



DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
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IN REPLY REFER TO
BUMEDINST 4860.5B
BUMED-M12
27 Dec 2018

BUMED INSTRUCTION 4860.5B

From: Chief, Bureau of Medicine and Surgery

Subj: COMMERCIAL ACTIVITIES PROGRAM

Ref: (a) OMB Circular No. A-76, Performance of Commercial Activities of 29 May 2003
(b) DoD Instruction 1100.22 of 12 April 2010
(c) OASD (M&RA) memo of 1 June 17 (NOTAL)

1. Purpose. To update established guidance for implementing commercial activities initiatives within the budget submitting office (BSO) 18 while under a temporary moratorium for public-private competitions for conversion from civilian to contractor. This instruction provides BSO-18 guidance on maintaining the inherently governmental (IG) and commercial activities (CA) inventory to comply with the Federal Activities Inventory Reform (FAIR) Act of 1998 and attachment A of reference (a), the inventory process, which remains in effect. Reference (a) is available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A76/a76_incl_tech_correction.pdf. This instruction is a complete revision and must be read in its entirety.

2. Cancellation. BUMEDINST 4860.5A.

3. Scope and Applicability. This instruction applies to all BSO-18 activities.

4. Background

a. The FAIR Act was enacted in 1998 to create a process for identifying the functions of the Federal Government that are not inherently governmental functions. The FAIR Act requires that each year Federal agencies produce a list of activities performed by Federal Government sources for the agency that, in the judgment of the agency head, are not IG in nature.

b. Reference (a) states that the longstanding policy of the Federal Government has been to rely on the private sector for needed commercial services. To ensure U.S. citizens receive maximum value for their tax dollars, CA should be subjected to the forces of competition. Agencies must also ensure that their civilian workforce is sized appropriately to complement and support the military mission, while reducing unnecessary costs. However, the Department of Defense (DoD) continues to be under a moratorium enacted by Congress.

5. Moratorium

a. Public-Private Competitions. A DoD-specific suspension on public-private competitions remains in effect for fiscal year (FY) 2019, per section 325 of the National Defense Authorization Act (NDAA) for FY 2010 (Public Law 111-84). The NDAA for FY 2019 did not repeal this restriction.

b. Use of Funds. Per the above referenced NDAA for FY 2010, a government-wide moratorium was imposed, that includes the DoD, on the use of funds for public-private competitions for the conversion to contractor performance of any function performed by civilian employees. The moratorium prohibits the conversion of any work currently performed (or designated for performance) by civilian personnel to contract performance and applies to functions and work assigned to civilian personnel, regardless of whether a position or billet is established for that work, or whether that position or billet is encumbered.

c. Exception. The restrictions imposed by section 325 (of Public Law 111-84, FY 2010 NDAA) do not preclude the establishment, under section 2679 of Title 10 U.S. Code, of an intergovernmental support agreement with a State or local government to provide, receive, or share installation support services; however, support agreements must not be used to circumvent the requirements of reference (a).

6. Policy

a. While the NDAA for FY 2019 (Public Law 115-676) did not repeal the moratorium for public-private competitions, the requirement to maintain a CA inventory is still in effect. The Bureau of Medicine and Surgery, Assistant Deputy Chief, Manpower and Personnel (BUMED-M1) will maintain a baseline CA inventory and comply with the FAIR Act by submitting annual inventories to Director, Force Manpower, Accounting, and Assessments Branch (OPNAV N122). The Navy's IG and CA inventory requires coding of all military manpower authorizations which includes both full-time support and Reserve end-strength (including Selected Reserve), and funded civilian positions, referred to as "authorizations." Civilian authorizations include all civilian U.S. citizens and Foreign Nationals on DoD direct payroll, and Foreign Nationals hired indirectly through contractual arrangements with overseas host nations.

b. The coding and submission of the annual IG and CA inventory will follow the procedures in attachment A (inventory process) of references (a) through (c), and supplemental guidance issued annually by OPNAV N122.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000, 2000,

and 4000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at

<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.

8. Review and Effective Date. Per OPNAVINST 5215.17A, BUMED-M1 will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or cancelled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.


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Releasability and distribution:

This instruction is cleared for public release and is available electronically only via the Navy Medicine Web site at, <http://www.med.navy.mil/directives/Pages/BUMEDInstructions.aspx>