



ACQUISITION AND
TECHNOLOGY

DEPUTY UNDER SECRETARY OF DEFENSE
3015 DEFENSE PENTAGON
WASHINGTON, DC 20301-3015

MAY 16 2008

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Inventories and Reviews of Contracts for Services

Section 807 of the National Defense Authorization Act for Fiscal Year (FY) 2008 (attached) amends Section 2330a of Title 10, U.S. Code, and requires annual inventories and reviews of contracts for services. Due to the magnitude of conducting inventories and reviews for all services contracts, I have proposed to Congress that we implement Section 807 in phases.

Phase I - FY 2008. The Department of the Army will deliver the following:

1. An initial inventory list that addresses the reporting criteria set forth in Section 807, Subsections (c)(1)(A) through (c)(1)(F), no later than June 13, 2008 using the Contractor Manpower Reporting (CMR) System as its construct; and
2. A fully compliant inventory list with the methodology and cost for developing, delivering, and publicizing the prototype list no later than September 19, 2008. This information is for distribution to the other Military Departments, Defense Agencies, and Congress.

Phase II - FY 2009. The Army will deliver their annual inventory list in full compliance with Section 807. The Departments of the Air Force and the Navy will deliver prototype inventory lists for review and approval.

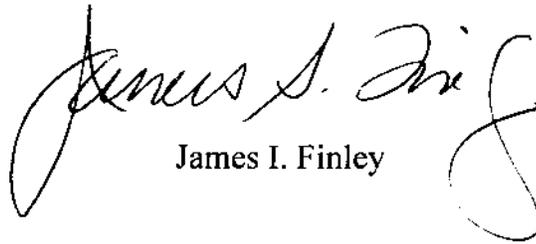
Phase III - FY 2010. The Departments of the Air Force and the Navy will deliver their annual inventory lists in full compliance with Section 807. The Defense Agencies will deliver prototype inventory lists for review and approval.



Phase IV - FY 2011. All Military Departments and Defense Agencies will deliver their annual inventory lists in full compliance with Section 807.

All Military Departments and Defense Agencies will provide a Section 807 point of contact no later than June 02, 2008.

My point of contact is Ms. Jennifer Martin, Senior Procurement Analyst, Office of Strategic Sourcing, Defense Procurement, Acquisition Policy, and Strategic Sourcing. Submit all deliverables and questions to Ms. Martin at jennifer.martin@osd.mil or at 703-602-0710.



James I. Finley

Attachments:
As stated

SEC. 807. INVENTORIES AND REVIEWS OF CONTRACTS FOR SERVICES.

(a) Inventory Requirement- Section 2330a of title 10, United States Code, is amended--

(1) by redesignating subsection (d) as subsection (g);

(2) by striking subsection (c) and inserting the following:

`(c) Inventory- (1) Not later than the end of the third quarter of each fiscal year, the Secretary of Defense shall submit to Congress an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for services for or on behalf of the Department of Defense. The entry for an activity on an inventory under this subsection shall include, for the fiscal year covered by such entry, the following:

`(A) The functions and missions performed by the contractor.

`(B) The contracting organization, the component of the Department of Defense administering the contract, and the organization whose requirements are being met through contractor performance of the function.

`(C) The funding source for the contract under which the function is performed by appropriation and operating agency.

`(D) The fiscal year for which the activity first appeared on an inventory under this section.

`(E) The number of full-time contractor employees (or its equivalent) paid for the performance of the activity.

`(F) A determination whether the contract pursuant to which the activity is performed is a personal services contract.

`(G) A summary of the data required to be collected for the activity under subsection (a).

`(2) The inventory required under this subsection shall be submitted in unclassified form, but may include a classified annex.

`(d) Public Availability of Inventories- Not later than 30 days after the date on which an inventory under subsection (c) is required to be submitted to Congress, the Secretary shall--

(1) make the inventory available to the public; and

(2) publish in the Federal Register a notice that the inventory is available to the public.

`(e) Review and Planning Requirements- Within 90 days after the date on which an inventory is submitted under subsection (c), the Secretary of the military department or head of the Defense Agency responsible for activities in the inventory shall--

(1) review the contracts and activities in the inventory for which such Secretary or agency head is responsible;

(2) ensure that--

(A) each contract on the list that is a personal services contract has been entered into, and is being performed,

in accordance with applicable statutory and regulatory requirements;

`(B) the activities on the list do not include any inherently governmental functions; and

`(C) to the maximum extent practicable, the activities on the list do not include any functions closely associated with inherently governmental functions;

`(3) Identify activities that should be considered for conversion-

`(A) to performance by civilian employees of the Department of Defense pursuant to section 2463 of this title; or

`(B) to an acquisition approach that would be more advantageous to the Department of Defense; and

`(4) develop a plan to provide for appropriate consideration of the conversion of activities identified under paragraph (3) within a reasonable period of time.

`(f) Rule of Construction- Nothing in this section shall be construed to authorize the performance of personal services by a contractor except where expressly authorized by a provision of law other than this section.'; and

(3) by adding at the end of subsection (g) (as so redesignated) the following new paragraphs:

`(3) FUNCTION CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS- The term `function closely associated with inherently governmental functions' has the meaning given that term in section 2383(b)(3) of this title.

`(4) INHERENTLY GOVERNMENTAL FUNCTIONS- The term `inherently governmental functions' has the meaning given that term in section 2383(b)(2) of this title.

`(5) PERSONAL SERVICES CONTRACT- The term `personal services contract' means a contract under which, as a result of its terms or conditions or the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of one or more Government officers or employees, except that the giving of an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that makes a contract a personal services contract.'.

(b) Effective Date-

(1) The amendments made by subsection (a) shall be effective upon the date of the enactment of this Act.

(2) The first inventory required by section 2330a(c) of title 10, United States Code, as added by subsection (a), shall be submitted not later than the end of the third quarter of fiscal year 2008.