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# Army Secretary Suspends Insourcing Plans

By Martin Bricketto

Law360, New York (February 4, 2011) -- The U.S. Army secretary has frozen certain insourcing plans at the agency as part of a directive that also sets up his office to directly approve all proposals for replacing contractors with government personnel.

"In an era of significantly constrained resources, the Army must approach the insourcing of functions currently performed by contract in a well-reasoned, analytically based and systemic manner, consistent with law and prevailing presidential and Department of Defense guidance," Secretary John M. McHugh said in a memorandum Tuesday.

The memo was released Thursday by the Professional Services Council, a national trade association that represents more than 330 businesses in the government services sector and has protested what it described as the arbitrary insourcing of activities suitable for private contractors.

McHugh said in the memo that he was reserving to himself the right to approve any insourcing proposal generated by the Army and immediately suspended any previously approved insourcing action with at least one unencumbered civilian authorization, pending his approval.

"Any insourcing proposal presented for my consideration must be fully documented and justified," McHugh said.

McHugh said proposals had to include manpower requirements, an analysis of all possible alternatives to the establishment of permanent civilian authorizations to perform the contracted work, a certification of available funding and a comprehensive legal review.

PSC President Stan Soloway said in a statement Thursday that McHugh was taking the right approach to insourcing.

"We have said all along that all sourcing decisions for clearly commercial work — whether insourcing or outsourcing — must be done strategically with the best interests of the government mission and American taxpayer in mind," Soloway said.

Soloway said other federal agencies should follow suit and adopt policies requiring insourcing decisions to be fully documented and justified and based on a review of all possible alternatives.

"Through such a process, the Army, DOD and the taxpayer, will gain vital insight into the total life-cycle costs associated with these decisions, the degree to which they address the Army's workforce needs, and more," Soloway said.

"We hope, as they say, the Army leads the way," Soloway added.

According to a report released in January by the U.S. Government Accountability Office, the U.S. Army identified some 2,400 full-time contractors who perform inherently governmental functions and 46,000 who are closely associated with such functions.

The numbers were compiled as part of a required review of the DOD's contracting activities, according to the report, titled "Defense Acquisitions: Further Action Needed to Better Implement Requirements for Conducting Inventory of Service Contract Activities."

"GAO's work has shown that reliance on contractors to support core missions ... can place the government at risk of transferring government responsibilities to contractors," the report said.

Inherently governmental activities are functions that only federal employees, not contractors, should perform — such as criminal investigations, commanding military forces, controlling federal employees, deciding whether to dispose of federal property, responding to Freedom of Information Act requests, and procurement activities related to to prime contracts.

Activities closely associated with inherently government functions are those that could be off limits to nonfederal employees depending on the nature of the work, such as evaluating other contractors, technical evaluation of contract proposals and any situation in which contractors might be mistaken for agency employees.

Secretary of Defense Robert Gates said in 2009 that the government should reduce its reliance on contractors, a year after Congress required annual DOD reviews of the number of contractor employees and their functions performed for the agency, according to the report.

The figures as a whole showed a surge in the use of contractors from 2008 to 2009, but the report said that significant changes in how the inventories were conducted, as well as improved reporting, made comparing 2008 and 2009 figures difficult.

Representatives with the Army did not immediately return a request for comment Friday.

--Additional reporting by Eric Hornbeck. Editing by Greg Ryan.

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