Print Form

# REQUEST FOR SERVICES CONTRACT APPROVAL

| | |
|---|---|
| A | **Name of HQDA Principal, Army Command, Army Service Component Command, or Direct Reporting Unit Organization:** |
| B | **Unit Identification Code (UIC):** |
| C | **Project Name for Contract:** |
| D | **Contract Number / Task Order / Delivery Order Number:** |
| E | **Contract Manpower Equivalents and Cost:** |
| F | **Justification for Contract (consider the following):**<br>1) Has a Cost Benefit Analysis been completed? (If yes, please provide the approval date.) And, if so, has the cost of labor been determined using the Directive-Type Memorandum 09-007, Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contractor Support, Change 3, or any successor?<br>2) Does this contract requirement support a core functionality of your mission or division?<br>3) Has this mission been mandated by regulation or directed by higher HQ?<br>4) In the event that this contract is not awarded, has the operational impact been considered? |
| G | **HQDA Principal, Army Command, Army Service Component Command, or Direct Reporting Unit Decision.**<br>**_____ I approve and certify that:**<br>1) this requirement does not include inherently governmental functions;<br>2) this requirement does not include unauthorized personal services either in the way the work statement is written or in the way the contract operates;<br>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;<br>4) this contract (circle all that apply):<br>a) has been reported in the Contract Manpower Reporting Application (CMRA);<br>b) has not been reported in CMRA, and an explanation is enclosed;<br>c) the CMRA reporting requirement has been included in the work statement for this new requirement;<br>5) the requirement has been validated: for example, the requirement has been documented, it has an approved concept plan, a manpower workload analysis has been done, or it has been validated by other accepted techniques;<br>6) sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function.<br>**_____ Disapprove**<br>**_____**<br>**Name, Rank, Position and Date: [Printed]**<br>**Signature: _____** |
| H | **Worksheets Prepared by: _____Date: _____**<br>**Signature: _____** |



Worksheet Dated: 12/21/2011
Previous versions are obsolete

# Worksheet A (1 of 3) - INHERENTLY GOVERNMENTAL

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

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 Department of Defense Instruction (DoDI) 1100.22, Guidance for Determining Workforce Mix.

If the services to be contracted involve **any** of the following, then the function must be performed in-house by federal government employees.

| | INHERENTLY GOVERNMENTAL | YES | NO |
|---|---|---|---|
| | **Answer "YES" or "NO" to the functions below that apply based on the work statement or the way the contract is performed. Any "YES" response to a function below must be performed in-house and cannot be contracted.** | | |
| | **Does the function:** | | |
| 1 | Involve combat? | ☐ | ☐ |
| 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); | ☐ | ☐ |

# Worksheet A (2 of 3) - INHERENTLY GOVERNMENTAL

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

| INHERENTLY GOVERNMENTAL | | YES | NO |
|---|---|---|---|
| Answer "YES" or "NO" to the functions below that apply based on the work statement or the way the contract is performed. Any "YES" response to a function below must be performed in-house and cannot be contracted.<br><br>Does the function: | | | |
| | 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. | ☐ | ☐ |
| 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 response 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 involve 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 Account Office, or other Federal audit entity? | ☐ | ☐ |

# Worksheet A (3 of 3) - INHERENTLY GOVERNMENTAL

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

| INHERENTLY GOVERNMENTAL | | YES | NO |
|---|---|---|---|
| Answer "YES" or "NO" to the functions below that apply based on the work statement or the way the contract is performed. Any "YES" response to a function below must be performed in-house and cannot be contracted.<br><br>Does the function: | | | |
| 22 | Require the exercise of discretion in applying Federal Government Authority? | ☐ | ☐ |
| 23 | Require the making of value judgments in making decisions for the Federal Government? | ☐ | ☐ |
| 24 | Require making judgments relating to monetary transactions and entitlements? | ☐ | ☐ |
| 25 | Involve the interpretation and execution of the laws of the United States so as to bind the US to take or not take some action by contract, policy, regulation, authorization, order or otherwise? | ☐ | ☐ |
| 26 | Involve the interpretation and execution of the laws of the United States to determine, protect and advance the United States' economic, political, territorial, property or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management or otherwise? | ☐ | ☐ |
| 27 | Involve the interpretation and execution of the laws of the United States to significantly affect the life, liberty or property of private persons? | ☐ | ☐ |
| 28 | Involve the interpretation and execution of the laws of the United States to commission, appoint direct or control officers or employee of the United States? | ☐ | ☐ |
| 29 | Involve the interpretation and execution of the laws of the United States to exert ultimate control over the acquisition, use or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control or disbursement of appropriated and other Federal funds? | ☐ | ☐ |
| 30 | Involve security operations performed in direct support of combat as part of a larger integrated combat force, or performed in environments where there is significant potential for the security operations to evolve into combat? (Where the U.S. military is present, the judgment of the military commander should be sought regarding the potential for the operations to evolve into combat.) | ☐ | ☐ |
| 31 | Involve representation of the government before administrative and judicial tribunals, unless a statute expressly authorizes the use of attorneys whose services are procured through contract? | ☐ | ☐ |



Worksheet Dated: 12/21/2011
Previous versions are obsolete

# Worksheet B (1 of 2) - CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

The following kinds of services (items 1-23) are defined as "closely associated with inherently governmental functions" in 10 U.S.C. 2383(b) (3); 10 U.S.C. 2330a(e) notes that reliance on contractors to perform closely associated with inherently governmental functions ought to be reduced "to the maximum extent practicable." Pursuant to 10 U.S.C. 2463, **special consideration** must be given to in-sourcing contracts performing the functions listed below. Additionally, special consideration must be given to using government employees in lieu of contracts if the answer is "no" to questions 25, 26, or 27.

| CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL | | YES | NO |
|---|---|---|---|
| **Answer "YES" or "NO" to any functions below that apply based on the work statement or the way the contract is performed. (The list below is not comprehensive, as it excludes examples from DoDI 1100.22).**<br><br>**Does the performance involve:** | | | |
| 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. | ☐ | ☐ |

# Worksheet B (2 of 2) - CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

| CLOSELY ASSOCIATED W/ INHERENTLY GOVERNMENTAL | YES | NO |
|---|---|---|

**Answer "YES" or "NO" to any functions below that apply based on the work statement or the way the contract is performed. (The list below is not comprehensive, as it excludes examples from DoDI 1100.22).**

| | | | |
|---|---|---|---|
| 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 eavsdropping 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. | ☐ | ☐ |
| 19 | Private security contractor in operational environment oversees. | ☐ | ☐ |
| 20 | Contract interrogators. | ☐ | ☐ |
| 21 | Contractors providing combat and security training. | ☐ | ☐ |
| 22 | Contract logistics support required for weapon systems which deploy with operational units. | ☐ | ☐ |
| 23 | Involve contractors providing legal advice and interpretations of regulations and statutes to Government officials? | ☐ | ☐ |
| 24 | Do the contracted functions involve work that is at risk of becoming inherently governmental? | ☐ | ☐ |
| 25 | Is there sufficient organic government expertise to oversee contractor performance of the contract? | ☐ | ☐ |
| 26 | Are there sufficient control mechanisms and sufficient numbers of military and civilian employees to ensure that contractors are not performing inherently governmental functions? | ☐ | ☐ |
| 27 | Is there a sufficient number of CORs appointed to ensure oversight of contract performance? | ☐ | ☐ |

# Worksheet C - PERSONAL SERVICES

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

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." If a contract - by its written terms or in the way it is actually performed - involves any of the below elements, then action must be taken: the contract must be modified; the contracted functions must be performed in such a way as to avoid creating an employer-employee relationship; or the contract must be in-sourced (adapted from FAR, Part 37.104(d)).

| | PERSONAL SERVICES | YES | NO |
|---|---|---|---|
| | | | |
| 1 | The contractor personnel are subject to the relatively continuous supervision and control of a governmental officer. | ☐ | ☐ |
| 2 | Contractor is performing on a government site. | ☐ | ☐ |
| 3 | Principal tools and equipment are furnished by the government. | ☐ | ☐ |
| 4 | Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission. | ☐ | ☐ |
| 5 | The need for the service provided can reasonably be expected to last beyond one year. | ☐ | ☐ |
| 6 | The inherent nature of the service, or the manner in which it is provided, reasonably requires (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. | ☐ | ☐ |

**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**;
  - ***In general, the authority to procure personal services for experts and consultants pursuant to 10 United States Code §129b requires the approval of the ASA(AL&T) unless the services being acquired are covered by the delegation of authority covered in AFARS Sub Part 5137-104-90-2 (i.e., stenographic reporting, stage, motion picture or television productions or legal services outside the United States). In all cases, additional procedures required by AFARS Part 5137.104-90 must be followed with appropriate approval authority.***
- **direct support of a defense intelligence component or counter-intelligence organization of the Department of Defense where the services are urgent or unique and cannot be practically obtained within the Department;**
  - ***Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.***
- **direct support of mission of special operations command where the services are urgent or unique and cannot be practically obtained within the Department;**
  - ***Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.***
- **services provided by individuals outside the US regardless of their nationality;**
  - ***Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.***
- **or 10 United States Code §1091 for carrying out health care responsibilities in medical treatment facilities of the Department of Defense**.
  - ***DODI 6025.5 limits this exception to health care personnel who participate in clinical patient care and does not include personnel whose duties are primarily administrative or clerical, nor personnel who provide maintenance or security services.***

# Worksheet D

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

| | | YES | NO |
|---|---|---|---|
| 1 | Has in-sourcing been considered? Special consideration should be given to civilians in the following situations: | ☐ | ☐ |
| | i) This function has been performed by Department of Defense civilian employees at any time during the previous ten-year period. | | |
| | 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. | | |
| | v)is the function an acquisition workforce function?. | | |
| 2 | 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 work statement? CMRA reporting pursuant to SecArmy policy is being used by Department of the Army to comply with most of the reporting required by the National Defense Authorization Act for FY2008, Section 807. | ☐ | ☐ |
| 3 | Has the contract requirement been documented on the TDA? | ☐ | ☐ |
| 4 | Has a concept plan for the contract requirement been approved? | ☐ | ☐ |

# Worksheet E

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

Any "yes" response to the following questions would make contracting this function prohibited by Title 10, United States Code section 2461, which prohibits converting a function performed by at least one government employee to contract performance unless there has been a public-private completion under OMB Circular A-76. There is currently a Congressional moratorium on public-private competitions pursuant to the Fiscal Year 2010 National Defense Authorization Act section 325.

| | | YES | NO |
|---|---|---|---|
| 1 | Is the function proposed for contract performance meeting a requirement currently performed by at least one Army civilian employee? | ☐ | ☐ |
| 2 | Is the function proposed for contract performance meeting a requirement previously performed by at least one Army civilian employee when a program or budget decision eliminated the civilian position (whether that position was formerly documented with an authorization or was undocumented and performed by an overhire)? | ☐ | ☐ |
| 3 | Is the function proposed for contract performance meeting a requirement previously approved for in-sourcing but was never encumbered due to 1 February 2011 SecArmy Reservation of in-sourcing Approval Authority? | ☐ | ☐ |

# Worksheet F

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

Pursuant to 10 U.S.C. 2463(b) and OFPP Policy Letter 11-01, special consideration should be given, when in-sourcing, to "critical functions" to ensure that agencies have sufficient internal capability to maintain control over functions that are central to the agency's missions and operations. Agencies should have an adequate number of positions filled by Federal employees with the appropriate training, experience, and expertise to understand the agency's requirements, formulate alternatives, manage work product, and monitor any contractors used to support the Federal workforce. One or more "yes" responses to questions 1-5 below may indicate a "critical function"; when the critical function is not inherently governmental, the agency may appropriately consider filling such positions with Federal employees.

| | | YES | NO |
|---|---|---|---|
| 1 | Is the function necessary to the agency being able to effectively perform and maintain control of its missions and operations and/or to maintain sufficient Government expertise and technical capabilities? | ☐ | ☐ |
| 2 | Is the function recurring and long-term in duration? | ☐ | ☐ |
| 3 | Does the performance of the function by a contractor entail operational risk (for example, if the contractor were to quit or otherwise suddenly be unable to perform their duties)? | ☐ | ☐ |
| 4 | Does the agency have an adequate number of positions filled with Federal employees with the appropriate training, experience, and expertise to continue critical operations with in-house resources, another contractor, or a combination of the two in the event of contractor default? | ☐ | ☐ |
| 5 | Does the agency have the capability and internal expertise to oversee and manage any contractors being used to support the Federal workforce? | ☐ | ☐ |

# Worksheet G

(This worksheet must be included as part of the Services Contract Approval Form when contracting a function is being contemplated or before exercising an option.)

Pursuant to 10 U.S.C. 129a(f), contracting out some functions is prohibited under certain conditions. Agencies should take care to ensure that these circumstances do not arise; answering "yes" to either or both of questions 1 and 2 below indicates that contracting is not allowed.

| | | YES | NO |
|---|---|---|---|
| 1 | Is this a new contract, or is this increase in level of effort on a pre-existing contract the result of the establishment of numerical goals or budgetary savings targets? | ☐ | ☐ |
| 2 | Is this contract the result of the imposition of a civilian hiring freeze? | ☐ | ☐ |