

DAMO-FMP

SUBJECT: Concept Plan Guidance

ANNEX G: Panel For Documentation of Contractors (PDC)

1. References:

a. 10 U.S.C. sections 2330a and 2463 (as enacted in the National Defense Authorization Act for Fiscal Year 2008);

b. 10 U.S.C. section 235 (as enacted in the National Defense Authorization Act for Fiscal Year 2010);

c. Memorandum, Director, OMB, July 29, 2009, subject: Managing the Multi-Sector Workforce;

d. Memorandum, SecArmy, July 10, 2009, subject: Army Policy for Civilian Workforce Management and Service Contracts.

2. Above references superseded the prior in-sourcing concept plan guidance which had been issued pursuant to earlier statutory authorities repealed by the National Defense Authorization Act for Fiscal Year 2008. Above statutory references currently in effect require an annual contractor inventory report be submitted to Congress no later than the end of the third quarter of each fiscal year for the preceding fiscal year comprised of the data currently compiled by the Contractor Manpower Reporting (CMR) for all contract services, whether funded in the base budget or by Overseas Contingency Operations funding sources. Within 30 days of the report to Congress, the inventories are published on <http://www.asamra.army.mil/insourcing>, after a notice in the Federal Register. Currently the FY07 and FY08 CMR inventories are reported for the Army on that web site. Above statutes require an annual review to be completed within 90 days after the date it is submitted to Congress of the activities and functions performed by contractors on that inventory for:

- Inherently governmental functions, which must be in-sourced immediately and contractor performance must be terminated immediately;
- Closely associated with inherently governmental functions, for which “special consideration” must be given for in-sourcing and for which contractor performance must be avoided to the “maximum extent practicable”;
- Authorized and unauthorized personal services contracts, taking corrective action to in-source or discontinue unauthorized personal services contracts immediately;
- Contracts which have been poorly performed due to excessive costs or quality of performance based on a determination by a contracting officer must be identified and given “special consideration” for in-sourcing;
- Contracts that are non-competitive must be given “special consideration” for in-sourcing; and

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- Functions performed by contractors that have been performed by DoD civilian employees in the last 10 years must be given “special consideration” for in-sourcing.
3. Above statutes also provide that no one may arbitrarily limit or constrain the number of functions to be in-sourced. Rather, determinations should be made within the rational and deliberative framework of the above process and criteria.
4. OMB has provided additional guidance to agencies to target time and materials and cost reimbursement contracts for reduction and to reduce contract services by certain percentages in their next budget submission. In addition, OMB has encouraged growth of the acquisition workforce, which it has defined more broadly than current definitions used by the Department of Defense to include planning, requirements determination, and contract administration functions (including Contracting Officer Representatives) and not just traditional contracting or procurement functions. Finally, OMB has added a category that may be in-sourced for “critical functions” that are not inherently governmental “to the extent required by the agency to maintain control of its mission and operations” or where there is insufficient human capital capacity for government performance of its critical missions. The annual PDC review is an ideal forum for adjudicating and coming to consensus on all these issues.
5. All of these policies are available at <http://www.asamra.army.mil/insourcing>. This is an evolving area, so organizations should periodically monitor this web site for any new laws, regulations, OMB, DoD, and Army policies on these requirements.
6. Sec Army policy (reference c) states: “The ASA(M&RA) will serve as the senior official responsible for development and execution of Army in-sourcing plans based on the annual review of the contractor manpower inventory required by statute, currently being implemented through the Panel for Documentation of Contractors (PDC).” It further requires the “costing and integration of the contractor manpower inventory review into the Planning, Programming and Budgeting process.” This SecArmy policy is the enduring framework for implementing these statutory requirements. The most significant evolution is the new statutory requirement (Reference b) that annual budget justification materials include the amount requested, and the projected full time equivalent contractors, for the procurement of contract services for each Defense Component) (i.e., the Army) and each installation and activity. The statute further stipulates that this projection and justification is to be based on the contractor inventory required by 10 U.S.C. section 2330a (i.e., CMR) and the review required by section 2330a currently being performed on an annual basis by the PDC. The GAO has been directed to annually audit the contractor inventory. This process is of interest to the Appropriators and Authorizers.
7. Accordingly, all contract requirements must be documented and be subjected to a PDC review in order to meet requirements necessary to justify an authorized level of contract services. Any contract service lacking an approved PDC determination will require a concept plan and be reviewed by ASA M&RA as part of concept plan process.

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The burden of proof is on the organization seeking validation of contract requirements. For these purposes, contract requirements are defined at the “activity” or functional level, not at the level of individual task. Re-justification is not required for requirements already possessing a PDC determination unless there is a change in the way the contract requirement is being performed or managed that would require a change to its Manpower Mix Criteria code or to the aggregate level of projected contract FTE at the activity/functional level or installation or UIC level. The PDC is chaired by the Principal Assistant Deputy, Force Management, Manpower and Resources, within the OASA (M&RA). Advisory co-chairs include representatives from G-3/5/7, OASA (AL&T), and OGC/TJAG. After the PDC is concluded, any directed or discretionary in-sourcing action must have a PDC crosswalk to a funding source and be reviewed by the PBAT if a civilian authorization is needed for an enduring requirement with an enduring funding source. In the event the requirement is less than one year or is funded with non-enduring funding sources (such as OCO funds), the function can only be in-sourced using a term or temporary employee.

8. Commanders are encouraged to consult with their legal counsel to develop their PDC recommendations.