REQUEST FOR SERVICES CONTRACT APPROVAL FORM

_____
Project Name for Contract/Task Order (indicate if this is for Base Year/Option Year/Modification)

_____
Name of HQDA Principal, Army Command, Army Service Component Command, or Direct Reporting Organization

_____ _____
Dates and Cost of Current Period of Performance (POP) Contract Duration (base year including option years)

Base Year Cost	Option Year 1 Cost	Option Year 2 Cost	Option Year 3 Cost	Option Year 4 Cost	Total Project Cost

CMEs	Labor Cost for Current POP	Contract or Delivery/Task Order #	Unit Identification Code (UIC)

Justification for Contract (consider the following): _____

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, Change 3, or any successor?
2) Does this contract requirement support a core functionality of your mission or division?
3) Has this mission been mandated by regulation or directed by higher Headquarters?
4) In the event that this contract is not awarded, has the operational impact been considered?

ACCOUNTABLE OFFICIAL DECISION

_____ **I approve and certify that:** **OR** _____ **I disapprove.**
sign or initial *sign or initial*

1) this requirement does not include inherently governmental functions;
2) 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;
3) this requirement does not include unauthorized personal services, either in the way the work statement is written or in the way the contract operates;
4) this contract (check all that apply):
   - ☐ a) has been reported in the Contract Manpower Reporting Application (CMRA);
   - ☐ b) has not been reported in CMRA, and an explanation is enclosed;
   - ☐ c) the CMRA reporting requirement has been included in the statement of work for this new requirement;
   - ☐ d) has not been reported in CMRA, because it is Civil Works funded and is exempt from CMRA reporting;
5) the workload for this requirement has been validated using an accepted form of analysis and the contract requirement has been documented in the Panel for Documentation of Contractors module of CMRA;
6) sufficiently trained and experienced officials (including, but not limited to, Contracting Officer's Representatives) are available within the agency to manage and oversee the contract administration function and evaluate the contractor work product.

_____ _____ _____
Name / Rank / Position Signature Date

Worksheets prepared by: _____ _____
Date

Signature: _____

INSTRUCTIONS

FOR USE OF THE REQUEST FOR SERVICES CONTRACT APPROVAL FORM

The following rules govern the required use of the certification and worksheets of this Form:

1. The Request for Services Contract Approval (RSCA) Form is required by Army Federal Acquisition Regulation Supplement (AFARS) Subpart 5107.503(e).

2. The most current version of the Form must be used and can be found at:
http://www.asamra.army.mil/scra/documents/ServicesContractApprovalForm.pdf
The Form may not be altered in any way; local supplementation is acceptable only when such supplements are used with—and attached to—the Form.

3. The Form is required and **must be completed** in the following circumstances:

»Before new solicitations are issued or contracts are awarded;
»Before options are exercised;
»Before contracts are modified;
»When each task order/delivery order is issued;
»When funds are added (although the incremental funding of contracts does *not* require re-submission of the form);
»When Army funds are being used to buy contractor labor, regardless of which organization is awarding or administering the contract;
»When Army is the requiring activity, or is the executive agent for the mission/organization requiring the services;
»When Army funds are being transferred to contracts outside of the Department of Defense.

This Form is required for **all** service contracts, regardless of whether the contracts are enduring, temporary, about to end, funded in the base budget, or funded under Overseas Contingency Operations.

4. The RSCA Form is required for all service contracts (see FAR 7.502 Applicability). A "service contract" is for tasks to be performed, rather than supplies to be delivered. The following are **not** considered services:

»Manufacturing/production contracts;
»Utilities;
»Subscriptions;
»Off-the-shelf software;
»Construction projects funded using Military Construction Army funds (however, repairs, maintenance, construction, and demolition projects that utilize Operations and Maintenance funds do require the Form);
»Help desk and customer service support incidental to equipment or off-the-shelf software purchases;
»Software licensing agreements and updates (customized software development, maintenance, and upgrades, however, *are* considered services);
»Foreign Military sales/services;
»Manufacturer's warranties (extended maintenance/repair beyond the standard manufacturer's warranty, however, *is* considered a service);
»Delivery services incidental to a supply purchase.

5. Certification by the accountable GO/SES at the requiring activity is required.
»For a contract with a total value of less than $100,000 (including all supplies and services, as well as all the option years combined), the accountable GO or SES in a requiring activity may delegate signature authority to a GS-15/O-6.
»For National Guard contracts, the U.S. Property and Fiscal Officer (USPFO) may approved/certify the Form.
»For services to support Courts-Martial, no approval/certification is required, but the Form must still be completed.

6. Worksheet questions should be answered by persons in the requiring activity who know how the contract is administered, how it is performed, and who thoroughly understand the work being performed by the contractor. Worksheet questions should be answered carefully, to ensure that the accountable GO/SES and the contracting officer have all relevant facts to support their decisions and/or certification.

7. If issues arise regarding the correct use or completion of the Request for Services Contract Approval Form, please contact the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) Force Management, Manpower and Resources, at (703) 693-2109.

WORKSHEET A (1 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

An "inherently governmental function" is one that has been determined to be—through statute or otherwise—a function that must be performed by Government personnel, either civilian or military, and may not be performed by a contractor. All the sections of Worksheet A must be filled out and are designed to help determine whether or not a function is inherently governmental in nature.

Read each question and apply it to the function in question. Answer "Yes" or "No" to the questions that apply below, based on the work statement and the way the contract is performed. *A "Yes" response to any of the below indicates that the function must be performed in-house and may not be contracted.*

	Inherently Governmental	**YES**	**NO**
	Does the function:		
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—among other things—determining the content and application of regulations?	☐	☐
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 document, including documents defining requirements, incentive plans, and evaluation criteria;	☐	☐

WORKSHEET A (2 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

Answer "Yes" or "No" to the functions that apply below, based on the work statement and the way the contract is performed. *A "Yes" response to any of the below indicates that the function must be performed in-house and may not be contracted.*

	Inherently Governmental	YES	NO
	Does the function:		
13	(continued from the previous page) Involve:		
	iv) Awarding contracts;	☐	☐
	v) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contract 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 (FOIA) 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 FOIA 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 does not include:	☐	☐
	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 A (3 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

Answer "Yes" or "No" to the functions that apply below, based on the work statement and the way the contract is performed. *A "Yes" response to any of the below indicates that the function must be performed in-house and may not be contracted.*

	Inherently Governmental	**YES**	**NO**
	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 US' 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 significant 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 employees 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 US, including the collection, control, or disbursement of appropriate or 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 US 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 use4 of attorneys whose services are procured through contract?	☐	☐
32	Involve combat?	☐	☐
33	Involve the interrogation of detainees? *(However, some functions in support of interrogation may be performed by contractors; see item 20 on Worksheet B.)*	☐	☐
34	Involve the contractor performing as the effective or *de facto* decision-maker?	☐	☐

The above functions/examples are drawn from the following sources: The Federal Activities Inventory Reform (FAIR) Act (31 United States Code (U.S.C.) Section 501); the Federal Acquisition Regulation (FAR) Part 7.5; and the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01.

WORKSHEET B (1 OF 2)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS

A "closely associated with inherently governmental function" is one that approaches being inherently governmental in nature because of the nature of the function, the manner in which the contractor performs the contract, or the manner in which the government administers contract performance. A designation of closely associated with inherently governmental does not preclude from contracting for a function, but does require additional oversight, as well as special consideration for in-sourcing. *Pursuant to 10 U.S.C. § 2330a(e), however, reliance on contractors to perform closely associated with inherently governmental functions should be reduced "to the maximum extent practicable."*

Answer "Yes" or "No" to the questions below, based on the work statement and the way the contract is performed.

	Closely Associated with Inherently Governmental	**YES**	**NO**
	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 Industry 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 non-voting members of a source evaluation board?	☐	☐

WORKSHEET B (2 OF 2)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS

Answer "Yes" or "No" to the functions that apply below, based on the work statement and the way the contract is performed.

	Closely Associated with Inherently Governmental	YES	NO
	Does the performance involve:		
15	Contractors serving as arbitrators or providing alternative methods of dispute resolution?	☐	☐
16	Contractors constructing building 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? (The direction and control of confinement facilities in areas of operations, however, is inherently governmental.)	☐	☐
19	Private security contractors in operational environments overseas?	☐	☐
20	Supporting the interrogation of detainees? *(Pursuant to Section 1038 of the National Defense Authorization Act for Fiscal Year 2010, contractor personnel may not interrogate detainees.)*	☐	☐
	i) Contractor personnel may be used as linguists, interpreters, report writers, information technology technicians, and may fill other ancillary positions, including trainers of and advisors to interrogators.		
	ii) Such personnel are subject to the same rules, procedures, and laws pertaining to detainee operations and interrogations as apply to government personnel, and must be properly overseen by Department of Defense military/civilian personnel.		
21	Contractors providing combat and security training?	☐	☐
22	Contract logistics support required for weapon systems that deploy with operational units?	☐	☐
23	Work that is at risk of becoming inherently governmental?	☐	☐

Contracting for closely associated with inherently governmental functions is permissible, but levels of oversight must be employed to maintain the appropriateness of the contract. *If the answer to any of the prior questions, 1-23, is "Yes" and the answer to any of the following question, 24-26, is "No," then the function may not be contracted.*

	Oversight of Contracted Functions	YES	NO
24	Is there sufficient organic Government expertise to oversee contractor performance of the contract?	☐	☐
25	Are there sufficient control mechanisms and sufficient numbers of military and civilian employees to ensure that contractors are not performing inherently governmental functions?	☐	☐
26	Is there sufficient COR capability to ensure adequate oversight of contract performance?	☐	☐

"Closely associated with inherently governmental" is defined in Title 10, United States Code § 2383(b) and FAR 7.503.

Additionally, pursuant to 10 U.S.C. § 2463, special consideration must be given to in-sourcing closely associated with inherently governmental functions.

WORKSHEET C

PERSONAL SERVICES

A "personal services" contract is characterized by "the employer-employee relationship it creates between the Government and the contractor's personnel." This occurs when contractor personnel are being treated in a manner akin to that of a Government employee. A contract may involve unauthorized personal services either by its written terms *or in the way it is actually performed*. Care should be taken to avoid situations that may lend themselves to the performance of personal services (for example, having contractors on-site can lend to a "blended workforce" where contractors work side-by-side with government personnel and are treated in the same way).

Answering "Yes" to questions 2-9 may indicate a personal service and special scrutiny should be given to contracted functions for which any/all such items have been selected in order to avoid a personal services contract. A "Yes" answer to question 1, however, indicates a personal service and precludes contracting for that function.

	Personal Services	**YES**	**NO**
1	The contractor personnel are subject to the relatively continuous supervision and control of a Governmental officer.	☐	☐
2	The contractor personnel are performing on a Government site.	☐	☐
3	The principal tools and equipment are furnished by the Government.	☐	☐
4	The services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of an 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: adequately protect the Government's interest; retain control of the function involved; or, retain full personal responsibility for the function supposed in a duly authorized Federal officer or employee.	☐	☐
7	Comparable services meeting comparable needs are performed in this agency or similar agencies using civil-service personnel.	☐	☐
8	The contractor personnel are providing administrative support to Government personnel.	☐	☐
9	Government personnel are giving contractor personnel tasks on an ad hoc basis.	☐	☐

If the answer to any of the below questions is "Yes," then a personal services contract is permissible pursuant to 10 USC § 129b:

	Exceptions: Authorized Personal Services	**YES**	**NO**
10	Experts or consultants where the services cannot be adequately provided by the Department.	☐	☐
11	Direct support of a defense intelligence component or counter-intelligence organization of the DoD where the services are urgent or unique and cannot be practically obtained within the DoD.	☐	☐
12	Direct support of special operations command where the services are urgent or unique and cannot be practically obtained within the DoD.	☐	☐
13	Services provided by individuals outside the United States regardless of their nationality.	☐	☐
14	Carrying out healthcare responsibilities in DoD medical treatment facilities per 10 U.S.C. § 1091.	☐	☐

Personal services are defined in FAR Part 37.104. A contract involving personal services, either by its written terms or in the way it is actually performed, must be modified, in-sourced, or divested, or the functions must be performed in such a way as to avoid creating an employer-employee relationship.

WORKSHEET D

SPECIAL CONSIDERATIONS

Pursuant to 10 U.S.C. § 2463, special consideration should be given to in-sourcing closely associated with inherently governmental and critical functions. The following items may also be relevant when an agency/organization is considering in-sourcing a function to governmental performance. An answer of either "Yes" or "No" to question 1 does not preclude contracting.

	Special Considerations	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 DoD 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) The function is an acquisition workforce function.		
	vi) The function is a critical function (see Worksheet F).		

Pursuant to 10 U.S.C. § 2383, the contracting officer for the contract must ensure there are no organizational conflicts of interest for the function at issue. In the event of an organizational conflict of interest, the requiring activity must take steps to remedy the situation: this may mean in-sourcing or divestiture of the function. However, a conflict of interest may be mitigated by utilizing a different contractor (i.e. a conflict of interest does not necessarily preclude contracting entirely, it may only preclude contracting with a specific contractor).

A "Yes" answer to question 2 precludes contracting until such time as the requiring activity has taken steps to mitigate the conflict of interest.

	Organizational Conflict of Interest	YES	NO
2	Has the agency addressed any potential organizational conflict of interest of the contractor in the performance of this function, consistent with FAR Part 9, Subpart 9.5 and the best interests of the DoD?	☐	☐

WORKSHEET E

OUT-SOURCING AND CONVERSION OF FUNCTIONS

When contracting for services, care must be taken to ensure that no illegal out-sourcing or improper conversion is taking place. Illegal "out-sourcing" and improper conversion involve shifting work from civilian positions to contract personnel (this can happen even if the civilian position is not encumbered). In environments that involve fiscal uncertainty, declining budgets, or hiring freezes, special vigilance is required to ensure these things do not occur.

A "Yes" response to questions 1-4 below may make contracting this function prohibited and agencies are recommended to discuss the issue with their employment and personnel law advisor and their contract law advisor. A "Yes" answer to either or both of questions 5 and 6 below indicates that contracting is not allowed.

	Out-sourcing and Conversion of Functions	**YES**	**NO**
1	Will any non-temporary or non-term appropriated fund employee currently performing any functions described in the contract Statement of Work be displaced, reassigned, subjected to a reduction in force, or otherwise adversely affected as a result of the proposed contract action?	☐	☐
2	Is the function proposed for contract performance meeting a requirement previously performed by a particular Army civilian position (or positions) when a program or budget decision eliminated the civilian position (whether that function 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 that was never encumbered?	☐	☐
4	Will the proposed contract action fundamentally change the nature of the work performed by appropriated fund employees?	☐	☐
5	Is this new contract (or this increase in level of effort on a pre-existing contract) the result of the establishment of numerical goals or budgetary savings targets regarding the civilian workforce?	☐	☐
6	Is this contract the result of the imposition of a civilian hiring freeze?	☐	☐

Title 10, United States Code § 2461 prohibits converting a function performed by at least one appropriated fund government employee to contract performance unless there has been a public-private competition under Office of Management and Budget Circular A-76. There is currently a Congressional moratorium on public-private competitions pursuant to the National Defense Authorization Act for Fiscal Year 2010, Section 325. However, "conversion" of functions does not include the augmenting of civilian staff with contractors unless government employees are displaced, reassigned, subjected to a reduction in force, or otherwise adversely affected.

(For additional information, please see the Government Accountability Office case John P. Santry B-402827. Agencies are recommended to discuss the issue with their employment and personnel law advisor and their contract law advisor.)

If there is an applicable bargaining unit agreement concerning out-sourcing, the provisions of the agreement will prevail and must be adhered to for bargaining unit employees (though such an agreement does not take precedence over Title 10, U.S.C.).

Further prohibitions on contracting under certain conditions can be found in 10 U.S.C. § 129a(f).

WORKSHEET F

CRITICAL FUNCTIONS

A "critical function" is one that involves a function central to an agency's mission or operation. It is permissible to contract for critical functions, but agencies should ensure they have an adequate number of Federal employees that understand the agency's requirements and can monitor contractors supporting the Federal workforce.

Answering "Yes" to questions 1-3, or "No" to questions 4 or 5, may indicate a critical function.

	Critical Functions	**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/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?	☐	☐

Pursuant to 10 U.S.C. § 2463(b) and OFPP Policy Letter 11-01, special consideration should be given to in-sourcing "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.

In the event that a function is determined to be critical in nature, the preparer should ensure that adequate government oversight will be available, pursuant to OFPP Policy Letter 11-01.

WORKSHEET G

SECURITY, FIREFIGHTING, AND PUBLICITY FUNCTIONS

Security and/or firefighting functions may not be contracted unless they qualify for certain statutory exceptions. If the answer to question 1 is "Yes," then answer the subsequent questions to determine if one of the exceptions is applicable. If there are no applicable exceptions, then the function may not be contracted.

Title 10, United States Code § 2465(a) prohibits the use of contracts for the performance of security guard or firefighting functions except under certain circumstances (reflected in the exceptions questions above). The prohibition was waived by Section 332 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2003 and then extended through FY12 by Section 343 of the FY08 NDAA. The waiver has expired and is no longer in effect.

	Security and Firefighting Functions	**YES**	**NO**
1	Is this contract for the performance of security guard or firefighting functions?	☐	☐
	If the answer to the above question is "Yes," do any of the following exceptions apply?	☐	☐
	a) The contract is to be carried out at a location outside the United States, its commonwealths, territories, possessions, and military installations, at which members of the armed forces would have to be used at the expense of unit readiness.		
	b) The contract is to be carried out on a Government-owned but privately-operated installation.		
	c) The contract (or renewal of the contract) is for the performance of a function under contract on September 24, 1983.		
	d) The contract is for a firefighting function for a period of one year or less and covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.		

Title 5, U.S.C. § 3107 prohibits the use of appropriated funds to pay for publicity experts unless such funds have been specifically appropriated for that purpose. If the answer to question 2 is "Yes" and the answer to question 2a is "No," then contracting is not allowed.

	Publicity Experts	**YES**	**NO**
2	Is this a contract for a publicity expert?	☐	☐
	a) If so, were the funds for this contract specifically appropriated for this purpose?	☐	☐

Publicity and propaganda clauses in appropriations law restrict the use of funds for puffery of an agency, purely partisan communications, and covert propaganda. (These restrictions do not apply to OCONUS activities.) If the answer to questions 3a, 3b, 3c, or 4 is "Yes," then contracting is not allowed.

	Publicity and Propaganda	**YES**	**NO**
3	Does this contract involve advertising and marketing or public relations functions?	☐	☐
	If the answer to the above question is "Yes," does it involve any of the following?	☐	☐
	a) Self-aggrandizement or puffery of the agency, its personnel, or activities;		
	b) Any activity that is purely partisan in nature (i.e. an activity that is designed to aid a political party or candidate);		
	c) Covert propaganda (i.e. communication that does not reveal that Government appropriations were expended to produce it).		
4	Is the statement of work so broadly written that it could be interpreted to condone or encourage any of the activities described in 3a, 3b, or 3c?	☐	☐