

## CHAPTER 4 CONTRACTS

### GENERAL

This chapter provides an overview of food service contracting. The Army has made measurable progress in improving the food service contracting process and quality of service to the soldier. This is attributed to several factors. These factors include command efforts, use of the DA prototype performance work statement and Quality Assurance Surveillance Plan for food service contracts, training, effective use of experience, and lessons learned. Policy, responsibilities, and administrative regulations are in AR 30-1, Chapter 13. Food service contracts performed in government-owned facilities consist of three types. They are full food service, dining facility attendant and management, and food production.

### COMMAND CONCERNS

Many commanders feel that they have lost their flexibility, control, and decision-making power when their dining facilities are contracted. Although there may be contracting limitations, commanders are still responsible for the quality of subsistence received by their soldiers. The operation of the dining facility should not change with a food service contract. Contractors must adhere to the same guidelines as the military to include AR 30-1, SB 10-260, and TM 10-412. Food service personnel can assist commanders in carrying out their responsibilities, easing the transition from military to a contract operation, and providing quality assurance administration for the contract.

### COMMANDER'S ACTIONS

Commanders need to be aware of contract provisions and procedures, contract flexibility of operation, and procedures for effecting changes. An SOP properly implemented at the installation and within each command will serve as a guide towards achieving a successful contract

operation. Commanders do not exercise supervision or control over the operation of a contracted dining facility that feeds their soldiers. Commanders should report to the COR conditions in the facility which do not conform to the established contract standards for food preparation, service, or sanitation.

Make unannounced visits to the dining facility to observe the operation and solicit diner comments. Visits must be conducted in such a way that it does not hinder the contractor's operation.

Recommend methods to correct noted deficiencies. Informally discuss with the contractor the status of operations as they affect soldiers under his command. Provide recommendations to the COR or IFA as to how the contractor can improve the quality or quantity of the food served, the atmosphere, or the sanitation or cleanliness of the facility. Table 4-1 (page 4-2) is a list to help commanders with full food service contracts.

### COMMERCIAL ACTIVITIES

The commercial activities program is a productivity improvement program. It is based on the OMB Circular A-76. The circular states three policy objectives. The first is achieve economy and enhance productivity. The second is retain governmental functions in-house. The third is rely on the commercial sector. Food service is classified as a commercial service obtainable through private business.

Contracting of both TOE and TDA dining facilities is subject to AR 5-20 if DA civilian employees are presently assigned and performing food service duties. When DA civilians are engaged in the tasks and duties of performing food service duties in a dining facility, a commercial activity study must be performed prior to contracting the service. The study itself includes the

development of a PWS, a QASP, and an in-house cost estimate. The study is conducted to determine whether the service can be more efficiently performed in-house or by a private contractor. In order for the function to be contracted, the contract price, including an additional 10 percent of the in-house personnel related costs, must be lower than the government's bid.

Dining facility attendant service is authorized for all dining facility operations, with the exceptions of field operations, combat situations, and galleys aboard Army vessels. Such service must be contracted instead of using borrowed military labor.

Table 4-1. General guidelines for commanders

<b>DO</b>
<ul style="list-style-type: none"> <li>• Observe contractor operations.</li> <li>• Follow procedures and time frames for getting changes implemented.</li> <li>• Coordinate through the COR to solve any problems that arise.</li> <li>• Report to the COR any discrepancies in contractor performance.</li> </ul>
<b>DON'T</b>
<ul style="list-style-type: none"> <li>• Ask the contractor for unauthorized or illegal service and support, such as cake, cookies, and coffee for orderly room or social functions.</li> <li>• Suggest better methods of performance.</li> <li>• Direct contractor personnel in the performance of their duties.</li> <li>• Ask for copies of any paperwork.</li> <li>• Make "trade-offs" with the contractor concerning government-performed tasks and contractor-performed tasks.</li> </ul>

## DIRECTIVE TO CONTRACT

The Vice Chief of Staff, Army directed that food preparation and management of all TDA dining facilities be contracted by March 1988. This action was a result of an Army reduction in food service personnel authorizations. Food preparation and management in TOE dining facilities are to be contracted only when specific criteria, as outlined in AR 30-1, have been met.

### MANDATORY USE OF DA PROTOTYPE

A properly prepared PWS can mean the difference between a successful and an unsuccessful contract. The Army must maximize standardization in food service contracts to improve the quality of service to our soldiers, to control cost, and to improve the contracting process overall. The US Army Quartermaster Center and School maintains, publishes, and distributes the DA prototype PWS and QASP for food service contracts. The use of these prototypes is mandatory for developing and renewing new food service contract documents. Prototypes are available in hard copy and various software programs from--

Commander  
USAQMC&S  
ATTN: ATSM-CES-OR  
Fort Lee, VA 23801-5041

Call:

AV 687-7118 or Commercial (804) 734-7118

### INSTALLATION FOOD SERVICE ACTIONS

Installation food service personnel have specific responsibilities when contracting dining facility operations. They must tailor the DA prototype PWS and QASP to meet specific installation requirements.

Once the PWS has been finalized, food service personnel must prepare an independent cost estimate for the services to be contracted. Preparation of these documents should be a team effort in coordination with the installation contracting activity. Tailoring the PWS does not include

changing the prototype to suit a contracting activity. The prototype will be used by all Army installations for standardization of food service contracts.

Upon installation approval of these documents, the PWS and QASP must be certified by the MACOM food service activity as part of its review and approval process.

Following the award of a contract, the food service activity personnel will be responsible for performing quality assurance on the contract and for developing a contingency plan for use in the event of labor strikes, acts of God, or civil disturbance or if the contractor fails to perform.

Assistance in developing these documents may be obtained from --

USAQMC&S  
ATTN: ATSM-CES-OR  
Fort Lee, VA 23801-5041

### COR DUTIES

A COR is an agent of the government designated by the Contracting Officer (KO) with specific authority and limitations to assist the KO in administering the contract. The KO has overall responsibility for contract execution and administration. He has broad authority over food service contracts, to include having authority to enter into, administer, or terminate contracts and to make related determinations and findings. Each COR designation is in writing, and clearly defines the scope and limitations of the COR's authority. The COR may not redelegate his authority. Each COR position is different, depending on the nature and extent of authority the COR is given in the letter of designation. Some general guidelines are provided in Table 4-2 (page 4-3). The COR duties are rather specific in nature and terminate upon conclusion of the contract or transfer of the individual. Quality Assurance Evaluators, who perform only inspection duties as a representative of the food service activity, are appointed by the COR. Therefore, they do not need a COR letter of

designation to perform their duties. Individuals appointed as CORs or QAEs must work together in keeping the KO informed of the contractor's performance.

Table 4-2. General guidelines for CORs

DO
<ul style="list-style-type: none"> <li>• Have a copy of the contract.</li> <li>• Know what is in the contract.</li> <li>• Keep a copy of your letter of appointment.</li> <li>• Understand the limits of your authority.</li> <li>• Maintain records of all transactions affecting the contract.</li> <li>• Be aware of the Army's standards of ethical conduct.</li> <li>• Refer the contractor's correspondence promptly to the contracting officer.</li> <li>• Document all actions on the contract.</li> <li>• Keep communication channels open.</li> <li>• Observe contract operations.</li> <li>• Read and check reports from contractor.</li> <li>• Supervise inspection teams.</li> <li>• Keep contractor and contracting officer informed of problems or deficiencies.</li> <li>• Ensure instructions to the contractor are in writing from the contracting officer.</li> </ul>
DON'T
<ul style="list-style-type: none"> <li>• Supervise contractor employees.</li> <li>• Tell contractor how to do the job.</li> <li>• Become personally involved in disputes.</li> <li>• Let the contractor perform work outside the scope of the contract.</li> <li>• Delay correspondence or reports.</li> </ul>

## TYPES OF CONTRACTS

The KO, having the authority to determine the type of contract, has a wide selection of contract types from which to choose. These types of contract range from the sealed bid, firm fixed-price contract to a cost or fixed price plus award fee contract. The different types of contract are fully described in the FAR. In the past, many contracting officers had thought that food service requirements were small, easily defined, and a stable recurring function, so the sealed-bid method of procurement was used.

The sealed-bid method is normally preferred by the FAR as it is often faster and requires less initial work effort. This method certainly has its advantages in some cases. However, the negotiation method has proven to be more applicable to contracting for food services.

Contracting personnel may not understand the difficulty of determining contract requirements and standards for food service when there are so many variables and uncertainties to be considered. It makes good sense to hold discussions with contractors to clarify the requirements, standards, and variables prior to award.

There have been fewer claims, disputes, and appeals from contractors when the negotiation method of contracting was used. Food service personnel may be able to influence the KO, during the development stages of the PWS and QASP, to use the negotiation method. Contracting officers must consider more than policies, procedures, and guidance cited in the FAR in selecting the appropriate contract type.

## COR TRAINING

Contract administration training for the COR is the responsibility of the KO. At the time of appointment, the KO must provide the COR with

requisite training. This training should include a review of the contract and duties, authority limitations, forms completion, standards of conduct, and reporting requirements.

An excellent source of initial training is the COR course. The Army Logistics Management College offers the Contracting Officer's Representative Course in resident, on-site, and via satellite and correspondence modes. All CORs and QAEs should complete this course if they are involved in contract administration.

The USAQMC&S schedules several Food Service Contract Management Workshops each year. This training provides personnel an opportunity to obtain specific instruction in administering a food service contract. The USAQMC&S also provides the COR and quality assurance training on site, at the request of the installation. You may request this training through the USAQMC&S.

## COR FILES

COR files should include the letter of COR appointment, a copy of the contract, and any modifications to the contract. They should contain copies of correspondence from the contractor, all invoices received, and receipt and acceptance documents. Memorandums for record of verbal communication with the contractor and those for other actions that affect operations should be placed in the files also. Other documents which should be filed are the inspection schedule; records of inspection; records of discrepancies, to include photographs and sworn statements of witnesses; records of severe weather; and copies of reports of deficiencies to the contractor. The names of the technical and administrative assistants to the COR should be in the CORs files also.