REQUEST FOR CIVILIAN HIRE OR SERVICES CONTRACT APPROVAL

A. Name of HQDA Principal, Army Command, Army Service Component Command or Direct Reporting Unit Organization:

B. Unit Identification Code:

C. Position Title or Project Name for Contract:

D. Position Number or Contract Number/Task Order/Delivery Order Number:

E. Position Grade and Cost/ or Contract Manpower Equivalents and Cost:

F. Justification for fill or contract (for contracts attach worksheets A, B C, & D):

_____
_____
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G. HQDA Principal, Army Command, Army Service Component Command or Direct Reporting Unit Decision:

- **Hiring Decision: _____Approve**
  _____Disapprove
- **Contracting Decision:**

_____ I **Approve** and certify that: 1) this requirement does not include inherently governmental functions; 2) does not include unauthorized personal services either in the way the Statement of Work is written or in the way the contract operates; 3) in the case of work closely associated with inherently governmental functions, or non-competitive contracts, special consideration has been given to using federal government employees; and 4) this contract has been reported in the Contract Manpower Reporting Application (CMRA) (if the CMRA reporting requirement could not be accomplished, explain why), or the CMRA reporting requirement has been included in the Statement of Work for this new requirement.

_____ **Disapprove**

Signature Block

H. Name of Preparer of Form_____Signature_____Date_____

Revised: 7/31/2008

WORKSHEET A (1 of 2)
INHERENTLY GOVERNMENTAL
(This worksheet must be included as part of the approval form.)

The following functions constitute inherently governmental functions and may not legally be contracted. (See the FAIR Act (31 United States Code Section 501), the Federal Acquisition Regulation (FAR) Part 7.5.) and DODI 1100.22. If the services to be contracted involve **any** of the following, then the function must be performed in-house by federal government employees. **Circle any functions below that apply based on the statement of work or the way contract is performed. Any function circled below must be performed in-house and can not be contracted.** (The list below is not comprehensive, as it excludes examples from the FAIR Act and DODI 1100.22.)

1) Involve contractors providing legal advice and interpretations of regulations and statutes to Government officials?
2) Involve the direct conduct of criminal investigations?
3) Involve the control of prosecutions and performance of adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution?
4) Involve the command of military forces, especially the leadership of military personnel who are members of the combat, combat support, or combat service support role?
5) Involve the conduct of foreign relations and the determination of foreign policy?
6) Involve the determination of agency policy, such as determining the content and application of regulations, among other things?
7) Involve the determination of Federal program priorities for budget requests?
8) Involve the direction and control of Federal employees?
9) Involve the direction and control of intelligence and counter-intelligence operations?
10) Involve the selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment?
11) Involve the approval of position descriptions and performance standards for Federal employees?
12) Involve the determination of what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency)?
13) Involve:
    - i) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);
    - ii) Participating as a voting member on any source selection boards;
    - iii) Approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria;
    - iv) Awarding contracts;
    - v) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services);
    - vi) Terminating contracts;
    - vii) Determining whether contract costs are reasonable, allocable, and allowable; and
    - viii) Participating as a voting member on performance evaluation boards.

WORKSHEET A (2 of 2)
INHERENTLY GOVERNMENTAL

14) Involve the approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency responses to the administrative appeals of denials of Freedom of Information Act requests?
15) Involve the conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs?
16) Involve the approval of Federal licensing actions and inspections?
17) Involve the determination of budget policy, guidance, and strategy?
18) Involve the collection, control, and disbursement of fees, royalties, duties, fines, taxes, and other public funds, unless authorized by statute, such as 31 U.S.C. 952 (relating to private collection contractors) and 31 U.S.C. 3718 (relating to private attorney collection services), but not including—
    (i) Collection of fees, fines, penalties, costs, or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard case management techniques; and
    (ii) Routine voucher and invoice examination.
19) Involve the control of the treasury accounts?
20) Involve the administration of public trusts?
21) Involve the drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Accountability Office, or other Federal audit entity?

WORKSHEET B (1 of 1)
CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL
(This worksheet must be included as part of the approval form.)

The following kinds of Services are defined as "closely associated with inherently governmental functions," in 10 USC 2383(b) (3) and pursuant to 10 USC 2463 **special consideratio**n must be given to in-sourcing contracts performing the functions listed below. **Circle any functions below that apply based on the statement of work or the way contract is performed.** If the function is closely associated with an inherently governmental activity, then 1) provide an explanation describing a) how discretionary authority, decision-making responsibility, or accountability of Government officials using contractor services or work products with respect to this contract/task order/delivery order will be maintained, and b) why the function can not be in-sourced at this time; or 2) In-source using the abbreviated concept plan process. (The list below is not comprehensive, as it excludes examples from the FAIR Act and DODI 1100.22.).

1) Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.
2) Services that involve or relate to reorganization and planning activities.
3) Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy.
4) Services that involve or relate to the development of regulations.
5) Services that involve or relate to the evaluation of another contractor's performance.
6) Services in support of acquisition planning.
7) Contractors providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors).
8) Contractors providing technical evaluation of contract proposals.
9) Contractors providing assistance in the development of statements of work.
10) Contractors providing support in preparing responses to Freedom of Information Act requests.
11) Contractors working in any situation that permits or might permit them to gain access to confidential business information and/or any other sensitive information (other than situations covered by the National Industrial Security Program described in 4.402(b)).
12) Contractors providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses.
13) Contractors participating in any situation where it might be assumed that they are agency employees or representatives.
14) Contractors participating as technical advisors to a source selection board or participating as voting or nonvoting members of a source evaluation board.
15) Contractors serving as arbitrators or providing alternative methods of dispute resolution.
16) Contractors constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments.
17) Contractors providing inspection services.
18) Contractors providing special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details. However, the direction and control of confinement facilities in areas of operations is inherently governmental.

WORKSHEET C
PERSONAL SERVICES
(This worksheet must be filled in and included as part of the approval form.)

Pursuant to FAR Part 37.104, a personal services contract is characterized by "the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the Civil Service laws. Obtaining personal services by contract, rather than by direct hire under competitive appointment, circumvents those laws unless Congress has specifically authorized acquisition of those services." Specific statutory authority for personal services is provided in 10 United States Code §129b for **experts or consultants where the services cannot be adequately provided by the Department**; **direct support of a defense intelligence component or counter-intelligence organization of the Department of Defense outside the United States where the services are urgent or unique and can not be practically obtained within the Department; direct support of mission of special operations command outside the United** States where the services are urgent or unique and can not be practically obtained within the Department; or 10 United States Code §1091 **for carrying out health care responsibilities in medical treatment facilities of the Department of Defense**. **If the services do not meet one of the statutory exceptions listed above, use the following checklist. If the contract, by its written terms or in the way it is actually performed, involves any of the following elements, modify the contract or perform it to avoid creating an employer-employee relationship**: (Adapted from FAR Part 37 .104 (d)).

1) ☐ **Yes** ☐ **No** The contractor personnel are subject to relatively continuous supervision and control of a governmental officer.
2) ☐ **Yes** ☐ **No** Contractor is performing on a government site.
3) ☐ **Yes** ☐ **No** Principal tools and equipment are furnished by the government.
4) ☐ **Yes** ☐ **No** Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.
5) ☐ **Yes** ☐ **No** The need for the service provided can reasonably be expected to last beyond one year.
6) ☐ **Yes** ☐ **No** The inherent nature of the service, or the manner in which it is provided, reasonably require (directly or indirectly), Government direction or supervision of contractor employees in order to:
   a) Adequately protect the government's interest;
   b) Retain control of the function involved; or
   c) Retain full responsibility for the function supported in a duly authorized Federal officer or employee.

WORKSHEET D

(This worksheet must be filled in and included as part of the approval form.)

1) ☐**Yes** ☐**No** Has in-sourcing been considered? Special consideration should be given to civilians in the following situations:
   i) The function was performed by Department of Defense civilian employees in the past 10 years.
   ii) The function is closely associated with the performance of an inherently governmental function. (See worksheet B.)
   iii) The function is performed pursuant to a contract awarded on a non-competitive basis.
   iv) The contracting officer has determined that the contract has been performed poorly because of excessive costs or inferior quality.
2) ☐**Yes** ☐**No** Has the contract been accurately reported in the Contractor Manpower Reporting Application (https://cmra.army.mil/) pursuant to SecArmy policy? For new requirements, has the Contractor Manpower Reporting Application (CMRA) Requirement been included in the statement of work? CMRA reporting pursuant to SecArmy policy is being used by Department to comply with most of the reporting required by the National Defense Authorization Act for FY2008, Section 807.
3) Per SecArmy policy, Contractor Manpower Equivalents (CME)s **must be documented** in The Army Authorization Documentation System (TAADS) and the Structure and Manpower Allocation System (SAMAS).