

GAO: Army Contractors Performing Inherently Governmental Functions

By Robert Brodsky

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The Army has identified more than 4,200 full-time jobs in which contractors are performing either inherently governmental or unauthorized personal services, according to a new watchdog report released on Tuesday.

The Government Accountability Office report, which generally focuses on the Defense Department's approach to counting service contractor employees and functions, includes previously unreported details on the scope of work being performed by Army contractors.

Since the start of 2009, the Army has completed at least one review of 24 of its 26 commands and headquarters organizations and identified 2,357 contractor employees performing inherently governmental functions, the report said. Examples of inherently governmental activities include awarding and administering contracts, determining budget priorities, and hiring or firing federal employees. Another 1,877 contractors were identified as providing unauthorized personal services that federal employees should be performing. Personal services contracts are contracts that make private sector personnel appear, in effect, as government employees. In both the inherently governmental and unauthorized personal services contracts, the department would typically be required to bring the functions back in-house.

An additional 45,934 Army contractors are performing activities deemed closely associated with inherently governmental functions. These jobs, which include assisting in contract management or evaluating another contractor's performance, generally are not statutorily prohibited from outsourcing but require strict oversight and management.

Army officials indicated that the reviews help them decide which functions should be performed by military personnel. The GAO report did not provide details on the number of Army positions that have been subsequently insourced, and a Defense spokeswoman did not respond to a request for comment.

Officials at the Army's Installation Management Command in San Antonio, Texas, told GAO that most insourcing during fiscal 2010 was a result of losing statutory authority to contract for certain security guard functions. They noted that most insourcing in fiscal 2011 will be prompted by budgetary decisions. In August 2010, Defense Secretary Robert Gates announced plans to reduce funding for service support contractors by 10 percent annually from fiscal 2011 to 2013.

Agencies across government are expected to compile an annual inventory to determine the number and type of service contract employees. The Army collected the data on its centralized Contractor Manpower Reporting Application system, which captures information companies report at the contract line item level.

The Air Force and Navy have faced bigger challenges in developing their inventory of service contractor functions. According to the GAO report, the two services have decentralized approaches that rely on their major commands to review the activities of contractors listed in their inventories and report the results to headquarters.

The Air Force completed its initial review in January 2010. But for approximately 40 percent of the contracts, reviews contained inadequate or incomplete responses that could guide a decision to insource those functions, GAO said.

The Air Force Material Command, for example, identified 152 contract actions that potentially involved inherently governmental functions. The official responsible for the command's review process, however, was unsure of the extent to which these determinations were correct.

The Navy issued guidance to its commands in September, but the results of its initial review were not yet available. The service had previously planned to establish roughly 10,000 civilian positions by fiscal 2015 through insourcing contracted services.

"DoD has acknowledged the need to rebalance its workforce, in part by reducing its reliance on contractors," GAO said. "To do so, however, the department needs good information on the roles and functions played by contractors, which the department currently does not have."

Air Force and Navy contracting officials told auditors they rely on processes other than the service contract inventory -- such as post-award monitoring -- to avoid placing contractors in inherently governmental functions.

According to the Air Force's fiscal 2010 insourcing plan, the majority of decisions to bring work in-house would be based on analyses of whether the work could be performed more cost-effectively by government employees. Navy officials said their commands review contracts during the pre-award and option phases to prevent the award of contracts that include inherently governmental functions or unauthorized personal services.

The Defense Department reported spending on service contracts leapt from \$127 billion in fiscal 2008 to \$140 billion in fiscal 2009, although the surge could have been influenced by more thorough and detailed reporting by the military services, according to GAO.

In 2009, Defense officials announced they would cut 33,000 service support contractors departmentwide by 2015. The Pentagon had planned to replace those contractors during the next five years with 39,000 new full-time government employees, many through insourcing.

As of June 30, 2010, more than 16,500 civilian positions were established across the department as a result of insourcing contracted services, Thomas Hessel, a senior analyst in the Office of the Undersecretary of Defense for Personnel and Readiness, told *Government Executive* in September. More than half of these positions were brought in-house because the work was determined to be inherently governmental, closely associated with inherently governmental, or otherwise exempt from private sector performance, he said.

The Defense Department has halted insourcing at its Pentagon offices and commands because of a fiscal 2011 billet freeze. But the military services are not subject to the freeze, allowing insourcing to continue.