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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

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WASHINGTON, D.C. 20301-1500

MAY 17 2018

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Update on OMB Circular A-76 Public-Private Competition Prohibitions – FY 2018

This memorandum replaces the memorandum of the same subject, dated January 13, 2017, and provides updated guidance for fiscal year (FY) 2018 related to a continuing prohibition on public-private competitions pursuant to Office of Management and Budget (OMB) Circular A-76 and section 2461 of title 10, United States Code. The Department of Defense continues to be statutorily prohibited from converting any work currently performed, or designated for performance, by any number of civilian personnel to private sector (contract) performance.

A DoD-specific suspension on public-private competitions remains in effect for FY 2018, in accordance with section 325 of the National Defense Authorization Act (NDAA) for FY 2010 (Public Law (P.L.) 111-84). The NDAA for FY 2018 (P.L. 115-91) did not repeal this restriction.

In addition, section 742 (Title VII, General Provisions - Government-wide) of Division E-Financial Services and General Government Appropriations Act, 2018 of the Consolidated Appropriations Act, 2018 (P.L. 115-141) imposed a government-wide moratorium, including the Department of Defense, on the use of funds for public-private competitions for the conversion to contractor performance of any function performed by civilian employees.

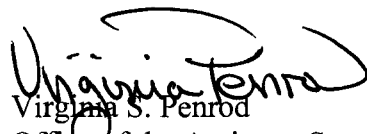
These restrictions prohibit the conversion of any work currently performed (or designated for performance) by civilian personnel to contract performance and apply to functions and work assigned to civilian personnel, regardless of whether a position or billet is established for that work, or whether that position or billet is encumbered. This includes workload and positions/billets that are impacted as a result of ongoing agency reform initiatives and/or position vacancies and workload impacted by hiring constraints or funding shortfalls.

The restrictions imposed by section 325 (of the FY 2010 NDAA) and section 742 (of Division E-Financial Services and General Government Appropriations Act, 2018 of the Consolidated Appropriations Act, 2018) do not preclude the establishment, under section 2679 of title 10, United States Code, of an intergovernmental support agreement (IGSA) with a State or local government, to provide, receive, or share installation support services. However, per subsection (d) of section 2679, IGSA's shall not be used to circumvent the requirements of OMB Circular A-76 regarding the conduct of public-private competitions for potential conversion of work currently performed (or designated for performance) by civilian personnel.

The DoD Workforce Rationalization Plan, submitted to OMB in September 2017, recognizes that government civilians are an essential enabler of our mission capabilities and operational readiness. Accordingly, Components must ensure that their civilian workforce is sized appropriately to complement

and support the military mission, while reducing unnecessary costs by avoiding artificial constraints on the civilian workforce. The National Defense Strategy and the FY 2020-2024 Defense Planning Guidance also provide direction with respect to total force management. At the same time, while restrictions on the conversion of workload from civilian to contract performance remain in place for FY 2018, DoD Components should seek workforce solutions that best promote optimal readiness and fiscal outcomes for the Department. Workforce solutions include identifying opportunities for future competition of commercial functions with the private sector.

Please ensure maximum distribution of this memorandum across your organization. Questions should be addressed to Mr. Thomas Hessel (thomas.j.hessel.civ@mail.mil/703-697-3402) in the Total Force Manpower & Resources Directorate.



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