

GAO

Testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

For Release on Delivery
Expected at 2:30 p.m. EDT
Thursday, May 20, 2010

SOURCING POLICY

Initial Agency Efforts to Balance the Government to Contractor Mix in the Multisector Workforce

Statement of John K. Needham
Director, Acquisition and Sourcing Management



GAO

Accountability * Integrity * Reliability



Highlights of [GAO-10-744T](#), a testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

Federal agencies face a complicated set of decisions in finding the right mix of government and contractor personnel to conduct their missions. While contractors, when properly used, can play an important role in helping agencies accomplish their missions, GAO has found that agencies face challenges with increased reliance on contractors to perform core agency missions. Congress and the Executive branch also have expressed concern as to whether federal agencies have become over-reliant on contractors and have appropriately outsourced services. A March 2009 Presidential memorandum tasked the Office of Management and Budget (OMB) to take several actions in response to this concern.

Based on GAO's prior work, this statement discusses (1) civilian agencies' development and implementation of guidelines to consider whether contracted functions should be brought in-house—a process known as insourcing; (2) OMB's proposed policy on work reserved for federal employees; (3) challenges agencies face in managing the federal workforce; and (4) key tools available for insourcing and related efforts.

What GAO Recommends

GAO has made numerous recommendations in recent years to help ensure better management of the multisector workforce, and agencies are in the process of addressing them.

View [GAO-10-744T](#) or [key components](#). For more information, contact John Needham at (202) 512-4841 or needhamjk1@gao.gov.

SOURCING POLICY

Initial Agency Efforts to Balance the Government to Contractor Mix in the Multisector Workforce

What GAO Found

GAO reviewed the status of civilian agencies efforts to develop and implement insourcing guidance and reported in October 2009 that none of the nine civilian agencies with whom we met had met the statutory deadline to produce insourcing guidance. Primarily, they were waiting to ensure their guidance was consistent with or receive additional OMB guidance, and to use the results, best practices, and lessons learned from their multisector workforce pilots to better inform their insourcing guidelines. Since the time of our review, OMB reported in December 2009 that 24 agencies had launched pilots to address overuse of contractors in one or more of their organizations. Agencies were due to report the results of their pilots to OMB by May 1, 2010.

In response to a congressional mandate, OMB recently issued a public notice that provides proposed policy for determining when work must be performed by federal employees. Comments on the policy are due from federal agencies and the public by June 1, 2010. The proposed policy provides the following guidance to executive branch agencies: it adopts a single, governmentwide definition of inherently governmental functions in accordance with the definition in the Federal Activities Inventory Reform Act of 1998, which classifies an activity as inherently governmental when it is so intimately related to the public interest that it must be performed by federal employees; it provides guidance for determining functions “closely associated with inherently governmental;” and it introduces the category of “critical functions,” as work that must be reserved for federal employees in order to ensure the agency has the internal capability to maintain control of its missions and operations.

Agency efforts to effectively insource functions performed by contractors will in large part depend on the ability to assess mission and human capital requirements and develop and execute plans to fulfill those requirements so agencies have a workforce that possesses the necessary knowledge, skills, and competencies to accomplish their mission. Furthermore, GAO's 2009 review of civilian agency insourcing efforts identified operational and administrative challenges agencies face with respect to implementing the conversion of contractor personnel to government positions. For example, agencies face difficulties in gathering and analyzing certain types of service contracting data needed for making insourcing decisions.

Agency implementation of insourcing efforts could be facilitated by tools that GAO has previously identified, including:

- Inventories to identify inherently governmental functions;
- Business case analysis to facilitate agency decisions in determining whether insourcing a particular function has potential to achieve mission requirements; and
- Human-capital flexibilities to efficiently fill positions that should be brought in-house.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to discuss current insourcing efforts, consideration of work that should be performed only by federal employees, and related workforce planning challenges—all issues needing consideration from the broader perspective of managing the multisector workforce. To carry out their missions agencies rely on an increasing complex workforce composed of federal employees, contractor personnel, and in the case of the Department of Defense (DOD), military personnel. Determining whether to obtain services with current or new federal employees, private sector contractors, or a combination of the two is an important economic and strategic decision critical to the federal government's effective and efficient use of taxpayer dollars. Such decisions may have critical implications for government control and accountability for policy and program decisions.

The executive branch has encouraged federal agencies since the mid-1950s to obtain commercially available services from the private sector when doing so is cost-effective. However, federal agencies face a complicated set of decisions in finding the right mix of government and contractor personnel to conduct their missions. While contractors, when properly used, can play an important role in helping agencies accomplish their missions, our prior work has shown that agencies face challenges with increased reliance on contractors to perform core agency missions¹. Congress and the Executive branch also expressed concern as to whether federal agencies have become overreliant on contractors and have appropriately outsourced services. A March 2009 Presidential memorandum tasked the Office of Management and Budget (OMB) with issuing guidance in a number of areas related to addressing challenges in the federal contracting environment, including when it is appropriate for the government to outsource services and when it is not.²

Over the years, we have found that in choosing to use contractors, the decisions agencies need to make involve determining which functions and

¹See for example, GAO, *Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services*, GAO -07-990 (Washington, D.C.: Sep. 17, 2007), and GAO, *Defense Management: DOD Needs to Reexamine Its Extensive Reliance on Contractors and Continue to Improve Management and Oversight*, [GAO-08-572T](#) (Washington, D.C.: Mar. 11, 2008).

²74 Fed. Reg. 9755 (Mar. 6, 2009).

activities should be contracted out and which should not to ensure institutional capacity, as well as identifying and distinguishing the roles and responsibilities of contractors and civilian and military personnel. In addition, they must develop a total workforce strategy to address the extent of contractor use and the appropriate mix of contractor and government personnel. In response to your interest in the government's use of contractors and related workforce issues, I will draw primarily on our prior work to discuss (1) civilian agencies' development and implementation of insourcing guidelines; (2) the proposed policy on work that should be performed only by, or reserved for, federal employees; (3) challenges agencies face in managing the federal workforce; and (4) key tools available for insourcing and related efforts. The reports which form the basis for this statement were prepared in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Since 1955, the executive branch has encouraged federal agencies to obtain commercially available goods and services from the private sector when the agency determines it is cost-effective. However, in the past, both the private and public sectors expressed concern about the fairness with which these sourcing decisions were made. In response, Congress in 2000 mandated a study of government sourcing conducted by the Commercial Activities Panel and chaired by the Comptroller General.³ In April 2002, the panel released its report with recommendations that stressed the importance of linking sourcing policy with agency missions, promoting sourcing decisions that provide value to the taxpayer regardless of the service provider selected, and ensuring greater accountability for performance. For example, the panel found that federal sourcing policy should:

- support agency missions, goals, and objectives;
- be consistent with human-capital practices designed to attract, motivate, retain, and reward a high-performing federal workforce;

³The panel included representatives from OMB, DOD, the Office of Personnel Management, private industry, academia, a trade association, and unions.

-
- recognize that inherently governmental functions and certain others should be performed by federal workers;
 - avoid arbitrary full-time equivalent or other arbitrary numerical goals; and
 - provide for accountability in all sourcing decisions.

Government contracting has more than doubled to reach over \$500 billion annually since the panel issued its report. This increased reliance on contractors to perform agency missions increases the risk that government decisions can be influenced by contractor employees, which can result in a loss of control and accountability. Agencies buy services that range from basic operational support, such as custodial and landscaping, to more complex professional and management support services, which may closely support inherently governmental functions. Such services include acquisition support, budget preparation, and intelligence services. Our work at DOD and the Department of Homeland Security (DHS) has found that it is now commonplace for agencies to use contractors to perform activities historically performed by government employees.⁴ Inherently governmental functions require discretion in applying government authority or value judgments in making decisions for the government, and as such they should be performed by government employees, not private contractors. The closer contractor services come to supporting inherently governmental functions, the greater this risk of influencing the government's control over and accountability for decisions that may be based, in part, on contractor work.

In part to address the increased reliance on contractors, the Fiscal Year 2008 National Defense Authorization Act⁵ required DOD to develop and implement insourcing guidelines. In April 2008, DOD issued its initial insourcing guidelines, and on May 28, 2009, DOD issued implementing guidance for the insourcing of contracted services.⁶ The guidance is

⁴GAO, *Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services*, GAO -07-990 (Washington, D.C.: Sep. 17, 2007); GAO, *Defense Management: DOD Needs to Reexamine Its Extensive Reliance on Contractors and Continue to Improve Management and Oversight*, [GAO-08-572T](#) (Washington, D.C.: Mar. 11, 2008); and GAO, *Intelligence Reform: GAO Can Assist the Congress and the Intelligence Community on Management Reform Initiatives*, [GAO-08-413T](#) (Washington, D.C.: Feb. 29, 2008).

⁵National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181 § 324. *See also* 10 U.S.C. § 2463.

⁶DOD Memorandum, *In-sourcing Contracted Services – Implementation Guidance* (May 28, 2009).

designed to assist DOD components as they develop and execute plans to decrease funding for contractor support and increase funding for new civilian manpower authorizations.

Similarly, the Omnibus Appropriations Act of 2009,⁷ required the heads of executive branch agencies to devise and implement insourcing guidelines and procedures. The guidelines and procedures were to ensure that “consideration” was given to using, on a regular basis, federal employees to perform new functions and functions that are performed by contractors and could be performed by federal employees.

In July 2009, OMB issued guidance for agencies to begin the process of developing and implementing policies, practices, and tools for managing the multisector workforce.⁸ This guidance included insourcing criteria intended to provide the civilian agencies with a framework for consistent and sound application of insourcing guidance, in accordance with statutory requirements. The criteria consisted of four sections: (1) general management responsibilities; (2) general consideration of federal employee performance; (3) special consideration of federal employee performance; and (4) restriction on the use of public-private competition. Each criterion addresses different aspects of the mandate for insourcing guidelines and procedures and describes circumstances and factors agencies should consider when identifying opportunities for insourcing. (See app. I for a more detailed description of OMB’s insourcing criteria.) Additionally, the guidance, as part of a planning pilot, requires each agency to conduct a multisector human-capital analysis of an organization, program, project, or activity where there are concerns about reliance on contractors and report on the pilot by May 1, 2010.

⁷Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, Div. D, § 736.

⁸Office of Management and Budget, M-09-26, *Managing the Multi-Sector Workforce* (Jul. 29, 2009).

Civilian Agencies' Efforts to Develop Insourcing Requirements

In response to the mandate in the 2009 Omnibus Appropriations Act, we reviewed the status of civilian agencies' efforts to develop and implement insourcing guidance. We reported in October 2009 that none of the nine civilian agencies we met with between July and October 2009 had met the statutory deadline to produce insourcing guidance.⁹ One agency had issued preliminary guidelines, and two others had drafted but not issued their guidelines as of our review, but most of the agencies' efforts were still in the early stages.¹⁰ For example, two of the nine agencies reviewed at the time had designated the offices responsible for leading the effort to develop the guidelines and were in the process of deciding what approach they would take. In contrast, two other agencies had drafted guidelines, with one waiting on management approval to issue them and the other planning to finalize its guidelines once OMB issued additional guidance regarding outsourcing and inherently governmental functions. Agency officials cited a number of reasons as to why they did not meet the statutory deadline and had not issued final insourcing guidelines. The reasons included, but were not limited to the following:

- Wanting to ensure their guidelines were consistent with OMB's guidance, issued in July 2009, which caused them to delay finalizing or drafting their guidelines.
- Waiting for additional OMB guidance and clarification regarding outsourcing and inherently governmental functions. Several officials stated that they anticipated this guidance would have a significant effect on their development and implementation of insourcing guidelines. Similarly, OMB indicated when it provided the insourcing criteria in July 2009 that it expected to refine the criteria as it developed guidance on when outsourcing is and is not appropriate.
- Intending to use the results, best practices, and lessons learned from the multisector workforce planning pilots to better inform their insourcing guidelines and procedures. For example, one agency told us it planned to use its experience with its planning pilot as the basis for its final guidelines, while another planned to issue initial guidelines to

⁹DOD, however, issued implementation guidance for insourcing efforts on May 28, 2009. The guidance explains that it is designed to assist DOD components as they develop and execute plans to decrease funding for contract support and increase funding for approximately 33,400 new civilian manpower authorizations. Among other matters, the guidance provides a process components are to follow in prioritizing and reviewing contracted services for possible insourcing and the steps they are to follow once the decision is made to insource a function.

¹⁰GAO, *Civilian Agencies' Development and Implementation of Insourcing Guidelines*, GAO-10-58R (Washington, D.C.: Oct. 6, 2009).

be used during the pilot and then revise the guidelines as appropriate based on the experiences during the pilot.

- Stressing that developing effective insourcing guidelines is complex and involves many agency functions, including human capital, acquisition, and finance and budget, all of which requires a great deal of coordination and takes time. They added that their ability to focus on the development of the guidelines has been constrained by their capacity to deal with multiple management initiatives in addition to their regular core duties.

Although OMB and agencies have yet to issue insourcing guidance, OMB reported in December 2009 that 24 agencies had launched planning pilots to address the use of contractors in one or more of their organizations. Agencies were due to report the results of their pilots to OMB by May 1, 2010.

Proposed OMB Policy on Work Reserved for Federal Employees

Following the initiative of the March 2009 Presidential memo on government contracting and in response to a congressional mandate, OMB's Office of Federal Procurement Policy issued a public notice on March 31, 2010 that provides proposed policy for determining when work must be performed by, or reserved for, federal employees.¹¹ The proposal provides the following guidance to executive branch agencies:

- Adopts the statutory definition in the Federal Activities Inventory Reform (FAIR) Act of 1998 as a single, governmentwide definition of inherently governmental functions. This definition classifies an activity as inherently governmental when it is so intimately related to the public interest that it must be performed by federal employees. Such activities include determining budget priorities and awarding and administering contracts, which are reserved exclusively for federal employees.
- Retains the illustrative list of examples of "closely associated with inherently governmental functions" from the Federal Acquisition Regulation, such as preparing budgets and developing agency regulations, and provides guidance to help agencies decide whether to use contractors to perform these functions. Unlike inherently governmental functions, agencies can determine whether contractor performance of these functions is appropriate. The proposed policy

¹¹75 Fed. Reg. 16188 (Mar. 31 2010).

lays out the responsibilities agencies must perform, such as ensuring sufficient government capacity for oversight during the contract award and administration process, if they decide to use a contractor for these services.

- Introduces the category of “critical functions,” as functions whose importance to the agency’s mission and operation requires that at least a portion of the function must be reserved for federal employees to ensure the agency has sufficient internal capability to effectively perform and maintain control.
- Outlines a number of new management determinations and actions that federal agencies should employ to avoid allowing contractor performance of inherently governmental functions, including developing agency procedures, providing training and designating senior officials responsible for implementation of the proposed policy. Comments from agencies and the public on the proposed policy are due to OMB by June 1, 2010.

Effective Implementation of Insourcing Policies Will Depend on Agencies’ Ability to Address Workforce Planning and Other Challenges

Agency efforts to effectively insource certain functions now performed by contractors will in large part depend on their ability to assess their human-capital and mission requirements and develop and execute plans to fulfill those requirements so they have a workforce that possesses the necessary education, knowledge, skills, and competencies to accomplish their mission. We and others have shown that successful public and private organizations use strategic management approaches to prepare their workforces to meet present and future mission requirements. Strategic human-capital management—which includes workforce planning—helps ensure that agencies have the talent and skill mix they need to address their current and emerging human-capital and other challenges, such as long-term fiscal constraints and changing demographics.¹²

A strategic human-capital plan helps agency managers and stakeholders to systematically consider what is to be done, how it will be done, and how to gauge progress and results. Our prior work has identified workforce planning challenges that can affect an agency’s ability to obtain the right mix of federal employees and contractor personnel. Strategic workforce planning is an iterative, systematic process that addresses two critical needs: (1) aligning an organization’s human-capital program with its current and emerging mission and programmatic goals and (2) developing

¹²GAO, *Workforce Planning: Interior, EPA, and the Forest Service Should Strengthen Linkages to Their Strategic Plans and Improve Evaluation*, [GAO-10-413](#) (Washington, D.C.: Mar. 31, 2010).

long-term strategies for acquiring, developing, and retaining an organization's workforce to achieve programmatic goals.¹³ These strategies should include contractor as well as federal personnel and link to the knowledge, skills, and abilities agencies need. As agencies develop workforce strategies, they also need to consider the extent to which contractors should be used and the appropriate mix of contractor and federal personnel. With the increased reliance on contractors, there has been an increased concern about the ability of agencies to ensure sufficient numbers of staff to perform some functions that should only be performed by government employees. Strategic workforce planning can position federal agencies to meet such workforce challenges. However, our prior work has found that the increased reliance on contractors to perform the work of government is in part attributed to difficulties in hiring for certain hard-to-staff positions, training and retaining government employees. For example, we have previously reported that federal agencies have relied increasingly on contractors to support the acquisition function due to the fact that the capacity and the capability of the federal government's acquisition workforce to oversee and manage contracts have not kept pace with increased spending for increasingly complex purchases.¹⁴ This pattern can also be found in other functions such as information technology and intelligence activities. Importantly, federal agencies also face competition in hiring and retaining government employees as contractors can offer higher salaries in some cases.¹⁵

In 2001, we first identified strategic human-capital management as a high-risk area because of the federal government's long-standing lack of a consistent approach to human-capital management. In 2010, while agencies and Congress have taken steps to address the federal

¹³GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

¹⁴GAO, *The Office of Management and Budget's Acquisition Workforce Development Strategic Plan for Civilian Agencies*, [GAO-10-459R](#) (Washington, D.C.: Apr. 23, 2010); *Acquisition Workforce: DOD Can Improve Its Management and Oversight by Tracking Data on Contractor Personnel and Taking Additional Actions*, [GAO-09-616T](#) (Washington, D.C.: Apr. 28, 2009); *Department of Homeland Security: A Strategic Approach Is Needed to Better Ensure the Acquisition Workforce Can Meet Mission Needs*, [GAO-09-30](#) (Washington, D.C.: Nov. 19, 2008); and *Defense Management: DOD Needs to Reexamine Its Extensive Reliance on Contractors and Continue to Improve Management Oversight*, [GAO-08-572T](#) (Washington, D.C.: Mar. 11, 2008).

¹⁵GAO, *DOD's High Risk Areas: Actions Needed to Reduce Vulnerabilities and Improve Business Outcomes*, [GAO-09-460T](#) (Washington, D.C.: Mar. 12, 2009).

government's human-capital shortfalls, strategic human-capital management remains a high-risk area because of the continuing need for a governmentwide framework to advance human-capital reform. We have reported that federal agencies have used varying approaches to develop their strategic workforce plans, depending on their particular circumstances.¹⁶ For example, an agency with a future workload that could rise or fall sharply may focus on identifying skills to manage a combined workforce of federal employees and contractors. We and the Office of Personnel Management (OPM) have identified the following six leading principles that agencies should incorporate in their workforce planning efforts:¹⁷

- Align workforce planning with strategic planning and budget formulation;
- Involve managers, employees, and other stakeholders in planning;
- Identify critical occupations, skills, and competencies and analyze workforce gaps;
- Develop strategies to address workforce gaps;
- Build capability to support workforce strategies; and
- Monitor and evaluate progress.

Furthermore agencies face other operational and administrative challenges as our 2009 review of civilian agency insourcing efforts¹⁸ identified with respect to implementing guidance to facilitate the conversion of contractor personnel to government positions, including the following:

- Infrastructure. The complex nature of insourcing and the many functional parts of an agency involved in the hiring process require managers to share responsibility and coordinate activities. The various functions involved in an agency's insourcing efforts—such as human capital, acquisition, finance and budget—must be identified, as well as the roles each will play.

¹⁶[GAO-10-413](#)

¹⁷GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003). OPM, which developed its *Human Capital Assessment and Accountability Framework* in conjunction with the Office of Management and Budget and GAO, issued the final regulations for this framework in April 2008. 73 Fed. Reg. 23012 (Apr. 28, 2008).

¹⁸[GAO-10-58R](#)

-
- **Culture.** Insourcing represents a major shift in the focus and culture of the multisector workforce. Established processes and procedures are geared toward outsourcing and shifting to insourcing and a “total workforce” approach—that considers both contractors and federal employees—will take time and requires flexibility to meet the needs of an agency within an ever-changing environment.
 - **Data.** Agencies face difficulties in gathering and analyzing certain types of service contracting data needed for making insourcing decisions. For example, information on the type of service contracts and the number of contractor-equivalent personnel may not be readily available, even though some officials indicated that such information may be needed to review contracted-out services and make insourcing decisions. The lack of reliable data on contractors has been a recurrent theme in our work over the past several years. For example, we have reported that agencies faced challenges with developing workforce inventories under the FAIR Act of 1998, especially as it relates to the classification of positions as inherently governmental or commercial.¹⁹ Our work on the acquisition workforces at DHS and DOD reported that the departments lacked sufficient data to fully assess total acquisition workforce needs including the use of contractors. And, more recently, our review of DOD service contractor inventories for fiscal year 2008 found that each of the military departments used different approaches and data sources to compile their inventory data and, as a result, DOD data on service contracts are inconsistent and incomplete.²⁰
 - **Resources.** Limited budgets and resources may constrain insourcing efforts. For example, if after applying its guidelines, an agency determines that a function should be insourced and additional government employees need to be hired, the agency must ensure the funds are available to pay for them.

Tools Available for Agencies’ Insourcing Efforts

Agency implementation of insourcing efforts could be facilitated by tools that we identified in prior work. These tools will allow agencies to capture information, make strategic decisions and implement those decisions for their multisector workforce. They include: inventories, business case analysis, and human capital flexibilities.

¹⁹GAO, *Competitive Sourcing: Greater Emphasis Needed on Increasing Efficiency and Improving Performance*, [GAO-04-367](#) (Washington, D.C.: Feb. 27, 2004).

²⁰GAO, *Defense Acquisitions: Observations on the Department of Defense Service Contract Inventories for Fiscal Year 2008*, [GAO-10-350R](#) (Washington, D.C.: Jan. 29, 2010).

-
- **Inventories.** The inventories that federal agencies are required to develop under congressional mandate will be used to inform a variety of workforce decisions.²¹ For example, at DOD, the inventories are to contain a number of different elements for service contracts, including information on the functions and missions performed by the contractor, the funding source for the contract, and the number of contractor full-time equivalents working under the contract. Once compiled, the inventories may be used to inform a variety of workforce decisions, including how various agency functions should be sourced.²²
 - **Business Case Analysis.** A balanced analytical approach, used by some agencies when deciding to outsource functions, could facilitate agency decisions in determining whether insourcing a particular function has the potential to achieve mission requirements. Such an analysis may consider questions such as the following:
 - How critical is the function's role in relationship to the agency's mission?
 - What is the risk to program integrity and control of sensitive information if the function is not insourced?
 - What is the long-term trend of demand for the function; is there periodic fluctuation in demand for the function (i.e. stability of demand)?
 - What is the current state of technology used by the function and what is the likelihood of the agency being able to acquire and sustain the technology if the function is brought in-house?
 - What are the number of staff and skill level of staff needed to perform the function?
 - What is the ability of the agency to recruit the workforce with the appropriate skills to continue to provide services the contractor currently provides?
 - What is the likelihood of contractor staff in the function applying to work for the agency?
 - What is the estimated cost to maintain an acceptable level of performance if the function is brought in-house?
 - **Human Capital Flexibilities.** Once agencies determine which functions they want to have provided by federal employees, taking advantage of the variety of human-capital flexibilities is crucial to making

²¹Pub. L. No. 111-117 (Dec. 16, 2009), Division C, Title VII, Section 743 contains the civilian agency requirement. Pub. L. No. 110-181, Division A, Title VIII, Section 807 amended 10 U.S.C. § 2330(a), containing the requirement for DOD.

²²GAO has been congressionally mandated to review the status of development of inventories at executive branch agencies.

improvements in agencies' efforts to recruit, hire, and manage their workforces. For example, monetary recruitment and retention incentives and special hiring authorities provide agencies with flexibility in helping them manage their human-capital strategically to fulfill insourcing needs.²³

Concluding Observations

OMB's criteria for insourcing decisions provide a basis for agencies in establishing their insourcing plans and can be used to facilitate balancing the mix of federal employees and contractors to better assure government control over critical functions. However, it will be in the implementation of agency plans and in the individual sourcing decisions that federal agencies make that will determine the ultimate success of this effort. Making use of the full range of information and human-capital tools available to implement these plans will be important to assuring effective government control of critical functions, mitigating risks, and providing value to the taxpayer.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions you or the other members of the subcommittee may have at this time.

Contacts and Staff Acknowledgments

For further information regarding this testimony, please contact John Needham at (202) 512-4841 or needhamjk1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this product. Staff making key contributions to this statement were Amelia Shachoy, Assistant Director; Brendan Culley; Noah Bleicher; Erin Carson; Lauren Heft; and John Krump.

²³GAO, *Human Capital: Transforming Federal Recruiting and Hiring Efforts*, [GAO-08-762T](#) (Washington, D.C.: May 8, 2008).

Appendix I

Table 1: OMB’s Criteria for Insourcing under Section 736

Key sections	Agency responsibilities/actions and factors to consider
General Management Responsibilities	<ul style="list-style-type: none"> • review contractor performance on an ongoing basis and where a determination is made that contractors are performing inherently governmental responsibilities, insource such work on an accelerated basis • monitor internal human-capital capacity to minimize the risks associated with overreliance or improper reliance on contractors • ensure that there are sufficient resources to manage and oversee contractors
General Consideration of Federal Employee Performance	<ul style="list-style-type: none"> • augment existing management reviews when appropriate, to consider and evaluate opportunities to improve performance with the use of federal employees <ul style="list-style-type: none"> ○ evaluations should <ul style="list-style-type: none"> • consider opportunities for new and already-contracted work • generally include a cost analysis that addresses the full cost of performance and provides “like comparisons” of relevant costs to determine the most cost-effective source of support • situations when insourcing may be justified without a full cost analysis: <ul style="list-style-type: none"> ○ to establish or build internal capacity or maintain control of an agency’s mission and operations; ○ to perform a function that is closely associated with an inherently governmental function and in-house performance is necessary for an agency to maintain control of its mission and operations; or ○ to avoid the compromise of a critical agency or administration policy
Special Consideration of Federal Employee	<ul style="list-style-type: none"> • go beyond existing agency management reviews and evaluate the specific function to be performed prior to the pursuit or nonpursuit of a contract action <ul style="list-style-type: none"> ○ key issues and actions for evaluations • if an agency determines that contractor performance causes the agency to lack sufficient internal expertise to maintain control of its mission and operations, then the agency is to take actions to obtain needed in-house capacity • if a preliminary analysis suggests that public-sector performance is more cost-effective and it is feasible to hire federal employees for a particular function, the agency is to initiate a more-detailed analysis of insourcing options <ul style="list-style-type: none"> • extent of analysis should generally be commensurate with the size and complexity of the function in question and its importance to the agency’s mission • cost analysis should address the full costs of government and private-sector performance • insourcing should not be used unless performance and risk considerations in favor of federal employee performance will clearly outweigh cost considerations
Competition Restrictions	<ul style="list-style-type: none"> • reiterates restriction in section 736 from conducting public-private competitions under OMB Circular A-76 as a prerequisite to federal performance of certain functions

Source: OMB.

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

