DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAY 28 2009

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: In-sourcing Contracted Services—Implementation Guidance

On April 6, Secretary Gates announced that the Department would scale back the role of contractors in support services. On April 8, the Comptroller signed Resource Management Decision (RMD) 802, which included the realigning of resources for FY 2010-2014 to decrease funding for contract support and increase funding for approximately 33.4K new civilian manpower authorizations, 10,000 of which are for the Defense acquisition workforce. This memorandum forwards guidance to assist DoD Components with developing and executing plans to meet the requirements of the RMD.

Section 2463 of Title 10, U.S.C. precludes the Department from setting limits on what may be in-sourced. Therefore, the RMD is a starting point and Components should review all contracted services for possible in-sourcing as part of a Total Force Management strategy. In addition, DoD Components should not construe the RMD as limiting or mandating in-sourcing to specific object classes or the acquisition workforce.

In-sourcing has been included as a metric in the Department's Performance Budget submission and I will be receiving quarterly reports on your progress. In-sourcing actions will also be tracked in the Inherently Government/Commercial Activities Inventory and reported to Congress in the Defense Manpower Requirements Report.

The OUSD(P&R) leads for execution of the Department's in-sourcing initiative are Pam Bartlett (pam.bartlett@osd.mil) and Thomas Hessel (thomas.hessel@osd.mil). DoD Components should e-mail OUSD(P&R), by June 5, 2009, the name and contact information of the senior official who has been designated as responsible for development and execution of your Component's in-sourcing plan. The Director, Administration and Management is designated as the in-sourcing official for OSD.

In-sourcing is a high priority of the Secretary of Defense. I would appreciate your support in ensuring that this effort is managed successfully.

OSD 05339-09

IN-SOURCING IMPLEMENTATION GUIDANCE

1. General.

1.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) was asked to lead this in-sourcing initiative and — with support from the Under Secretary of Defense, Comptroller (USD(C)); Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)); and the Director, Program Analysis and Evaluation (D,PA&E)) — developed the attached guidance. This guidance was derived from existing Department policies, statutes, and regulatory requirements. It incorporates lessons learned and recommended best practices for in-sourcing and addresses functions, personal services, and other activities that should not be contracted. The information is intended to assist you with in-sourcing services in a systematic and well reasoned manner while ensuring that gaps in critical services are avoided. In-sourcing requires a significant amount of planning and coordination. A team of OSD Technical Advisors identified in the second attachment is ready to assist your staff with executing your plans.

1.2. Designated in-sourcing program officials must provide the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) their Component's in-sourcing plans by July 31, 2009, and submit quarterly progress reports beginning next January. OUSD(P&R) will convene a meeting of DoD Component in-sourcing program officials in June to review the in-sourcing process, answer questions, and share best practices. Lessons learned and ideas for streamlining processes to accomplish the requirements of the Resource Management Decision (RMD) will be discussed at that meeting. Additionally, we will establish a web-based site to share lessons learned, best practices, and answers to frequently asked questions.

1.3. In-sourcing program officials should alert Pam Bartlett and Thomas Hessel if there are any problems with executing their plans. For example, problems with hiring DoD civilian employees have the potential to preclude Components from achieving their objectives and must be identified to OUSD(P&R) as quickly as possible so they can be forwarded to the ODUSD Civilian Personnel Policy (ODUSD(CPP)) representative for review and recruitment assistance, as appropriate.

1.4. Consistent with current policy, each Component's principal official for manpower management shall maintain oversight and provide a summary of all in-sourcing actions in the DoD Component's annual Defense Manpower Requirements Report (DMRR) submission. Manpower increases resulting from in-sourcing actions will also be reported in the annual Inherently Government/Commercial Activities (IG/CA) Inventory. Accurate reporting in the IG/CA Inventory is essential as this data will be used to answer Congressional and media inquiries about what functions have been in-sourced and for what reasons.

2. In-sourcing Defined.

2.1. In-sourcing is the conversion of any currently contracted service/function to DoD civilian or military[1] performance, or a combination thereof. In-sourcing actions include the conversion of those contracted functions that should be considered to be inherently governmental or exempted from private sector performance as discussed in paragraphs 4.2.2 and 4.2.3; contracted functions that provide personal services (except where specifically authorized by law) or have contract administration problems as discussed in paragraphs 4.2.4 and 4.2.5; and contracted services that can be performed more cost effectively by DoD civilian personnel (including those functions that must be given "special consideration" under 10 U.S.C. §2463) as discussed in paragraph 4.2.6.[2]

2.2. DoD Components shall report manpower authorizations (both military and DoD civilian) that are established as a result of in-sourcing actions in their quarterly in-sourcing reports once the manpower requirements are documented, the funds provided, and the manpower authorized.

3. Preliminary Steps - Developing the In-sourcing Plan. Development of an in-sourcing plan requires collaboration among a number of "stakeholders," including officials from the programming/budget, resource management, contracting, manpower, and civilian human resource (HR) communities as well as requiring officials.[3] In addition, officials responsible for space and facilities management, security clearances, information technology, and other related functions, should be consulted, as appropriate, so that proper consideration is given to these requirements. (For example, a long lead time will be required for large space increases in the National Capital Region (NCR). Washington Headquarters Services should be notified of NCR lease requirements as soon as possible so that they can include them in ongoing lease migration discussions with the General Services Administration.) OSD and Component Functional Community Managers[4] should also be involved, as they can provide overarching information about their respective communities that would be valuable to the in-sourcing decision process.

3.1. DoD Component officials should strive to identify contracted services for in-sourcing as part of a total force approach to workforce management and strategic human capital planning. Often, risks to operations cannot be identified and considered for in-

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[1] Contracted services can only be converted to military performance in very limited circumstances—i.e., when the work is determined to be military essential or justified as a legitimate military exemption consistent with DoD Instruction 1100.22.

[2] This includes functions that are closely associated with the performance of inherently governmental functions.

[3] The "requiring official" is the official who would be responsible for making sure the work is performed if the contracted service is in-sourced.

[4] See DoD Instruction 1400.25-V250, "DoD Civilian Personnel Management Systems: Volume 250, Civilian Strategic Human Capital Planning (SHCP)," November 18, 2008, for an explanation of OSD and DoD Functional Community Managers.

sourcing without a clear accounting of the total force, including visibility of the levels of contract support. DoD Components are encouraged to use all available contract data when developing their in-sourcing plans. (See paragraph 4.1 concerning inventories of contracts for service.)

3.2. When developing their plans, designated in-sourcing program officials should probably not establish sub-goals for organizations within their Component based exclusively on service contract dollar values. This approach assumes that the best candidates for in-sourcing are evenly distributed across the Component, which is highly unlikely. Additionally, service contracts typically have variable combinations of labor, other direct/indirect costs (e.g., supplies, material, travel, overhead, etc.) and profitability that can skew projections of contractor work-years and possible savings.

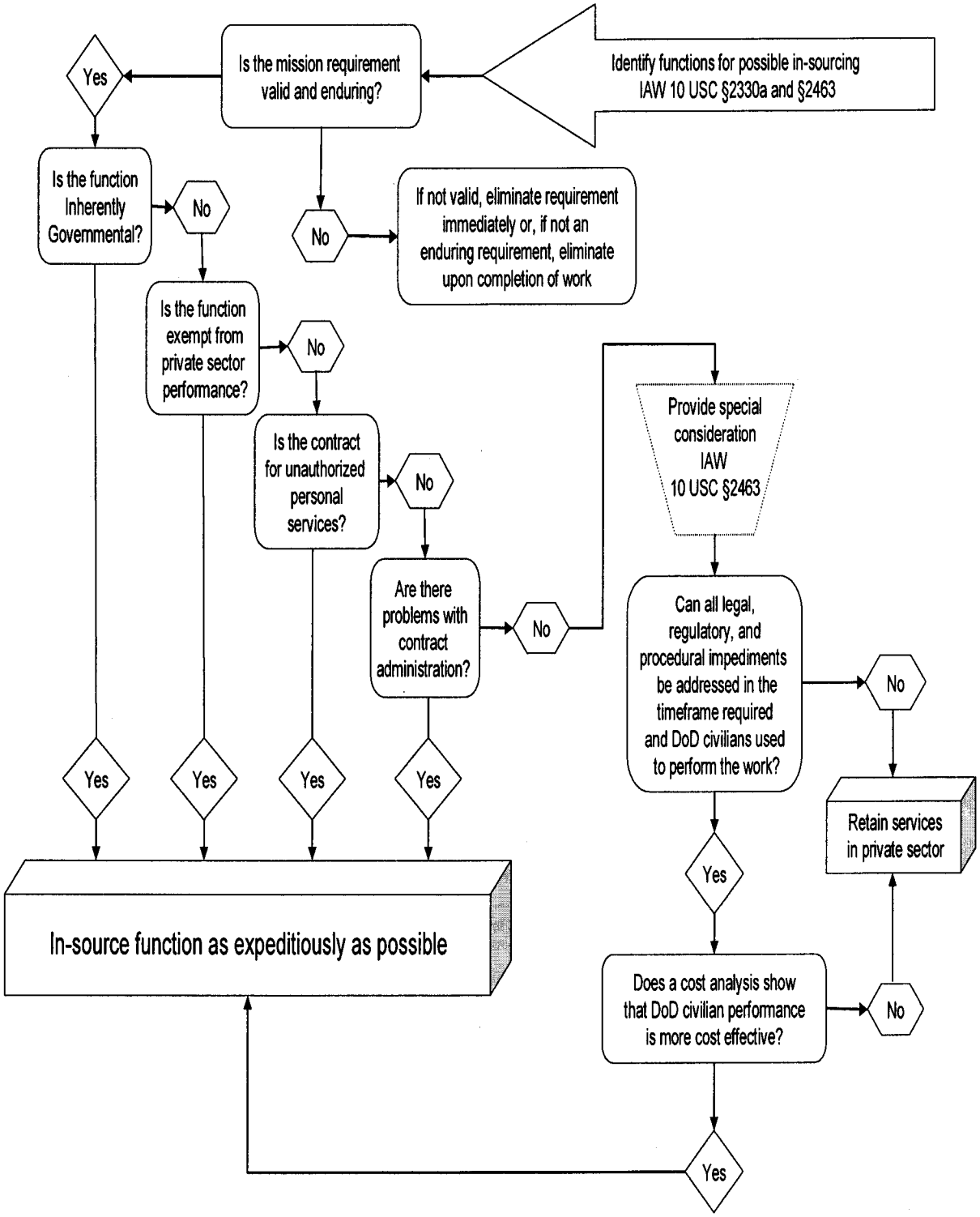
3.2.1. Designated in-sourcing program officials should consider the types of services performed and the ratio of contract support to in-house performance within various functional areas. IG/CA Inventories and inventories of contracts for services (see paragraph 4.1) can be used to compare activities performing similar functions and to identify activities that have an unusually high percentage of contracted services and that might warrant review.

3.2.2. As initial reviews of contracted services are completed, designated in-sourcing officials should build on lessons learned when trying to identify additional areas for potential in-sourcing.

3.3. When developing in-sourcing plans, DoD Component officials should consider the steps and length of time it will typically take to complete an in-sourcing action so that sufficient time is provided for transitioning from contractor to government performance. Each step in the process is dependent on the timely completion of preceding steps. Therefore, it is strongly recommended that all stakeholders be involved from the onset and made aware of the importance of completing their assigned responsibilities on time so there are no gaps in critical services at the end of the process.

3.4. Component officials must decide which contracted services would be good candidates to in-source in FY 2010, which should be scheduled for a later date, and which should not be in-sourced. In-sourcing plans should include a margin of error as some contracted services identified for in-sourcing may not be executable; may have to be postponed to the following fiscal year (or later) because hiring or other actions cannot be completed in the timeframe required; or because a review may show that there is some other reason, such as cost effectiveness, for not in-sourcing the contracted service. Procedures for in-sourcing contracted services are addressed at paragraph 4. The "decision tree" diagram on the following page shows the process for reviewing contracted services for in-sourcing in accordance with the steps provided for in paragraphs 4 and 5.

PROCESS FOR PRIORITIZING AND REVIEWING CONTRACTED SERVICES FOR IN-SOURCING



3.5. The RMD provides funding, beginning in FY 2010, for 225 additional HR personnel, to handle the volume of civilian personnel actions that will be required as a result of in-sourcing contracted services. This funding is apportioned among certain DoD Components. To ensure needed HR capacity is available at the onset of plan execution, efforts should immediately begin to determine the additional workload and manpower that will be required, allocate the funds, authorize the manpower, and establish new positions so they can be filled as soon as possible.

4. Prioritizing Contracted Services for In-sourcing.

4.1. 10 U.S.C. §2463 requires the Department to ensure that consideration is given to using, on a regular basis, DoD civilian employees to perform functions that are performed by contractors but could be performed by DoD civilian employees. This statute also requires the Department to make use of the inventory required by 10 U.S.C. §2330a(c) for the purpose of identifying functions that should be considered for performance by DoD civilian employees pursuant to 10 U.S.C. §2463. 10 U.S.C. §2330a requires the Department to inventory contracts for services and requires the Secretaries of the Military Departments and the Directors of Defense Agencies to identify activities that should be considered for conversion. In a May 16, 2008, memorandum, the Deputy Under Secretary of Defense for Acquisition and Technology established a phased implementation approach for the inventories and reviews required by section 2330a. (This memorandum is available at http://www.acq.osd.mil/dpap/policy/policyvault/2008-0222-DPAP.pdf.) The April 4, 2008, DepSecDef memorandum that issued the USD(P&R)'s guidelines for in-sourcing new and contracted out functions, states that DoD Components shall not delay implementation of section 2463 until the inventory required by 10 U.S.C. §2330a(c) is finished, but should proceed with the in-sourcing of functions as provided by the USD(P&R)'s guidelines. (The DepSecDef April 4, 2008, memorandum is available at http://www.defenselink.mil/prhome/pi.html.)

4.2. Requiring officials, contracting officers, contracting officer representatives (COR), contracting officer technical representatives (COTR), and manpower officials, should work together to prioritize contracted services for in-sourcing based on the information provided below.

4.2.1. Valid and Enduring Mission Requirement. Consistent with current policy, when reviewing existing contracted services, requiring officials must first determine and verify whether the function being performed is still a valid mission requirement. Requiring officials should determine if the work is still required; has marginal benefit to mission accomplishment; is redundant of existing in-house or other contracted capabilities; or is not an "enduring" mission requirement. Work is not considered to be "enduring" if the requirement for the services will not extend beyond the terms of the current contract. However, when assessing whether there is an "enduring" requirement, officials should consider whether there is a group of contracts for similar

services within an activity or organization that, when grouped together, would constitute an "enduring" requirement that could be better executed through an in-house capability—e.g., an analytic cell might provide better support (more timely or cost effective) than support from private sector contractors. If the work is not required; has marginal benefit to mission accomplishment; is redundant of existing in-house or other contracted capabilities; or is not an "enduring" mission requirement, the requiring official shall notify the contracting officer and resource manager that the services are, or will, no longer be required. Contracted services that are not an "enduring" requirement (with the exception of inherently governmental work) should probably not be considered for in-sourcing as the costs associated with establishing and filling civilian positions would provide minimal return on investment.

4.2.2. Inherently Governmental (IG) Functions. Subpart 7.503(e) of the Federal Acquisition Regulation (FAR) requires the contracting officer to obtain a written determination from the requiring official that none of the functions to be performed under contract are IG. The requiring official must provide the contracting officer with a written determination after consulting their manpower official as provided in DoD Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix," September 6, 2007 (available at http://www.dtic.mil/whs/directives/corres/ins1.html). If a review of the contract shows that functions have been contracted which subsequently have been determined to be IG,[5] the functions must be in-sourced as expeditiously as possible.

4.2.3. Exempted Functions. Subpart 207.503 of the Defense FAR Supplement (DFARS) requires the contracting officer to obtain a written determination from the requiring official that none of the functions to be performed under contract are exempted from private sector performance. The requiring official must provide the contracting officer with a written determination after consulting their manpower official as provided in DoD Instruction 1100.22. If a review of the contract shows that functions have been contracted which subsequently have been determined should be exempted from private sector performance,[6] the services must be in-sourced as expeditiously as possible.

4.2.4. Unauthorized Personal Services. Subpart 37.103(a)(3) of the FAR requires the contracting officer to obtain a written determination that the service contract does not violate the provisions in Subpart 37.104(b) of the FAR on contracting for personal services. If a review of the contract shows that the contract (as it is being performed) is an unauthorized personal services contract (as provided by applicable

[5] A DoD Component could determine that a function is inherently governmental because there has been a change to the law, regulation, policy, procedure, mission requirement, or other governing factor subsequent to when the contract was awarded.

[6] A DoD Component could determine that a function should be exempted from private sector because there has been a change to the law, regulation, policy, procedure, mission requirement, or other governing factor subsequent to when the contract was awarded.

statutory and regulatory requirements) and the problems cannot be corrected, the contracted services must be in-sourced as expeditiously as possible. Contracting officers should refer to Subpart 37.2 of the FAR when establishing the legitimacy of Advisory and Assistance Services (A&AS) contracts. Consistent with Subpart 37.203 of the FAR, A&AS contracts shall not be used to obtain professional or technical advice which is readily available within the agency or another Federal agency. Additionally, A&AS contracts shall not be used to obtain professional or technical advice which could be provided by DoD civilian employees, or to by-pass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

4.2.5. Problems with Contract Administration. Subpart 37.102(h) of the FAR and 10 U.S.C. §2383(a)(2) require the contracting officer to ensure there are sufficiently trained and experienced officials available within the agency to manage and oversee the contract administration functions. If the contracting officer determines that there are not sufficiently trained and experienced officials available, and that they cannot be made available, the contracted services may be in-sourced as expeditiously as possible. When making these determinations, the requiring official should be consulted.

4.2.6. In-sourcing Services Based on Cost. Consistent with 10 U.S.C. §2463, consideration must be given to in-sourcing contracted services that DoD civilian employees can perform, and "special consideration" must be given to in-sourcing contracted services addressed at paragraphs 4.2.6.1 through 4.2.6.4 below. Consistent with the USD(P&R)'s guidelines for in-sourcing contracted services (available at http://www.defenselink.mil/prhome/pi.html), these services may be in-sourced if a cost analysis shows that DoD civilian employees would perform the work more cost effectively than the private sector contractor. Functions that are to be given "special consideration" include the following:

4.2.6.1. Functions Performed by DoD Civilian Employees During the previous ten years. If a contract is for services that have been performed by DoD civilian employees at any time in the previous ten years, the Department is required by 10 U.S.C. §2463(b)(1)(A) to give special consideration to in-sourcing the services.

4.2.6.2. Activities Closely Associated with IG Functions. If a contract is for services that are closely associated with the performance of an IG function (as identified in Subpart 7.503(d) of the FAR and in accordance with 10 U.S.C. §2483), the Department is required by 10 U.S.C. §2463(b)(1)(B) to give special consideration to in-sourcing the services.

4.2.6.3. Contracts Awarded on a Non-Competitive Basis. If a contract was awarded on a non-competitive basis, the Department is required by 10 U.S.C. §2463(b)(1)(C) to give special consideration to in-sourcing the services.

4.2.6.4. Contracts that Have Been Performed Poorly. If a contracting officer, in consultation with the requiring official and/or designated COR/COTR, determines that a contract has been performed poorly (due to excessive costs or inferior quality) during the 5-year period preceding the date of the contracting officer's determination, the Department is required by 10 U.S.C. §2463(b)(1)(D) to give special consideration to in-sourcing the services.

4.3. Contracted functions addressed at paragraphs 4.2.2 through 4.2.4 above should be in-sourced as expeditiously as possible since these services should not have been or should no longer be contracted. As required by section 2463, special consideration must be given to in-sourcing contracted services addressed at paragraphs 4.2.6.1 through 4.2.6.4 above. If possible, contracted services that have option-years that will be exercised during FY 2010 should be identified for in-sourcing in FY 2010. However, contracted services that require re-competition during FY 2010 should be given priority over contracted services that have option years remaining since in-sourcing services that require re-competition would save the Department the time, effort, and costs of re-competing the contract. Generally, contracted services addressed at paragraphs 4.2.5 and 4.2.6.1 through 4.2.6.4 without annual options or in final option years should be allowed to run their course. Generally, contracts should not be terminated solely to accomplish in-sourcing goals because of the additional costs and increased administrative burden to the Government. Also, contracts that were recently awarded as a result of public-private competition may not be good candidates for in-sourcing since the costs of government performance were considered when the decision was made to contract for the services. A cost analysis is not required for in-sourcing contracted services addressed in paragraphs 4.2.2 through 4.2.5. However, in order for the services addressed in paragraphs 4.2.6.1 through 4.2.6.4 to be in-sourced, a cost analysis must show that DoD civilian employees would perform the functions more cost effectively.

5. Steps for In-sourcing Contracted Functions.

5.1. In-sourcing Contracted Services—General. If the contracted services have subsequently been determined to be IG, to be exempted from private sector performance, to be unauthorized personal services as executed, or have contract administration problems (as addressed in paragraphs 4.2.2 through 4.2.5 above), the manpower official shall determine/validate the manpower required to perform the services following standard manpower procedures.[7] Once the funding is approved, the manpower should be authorized and the requiring official should notify the director of the local Human Resource Office (HRO) to proceed with hiring DoD civilian employees or coordinate, as

[7] Consistent with 10 U.S.C. §129, DoD Components shall not hire DoD civilians based simply on the availability of contract funds and without regard to workload or mission priority, but shall hire civilians based on the workload needed to accomplish assigned missions (i.e., manpower requirements) and the funds made available for the mission (manpower authorizations).

appropriate, with military personnel officials to fill the requirement. These actions should be expedited so as not to impede initiation of the hiring process. In addition, the contracting officer should notify the contractor of the Department's decision to in-source the services. If requested by an employee of the contractor, information on the Federal hiring process should be provided.

5.2. In-sourcing Contracted Services—Based on Cost.

5.2.1. If the services under contract are determined not to be IG or exempted from private-sector performance, the requiring official shall, with advice from the Component manpower official and HR personnel, assess whether there are any legal, regulatory, or procedural impediments to hiring DoD civilian employees to perform the work (e.g., Congressional personnel limitation, Status of Forces Agreement restrictions, base closure, problems with obtaining office space, or other similar restrictions). (See paragraph 9 concerning "Personnel Limitations ('Caps') on DoD Components.") As part of this process, the manpower official shall determine/validate the manpower required to perform the services following standard manpower procedures[8] and the requiring official shall check with the director of the local HRO about whether there is an impediment to reassigning/hiring DoD civilian employees to perform the work.

5.2.1.1. HR service providers shall leverage all available personnel, hiring and compensation flexibilities to either assign current DoD employees or hire new DoD civilian employees to perform the in-sourced work. (See paragraph 8 for "Recruitment Strategies to Support In-Sourcing Actions.") If the HRO Director and requiring official conclude that qualified DoD civilian employees cannot be reassigned or hired, reassigned or hired in the timeframe required, or otherwise retained to perform the services, the requiring official and HRO Director shall certify in writing why the use of DoD civilian employees is not an option.

5.2.1.2. If DoD civilian employees cannot be obtained within the required timeframe, but are determined to be the most cost effective provider, as addressed in the paragraph 5.2.2 below, the requiring official shall obtain contract support on a temporary basis (not to exceed 12 months at a time), and work with the HRO Director to formulate a plan for transitioning to DoD civilian employee performance as quickly as practical. (See paragraph 8 for "Recruitment Strategies to Support In-Sourcing Actions.")

[8] Consistent with 10 U.S.C. §129, DoD Components shall not hire DoD civilians based simply on the availability of contract funds and without regard to workload or mission priority, but shall hire civilians based on the workload needed to accomplish assigned missions (i.e., manpower requirements) and the funds made available for the mission (manpower authorizations).

5.2.1.3. If the work cannot be performed by DoD civilian employees for any of the reasons stated above, the requiring official shall provide the contracting officer written confirmation that consideration has been given to using DoD civilian employees to perform the work as required by 10 U.S.C. §2463, but that there is a permanent or temporary legal, regulatory, or procedural impediment to using DoD civilian employees to perform the work. In such cases, the contracting officer shall re-compete the contract or exercise option years, as appropriate.

5.2.2. If the functions are determined not to be IG or exempted from private-sector performance, and if there are no legal, regulatory, or procedural impediments to using DoD civilian employees to perform the work, the requiring official shall request that a cost analysis be conducted to determine whether DoD civilian employees or the private sector would be the most cost effective provider.[9] When conducting cost analyses, DoD Components shall comply with the business rules in OSD PA&E's, "Directive-Type Memorandum (DTM)-09-007, Estimating and Comparing the Full Costs of Manpower and Contract Support," once it is issued. The DTM will be available at http://www.dtic.mil/whs/directives/corres/dir3.html.

5.2.2.1. If the cost analysis shows that DoD civilian employees would be the most cost effective provider, the requiring official shall notify the manpower official and resource manager. Once the funding is approved, the manpower should be authorized and the requiring official should notify the HRO Director to proceed with hiring the DoD civilian employees or coordinate, as appropriate, with military personnel officials to fill the requirement. These actions should be expedited so as not to impede initiation of the hiring process. In addition, the contracting officer should notify the contractor of the Department's decision to in-source the services. If requested by an employee of the contractor, information on the Federal hiring process should be provided.

5.2.2.2. If the cost analysis shows that the private sector would be the most cost effective provider, the requiring official shall provide the contracting officer written confirmation that consideration has been given to using DoD civilian employees to perform the work, as required by 10 U.S.C. §2463, but that a cost analysis showed that the contractor is the most cost effective provider. In such cases, the contracting officer shall re-compete the contract or exercise option years, as appropriate.

6. Retention of Records.

6.1. Requiring officials should retain records of in-sourcing actions (to include paperwork on cost analyses, HR determinations, workforce mix determinations) in accordance with agency disposition schedule in the event of an Inspector General or Government Accountability Office audit or some other similar review.

[9] This is consistent with 10 U.S.C. §129a.

6.2. Contracting officers shall retain in the contract file all documents which led to the decision to contract for the services in accordance with agency disposition schedule. The contracting officer and requiring official should review the documents prior to exercising annual option years or establishing a new contract for the same requirement.

7. Funding for In-sourcing Actions. The RMD realigned resources to decrease funding for contracted services in the object classes for "Contractor Advisory and Assistance Services (CAAS)" and "Other Services," and to increase funding for DoD civilian manpower. This initiative did not examine Health Care, Maintenance, and Family Housing contracts, which may require more substantial review, may not be readily in-sourced, and could result in higher costs. However, this initiative allows the Components the flexibility to in-source where they will realize the greatest benefit.

7.1. Program/budget officials should coordinate with their resource managers and manpower officials to ensure that funds are allocated and managed to support in-sourcing actions in accordance with the RMD. In some cases, this may necessitate approval of funding of over-hires to preclude gaps in services.

7.2. DoD Components have the flexibility to in-source contracted services regardless of the appropriation, object class, or sub-activity group (SAG). However, Components must make certain that new DoD civilian employees are funded in the correct appropriations for those activities.

8. Recruitment Strategies to Support In-sourcing of Contracted Services.

8.1. Components will ensure that an HR Advisor is designated to work with each organization involved in this initiative to assist in the development of its in-sourcing plan. The HR Advisor will develop and execute a supporting recruitment plan designed to engender successful execution of in-sourcing plans. In-sourcing is a Department imperative; it is of utmost importance that the HR communities take every action necessary to ensure success.

8.2. Organizations must bring the HR Service Providers into the in-sourcing process at the earliest stage possible and ensure they are resourced appropriately for this workload surge. The requiring official, local HRO Director, and security personnel should meet and agree upon the hiring strategy, resources and timelines necessary to achieve the desired in-sourcing. Agreed upon timelines should be established and complied with for each stage of the entire end-to-end recruitment/hiring cycle, i.e., development and classification of position descriptions; candidate solicitation and assessment; management interview and selection; and security clearance. Parties responsible for each segment of the hiring process must make every effort to adhere to agreed-upon timeframes to ensure overall hiring requirements are met.

8.3. As with all major recruitment campaigns, HR Service Providers will use every available strategy and flexibility to fill positions resulting from in-sourcing actions as quickly as possible with quality candidates. These include but are not limited to: robust outreach campaigns; non-competitive hiring authorities, as appropriate; expedited and direct hiring authorities, as appropriate; establishment of intern programs; centralized registers for common positions; standard position descriptions; and compensation incentives, such as recruitment and relocation incentives, and student loan repayments. Employees adversely affected by Base Realignment and Closure could also be excellent candidates for in-sourced positions.

8.4. Prior to certifying that positions for in-sourced functions cannot be filled by DoD civilian employees in the required timeframe, the HRO Director must seek assistance from its Component and the Civilian Personnel Management Service (CPMS) to fill the positions.

8.5. The HRO should work with organizational leadership to establish and follow a compensation philosophy for new employees hired as a result of an in-sourcing action. This is especially important in those instances where the in-sourcing decision was based on a cost analysis. Development of the organization's compensation approach, especially in pay-banded situations, should pay special attention to both internal and external compensation equity and labor market drivers, as appropriate, consistent with applicable regulations.

8.6. The ODUSD(CPP) has initiated discussions with the Office of Personnel Management (OPM) to identify other possible hiring authorities that could be used to facilitate execution of this in-sourcing initiative.

8.7. HROs should also work with organization leadership to ensure plans are in place for the life cycle management of employees hired into in-sourced positions. This includes, but is not limited to, proper employee orientation, planning of necessary training, and establishment of performance plans.

8.8. Consideration must be given to fulfillment of labor relations/collective bargaining obligations.

8.9. The staffs of the ODUSD(CPP) and CPMS will convene a HR Advisor group in further support of this in-sourcing effort to explore other strategies that should be pursued; share best practices; and leverage Component recruitment efforts in meeting Departmental objectives.

9. Personnel Limitations ("Caps") on DoD Components.

9.1. Statutory personnel limitations on Major Headquarters Activities (MHA), Defense Agencies, and Field Activities may limit the Department's ability to manage its workforce based on workload and the most cost-effective workforce. The Department is actively engaged in an effort to repeal all personnel limitations. DoD Components, when planning, programming, and budgeting for in-sourcing actions, may proceed as if statutory personnel limitations related to MHA have been waived to the maximum extent possible (as delineated in paragraphs 9.2.1 through 9.2.6). This presumes the continuation of the Presidential proclamation of a "National Emergency by Reason of Certain Terrorist Attacks." DoD Components may include maximum use of the authorities delineated in paragraphs 9.3.1 through 9.3.4.

9.2. 10 U.S.C. §2463 states that the Department may not "include any specific limitation or restriction on the number of functions or activities that may be converted to performance by Department of Defense civilian employees." Additionally, 10 U.S.C. §129 states that the management of civilian personnel "shall not be subject to any constraints or limitations in terms of man years, end strength, full-time equivalent positions, or maximum number of employees." 10 U.S.C. §129a states that the "Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department." However, United States Code still imposes the following limitations on personnel which should be considered when in-sourcing.

9.2.1. 10 U.S.C. §143. This statute provides for a limitation on the number of personnel, both military and civilian, assigned to the OSD (including OSD Direct Support Activities and Washington Headquarters Services). This limitation may not be waived and the Secretary of Defense is prohibited from reassigning or realigning functions to circumvent the personnel limitations provided for by this statute.

9.2.2. 10 U.S.C §194. This statute provides for limitations on all personnel, both military and civilian, of the Defense Agencies and DoD Field Activities, as well as a limit on those assigned to major headquarters activities and major headquarters support activities. This limitation was waived by Presidential proclamation of a "National Emergency by Reason of Certain Terrorist Attacks" on September 14, 2001, which has been renewed annually. The waiver authority is invoked through September 14, 2009, and is expected to continue for FY 2010.

9.2.3. 10 U.S.C §3014. This statute provides for a limitation on the number of personnel, both military and civilian, assigned to the Office of the Secretary of the Army and on the Army Staff. This limitation was waived by Presidential proclamation of a "National Emergency by Reason of Certain Terrorist Attacks" on September 14, 2001, which has been renewed annually. The waiver authority is invoked through September 14, 2009, and is expected to continue for FY 2010.

9.2.4. 10 U.S.C. §5014. This statute provides for a limitation on the number of personnel, both military and civilian, assigned to the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and Headquarters, Marine Corps. This limitation was waived by Presidential proclamation of a "National Emergency by Reason of Certain Terrorist Attacks" on September 14, 2001, which has been renewed annually. The waiver authority is invoked through September 14, 2009, and is expected to continue for FY 2010.

9.2.5. 10 U.S.C. §8014. This statute provides for a limitation on the number of personnel, both military and civilian, assigned to the Office of the Secretary of the Air Force and on the Air Staff. This limitation was waived by Presidential proclamation of a "National Emergency by Reason of Certain Terrorist Attacks" on September 14, 2001, which has been renewed annually. The waiver authority is invoked through September 14, 2009, and is expected to continue for FY 2010.

9.2.6. P.L. 99-433. Public Law 99-433, the Goldwater-Nichols Department of Defense Reorganization Act of 1986, provides for personnel ceilings on the number of personnel, both military and civilian, assigned to permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities.

9.3. Exceptions to the personnel limitations were provided by Congress by Section 1111 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Public Law 110-417.

9.3.1. An exception to the personnel limitations is provided for FY 2009 and thereafter for acquisition personnel hired pursuant to the expedited hiring authority provided in 10 U.S.C. §1705(h). See USD(AT&L) and USD(P&R) memorandum dated December 23, 2008, "Implementation of Expedited Hiring Authority for Acquisition Positions in Accordance with Subsection 1705(h) of Title 10, United States Code (U.S.C.), as amended by Section 833 of the Duncan Hunter National Defense Authorization Act for Fiscal year 2009 (2009 NDAA), Public Law 110-417" available at http://www.acq.osd.mil/dpap/ops/docs/expeditedhiringauthority-20081223.pdf.

9.3.2. Exception to the personnel limitations is also provided for FY 2009 and thereafter for personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management. Positions so defined for recruitment purposes can be found on the CPMS website at http://www.cpms.osd.mil/fas/staffing/staffing_dheha.aspx.

9.3.3. For FY 2009 to FY 2013, the Secretary of Defense or a Secretary of a Military Department may adjust the baseline personnel limitations to fill a gap in the civilian workforce identified in a strategic human capital plan submitted to Congress in

accordance with the requirements of Section 1122 of the FY 2006 NDAA (P.L. 109-163), Section 1102 of the FY 2007 NDAA (P.L. 109-364), or Section 851 of the FY 2008 NDAA (P.L. 110-181);[10] or

9.3.4. For FY 2009 to FY 2013, the Secretary of Defense or the Secretary of a Military Department may adjust the baseline personnel limitations by no more than 5 percent in a fiscal year for the purposes of accommodating workforce increases to accomplish the following: performance of inherently governmental functions; performance of work pursuant to 10 U.S.C. §2463; ability to maintain sufficient organic expertise and technical capability; and performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by U.S. government civilian employees or military personnel because of the critical nature of the work.[11]

[10] Workforce forecasts for Department mission critical occupations (MCOs) are currently being analyzed by OSD and Component Functional Community Managers designated for the MCOs. Results of the forecast analysis will be included in the Department's SHCM report to Congress, which will be submitted by September 30, 2009.

[11] Policy on inherently governmental functions and functions that must be performed by government personnel (e.g., to maintain sufficient organic expertise and technical capability, or due to the critical nature of the work) is addressed in DoD Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix," September 6, 2007 (available at http://www.dtic.mil/whs/directives/corres/ins1.html).

OSD TECHNICAL ADVISORS

1. Pam Bartlett and Thomas Hessel, OUSD(P&R), can answer questions about the guidelines for in-sourcing contracted functions addressed at paragraphs 1 through 3, 5, and 6.1. They can also answer questions about functions that require "special consideration" as addressed at paragraph 4.2.6. Ms. Bartlett can be contacted at pam.bartlett@osd.mil or (703) 614-5259. Mr. Hessel can be contacted at thomas.hessel@osd.mil or (703) 697-3402.

2. Pam Bartlett, OUSD(P&R), can answer questions about "valid requirements" addressed in paragraph 4.2.1, and about functions that are inherently governmental or exempted from private sector performance as addressed at paragraphs 4.2.2, 4.2.3 and 9.3.4. See contact information above.

3. Thomas Hessel, OUSD(P&R), can answer questions about reporting in-sourcing data in the DMRR as addressed in paragraphs 1.3. See contact information above.

4. The Housing and Competitive Sourcing Office, OUSD(AT&L)-I&E, at (703) 607-3207 can answer questions concerning the IG/CA Inventory addressed at paragraph 1.3.

5. John Tenaglia, OUSD(AT&L)-Defense Procurement and Acquisition Policy (DPAP), can answer questions about procurement policy and the responsibilities of contracting officers discussed at paragraphs 4.2 through 4.3, and 6.2. Mr. Tenaglia can be reached at john.tenaglia@osd.mil or (703) 697-8334.

6. Jennifer Martin, OUSD(AT&L)-DPAP, can answer questions about the inventories and reviews of contracts for services referred to in paragraph 4.1. Ms. Martin can be contacted at jennifer.martin@osd.mil or (703) 602-1013.

7. The Economic and Manpower Analysis Division, OSD(PA&E), at (703) 692-8046 or (703) 697-2982, can answer questions concerning the business rules for conducting cost analyses addressed at paragraph 5.2.2.

8. Mark Wagner, OUSD(C), can answer questions about the RMD and "Funding for In-sourcing Contracted Services" addressed at paragraph 7. Mr. Wagner can be contacted at mark.wagner@osd.mil or (703) 697-3103.

9. Leigh Ann Watts, ODUSD(CPP)-Policy Strategy and Support Cell, can answer questions about the "Recruitment Strategies to Support In-sourcing of Contracted Services" addressed at paragraph 8. Ms. Watts can be contacted at leigh.watts@cpms.osd.mil or (703) 696-8582.

10. Thomas Hessel, OUSD(P&R), can answer questions about "Personnel Limitations ("Caps") on DoD Components" discussed at paragraph 9. See contact information above.

11. Leigh Ann Watts, ODUSD(CPP)-Policy Strategy and Support Cell, can answer questions about the expedited hiring authority discussed at paragraph 9.3.1, shortage categories designated by the Secretary of Defense and/or the Office of Personnel Management mentioned in paragraph 9.3.2, and about gaps in the civilian workforce identified in the human capital plan discussed at paragraph 9.3.3. See contact information above.