

REQUEST FOR SERVICES CONTRACT APPROVAL FORM

Name of HQDA Principal, Army Command, Army Service Component Command, or Direct Reporting Organization

Unit Identification Code (UIC)

Project Name for Contract

Contract Number / Task Order / Delivery Order Number

Contractor Manpower Equivalents and Cost: _____

Total Project Cost (including all services, supplies, and option years): _____

Justification for Contract (consider the following): _____

- 1) Has a Cost-Benefit Analysis been completed? (If yes, please provide the approval date.) And, if so, has the cost of labor been determined using the Directive-Type Memorandum 09-007, "Estimating and Comparing the Full Costs of Civilian and Military Manpower and Contractor Support," Change 3, or any successor?
- 2) Does this contract requirement support a core functionality of your mission or division?
- 3) Has this mission been mandated by regulation or directed by higher Headquarters?
- 4) In the event that this contract is not awarded, has the operational impact been considered?

HQDA Principal, Army Command, Army Service Component Command, or Direct Reporting Unit Decision.

_____ **I approve and certify that:**

OR

_____ **I disapprove.**

- 1) this requirement does not include inherently governmental functions;
- 2) in the case of work closely associated with inherently governmental functions or non-competitive contracts, special consideration has been given to using Federal Government employees;
- 3) this requirement does not include unauthorized personal services, either in the way the work statement is written or in the way the contract operates;
- 4) this contract (check all that apply):
 - a) has been reported in the Contract Manpower Reporting Application (CMRA);
 - b) has not been reported in CMRA, and an explanation is enclosed;
 - c) the CMRA reporting requirement has been included in the statement of work for this new requirement;
- 5) the workload for this requirement has been validated using an accepted form of analysis and the contract requirement has been documented in the Panel for Documentation of Contractors module of CMRA;
- 6) sufficiently trained and experienced officials (including, but not limited to, Contracting Officer's Representatives) are available within the agency to manage and oversee the contract administration function and evaluate the contractor work product.

Name / Rank / Position

Signature

Date

Worksheets prepared by: _____

Date

Signature: _____

WORKSHEET A (1 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

The following functions constitute inherently government functions and may not be legally contracted. The FAIR Act (31 United States Code Section 501); the Federal Acquisition Regulation (FAR) Part 7.5; the Department of Defense Instruction (DoDI) 1100.22, Guidance for Determining Workforce Mix; and OFPP Policy Letter 11-01 are all applicable.

Answer "Yes" or "No" to the functions that apply below, based on the work statement or the way the contract is performed. *Any "Yes" response to a function below must be performed in-house and may not be contracted.*

INHERENTLY GOVERNMENTAL		YES	NO
	Does the function:		
1	Involve contractors providing legal advice and interpretations of regulations and statutes to Government officials?		
2	Involve the direct conduct of criminal investigations?		
3	Involve the control of prosecutions and performance of adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution?		
4	Involve the command of military forces, especially the leadership of military personnel who are members of the combat, combat support, or combat service support role?		
5	Involve the conduct of foreign relations and the determination of foreign policy?		
6	Involve the determination of agency policy, such as—among other things—determining the content and application of regulations?		
7	Involve the determination of Federal program priorities for budget requests?		
8	Involve the direction and control of Federal employees?		
9	Involve the direction and control of intelligence and counter-intelligence operations?		
10	Involve the selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment?		
11	Involve the approval of position descriptions and performance standards for Federal employees?		
12	Involve the determination of what Government property is to be disposed of and on what terms (although an agency may give contractors authority to dispose of property at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency)?		
13	Involve:		
	i) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies at prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency);		
	ii) Participating as a voting member on any source selection boards;		
	iii) Approving any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria;		

WORKSHEET A (2 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

Answer "Yes" or "No" to the functions that apply below, based on the work statement or the way the contract is performed. Any "Yes" response to a function below must be performed in-house and may not be contracted.

INHERENTLY GOVERNMENTAL		YES	NO
	Does the function:		
	iv) Awarding contracts;		
	v) Administering contracts (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contract performance, and accepting or rejecting contractor products or services);		
	vi) Terminating contracts;		
	vii) Determining whether contract costs are reasonable, allocable, and allowable; and		
	viii) Participating as a voting member on performance evaluation boards.		
14	Involve the approval of agency responses to Freedom of Information Act requests (other than routine responses that, because of statute, regulation, or agency policy, do not require the exercise of judgment in determining whether documents are to be released or withheld), and the approval of agency response to the administrative appeals of denials of Freedom of Information Act requests?		
15	Involve the conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involve actions that affect matters of personal reputation or eligibility to participate in Government programs?		
16	Involve the approval of Federal licensing actions and inspections?		
17	Involve the determination of budget policy, guidance, and strategy?		
18	Involve the collection, control, and disbursement of fees, royalties, duties, fines, taxes, and other public funds, unless authorized by statute, such as 31 U.S.C. 952 (relating to private collection contractors) and 31 U.S.C. 3718 (relating to private attorney collection services), but does not include:		
	i) Collection of fees, fines, penalties, costs, or other charges from visitors to or patrons of mess halls, post or base exchange concessions, national parks, and similar entities or activities, or from other persons, where the amount to be collected is easily calculated or predetermined and the funds collected can be easily controlled using standard case management techniques; and		
	ii) Routine voucher and invoice examination.		
19	Involve the control of the treasury accounts?		
20	Involve the administration of public trusts?		
21	Involve the drafting of Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Account Office, or other Federal audit entity?		

WORKSHEET A (3 OF 3)

INHERENTLY GOVERNMENTAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

Answer "Yes" or "No" to the functions that apply below, based on the work statement or the way the contract is performed. Any "Yes" response to a function below must be performed in-house and may not be contracted.

INHERENTLY GOVERNMENTAL		YES	NO
	Does the function:		
22	Require the exercise of discretion in applying Federal Government Authority?		
23	Require the making of value judgments in making decisions for the Federal Government?		
24	Require making judgments relating to monetary transactions and entitlements?		
25	Involve the interpretation and execution of the laws of the United States so as to bind the US to take or not take some action by contract, policy, regulation, authorization, order, or otherwise?		
26	Involve the interpretation and execution of the laws of the United States to determine, protect, and advance the United States' economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management or otherwise?		
27	Involve the interpretation and execution of the laws of the United States to significantly affect the life, liberty, or property of private persons?		
28	Involve the interpretation and execution of the laws of the United States to commission, appoint, direct, or control officers or employees of the United States?		
29	Involve the interpretation and execution of the laws of the United States to exert ultimate control over the acquisition, use, or disposition of the property—real or personal, tangible or intangible—of the United States, including the collection, control, or disbursement of appropriated and other Federal funds?		
30	Involve security operations performed in direct support of combat as part of a larger integrated combat force, or performed in environments where there is significant potential for the security operations to evolve into combat? (Where the US military is present, the judgment of the military commander should be sought regarding the potential for the operations to evolve into combat.)		
31	Involve representation of the government before administrative and judicial tribunals, unless a statute expressly authorizes the use of attorneys whose services are procured through contract?		
32	Involve combat?		

WORKSHEET B (1 OF 2)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

The following kinds of services are defined as "closely associated with inherently governmental functions" in 10 U.S.C. 2383(b) (3) and FAR 7.503; 10 U.S.C. 2330a(e) notes that reliance on contractors to perform closely associated with inherently governmental functions ought to be reduced "to the maximum extent practicable." Pursuant to 10 U.S.C. 2463, **special consideration** must be given to in-sourcing contracts performing the functions listed below. Additionally, special consideration must be given to using government employees in lieu of contractors if the answer is "No" to questions 24-26.

Answer "Yes" or "No" to the functions that apply below, based on the work statement or the way the contract is performed. (The list below is not comprehensive, as it excludes examples from DoDI 1100.22.)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL		YES	NO
	Does the performance involve:		
1	Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.?		
2	Services that involve or relate to reorganization and planning activities?		
3	Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy?		
4	Services that involve or relate to the development of regulations?		
5	Services that involve or relate to the evaluation of another contractor's performance?		
6	Services in support of acquisition planning?		
7	Contractors providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors)?		
8	Contractors providing technical evaluation of contract proposals?		
9	Contractors providing assistance in the development of statements of work?		
10	Contractors providing support in preparing responses to Freedom of Information Act requests?		
11	Contractors working in any situation that permits or might permit them to gain access to confidential business information and/or any other sensitive information (other than situations covered by the National Industry Security Program described in 4.402(b))?		
12	Contractors providing information regarding agency policies or regulations, such as attending conferences on behalf of an agency, conducting community relations campaigns, or conducting agency training courses?		
13	Contractors participating in any situation where it might be assumed that they are agency employees or representatives?		
14	Contractors participating as technical advisors to a source selection board or participating as voting or non-voting members of a source evaluation board?		

WORKSHEET B (2 OF 2)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

Answer "Yes" or "No" to the functions that apply below, based on the work statement or the way the contract is performed. (The list below is not comprehensive, as it excludes examples from DoDI 1100.22.)

CLOSELY ASSOCIATED WITH INHERENTLY GOVERNMENTAL		YES	NO
	Does the performance involve:		
15	Contractors serving as arbitrators or providing alternative methods of dispute resolution?		
16	Contractors constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments?		
17	Contractors providing inspection services?		
18	Contractors providing special non-law enforcement, security activities that do not directly involve criminal investigations, such as prisoner detention or transport and non-military national security details? (The direction and control of confinement facilities in areas of operations, however, is inherently governmental.)		
19	Private security contractors in operational environments overseas?		
20	Contract interrogators?		
21	Contractors providing combat and security training?		
22	Contract logistics support required for weapon systems that deploy with operational units?		
23	Do the contracted functions involve work that is at risk of becoming inherently governmental?		
24	Is there sufficient organic government expertise to oversee contractor performance of the contract?		
25	Are there sufficient control mechanisms and sufficient numbers of military and civilian employees to ensure that contractors are not performing inherently governmental functions?		
26	Is there a sufficient number of CORs appointed to ensure oversight of contract performance?		

WORKSHEET C

PERSONAL SERVICES

See rules for required use of the certification and worksheets on page 12, "Instructions."

Pursuant to FAR Part 37.104, a personal services contract is characterized by: "the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the Civil Service laws. Obtaining personal services by contract rather than by direct hire under competitive appointment circumvents those laws unless Congress has specifically authorized acquisition of those services." If a contract—by its written terms or in the way it is actually performed—involves any of the below elements, then action must be taken: the contract must be modified; the contracted functions must be performed in such a way as to avoid creating an employer-employee relationship; or the contract must be in-sourced (adapted from FAR Part 37.104(d)).

PERSONAL SERVICES		YES	NO
1	The contractor personnel are subject to the relatively continuous supervision and control of a governmental officer.		
2	The contractor personnel are performing on a government site.		
3	The principal tools and equipment are furnished by the government.		
4	The services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of an assigned function or mission.		
5	The need for the service provided can reasonably be expected to last beyond one year.		
6	The inherent nature of the service, or the manner in which it is provided, reasonably requires (directly or indirectly) Government direction or supervision of contractor employees in order to:		
	a) Adequately protect the Government's interest;		
	b) Retain control of the function involved; or		
	c) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.		
7	Comparable services meeting comparable needs are performed in this agency or similar agencies using civil-service personnel.		

Specific statutory authority for personal services is provided in 10 United States Code §129b for:

» **experts or consultants where the services cannot be adequately provided by the Department;**

In general, the authority to procure personal services for experts and consultants pursuant to 10 U.S.C. §129b requires the approval of the ASA(AL&T) unless the services being acquired are covered by the delegation of authority covered in AFARS Sub Part 5137.104-90-2 (i.e. Stenographic reporting; stage, motion picture, or television productions; or legal services outside the United States). In all cases, additional procedures required by AFARS Part 5137.104-90 must be followed with appropriate approval authority.

» **direct support of a defense intelligence component or counter-intelligence organization of the Department of Defense where the services are urgent or unique and cannot be practically obtained within the Department;**

Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.

» **direct support of special operations command where the services are urgent or unique and cannot be practically obtained within the Department;**

Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.

» **services provided by individuals outside the United States regardless of their nationality;**

Pursuant to DFARS SubPart 237.104(b)(iii)(A), the Head of a Contracting Activity must provide written approval.

» **or 10 U.S.C. §1091 for carrying out healthcare responsibilities in medical treatment facilities of the Department of Defense.**

DoDI 6025.5 limits this exception to healthcare personnel who participate in clinical patient care and does not include personnel whose duties are primarily administrative or clerical, nor personnel who provide maintenance or security services.

WORKSHEET D

See rules for required use of the certification and worksheets on page 12, "Instructions."

WORKSHEET D		YES	NO
1	Has in-sourcing been considered? Special consideration should be given to civilians in the following situations:		
	i) This function has been performed by Department of Defense civilian employees at any time during the previous ten-year period.		
	ii) The function is closely associated with the performance of an inherently governmental function (see Worksheet B).		
	iii) The function is performed pursuant to a contract awarded on a non-competitive basis.		
	iv) The contracting officer has determined that the contract has been performed poorly because of excessive costs or inferior quality.		
	v) The function is an acquisition workforce function.		
	vi) The function is a critical function (see Worksheet F).		
2	Has the contract been accurately reported in the Contractor Manpower Reporting Application (CMRA) (https://cmra.army.mil/) pursuant to Secretary of the Army policy? For new requirements, has the CMRA Requirement been included in the work statement? (CMRA reporting pursuant to Secretary of the Army policy is being used by the Department of the Army to comply with most of the reporting required by the National Defense Authorization Act for FY 2008, Section 807.)		
3	Has the contract requirement been documented in the Panel for Documentation of Contractors module of CMRA?		

WORKSHEET E

OUT-SOURCING AND CONVERSION OF FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

A "Yes" response to questions 1-4 below may make contracting this function prohibited by 10 U.S.C. Section 2461, which prohibits converting a function performed by at least one appropriated fund government employee to contract performance unless there has been a public-private competition under OMB Circular A-76. There is currently a Congressional moratorium on public-private competitions pursuant to the National Defense Authorization Act for FY 2010, Section 325. However, "conversion" of functions does not include the augmenting of civilian staff with contractors unless government employees are displaced, reassigned, subjected to a reduction in force, or otherwise adversely affected. (For additional information, please see the Government Accountability Office case John P. Santry B-402827. Agencies are recommended to discuss the issue with their employment and personnel law advisor and their contract law advisor.)

Pursuant to 10 U.S.C. 129a(f), contracting out some functions is prohibited under certain conditions. Agencies should take care to ensure that these circumstances do not arise; answering "Yes" to either or both of questions 5 and 6 below indicates that contracting is not allowed.

OUT-SOURCING AND CONVERSION OF FUNCTIONS		YES	NO
1	Will any non-temporary or non-term appropriated fund employee currently performing any functions described in the contract Statement of Work be displaced, reassigned, subjected to a reduction in force, or otherwise adversely affected as a result of the proposed contract action?		
2	Is the function proposed for contract performance meeting a requirement previously performed by a particular Army civilian position (or positions) when a program or budget decision eliminated the civilian position (whether that position was formerly documented with an authorization or was undocumented and performed by an overhire)?		
3	Is the function proposed for contract performance meeting a requirement previously approved for in-sourcing but that was never encumbered?		
4	Will the proposed contract action fundamentally change the nature of the work performed by appropriated fund employees?		
5	Is this new contract (or this increase in level of effort on a pre-existing contract) the result of the establishment of numerical goals or budgetary savings targets regarding the civilian workforce?		
6	Is this contract the result of the imposition of a civilian hiring freeze?		

WORKSHEET F

CRITICAL FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

Pursuant to 10 U.S.C. 2463(b) and OFPP Policy Letter 11-01, special consideration should be given to in-sourcing "critical functions" to ensure that agencies have sufficient internal capability to maintain control over functions that are central to the agency's missions and operations. Agencies should have an adequate number of positions filled by Federal employees with the appropriate training, experience, and expertise to understand the agency's requirements, formulate alternatives, manage work product, and monitor any contractors used to support the Federal workforce.

One or more "Yes" responses to questions 1-3 below, and/or one or more "No" responses to questions 4-5 below, may indicate a "critical function."

CRITICAL FUNCTIONS		YES	NO
1	Is the function necessary to the agency being able to effectively perform and maintain control of its missions and operations and/or to maintain sufficient Government expertise and technical capabilities?		
2	Is the function recurring and long-term in duration?		
3	Does the performance of the function by a contractor entail operational risk (for example, if the contractor were to quit or otherwise suddenly be unable to perform their duties)?		
4	Does the agency have an adequate number of positions filled with Federal employees with the appropriate training, experience, and expertise to continue critical operations with in-house resources, another contractor, or a combination of the two in the event of contractor default?		
5	Does the agency have the capability and internal expertise to oversee and manage any contractors being used to support the Federal workforce?		

WORKSHEET G

SECURITY AND FIREFIGHTING FUNCTIONS

See rules for required use of the certification and worksheets on page 12, "Instructions."

Section 332 of the NDAA for FY 2003 allowed for the waiving of the prohibition—under 10 U.S.C. Section 2465(a)—on the use of contracts for the performance of security guard or firefighting functions under certain circumstances. The statutory authority to hire contract security guards was extended through FY 2012 by Section 343 of the NDAA for FY 2008 and has expired. If the answer to question 1 is "Yes" and none of the subsequently-listed exceptions apply, then contracting is prohibited.

SECURITY AND FIRE-FIGHTING FUNCTIONS		YES	NO
1	Is this contract for the performance of security guard or firefighting functions?		
	If the answer to the above question is "Yes," do any of the following exceptions apply?		
	a) The contract is to be carried out at a location outside the United States, its commonwealths, territories, possessions, and military installations, at which members of the armed forces would have to be used at the expense of unit readiness.		
	b) The contract is to be carried out on a Government-owned but privately-operated installation.		
	c) The contract (or renewal of the contract) is for the performance of a function under contract on September 24, 1983.		
	d) The contract is for a firefighting function for a period of one year or less and covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.		

INSTRUCTIONS

FOR USE OF THE REQUEST FOR SERVICES CONTRACT APPROVAL FORM

The following rules govern the required use of the certification and worksheets of this form:

1. The Request for Services Contract Approval Form is required by Army Federal Acquisition Regulation Supplement (AFARS) Subpart 5107.503(e).

2. The most current version of the form must be used and can be found at:

<http://www.asamra.army.mil/scra/documents/ServicesContractApprovalForm.pdf>

This form may not be altered in any way; local supplementation is acceptable only when such supplements are used with—and attached to—this form.

3. The form and Checklist are required and **must be completed** in the following circumstances:

- »Before new solicitations or contracts are issued;
- »Before options are exercised;
- »Before contracts are modified;
- »When each task order/delivery order is issued;
- »When funds are added (although the incremental funding of contracts does *not* require re-submission of the form);
- »When Army funds are being used to buy contractor labor, regardless of which organization is awarding or administering the contract;
- »When Army is the requiring activity, or is the executive agent for the mission/organization requiring the services;
- »When Army funds are being transferred to contracts outside of the Department of Defense.

This form is required for **all** service contracts, regardless of whether the contracts are enduring, temporary, about to end, funded in the base budget, or funded under Overseas Contingency Operations.

4. The Services Contract Approval Form is required for all service contracts (see FAR 7.502 Applicability). A “service contract” is for tasks to be performed, rather than supplies to be delivered. The following are **not** considered services:

- »Manufacturing/production contracts;
- »Utilities;
- »Subscriptions;
- »Off-the-shelf software;
- »Vertical construction (although repair and maintenance of facilities *are* considered services);
- »Help desk and customer service support incidental to equipment or off-the-shelf software purchases;
- »Software licensing agreements and updates (customized software development, maintenance, and upgrades, however, *are* considered services);
- »Foreign Military sales/services;
- »Manufacturer’s warranties (extended maintenance/repair beyond the standard manufacturer’s warranty, however, *is* considered a service);
- »Delivery services incidental to a supply purchase.

5. Certification by the accountable GO/SES at the requiring activity is required.

- »For a contract with a total value of less than \$100,000 (including all supplies and services, as well as all the option years combined), the accountable GO or SES in a requiring activity may delegate signature authority to a GS-15/O-6.

6. Checklist questions should be answered by persons in the requiring activity who know how the contract is administered, how it is performed, and who thoroughly understand the work being performed by the contractor. Checklist questions should be answered carefully, to ensure that the accountable GO/SES and the contracting officer have all relevant facts to support their decisions and/or certification.

7. If issues arise regarding the correct use or completion of the Request for Services Contract Approval Form, please contact the Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) Force Management, Manpower and Resources, at 703-693-2109.