



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

**THE UNDER SECRETARY OF DEFENSE**

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3010

**JUL 27 2007**

**MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
DIRECTOR, ADMINISTRATION AND MANAGEMENT  
DIRECTOR, JOINT STAFF  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES**

**SUBJECT: Implementation of Section 343 of the 2006 National Defense Authorization Act**

This memorandum implements Section 343 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109-163 (Attachment). Section 343 requires the Secretary of Defense to prescribe guidelines and procedures for ensuring that consideration is given to using federal government employees for work that is currently performed, or would otherwise be performed, under Department of Defense contracts. Special consideration shall be given to contracts that: (A) have been performed by federal government employees at any time on or after October 1, 1980; (B) are associated with the performance of inherently governmental functions; (C) were not awarded on a competitive basis; or, (D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

As reported in the FY 2007 President's Budget, the Department spent over \$105 billion on Service Contract Support in FY 2005. To ensure the Department is spending taxpayer dollars wisely, it is important for DoD Components to consider the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of commercial activities when reprioritizing programs, assessing risk, and building program and budget submissions, consistent with section 129a of title 10, United States Code and this policy memorandum. Section 129a requires the Secretary of Defense to use the least costly form of personnel, consistent with military requirements and other needs of the Department.

Section 343 of the National Defense Authorization Act for Fiscal Year 2006, Pub. L. 109-163 authorizes the guidelines to provide for the use of federal government employees without first conducting a public-private competition under the A-76 Circular, when appropriate. The use of federal government employees is appropriate under the following circumstances.

Federal employees may be used to perform commercial activities not otherwise exempted under the DoD Manpower Mix Criteria when an economic analysis shows that they are the low cost provider for contracts that: (A) have been performed by federal

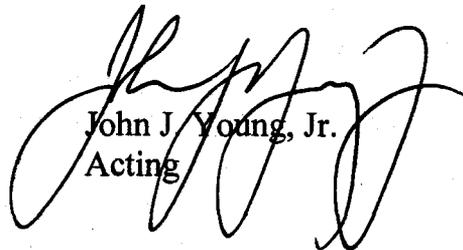


government employees at any time on or after October 1, 1980; (B) are associated with the performance of inherently governmental functions; (C) were not awarded on a competitive basis; or (D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality. For new requirements and for work that is contracted (unless the contract was awarded through public-private competition), an economic analysis may be used in lieu of recompeting the contract or of performing a public-private competition under OMB Circular A-76 to determine the low cost provider. In such cases, DoD Components shall use COMPARE costing software and 343 costing rules to perform the economic analysis. Variances to COMPARE may be approved by the DoD Competitive Sourcing Official (CSO). Activities that are returned to government performance as a result of such economic analyses will be reported in the DoD Commercial Activities Management Information System.

When converting contracted activities, DoD Components may use this authority until such actions exceed 3% of a Component's authorizations coded under OMB reason code B (commercial reviewable) in the DoD Component's approved Inherently Governmental/Commercial Activities (IG/CA) Inventory for the previous fiscal year. Actions exceeding this limit require prior notification of the DoD CSO. At any time, the DoD CSO may intervene or stop a section 343 action. All such actions shall be in compliance with sections 129 and 129a of Title 10, U.S.C. For new requirements and when converting contracted activities to Government performance, DoD Components will use the flexible hiring authority available through the National Security Personnel System wherever possible.

DoD Components shall document and report all DoD authorizations established as a result of converting contract performance to government performance via a separate column identified in the FY2007 IG/CA Inventory Guidance and explained in the accompanying narrative. The Office of Under Secretary of Defense for Personnel and Readiness and my office will review the Department's annual IG/CA inventory to improve the inventory process.

This policy will be reviewed 18 months after implementation to identify possible procedural changes. The review will identify the scope of Section 343 implementation and allow for changes ensuring maximum flexibility as the Department makes reasonable sourcing decisions to meet mission requirements using the most cost effective and efficient sources.

  
John J. Young, Jr.  
Acting

Attachments:  
As stated