Defense Logistics Agency Instruction

DLAI 2111
Effective June 6, 2011
J-74

Determining to Use a Public or Private Services Provider

References: Refer to Enclosure 1.

1. **PURPOSE.** Provide the methodology for determining to use Department of Defense (DoD) civilian positions or contractors to perform a service.

2. **APPLICABILITY.**
   
a. This Defense Logistics Agency (DLA) Instruction applies to Headquarters DLA and all DLA Primary Level Field Activities (PLFA). It is effective immediately and supersedes all previous, similar Headquarters and PLFA policies, guidance, and standard operating instructions. Supplementation of this policy is not permitted at any level.

   b. The procedures in this instruction are used when DLA PLFAs and J codes:

      (1) have been assigned a new mission, the corresponding work cannot be absorbed within the current staffing levels and the responsible organization must decide whether to perform the work "in-house" with DoD civilians, obtain a contractor, or

      (2) when considering to execute an in-sourcing action; i.e., whether to convert work performed by a contractor(s) to DoD civilian performance.

3. **POLICY.**
   
a. 10 U.S.C. 2463 requires DoD to ensure that consideration is given to using, on a regular basis, DoD civilian employees to perform functions being accomplished by contractors but could be performed by DoD employees. In accordance with 10 U.S.C. 2330a(e), DLA accomplishes this by having the PLFAs and J Codes annually review the substantive services contracts they are funding and identify in-sourcing candidates.

   b. The DLA Director will make all in-sourcing decisions; i.e., whether to convert work performed by a contractor(s) to DoD civilian performance.

   c. When evaluating services not being performed under contract, the PFLA and J Code Commanders and Directors will decide to use public or private sources; this responsibility cannot be delegated.
d. Inherently governmental (IG) functions shall be performed by DoD employees and cannot be legally contracted to the private sector.

e. To the maximum extent practicable, services closely associated with IG functions should be performed by DoD employees.

f. Functions that are not IG are commercial in nature. Commercial activities (CAs) shall be exempted from private sector performance:

   (1) by law,

   (2) by Executive Order,

   (3) by treaty,

   (4) by international agreement,

   (5) to mitigate operational risk,

   (6) to provide sufficient personnel for wartime assignments,

   (7) to provide overseas or sea-to-shore rotation,

   (8) to provide career development,

   (9) to provide continuity of operations, or

   (10) to provide esprit de corps.

g. If a CA is not exempted from private sector performance, it shall be designated for DoD civilian performance unless:

   (1) There is a legal, regulatory, or procedural impediment to using DoD civilian personnel. This shall include determinations by Human Resource officials that DoD civilians cannot be hired, hired in time, or retained to perform the work,

   (2) It is not an enduring mission requirement; i.e., the work to be performed is not anticipated to last for more than five years, or

   (3) A cost comparison shows that the private sector is forecasted to be the low-cost services provider.

h. CAs that can be completed at a satisfactory performance level by either contractors or DoD employees shall be executed by the least-cost service provider.
i. Use “Determining to Use Public or Private Services Provider Template No. 1,” to determine if the public or private option should be excluded from consideration by making the following assessments:

(1) Description of work to be or being performed.

(2) Contract Number of existing contract (if not a new requirement).


(4) If not a new requirement, is all the work still required?

(5) Will the requirement for the work extend beyond the terms of the current contract; i.e., is it an enduring requirement?

(6) Does the work being evaluated include IG functions? If “yes,” identify and describe the reason(s) that the work should be considered IG.

(7) Does the work being evaluated include commercially exempted (CE) functions? If “yes,” identify and describe the reason(s) that the work should be considered CE.

(8) Have DLA Human Resources (J1) officials concluded that DoD civilians can be hired and trained in time or retained to perform the work? Identify and describe the reason(s) for responding "no."

(9) Is the current contractor part of the AbilityOne Program?

(10) Were the functions being evaluated performed by DOD civilian employees during the previous ten years?

(11) Are any of the activities closely associated with IG functions? If "yes," identify those activities and how it is closely associated with IG functions.

(12) Was the current contract awarded on a non-competitive basis?

(13) Has the current contractor performed poorly? If “yes,” identify and describe action taken to document, improve, and mitigate the poor performance.

(14) Is the current contractor providing unauthorized personal services? If “yes,” identify and describe the unauthorized services and the actions taken to document, improve, and mitigate this situation.

(15) Are there sufficiently trained and experienced contract administration personnel supporting the current contract? If “no,” identify and describe actions taken by the contracting officer to document, improve, and mitigate this situation.
j. Assessment results from completing “Determining to Use Public or Private Services Provider Template No. 1” that will exclude the public or private options must be justified, documented and approved in a decision memorandum by the PFLA or J Code Commander or Director.

k. If the function under consideration can be performed by a public or private services provider, use “Determining to Use Public or Private Services Provider Template No. 2” to compare the costs of the public and private options, determine which of the two is projected to be the least cost services provider, document any overriding reasons why the least cost provider should not be selected, and select whether the services provider will be public or private.

(1) An example of “overriding reasons why the least cost provider should not be selected” could be that the requiring activity, after completing “Determining to Use Public or Private Services Provider Templates No. 1 and No. 2”, determined that the private sector option is projected to be the least cost services provider, but the work to be performed should be considered to be IG or CE. Under these circumstances, even if the private option is forecasted to cost less, the public option will be the preferred alternative.

(a) Using the procedures in this instruction, the above determinations should have been identified when using “Determining to Use Public or Private Services Provider Template No. 1,” but the aforementioned assessment factors might not be fully understood and considered until the analysis required to cost out the private and public alternatives had been completed.

(b) Use a decision memorandum to justify the determination and document the approval by the PFLA or J code Commander or Director.

(2) Recommended actions must be justified, documented and approved in a decision memorandum by the PFLA or J Code Commander or Director.

4. RESPONSIBILITIES.

a. DLA Director will:

(1) Issue in-sourcing guidance.

(2) Decide whether to in-source work being performed under contract.

b. DLA PFLA and J Code Commanders and Directors will:

(1) Use DoD civilians to perform services considered to be IG, CE, or when DoD civilian performance is determined to be the least cost services provider.

(2) To the maximum extent practicable, perform functions closely associated with IG functions using DoD employees.
(3) Decide to use public or private sources, when evaluating services not being performed under contract; i.e., these are not in-sourcing considerations. Justify and document actions taken on a decision memorandum; this responsibility cannot be delegated.

(4) Prepare and forward in-sourcing recommendations to the DLA Director for approval. Coordinate the preparation of recommendation packages with the DLA In-Sourcing Program Manager in DLA Acquisition (J7).

(5) Use the “Determining to Use Public or Private Services Provider Template No. 1" to determine if the functions in question can be performed by public or private (contracted) services providers. Justify and document actions taken on a decision memorandum.

(6) If the public and private service providers are both viable candidates, use the “Determining to Use Public or Private Services Provider Template No. 2” to determine the least cost services provider. Justify and document actions taken on a decision memorandum.

(7) Maintain the completed templates, signed approval memorandums and other important source documents for four years.

(8) Provide a copy of the templates and signed approval memorandum to the DLA In-Sourcing Program Manager. Include documentation to justify contracted positions when DoD civilians and contractors are performing the same or similar functions and the DoD civilian positions have been labeled IG or CE in the annual Inherently Governmental and Commercial Activities inventory (also referred to as the Federal Activities Inventory Reform Act inventory).

(9) If the decision will result in establishing new DoD civilian positions:

(a) Notify J8 and program for the new civilian positions in the next Program Budget Review.

(b) Notify J1 and identify whether the new positions will be:

1. Established to perform new functions or functions under contract that will be converted to DoD civilian performance.

2. Classified IG, CE or commercial; i.e., DoD civilian performance is considered to be the least cost services provider.

(c) If the new positions being established are a result of in-sourcing, the Request for Personnel Action (RPA) submitted to J1 must include the following note: "This recruitment is being initiated to fill a new position that has been created as a result of in-sourcing a contracted service."

   c. J8 will review any conversion requests to ensure they comply with current financial regulations and parameters and meet a savings threshold of at least 5 percent per year. Should
the conversion requests not meet these requirements, a review with the Program Manager, J8 and the Activity will follow to attempt to amend the conversion or provide a waiver.

d. J1 will monitor the Request for Personnel Action process and prepare the quarterly reports requested by the Under Secretary of Defense (Personnel & Readiness) In-Sourcing Program Office.

e. The In-Sourcing Program Manager (J7) will:

   (1) Prepare the annual services contracts inventory.

   (2) Prepare the in-sourcing plan for the next fiscal year.

   (3) Facilitate the annual review of services contracts that results in an in-sourcing plan approved by the Director.

   (4) For decisions to use contractors, ensure there is documentation to justify when DoD civilians are performing the same or similar functions and the DoD civilian positions have been labeled IG or CE in the most recent annual inherently governmental & commercial activities.

   (5) Communicate program changes to the DLA Enterprise driven by public law and the Department of Defense In-Sourcing Program Office.

   (6) Assist PFLAs and J Codes in preparing in-sourcing recommendation packages for the DLA Director’s approval.

   (7) Provide expert advice to PLFA and J Codes to determine whether to use a public or private services provider.

   (8) Update the various cost factors imbedded in “Determining to Use Public or Private Services Provider Template No. 2;” i.e., DLA civilian personnel fringe benefit rate and the anticipated wage inflation/cost-of-living increases.

5. PROCEDURES. See Enclosure 2. Definitions are located at Enclosure 3.

6. EFFECTIVE DATE. This Instruction is effective immediately.

   Director, Strategic Plans and Policy

3 Enclosures
   Enclosure 1 – References
   Enclosure 2 – Procedures
   Enclosure 3 – Definitions
Enclosure 1
References

1. Section 324 of FY08 National Defense Authorization Act (NDAA), Guidelines on In-Sourcing New and Contracted Out Functions, that was codified into 10 USC 2463

2. DoDI 1100.22, Policy and Procedures for Determining Workforce Mix, April 12, 2010


4. J-7 memo, subject: Implementation of Section 324 of the FY08 NDAA

5. DEPSECDEF memo, subject: In-sourcing Contracted Services Implementation Guidance, May 28, 2009

1. Use the “Determining to Use Public or Private Services Provider Template No. 1” Excel Spreadsheet to determine if the public or private option should be excluded from consideration. Updated copies are available at and should be obtained from https://eworkplace.dla.mil/sites/org2/j7/. An example is provided on pages 10 - 12 of this instruction.

2. If the function under consideration could be performed by a public or private services provider, use “Determining to Use Public or Private Services Provider Template No. 2” Excel Spreadsheet to compare the costs of the public and private options, determine which is projected to be the least cost services provider, document any overriding reasons why the least cost provider should not be selected, and select whether the services provider will be public or private. Updated copies are available at and should be obtained from https://eworkplace.dla.mil/sites/org2/j7/. An example is provided on page 13 of this instruction.

3. The DLA civilian personnel fringe benefit rate is one of the factors used in “Determining to Use Public or Private Services Provider Template No. 2” to compute the anticipated cost of performing the work being evaluated with DoD civilian employees. It is updated annually by the Under Secretary of Defense (Comptroller), and imbedded in the Template No. 2 spreadsheet.

4. Duration of the cost comparison will be five annual performance periods.

5. Anticipated wage inflation/cost-of-living increases for performance periods two, three, four and five are provided by the Office of Management and Budget, and are imbedded in the Template No. 2 spreadsheet.

6. In-Sourcing actions must first be approved by the DLA Director. Prior to preparing a request, organizations must take the following actions:

   a. Discuss the issue with the organization's In-Sourcing point of contact.

   b. Review the statement of work in the contract and validate it against what the contractor is actually doing.

   c. Develop a plan to perform the work with government employees.

   d. Determine the number of government employees and the associated grades needed to perform the work. Along with J1, review grade determinations to ensure they are reasonable, the number of positions that can be recruited at the location where the work will be performed, and in time to satisfy the requirements in the Transition Plan.

   e. Determine the impact of adding DoD civilians to Information Technology and Desktop Support, and enterprise support (in terms of cubicle availability.)
f. Conduct the cost comparison between the contractor and DoD civilian options using “Determining to Use Public or Private Services Provider Template No. 2” available at https://eworkplace.dla.mil/sites/org2/j7/.

g. Identify a date when the work will transition from the contractor to the DoD civilians; a likely date will be the last day of the contractor's annual performance period.

h. Prepare the transition plan. The plan should include when the DoD civilians will need to be on-board in order to receive orientation, classroom and on the job training while working with the contractor prior to the contractor leaving, etc. The DoD civilians will probably need to be on-board for a considerable period of time before the contractor departs.

i. Determine the dollars needed to fund the transition. The cost to pay the contractor, DoD civilians, equipment, additional services, indoctrination, and training. In the transition fiscal year, this will probably require more dollars than will be available by cancelling the contract. Review with J8 that your organization has enough funding for the conversion.

j. Contact and discuss the issue with the DLA In-Sourcing Program Officer.

k. Prepare a decision memo for your PLFA or J Code commander/director's signature. Include with it, above items c, d, f, h, and a certification related to i. Coordinate with J1, J7 and J8.

l. Prepare a decision memo for the DLA Director's signature. Include with it, above items c, d, f, h, k and a certification related to I; required coordination includes DLA General Counsel, J1, J7, and J8.
Selecting Public or Private Services Provider

1. Description of work to be or being performed:  
2. Contract Number of existing contract (if a new requirement)  
4. If not a new requirement, is all the work still required? (Y or N)  
5. Will the requirement for the work extend beyond the terms of the current contract; is it an "enduring" requirement? (Y or N)  
6. Does the work being evaluated include inherently governmental (IG) functions? (Y or N) 

Note 1: The work must be performed by Full-time employees and cannot be legally subcontracted to the private sector, even if the work is anticipated to be short term or temporary. The following are options to perform short term IG work:  
   a. a current government employee(s) that can incorporate the work under their regular hours,  
   b. a current government employee(s) that can perform the work under "premium" hours, i.e., night, competitive time hours and/or overtime, like a temporary government employee,  
   c. a temporary or part-time government employee,  
   d. a combination of a, b, and c, or  
   e. don't do the work.

Note 2: The following list at section 7.503(c) of the Federal Acquisition Regulations are inherently governmental functions. This list is not all-inclusive:  
   (1) The direct conduct of criminal investigations.  
   (2) The control of organization and performance of adjudicatory functions other than those relating to arbitration or other methods of alternative dispute resolution.  
   (3) The command of military forces, especially the leadership of military personnel who are members of the combat, combat support, or combat service support role.  
   (4) The conduct of foreign relations and the determination of foreign policy.  
   (5) The determination of agency policy, such as determining the content and application of regulations, among other things.  
   (6) The determination of Federal program priorities for budget requests.  
   (7) The direction and control of Federal employees.  
   (8) The direction and control of Intelligence and counter-intelligence operations.  
   (9) The selection or non-selection of individuals for Federal Government employment, including the interviewing of individuals for employment.  
   (10) The approval of promotions and performance evaluations for Federal employees.  
   (11) 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 or prices within specified ranges and subject to other reasonable conditions deemed appropriate by the agency).  
   (12) In Federal procurement activities with respect to prime contracts—  
      (i) Determining what supplies or services are to be acquired by the Government (although an agency may give contractors authority to acquire supplies or 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, to include documents defining requirements, incentive plans, and evaluation criteria;  
      (iv) Administering contracts;  
      (v) Administering (including ordering changes in contract performance or contract quantities, taking action based on evaluations of contractor performance, and accepting or rejecting contractor products or services);  
      (vi) Termination of contracts;  
      (vii) Determining whether contract costs are reasonable, allocable, and allowable; and  
      (viii) Participating as a voting member on performance evaluation boards.  
   (13) 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 responses to the administrative appeals of denial of Freedom of Information Act requests.  
   (14) The conduct of administrative hearings to determine the eligibility of any person for a security clearance, or involving actions that affect matters of personal reputation or eligibility to participate in Government programs.  
   (15) The approval of Federal licensing actions and inspections.  
   (16) The determination of budget policy, guidance, and strategy.  
   (17) The collection, control, and disbursement of fees, fines, penalties, costs, or other charges from violations of laws, regulations, actions, or statutes; and  
   (18) The collection, control, and disbursement of fees, penalties, taxes, and other public funds, unless authorized by statute, such as 51 U.S.C. 992 (including to private contractors and individuals);  
   (19) The collection, control, and disbursement of fees, penalties, taxes, and other public funds, unless authorized by statute, such as 51 U.S.C. 3708 (relating to private attorney collections service).  
   (20) Selecting Public or Private Services Provider

Plan to discontinue to contract and to instead perform the work using DOD civilians.

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Plan to discontinue to contract and to instead perform the work using DOD civilians.
### Template No. 1 (Continued)

**Selecting Public or Private Services Providers**

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<thead>
<tr>
<th></th>
<th>Does the work being evaluated include commercially exempted (CE) functions? (Y or N)</th>
<th>If &quot;YES&quot;, identify and describe the reasons for responding &quot;NO&quot;.</th>
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<tr>
<td>1</td>
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</table>

**Explanation:** Refer to paragraph 7 (Criterion H - Exemption for Continuity of Infrastructure Operations) paragraph 9, (Criterion I - Exemption for Civilian/Military Rotation), paragraph 10 (Criterion K - Exemption for Civilian/Military Career Development), paragraph 11 (Criterion L - Exempted by Law, Executive Order, Treaty or International Agreement) and paragraph 12 (Criterion M - Exempted by DoD Management Decision) in Enclosure 4 of DOD Instruction 1100.22 dated April 12, 2010, subject: Guidance for Determining Workforce Mix.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.

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**Explanation:** Ability One was previously referred to as the "Javits – Wagner – O’Day (JWOD) Program." It coordinates its activities with nonprofit organizations across the country to employ thousands of people who are blind or have other severe disabilities and provide goods and services to the Federal Government. As directed by the attached OUSD (DPAP) memo dtd Nov 16, 2009, Ability One contracts should generally not be considered for in-sourcing unless the work being performed is inherently governmental or commercially exempt.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.

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**Explanation:** If a contract is for services that have been performed by DOD civilian employees at any time in the previous ten years, the Department is required by 10 U.S.C. § 2463(b)(1)(A) to give special consideration to in-sourcing the services.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.

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**Explanation:** If a contract is for services closely associated with the performance of an IG function (as identified in Subpart 7.5aec of FAR 9.4) and in accordance with 10 U.S.C. § 2483), the Department is required by 10 U.S.C. § 2483(a)(2) to give special consideration to in-sourcing the services.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.

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**Explanation:** Refer to paragraph 2 of Enclosure 3 and paragraph 4 (Criterion E - DoD Civilian Authority, Direction and Control) in Enclosure 4 of DOD Instruction 1100.22 dated April 12, 2010, subject: Guidance for Determining Workforce Mix.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.

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<th>6</th>
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**Explanation:** The following functions listed in section 7.503(d) of the Federal Acquisition Regulations are closely associated with inherently governmental functions. This list is not all inclusive:
1. Services that involve or relate to budget preparation, including workload modeling, cost finding, efficiency studies, and should-cost analyses, etc.
2. Services that involve or relate to nonacquisition planning activities.
3. Services that involve or relate to analysis, 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 acquisitions planning.
7. Contractors providing assistance in contract management (such as where the contractor might influence official evaluations of other contractors).
9. Contractors providing assistance in the development of instruments of work.
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 Industrial Security Program described in 4.02(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 situations 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 nonvoting members of a source evaluation board.
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 penetrations by foreign governments.
17. Contractors providing inspecting services.
18. Contractors providing legal advice and interpretations of regulations and statutes to Government officials.
19. 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 duties.

**Impact of Answer:** If "YES", give special consideration to in-sourcing the services.
## Template No. 1 (Continued)
### Selecting Public or Private Services Provider

<table>
<thead>
<tr>
<th>No.</th>
<th>Assessment</th>
<th>Impact of Answer</th>
</tr>
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<tbody>
<tr>
<td>11.</td>
<td>If a contract was awarded on a non-competitive basis, DOD is required by 10 U.S.C. § 2463(b)(1)(C) to give special consideration to in-sourcing the services.</td>
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<tr>
<td>13.</td>
<td>Has the current contractor performed poorly? (Y or N) If “yes”, identify and describe actions taken by the contracting officer to document, improve and mitigate the poor performance.</td>
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<tr>
<td>14.</td>
<td>Is the current contractor providing unauthorized personal services? If “yes”, identify and describe the unauthorized services and the actions taken by the contracting officer to document, improve and mitigate the situation.</td>
<td></td>
</tr>
<tr>
<td>15.</td>
<td>Are there sufficiently trained and experienced contract administration personnel supporting the current contract? (Y or N) If “no”, identify and describe actions taken by the contracting officer to document, improve and mitigate the situation.</td>
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</table>

**Explanation:*** If a contract was awarded on a non-competitive basis, DOD is required by 10 U.S.C. § 2463(b)(1)(C) to give special consideration to in-sourcing the services.

**Explanation:*** If a contractor officer, in consultation with the requiring official and/or designated CO/CCO/CC, determines a contract performed poorly (due to excessive costs or inferior quality) during the 5-year period preceding the date the contracting officer’s determination, the Department is required by 10 U.S.C. § 2463(b)(1)(D) to give special consideration to in-sourcing the services.

**Definition:** As excerpted from para (g)(5) in 10 USC 2330a, the term means a contract where the contractor personnel are subject to the relatively continuous supervision and control of one or more Government officers or employees, as a result of contract terms or conditions or the manner of its administration during performance. See also FAR 37.104 for more guidance.

**Note 1:** To date, DLA has not issued any authorized personal services contracts.

**Note 2:** As excerpted from para (g)(5) in 10 USC 2330a, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that makes a contract a “personal services contract”.

**Note 3:** Subpart 37.103(a)(5) of the FAR requires the contracting officer to make a written determination the service contract does not violate the provisions in Subpart 37.100(b) of the FAR on contracting for personal services. If a review of the contract shows the contract (as it is performed) is an unauthorized personal service contract (as provided by applicable statutory and regulatory requirements) and the problems cannot be corrected, the contract services must be re-sourced as expeditiously as possible. Contracting officers should refer to Subpart 37.2 of the FAR when establishing the legitimacy of Advisory and Assistance Services (A&AS) contracts. Consistent with Subpart 37.203 of the FAR, A&AS contracts shall not be used to obtain professional or technical advice which is readily available within the agency or another Federal agency. Additionally, A&AS contracts shall not be used to obtain professional or technical advice which could be provided by DOD civilians, employees, or by-pass or undermine personnel ceilings, pay limitations, or competitive employment procedures.

**Explanation:*** Subpart 37.103(b) of the FAR and 10 U.S.C. § 2383(a)(2) require the contracting officer to ensure there are sufficiently trained and experienced officials available within the agency to manage and oversee the contract administration functions. If the contracting officer determines that there are not sufficiently trained and experienced officials available, and that they cannot be made available, the contractual services may be re-sourced as expeditiously as possible. When making these determinations, the requiring official should be consulted.
## Template No. 2
### Selecting Public or Private Services Provider

<table>
<thead>
<tr>
<th>Description of work to be performed</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract TASK SOW/PWS Description of work</td>
<td>Example from Contract TASK SOW/PWS</td>
</tr>
</tbody>
</table>

*Contract will require modification to remove requirements and value

<table>
<thead>
<tr>
<th>Contractor/Company Name</th>
<th>Example: XYZ, INC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract No.</td>
<td>Example: 2541/09-2-0005</td>
</tr>
<tr>
<td>Fiscal Year</td>
<td>Current Year</td>
</tr>
<tr>
<td>Actual or Anticipated Contract Cost</td>
<td>$245,000</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Location(s)</th>
<th>Grade</th>
<th>Step</th>
<th>Series</th>
<th>Federal Activities Involvement (B) (If Definition-only) (Environmental - Commercial Activities) Criteria Code</th>
<th>Cost per FTE</th>
<th>No. of FTE</th>
<th>Citizen Personnel Fringe Benefit Factor</th>
<th>Total Labor Cost</th>
<th>Non-labor Offset</th>
<th>Conversion Cost (1% of Total labor cost in Current fiscal Year)</th>
<th>Conversion Differential</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Example: DLA HQ</td>
<td>13</td>
<td>5</td>
<td>501</td>
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<td>$123,452</td>
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<td>$275</td>
<td>$1,086</td>
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</table>

| Conversion Differential | $59,218 |
| Total | $1,243,534 |

8 Year Savings if Select DOD Civilian Alternative | $81,466 |

Recommended Decision

DOD Civilian Option (Y or N)  Y

Explanation if the decision is contrary to selecting the lower cost service provider as determined by the above cost comparisons

THLA or J Code’s In-sourcing Point of Contact

Action Officer Name, Organization & Phone #

Contracting Officer

Contracting Officer Representative
Enclosure 3
Definitions

These terms and their definitions are for the purposes of this Instruction.

1. Activities Closely Associated with IG Functions. To date, this has not been defined. Federal
Acquisition Regulation Subpart 7.503(d) provides examples of functions considered to be closely
associated with IG functions. This information is provided in assessment number 11 in
“Determining to Use Public or Private Services Provider Template No. 1.”

2. Commercial activity. A service/function that is not inherently governmental.

3. Common costs. Costs that are borne by the DoD regardless of the provider (military, DoD
civilian, or private-sector contractor). Examples of common costs include Government-
furnished property and security clearances.

4. Cost element. One of multiple cost items that make up a cost estimate.

5. Cost estimate. An approximate cost calculated to perform a specific function, service, or
mission.

6. Critical function. A function that is necessary for an agency to effectively perform and
maintain control of its mission and operations. A function that would not expose the agency to
risk of mission failure if performed entirely by contractors is not a critical function.

7. In-sourcing. The conversion of any currently contracted service/function to DoD civilian or
military performance (or combination thereof) in which a new civilian or military
authorization(s) will be established.

8. Inherently governmental (IG) function. A function so intimately related to the public interest
as to mandate performance by Government employees. These functions include activities that
require either the exercise of discretion in applying Government authority or making value
judgments and decisions for the Government. IG normally falls into two categories: (1) the act
of governing; i.e., the discretionary exercise of Government authority, and (2) monetary
transactions and entitlements.

   a. An inherently governmental function involves, among other things, the interpretation and
      execution of the laws of the United States so as to:

      (1) Bind the United States to take or not to take some action by contract, policy,
          regulation, authorization, order, or otherwise;

      (2) Determine, protect, and advance its economic, political, territorial, property, or other
          interests by military or diplomatic action, civil or criminal judicial proceedings, contract
          management, or otherwise;

      (3) Significantly affect the life, liberty, or property of private persons;
(4) Commission, appoint, direct, or control officers of employees of the United States; or

(5) 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.

b. Inherently governmental functions do not normally include:

(1) Gathering information for or providing advice, opinions, recommendations, or ideas to Government officials; or

(2) Functions that are primarily ministerial and internal in nature; such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management and operations, or other routine electrical or mechanical services.

c. Additional detail is provided in assessment number six in “Determining to Use Public or Private Services Provider Template No. 1.”

9. Total workforce mix. The military, DoD civilian, and contractor personnel who together perform work in support of a defense mission.