

Issue Date: 12/20/2004

**CONTRACTING
OFFICER'S TECHNICAL
REPRESENTATIVE (COTR)
CERTIFICATION,
APPOINTMENT &
RESPONSIBILITIES**

I. Purpose

This Directive establishes the Department of Homeland Security (DHS) policy for appointing, certifying, and terminating Contracting Officer's Technical Representatives (COTRs). This Management Directive (MD 0780.1) supersedes MD 0780.

II. Scope

This Directive applies to all DHS Organizational Elements (OEs). The DHS Office of Inspector General is covered under this directive where it does not conflict with the authorities and responsibilities given to the Inspector General under the Inspector General Act of 1978, and its amendments.

III. Authorities

This directive is governed by numerous Public Laws and national policy, such as:

- A. Clinger-Cohen Act of 1996, Pub. L. 104-106, codified in Title 41 US Code.
- B. Public Law 107-71, Aviation and Transportation Security Act of 2001.
- C. The Homeland Security Act of 2002, codified in Title 6, USC.
- D. Office of Federal Procurement Policy Letter 97-01, dated September 12, 1997.
- E. Federal Acquisition Regulation (FAR), Part 42.
- F. Department of Homeland Security Management Directive - MD 0010, Management Directives System and DHS Announcements.

- G. Homeland Security Acquisition Regulation (HSAR), Subpart 3042.70.
- H. Homeland Security Acquisition Manual (HSAM), Subchapter 3042.70.

IV. Definitions

- A. **Acquisition**: The conceptualization, initiation, design, development, test, contracting, production, deployment, support, modification, and disposal of systems, supplies, or services (including construction) to satisfy agency needs. Per the Federal Acquisition Regulation, acquisition is the process of acquiring, with appropriated funds, by contract for purchase or lease, supplies and services (including construction) that support the missions and goals of an executive agency, from the point at which the requirements of the executive agency are established in consultation with the Chief Procurement Officer of the executive agency, including functions related to fulfilling agency requirements by contract.
- B. **Acquisition Certification Board**: A DHS board comprised of functional advisors from across the Department from the various acquisition career fields. Members review and make recommendations on workforce development, such as recognizing individuals as meeting certification requirements and standards, as well as recommending disposition of certification requests. The board is chaired by the DHS Acquisition Workforce Manager.
- C. **Acquisition Workforce Manager**: The principal manager in strategic planning and direction of the DHS acquisition workforce and principal advisor on formulation of plans for overall management policies and programs relating to workforce effectiveness, organization, personnel, budgeting, reporting, forecasting, and competency preparation.
- D. **Chief Procurement Officer (CPO)**: DHS' Senior Procurement Executive, responsible for managing, administering, and overseeing Department-wide acquisition, financial assistance, strategic sourcing, and competitive sourcing programs.
- E. **Contracting Officer (CO)**: A Federal employee with the authority to enter into, administer or terminate contracts; make related determinations and findings; and appoint COTRs. This individual is also authorized, by virtue of position or by appointment, to perform the functions defined by the Federal Acquisition Regulation and the Homeland Security Acquisition Regulation.

F. **Contracting Officer's Technical Representative (COTR)**: A Federal employee, designated in writing by the Contracting Officer, who is appointed to perform technical functions under the contract, including inspection and acceptance of supplies or services. For the purposes of this MD, the term COTR encompasses any individual performing similar duties, such as: Contracting Officer Representative (COR), Quality Assurance Evaluator (QAE), Technical Representative of the Contracting Officer (TRCO), etc.

G. **Contracting Officer's Technical Representative (COTR) Certification**: A formal process through which the DHS certifies individuals as meeting the standards/achieving the competencies required to perform the duties of a Contracting Officer's Technical Representative (COTR).

H. **Contracting Officer's Technical Representative (COTR) Certification File**: A file maintained by the Head of the Contracting Activity (or designee), containing the certification application, a copy of the certificate, exceptions, and the skills currency training information of the COTR.

I. **Head of Contracting Activity (HCA)**: A Federal employee who, by position or appointment, is responsible for managing the entire acquisition function within an Organizational Element.

J. **Organizational Element (OE)**: Entities comprising the Department of Homeland Security as defined in Management Directive 0010.1 "Management Directives System and DHS Announcements."

K. **Requisitioning Office**: An organization within DHS responsible for managing successful acquisitions to meet essential mission needs and nominating an individual as a COTR to the Contracting Officer. For the purposes of this MD, the requisitioning office is the office initiating the contract.

L. **Senior Procurement Executive (SPE)**: An individual appointed pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41. U.S.C. 414(3)), responsible for managing the acquisition system of the Department, including implementing the unique acquisition policies, regulations, and standards of the Department. The SPE for DHS is the Chief Procurement Officer (CPO).

V. Responsibilities

A. The **Under Secretary for Management** shall be responsible for the overall aspects of this Directive.

B. The **Chief Procurement Officer** shall be responsible for the management, administration, integrity, and oversight of mission-focused Department of Homeland Security acquisition, financial assistance, strategic sourcing, and competitive sourcing programs. The CPO shall also define the requirements for designating persons qualified in acquisition matters as COTRs.

C. The **Contracting Officer** shall examine all contracts (including, but not limited to, task/delivery orders and interagency agreements) to determine if assignment of a COTR is appropriate. The Contracting Officer shall ensure all nominated COTRs meet training requirements prior to initial appointment, and shall strive to build a solid relationship with the COTR and the requisitioning office.

D. The **COTR** shall perform duties in accordance with the responsibilities delineated in the COTR designation letter received from the Contracting Officer. The COTR will normally be responsible for the technical direction and evaluation of the contractor's performance, and certifying acceptance of services. The COTR does not have authority to make any commitments or changes affecting scope, price, schedule, terms, or conditions of a contract. The COTR is responsible for obtaining the required training for certification, maintaining individual documentation, providing information to the Contracting Officer as required, and building a solid relationship with the Contracting Officer.

E. The **Requisitioning Office** is responsible for successful acquisition of mission essential goods, services, or products; for partnering with the Contracting Officer to achieve acquisition goals/objectives, and assisting with technical requirements. The requisitioning office is responsible for nominating a qualified individual to serve as COTR, ensuring training and certification requirements are met and maintained, and building a solid relationship with the Contracting Officer in order to communicate COTR concerns or issues.

VI. Policy & Procedures

A. **Policy**. The HCA (or designee), shall ensure COTRs are qualified in accordance with this Management Directive. For contract actions deemed appropriate, Contracting Officers may appoint a COTR in accordance with the requirements of this MD. COTRs shall hold a COTR acquisition certification prior to appointment, unless an exception applies or a waiver is approved in accordance with this MD. Procurements valued under the simplified acquisition threshold are exempt from this policy unless the Contracting Officer determines appointment of a COTR is appropriate.

B. **Procedures:**

1. Certification for COTRs: DHS will have only one certification level, and COTRs must be able to obtain acquisition certification within 60 days of appointment unless a waiver is granted in accordance with this MD. Training must be completed prior to appointment (unless an exception applies or waiver is authorized), while the actual application for certification may be submitted up to 60 days after COTR appointment.

a. Certification - Minimum Mandatory Training Requirements for COTRs.

(1) Initial COTR Training: Nominees will have met the initial training requirement for certification by completing 40 hours of COTR training. Training may be completed either online or in a classroom. If no previous training exists, COTR's shall, at a minimum, complete the online, no cost courses available from the Federal Acquisition Institute (FAI) (or equivalent). Completion of all the following courses is considered as meeting the 40 hours COTR training requirement:

FAI – COR Refresher Training
FAI – Market Research
FAI - Contracting Orientation

(2) Procurement Ethics Training: A one-hour procurement ethics training course is required annually (may be agency sponsored, online through FAI, or equivalent). The COTR is responsible for maintaining and annually forwarding documentation (email or certificate) to the HCA (or designee), indicating completion of ethics training. The HCA (or designee) shall maintain this information in the individual's certification file. If training is accomplished online via the FAI, completion of the FAI – Ethics Block Training course is considered as fulfilling the requirement of procurement ethics training. Procurement Ethics training may also count toward the annual skills currency training requirement.

(3) Exceptions to Initial Training Requirements for Certification: Individuals are considered to have fulfilled the initial training requirements for COTR certification if they meet one the following exceptions:

(a) Any individual who successfully served in the 1102 series within five years of the date of COTR nomination and has completed eight hours of skills currency training within the preceding 12 months.

(b) Any individual who previously completed 40 hours of COTR training within the last five years of the date of COTR nomination and has completed eight hours of skills currency training within the preceding 12 months.

(c) Any individual who previously completed 40 hours of COTR training (regardless of completion date), has acted in the capacity of a COTR within the last five years of the date of COTR nomination, and has completed eight hours of skills currency training within the preceding 12 months.

b. Certification – Application, Maintenance, and Renewal.

(1) Certification Application: COTRs shall use DHS Form 0780-1 (Attachment 1) to request Acquisition Certification, and shall attach copies of their training certificates to support the training requirements. Applications will be coordinated through the HCA (or designee) and forwarded to the CPO for processing. The Acquisition Certification Board will issue certificates on DHS Form 0780.1-2, which will remain valid for four years from the date issued, provided annual skills currency training requirements are met.

(2) Certification Maintenance: Once appointed, COTR's must complete a minimum of eight hours of annual skills currency training to remain certified and eligible for appointment. The HCA, or designee, at their discretion, shall consider rescinding certification if the annual skills currency training requirement is not met. A variety of sources may be used to meet the skills currency training requirement. The FAI, the Defense Acquisition University (DAU), and the Government On-Line Learning Center are three sources offering free on-line courses. Skills currency training activities include, but are not limited to, training, seminars, attendance at conferences, office "lunch-and-learns", developing and delivering a training seminar, special project assignments that involve acquiring new skills, education or other developmental activities deemed appropriate by the HCA (or designee) that improve the knowledge, skills, and abilities of the COTR. Additionally, any learning activity relating to government acquisition that provides Professional Development Hours (PDHs), Continuous Learning Points (CLPs), Continuing Education Units (CEUs), Professional Development Units (PDUs) or college credit from a recognized learning institution, will meet the skills currency training requirements.

(3) Certification Renewal: Certifications may be renewed up to one year ahead of expiration, provided skills currency training requirements are met. COTR's shall use DHS Form 0780-1 (Attachment 1) to request Acquisition Certification renewal. Applications will be coordinated through the HCA (or designee) and forwarded to the CPO for processing.

c. Certification – Documentation.

(1) COTR Certification File: The HCA (or designee) must ensure appropriate documentation is maintained for each certified COTR in accordance with the Privacy Act, and report such information to the CPO (or designee) as requested. Examples of required documentation include: information used to meet training requirements, maintenance/skills currency training requirements, DHS Form 0780-1, and waivers (if appropriate).

(2) Maintenance Documentation: The HCA (or designee) shall ensure documentation exists for skills currency training activities in each COTR's certification file. When on-the-job learning, rotation assignments, or other flexible activities are used to enhance skills, the COTR shall document the learning that occurred and how it will benefit performance. To be creditable, this information shall be validated by the COTR's supervisor and included in the COTR's certification file. The COTR is responsible for maintaining and forwarding documentation (email or certificate) to the HCA (or designee) annually for inclusion in their COTR certification file, indicating completion of skills currency training.

2. COTR Nomination and Appointment to a Specific Contract.

a. Nomination Packages for Appointing COTRs to a Specific Contract.

(1) At the request of the Contracting Officer, the requisitioning office shall nominate a Federal employee to serve as a COTR. The nominee should already be certified, or be eligible for certification, in accordance with this MD. As the requisitioning office will be working closely with the Contracting Officer during the acquisition process, COTR nomination packages should be submitted to the Contracting Officer well in advance of contract award, allowing time for completion of requisite certification training before assuming duties.

(2) The Contracting Officer has the authority to decline COTR nominations.

b. The COTR nomination package should include information such as the nominee's name, organization, contact information, COTR certification, and, if available, previous experience as a COTR. This information will assist the Contracting Officer in determining whether any additional specialized training may be required prior to the assumption of duties. If any of the minimum COTR qualifications listed below cannot be met, a justification explaining those circumstances shall be submitted to the Contracting Officer along with the nomination package:

(1) Nominee shall have technical knowledge and experience to observe performance and to determine if a contractor meets the performance standards described in the contract.

(2) Nominee shall have successfully completed the required training and certification or be eligible for a waiver. The request for a waiver shall be included with the nomination package.

(3) Nominee shall acknowledge the requirement to attend subsequent skills currency and ethics training during the appointment period.

(4) Nominee shall be familiar with and comply with appropriate DHS regulations.

(5) Nominee should ideally be available for the duration of the contract.

c. Specialized Training: HCAs are authorized to establish a higher level of required skills currency training, or specialized training requirements for their respective OE, if appropriate. Contracting Officers must ensure that nominated COTRs possess the necessary skills and abilities to successfully perform the assigned duties. The Contracting Officer (with the approval of the HCA (or designee)) has the authority to require an eligible COTR to complete additional specialized training (e.g., performance-based service contracts, contract administration, etc.) when it is considered relevant to a particular type of contract to which the eligible COTR is, or may be, assigned. This specialized training is in addition to the certification requirements and may be required of the COTR to meet the needs of the appointment.

d. Written Appointment of a COTR to a Specific Contract: The Contracting Officer shall issue a unique appointment, in writing, to each COTR, which sets forth the COTR's authorities and limitations with regard to the assigned contract. The written appointment must be signed by the Contracting Officer and shall not contain authority for the COTR to sign contractual documents, order contract changes, modify contract terms, or create any commitment or liability on the part of the Government different from that set forth in the contract. The designation shall also not change or supersede the established line of authority and/or the established procedures of the acquisition process. A copy of the appointment letter shall be retained in the official contract file.

e. Acceptance of COTR Appointment to a Specific Contract: Upon receipt of the appointment, the COTR shall advise the Contracting Officer, in writing, that he/she has received the appointment and accepts the COTR responsibilities. After a COTR accepts an appointment, the Contracting Officer will notify the contractor within five working days of contract award and will provide a copy of the COTR appointment letter. For construction projects, the contractor will be notified by providing a copy of the letter not less than five working days prior to giving the contractor notice to proceed.

f. Appointment of an Alternate COTR to a Specific Contract: The COTR appointment is unique to an individual and may not be further delegated. An alternate COTR may be designated by the Contracting Officer to act in the absence of the primary COTR. The requirements of this MD pertain equally to the designation of alternate COTRs.

g. Appointment of a Sub-COTR to a Specific Contract: Due to the scope or technical complexity of some contracts, a "sub-COTR" may also be designated by the Contracting Officer for specific aspects of the contract. The requirements of this MD pertain equally to the designation of sub-COTRs.

h. Termination of COTR Appointment from a Specific Contract: The COTR designation shall remain in effect during the life of the contract unless circumstances dictate earlier revocation. The Contracting Officer is responsible for ensuring appointments are terminated when they are no longer valid or required. The Contracting Officer may terminate a COTR appointment for failure to appropriately fulfill the responsibilities outlined in the appointment letter or this MD. The termination of the COTR appointment shall be in writing, and written notification shall be given to the COTR and contractor. A copy of the termination shall be retained in the official contract file.

i. COTR Appointment Exceptions: Individuals may be appointed as a COTR under the following conditions:

(1) Certification Lacking: COTRs who previously completed initial training as outlined in this MD, but lack acquisition certification, may be temporarily appointed as a COTR. The COTR must apply for certification within 60 days of appointment. If the COTR does not submit the acquisition certification application to the HCA (or designee) within 60 days of temporary appointment, or the application is denied, the COTR temporary appointment shall be terminated. The requisitioning office is responsible for nominating a replacement if the individual cannot obtain the certification in the required time.

(2) Initial Training Lacking: COTRs unable to complete training and certification prior to appointment may obtain a waiver for temporary COTR appointment.

j. Waiver for Temporary COTR Appointment: The HCA (or designee) is authorized to issue one-time waivers for temporary appointment of COTRs, prior to completion of all required training for acquisition certification, in unusual and compelling circumstances after receipt of a letter of explanation from the requisitioning office. When requesting a waiver:

(1) The COTR is responsible for completing the Federal Acquisition Institute (FAI) on-line course "COR Refresher Training" (or equal) prior to temporary appointment.

(2) The COTR is responsible for completing all training requirements referenced in this MD within 60 days of appointment. If the COTR does not complete the training, the Contracting Officer shall terminate the COTR's temporary appointment.

(3) The COTR is responsible for applying for COTR Acquisition Certification within 60 days of the temporary appointment. If the COTR does not submit the acquisition certification application to the HCA (or designee) within 60 days of temporary appointment, or the application is denied, the Contracting Officer shall terminate the COTR's temporary appointment.

(4) The requisitioning office is responsible for nominating a replacement if the waived individual cannot complete the training in the required time.

VII. Questions or Concerns

Questions or concerns regarding this directive should be addressed to the Office of the Chief Procurement Officer, Director of Acquisition Policy and Oversight.

Attachment 1: DHS Form 0780-1, DHS Acquisition Certification Application (COTR)

ACQUISITION CERTIFICATION APPLICATION CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

DEPARTMENT OF HOMELAND SECURITY

Acquisition Certification Application

Contracting Officer's Technical Representative (COTR)

This information shall be used by the Acquisition Certification Board to issue certification.

EMPLOYEE: I certify that the information in this form is, to the best of my knowledge, accurate.

Printed Name: _____	Date: _____
Organizational Element: _____	Civilian Grade / Military Rank: _____
Employee Signature: _____	Work Phone: _____
(SELECT ONE) INITIAL CERTIFICATION <input type="checkbox"/>	CERTIFICATION RENEWAL <input type="checkbox"/>

Mandatory Initial Training Requirements: (X box, provide training date and attach copies of training certificates)

- 40 hours of COTR training completed _____ (date)
- 1 hour of procurement ethics training completed _____ (date)

Or

Exceptions: (Only one required, if applicable)

- Any individual who successfully served in the 1102 series within five (5) years of the date of COTR nomination is considered to have met the initial training requirements for COTR certification and appointment.
- Any individual who previously completed 40 hours of COTR training within the last five (5) years and has completed eight (8) hours of skills currency within the preceding 12 months, is considered to have met the initial training requirements for COTR certification and appointment.
- Any individual who previously completed 40 hours of COTR training (regardless of completion date), has acted in the capacity of a COTR within the last five (5) years and has completed eight (8) hours of skills currency within the preceding 12 months, is considered to have met the initial training requirements for COTR certification and appointment.

Certification Renewal:

8 hours annual skills currency met on _____ (year 1 date)
_____ (year 2 date)
_____ (year 3 date)

Concurrence: I have reviewed the information in this application and support the individual's certification as a DHS COTR.

Supervisor Signature: _____ Date: _____

Endorsement: I have reviewed the information in this application and support the individual's certification as a DHS COTR.

HCA (or designee) Signature: _____ Date: _____