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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: In-sourcing Contracted Services—Implementation Guidance

On April 6, Secretary Gates announced that the Department would scale back the role of contractors in support services. On April 8, the Comptroller signed Resource Management Decision (RMD) 802, which included the realigning of resources for FY 2010-2014 to decrease funding for contract support and increase funding for approximately 33.4K new civilian manpower authorizations, 10,000 of which are for the Defense acquisition workforce. This memorandum forwards guidance to assist DoD Components with developing and executing plans to meet the requirements of the RMD.

Section 2463 of Title 10, U.S.C. precludes the Department from setting limits on what may be in-sourced. Therefore, the RMD is a starting point and Components should review all contracted services for possible in-sourcing as part of a Total Force Management strategy. In addition, DoD Components should not construe the RMD as limiting or mandating in-sourcing to specific object classes or the acquisition workforce.

In-sourcing has been included as a metric in the Department's Performance Budget submission and I will be receiving quarterly reports on your progress. In-sourcing actions will also be tracked in the Inherently Government/Commercial Activities Inventory and reported to Congress in the Defense Manpower Requirements Report.

The OUSD(P&R) leads for execution of the Department's in-sourcing initiative are Pam Bartlett (pam.bartlett@osd.mil) and Thomas Hessel (thomas.hessel@osd.mil). DoD Components should e-mail OUSD(P&R), by June 5, 2009, the name and contact information of the senior official who has been designated as responsible for development and execution of your Component's in-sourcing plan. The Director, Administration and Management is designated as the in-sourcing official for OSD.

In-sourcing is a high priority of the Secretary of Defense. I would appreciate your support in ensuring that this effort is managed successfully.



OSD 05339-09



IN-SOURCING IMPLEMENTATION GUIDANCE

1. General.

1.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) was asked to lead this in-sourcing initiative and — with support from the Under Secretary of Defense, Comptroller (USD(C)); Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)); and the Director, Program Analysis and Evaluation (D,PA&E)) — developed the attached guidance. This guidance was derived from existing Department policies, statutes, and regulatory requirements. It incorporates lessons learned and recommended best practices for in-sourcing and addresses functions, personal services, and other activities that should not be contracted. The information is intended to assist you with in-sourcing services in a systematic and well reasoned manner while ensuring that gaps in critical services are avoided. In-sourcing requires a significant amount of planning and coordination. A team of OSD Technical Advisors identified in the second attachment is ready to assist your staff with executing your plans.

1.2. Designated in-sourcing program officials must provide the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) their Component's in-sourcing plans by July 31, 2009, and submit quarterly progress reports beginning next January. OUSD(P&R) will convene a meeting of DoD Component in-sourcing program officials in June to review the in-sourcing process, answer questions, and share best practices. Lessons learned and ideas for streamlining processes to accomplish the requirements of the Resource Management Decision (RMD) will be discussed at that meeting. Additionally, we will establish a web-based site to share lessons learned, best practices, and answers to frequently asked questions.

1.3. In-sourcing program officials should alert Pam Bartlett and Thomas Hessel if there are any problems with executing their plans. For example, problems with hiring DoD civilian employees have the potential to preclude Components from achieving their objectives and must be identified to OUSD(P&R) as quickly as possible so they can be forwarded to the ODUSD Civilian Personnel Policy (ODUSD(CPP)) representative for review and recruitment assistance, as appropriate.

1.4. Consistent with current policy, each Component's principal official for manpower management shall maintain oversight and provide a summary of all in-sourcing actions in the DoD Component's annual Defense Manpower Requirements Report (DMRR) submission. Manpower increases resulting from in-sourcing actions will also be reported in the annual Inherently Government/Commercial Activities (IG/CA) Inventory. Accurate reporting in the IG/CA Inventory is essential as this data will be used to answer Congressional and media inquiries about what functions have been in-sourced and for what reasons.

2. In-sourcing Defined.

2.1. In-sourcing is the conversion of any currently contracted service/function to DoD civilian or military¹ performance, or a combination thereof. In-sourcing actions include the conversion of those contracted functions that should be considered to be inherently governmental or exempted from private sector performance as discussed in paragraphs 4.2.2 and 4.2.3; contracted functions that provide personal services (except where specifically authorized by law) or have contract administration problems as discussed in paragraphs 4.2.4 and 4.2.5; and contracted services that can be performed more cost effectively by DoD civilian personnel (including those functions that must be given “special consideration” under 10 U.S.C. §2463) as discussed in paragraph 4.2.6.²

2.2. DoD Components shall report manpower authorizations (both military and DoD civilian) that are established as a result of in-sourcing actions in their quarterly in-sourcing reports once the manpower requirements are documented, the funds provided, and the manpower authorized.

3. Preliminary Steps - Developing the In-sourcing Plan. Development of an in-sourcing plan requires collaboration among a number of “stakeholders,” including officials from the programming/budget, resource management, contracting, manpower, and civilian human resource (HR) communities as well as requiring officials.³ In addition, officials responsible for space and facilities management, security clearances, information technology, and other related functions, should be consulted, as appropriate, so that proper consideration is given to these requirements. (For example, a long lead time will be required for large space increases in the National Capital Region (NCR). Washington Headquarters Services should be notified of NCR lease requirements as soon as possible so that they can include them in ongoing lease migration discussions with the General Services Administration.) OSD and Component Functional Community Managers⁴ should also be involved, as they can provide overarching information about their respective communities that would be valuable to the in-sourcing decision process.

3.1. DoD Component officials should strive to identify contracted services for in-sourcing as part of a total force approach to workforce management and strategic human capital planning. Often, risks to operations cannot be identified and considered for in-

¹ Contracted services can only be converted to military performance in very limited circumstances—i.e., when the work is determined to be military essential or justified as a legitimate military exemption consistent with DoD Instruction 1100.22.

² This includes functions that are closely associated with the performance of inherently governmental functions.

³ The “requiring official” is the official who would be responsible for making sure the work is performed if the contracted service is in-sourced.

⁴ See DoD Instruction 1400.25-V250, “DoD Civilian Personnel Management Systems: Volume 250, Civilian Strategic Human Capital Planning (SHCP),” November 18, 2008, for an explanation of OSD and DoD Functional Community Managers.

sourcing without a clear accounting of the total force, including visibility of the levels of contract support. DoD Components are encouraged to use all available contract data when developing their in-sourcing plans. (See paragraph 4.1 concerning inventories of contracts for service.)

3.2. When developing their plans, designated in-sourcing program officials should probably not establish sub-goals for organizations within their Component based exclusively on service contract dollar values. This approach assumes that the best candidates for in-sourcing are evenly distributed across the Component, which is highly unlikely. Additionally, service contracts typically have variable combinations of labor, other direct/indirect costs (e.g., supplies, material, travel, overhead, etc.) and profitability that can skew projections of contractor work-years and possible savings.

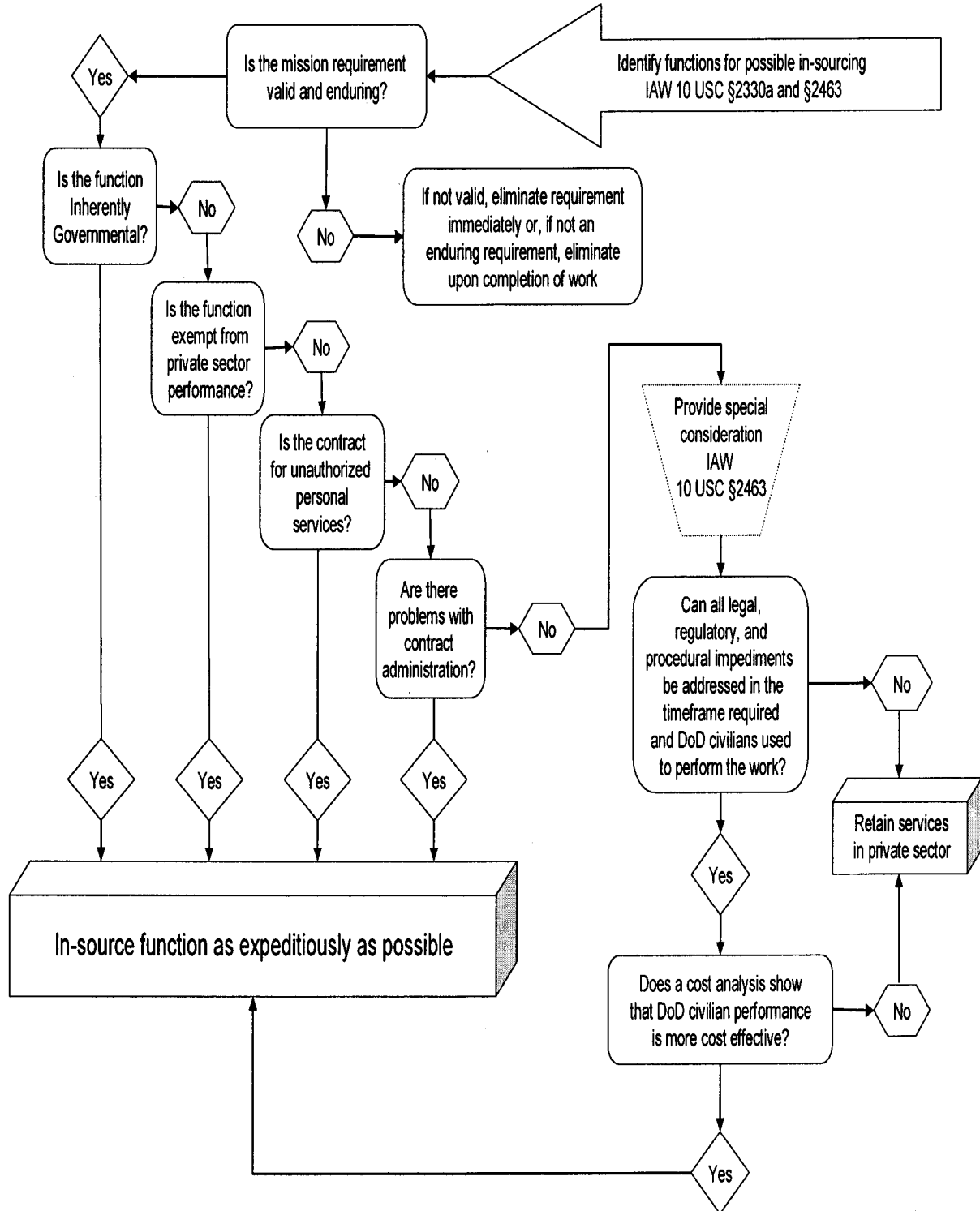
3.2.1. Designated in-sourcing program officials should consider the types of services performed and the ratio of contract support to in-house performance within various functional areas. IG/CA Inventories and inventories of contracts for services (see paragraph 4.1) can be used to compare activities performing similar functions and to identify activities that have an unusually high percentage of contracted services and that might warrant review.

3.2.2. As initial reviews of contracted services are completed, designated in-sourcing officials should build on lessons learned when trying to identify additional areas for potential in-sourcing.

3.3. When developing in-sourcing plans, DoD Component officials should consider the steps and length of time it will typically take to complete an in-sourcing action so that sufficient time is provided for transitioning from contractor to government performance. Each step in the process is dependent on the timely completion of preceding steps. Therefore, it is strongly recommended that all stakeholders be involved from the onset and made aware of the importance of completing their assigned responsibilities on time so there are no gaps in critical services at the end of the process.

3.4. Component officials must decide which contracted services would be good candidates to in-source in FY 2010, which should be scheduled for a later date, and which should not be in-sourced. In-sourcing plans should include a margin of error as some contracted services identified for in-sourcing may not be executable; may have to be postponed to the following fiscal year (or later) because hiring or other actions cannot be completed in the timeframe required; or because a review may show that there is some other reason, such as cost effectiveness, for not in-sourcing the contracted service. Procedures for in-sourcing contracted services are addressed at paragraph 4. The "decision tree" diagram on the following page shows the process for reviewing contracted services for in-sourcing in accordance with the steps provided for in paragraphs 4 and 5.

PROCESS FOR PRIORITIZING AND REVIEWING CONTRACTED SERVICES FOR IN-SOURCING



3.5. The RMD provides funding, beginning in FY 2010, for 225 additional HR personnel, to handle the volume of civilian personnel actions that will be required as a result of in-sourcing contracted services. This funding is apportioned among certain DoD Components. To ensure needed HR capacity is available at the onset of plan execution, efforts should immediately begin to determine the additional workload and manpower that will be required, allocate the funds, authorize the manpower, and establish new positions so they can be filled as soon as possible.

4. Prioritizing Contracted Services for In-sourcing.

4.1. 10 U.S.C. §2463 requires the Department to ensure that consideration is given to using, on a regular basis, DoD civilian employees to perform functions that are performed by contractors but could be performed by DoD civilian employees. This statute also requires the Department to make use of the inventory required by 10 U.S.C. §2330a(c) for the purpose of identifying functions that should be considered for performance by DoD civilian employees pursuant to 10 U.S.C. §2463. 10 U.S.C. §2330a requires the Department to inventory contracts for services and requires the Secretaries of the Military Departments and the Directors of Defense Agencies to identify activities that should be considered for conversion. In a May 16, 2008, memorandum, the Deputy Under Secretary of Defense for Acquisition and Technology established a phased implementation approach for the inventories and reviews required by section 2330a. (This memorandum is available at <http://www.acq.osd.mil/dpap/policy/policyvault/2008-0222-DPAP.pdf>.) The April 4, 2008, DepSecDef memorandum that issued the USD(P&R)'s guidelines for in-sourcing new and contracted out functions, states that DoD Components shall not delay implementation of section 2463 until the inventory required by 10 U.S.C. §2330a(c) is finished, but should proceed with the in-sourcing of functions as provided by the USD(P&R)'s guidelines. (The DepSecDef April 4, 2008, memorandum is available at <http://www.defenselink.mil/prhome/pi.html>.)

4.2. Requiring officials, contracting officers, contracting officer representatives (COR), contracting officer technical representatives (COTR), and manpower officials, should work together to prioritize contracted services for in-sourcing based on the information provided below.

4.2.1. Valid and Enduring Mission Requirement. Consistent with current policy, when reviewing existing contracted services, requiring officials must first determine and verify whether the function being performed is still a valid mission requirement. Requiring officials should determine if the work is still required; has marginal benefit to mission accomplishment; is redundant of existing in-house or other contracted capabilities; or is not an "enduring" mission requirement. Work is not considered to be "enduring" if the requirement for the services will not extend beyond the terms of the current contract. However, when assessing whether there is an "enduring" requirement, officials should consider whether there is a group of contracts for similar

services within an activity or organization that, when grouped together, would constitute an “enduring” requirement that could be better executed through an in-house capability— e.g., an analytic cell might provide better support (more timely or cost effective) than support from private sector contractors. If the work is not required; has marginal benefit to mission accomplishment; is redundant of existing in-house or other contracted capabilities; or is not an “enduring” mission requirement, the requiring official shall notify the contracting officer and resource manager that the services are, or will, no longer be required. Contracted services that are not an “enduring” requirement (with the exception of inherently governmental work) should probably not be considered for in-sourcing as the costs associated with establishing and filling civilian positions would provide minimal return on investment.

4.2.2. Inherently Governmental (IG) Functions. Subpart 7.503(e) of the Federal Acquisition Regulation (FAR) requires the contracting officer to obtain a written determination from the requiring official that none of the functions to be performed under contract are IG. The requiring official must provide the contracting officer with a written determination after consulting their manpower official as provided in DoD Instruction 1100.22, “Policy and Procedures for Determining Workforce Mix,” September 6, 2007 (available at <http://www.dtic.mil/whs/directives/corres/ins1.html>). If a review of the contract shows that functions have been contracted which subsequently have been determined to be IG,⁵ the functions must be in-sourced as expeditiously as possible.

4.2.3. Exempted Functions. Subpart 207.503 of the Defense FAR Supplement (DFARS) requires the contracting officer to obtain a written determination from the requiring official that none of the functions to be performed under contract are exempted from private sector performance. The requiring official must provide the contracting officer with a written determination after consulting their manpower official as provided in DoD Instruction 1100.22. If a review of the contract shows that functions have been contracted which subsequently have been determined should be exempted from private sector performance,⁶ the services must be in-sourced as expeditiously as possible.

4.2.4. Unauthorized Personal Services. Subpart 37.103(a)(3) of the FAR requires the contracting officer to obtain a written determination that the service contract does not violate the provisions in Subpart 37.104(b) of the FAR on contracting for personal services. If a review of the contract shows that the contract (as it is being performed) is an unauthorized personal services contract (as provided by applicable

⁵ A DoD Component could determine that a function is inherently governmental because there has been a change to the law, regulation, policy, procedure, mission requirement, or other governing factor subsequent to when the contract was awarded.

⁶ A DoD Component could determine that a function should be exempted from private sector because there has been a change to the law, regulation, policy, procedure, mission requirement, or other governing factor subsequent to when the contract was awarded.