

MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: Thomas A. Sharpe, Jr.
Senior Procurement Executive
Office of the Procurement Executive

**SUBJECT: Performance of Inherently Governmental and Critical
Functions and the Coding of Service Contract Requirements**

Purpose: Revision 2 to Acquisition Procedures Update (APU) 2012-01 supersedes APU 2012-01 Revision 1 in its entirety. (Revision 1 replaced the APU in full.) Revision 2 implements clarifications to coding guidance recently provided by the Office of Federal Procurement Policy (OFPP). Revision 2 primarily redefines the service contract actions to be coded; significant changes are **highlighted**.

Effective Date: This DTAP change is effective May 1, 2012.

Background: On September 12, 2011, the Office of Federal Procurement Policy (OFPP) issued Policy Letter 11-01, "[Performance of Inherently Governmental and Critical Functions](#)," to assist agency officers and employees in ensuring that only Federal employees perform work that is inherently governmental or otherwise needs to be reserved to the public sector. The Federal Activities Inventory Reform Act (FAIR Act), Public Law 105-270 defines an activity as inherently governmental when it is so intimately related to the public interest as to mandate performance by Federal employees.

Policy Letter 11-01 also provided guidance to agencies on identifying and managing functions closely associated with inherently governmental functions and critical functions, which are often performed by both Federal employees and contractors. For these types of functions, increased management and oversight is necessary to ensure mission creep does not result in contractors performing inherently governmental functions and (in the case of critical functions) ensure that the agency does not lose control of its mission and operations. Functions "closely associated with inherently governmental function" are defined as, "functions that are not generally considered to be inherently governmental functions but may approach being in that category because of the nature of the functions and the risk that performance may impinge on Federal officials" performance of an inherently governmental function, and "critical functions" are defined as, " functions that are necessary to the agency being able to effectively perform and maintain control of its mission and operations."

In an effort to ensure agencies maintain an appropriate balance and risk distribution between Federal employees and contractors, and prioritize the management and oversight of contracts involving functions closely associated with inherently governmental functions and critical functions, agencies are required to review, on an ongoing basis, the functions being performed by contractors. These reviews are to be conducted in connection with the development and analysis of inventories of service contracts.

OFFP required agencies to begin coding service contract requirements as closely associated with inherently governmental functions, critical function, or other function based on the predominance of work to be performed. OFFP Memorandum, "[Service Contract Inventories](#)," dated December 19, 2011, required new service contracts awarded on/after March 1, 2012, to be coded in the Federal Procurement Data System by the appropriate designation.

APU 2012-01 and updates are provided to communicate acquisition-related policies and procedures for the coding of service contract requirements and to ensure appropriate focus is applied to the management of contracts involving functions closely associated with inherently governmental functions and critical functions.

DTAP Changes:

DTAP 1007.105 is revised to include the following:

“(b)(10)a For new service contracts awarded on or after March 1, 2012, the Procurement Customer shall provide, as an attachment to the acquisition plan, a completed Coding of Contract Function Worksheet confirming:

- 1 the functions to be contracted for are not inherently governmental;
- 2 the Procurement Customer has designated the services as closely associated to an inherently governmental function, as a critical function or as other;
- 3 the bureau has the technical capacity and contract management capability to give special management attention to contractor performance involving services closely associated to inherently governmental functions or involving critical functions; and,
- 4 the Senior Bureau Accountable Official (SBAO)/designee has approved the coding designation and has certified the requirements at a-c.

b The acquisition plan narrative shall include a summary and certification addressing a – d.

c In accordance with Department of the Treasury and Bureau policy, the Worksheet shall be in the prescribed format, shall include the appropriate level of supporting analysis, and shall be approved by the designated approving official(s). See 1007.570-3 for further guidance regarding completion and submission of the Worksheet.

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DTAP 1007.503 is replaced with the following:

(e)(1) Contracting Officer shall ensure receipt of the documentation required by 1007.105(b)(10). The Contracting Officer shall not proceed with a procurement action if the coding designation document is not complete or not received from the Procurement Customer or if any part of the supporting documentation indicates that the contractor performance requirements include, even in small part, work that is inherently governmental. Should receipt of such a request document occur, the Contracting Officer will return the requirement to the Procurement Customer or take other appropriate steps in accordance with bureau policy to ensure that no requirement inclusive of inherently governmental work is solicited or awarded.

(e)(2) To ensure there is adequate oversight for contracts for services closely associated with inherently governmental functions and critical functions, Bureau Chief Procurement Officers (BCPOs) will make certain appropriate focus is applied to management of contracts involving these functions and will establish appropriate internal controls for both the Contracting Officer and Contracting Officer Representative functions to ensure contractor compliance with contract scope/requirements with no unauthorized expansion of scope or performance.

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DTAP revised to add the following:

SUBPART 1007.570 – CODING OF SERVICE CONTRACT REQUIREMENTS AS CLOSELY ASSOCIATED TO INHERENTLY GOVERNMENTAL, CRITICAL, OR OTHER.

1007.570-1 General

This subpart prescribes the policies and procedures for coding of service contract actions in the Federal Procurement Data System as Closely Associated to Inherently Government, Critical Function, or Other Function.

1005.570-2 Coding of Service Contract Actions in FPDS

(a) For each applicable service contract action awarded on or after March 1, 2012, the Contracting Officer shall enter as the first letters into the FPDS “description of requirement” field the applicable service designation code:

FPDS CODE	DEFINITION
Closely Associated	if services provided under the contract are predominantly for functions closely associated to inherently governmental ones
Critical Functions	if services are predominantly for critical functions
Other Functions	if services are predominantly for other functions

(b) Service contract actions to be coded include:

(1) each new contract award for services obligating \$25,000 or more awarded on/after March 1, 2012. Award actions include (but are not limited to) contracts, task orders, delivery orders, purchase orders, and BPAs.

(2) each modification to an award actions covered by 1005.570-2(b)(1).

Modifications awarded on/after March 1, 2012 to contracts/TOs/DOs/POs awarded prior to March 1 do *not* require coding.

1007.570-3 Designation and Submission of Service Code

(a) The Procurement Customer shall designate the appropriate code for each service contract action identified at 1005.570-2(b) and shall submit a completed and approved Coding of Contract Function Worksheet to the contracting office with the procurement request as required in accordance with this subpart and other established policy. Current Worksheet is located at <http://www.treasury.gov/about/organizational-structure/offices/Mgt/Pages/ProcurementPolicy-Regulations.aspx>.

(b) For any request requiring an acquisition plan, the Worksheet shall be incorporated into the plan in accordance with DTAP 1007.105(b)(10)a. For any action that does not require an acquisition plan, the completed Worksheet shall be submitted with the procurement request in accordance with bureau policy.

(c) It is anticipated the designated code will not change after submission by the Procurement Customer. Should the code change at any time after initial submission, the Procurement Customer shall submit to the Contracting Officer a new completed and approved Coding of Contract Function Worksheet in the format required by Department and bureau policy; the CO will then revise the code in FPDS in accordance with appropriate procedures. If the change is necessitated because the Procurement Customer determined the code originally designated was incorrect, the Worksheet narrative shall include an explanation for the change.

(d) Procurement Customer coding of service contract requirements, to include approval and/or certification, shall not be delegated to the Bureau Chief Procurement Officer or equivalent.

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Communications related to this APU may be directed to Cathy Higginbotham at Cathy.Higginbotham@treasury.gov or (202) 622-6585.

