



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
MANPOWER AND RESERVE AFFAIRS  
111 ARMY PENTAGON  
WASHINGTON, DC 20310-0111

SAMR-FMMR

22 APR 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Update on Converting Certain Functions to Contractor Performance

1. References:

- a. Title 10, United States Code; sections 2461 and 2463; Public Law 111-84, National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, section 325.
- b. Army Federal Acquisition Regulation Supplement (AFARS) Subpart 5107.503.

2. Under section 2461 of Title 10, United States Code (U.S.C.), the Department of Defense (DoD) is prohibited from converting work currently performed (or designated for performance) by civilian personnel to private sector (contract) performance without first conducting a public-private competition.

3. Public Law 111-84, National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010, section 325, impacts DoD's implementation of section 2461 by temporarily precluding DoD from conducting public-private competitions until it complies with a series of statutory requirements related to DoD's implementation of section 2461. In effect, this temporary suspension prohibits the conversion of any work currently performed (or designated for performance) by civilian personnel to contract performance. This prohibition applies to functions and work assigned to civilians, regardless of whether or not the position is encumbered. The prohibition applies to billets and work that may have been unencumbered for an extended period of time.

4. An additional statutory constraint imposed on DoD is the special consideration to using DoD civilian employees prior to converting any work currently performed (or designated for performance) by military personnel to private sector performance consistent with section 2463 of Title 10, U.S.C., and applicable Department policies.

5. The AFARS 5107.503 Service Contract Approval Review has been updated to reflect these requirements. (Enclosure 1)

6. Given these multiple statutory constraints, it is imperative that as the Army implements the results of its organizational assessments, we must be particularly vigilant in complying with statute and prevent any inappropriate conversion of work to contract performance.

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SUBJECT: Prohibition on Converting Certain Functions to Contractor Performance

7. My point of contact is Ms. Eileen Ginsburg at 703-693-2109.

Enclosure

  
JAY D. ARONOWITZ  
Deputy Assistant Secretary of the Army  
(Force Management, Manpower and  
Resources)

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