



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY FIRES CENTER OF EXCELLENCE AND FORT SILL
455 MCNAIR AVENUE, SUITE 113
FORT SILL, OKLAHOMA 73503

ATZR-CB

21 October 2020

MEMORANDUM FOR All Fires Center of Excellence (FCoE) Commanders and Directors

SUBJECT: Contracting Officer Representatives (COR) and Employment of Contract Personnel

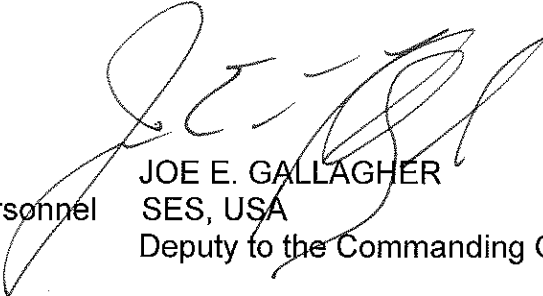
1. Contractors will continue to provide services to assist the FCoE in meeting its mission. We must continue to adhere to all laws, regulations, and policies regarding contract personnel to ensure we get the most from our limited funding. All FCoE Commanders and Directors will use TRADOC Regulation 5-14, Acquisition Management Oversight Process and FCoE internally developed processes to validate their requirements, request a contract, and ensure CORs are conducting and documenting contract performance using web-enabled applications such as:
 - a. Surveillance and Performance Monitoring
 - b. System of Award Management
 - c. Contractor Performance Assessment Reporting System
2. Vendor(s) will submit monthly invoice(s) for payment. CORs will use the Wide Area Workflow (WAWF) application and ensure all information on the invoice is correct before they accept or approve invoice(s). CORs should not accept or approve invoice(s) if vendor is invoicing for services not received.
3. FCoE contracts with a company, corporation, or agency that provides us with contractor employees to accomplish specified tasks or services as described in the contract. Contractor employees are not government employees, and the government cannot treat as such. All FCoE personnel will adhere to restrictions on the use of contract personnel (enclosure 1).
4. Supervisors will ensure CORs attend mandatory training and perform contract oversight, surveillance and reporting responsibilities. CORs will document contract issues in writing and immediately inform the Mission and Installation Contracting Command (MICC), contracting officer and the G8 contracting branch. The COR is responsible to ensure the government receives and complies with contract terms for all contractual goods and services.

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5. COR supervisors must have a management objective and CORs will include a performance element/objective for COR appointment responsibilities in their annual performance plan.
6. All contractor personnel must be easily distinguishable from uniformed military and Department of the Army personnel. All contractors who do not wear a distinctive uniform are required to wear a badge identifying them as a contractor and include other identifiers in email, correspondence, publication submissions, phone calls, and video teleconference.
7. The Staff Judge Advocate, G8 and MICC can assist if additional information is required.
8. The point of contact is the Directorate of Resource Management Contract Management Specialist, Mr. Terry Lescasse at (580) 442-3301, or by email at thierry.lescasse.civ@mail.mil.

Encl
Restriction on Use of Contract Personnel



JOE E. GALLAGHER
SES, USA
Deputy to the Commanding General

Contract Personnel shall not:

1. Be treated like government employees. Government supervisors do not control leave nor work schedules of contractor employees. The contract governs holiday work schedules or by internal rules of the contractor, **not** by government supervisors. Commanders and Directors will not grant contractor employees Administrative Leave up to 59 minutes as is permitted for government employees. The same prohibition applies to granting contractor employees time off for training holidays and during inclement weather.

2. Be placed in a position where they are under supervision, direction or evaluation of a government employee.

(a) Contractors are responsible to supervise their employees, evaluate performance, approve leave, and monitor hours.

(b) Government employees may evaluate contractor's performance as a whole when asked to do so by the Contracting Officer (KO) or Contracting Officer's Representative (COR). Under no circumstance can they evaluate an individual contract employee.

3. Be used in a position of command, supervision, administration, or control over government personnel, or over personnel of other contractors.

4. Be used in administration or supervision of government procurement activities.

(a) Contractors shall not have access to advance procurement information, proprietary info, trade secrets of other contractors, or evaluations of existing contractors' performance.

(b) Contractors shall not attend meetings held to discuss budget issues, contract requirements, or evaluations of contractors' performance other than the contractor's employer.

5. Be used as a replacement for government employees without the following specific commercialization procedures.

(a) Statute and policy prohibit replacing civilian positions with contract personnel as we draw down our civilian workforce.

(b) Fires Center of Excellence (FCoE) organization will not propose a contracting action that performs a function currently performed by a Department of the Army Civilian (DAC) or one performed by a DAC whose position was eliminated for budgetary reasons.

6. Be placed in a situation to represent the FCoE or U.S. Government, nor be asked to make decision on behalf of the U.S. Government.
7. Be allowed to provide services outside the contract's Performance Work Statement (PWS) or Statement of Work (SoW). This can result in an unauthorized commitment for which the individual directing or allowing the work can be held financially liable.
8. Be allowed to do any "volunteer" work, regardless of whether or not the contractor expects payment. Generally, accepting volunteer services is considered under 31 U.S.C. 1342, an Anti- Deficiency Act (ADA) violation unless a valid gratuitous servant agreement is in place. This includes work which was once performed under contract or by government personnel, for which a valid contract does not exist. It is very, very rare that the contractor's services would be permitted to be accepted as if the contractor was a gratuitous servant.
9. Be given Commander's coins purchased with appropriated funds.
10. Be given military or civilian incentive awards. Commanders may inform the COR that one or more of the contract employees has performed exceptionally well, significantly exceeding contract requirements. Commanders may recognize contractor employees by presenting a certificate or Commander's note after coordinating with the COR and obtaining KO approval.
11. Be solicited for gifts of any kind. Government employees may accept items of little intrinsic value from contractor employees, such as coffee, cakes, or donuts shared in the office setting. Government employees may accept unsolicited gifts up to \$20 per occasion, but not more than \$50 per contractor source per calendar year. Government employees may never accept cash gifts from contractors. Government employees may never accept any gifts, even if following within the above exceptions/exclusions, if the gift is given with the intent to influence action of the Government employee in his or her official capacity.
12. Be solicited for office internal fundraising. No government employee should accept donation from contractor employee if their identity as a contractor employee is known. Contractor employees may incidentally contribute in office fundraising for things such as the office coffee fund, cup and flower fund, birthday cakes, and departing mementos.