed;

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(f) Maintains a record of all communications with the contractor and significant events relating to the contract; makes routine correspondence pertaining to administration of the contract available to the CO as needed;

(g) Serves as liaison between the contractor and CO on matters pertaining to the technical contract requirements, builds rapport with the contractor, assists the contractor in interpreting technical requirements of the contract, ensures internal BPA coordination of technical requirements with design or other organizations, as necessary or otherwise required by policy;

(h) Makes no commitments to the contractor regarding changes in price, delivery, statement of work, or other contractual terms; instead, performs technical analyses of contractor cost proposals for contract modifications or extensions, recommends such changes, with appropriate technical and cost justification and input from the contractor (if required) to the CO in writing; assures that changes are issued by the CO before the contractor is directed to proceed with such changes. (Note, however, that the CO may delegate to the COTR and/or field inspector(s) limited authority to make field modifications, typically for construction);

(i) Monitors the contractor's performance; witnesses or conducts tests; releases shipments (typically for supply); records observations (including a photographic record of work-site or other contract performance conditions, when necessary) and notes areas for improvement based on contract requirements; performs monitoring activities and status reporting (see Exhibit 14-A-5), including timely reporting of potential and actual slippage in contract performance periods; furnishes copy of evaluation report to CO;

(j) Establishes a progress payment schedule, reviews each voucher or invoice submitted by the contractor and recommends payment based on performance and reasonableness of cost; advises the CO of anticipated overruns or underruns of the estimated cost under cost-reimbursement contracts;

(k) Recommends corrective actions to the CO to restore contract performance or delivery schedule;

(l) Advises the CO of the need for interaction and administrative actions with the contractor; keeps the CO informed of situations that could jeopardize performance or become a basis for future claims; provides copies of relevant correspondence with the contractor to the CO;

(m) Monitors any required quality activities, reviews contractor's quality program, checks contractor performance against standards of acceptance stated in the contract, and provides acceptance of final deliverables on behalf of BPA;

(n) Receives and processes (if required) contractor operating and maintenance (O&M) manuals and special warranties, sending them to using organizations, and assists CO in resolving warranty repair problems;

(o) Assists CO in coordination and arrangement for disposition of property after completion or termination of the contract;

(p) Initiates, signs and forwards to the CO (typically for construction) a contract completion report and a recommendation of final acceptance of contractor's work, and prepares and sends to contractor a release of claims which contractor then completes and returns to the CO (assists the CO in resolving any exceptions noted); and

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(q) Completes overall evaluation of the contractor's performance and provides it to the CO for the contract close-out and for use in future contracting.

2.4 Field Inspector's Role.

Field inspector(s) are authorized representatives of the COTR, appointed by a memorandum written by the COTR with a copy to the CO. (See the sample memorandum in Exhibit 14-A-2.) The field inspector is typically responsible for functions such as inspection and review of the work performed under the contract, witnessing of tests, interpretation of technical specifications, reviewing invoices, and recommending approval of specific reports, materials, or services. Field inspector designations automatically terminate at the conclusion of the contract activities. COs or COTRs may also terminate the designation in writing during the performance of the contract if the need for a field inspector no longer exists, or if the individual's performance is inadequate.

The list of duties for a field inspector will vary with the specific demands of the contract type (service, supply or construction), and the specific kinds of duties designated by the COTR. Typically, the field inspector:

- (a) Participates, as necessary, with the CO and COTR, in a pre-work conference for requirements relating to area of assigned responsibility;
- (b) Serves as a representative of the COTR to monitor, inspect and review work performed under the contract for compliance with the technical specifications or purchase description, drawings, work schedules and labor standards of the contract (performs worker interviews and consultation, if needed, for construction); witnesses tests; recommends approval of specific reports, materials, or services;
- (c) Advises the contractor promptly in writing of noncompliance with contract provisions, but makes no commitment to contractor regarding changes in price, delivery, statement of work, or other contractual terms (Note, however, that the CO may delegate field inspector(s) limited authority to make field modifications, typically for construction); reports promptly to the COTR any refusal or failure by the contractor to comply with contract requirements;
- (d) Monitors and promptly reports unsafe workplace practices or conditions to contractor and COTR, receives and processes contractor accident reports per established safety policy;
- (e) Maintains and provides COTR with timely progress reports noting contract performance status, potential and actual slippage in contract performance; recommends corrective actions to the CO, through the COTR, to restore contract performance or delivery schedule; provides COTR with copies of his/her official daily diaries about all actions, events, and other developments, including a photographic record of worksite conditions (as necessary) that may be a useful record in the event of a dispute or investigation; collects and reviews daily records of performance from the contractor and its subcontractor(s), as required; makes routine correspondence pertaining to administration of the contract available to the CO through the COTR;
- (f) Reviews payment vouchers or invoices submitted by the contractor and recommends payment based on performance and reasonableness of cost; advises the CO, through the COTR, of anticipated overruns or underruns of the estimated cost under cost-reimbursement contracts;
- (g) Investigates and resolves property owner complaints and non-monetary correction of damages resulting from contractor actions or inaction (typically for construction or on-site services);

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- (h) Assists CO and COTR in coordination and arrangement for disposition of property after completion or termination of the contract;
- (i) Ensures the contractor maintains current as-built drawings (typically for construction);
- (j) Determines and advises COTR when the work is substantially complete (typically for construction);
- (k) Assists the COTR with final inspection, ensures correction of punchlist items (typically for construction) and recommends final acceptance of contractor's work and all deliverables; and
- (l) Provides input to COTR for evaluation of the contractor's performance for contract close-out and for use in future contracting.

2.5 Establishing the Contract Administration Team.

The CO establishes the contract team and sets forth their duties in writing. The COTR is formally designated at the time of contract award.

2.6 Channels of Communication.

The relationships between COs, CORs, COTRs, field inspectors and BPA program or project and contractor personnel are shown in Exhibit 14-A-3.

Much of the COTR's work is accomplished through communication with the contractor. Performance and understanding can be enhanced by clearly establishing the channels through which the communication should flow. At the outset, the COTR ascertains from the contractor who will be acting as the contractor's representative on the contractor's staff for technical liaison and contract administration functions for the contract.

Even though the CO and COTR are the primary representatives authorized to contractually represent BPA, they cannot do so without help. Effective communication with and the support of BPA program managers and support staff may be critical. The CO and COTR must keep the responsible manager(s) informed of the current contract completion status, and coordinate corrective measures, as necessary.

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SECTION 3 INITIAL CONTRACT ADMINISTRATION ACTIVITIES

3.1 Read the Contract.

The COTR will receive a copy of the contract from the CO. The COTR and field inspector(s) (if designated) should read it thoroughly and become familiar with all aspects of the contract, including the administrative clauses ("boilerplate"), in order to administer the contract effectively.

3.2 Establish a Contract Administration File.

The need to maintain adequate records, logs, and reports cannot be overemphasized. The amount of documentation, however, is less important than what is recorded and the completeness of the record. Generally, significant events and business decisions made during contract administration must be documented.

All documents related to the administration of the contract, including internal correspondence, should be kept in a file. It is recommended that the COTR's contract file be identical to that used by the CO or COR. Items to be found in a typical contract administration file are listed in Exhibit 14-A-4. This sample file may be adapted as needed to administer each type of contract.

3.3 Find Out What the Contractor Is Planning to Do.

Having established what the contract requires the contractor to do, the COTR and field inspector(s), if designated, must learn what the contractor is planning to do. The COTR should initiate contact with the contractor to establish a communication channel with the COTR's counterpart.

Techniques for gathering information about the contractor's plans for performance include conducting a post-award meeting with the contractor and reviewing the contractor's proposed performance schedule.

3.3.1 Post-Award Meeting with the Contractor.

The CO should hold a post-award orientation meeting with the contractor. The meeting includes the CO (or designated representative) and technical representatives on behalf of BPA. The counterpart representatives of the contractor should also be invited to attend. This meeting provides a means for reviewing the contractor's plans for performing the contract, for uncovering misunderstandings about contract requirements, and for resolving and clarifying matters on what the contract requires of the contractor. Sample agenda items, if not resolved before award, might include:

- (a) Performance schedule;
- (b) Statement of work or specifications, drawings and other performance requirements;
- (c) Quality management activities;
- (d) Special contract provisions;
- (e) Reporting requirements;
- (f) Procedures for monitoring and measuring progress;
- (g) General overview of clauses, changes, payments, labor laws, etc.;

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- (h) Billing and payment procedures;
- (i) Property issuance, management policy and procedures, if applicable;
- (j) Discussion of travel policy and regulations, if applicable;
- (k) Distribution of appropriate posters, wage decisions, BPA policies for on-site contractors, and associated record keeping and submittals, as required;
- (l) Identity of key officials and their authorities;
- (m) Discussion of project hazards and contractor's safety plan and site-specific safety plan, as applicable;
- (n) Environmental requirements; and.
- (o) Discussion of policy and procedures regarding non-disclosure and disposition of any Critical and Sensitive Information (CSI) that BPA provides to or which is newly created by the Contractor.

If a formal post-award orientation conference is not practical, telephone discussions can serve the same purpose.

3.3.2 Performance Schedule.

Obtain the contractor's plan for conducting the contract work, and review it for consistency with contract requirements. When the contract contains a provision that requires the contractor to submit work plans, the COTR should obtain and review them. Even if the contract does not require a formal submission, the COTR should confer with the contractor to gain a thorough understanding of planned activities, and quickly address any matters that would appear to prejudice successful contract performance.

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SECTION 4 MONITORING ACTIVITIES.

4.1 General.

The contractor and the COTR both are responsible for monitoring contract work, but for different reasons. The contractor is responsible to ensure that its performance or supplies delivered complies with the terms of the contract. It is not the COTR's responsibility to do this for the contractor. As a practical matter, however, the COTR typically does, to the extent and manner described in the contract, inspect and monitor the contractor's work and quality assurance activities. The reason the COTR monitors the contractor's activities and work products is to ensure that adequate, timely progress is maintained to complete the work as per the terms of the contract. An important right of BPA (actually any buyer, for that matter) is the right to inspect supplies or services before acceptance. (See section 6.1.1 regarding acceptance). The purpose of this rule is to give the CO and COTR an opportunity to determine whether or not the supplies or services comply with the contract description and other contract terms.

The specific contract oversight activities of the COTR are described in the contract. The extent of oversight activities needed will likely vary from contract to contract. The primary basis for contract oversight is the contract inspection and acceptance clause. Essentially, this clause gives BPA the right to inspect and test work of the contractor, and subcontractors, as called for by the contract, at any time, and any place. BPA will, however, perform its inspections in a manner that will not unduly delay the contractor's work. Other, more specific, oversight requirements are found in the contract statement of work or specifications. In the case of commercial supplies and services, however, inspection and acceptance will typically be more limited in scope and usually conducted at the place specified for delivery or performance.

The challenge for the COTR in monitoring contracts of all types (supply, service or construction) is to work closely with the contractor representative to ensure that:

- (a) The contractor accomplishes the specific tasks called for in the contract;
- (b) The quality of services or work products is as required by the contract;
- (c) The services performed or work products developed (particularly for cost reimbursement, time and materials or a unit priced, estimated quantity type contracts) are accomplished in an efficient manner and that the contractor adequately plans and executes the contract effort to ensure that time and money are not wasted;
- (d) Work hazards are identified and accident avoidance measures are appropriate; and
- (e) Time schedules in the contract are met.

4.2 Track What the Contractor Is Doing.

Since effective corrective actions cannot be taken if the magnitude of problems is unknown, the COTR must be able to identify problems and determine their significance. The basic method of contract administration is contract monitoring, or surveillance of progress.

Monitoring the contractor's progress involves the use of numerous techniques and procedures to determine whether satisfactory and timely delivery or completion will occur. Contracts are monitored to determine how contract work is being performed (in accordance with the purchase description, Statement of Work or specifications), whether it will be completed on schedule, and whether its cost (cost reimbursement or time-and-material type contracts) will fall within the contract's ceiling. The COTR and other contracting personnel have a responsibility to monitor the

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contractor's performance to ensure compliance with contract requirements. That task depends on accurate and timely information obtained from the contractor.

Many contracts include provisions that require the contractor periodically to submit written progress reports. COTRs should familiarize themselves with what these reports are required to contain and when they are due. The COTR should:

- (a) Get progress reports.
- (b) Read progress reports.
- (c) Analyze billings. (See Section 6 for detailed procedures.).
- (d) Monitor the contractor's performance by inspection. The best way to monitor the contractor's work is through actual inspection. Standard inspection clauses may be included in BPA contracts to give BPA's authorized representatives the right to inspect and witness or conduct tests to monitor performance at all stages and wherever the work is being conducted, including the work of subcontractors. For construction work, this also includes work performed off the primary construction site. The COTR should be familiar with the inspection provisions in the specific contract. It is useful to stay ahead of actual performance. Try to determine the contractor's planned approach. It is particularly important that certain work be inspected as work is conducted, particularly when components of work in process are difficult or impossible to inspect at later stages of contract performance. In this way, the COTR's inspection effort is not likely to hinder the contractor's progress.
- (e) Encourage timely performance in cost-type contracts. If a contractor is late on a cost contract, there is practically no monetary adjustment in the contract price due BPA. For that reason, early and continuing attention by the COTR is the best way to ensure timely delivery and cost control. Close communication with the CO is necessary before lateness becomes a problem.
- (f) Document contacts with contractor. Use a contract administration file log to keep a diary of the contacts (including significant phone conversations) with the contractor. The need to maintain adequate records or logs is vital. These records provide a basis for defending against claims and are reviewable by the appropriate board of contract appeals or by the courts. (See Exhibit 14-A-5).
- (g) Assess the competence of the contractor's performance and the initial deliverables against contractual standards of quality and efficiency:

Do the contractor personnel have the competence to complete the contract in an efficient and timely manner?

Are the preliminary work products or deliverables up to the standard of quality required by the contract?

Are the contractor's personnel being adequately supervised by contractor's management so that they produce quality work?

4.3 BPA-Furnished Property.

Some contracts provide BPA property for the contractor to use during performance of the contract. Such provisions describe the property, timing and conditions for assignment, transfer, and use. This property may include both materials to be incorporated in the contract work, as

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well as, tools, facilities or equipment provided for the contractor's use in performing the contract. It is the COTR's responsibility to see that BPA provides the property it agreed to furnish to the contractor.

When BPA property is to be furnished, the COTR should take the following steps:

- (a) Contact the CO for instructions. The property management representative in the Organizational Property Management Officer's (OPMO) organization is available to the CO and COTR, as necessary, for advice and assistance in administering the use of BPA property on the contract;
- (b) Find out where the BPA property is and make arrangements to get it to the contractor on time. When considerable material is to be provided, BPA may, particularly for larger construction projects, establish a material yard at or near the work site where the contractor may inspect and take possession of the property;
- (c) Find out whether the BPA property is in proper condition for use as intended. BPA is responsible to ensure that the property it provides is as specified in the contract and fit for its intended purpose (unless specified in the contract to be furnished in "as is" condition). The sooner this is ascertained, the sooner any necessary repairs, corrections, or other actions can be initiated and any delays in contract completion avoided. Once inspected, the contractor is responsible and financially liable for its safekeeping;
- (d) Find out whether there are any special instructions or limitations regarding use of BPA's property. If such instructions exist, see that they are furnished to the contractor along with the property;
- (e) Make sure a means exists for tracking BPA property, i.e., property custodian, etc.; and
- (f) Make sure, at the conclusion of the contract work, excess materials and any tools or equipment provided will be inspected, and that BPA will retake possession and responsibility of the property returned by the contractor. If shortages are noted, the contractor is charged in accordance with contract terms. If damaged, other than normal wear, the contractor will be liable for its repair or replacement.

4.4 COTR Performance Status Reporting.

After the COTR has analyzed the contractor's performance as indicated in the contractor's progress reports and other available information, the COTR shall promptly identify any actual or potential inadequacies and schedule changes, inform the contractor of the inadequacies, and find out how the contractor plans to remedy them. The longer problems continue without corrective action, the more serious they become and the more difficult they are to correct.

However, whether or not problems do exist on the contract, a key responsibility of the COTR is to maintain communication with the CO regarding contract administration activities and to provide the CO with periodic, written performance or status reports. These reports give the CO important information about contract deliverables, contractor's technical and progress reports, contract payment and other matters. A sample of a performance status report is shown in Exhibit 14-A-5. This report may be adapted to specific needs in consultation with the CO.

- (a) Routine Reporting: Normally when there are no significant events to warrant special reporting from COTR to CO/COR, intervals of one month are sufficient between written reports.

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(b) Non-routine Reporting: Whenever exceptional events occur during the course of the contract, the COTR should generate a non-routine performance status report giving the appropriate details of the specific event. For example, non-routine reports should be submitted when inadequate work is noted, when all required work has been accomplished, and when the final invoice has been received and processed. The CO may also request non-routine reports from the COTR.

(c) Property Reporting: Contractors must furnish annual reports of BPA-furnished property, and property purchased with Government funds by August 31 of each year. COTRs will review these reports, and indicate their receipt and acceptability on Exhibit 14-A-5. This will include a determination that the property is still required by the contractor.

4.5 Financial Monitoring.

Financial monitoring of the contract is another way to review the contractor's progress and performance. COTRs should track actual dollars billed as each invoice is approved and forwarded for payment. (See subsection 6.2.4.) COTRs can monitor the contractor's progress by reviewing actual costs expended relative to the stage of completion for specific tasks, and compare dollars expended to the original dollars estimated for those tasks. If the actual costs reveal an inconsistency, the COTR should advise the CO of possible cost overruns (cost-reimbursement or time-and-material type contracts). Financial monitoring by the COTR can also assist the program manager and the CO in determining if BPA is receiving the best buy for the money expended.

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SECTION 5 CONTRACT MODIFICATION.

5.1 Contract Modification.

During the life of a project, it sometimes becomes necessary to incorporate changes into the contract, or to provide coverage for situations that develop after contract award. Some changes can be made in accordance with the contract, but other adjustments not expressly anticipated by the contract may also occur. In either case, where the project's objectives, the method or manner of performance, cost, or schedules are to be changed, modifications must be made to the contract.

The COTR should closely monitor the contractor's activities in executing the contract's requirements. Except for a limited delegation by the CO for construction contract field modifications, the COTR may not authorize additional work beyond what is specified in the contract, even if such work is within the general scope of the contract. The COTR may be instrumental in the development of changes to a project or modifications to a contract, but does not have the authority to order or authorize the contractor to make such changes, technical or administrative.

If it becomes apparent that the project requires a change, the COTR should immediately notify the CO or COR. The proposed change to the contract may require convening a Strategy Panel (see BPI 6.15 and 14..10.2), so early notification is critical to timely and uninterrupted contract performance. Only COs operating within the scope of their authority may execute contract modifications on behalf of BPA. Other BPA personnel, including COTRs, must not:

- (a) Execute contract modifications;
- (b) Act in a manner to cause the contractor to believe that they have authority to bind BPA;
- (c) Direct or encourage the contractor to perform work that should be the subject of a contract modification;
- (d) Permit a contractor to work past the expiration of a contract; or
- (e) Change the contract statement of work or specifications.

Although the need for a contract change may become apparent during reviews of the project by a COTR or other program personnel, no action may legally begin on the change until a contract modification has been prepared and approved in accordance with BPA's normal procedures. Modifications are usually initiated by a Purchase Request (PR) or other form of written request, prepared by the COTR or program manager. Until such time as the PR or written request is submitted, a modification to the contract recommended by the COTR will not be made.

5.2 No-Cost Time Extensions.

While the general rule is to not relinquish a contract right without receiving something in return (consideration), no-cost time extensions may be authorized by the CO under limited circumstances. If the COTR encourages, or even permits, the contractor to continue work after the contract expires, a ratification action (see BPI Appendix 6-A, Section 3.5) may be required. Only COs may execute no-cost time extensions.

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5.3 BPA Caused Delays.

In those instances when an action or inaction by BPA delays the contractor, the contractor may be entitled to compensation and/or an extension of performance time. Therefore, the COTR must play a key role in assuring that BPA meets its contractual commitments, and if BPA should be tardy, that any delays are minimized.

When BPA causes a delay, the COTR should immediately document the reasons for delay, and send that information to the CO. In a similar manner, if the COTR receives a statement from the contractor that a delay has been caused by BPA, the same information should be provided to the CO.

5.4 Constructive Changes.

Sometimes BPA actions or inactions may lead contractors to believe that a change in the contract has been ordered. The contractor is required to advise the CO immediately if such a change is contemplated. COTRs must be acutely aware of the impact of their actions on the contractor's approach to performing the contract. The COTR must be very careful not to encourage or direct the contractor to proceed in a manner other than that specified in the contract. Such constructive changes are often the basis for contractor claims of an equitable adjustment in the contract price and/or time. The COTR is required to provide a written explanation of the circumstances surrounding the constructive change.

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SECTION 6 ACCEPTANCE AND PAYMENT.

6.1 Requirements for Acceptance.

The final step for the COTR before payment is “acceptance.” The term acceptance means that the COTR believes the supplies delivered or work performed conform to the contract.

6.1.1 Acceptance Defined.

Acceptance is documented acknowledgment that the supplies delivered or work performed conform with contract quality and quantity requirements, as well as with the other terms and conditions of the contract. Acceptance formalizes, as a necessary step for final payment and contract closeout (see Section 10), the approval of specific supplies delivered or work performed on behalf of BPA as partial or complete performance of the contract. To make certain of this fact, as was previously described in Section 4 of this guide, the CO must obtain the acknowledgement by the COTR or another person who can attest that all contract requirements have been met. It is important that the COTR understand the responsibility for contract acceptance.

While acceptance is necessary for final payment, certain types of contracts provide for interim payments, before final payment. One form of interim payment is based upon “partial acceptance,” as with partial delivery and acceptance of supplies under a supply contract or partial acceptance of quantities of unit priced items of a construction contract. Other contract types, such as construction, may permit payments in advance of final acceptance, as per the “progress payment” clause, which permits multiple progress payments during performance based on the percentage or stage of work completion. Also, cost reimbursement type contracts may require that BPA reimburse the contractor, monthly or other frequency, for costs incurred by the contractor during performance (see 6.2.2.2 of this guide). The basis for acceptance and payment is all spelled out in the contract. It is necessary, however, to look at more than just the payment clause. The contract must be “read and interpreted as a whole,” not just interpreted per one clause or part. Therefore, the COTR needs to look at the contract payment schedule of prices and quantities; statement of work or specifications; and contract “boiler-plate” clauses, such as, the inspection and acceptance clause and the various other payment-related clauses. The COTR and other members of the contract administration team need to read and be familiar with these contract terms and conditions for acceptance and payment.

Other contract clauses refer to the “date of acceptance” as the basis for action required by the clause, such as, the payment, prompt payment act, and warranty clauses. It is after final acceptance that the warranty period begins.

6.1.2 Responsibility for Acceptance.

BPA disbursement procedures and Treasury regulations require, to the maximum practicable extent, a separation of duties for those who are authorized to procure, accept and pay for transactions on behalf of BPA. This separation of duties provides internal controls to reduce risk of error, waste, and wrongful acts. Therefore, except for established construction contract practices, CO’s are neither authorized to receive and accept supplies or work performed nor disburse funds for the payment of purchases that they have made. Similarly, while a COTR may be assigned responsibility to accept supplies or work for a purchase, this person may neither have authorized the purchase (unless authorized to issue orders pre-priced by a CO per subsection 7.4 of this guide) nor authorize disbursement of funds for its payment. In a similar manner, those in Disbursement Operations must independently assess and certify the proper disbursement of funds for a purchase, but may not have ordered or received and accepted the supplies or work performed for the contract disbursement.

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The COTR accepting work performed or supplies delivered on behalf of BPA is liable for a proper certification of its acceptance. This person must have personal knowledge that the invoiced work has been completed or that the supplies received are in the quantity and quality and condition provided by the contract. If the COTR does not personally have knowledge of the delivery or completion, the quality, or the quantity of the work being invoiced, the COTR should not certify acceptance until consulting with another BPA employee who does have the knowledge required for acceptance. If the COTR believes, or is on notice, that some provision has not been met, the acceptance should not be signed. Instead, refer the matter immediately to the CO. So long as the person does not falsify an acceptance certificate (for example, by accepting services not rendered or supplies not received), there is effectively no personal liability for hidden or obscure errors on the billing.

Another important condition for acceptance is to only enforce the contract as written. The COTR may not insist on conformance to what the COTR personally feels is required, unless that standard is also required by the contract. Refer to the terms of the contract that describe the COTR's role and responsibilities in accepting completed work.

Acceptance does not mean that the COTR has audited the invoice in the financial management sense of the word. The person accepting the supplies/services is expected to use reasonable efforts and best judgment in determining if the contractor has conformed to the requirements of the contract. Reasonable verification of mathematical accuracy and review of supporting documents required by the contract are expected to be performed. If you do not know if the work performed or supplies delivered meet the contract requirements or if the charges are appropriate, the CO and/or the BPA Audit Staff should be contacted for advice.

6.1.2.1 Accepting Services.

A service contract requires a contractor to furnish time and effort to perform an identifiable task. Procured service is performed through processes, either those specified in a contract purchase description or Statement of Work, whose timing of delivery (performance) has to coincide with the performance period specified in the contract. The service may be for the production of an end product, such as a report, or continuous or cyclical in duration, such as office janitorial services.

The inspection of services by the COTR may not, by its very nature, be possible to inspect before performance. Therefore, the measure of quality of service provided has both a tangible and an intangible component. A tangible element may be, for example, either a report produced or an office that is swept, mopped, vacuumed and dusted. The intangible components of these same service examples are, in the case of the report, the accuracy of data or soundness of conclusions. For the office cleaning service, the intangible element may be the relative degree of cleanliness. The basis for acceptance in the contract, therefore, usually describes some measure of acceptability for services rendered. The report, for example, is the final product, but the Statement of Work may provide for "milestone" meetings of the COTR and contractor or interim reporting by the contractor on data gathering techniques, processes utilized, results obtained, and data produced. Similarly, the office cleaning Statement of Work may provide for the frequency of cleaning, extent, and some measure of cleanliness achieved for each task, to be inspected by the COTR on each specified date of performance. Therefore, when the service is performed, the COTR inspects and certifies the acceptability of service rendered for payment, against the standards of quantity, quality and basis for payment described in the contract.

Typically the COTR will document acceptance of services on a contractor's invoice submitted for payment, per the terms of the contract. If for some reason acceptance of services will not be documented on a contractor's invoice, the COTR should contact the CO to determine the format and requirements of a receiving report.

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6.1.2.2 Accepting Supplies.

Supplies are tangible supplies, such as, deliverable end-items or assemblies, components, parts, raw and processed materials, and tools, but does not include real property or something intangible (incorporeal), like a patent or copyright. The means used to describe requirements for the purchase of supplies may range from commercially available descriptions, described by brand name or equivalent or general purchase description, to more detailed methods, such as, specifications of physical or chemical characteristics, material and method of manufacture or performance. Other methods of description include engineering drawing, sample, individual standards, and standard specifications.

Every contract for supplies must have a fixed or determinable quantity of each item purchased, a basis for determining acceptability (quality), delivery terms (such as FOB destination or FOB origin (or other place of shipment) to spell out which party pays the expense of transportation and when the risk of loss passes from the seller to the buyer), price, payment terms and warranties. The requirements for contract performance are the physical delivery of the supplies, inspection for compliance with the contract description (including witnessing or conducting tests, etc.), release for shipment (when required by the contract), formal acceptance of the supplies, and payment. Various means are used by the COTR and other team members to describe contract quality requirements and to inspect for compliance with the contract description, as described in the contract description and "boilerplate" clause terms and conditions.

Commercial products typically will require only an inspection at the time of delivery, unless otherwise specified, verification of quantity and apparent damage, and acceptance indicating that the delivered supplies conform to the contract. To make certain of this fact the supplies must be inspected for quality. This inspection for quality is in addition to normal receiving inspection for damage during shipment. If the FOB is shipping point and the damage is found to have occurred after it left the contractor's dock, then BPA is required to process the invoice for payment and deal with the freight company regarding the damages to the shipment. Invoices pertaining to supplies that have been rejected should be held by the CO, pending notice of acceptance. The COTR has the right to inspect the supplies for compliance with the contract description before accepting the supplies, as per the inspection and acceptance terms of the contract. If the supplies received conforms to the contract requirements, the COTR or other designated person prepares a receiving report and accepts the items on behalf of BPA. The receiving report is either forwarded to the CO or other designated contract administration personnel for review and approval for payment, as specified in the contract. Alternately, the contract may specify that the receiving report be sent directly to Disbursement Operations. In any case, after approval, the receiving report must be forwarded to Disbursement Operations by the fifth working day after acceptance.

Supplies received that are different in quantity, quality, and price are referred to the CO for resolution. If there is a substantial deviation, or if the material is damaged, the COTR or the receiving and inspection personnel will reject the supplies. A notification of rejection must be forwarded to the CO.

6.1.2.3 Accepting Construction.

Construction is the building, alteration, or repair (including dredging, excavating, and painting) of buildings, structures or other real property. Construction does not include exploratory drilling or other investigative work for obtaining preliminary data for engineering studies and which are not part of starting or continuing a construction process. Neither does construction include the manufacture, production, furnishing, building, alteration, repair, processing, or assembling of personal property (supplies), or demolition without construction.

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By its very nature, construction work is performed according to a very different set of performance criteria than services or the manufacture of supplies. Some of the performance cost elements can be measured very precisely, but others involve significant risk taking and estimation, particularly the unpredictability of the elements of nature and the elements of performance. Performance is impacted by the availability of skilled labor, tight scheduling and sequencing of work and delivery and incorporation or movement of materials in stages, leading up to the final project completion.

Acceptance of construction is typically accomplished in stages, involving separately priced items of work and quantities at prices found in the contract schedule of pricing. Therefore, partial acceptance is frequently made. As an example, a station of access road (100 feet), a square of roofing (100 square feet), or an hour of an electrician's labor are a common basis for pricing and measuring discrete units of work. The contractor is paid for those units completed within the payment period. The formal acceptance of these separately priced units generally occurs upon completion, billing and payment for all work required to complete the payment item. The formal acceptance is typically made by the CO, based upon the certification of acceptance by the COTR, or other representatives of the CO, as per the construction inspection and acceptance clause of the contract. (See Section 10 of this guide for construction contract close-out, and final payment.)

6.1.3 Acceptance Certification.

The certification of acceptance shall be made using the BPA Enterprise Resource Planning (ERP) system. All original invoices (except utility invoices) are to be mailed by the Contractor to Disbursement Operations, with a copy of the invoice sent to the COTR. For service contracts, the COTRs will certify acceptance for payment using the new ERP system. Supply contract payment is triggered by the COTR or other person who receives the supplies (could be a warehouse receiving or other person) who accepts the supplies using an ERP system receiving report that is electronically transmitted to Disbursement Operations. With construction, the completed work may be billed by the contractor on an invoice or prepared using a BPA payment form, the original of which is sent to Disbursement Operations with a copy sent to the COTR or COR for payment certification through the ERP system. The three-way match process for payment of invoices will be entirely automated by the ERP system, as will many other disbursement functions.

The Prompt Payment Act prescribes a very precise time period and process for BPA to accept supplies or work performed. BPA is committed by the terms of the Act and the contract to accept the supplies or work performed within five work days after receipt, unless otherwise provided in the contract. In addition, we must pay the contractor within 30 days of acceptance or receipt of a proper invoice, whichever is later, unless an improper (incorrect) invoice is specifically rejected in a timely manner. These contract requirements are generally as stated in the Prompt Payment provisions in the contract. If formal acceptance takes place beyond the indicated acceptance period, BPA will be liable for payment of an interest penalty payment to the contractor from the last day of the indicated acceptance period. This concept is known as constructive acceptance. Actual acceptance of supplies and services is not jeopardized by this constructive acceptance. BPA is not required to accept non-conforming supplies or services simply because the five working day acceptance period has elapsed.

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6.2 Processing Invoices.

Processing invoices is a task performed in support of payment to the contractor. The procedures for processing invoices are established by Disbursement Operations. BPA is required by the Prompt Payment Act to pay "proper" invoices within a specified period of time, usually 30 calendar days or less, or pay an interest penalty to the contractor. Disbursement Operations may only make a payment after it has received confirmation that the supplies or services have been satisfactorily received. Prompt processing of invoices and receiving reports by COTRs is essential to avoiding interest payment charges against program office funds. Detailed information on processing requirements is contained in the disbursement guidelines in the BPA accounting manual or by contacting Disbursement Operations. The following information is provided for general guidance only.

6.2.1 Receiving Invoices.

Immediately upon receipt, the office receiving the invoice must clearly stamp on the front of the first page of the invoice with the date received and the receiving organization. The stamped receiving date of the first organization or person designated in the contract to receive the invoice may be used to determine the payment due date. The Prompt Payment Act requires that the date placed on the invoice by the contractor be used to establish the payment due date when the receiving organization fails to date stamp or note when the invoice was first received, unless the acceptance date is used. It is very important that all offices note or date stamp the date of invoice receipt and the name of the receiving organization on the invoice.

Because of stringent requirements in the contract for timely acceptance of the supplies delivered or work performed, invoice review should begin immediately after the invoice is received. If invoice review must be delayed beyond the contractually permitted time, the COTR is responsible for contacting the contractor and resolving whatever problem has occurred. Note on the invoice when the contractor was called and the date of resolution. This notation will protect BPA from making unnecessary interest payments.

6.2.2 Reviewing Invoices.

Generally, invoices for service contracts are forwarded to the technical personnel, generally the COTR, so that acceptance of the services may be recorded on the invoice itself. This has erroneously been interpreted to mean that the COTR is responsible for the accuracy of each item on the invoice. That is not the intent of the COTR's acceptance of the services. Instead, the COTR is expected to apply only a "reasonableness" check to the invoice. The COTR is not certifying that each expense was audited and justified. However, a review of the invoice and other financial data may provide information indicating reasonable progress, or lack thereof, on the project. If you have questions about the allowability of a cost item, immediately contact the CO. Only the CO has the authority to disallow cost items.

The COTR should take note of the costs on the invoice and compare them to those in the contract. If Disbursement Operations finds any mathematical errors, they will make the adjustment and pay the proper amount. Verifying costs is not the same as certifying that they are correct. The COTR should question the contractor concerning invoiced amounts when it appears that something unusual or unexpected is occurring. If the billing for a specific period is unexpectedly high or low, the COTR should request that the contractor supply the reason(s) for the large deviation from what was anticipated.

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Every invoice should receive a general review to ensure that all required data is present. If the required data is not present, the invoice is not proper and the allowable time to pay the invoice does not begin. BPA has only seven days to notify the contractor of the defects in the invoice; thus, prompt review is essential. A proper invoice must contain the following required data: invoice date, contract number, task order number, if applicable, contractor name and address, description and quantities of products or services, unit and extended prices, and the name, title, phone number, and complete mailing address of the responsible official to whom payment is to be sent. The dates of performance for services should be shown to ensure that multiple payments are not made for the same services. If this essential data is not present, contact the contractor to point out the inadequacies and document that contact on the invoice. Alternately, a Notice for Improper Invoices can be prepared (See Exhibit 14-A-7). Forward a copy of the notice along with a copy of the rejected invoice to Disbursement Operations.

In the event the COTR does not understand the invoice or the invoice appears to be in error or in other ways inadequate to support the payment, the COTR should attempt to resolve the problem with the contractor. Discussions with the CO will be helpful in resolving problems. If the COTR is unable to resolve the problem with the contractor, the invoice should be forwarded to the CO with an explanation of why the invoice may not be certified and paid. The CO will then contact the contractor to attempt to resolve the problem.

Following this general review, and before proceeding to the steps described below, the COTR shall enter the proper accounting data on the invoice: organization, activity code, PL-6, and object class if known. If the COTR knows that this is the final invoice to be submitted under the contract, that fact should be noted under the COTR's signature, and a COTR performance status report (see Exhibit 14-A-5) should be submitted.

6.2.2.1 Reviewing Fixed-Price Contract Invoices.

Invoices submitted under fixed-price contracts receive only a brief review by the COTR to ensure that required data is present and that amounts invoiced conform to the contract prices and payment provisions in the schedule of items.

6.2.2.2 Reviewing Cost-Reimbursement Contract Invoices.

Provisions of cost-reimbursement contracts obligate BPA to pay the contractor the allowable, reasonable, and allocable costs of performing the contract (plus, in some cases, a fee or profit).

Because the technical expertise of the COTR is essential to understanding the necessity for direct costs on the project, the COTR should review the reasonableness, allowability, and allocability of costs claimed for reimbursement. The COTR should also assure that the contractor submits adequate documentation of costs as required in the contract. Contact the CO if you are unsure how much documentation is needed.

"Allowable" costs are those permitted by the standards set forth in BPI Part 13 (See Appendix 13-A). Special provisions in the contract may also affect the allowability of specific costs.

Whether it is "reasonable" to incur specific costs for performing a particular type of work is a question that can best be answered by an individual familiar with what is involved in performing that type of work, and who has the technical qualifications to make an informed judgment. The materials or effort may be "unreasonable" in that they exceed or differ from what is necessary to complete the contract work. Detecting unreasonable direct costs is the responsibility of the COTR. If unreasonable costs are noted, contact the CO for advice.

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A cost is properly "allocable" to a contract if it is incurred specifically for the contract or is incurred by the contractor for other activities that also benefit the contract. The COTR's actions with regard to the allocability of costs claimed will be to spot direct costs that appear to have no connection with the contract work. If the reason for billing materials or specific labor hours to perform the contract is not clear, it may be that the costs were charged to the contract in error.

Many contracts require the contractor to submit periodic financial reports showing the total costs incurred during the last reporting period, cumulative total, etc. To be useful, such reports should "key in" with a financial expenditure plan or budget for the entire contract, so actual costs can be compared with planned costs, shortfalls in estimates can be identified, and timely management decisions regarding additional funding can be made and implemented.

The checklist in Exhibit 14-A-8 may be used as a guide when reviewing invoices for cost-reimbursement contracts. If used such a checklist is used, it should be filed in the COTR's contract administration file. When the unexpended balance declines below the amount needed to complete the work, the COTR must discuss with the CO the future of the contract and the project.

6.2.2.3 Reviewing Time-and-Material Contract Invoices.

Review of time-and-material contract invoices is substantially the same as for cost-reimbursement contracts except that only the number of hours billed need be reviewed for reasonableness and compared to the progress on the project. It is important to review the composition of the hours billed if the contract has different labor rates associated with the different competence and skill levels, i.e., partner hours, senior manager, staff accountant, or senior technical engineer versus engineer/draftsman. Some firms have an internal practice of charging a pro rata portion of "senior" hours for a given number of junior hours and attempt to justify it on the basis of "standard" managerial review and oversight experience within their firm. If the COTR has reason to believe that the invoice includes such estimated amounts, the COTR should question the contractor concerning these costs. Direct costs, i.e., the material portion of the invoice including travel costs, are reviewed in the same manner as cost reimbursement contracts (See Exhibit 14-A-8).

6.2.3 Forwarding Invoices.

Immediately following review of the invoices, original invoices containing the acceptance of services statement will be forwarded to Disbursement Operations. The COTR should retain a copy of the invoice in the COTR file and forward a copy to the CO, attached to the status report.

6.2.4 Recording Invoices.

The COTR may be required to enter and approve invoices in BPA's electronic Business Enterprise System (BES), particularly for services contracts. If the BES application is not used, the Contract Invoice Control Sheet as shown in Exhibit 14-A-9 or similar spreadsheet is useful for logging each invoice processed. Special attention should be paid to the column headed "Remaining Funds." COTRs should compare this total after processing the invoice to ensure that sufficient funds remain to permit completion of the contract work.

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SECTION 7 PLACING DELIVERY OR TASK ORDERS.

7.1 Understanding Delivery or Task Order Contracts.

BPA often knows that it will have requirements for specific supplies or services, but does not know exactly how much it will need or when it will need them. Delivery orders (supplies) or task orders (services or construction) give BPA flexibility in meeting its needs. The term "delivery order" or "task order contract" is sometimes used to refer to both a master contract (indefinite quantity/delivery contract) and to a master agreement. Master agreements, however, are not contracts. The contractual commitment is created only when an order is issued under the master agreement.

In administering any ordering arrangement, the COTR must be aware of the clauses in the contract or agreement specifying who may place orders and how the orders are to be placed. The COTR should work closely with the CO to establish procedures for the ordering process.

7.2 Administering Delivery or Task Order Contracts.

The COTR's duties in administering ordering contracts are the same as in administering other types of contracts: To assure that the contractor adheres to the purchase description, performance periods, and completion of deliverables as stated in the task order.

7.3 Preparing Requests for Delivery or Task Orders.

A delivery or task order is prepared in the manner and in the level of detail as required by the master contract or agreement upon which the order is based. See BPI 7.2.5 for more details.

7.3.1 Preparing Delivery Orders.

A deliver order will contain all of the information required to describe the terms of the order: Line item description for each item, quantity, unit of issue, and unit and extended prices, FOB point, delivery location, delivery period, accounting information, and COTR designation or other person or organization for inspection and acceptance. The terms and conditions for administering the order are those of the master contract or agreement.

The purchase description or specification required for a delivery order is often contained in the master contract or agreement, and referenced in the delivery order. However, the master agreement or contract may provide for a separate purchase description or specification, to be attached to each order.

7.3.2 Preparing Task Orders.

The task order will contain, similar to the delivery order, the necessary description of the work, whether for service or construction. For services, the work typically will be described using either a purchase description, particularly for commercial services, or a Statement of Work. Construction work may, similarly be described either using a purchase description for commercial construction or using a specification, with drawings as necessary. The task order purchase description, Statement of Work or specification should be clear and precise. (See BPI Appendix 6-A, Requisitioners' Guide to Preaward Activities, for the requirements for supply, service and construction type transactions.) The task order document communicates to the contractor the specific tasks to be performed. A vague, unclear, or unnecessarily broad work description may prevent the contractor from accomplishing the exact task desired. Ways to help assure that task order wording is clear and precise include:

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(a) Review of the draft task order by other BPA project personnel acquainted with the program involved. Ambiguities and other inadequacies can often be spotted by a knowledgeable person who has had no involvement with writing the draft task order.

(b) Review of the draft task order by the contractor to assure mutual understanding can uncover matters that are not clearly expressed. However, the contractor must not be asked or permitted to draft task orders.

Work described in the task order must fall within the "scope" of the contract. Task orders must describe particular work that falls within the general description of services or construction that the contractor has agreed to perform. If BPA wants work done that is not covered by the task order contract, then the purchase of such work should be handled as a new contract action. If in doubt, the COTR/program office should contact the CO/COR.

Work described in the task order should be achievable within the dollar and time limitations of the contract. BPA practice treats the contract completion date of a contract as the end of the contractor's obligations unless the contract or task order specifies that task orders issued prior to the contract completion date may continue until completion of the task regardless of the contract completion date. However, this must be clearly stated in the contract or task order.

7.4 Issuing Delivery or Task Orders.

The majority of delivery or task order contracts require that orders be authorized and issued by the CO. However, COTRs may be authorized by the CO to issue task orders up to a specified amount under certain limited circumstances, such as when the pricing is fixed per the terms of the master contract or agreement. In such cases, the contract will specifically state the limits of the COTR to issue orders.

7.4.1 CO Issues the Order.

While the CO normally issues the order to the contractor, the COTR is generally responsible for preparing and submitting the technical description of the work to be performed or supplies delivered (purchase description, SOW or specification) and a purchase request. The CO conducts necessary negotiations and or clarifications needed and issues the order. COTRs may be asked to conduct some of the discussions with the contractor but are not authorized to direct the contractor to proceed with the work until the order document is signed by the CO.

7.4.2 COTR Issues the Order.

In those instances when the COTR has been delegated authority in the contract to issue orders without CO review or approval, the following steps must be taken:

(a) COTR will obtain funding approval for the order. This approval may require a PR if the COTR is using funds from a different organization.

(b) Any required clarifications will be conducted by the COTR. Once agreement has been reached with the contractor, the COTR will prepare and sign the task or delivery order and distribute copies as directed by the CO. The task order will be documented as defined in BPI Part 12.

(c) The COTR will distribute the order to all parties. Forward a copy of the order to Disbursement Operations. Send a copy of the order and the PR, if one is created, to the CO, and send the order to the contractor who is to perform the work.

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SECTION 8 REMEDIAL ACTIONS.

8.1 Initial Action When Contract Requirements Are Not Being Met.

Once the existence and cause of a technical discrepancy or performance delay are identified and it is determined that the contractor is not complying with a specific requirement called for in the contract, the COTR should make sure that the CO and project management are informed of the circumstances in a timely manner so that alternatives for dealing with the problem may be adequately assessed. The COTR should also immediately call the contractor's attention to the discrepancy and seek the contractor's voluntary commitment to remedy the failure. If the contractor agrees that the problem exists and will remedy it, the COTR should document the discussion in a letter to the contractor with a copy to the CO. After the contractor has had an opportunity to remedy the problem, the COTR should follow up to see if remedial action was taken. Results of the follow-up should be documented.

The COTR may not direct the contractor on a course of action to fix the problem. It is up to the contractor to choose whatever course of action is appropriate to remedy the problem unless BPA must direct specific actions to protect its own interest. If the latter is necessary, the CO must be advised. COTRs may not order corrective action.

The COTR's task is to avoid surprises caused by improper or delayed performance after it is too late to cure it. Timely action by the COTR affords program management and the CO the chance to make decisions based on the maximum number of options. It also minimizes adverse program impact of delay by providing an opportunity to revise planning at an early stage.

8.1.1 Contractor Agrees with COTR.

When the contractor agrees that the contract requirements are not being met, there are several possible courses of action available to the contractor. If the contract is fixed-price, the risk is on the contractor to remedy the problem at its own expense, unless a remedy-granting provision provides otherwise. If the contract is cost-reimbursement and the contract clearly defines standards for acceptance, the contractor must pay the costs of rework. However, in cost reimbursement contracts without such standards, BPA must pay all reasonable, allowable, and allocable costs to remedy the problem. BPA, therefore, has a major role in deciding how to address the problem. For example, the work might be speeded up by using more people or overtime, but the availability of more qualified personnel and/or the availability of program funds for more workers or overtime need to be explored and decided on by the CO based on the recommendation of the program office.

8.1.2 Contractor Disagrees with COTR.

The contractor may disagree that contract requirements are not being met. The COTR should then discuss the matter with the contractor to discover the basis for the contractor's position. If the COTR still feels that the contractor's position has no reasonable basis, the COTR should advise the contractor of the need to take corrective or other action necessary to meet the requirements of the contract. Such advice needs to be confirmed in writing with a copy to the CO. (Written notice is important to document BPA's case if an adverse action, such as suspension of work or termination, is later required.) The giving of such advice is part of the COTR's primary task of ensuring that the contractor does what was promised in the contract. By the same token, the COTR must not direct the contractor to do more than or different from what the contract specifies. Such a direction would exceed the COTR's authority.

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If on the other hand the COTR considers that there is or may be reasonable basis for the contractor's position, the COTR should discuss the matter with the CO to see what course of action should be taken to resolve whether the contractor is complying with the contract or not.

8.2 Dealing with Failure to Comply.

If the contractor fails to comply with a contract requirement within a reasonable time after the deficiency has been identified, the COTR should report all facts to the CO in writing. The report should contain a recommendation to the CO to take appropriate action. A letter may be sent to the contractor pointing out the failure of performance and its importance to BPA and requesting the contractor to meet with the CO to discuss the situation and the contractor's plans for remedying it. Such a letter can be beneficial in assuring that top management in the contractor's organization is aware of the problem and in enlisting its support for corrective action. However, if the departure from contract requirements is so serious that further performance would be a waste of money and if it appears that the contractor will not or can not remedy its failure, the COTR should recommend that the CO terminate the contract pursuant to the appropriate contract clause.

8.3 Conduct in Case of an Overrun.

When the contractor's incurred costs reach the stated estimated costs and the obligation to proceed is suspended, the contractor is obligated to notify BPA. It is important that BPA program personnel not request or encourage the contractor to continue work unless directed to do so by the CO. Boards of Contract Appeals have held that such action will legally obligate BPA to reimburse the contractor for continuing with the work. This action exceeds the COTR's authority and will lead to increased BPA expenditures.

On the other hand, fairness requires that BPA not keep the contractor in suspense. The COTR should facilitate a prompt determination of whether or not BPA will fund and authorize continuation of performance. When the decision is made, based on program office advice as to whether additional funds will be provided, the CO is responsible for informing the contractor. If funds are provided, such increase in funds can only be added to the contract by a contract modification signed by the CO (See Section 5).

8.4 Disputes.

In the course of performing BPA contracts, disputes may arise between BPA and the contractor over rights and obligations under the contract. Typical disputes concern such questions as: which interpretation--BPA's or the contractor's--should be attached to ambiguous contract language; what constitutes an "equitable" adjustment for a particular contract change--the amount allowed by the CO or a larger amount claimed by the contractor; or how much delay was caused the contractor by BPA action/inaction or other valid reasons and is, therefore, "excusable"? As BPA's primary liaison with the contractor, the COTR may be the first person aware of differences of opinion between BPA and the contractor.

When the COTR discovers a difference of opinion regarding the rights or obligations of either party under the contract, the COTR should promptly initiate discussions with the contractor to find the basis for the contractor's position. The aim should be to resolve the disagreement by arriving at a mutual agreement. The COTR should also let the CO know about the disagreement, including the positions of the COTR and the contractor, and, if it appears that the COTR can resolve the matter with the contractor, the COTR should review the proposed solution with the CO. These actions should be completely documented in writing to the CO.

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The contract's Disputes clause empowers the CO to issue a decision on the matter if the contractor and the CO cannot arrive at agreement on what the contract requires. The clause directs the contractor to proceed with performance of the contract in accordance with the CO's decision.

8.5 Suspension of Work.

BPA actions that cause the contractor to proceed on a schedule other than that originally anticipated may cost the contractor more than planned. These additional costs generally must be borne by BPA. However, if the contract contains a "Suspension of Work" clause, BPA has some rights to stop the contractor's activity pending certain developments or actions on the part of either party, even though, depending upon the circumstances, BPA may still have to pay for stopping the contractor's activity. Therefore, suspending the contractor's work must be for good reasons. The usual practice is that the CO is normally the only individual authorized to suspend work on a contract. In the case of observed unsafe practices, however, the contract "Safety and Health" clause permits any member of the contract administration team (CO, COTR, or field inspectors), with probable cause, to suspend the contract work in those areas or locations of the contract work affected by the unsafe practice.

When the COTR believes that a temporary suspension of work is appropriate, the CO should be notified immediately.

8.6 Claims.

A claim is a written demand by one of the contracting parties seeking the payment of money, adjustment of contract terms, or other relief arising under the contract.

Some typical reasons for claims from the contractor include:

- (a) A change in BPA's requirements during the conduct of the contract;
- (b) The contractor encountered conditions different from those BPA led the contractor to expect;
- (c) BPA redirected the contractor's efforts after the contract was underway; or,
- (d) BPA delayed the contractor.

Occasionally BPA may also feel that it has a claim against the contractor. Typical reasons for such claims include:

- (a) The contractor is late in delivering the required services and BPA incurs damages because of the late delivery; or,
- (b) The contractor adversely impacts other BPA contractors or operations.

The most important functions of a COTR in a claim situation are to immediately notify the CO and to investigate the circumstances surrounding the claim. The COTR should promptly investigate the basis for the claim and send a written report to the CO. The COTR is not authorized to issue decisions on claims, but may discuss with the contractor the basis for the claim if so directed by the CO. The CO may also ask the COTR to begin the negotiation process in an attempt to settle the claim. However, the COTR must not give the impression to the contractor that the claim is being settled or that the COTR has authority to do so.

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8.7 CO Final Decisions.

When a contractor files a contract claim against BPA, the CO must determine its merit and negotiate a contract adjustment or issue a final decision on that claim. Generally, the claim filed by the contractor will have been discussed with the COTR and perhaps the CO prior to a written assertion of the claim by the contractor. During these discussions, it will become obvious whether BPA agrees or disagrees with the contractor's claim.

If BPA agrees that the Contractor's claim is valid, the CO will, following negotiations, prepare a contract modification to make the necessary adjustment in the contract price or other terms/conditions. Most claims are adjusted through contract time extensions or payments of money.

However, if the CO and the contractor disagree on merit or adjustment and a claim is filed, the CO must issue a formal, final decision in writing. This final decision will address all elements of the contractor's written claim based on written information provided by COTR and other affected parties.

8.8 Termination.

The object of termination is to cut off further expenditure of BPA funds for continued effort by the contractor. There are four types of termination actions that may be included in BPA contracts. Read the contract you are administering to determine what courses of action are available to you.

Termination for default is used when the contractor has failed to fulfill a significant requirement of the contract. As a rule, BPA cannot recoup amounts already expended for deficient performance, but it may recover excess costs of obtaining the same or similar services from another source in cases of termination prior to the contract delivery/completion date under firm fixed-price contracts.

In potential default termination situations, a key responsibility of the COTR is to give timely notice to both the contractor and CO when the contractor is in noncompliance. The contractor must take whatever actions it determines necessary to assure compliance. However, if the COTR knows of noncompliance, the COTR must advise the contractor rather than waiting until the noncompliance requires a default termination action. The COTR may not terminate a contract.

In the event of default termination action, the contractor has the right of appeal. Documentation obtained by the COTR will be extremely important for use if the contractor appeals the CO's actions.

Under cost-reimbursement contracts, even where a right to terminate for default is included in the contract and may properly be exercised, the contractor is normally entitled to reimbursement for expenses incurred up to the time of termination, unless the work performed does not conform to the standards of acceptance stated in the contract. BPA applies the same rule to time and materials contracts.

Termination for the convenience of BPA is normally used when BPA's requirements have changed to such an extent that continuation of the contract is not in BPA's interest; however, the contractor's performance has not breached the contract. When the right to terminate for the convenience of BPA is exercised, the contractor is entitled to compensation for work done prior to the termination.

In some contracts both BPA and the contractor have a mutual right of termination. In such contracts the parties may negotiate the end of performance. Termination by mutual consent is used when the work under the contract is not progressing satisfactorily, and both parties want to

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stop the work. Normally, no payment by either party will be made to the other to compensate for the termination.

Termination for the convenience of either party gives to the contractor the same right to terminate at any time that BPA has traditionally reserved for itself. This type of termination is included in a contract only when deemed necessary by the CO to establish a viable business agreement and is advantageous to BPA. This type of termination is normally not used for firm fixed-price contracts. For cost or time and materials type contracts, the contractor exercising this right will be paid for work completed as of the date of termination.

The COTR plays a key role in potential or actual termination actions. The COTR is responsible for documenting circumstances that may lead to the need to terminate the contract. In a situation that could lead to a termination action, it is the responsibility of the COTR to advise the CO in a timely manner so that necessary negotiations are not delayed.

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SECTION 9 ADMINISTERING INTERGOVERNMENTAL CONTRACTS.

9.1 Nature of Intergovernmental Contracts.

Intergovernmental contracts (IGCs) are legally the same as the contracts discussed in other parts of this Guide, but they are with entities such as other federal or state agencies, Indian Tribes, etc. An intergovernmental contract binds both parties to perform: The contractor-agency provides a service, and BPA reimburses the costs. The intergovernmental contracts are as legally binding and enforceable as are contracts with commercial enterprises. Some characteristics of intergovernmental contracts include:

- (a) There are generally fewer terms and conditions (less boilerplate) in an IGC;
- (b) The transaction is with a governmental body at the Federal, State, or local governmental level, a publicly owned college or university, or an Indian Tribe;
- (c) Intergovernmental contracts are usually of the cost-reimbursement type. This means that the risks and costs are borne primarily by BPA, and that the governmental body will recover essentially all of its costs. Cost reimbursement intergovernmental contracts have specific cost principles, listed in BPI Part 13, and cited in the contract. The contractor agency may bill BPA only for costs that are reasonable, allowable and allocable under the intergovernmental contract; and
- (d) Termination provisions are usually mutual, and do not contain the remedies for failure to perform found in most contracts with the commercial sector.

9.2 COTR Responsibilities.

COTR attention to performance under an intergovernmental contract is just as critical as with the other contracts described in this Guide. Close monitoring is essential to ensure that the project is conducted in an efficient and businesslike manner. Basic steps and actions outlined in other parts of this Guide apply generally to IGCs. Although the terms and conditions of intergovernmental contracts are less stringent than contracts with the private sector, the need for project accomplishment in a timely, efficient manner is just as critical to BPA.

9.3 IGC Billing Procedures - Contracts with Other Federal Agencies.

Payments on the majority of contracts entered into with other Federal agencies are disbursed using the U. S. Treasury's On-Line Payment and Collection (OPAC) system. Under these systems, payments are initiated by the contractor agency. BPA receives a computer-generated billing statement through the Government-on-Line Agency Link System (GOALS). Funds are automatically transferred between the contractor agency's and BPA's account with the U. S. Treasury upon Treasury's receipt of the billing. This is generally accomplished before BPA can perform the acceptance and invoice review processes described in Section 6.

Even though funds have already been disbursed to the contractor agency, BPA has an opportunity to review and, if necessary, to correct the billing, generating a credit or charge back entry to the account of the contracting agency.

Disbursement Operations sends the hard-copy billing to the COTR for receipt and acceptance. This hard-copy billing, which should include all necessary supporting documentation, needs to be reviewed and accepted or rejected with an accompanying explanation and returned to Disbursement Operations promptly so that credits can be claimed in the time allowed and so that the charges can be input into BPA's financial information reporting system.

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Acceptance of supplies or services provided by Federal agencies under IGCs is performed in the same manner described in subsection 6.1.

Review of the billings by the COTR is performed in the same manner as the review of commercial invoices. In the event problems are discovered during this review, the CO should immediately be contacted and advised of the problem. The problem should then be documented in a memorandum to the CO.

9.4 IGC billing procedures - other than federal agencies.

Generally, billings submitted by Governmental organizations other than Federal agencies are received and reviewed for reasonableness in essentially the same way as those submitted by commercial organizations. COTR responsibilities and procedures for acceptance of services and invoice review are the same as those described in Section 6.

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SECTION 10 COMPLETION AND CLOSE-OUT.

The COTR determines when the work has been completed in accordance with the technical requirements of the contract, including any contract extensions or renewals. This is done by inspecting all deliverables promptly upon receipt to determine acceptability. Administrative matters such as the disposition of BPA-furnished property should be attended to as soon after physical completion of the contract as possible. When all items required by the contract have been delivered and accepted, the COTR notifies the CO by submitting a COTR performance status report. (See Exhibit 14-A-5.) Contract close-out is triggered by this notification.

Prompt initiation of contract/intergovernmental contract close-out allows the COTR to obtain firsthand information from other individuals who were personally involved with the contract/intergovernmental contract. Resolution of open matters is more difficult when personnel have moved to other jobs and their recollections become vague.

The COTR may have additional responsibilities concerning formal certification of completion and acceptance (such as obtaining or confirming delivery of BPA-furnished property certificates, supply test reports, final drawings, instruction books, and any other final deliverables, as specified in the contract), and other issues related to formally closing the contract. The COTR need not initiate these additional documents; they will be requested from the COTR by the CO when required.

For construction work, additional steps of final inspection, obtaining a release of contractor's claims, and settlement of claims are typically performed as a part of the close-out process. The COTR or field inspector determines when the work has been substantially completed in accordance with technical requirements of the contract and conducts a final inspection, developing a "punch list" of those remaining contract items to be resolved. Besides the punch-list items, the COTR or field inspector addresses all remaining administrative matters related to close-out, such as receipt of all special warranty documentation, Operation and Maintenance Manuals, spare parts and disposition of BPA-furnished property. When all items required by the contract have been completed, the notice of final inspection is sent to the CO with a copy to the COTR, if performed by the field inspector. On larger contracts, and some smaller as well, the contractor is typically required to submit a release of claims prior to BPA making final payment. Unless specifically listed on the release form, the contractor may not submit any further claims under the contract. Once a release of claims is received, any remaining payment is processed, even if some claims are still pending resolution, such as those previously submitted or noted as a condition of the contract release of claims.

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SECTION 11 STANDARDS OF CONDUCT.

11.1 Business Ethics.

BPA business must be conducted in a manner that is above reproach, with complete impartiality and preferential treatment for no one. Although Federal laws and regulations restrict the actions of Government personnel, their official conduct must be such that they would have no reluctance making full public disclosure of their actions. It is important that BPA personnel observe proper standards of conduct in the discharge of their official duties, especially those duties involved in purchasing programs.

All BPA employees must clearly understand the standards of conduct for power and transmission operations. BPA adopted the Standards of Conduct of the Federal Energy Regulatory Commission (FERC) Order No. 889, separating its wholesale power marketing function from its transmission system operation and reliability functions, and to conducting its future operations per the order.

The basic rules are that--

- (a) Access to information on BPA's transmission availability, price, uses or potential uses cannot be discussed with BPA's power marketing employees;
- (b) No BPA transmission operations and reliability employees can take part in BPA power marketing functions, such as buying and selling power;
- (c) BPA employees who provide services shared by both BPA transmission operations and reliability operations and BPA power marketing operations, and who have access to information on transmission price and availability, cannot discuss such information with BPA power marketing employees; and
- (d) BPA power marketing employees can only have access to BPA transmission availability, price, uses or potential uses only through an Internet site: the Open-Access Same-time Information System (OASIS).

It is BPA policy not to interfere in the private lives of its employees; however, certain other standards of conduct are required. These are published in detail and available to all personnel (see Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, BPI Part 3 and Appendix 3-A). Adherence to these standards requires that employees not do indirectly what would be improper to do directly.

Because of their importance in purchasing activities, BPA personnel should be familiar with the following selected standards:

- (a) No employee shall receive any salary or compensation for services as a Federal employee from any source other than the Government of the United States, except as may be contributed out of the treasury of a State, county, or municipality.
- (b) Employees shall not engage in any outside employment or other outside activity in conflict with the full and proper discharge of the duties and responsibilities of their BPA employment.
- (c) Acceptance of gifts, entertainment, or favors (no matter how innocently tendered and received) from those who have or seek business with BPA, may be a source of embarrassment to BPA and to the employee involved. It may affect the objective judgment of

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the recipient and impair public confidence in the integrity of the business relations between BPA and industry. Therefore, BPA employees shall not knowingly solicit or accept any gifts, entertainment, or favors, either directly or indirectly, from any interested party. (Complimentary meals and beverages or other de minimus gifts may be accepted under certain conditions, see 5 C.F.R. Part 2635.) For the purpose of this standard, gifts, entertainment, and favors include any benefits, gratuities, loans, discounts, tickets, passes, transportation, accommodations, or hospitality given or extended to or on behalf of the recipient.

(d) An employee shall not directly or indirectly use or allow the use of BPA property of any kind for other than officially approved activities. An employee has a duty to protect and conserve public property, including equipment, supplies, and other property entrusted or issued to the employee.

(e) BPA employees must not directly or indirectly use official information for private gain which has been obtained through the employee's BPA employment if the information has not been made available to the general public.

(f) Employees are prohibited from endorsing the proprietary products or processes of manufacturers or the services of commercial firms for advertising, publicity, or sales purposes. Use of material, products, or services by BPA does not constitute official endorsement.

Public confidence in BPA employees clearly demands that each employee take no action that would constitute the use of official position to advance personal or private interests.

11.2 Conflicts of Interest.

Technical and contracting personnel must observe standards of conduct and avoid conflicts of interest with suppliers or potential suppliers of BPA to obviate any possible inference that BPA may be compromised by an employee's actions.

A few key points relating to conflicts of interest in purchasing matters are:

(a) Employees, or their families, shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the employee's BPA duties and responsibilities.

(b) Employees, or their families, shall not engage, directly or indirectly, in a financial transaction as a result of, or primarily relying on, information obtained through BPA employment which has not been made available to the general public.

(c) Unless authorized to do so, no employee shall participate as a BPA employee in any matter that the employee knowingly has a financial interest.

Questions should be directed to BPA's ethics official in the Legal Services.

11.3 Purchasing Standards of Conduct.

BPI purchasing policy prohibits certain actions by BPA employees, consultants, and advisers, and by competing contractors involved in the conduct of any BPA purchase of supplies, services, or construction. The prohibited actions relate to (1) post-employment restrictions, (2) discussion of future employment, (3) gratuities, and (4) disclosure of proprietary or source selection information. BPA regulations implementing the policy are in BPI Part 3 and Appendix 3-A.

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11.4 BPA Harassment Policy.

Under BPA policy, harassment will not be tolerated in the BPA workplace. With regard to contractors, harassment may occur either between contractor employees or between BPA and contractor employees. The role of the COTR when contractor employees are or may be involved in harassment, is to direct complaints to the contractor's management for resolution. COTRs are not to participate in complaint resolution.

Contractors working on-site at BPA are subject to BPA policies, including harassment-free workplace, through the inclusion of Clause 3-8, Contractor Compliance with BPA Policies, in their contract. Violations of the clause may result in termination of the contract for default. The CO should be informed of all pertinent facts in such situations. Further guidance on dealing with harassment is provided in a booklet published by Human Services, Diversity and EEO, and is available at all service centers and field personnel offices.

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SECTION 12 DOS AND DON'TS FOR COTRs.

12.1 DOS.

Maintain a teamwork relationship, keeping the contracting officer fully informed and current on major problems concerning the contractor's performance, costs, or adherence to clauses.

Have a copy of the contract and all changes and modifications readily available, and be familiar with and understand all facets of the contract.

Maintain a separate file for each contract.

Work with the contractor, within your authority, as needed to get the job done.

Assure that any required security screening is completed before allowing contractors access to BPA ADP resources.

Attend scheduled meetings between the contracting officer and the contractor.

Monitor the contractor's work to ensure performance consistent with contract requirements within the time and cost parameters stated in the contract.

Provide periodic information to the contracting officer about the contractor's progress.

Verify that unsatisfactory contractor performance is corrected, including observed unsafe practices affecting safety.

Ascertain that BPA property is being used properly and that appropriate measures are being taken to protect and safeguard it.

Assure that the contractor is providing timely response to all correspondence, and be timely yourself.

Verify that the contractor has the correct personnel performing the contract work and a need exists for overtime (when the contract type, i.e., time and materials, requires such review).

Follow up on corrective actions by the contractor as recommended by an authorized inspector(s).

Ascertain that all emergencies are attended to and resolved immediately.

Give notice of technical non-compliance (technical direction) to the contractor in writing. If such notice is given orally, follow up with a written confirmation.

Have regular and frequent contact (as necessary) with the contractor to ensure awareness of any potential concerns.

Ensure that your replacement is thoroughly briefed, both verbally and in writing, on all important issues.

Conduct contractual compliance checks and accurately record the information discovered.

Document significant actions, conversations, etc. as they occur.

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Complete review and response regarding drawings, submittals, and other documents within the time specified in the contract.

12.2 DON'TS.

Award, agree to, or execute a contract or contract modification. (Note: An exception is a construction contract field modification issued by a COTR or field inspector within delegated limits, as set by the CO).

Obligate, in any way, the payment of money by BPA unless delegated specific authority to do so.

Make a final decision on any matter that would be subject to appeal under the disputes clause of the contract.

Take action to terminate the contractor's right to proceed. (Note: Safety issues may require immediate action including suspension of contract work, with probable cause, for those areas affected by unsafe practices. See BPA Safety Manual.)

Approve work that is not in conformance with the contract requirements.

Make a final determination of contractor liability for loss or damage to BPA property.

Monitor the contractor so closely that you interfere with the contractor's work.

Encourage the contractor to perform work that is not specified in an existing contract, or permit the contractor to proceed with work outside the scope of the contract.

Accept special favors or gratuities from the contractor.

Tell the contractor how to carry out his/her responsibilities within any facet (technical, management, cost, or provisions) of the contract.

Commit the equipment, supplies, or personnel of the contractor for use by others.

Delay or cause to be delayed any correspondence or reports that require immediate response from the contractor, the contracting officer, or other BPA officials.

Create an employer-employee relationship with contractor personnel through supervisory or administrative practices.

Offer the contractor advice that may adversely affect contract performance, compromise the rights of BPA, provide the basis for a constructive change or impact any pending or future CO determination as to fault or negligence.

Grant extension of time.

Divulge any sensitive or proprietary information. (Contact the CO for advice)

Accept an appointment as a COTR if there is an apparent conflict of interest.

Exceed your authority as expressed (and limited) in your letter of appointment..

Become involved in contractor's business affairs not covered in the contract. This includes disputes with subcontractors, interpersonal conflict among contractor's employees, etc.

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Exhibit 14-A-1 Sample COTR Delegation Memorandum

Date

(Organization, Routing)

Designation of Contracting Officer's Technical Representative
(Contract Number, Contractor Name)

Roger Kabat, Contracting Officer's Technical Representative
(Organization, Routing)

You are hereby designated the Contracting Officer's Technical Representative (COTR) for the subject contract. You represent the Contracting Officer in all technical matters that arise. Your major duties and responsibilities are contained in the "Contracting Officer's Technical Representatives' Guide for Services Contracts." (BPI Appendix 14-A).

Your delegation is made without power of redelegation. The delegation shall remain in effect through the life of the contract unless it is revoked by the Contracting Officer, you are reassigned, or your employment is terminated. Therefore, it is important that you advise me immediately if someone else will assume your COTR responsibilities for this contract.

You are authorized to perform the following functions:

- Inspect and review work performed
- Inspect or witness test presentations or other activities
- Interpret technical specifications
- Approve submitted deliverables/reports
- Approve invoices
- Reject non-conforming services, materials, or equipment.
- Maintain a file of all contractor property purchasing and disposition documents
- Conduct required verifications of property listings (including annual physical verification of property).

You are not authorized to act for the Contracting Officer in the following matters pertaining to the contract:

- Approve contract modifications or change orders
- Authorize actions that result in a change in the contract price, technical specifications, or time of performance
- Approve subcontractors
- Except for unsafe practices or conditions, suspend or terminate the Contractor's right to proceed
- Take action to terminate the contract for default or for BPA convenience
- Make final decisions on any matters subject to appeal.

It is essential that the Contracting Officer be informed of the Contractor's progress. I have enclosed a master contract status report form tailored to your contract. Please make additional copies for your future use. Prepare and submit a status report upon receipt of deliverables or reports or upon completion of major contract performance milestones. Also, submit a status report upon receipt of invoices, attaching a copy of the invoice, for work performed.

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Upon your recommendation, I have designated Angela Sanchez to act on your behalf during your absence on all technical matters relating to the contract. I ask that you familiarize her with your duties and responsibilities.

Joel Bovard is the Contracting Officer's Representative (COR) I have assigned to monitor this contract. Please contact him on all matters pertaining to administration of this contract. His telephone number is (503) 555-0990.

Cynthia Jenner, Contracting Officer

Enclosure: Status report

IMSecretary:ims:0000 (VS10-XXX-0000g)

cc:

Contractor

Contracting Officer's Representative

Disbursement Operations

Alternate COTR

Official File - XXX

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Exhibit 14-A-2 Sample Field Inspector Delegation Memorandum

Date

(Organization, Routing)

Designation of Field Inspector
(Contract Number, Contractor Name)

Jamie Jones, Field Inspector
(Organization, Routing)

You are hereby designated a Field Inspector for the subject contract. You shall represent the Contracting Officer's Technical Representative in technical matters. Your major duties and responsibilities are outlined in the contract clause, Contracting Officer's Representatives.

This delegation is made without power of redelegation and shall remain in effect through the life of the contract unless revoked by the Contracting Officer's Technical Representative, you are reassigned, or your employment is terminated.

You are authorized to perform the following functions:

- Inspect and review work performed.
- Advise contractor when it is not conforming to the contract requirements.
- Interpret technical specifications.
- Recommend to the CO approval or rejection of submitted services.
- Review invoices.

You are not authorized to act for the Contracting Officer's Technical Representative in the following matters pertaining to the contract:

- Reject services.
- Authorize actions that result in a change in the contract price, technical specifications, or time of performance.
- Except for unsafe practices or conditions, suspend or terminate the contractor's right to proceed.
- Take action to terminate the contract for default or BPA convenience.
- Sign invoices for acceptance.

Contractor noncompliance with any portion of the contract and all contract changes are the specific responsibility of the Contracting Officer and the Contracting Officer's Technical Representative. You need to notify me of any and all instances of noncompliance with the contract.

I have designated Rosy Schachtelovich to act on your behalf during your absence on all technical matters relating to the contract. I ask that you familiarize her with your duties and responsibilities.

Please do not hesitate to contact me if you have any questions.

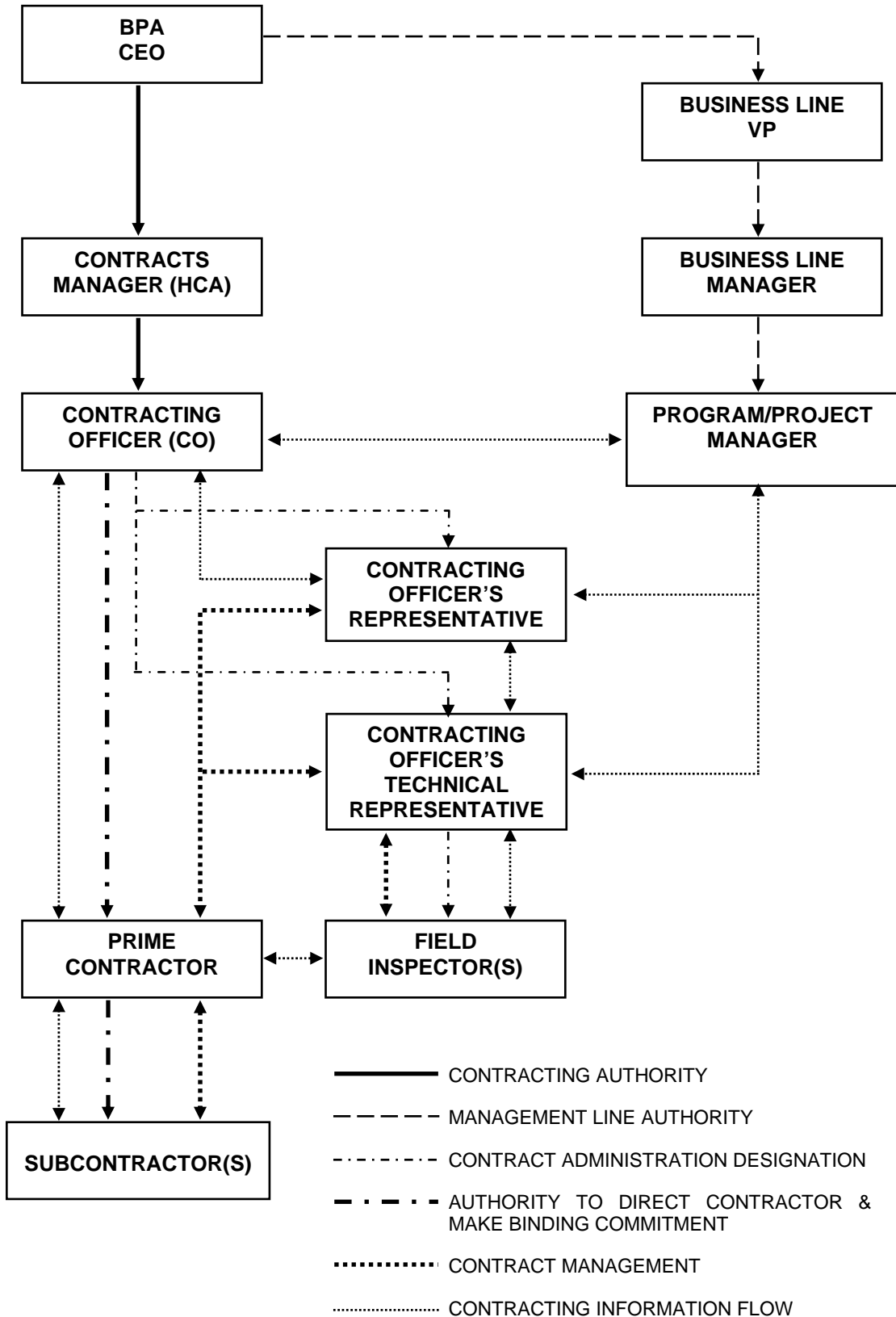
Roger Kabat, Contracting Officer's Technical Representative

IMSecretary:ims:0000 (VS10-XXX-0000g)

cc: Contracting Officer, Contractor, Alternate Field Inspector, Official File - XXX

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Exhibit 14-A-3 Contracting Authority and Communication Channels



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Exhibit 14-A-4 Typical Contents of COTR's Contract Administration File

A uniform and orderly approach to file maintenance will reduce time spent searching for material and provide neat, standardized files. Consistency is important. It is recommended that the COTR establish a contract administration file similar to that used by the CO or COR. The COTR may use the agency approved electronic records storage application to retain contract documentation. The following is a sample format, to be adapted as necessary for the type of contract:

(a) File identification:: The following information typically should be used to identify award files:

- Contractor Name
- Project Name and/or Number
- Contract No.

(b) File content: This is a suggested file format, which may be modified as necessary for the contract type (service, supply or construction).

1 Contract and Supplements

- Purchase requests
- Copy of executed original contract and all modifications

2 Basic File

- Bonds and insurance certificate(s)
 - Performance and payment bonds
 - Insurance certificate(s)
 - Surety status inquiries
- Contractor performance evaluation/award fee/quality assurance
- Forms (travel, training, etc.)
- Labor clearances and enforcement record(s)
 - Certified payroll
 - Contractor employee interview forms
- Log of significant activities
- Meeting notes
- Overtime approvals and other work-progress related documents
- Reports (accident, audit, contractor progress, COTR performance status, financial, receiving, workforce status, etc.)
- Schedule of compliance reviews
- Project staffing/organization charts
- List of BPA-furnished property
- Close-out records
 - Final inspection memo
 - Final acceptance letter
 - Contract completion report
 - Release of claims
 - Contractor evaluation
 - Contract close-out checklist

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3 Correspondence File

- Copies of all correspondence between COTR and CO/COR
- Copies of all correspondence between COTR and Field Inspectors
- COTR and any Field Inspector designation
- Internal memoranda
- Record of communication between COTR and other support activities
- Copies of all correspondence between COTR and contractor
- Copies of all general correspondence related to contract
- Copies of all correspondence regarding labor issues
- Copies of all notices to proceed, stop or report submittals
- Copies of all letters of approval pertaining to such matters as materials, the contractor's quality control program, prospective employees, and work schedules

4 Payment File

- Backup documentation for contractor payment or progress payments
- Copies of inspection reports related to payment
- Copies of invoices
- Information relative to discount provisions for prompt payment
- Correspondence pertaining to payment
- Payment status log

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Exhibit 14-A-5 COTR's Status Report

BPA F 4220.50e (08-98)	U.S. DEPARTMENT OF ENERGY BONNEVILLE POWER ADMINISTRATION	Electronic Form Approved by CGIR -08/14/98(VB)
COTR'S STATUS REPORT		
1A. TO _____		1B. THROUGH _____
C.O.		C.O.R.
2. CONTRACT NUMBER _____		3. TITLE _____
4. PROJECT NUMBER _____	5. TASK ORDER NUMBER _____	6. CONTRACTOR _____
7. This Contract _____ include BPA furnished or funded property or materials.		
8. This is a <input type="checkbox"/> Fixed Price Contract <input type="checkbox"/> Time and Materials Contract <input type="checkbox"/> Cost Reimbursement Contract		
9. CURRENT FINANCIAL STATUS		
A. The expenditure rate is at anticipated levels. <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A B. Prices for deliverable (if fixed price), of labor rates (if T&M/Cost reimbursement) are consistent with those found <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A		C. The following may be left blank if Control Invoice Sheet attached. (Attach copies of invoices.) (1) Original Award Amount/Ceiling _____ (2) Increase/Decrease Since Last Report _____ (3) Current Award Amount/Ceiling _____ (4) Minus Previous Payments _____ (5) Minus This Payment _____ (6) Unpaid Balance _____
10. CURRENT PROJECT STATUS (Explain "No" answers)		
A. CURRENT EXPIRATION DATE (MM/DD/YY) _____		B. OPTIONS FOR EXTENSION THROUGH: _____
(If no, explain in block 13)		
C. Deliverables are acceptable.	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
D. Deliverables were submitted on time.	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
E. Progress is satisfactory and should be completed before the expiration date. (If no, contact the COR immediately.)	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A	
11. PROPERTY (Skip This section if the contract does not include BPA furnished or funded property.)		
A. Has additional property been purchased and charged to BPA since the last report? YES <input type="checkbox"/> NO <input type="checkbox"/>		
B. The annual physical inventory report (due August 31): _____		
12. CLOSE-OUT (Complete this block when final payment is authorized.)		
I recommend that this contract be closed. Final payment was authorized by me on _____		DATE: _____
Overall, I consider the contractor's performance _____		
13. REMARKS (Cite block number)		
14A. COTR'S SIGNATURE _____		14B. DATE (MM/DD/YY) _____
14C. COTR'S NAME _____		14D. M&P (COR'S Initials) _____

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Exhibit 14-A-6 Correction Memorandum

<p>BPA F 6410.43e (09-94) (Previously BPA 234)</p>	<p>U.S. DEPARTMENT OF ENERGY BONNEVILLE POWER ADMINISTRATION CORRECTION MEMORANDUM</p>	<p><i>Electronic Form Approved by CGIR - 09/01/94 (VB)</i></p>
		<p>DATE (MM/DDYY)</p>
<p>THIS IS NOT AN AUTHORIZATION FOR EXTRA WORK</p>		
<p>SUBJECT: CONTRACT NUMBER AND TITLE</p>		
<p>THE FOLLOWING IS NOT IN COMPLIANCE WITH THE CONTRACT REQUIREMENTS</p>		
<p>REFERENCE CONTRACT REQUIREMENTS</p>		
<p>Please investigate this non-compliance immediately and in the space below, provide this office with a written response to the non-compliance within days. Your response shall include the corrections to be made and the time frame in which you intend to make them. If you do not agree with the facts stated in this memorandum, please notify the Contracting Officer immediately.</p>		
<p>INSPECTOR (Signature)</p>	<p>DATE (MM/DDYY)</p>	
<p>CONTRACTOR'S ACKNOWLEDGMENT OF RECEIPT (Signature)</p>	<p>DATE (MM/DDYY)</p>	
<p>THE CONTRACTOR'S RESPONSE TO THE STATED NON-COMPLIANCE IS</p>		
<p>This correction memorandum is satisfied this date.</p>	<p>DATE (MM/DDYY)</p>	<p>INSPECTOR (Signature)</p>
		<p>DATE (MM/DDYY)</p>

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Exhibit 14-A-7 Sample Notice for Improper Invoice

SUBJECT: Notice of Improper Invoice

TO: (Contractor's Name & Address)

On _____ the attached invoice was received by Bonneville Power Administration (BPA). Payment of this invoice cannot be made in whole/part due to the reasons marked below:

() The attached invoice does not reflect our purchase order/contract/task order/account number. This identification number is necessary in order to make payment.

() There is an error in unit price/extension/total on the attached invoice. Please provide a corrected invoice that agrees with the terms of our purchase order/contract.

() The attached document is returned because payment cannot be made against a statement/carbon copy. Please provide an original invoice so that payment can be made.

() The attached invoice does not reflect unit price(s). Please provide an itemized invoice so payment can be made.

() Other (describe) _____
_____.

Please mail the requested information to the following address with a copy of this notice attached.

Attn: (Name and Routing)

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208

Your prompt attention to this matter is appreciated.

(Signature & Title)

Attachment: (Copy of Invoice)
cc: Accounts Payable

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Exhibit 14-A-10 Definitions

"CO" means Contracting Officer.

"COR" means Contracting Officer's Representative.

"COTR" means Contracting Officer's Technical Representative.

"COTR Certification" means the program to verify that an individual has successfully completed the required BPA COTR training and has adequate program level experience to qualify them to perform the roles and responsibilities of the position.

"Contract" means a legal instrument reflecting a relationship between BPA and another party where the principal purpose of the instrument is the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of BPA. In the context of this Guide, the terms "contract" and "contract administration" also apply to Intergovernmental Contracts.

"Field inspector" means one or more individuals that are delegated authority to monitor the performance of the contractor.

"General Scope of the Contract" means the work which was fairly and reasonably within the contemplation of the parties when they entered into the contract. This can be defined by determining what each party planned to do as a result of the contract. Generally, changes to specific elements or parts of the work would be considered "within the scope" if the end product of the contract was essentially the same as that contracted for initially. Changes that are beyond the scope of the contract are considered new purchases which require the competition requirements of the BPI to be met.

"Program Office" means the office that is the source of funds for the contract. This office determines major program goals and policies, and allocates funds, personnel, and other resources among the programs for which it is responsible, and determines other major facets of the contract effort.

"Requisitioner" means the person in the program office who is responsible for developing the project supported by a specific award, and the person who concurs with any proposed program-type modifications to agreements before action by the CO. The requisitioner recommends to the CO an individual to serve as COTR for the contract. The nominated individual must be certified by the HCA as a qualified COTR. The important considerations are the technical and contract administration knowledge of the individual to ensure effective technical compliance by the contractor and receipt and acceptance of the supplies/services. The CO will evaluate the recommendation(s), and designate the individual selected as a COTR. If the qualifications of the individual(s) nominated to be COTR are not met, the CO will ask for additional recommendations. The requisitioner may be designated as the COTR on a contract, but this is not necessary or required.