



NNSA Policy Letter: BOP-003.0303

Date: January 10, 2003

TITLE: NNSA Contracting Authorities

- I. OBJECTIVE: The objective of this Policy Letter is to define the Federal authorities, roles, and responsibilities for contracts, financial assistance instruments, personal property, and sales activities so that Headquarters, the Service Center, and Site Offices can successfully accomplish the NNSA mission and programs.

- II. BACKGROUND: Authority and responsibility to contract for authorized supplies and services are vested in the agency head; in NNSA's case, the Administrator. Also, 50 U.S.C. 2402 designates the Administrator as the NNSA Senior Procurement Executive for purposes of section 16(3) of the Office of Federal Procurement Policy (OFPP) Act (41 U.S.C. 414(3)).

The Administrator has delegated Senior Procurement Executive authority to the Director, Office of Procurement and Assistance Management (NA-63) (OPAM). In this capacity, the Senior Procurement Executive has the authority to designate any Head of the Contracting Authority (HCA) within the Administration. The Deputy Director, OPAM has been designated as the HCA. The HCA has the authority to issue and revoke Contracting Officer warrants. Below the level of the HCA only warranted Contracting Officers may obligate NNSA by entering into contracts and financial assistance instruments.

- III. APPLICABILITY: All NNSA elements including non-NNSA entities at sites where NNSA is the landlord.

- IV. REQUIREMENTS: Authority to direct NNSA contractor is based on formal appointments and delegations. Staff and oversight components of NNSA are prohibited from tasking contractors to perform any work or activity unless they have been specifically provided with this authority.

Only a warranted NNSA Contracting Officer or a formally appointed Contracting Officer's Representative (COR) may task a contractor to perform work.

The NNSA Administrator's procurement authorities and responsibilities flow through the Senior Procurement Executive to the HCA who, by issuing a warrant,

grants procurement authority and responsibility to a Contracting Officer. NNSA Contracting Officers for Headquarters, the Service Center and the Site Offices are appointed by the HCA. The NNSA Site Manager, for the laboratory, test site, or production facility will be appointed as a Contracting Officer, consistent with the requirements of DOE O 541.1A, "Appointment of Contracting Officers and Contracting Officer's Representatives," and subject to the limitations established in their appointment.

NNSA is a single contracting activity. As such, there is a single HCA. Organizationally, the HCA resides in NA-63, NNSA's Office of Procurement and Assistance Management. The HCA has overall responsibility for managing the contracting activity and is a Contracting Officer solely by virtue of position, as is the NNSA Senior Procurement Executive. The NNSA HCA appoints Contracting Officers consistent with the OFPP standards applicable to all executive agencies. Contracting Officers are issued a "Certificate of Appointment" that specifies their authorized functional areas, limits of authority, and other restrictions.

The following positions are fundamental to implementation of the Administration's contracting authorities:

- A. Contracting Officer-A Contracting Officer is a qualified person appointed by the HCA with the authority to award, administer, and terminate contracts, financial assistance instruments or sales instruments; make related determinations and findings; develop and negotiate fees; change contract terms and conditions; determine the allowability of costs; and, negotiate aggressive subcontracting plan goals to ensure that small business have the maximum practicable opportunity to participate in NNSA's procurements.
- B. Site Manager-Site Managers are senior NNSA managers that provide an on-site, day-to-day presence at the laboratories, production facilities, or test site. A Site Manager is responsible for effective contract administration at the site to ensure the successful implementation of NNSA programs. The Site Manager is also a Contracting Officer with authority to administer contracts based upon demonstrated individual qualifications and Site Office needs.

Contract administration duties typically include:

- Authorizing and directing contractor work,
- Validating detailed plans generated by contractors against mission requirements,
- Developing detailed plans and obtaining headquarters' approval,

- Ensuring that small businesses have the maximum practicable opportunity to participate in NNSA procurements,
- Performing oversight and review of contractor self-assessments, and
- Evaluating contractor performance.

C. Site/Service Center Contracting Officer’s Representative (COR)- A COR is an NNSA employee appointed by the Contracting Officer, or Administrator, with specific responsibilities to provide an on-site, day-to-day presence at laboratories, production facilities, or test site. The COR’s authority to direct the contractor is limited by the terms of their written appointment.

D. Headquarters Programmatic Contracting Officer’s Representative- This COR is an NNSA employee appointed by the Contracting Officer, or Administrator, to perform specific functions including federal oversight of contractor execution of detailed planning, integrations, and execution of the nuclear weapons program and nonproliferation programs.

NOTE: There is only one type of Contracting Officer’s Representative. The modifiers “Site/Service Center” and “Headquarters Programmatic” are used only to identify where certain responsibilities are accomplished and the different nature of the responsibilities.

V. RESPONSIBILITIES: NNSA contracting authorities are carried out at three organizational levels: headquarters, the service center, and site offices.

A. The Senior Procurement Executive (NA-63):

1. Provides overall management direction of the Administration’s acquisition and financial assistance, and site offices.
2. Oversees the development of acquisition and financial assistance policy, goals, guidelines, and innovations,
3. Measures and evaluates Service Center and Site Office performance against acquisition and assistance goals,
4. Ensures career development of the acquisition workforce,
5. Approves justifications for other than full and open competition if the amount exceeds \$50,000,000,

6. Participates with the Office of Small and Disadvantaged Utilization and other elements in NNSA to establish small business goals.
7. Designates
 - the Head of the Contracting Activity
 - a Senior Competition Advocate to perform the duties required by the Competition in Contracting Act of 1984, Public Law 98-369
 - a task and delivery order ombudsman to perform the duties required by the Federal Acquisition Streamlining Act of 1994
 - a program manager to implement an electronic commerce capability for the Administration who reports directly to the Senior Procurement Executive.
8. Assigns contracting functions and responsibilities to another agency, and creates joint or combined offices with another agency to exercise acquisition functions.
9. Enters into, approves, administers, modifies, closes-out, terminates, and takes such other actions as may be necessary and appropriate with respect to any procurement or financial assistance transaction binding NNSA to the obligation and expenditure of public funds.
10. Approves extraordinary contractual actions to facilitate the national defense that do not to exceed \$50,000.
11. Signs applications for permits to acquire tax-free spirits from a distilled spirits plant for nonbeverage purposes.
12. Determines whether to use the authority in the Defense Production Act of 1950, for priority contracting authority to expedite procurement actions to promote National Defense. This determination is made after consultation with the NNSA General Counsel and the DOE Assistant Secretary for Policy and International Affairs.
13. Acquires, manages, and disposes of personal property held by the Administration for official use by its employees or contractors.

B. The Head of the Contracting Activity (HCA):

1. Enters into, approves, and takes other actions with respect to any contract arrangement, financial assistance agreement, sales contract, or similar transaction, whether or not binding the Administration to the obligation and expenditure of public funds, pursuant to applicable laws, policies, regulations, and procedures. Such actions include rendering approvals, determinations, and decisions, as specifically authorized in the Federal Acquisition Regulations and the Procurement and Financial Assistance regulations that govern NNSA's actions in these areas. Transactions involving more than 25 million dollars are subject to the prior approval of the NNSA Director of Procurement and Assistance Management.
2. Appoints Contracting Officers.
3. Designates Site Office and Service Center Competition Advocates, as needed, to perform the duties required by the Competition in Contracting Act of 1984.
4. Makes the determinations required by the Federal Acquisition Regulations in the case of mistakes in bids alleged after opening of bids and before award, and makes all administrative determinations regarding withdrawal of bids.
5. Manages and disposes of personal property held by NNSA for official use by Administration employees, contractors, and recipients.
6. Develops and maintains organizational continuity of services and contract support needed for NNSA mission accomplishment.
7. The following NNSA organizations are designated Contracting Offices and operate within the guidelines and authority provided by the HCA:

NNSA Headquarters
NNSA Service Center
Kansas City Site Office
Livermore Site Office
Los Alamos Site Office
Nevada Site Office
Pantex Site Office
Sandia Site Office

Savannah River Site Office
Y-12 Site Office

C. The Site Manager:

1. Has primary responsibility for day-to-day oversight and evaluation of program management and contract administration activities at the site. These duties include establishing the overall safety and security parameters within which the contractor is authorized to operate and ensuring that the contractor is making a good faith effort to meet small business subcontracting plan goals.
2. Integrates activities at the site with customers from other elements of the Department of Energy, other Federal agencies, and the private sector.
3. Appoints Contracting Officer Representative (CORs).

D. The Contracting Officer:

1. Ensures that the requirements of FAR 1.602-1 (b) have been met, and that sufficient funds are certified available for obligation;
2. Ensures that contractors receive impartial, fair, and equitable treatment;
3. Exercises independent business judgement.
4. Elevates unresolved issues that create tension between program and business objectives through the Site Manager to the HCA for resolution.
5. Appoints qualified Contracting Officer's Representatives to assure mission fulfillment and effective contract administration and management. At Site offices, COR appointments will be made by, or concurred in, by the Site Manager.

E. Site/Service Center Contracting Officer's Representative:

1. Monitors contractor performance and reports status to the Site Manager/Contracting Officer.

2. Recommends necessary contractual changes to the Site Manager/
Contracting Officer.
 3. Inspects and accepts deliverables.
 4. Provides technical/performance direction to the contractor subject
to the terms of their appointment.
- F. The Headquarters Programmatic Contracting Officer's Representatives,
subject to the terms of their appointment, provide programmatic guidance
and direction and evaluation.

VI. POINT OF CONTACT FOR ADMINISTRATION OF POLICY LETTER:
Deputy Director, Office of Procurement and Assistance Management (NA-63),
202-586-8559.

BY ORDER OF THE SENIOR PROCUREMENT EXECUTIVE:

Robert C. Braden
Senior Procurement Executive
National Nuclear Security Administration