SAMR-FMMR

2 7 MAY 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Divestiture Required for Contract Performance of Certain Functions

1. References:

   a. Title 10, United States Code, Sections 2330a, 2382 and 2463.

   b. SecArmy memo, 1 February 2011, Subject: Reservation of In-sourcing Approval Authority.

   c. DASA (FMMR) memo, 4 March 2011, Subject: Army In-sourcing Approval Procedures.

2. Pursuant to the review required by Section 2330a(e) of Title 10, United States Code, Contractor Man Year Equivalents documented in The Army Authorization Documentation Systems were classified as performing inherently governmental functions, closely associated with inherently governmental functions, unauthorized personal services, and other categories (see enclosure 1). The following actions are required by this statutory provision as follows:

   • Contract performance of inherently governmental functions and unauthorized personal services must be divested. Such functions may only be performed by government personnel and must be completely divested unless they have been approved for in-sourcing pursuant to references b and c.

   • Contract performance of "closely associated with inherently governmental" functions must be divested "to the maximum extent practicable" because such functions in certain circumstances pose risks of inherently governmental performance. Such functions are afforded "special consideration" for government performance through the Secretary of the Army approval process for in-sourcing pursuant to reference a. In many cases, only a portion need be in-sourced to ensure sufficient government capability for overseeing contractor performance with an adequate number of Contracting Officer Representatives and government personnel with expertise in the functional area to ensure the Government has the capacity to make truly informed and independent approvals of contractor performance.

3. A data call is at Enclosure 2 reflecting the latest information provided by the Civilian Human Resources Activity (CHRA) of in-sourced positions encumbered as of

1 February 2011. We need you to annotate this data call against the Panel for Documenting Contractors determinations for your command so we can identify functions determined to be at risk of inherently governmental performance or involving unauthorized personal services that remain to be in-sourced or divested. We plan to use this as a tool to ensure statutory compliance.

4. My points of contact are Ms. Eileen Ginsburg at 703-693-2109 and Mr. Paul Rupprecht at 703-693-2123.

Enclosures

JAY D. ARONOWITZ
Deputy Assistant Secretary of the Army
(Force Management, Manpower and
Resources)

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