



Cognizant Technical Officer (CTO) Designation – Contract/Task Order Administration

TO: (Individual Nominated by the Requiring Office)

FROM: _____, Contracting Officer

SUBJECT: Contract Administration Authorities

DATE: _____

REF: Contract/Task Order Number _____ with

As the contracting officer for the subject contract, the Federal Acquisition Regulation (FAR, 48 CFR Chapter 1) holds me responsible for ensuring compliance with the terms of the contract and for safeguarding the interests of the United States in its contractual relationships. To assist in fulfilling these responsibilities, I must designate a cognizant technical officer (CTO). This individual will be in a unique position to monitor how well the contractor is progressing towards achieving the contract's purpose and will be responsible for providing technical liaison between the contractor and the contracting officer, which is critical to ensuring good contract performance.

You have been nominated to be the cognizant technical officer (CTO) for administration of the referenced contract. I accept this nomination and hereby designate you to be the CTO. As CTO, your first responsibility is to read the entire contract and thoroughly acquaint yourself with the requirements it places on the contractor, the contracting officer, and the cognizant technical officer. You should also periodically review the contract to maintain your familiarity with its terms and conditions.

Your additional CTO responsibilities are to

- Monitor the contractor's performance and verify that it conforms to the technical requirements and quality standards agreed to in the terms and conditions of the contract. Accordingly, your approval of implementation plans, work plans, or monitoring or evaluation plans must be consistent with the terms and conditions of the contract. You must document any material deficiencies in the contractor's performance and bring them to the immediate attention of the contracting officer (me or my successor).

- Participate in the periodic evaluation of the contractor's performance and preparation of the Contractor Performance Report (CPR), with particular attention to addressing
 - a. The quality of the products and/or services,
 - b. The effectiveness of cost control efforts,
 - c. Timeliness of performance,
 - d. Business relations,
 - e. End-user satisfaction, and
 - f. Compliance with the small business subcontracting plan.

The CPR must be prepared in accordance with the performance evaluation requirements in USAID Acquisition Regulation (AIDAR, 48 CFR Chapter 7) subpart 742.15 (“Contractor Performance Information”) and the Automated Directives System (ADS) Chapter 302 (“USAID Direct Contracting”), in the section entitled "Evaluation of Contractor Performance."

- Recommend in writing (with justification for the proposed action) to the contracting officer any changes needed in the scope of the contract, including any changes to technical provisions of the contract that affect the timing of the deliverables/services or the overall cost-price of the contract (see 1.A below).

Properly discharging your duties and responsibilities as a CTO minimizes your risk of facing disciplinary action. The areas in which you must be particularly cautious involve contracting authority and financial management, when your improper actions could indicate gross negligence.

- In Contracting, this involves exceeding your authority as a CTO and taking actions that are beyond your authority as delegated in this letter. If you have any questions in this area, contact the CO for advice BEFORE you take any action.
- In Financial Management, your risk increases when you act in a manner that is other than what would be expected of a reasonable individual. At a minimum, a reasonable individual would be expected to –
 - take positive action to obtain information necessary to carry out their responsibilities;
 - make logical decisions from the information they have available (even if it isn't totally complete); and
 - document and provide justification for the action. (The documentation need not be formal or extensive, but it should be easily understood by an auditor or other third party individual reviewing it.)

I. DELEGATION

I hereby delegate to you, as CTO, the following authorities that are otherwise the responsibility of the contracting officer:

- A. Technical Directions/Guidance. You may issue technical directions or guidance in accordance with the terms of the contract. "Technical guidance" under a performance-based contract may be very limited; if this is a performance-based contract, consult the CO for guidance. "Technical directions" are interpretations of the technical requirements of the contract and you must give them to the contractor, in writing, when questions or discrepancies arise. They may be directives to the contractor that

- Approve workplans, approaches, solutions, designs, or refinements;
- Fill in details or otherwise complete the general description of work or documentation items;
- Shift emphasis among work areas or tasks; or
- Otherwise furnish instruction of a similar nature to the contractor.

Technical directions shall not include any instruction that affects the cost/price or duration of the contract, or that interferes with the contractor's rights to perform the terms and conditions of the contract. In any and all cases, technical directions must be within the scope of the Statement of Work and comply with the requirements for Technical Directions/Relationship with USAID in Section G of the contract.

- B. Receipt and Inspection. You may receive and inspect completed services or supplies upon delivery, and verify that they meet the acceptance standards, including time of delivery, specified in the contract. If the contractor's services or supplies do not meet the acceptance standards in the contract, you are responsible for directing the contractor in writing to take appropriate action to correct the deficiencies. Should the contractor fail to correct deficiencies, you must advise the CO so he/she can take appropriate action.
- C. Security. You must coordinate with the Office of Security (or its designee) to obtain necessary security clearances and appropriate identification for the contractor and designated personnel if the contract is classified in accordance with ADS Chapter 567 and FAR 4.4. If this contract is unclassified but requires contractor employees to have building passes to enter either the USAID Headquarters or a Mission or Embassy overseas, you are responsible for coordinating with your Bureau or Office Administrative Management Officer, Mission Executive Officer, or other individual responsible for requesting passes (see ADS 567). You are also responsible for notifying the Office of Security whenever any contractor personnel no longer need a building pass.
- D. Government-furnished Property. You are responsible for ensuring that Government-furnished property is available to the contractor in a timely manner, if this property is required by the terms of the contract. You are also responsible for monitoring the contractor's management of and annual reporting on this property and any property acquired by the contractor for use in the contract and titled to either USAID or a cooperating country.

Finally, you are responsible for verifying the return or disposition of Government-furnished property.

- E. Financial Management. Although the responsibility for making payments and accounting for funds and balances rests in the Office of Financial Management (M/FM) or overseas Controller, you must administer financial management responsibilities by
- Reviewing the contractor's request for payments (usually the contractor's vouchers or invoices) and providing or denying your administrative approval in accordance with the stipulations of the contract administration plan and the procedures in Automated Directives System Chapter 630, Payables Management. This chapter states that your administrative approval constitutes the written evidence that the goods and/or services specified on the invoice were received and conform to the requirements or performance milestones in the contract--effectively the acceptance of these goods and/or services.
 - Recommending disallowance of costs to the CO, in accordance with ADS Chapter 630.
 - Ensuring that all funding actions comply with the Agency's forward funding guidelines (ADS 602 Forward Funding of Program Funds and ADS 603 Forward Funding, Non-Program Funds).
 - Monitoring the financial status of the contract on a regular basis to ensure that the level of funding is the minimum necessary.
 - Developing an estimate of accrued expenditures on a quarterly basis in accordance with ADS 631, Accrued Expenditures, and instructions from M/FM or the mission controller.
 - Initiating a request to the contracting officer to deobligate funds at any point that funding in the contract is considered excessive (see ADS 621 Obligations and Internal Mandatory Reference "Deobligation Guidebook").
 - Reviewing any unliquidated obligation balance in the contract, and working with the contracting officer to deobligate excess funds before beginning to close-out actions (see ADS 621 Obligations and Internal Mandatory Reference "Deobligation Guidebook").
- F. Other specific functions/authorities, as provided herein:

(insert additional responsibilities as appropriate, or delete this subsection if unnecessary)

II. ADMINISTRATION

- A. Communications. Please provide the contracting officer with a copy of the following written communications, in either electronic or paper copy format, within two (2) working days after you transmit it to the contractor:
- Technical directions/guidance per #I.A. above,
 - All formal communications between you and the contractor that relate to the contractor's alleged failure to comply with delivery terms or acceptance standards or both, per #I.B. above, and
 - Any other written communication of a similar nature that may have an impact on the contractor's rights or responsibilities for performing under this contract.

- B. CTO Files. As the CTO, you have an important responsibility for establishing and maintaining adequate CTO files. These files are your primary tools for carrying out your duties and responsibilities as the CTO for this contract and must document actions you take as CTO. Inadequate files will impede your or your successor CTO's ability to manage the contract and therefore may jeopardize the program for which it was awarded. These files will also help successor CTOs to understand your actions as CTO and the reasons behind such actions, as well as to have adequate documentation for audit purposes.

You are responsible for ensuring that the files contain the following, at a minimum:

- A copy of this CTO designation letter;
- A copy of the contract and all of its modifications;
- A copy of all correspondence between the CTO and the contractor, including property reports;
- Names of technical and administrative personnel assisting the CTO;
- A copy of records of CTO inspections and receiving/acceptance documents, invoices, and other administrative paperwork and correspondence;
- A copy of other performance records as specified in the contract;
- Documents justifying and supporting Accrual estimates (see ADS 631 Accruals, section 631.3.1 and Additional Help—Accrual Documentation);
- A copy of financial documentation to support their activities in the financial management area such as the invoice and Administrative Approval Form and Checklist (ADS 630.3.3. and Internal Mandatory Reference—Administrative Approval Form and Checklist) for all invoices; and
- Budget pipeline analysis documentation.

III. LIMITATIONS

- A. Scope of Authority/Avoiding Unauthorized Commitments. Your authority does not include directing the contractor, either in writing or verbally, to make changes to the contract statement of work, the terms and conditions of the contract, or the total estimated cost or price of the contract. Only a contracting officer has the authority to take such actions, which include but are not limited to making changes that affect
- The delivery schedule or period of performance,
 - The quantity or quality of the work,
 - The terms and conditions of the contract,
 - The monetary (dollar or foreign currency) limit of the contract or the authorization of work beyond the monetary limit,
 - The qualifications of key personnel, or
 - The composition of the contract team members, if the contract places specific limits on either qualifications or the mix of specialists.

If you take actions that only the contracting officer has the authority to take, you may be making an unauthorized commitment (AIDAR 750.71), which can lead to serious

contractual disputes and legal action that unnecessarily tie up Agency personnel and resources. In the worst case, such unauthorized actions may result in disciplinary action, particularly if the action is determined to be a violation of the Anti-Deficiency Act, 31 U.S.C. secs. 1341-1351, which also provides for criminal penalties. Actions you take or directions you give must be within the authorities provided in this designation.

- B. Redelegation. You may not redelegate the authorities provided in this memorandum to approve/disapprove vouchers, provide written interpretations of technical requirements, or to certify acceptance of goods or services, to any other person. As you carry out your CTO duties, you may ask others to assist you, but such assistance has limits. For example, you may ask others to conduct fact-finding, provide you with analyses or interpretations of technical requirements, or make recommendations to you regarding actions you may take as CTO. However, anyone assisting you must not take any action that directly affects the contractor's rights or ability to perform under the terms of the contract, including (but not limited to) providing interpretations of technical requirements to the contractor. The ultimate responsibility for any actions taken, by you or others assisting you, remains with you.

Exception: In your absence, and only in your absence, (*See AAPD 04-10, Section 3. GUIDANCE, subsection (e) "Naming an alternate CTO"*), _____ is hereby authorized to act on your behalf. If this individual is not available to carry out your CTO responsibilities during your absence, notify the contracting officer as soon as possible and recommend a substitute who can be designated as CTO for the duration of your absence. To ensure minimal disruptions, please notify the contractor and the contracting officer as soon as possible when you will be unavailable to discharge your CTO responsibilities for a period of more than two weeks.

- C. Duration of CTO Designation. This designation is effective for the life of the contract or order referenced on the first page of this designation letter, unless the contracting officer rescinds it in writing or you resign this position. If you cannot fulfill your responsibilities as CTO for any reason (e.g., transfer to another post), please notify the contracting officer as soon as possible in order to ensure the timely designation of a successor.

IV. TRAINING

USAID has a CTO Certification Program with formal classroom courses. You must make reasonable efforts to obtain training and become a certified CTO as soon as practicable and in compliance with USAID regulations or policy as specified by the Bureau for Management, Office of Human Resources (M/HR). If you have not had any of these courses, you must successfully complete one within six months of the date of this designation letter or I reserve the right to rescind the authorities I hereby delegate to you. The Training and Education Team of M/HR has an internal website that lists courses, schedules, registration information, and other important certification information, at <http://inside.usaid.gov/M/HR/lsd/ctocert.html/>.

V. STANDARDS OF CONDUCT AND CONFLICTS OF INTEREST

As an employee of the Federal Government, you must respect and adhere to the principles of ethical conduct set forth in Title 5 of the Code of Federal Regulations, Part 2635—Standards of Ethical Conduct for Employees of the Executive. (see 22 CFR 2635 at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=acec741015459e60f9d8678e5864e34c&rgn=div5&view=text&node=5:3.0.10.9.9&idno=5#5:3.0.10.9.9.1.43.1>). As a CTO, you are responsible for protecting the U.S. Government's interests, while supporting its reputation for fair and equal dealings with all partners, including contractors. Therefore, if you have any direct or indirect financial interests in violation of 18 U.S.C. 208 and/or 5 CFR 2635.401 and 5 CFR 2635.501 that may place you in a position where there is a conflict between your private interests and the public interest of the United States, you must immediately inform your supervisor, the contracting officer, and the Assistant General Counsel for Ethics Administration (GC/EA, see <http://inside.usaid.gov/A/GC/EA/> for more information) of this conflict so that appropriate action may be taken. As CTO, you must avoid the appearance of such conflict in order to preserve public confidence in the U.S. Government employee's conduct of business. Furthermore, you agree to be aware of the post-employment restrictions on former USG employees, including Personal Service Contractors, found in 18 U.S.C. 207 and 41 U.S.C. 423 to detect possible violations.

ACKNOWLEDGEMENT

Your signature below confirms that you

- (1) Accept this appointment, and
- (2) Agree to comply with all duties, responsibilities, and limitations outlined in this letter, particularly those pertaining to conflicts of interest, by agreeing to conduct business dealings to avoid conflicts of interest and in a completely impartial manner.

After signing below, either return this original memorandum (and retain a copy) or return a copy (and retain the original) to me within ____ days . I will send a copy to the contractor as well as to the others indicated below.

CONTRACTING OFFICER

DATE

I HEREBY ACCEPT THIS APPOINTMENT AND ACKNOWLEDGE MY DUTIES AND RESPONSIBILITIES AS CTO:

COGNIZANT TECHNICAL OFFICER

DATE

cc: _____, Alternate CTO
_____, Paying office or Mission Controller
Contractor