



OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY - 8 2018

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Fiscal Year 2017 Guidance Related to the Inventory and Tracking of Contracted Services

This memorandum and its attachments provide guidance for developing your organization's Fiscal Year (FY) 2017 submission related to the inventory and tracking of contracted services.

Components are required to submit to the Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S))/Defense Procurement Acquisition Policy (DPAP) and the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs (OASD(M&RA)) their inventory of contracted services consistent with the scope and parameters set forth in title 10, United States Code (U.S.C.), section 2330a. To facilitate the inventory development and submission process, OUSD(A&S)/DPAP shall make available the applicable subset of certified data from the Federal Procurement Data System – Next Generation (FPDS-NG). Components should augment this data, as appropriate, with FY 2017 actual reported data extracts from the Enterprise Contractor Manpower Reporting Application (ECMRA), which will be provided by OASD(M&RA).

Components should also use the full certified FPDS-NG data set and ECMRA information to facilitate their workforce planning processes and to support statutory requirements set forth in sections 115a, 129a, 235, 2461, and 2463 of title 10, U.S.C.

Completed inventories shall be submitted electronically and accompanied by a signed transmittal memorandum and narrative, in accordance with the criteria and guidance set forth in Attachment 1 and the format prescribed in Attachment 2. Components' complete submissions are due to OASD(M&RA) and OUSD(A&S)/DPAP no later than June 15, 2018.

Electronic submissions shall be made to the following points of contact: Mr. Thomas Hessel (thomas.j.hessel.civ@mail.mil) and Mr. Jason Beck (jason.m.beck10.civ@mail.mil) for OASD(M&RA), and Mr. Jeffrey Grover (jeffrey.c.grover.civ@mail.mil) for OUSD(A&S)/DPAP. Intelligence agencies with classified submissions may submit via SIPR to thomas.j.hessel.civ@mail.mil or JWICS to thomas.hessel@osdj.ic.gov. Any questions regarding this guidance or availability of data should be directed to these points of contact.

Upon receipt of this guidance, each Component, as identified in Attachment 3, shall provide Mr. Hessel, Mr. Beck, and Mr. Grover with their primary and alternate point(s) of contact via email. Points of contact should be those with responsibility for their respective submission and subsequent reviews. Unless separately identified or otherwise specified in Attachment 3, listed Components are inclusive of all subordinate echelons, activities, installations, commands, directorates, business units, etc.



Following inventory submission, each Component shall fulfill the review and planning requirements set forth in subsections (d) and (e) of section 2330a of title 10, U.S.C., and this guidance. Title 10, U.S.C., section 2330a(d), requires that Defense Components review contracts and activities in the inventory for which the Component is responsible with particular attention on categories of high-risk product service codes, which include: special studies and analysis that is not research and development; information technology and telecommunications; and professional, administrative, and management support. In accordance with title 10, U.S.C., section 2330a(d), Components, using Attachment 4 as a guide, shall ensure that each contract on the inventory list that is a personal services contract is being performed in accordance with applicable statutory and regulatory requirements and that none of the contracts on the inventory list constitute an unauthorized personal service; that activities on the list do not include any inherently governmental functions or, to the maximum extent practicable, activities closely associated with inherently governmental functions; and that Components identify activities that should be considered for conversion to performance by civilian employees in accordance with title 10, U.S.C., section 2463; or conversion to an acquisition approach that would be more advantageous to the Department.

Pursuant to title 10, U.S.C., section 2330a(e), Defense Components shall develop a plan, as well as enforcement and approval processes, to provide for the use of the inventory to: implement title 10, U.S.C., section 129a; ensure that the inventory developed is used to inform strategic workforce planning; facilitate use of the inventory in order to comply with title 10, U.S.C., section 235; and provide for the conversion of activities for compliance with title 10, U.S.C., section 235, within a reasonable time frame.

Each Component shall submit a memorandum no later than September 30, 2018, to OASD(M&RA), via the point of contact listed above, certifying completion of the review and delineating the results in accordance with the guidance set forth in Attachment 1.



Ellen M. Lord
Under Secretary of Defense
for Acquisition and Sustainment



Stephanie Barna
Performing the Duties of the Under Secretary of
Defense for Personnel and Readiness

Attachments:
As stated

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Directors of Defense Agencies
Directors of DoD Field Activities
Directors of Jointly Manned Activities
Directors of Chairman Controlled Activities
President, Defense Acquisition University
President, National Defense University
President, Uniformed Services University of the Health Sciences

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Guidance

1. Each Component's transmittal memorandum/narrative shall either be signed by or identify the senior accountable official (at the General/Flag Officer or Senior Executive level), as well as that official's primary action officer at the O-5/6 or GS-14/15 level. For the purposes of this guidance, Component is defined as those organizations identified in Attachment 2.
2. At a minimum, Components shall submit a list of all services provided under contract consistent with this guidance and within scope of title 10, United States Code (U.S.C.), section 2330a.
 - a. For the purposes of Component submissions, at a minimum, all purchases of services with a total contract value of \$3 million or more (regardless of whether such a purchase is made in the form of a contract, task order, delivery order, military interdepartmental purchase request, or any other form of interagency agreement) for services in the following service acquisition portfolio groups: logistics management services; equipment related services; knowledge-based services; and electronics and communications services.
 - b. All covered and applicable services provided in support of, or of benefit to, a Component, regardless of contracting agency or security classification, shall be included in the inventory and subsequently reviewed by the Defense Component in accordance with title 10, U.S.C., section 2330a subsections (d) and (e). In particular, contracted work, functions, or services that are also performed by military personnel or civilian employees elsewhere in a Component must all be captured in the submission in order to facilitate workforce/manpower mix assessments, force management decisions, risk assessments, mission prioritization, and resource allocation. Component submissions may contain, as needed and appropriate, classified annexes.
 - c. A Component shall report contracts for which it is the requiring activity. Requiring activity is defined as the organization whose mission is being supported by a particular contract.
 - d. OD, DPAP shall make available, in a spreadsheet template containing field descriptions and requirements, the applicable subset of certified data from the Federal Procurement Data System-Next Generation (FPDS-NG) for FY 2017 necessary to meet the requirements of title 10, U.S.C., section 2330a. This data is available via the OD, DPAP website, at http://www.acq.osd.mil/dpap/cpic/cp/inventory_of_services_contracts.html. Data contained in the template should be used to "cross-check" against the data fields compiled by Components for their inventory submissions. The full certified data set from FPDS-NG for FY 2017 will also be available for Component use via the DPAP website.

- e. Components should use all the reporting tools and data at their disposal when compiling their submissions, and are encouraged to leverage, to the maximum extent possible, information from the Enterprise Contractor Manpower Reporting Application (ECMRA), to augment the FPDS-NG data, and to obtain the most authoritative data on costs as described in DoD Instruction 7041.04, “Estimating and Comparing the Full Costs of Civilian and Active Duty Military Manpower and Contract Support.”

3. Guidance for Reporting Functions and Missions.

- a. Function: In accordance with annual DoD Inherently Governmental and Commercial Activities Inventory guidance, a function is defined as a description of the kind of action or activity performed.
- b. For the purposes of Component submissions, the function data field will be reported as the Product and Service Code (PSC)—also referred to as Federal Supply Codes—description (at the four digit level of detail, as posted at <https://www.acquisition.gov/>). The PSC is an alphanumeric categorization of the basic type of service provided, as captured in the FPDS-NG. Appropriate and correct identification of PSC is an essential aspect to meeting congressional intent for reporting contracted services executed by service acquisition portfolio group and for assessing performance of work in high-risk PSCs. See the PSC Crosswalk to DoD Taxonomy at <http://www.acq.osd.mil/dpap/sa/Tools/crosswalks.html>, for additional information.
- c. Mission. For the purposes of data submission, “mission” generally refers to an operational task. Existing fields in DoD databases do not provide for the “mission of the contractor,” as required by title 10, U.S.C., section 2330a. OD, DPAP has prepared the “Taxonomy for the Acquisition of Services,” categorizing PSCs for supply and services contracts into 16 major “portfolio groups.” Information regarding the latest taxonomy to be used for reporting can be found under Product Service Codes Crosswalk to DoD Taxonomy at <http://www.acq.osd.mil/dpap/sa/Tools/crosswalks.html>. Components should populate this field with the Service Taxonomy Portfolio Group that corresponds to the PSC. An accurate identification of Service Taxonomy Portfolio Group is an essential part of meeting congressional intent/direction for reporting contracted services by service acquisition portfolio group and for assessing the performance of work in high-risk PSCs.

4. Guidance for Estimating/Calculating the Number of Contractor Full-Time Equivalents (CFTEs).

- a. Subsection (c)(2)(E) of title 10, U.S.C., section 2330a, requires that CFTEs be calculated using direct labor hours and associated costs collected from contractors. Consistent with November 2012 guidance and a subsequent 2014 Deputy Secretary of Defense Resource Management Decision, it is Department policy that ECMRA is the information technology solution being used by contractors to report direct labor hours and associated costs when providing services for or on behalf of the Department of Defense. A CFTE is defined as a standard measure of labor that equates to 1 full-time equivalent (FTE) (total labor hours as defined in section 85 of the Office of Management and Budget (OMB) Circular A-11 each year) to support a mission requirement.
- b. Each Component shall include in its narrative a detailed description of its methodology for collecting, estimating, or calculating CFTEs, and provide the justification for the methodology used. Components shall also include in their transmission narratives a plan of action and milestones to: (1) ensure that all contracts for which they are the requiring organization include the requirement to report into ECMRA; (2) confirm that all contracts for which they are the requiring activity have a corresponding record in ECMRA; and (3) consistent with ECMRA business rules and user guides, ensure that all assigned contracting officer representatives (CORs) or contracting officer's technical representatives (COTRs) within their respective Components are enforcing reporting requirements and reviewing vendor reported data.
- c. The following methodologies—singularly or in combination—may be used to populate a Component's submission. The cost to use a particular option below may be an important consideration when choosing a methodology, thereby making some of the options impractical at this time:

- 1) Collect direct labor hour information from contractors using ECMRA as required by DoD policies, and then use the formula for CFTE calculation described below:

$$\text{CFTE} = \frac{\text{Total Contractor Direct Labor Hours for a specific PSC for a contract, task or delivery order, or interagency agreement}}{\text{Total hours of labor applied in a specific labor category in a given fiscal year}} \\ \text{(e.g., FY 2016 - 2,096 hours; FY 2017 - 2,080 hours; FY 2018 - 2,080 hours)}$$

Calculations will be rounded to the one-hundredth (.xx) decimal level.

- 2) Collect direct labor hours as reported by the COR or COTR for the services rendered during FY 2017.
- 3) Reference the independent government estimate or contractor technical proposals to extrapolate hours for services provided in FY 2017.
- 4) Report information collected from contract invoices.
- 5) Calculate CFTEs using a factor by PSC to be provided by the Army or a similar factor based on service-specific ECMRA data multiplied by the Total Dollar Amount Obligated for the corresponding PSC as follows:

Example: PSC = H110 - Quality Control Services/Weapons (Non-OCO)

Obligation Amount = \$65 million

CFTE Factor = 0.000009996258946

CFTE = (65,000,000 X .000009996258946) = 649.76

The FY 2017 ECMRA Rates and Factors will be used as follows:

- a) "Generating Force - 1" – Use a factor on this sheet, only if the appropriate 4 digit code does not appear on the "Generating Force - 4" sheet (as Army does not have the 4 digit level of detail for all PSCs), for all contract services provided excluding any support provided in Afghanistan.
- b) "Generating Force - 4" – Use the factors on this sheet that correspond to the appropriate PSCs for all contract services provided excluding any support provided in Afghanistan.
- c) "OCO - 1" – Use a factor on this sheet only if the appropriate 4 digit code does not appear on the "IA - 4" sheet (as Army does not have the 4 digit level of detail for all PSCs), for all contract services provided within Afghanistan.
- d) "OCO - 4" – Use the factors on this sheet that correspond to the appropriate PSCs for all contract services provided within Afghanistan.

5. Guidance for Completing Review and Planning Requirements.

In accordance with paragraphs (d) and (e) of title 10, U.S.C., section 2330a and this guidance, Defense Component heads shall complete review and planning requirements for covered and applicable services when they are the requiring activity. Component certifications of reviews are due by September 30, 2018. Components must provide affirmative or negative input to each requirement in the lettered and numbered items below, with a particular focus and attention on categories of high-risk PSCs providing (1) special

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studies or analysis that are not research and development; (2) information technology and telecommunications; and (3) support, including professional, administrative, and management:

- a. Functional reviews shall correspond to the PSCs and be compared to the annually released DoD function codes for military and civilian personnel. DoD Components shall also review the inventory of military and government civilian functions compared to the inventory of contracts for services to: (1) assess economies of scale or scope; (2) identify potential areas of risk and overreliance on contracted services; (3) and identify opportunities for efficiencies.
- b. Reviews of a Component's contracted services shall be consistent with its organizational structure and mission, task, and function alignments, and must be based on each DoD Component's requirements and include functions associated with all contracts, task orders, delivery orders, or interagency acquisition agreements listed in the DoD Component's submission for a given fiscal year.
- c. To assess and assign contracts to a category in the table shown in paragraph e(6) of this attachment, DoD Components shall review the nature or way the contract is performed and administered as well as the organizational environment within which it is operating. Particular attention should be given to those contracts providing services considered as high risk or staff augmentation, which require heightened management attention. In many cases, these types of contracts are more likely to include closely associated with inherently governmental (CAIG) functions or result in the performance of unauthorized personal services. However, the performance of CAIG functions, or the risk of unauthorized personal service, is not limited to contracts that include services categorized as high risk or operate in a staff augmentation manner.
- d. All DoD Components must use their reviews and subsequent workforce shaping decisions to inform their program- and budget-related matters (as required by title 10, U.S.C., section 235), requests to realign work, as appropriate, to military or civilian performance (consistent with the requirements of title 10, U.S.C., section 2463) and to meeting Total Force planning and reporting requirements (as set forth in title 10, U.S.C., section 129a).
- e. In submitting letters to OASD(M&RA) certifying completion of the reviews, Component shall also provide input to each of the numbered items on this list with the appropriate information:
 - 1) Explanation of the methodology employed to conduct the review and criteria for selection of contracts for review, including the criteria and process used to identify staff augmentation contracts.
 - 2) Identification of any instances in which inherently governmental (IG) functions or unauthorized personal services are being performed under a contract, with a plan

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of action to divest, correct, or realign such functions to performance by Government personnel.

- 3) Identification of contracts under which CAIG functions are being performed and an explanation of the steps taken to ensure appropriate Government control and oversight of such functions, or if necessary, a plan to either divest or realign such functions to performance by Government personnel.
- 4) Identification of contracted services to be realigned to performance by Government personnel that:
 - a) Are exempt from private sector performance in accordance with DoD Instruction 1100.22, *“Policy and Procedures for Determining Workforce Mix;”*
 - b) Require special consideration under title 10, U.S.C., section 2463; or
 - c) Could be more cost effectively performed by Government civilians, consistent with DoD Instruction 7041.04, *“Estimating and Comparing the Full Costs of Civilian and Active Duty Military Manpower and Contract Support.”*
- 5) Actions being taken or considered related to annual program review and budget processes to ensure appropriate (re)allocation of resources based on the reviews conducted.
- 6) Actions taken with respect to each of the above categories should be summarized as depicted in the sample table below. The results of these reviews should be represented in terms of the number of CFTE and associated dollar amount from the reported year of the submission in the following categories: IG functions, Critical functions, CAIG functions, unauthorized personal services, authorized personal services, and commercial functions.

If a Component relies on or utilizes Overseas Contingency Operation funded functions, to the maximum extent practicable, these should be presented in a separate table.

Under the area labeled “continue to contract,” Components may only include CFTE and dollar amount where no corrective action is taking place or required. Accordingly, IG functions or unauthorized personal services CFTE and dollar amount may only be reported in the “divest,” “modify contract,” or “in-source” categories.

Inventory of Contracts for Services: REVIEW RESULTS		Continue Contract		Modify Contract		In-source		Divest	
Requiring Activity: NAME	Review Findings	CFTE	Dollars	CFTE	Dollars	CFTE	Dollars	CFTE	Dollars
	Inherently Governmental		\$ -		\$ -		\$ -		\$ -
	Critical		\$ -		\$ -		\$ -		\$ -
	Closely Associated		\$ -		\$ -		\$ -		\$ -
	Unauthorized Personal Services		\$ -		\$ -		\$ -		\$ -
	Authorized Personal Services		\$ -		\$ -		\$ -		\$ -
	Commercial		\$ -		\$ -		\$ -		\$ -

- (a) The categories in the column titled “Review Findings” on the table above are listed in descending order of precedence/occurrence related to the Office of Management and Budget’s Office of Federal Procurement Policy (OFPP) policy letter 11-01, “*Performance of Inherently Governmental and Critical Functions*,” and DoD Instruction 1100.22, “*Policy and Procedures for Determining Workforce Mix*.” Most Components have designated a senior, responsible management official who ensures adherence to and implementation of OFPP policy letter 11-01, and those individuals should assist with this categorization.
- (b) Functions (or work), including those under contract, work orders, task orders, etc., as a result of performance in execution (not by intent or description in the statement of work or performance work statement) may be IG, critical, CAIG, unauthorized personal services, authorized personal services, or commercial in nature. Additional details regarding the composition of these categories are provided for reference at Attachment 4. Additionally, consistent with findings and determinations made by the GAO in its November 2015 report, *GAO-16-46, “DOD INVENTORY OF CONTRACTED SERVICES: Actions Needed to Help Ensure Inventory Data Are Complete and Accurate,”* (GAO Code 100050), Components may, if they so choose, refer to the Department of the Army’s “Request for Services Contract Approval Form” as a suggested framework/roadmap to support their reviews and determinations of contracted services alignment with these categories (available at <http://www.asamra.army.mil/scra/documents/ServicesContractApprovalForm.pdf>).
- (c) Contracts that are not summarized and listed in the categories IG, critical, CAIG, unauthorized personal services, or authorized personal services should be listed as “commercial.” Components should be prepared to substantiate the comprehensiveness and depth of the methodology used to support their certifications.

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**Department of Defense Component Reporting Alignment
for the FY 2017 Inventory of Contracted Services**

No	Component Required to Report Per OSD Memo	Required to Submit ICS	Required to Certify
1	Department of the Army	Yes	Yes
2	Department of the Air Force	Yes	Yes
3	Department of the Navy	Yes	Yes
4	The Joint Staff	Yes	Yes
5	Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (OUSD(AT&L)) * Note: The disestablishment of OUSD(AT&L) and establishment of the Office of the Under Secretary of Defense for Acquisition & Sustainment (OUSD(A&S)) and the Office of the Under Secretary of Defense Research & Engineering (OUSD(R&E)) occurred following the end of the fiscal year covered by this guidance.	Yes *§	Yes *§
6	Office of the Under Secretary of Defense Comptroller/Chief Financial Officer (OUSD(C)/CFO)	Yes *§	Yes *§
7	Office of Under Secretary of Defense for Intelligence (OUSD(I))	Yes *§	Yes *§
8	Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R))	Yes *§	Yes *§
9	Office of the Under Secretary of Defense for Policy (OUSD(P))	Yes *§	Yes *§
10	Office of the Deputy Chief Management Officer (ODCMO) * Note: The disestablishment of the ODCMO and the establishment of the Office of the Chief Management Officer (OCMO) occurred following the end of the fiscal year covered by this guidance.	Yes *§	Yes *§
11	Africa Command (AFRICOM)	Yes	Yes
12	Central Command (CENTCOM)	Yes	Yes
13	European Command (EUCOM) including NATO	Yes	Yes
14	Northern Command (NORTHCOM) including NORAD	Yes	Yes
15	Pacific Command (PACOM) including U.S. Forces Japan but excluding U.S. Forces Korea	Yes	Yes
16	Southern Command (SOUTHCOM)	Yes	Yes
17	Special Operations Command (SOCOM)	Yes	Yes
18	Strategic Command (STRATCOM) including Cyber Command (CYBERCOM) * Note: The establishment of CYBERCOM as a Unified Combatant Command will occur following the end of the fiscal year covered by this guidance.	Yes	Yes
19	Transportation Command (TRANSCOM)	Yes	Yes
20	Office of the Director of Cost Assessment and Program Evaluation (ODCAPE)	Yes *§	Yes *§
21	Office of the Director of Operational Test and Evaluation (ODOT&E)	Yes *§	Yes *§
22	Office of the General Counsel of the Department of Defense (OGC)	Yes ∞	Yes ∞

**Department of Defense Component Reporting Alignment
for the FY 2017 Inventory of Contracted Services**

23	Office of the Inspector General of the Department of Defense (OIG)	Yes	Yes
24	Office of the Assistant Secretary of Defense for Legislative Affairs (OASD(LA))	Yes *§	Yes *§
25	Office of the DoD Chief Information Officer (OCIO)	Yes *§	Yes *§
26	Office of the Assistant to the Secretary of Defense for Public Affairs (OATSD(PA))	Yes *§	Yes *§
27	Office of the Director of Net Assessment (ODNA)	Yes *§	Yes *§
28	Strategic Capabilities Office (SCO) * <i>Note: For the reporting period covered under this guidance, SCO was an OSD Principal Staff Assistant (PSA) and is considered one of the 14 OSD Component offices addressed in the footnotes. Effective 1 February 2018, it became part of OUSD(R&E).</i>	Yes *§	Yes *§
29	Defense Media Activity (DMA)	Yes	Yes
30	Defense Personnel Accounting Agency (DPAA)	Yes	Yes
31	Defense Technical Information Center (DTIC)	Yes	Yes
32	Defense Technology Security Administration (DTSA)	Yes	Yes
33	DoD Education Activity (DoDEA)	Yes	Yes
34	DoD Human Resources Activity (DHRA)	Yes	Yes
35	DoD Test Resource Management Center (DTRMC)	Yes	Yes
36	Office of Economic Adjustment (OEA)	Yes	Yes
37	Defense Health Agency (DHA), formerly, TRICARE Management Activity (TMA)	Yes	Yes
38	Washington Headquarters Services (WHS)	Yes §	Yes §
39	Defense Advanced Research Projects Agency (DARPA)	Yes	Yes
40	Defense Commissary Agency (DeCA)	Yes	Yes
41	Defense Contract Audit Agency (DCAA)	Yes	Yes
42	Defense Contract Management Agency (DCMA)	Yes	Yes
43	Defense Finance and Accounting Service (DFAS)	Yes	Yes
44	Defense Information Systems Agency (DISA)	Yes	Yes
45	Defense Intelligence Agency (DIA)	Yes for MIP (classified)	Yes for MIP (classified)
46	Defense Legal Services Agency (DLSA) (DoD/GC (#22) Included when applicable)	Yes §	Yes §
47	Defense Logistics Agency (DLA)	Yes	Yes
48	Defense Security Cooperation Agency (DSCA)	Yes	Yes
49	Defense Security Service (DSS)	Yes	Yes
50	Defense Threat Reduction Agency (DTRA) including Joint Improvised-Threat Defeat Organization (JIDO)	Yes	Yes
51	Missile Defense Agency (MDA)	Yes	Yes

**Department of Defense Component Reporting Alignment
for the FY 2017 Inventory of Contracted Services**

52	National Geospatial-Intelligence Agency (NGA)	Yes for MIP (classified)	Yes for MIP (classified)
53	National Reconnaissance Office (NRO)	Yes for MIP (classified)	Yes for MIP (classified)
54	National Security Agency/Central Security Service (NSA/CSS)	Yes for MIP (classified)	Yes for MIP (classified)
55	Pentagon Force Protection Agency (PFPA)	Yes [§]	Yes [§]
56	Defense Acquisition University (DAU)	Yes	Yes
57	National Defense University (NDU)	Yes	Yes
58	Defense Microelectronics Activity (DMEA)	Technically part of DLA but has contracting authority and submits	Technically part of DLA but has contracting authority and submits
59	United States Forces Korea (USFK)	Yes, but sub-unified under PACOM	Yes, but sub-unified under PACOM
60	Uniformed Services University of the Health Sciences (USUHS)	Yes	Yes

* On behalf of the 14 OSD Component offices identified in lines #5, #6, #7, #8, #9, #10, #20, #21, #22, #24, #25, # 26, #27, and #28, the Office of the Chief Management Officer (OCMO) is responsible for collecting all 14 OSD Component offices' specific annual ICS certification memos, supporting data, consolidating and submitting a single initial ICS report (Phase-I), and a subsequent 90-day (Phase-II) ICS review report to OD, DPAP and OASD(M&RA). Responsibility for ensuring compliance with this guidance and criteria resides with the individual OSD Component offices. The OCMO may opt to provide additional guidance and support beyond that which is contained within this guidance.

[§] WHS/Acquisition Directorate (AD), is designated as the Subject Matter Expert (SME), responsible for ensuring that the 14 OSD Component offices (*), WHS Directorates([§]), PFPA ([§]), and DLSA ([§]), receive the OD, DPAP certified ICS data from the FPDS-NG and delivering applicable data to the organizations identified above. In addition, WHS/AD designated SME(s) will assist customers in calculating the CFTEs, obligated dollar amounts, and other required figures for the inventories applicable to 14 OSD Component offices, WHS, PFPA, and DLSA, whose contracts are serviced by WHS/AD and other contracting service providers. Lead action officers at the OSD Component offices, WHS, PFPA, and DLSA levels will facilitate submission of annual ICS (Phase-I) and the follow-on 90 day (Phase-II) reviews for their respective organizations.

∞ ICS for the Office of the General Counsel of the Department of Defense will be part of DLSA's ICS submission when applicable.

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Function/Work Categories

Functions (or work), including those under contract, work orders, task orders, etc., inherently governmental, critical, closely associated with inherently governmental, unauthorized personal services, authorized personal services, or commercial in nature because of the way a statement of work/performance statement is written, or because of the way in which the work is performed. Statute, Federal Acquisition Regulation, Office of Management and Budget Circular A-76, *Performance of Commercial Activities*; the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, *Performance of Inherently Governmental and Critical Functions*, and DoD Instruction 1100.22, "Policy and Procedures for Determining Workforce Mix," provide the basis for these categories as follows:

1. **Inherently governmental (IG)** – An activity is IG when it is so intimately related to the public interest as to mandate performance by Federal employees. An IG function requires the exercise of discretion in applying Federal Government authority, or the making of value judgments in making decisions for the Federal Government, or the making of judgments relating to monetary transactions and entitlements. It involves the interpretation and execution of the laws of the United States so as to bind the United States to take or not take some action by contract, policy, regulation, authorization, order, or otherwise. If a contract is found to include IG functions the Component should take action, consistent with paragraph 5.e.2 of Attachment 1 of this guidance, to divest, correct, or realign such work to Government performance. Some examples of IG functions that involve:
 - a. Command of military forces
 - b. Determination of agency policy
 - c. Determination of program priorities for budget requests
 - d. Direction and control of Federal employees
 - e. Involve the direction and control of intelligence and counter-intelligence operations
 - f. Selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment
 - g. Approval of position descriptions and performance standards for Federal employees
 - h. Determination of what Government property is to be disposed of and on what terms
 - i. Determination of the supplies or services that are to be acquired by the Government
 - j. Participating as a voting member on any source selection boards
 - k. Approving any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria
 - l. Contract Awards
 - m. Administering contract administration (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)
 - n. Terminating contracts

- o. Determining whether contract costs are reasonable, allocable, and allowable
 - p. Participation as a voting member on performance evaluation boards
 - q. Approval of agency responses to Freedom of Information Act requests
 - r. 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
 - s. Approval of Federal licensing actions and inspections
 - t. Determinations related to of budget policy, guidance, and strategy
 - u. Collection, control, and disbursement of fees, royalties, duties, fines, taxes, and other public funds, unless authorized by statute, such as title 31, U.S.C., section 952 (relating to private collection contractors) and title 31, U.S.C. section 3718 (relating to private attorney collection services), but does not include 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 routine voucher and invoice examination
 - v. Drafting Congressional testimony, responses to Congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Accountability Office, or other Federal audit entity. IG functions are also listed in Federal Acquisition Regulation (FAR) Part 7.5
2. **Critical** – Critical functions are those deemed “necessary to the agency being able to effectively perform and maintain control of its mission and operations.” Critical functions may be performed under contract; however, the organization must ensure it has an adequate number of positions filled by Federal employees with appropriate training, experience, and expertise to understand the agency’s requirements, formulate alternatives, manage work product, and monitor contractors. Pursuant to title 10, U.S.C., section 2463(b), and OFPP Policy Letter 11-01 *Performance of Inherently Governmental and Critical Functions*, Components should give special consideration 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. In the event that a function is determined to be critical in nature, but not appropriate for in-sourcing, Components should ensure that adequate government oversight will be available, pursuant to OFPP Policy Letter 11-01, *Performance of Inherently Governmental and Critical Functions*.
3. **Closely associated with inherently governmental work (CAIG)** – These functions are “other activities performed in conjunction with the IG functions.” Specifically, when functions that generally are not considered to be IG, but because of their nature and function and the risk that performance may impinge on Federal officials’ performance of an IG function, agencies must give special consideration to using Federal employees to perform these functions. If contractors are used to perform such work, agencies must

give special management attention to contractors activities to guard against any expansion into IG functions and reduce reliance on such contracted functions to the “maximum extent practicable.” Examples include:

- a. Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses
- b. Services that involve or relate to reorganization and planning activities
- c. Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy
- d. Services that involve or relate to the development of regulations
- e. Services that involve or relate to evaluation of another contractor’s performance
- f. Services in support of acquisition planning
- g. Contractors providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors)
- h. Contractors providing technical evaluation of contract proposals
- i. Contractors providing assistance in the development of statements of work
- j. Contractors providing support in preparing responses to Freedom of Information Act requests
- k. Contractors working in any situation that permits or might permit them to gain access to confidential business information and/or other sensitive information (other than situations covered by the National Industry Security Program)
- l. 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
- m. Contractors participating in any situation where it might be assumed that they are agency employees or representatives
- n. Contractors participating as technical advisors to a source selection board or participating as non-voting members of a source selection board
- o. Contractors serving as arbitrators or providing alternative methods of dispute resolution
- p. Contractors constructing buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments
- q. Contractors providing inspection services
- r. Contractors providing special non-law enforcement, security activities that do not directly involve criminal investigations

4. **Unauthorized personal services and authorized personal services** – “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, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.”

The Procurement of personal services is authorized under very limited circumstances when expressly identified by statute, such as those provided for in title 10, U.S.C., section 129b, for experts and consultants where doing so is advantageous to the United States and the services cannot be adequately provided by the Department. Procurement is also authorized for direct support of a defense intelligence component or counter-intelligence organization of DoD where the services are urgent or unique and cannot be practically obtained within the Department; direct support of special operations where the services are urgent or unique and cannot be practically obtained within the Department; or provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of DoD outside the United States; or for carrying out healthcare responsibilities pursuant to title 10, U.S.C., section 1091.

Authorized personal services should be designated as such in the Department contract writing system at the time of award after obtaining complete documentation and approvals at the appropriate level. From FAR Part 37.104(f), "Personal services contracts for the services of individual experts or consultants are limited by the Classification Act. In addition, the Office of Personnel Management has established requirements which apply to acquiring the personal services of experts or consultants in this manner (e.g., benefits, taxes, conflicts of interest). Therefore, the contracting officer shall effect necessary coordination with the cognizant civilian personnel office." Performance of service contracts may become personal in execution as defined above, and so Components must review the duties and functions of the contractors each year to ensure this does not occur.

A contract may involve unauthorized personal services either by its written terms or in the way it is performed. Care should be taken to avoid situations that may lend themselves to the performance of personal services (for example, having contractors on-site can lead to a "blended workforce" where contractors are treated in the same way as government personnel).

5. **Commercial** – "[A] recurring service that could be performed by the private sector and is resourced, performed, and controlled by the agency through performance by government personnel, a contract, or a fee-for-service agreement. A commercial activity is not so intimately related to the public interest as to mandate performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work" (OMB Circular A-76, *Performance of Commercial Activities*).