



COMMANDER'S GUIDE to Contract Safety



**ARMY SAFE
IS ARMY STRONG**

Army Civilian Corps Creed

I am an Army Civilian – a member of the Army Team

I am dedicated to our Army, our Soldiers and Civilians

I will always support the mission

I provide stability and continuity during war and peace

I support and defend the Constitution of the United States
and consider it an honor to serve our Nation and our Army

I live the Army values of Loyalty, Duty, Respect, Selfless Service,
Honor, Integrity, and Personal Courage

I am an Army Civilian

**ARMY SAFE
IS ARMY STRONG**



ARMY STRONG.



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Table of Contents

Foreword	ii
I. Contract Safety Policy	1
II. Roles and Responsibilities	2
III. Legal Considerations	7
IV. Keys to Success	8
V. Contract Safety Process	9
VI. Areas Requiring Special Consideration	10

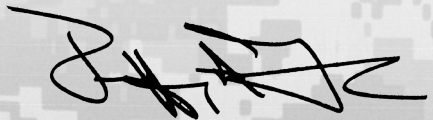


Foreword

Safety is the responsibility of every Army leader, Soldier, civilian and contractor. Contractors provide the Army an invaluable and indispensable capability in meeting the multitude of support requirements at many levels, including services, supplies and construction. Proper and thorough coordination in both the pre- and post-contract award phases is critical to minimize risk to government employees, facilities, equipment and the general public during contracted operations. Ensuring safety provisions are sufficiently addressed during the contract development phase and contractor safety oversight is provided during post-award operations is increasingly critical with the expansion of contractor support across Army operations.

Commanders, with the support of their safety and contracting professionals, are responsible for establishing and maintaining a positive safety culture that is all about saving Soldier and civilian lives and avoiding mishaps across the spectrum of contracted operations. Accomplishment of this contract safety mission requires commanders to be aware of contract safety statutory and regulatory requirements and the roles, responsibilities and authorities of each stakeholder in the pre- and post-contract award processes. Ensuring collaboration among each stakeholder in the performance of their respective contracting and safety roles and responsibilities is paramount to assuring all contractors operate safely in support of the Army's vital mission.

Army Safe is Army Strong!

A handwritten signature in black ink, appearing to read 'Jeffrey A. Farnsworth', written in a cursive style.

JEFFREY A. FARNSWORTH
Brigadier General, US Army
Director of Army Safety



I. Contract Safety Policy



Contract safety has become increasingly critical with the expansion of contract support throughout Army operations and support. Contract safety focuses on the protection of Soldiers, government employees, facilities and equipment during missions that involve contractor operations. Commanders need to be cognizant of and abide by policy so they can protect their Soldiers and civilians and ensure mission accomplishment.

Contract safety policy is established in several documents:

- AR 385-10, The Army Safety Program (www.apd.army.mil/pdffiles/r385_10.pdf)
- DA PAM 385-10, The Army Safety Program
- DoDI 6055.1, DoD Safety and Occupational Health Program
- Federal Acquisition Regulation (FAR) and applicable supplements: Defense FAR Supplement (DFARS), Army FAR Supplement (AFARS), USACE Acquisition Instruction 29 CFR Parts 1910 and 1926, Occupational Health and Safety
- EM 385-1-1, Corps of Engineers Safety and Health Requirements Manual

II. Roles and Responsibilities



The contracting process requires extensive coordination throughout the entire acquisition team. That team includes the commander of the requiring activity; the requiring activity's safety professional; the requiring activity's resource manager; the contracting officer; the contracting officer's representative; and may include representatives from the general counsel, legal or staff judge advocate office. Team members need to be knowledgeable of each other's roles, which are summarized below.

Commanders: The commanders are responsible for the safety and security of their personnel and Army property. They typically are the customer of the contracting officer (KO) and are responsible for defining the specific contract requirements. They are often in command of the requiring activity.

Requiring Activity: The requiring activity is the organization that has a requirement for contracted goods or services and initiates the contract requirement process. Its responsibilities include:

- Funding the contract procurement
- Drafting the performance work statement (PWS) and staffing with supporting elements, including the safety office, for review of safety elements
- Developing requirements documents that include safety performance and safety quality standards for all contracted products and services
- Participating in pre-award activities
- Nominating a contracting officer's representative (COR) to the KO when the procurement package is received by the contracting office

Safety and Occupational Health (SOH) Personnel: The SOH personnel are normally assigned to the commander's special staff, and, as subject matter experts (SMEs), assist the COR in monitoring compliance with SOH contract requirements. SOH personnel should not assume a regulatory role relative to oversight of the contractor's safety activities and performance. Except for situations involving imminent danger, they must report all observed contractor safety deficiencies to the KO or COR for resolution with the contractor. SOH personnel have numerous areas of technical support, including:

- Assisting the requiring activity in defining requirements and establishing and documenting the associated risks
- Determining whether existing administrative controls (FAR, DFARS, AFARS and USACE Acquisition Instruction, EM 385-1-1) mitigate identified hazards
- Helping the requiring activity or KO determine whether identified hazards require FAR, DFARS, AFARS, USACE Acquisition Instruction, EM 385-1-1 or locally developed safety elements included in the PWS or statement of work (SOW)
- Ensuring contracts state that contractors will report and conduct accident investigations for all mishaps that occur on the job site or mishaps involving contractor personnel to the COR
- Ensuring contracts state that contractors are responsible for the safety of their employees
- Helping, as necessary, identify requirements for notifications when transporting radioactive, explosives and other hazardous materials
- Supporting the requiring activity's review of aviation and ship critical safety items
- Helping identify the safety requirements that should be included in the Contract Data Requirements List (CDRL)
- Recommending safety training for CORs specific to contracts they are supporting
- Helping review reutilization actions for material and property, and developing plans and recommending inclusion of requirements in SOWs and PWSs for disposal, abandonment or destruction of property or scrap materials dangerous to public health and safety
- Providing advice and guidance on safety considerations in solicitations
- Reviewing safety precautions for hazardous materials or operations
- Helping requiring activities identify requirements for inclusion of the Accident Prevention Clause (FAR 52.236-13)
- Determining safety requirements in site surveys
- Validating or recommending safety requirements in pre-award packages

- Participating in pre-award conferences
- Providing contractors with initial safety orientation
- Helping to analyze and evaluate the safety elements of proposals
- Validating that contracts include requirements for site-specific safety plans
- Supporting KOs with the selection process by reviewing past safety performance of proposed contractors
- Supporting review of contractor's safety and health responsibilities and qualifications, and ensuring effective measurement systems are in place
- Developing a mutual understanding with contractors about the administration of the overall safety program
- Ensuring contractors understand all mishap reporting requirements
- Advising on controls to mitigate risk
- Reviewing contractor safety plans to ensure they meet applicable requirements
- Ensuring contractors have completed required safety training
- Issuing safety permits to contractors in accordance with local standards or processes
- Notifying the KO or COR of all noncompliance practices or conditions that pose a serious or imminent danger to the health or safety of the public or government personnel
- Informing the commander, installation safety office; director of contracting, Corps of Engineers; and representatives from other applicable organizations in the event of an Occupational Safety and Health Administration (OSHA) visit or inspection.

Army Contracting Command (ACC): The mission of the ACC, a major subordinate command of the Army Materiel Command (AMC), is to provide responsive and efficient procurement solutions. The ACC has two subordinate commands that carryout the mission:

- The Expeditionary Contracting Command provides Army commands, installations and activities located outside the continental United States (OCONUS) with contracting solutions and oversight.

- The Mission and Installation Contracting Command provides CONUS Army commands, installations and activities (including base operations, schools and training centers) with contracting solutions and oversight using contractor or contract personnel.

Defense Contract Management Agency (DCMA): The DCMA provides contract administration services in support of DoD acquisitions to ensure the delivery of quality products and services to the warfighter, on time and on cost. This includes ensuring contractor compliance with contractual safety requirements.

General Counsel: The general counsel provides legal guidance on the acquisition and procurement process, offers legal advice to the acquisition team, reviews acquisition documents for legal sufficiency and often serves on the review team.

Contractors: The contractors are responsible directly for the safety and health of their employees. The clauses outlining contractor SOH requirements and responsibilities must be included in solicitations and contracts as prescribed by the FAR, DFARS and other agency acquisition supplements.

Contractor responsibilities include:

- Ensuring compliance with all applicable federal, state and local codes and standards, including SOH standards and any additional specific requirements invoked by contract
- Protecting the public and government property within the contract work area
- Reporting and investigating all mishaps (including near missmishaps) and submitting a report on every mishap to the COR
- Ensuring that subcontractors comply with SOH requirements and are informed of all SOH hazards, precautions and procedures.

Contracting Officers (KOs): The KOs are expressly authorized to enter into, administer or terminate contracts. They are also responsible for ensuring all contract actions comply with appropriate laws, executive orders, regulations, and other procedures and approvals. They further consult with SOH SMEs to ensure that all required clauses for safety are included in solicitations and contracts.

Contracting Officer Representatives (CORs): In a Feb. 9, 2007, memorandum, the Office of the Assistant Secretary of the Army established a requirement that KOs appoint trained CORs prior to contract performance and ensure QASPs are prepared and implemented in service contracts with values greater than \$2,500.

CORs are responsible for the following:

- Monitoring the technical or performance aspects of a contract and performing other duties specified in the appointment letter or orders
- Participating in developing the requirements and other pre-award activities
- Ensuring a safety officer is involved in the early stages of project design
- Meeting with the KO, safety officer and contractor to review safety plans and communication, including safety elements in the QASP
- Inspecting the worksite and informing the KO of all unsafe or unhealthy conditions
- Helping the KO ensure corrective actions are performed to rectify identified hazards
- Accompanying safety officers on formal inspections
- Providing the KO and supporting safety officer with copies of all technical data for any systems installed
- Reporting all accidents to the KO and safety officer



III. Legal Considerations



The Army does not assume responsibility for the safety of contract personnel and equipment. In addition, Army personnel must avoid taking actions that would put them, or appear to put them, in direct control of a worksite owned or controlled by the contractor.

The KO is the only individual authorized to enter into, administer or terminate contracts. KOs ensure all contract actions comply with appropriate laws, executive orders, regulations and other procedures and approvals.

Commanders should be cautious not to interfere with the KO's responsibilities.

The general counsel must be fully engaged in the contract process to:

- Ensure the legal staff reviews all contracts before award and participates in overseeing contractor employee relationships with the government
- Ensure only qualified and contract-specific KOs and CORs discuss contract execution and compliance issues with contractor personnel
- Ensure personnel with contract safety responsibilities are knowledgeable in the legal aspects of those responsibilities

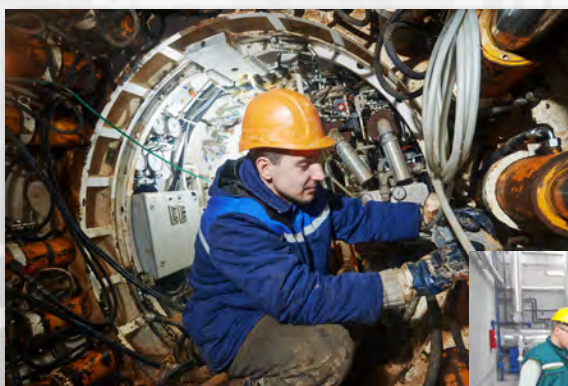


IV. Keys to Success



There are a few specific issues that a commander needs to focus on in order to be successful in promoting contractor safety.

- Ensure SOH and contracting staffs are involved across all contracting phases
- Ensure legal staff is involved in reviewing all contracts before award and in the oversight of contractor employee relationships with the government
- Ensure only qualified and contract-specific KOs and CORs discuss contract execution and compliance issues with contractor personnel
- Monitor personnel assignments to ensure qualified and trained personnel are assigned to positions that have key contract safety roles
- Contractors exercise risk management as it pertains to the contracted work
- Contractors monitor and enforce the safety performance of their subcontractors
- Contractors report and investigate all incidents (including near-misses)



V. Contract Safety Processes



Figure 1 shows the contracting process and the roles of the key players in that process. The integration of safety across pre- and post-contract award phases is critical.

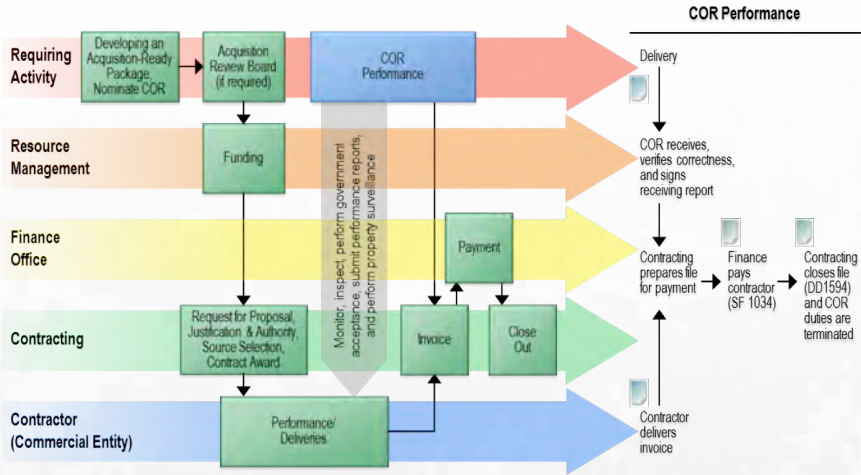


Figure 1. Basic contracting Process

Figure 2 depicts the contracting process and the associated safety tasks for the process events.

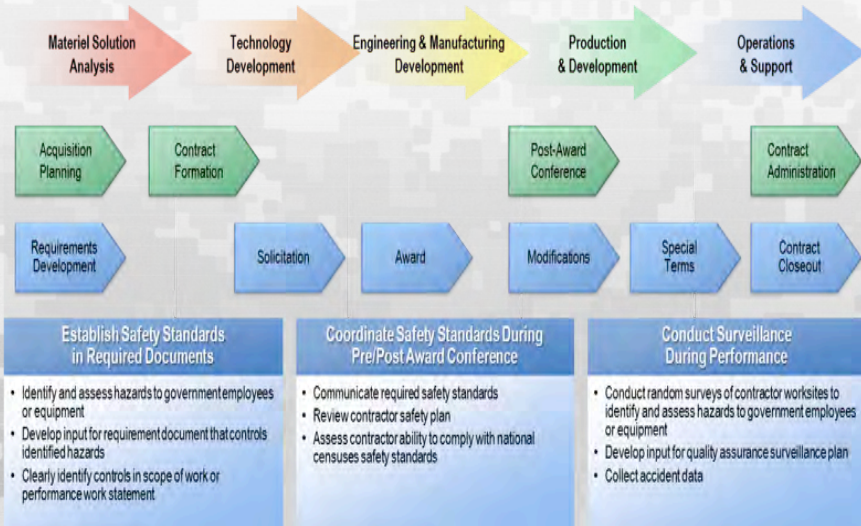


Figure 2. Process Mapping

VI. Areas Requiring Special Consideration



Several areas of contract safety require special consideration, including the following:

- **Explosives:** All contracts involving explosives require special consideration because of their hazardous nature. Those extra considerations include the production, storage and transportation of explosives.
- **Government Facilities:** Contractor operations on government facilities require special consideration to ensure the safety of government personnel, equipment and facilities.
- **Contingency Operations:** Although contingency operations call for expedient operations, care must be taken to follow all host nation legal requirements.
- **Multi-Employer Worksites:** All worksites where government employees are exposed to contractor operations is a multi-employer worksite. Those worksites present unique safety and operational challenges, including:
 - When the Army outsources work that is completed in government-owned facilities and exposes government employees or the general public to hazards, it needs to include specific safety programs that ensure the safety of the government workforce.
 - Under federal and state SOH laws, every employer must provide employees with a safe and healthful workplace. On multi-employer worksites, more than one employer may be considered responsible for a hazardous condition that violates an OSHA standard.
- **Host Nation SOH Issues:** OCONUS commanders must satisfy all SOH requirements and concerns that are specific to their areas of operation, region or country. Those requirements and concerns include the following:
 - The United States is entered into many host nation agreements that require unique inspections, notifications and other procurement procedural issues, which must be satisfied.

- o The Army abides by U.S. safety regulations, but often a host nation has additional safety requirements that must be satisfied.
 - o All host nation SOH standards to Army operations are binding.
 - o All theater-unique policies and procedures for SOH requirements must be included in standard operating procedures.
 - o All commanders should advocate for including common U.S. and host nation SOH requirements in Status of Forces Agreements.
- **Special Operations:** AR 385-10 describes the unique safety considerations in the following specialized operations:
 - Aircraft Ground and Flight Operations
 - Systems Safety
 - Construction (See EM 385-1-1)
 - Radiation
 - Infectious Agents and Toxins
 - Chemical Agents



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