ASSISTANT SECRETARY OF DEFENSE
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WASHINGTON, D.C. 20301-4000

READINESS AND FORCE MANAGEMENT

SEP 17 2013

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Update on OMB Circular A-76 Public-Private Competition Prohibitions

This memorandum replaces memorandum of same subject, dated March 8, 2012, and provides updated guidance related to the continuing restrictions on public-private competitions pursuant to Office of Management and Budget (OMB) Circular A-76 and section 2461 of title 10, United States Code. The Department continues to be prohibited in fiscal year (FY) 2013 by law from converting any work currently performed, or designated for performance, by any number of civilian personnel to private sector (contract) performance. The prohibition is expected to continue through most, if not all, of FY 2014.

The government-wide moratorium on the use of funds for public-private competitions remains in effect for fiscal year (FY) 2013. The current moratorium, established under section 733 of the Financial Services and General Government Appropriations Act, 2012 (Division C of Public Law 112-74), is continued in effect by language within the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113-6). Specifically, Division F is the year-long continuing resolution for a good portion of the government. At section 1101(a)(3) of Division F, the authorities and conditions under which funds were made available by the Financial Services and General Government Appropriations Act, 2012 are carried forward for all of FY2013. The moratorium on the use of funds for public-private competitions is one such condition. Additionally, the President's Budget request for FY2014 included, as part of General Government-wide Provisions, a continuation of such funding moratorium through FY2014. Furthermore, the DoD specific restriction on public-private competitions pursuant to OMB Circular A-76 remains in effect per section 325 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84).

Consistent with section 2461 of title 10, United States Code, the above prohibitions prohibit 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 a position, or billet, is established for that work, and whether or not that position, or billet, is encumbered. This would include workload associated with any positions that are vacant as a result of sequester related hiring freezes or workload lost due to civilian furloughs.

Please ensure maximum distribution of this memorandum across your organization. Questions should be addressed to the Office of Total Force Planning & Requirements: Mr. Thomas Hessel (thomas.j.hessel.civ@mail.mil or 703-697-3402) and Ms. Amy Parker (amy.l.parker26.civ@mail.mil or 703-697-1735).

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