



HOMELAND SECURITY & DEFENSE
BUSINESS COUNCIL

June 1, 2010

Office of Federal Procurement Policy
ATTN: Matthew Blum
New Executive Office Building
Room 9013
724 17th Street NW
Washington, D.C. 20503
VIA EMAIL: OFPPWorkReserved@omb.eop.gov

The Homeland Security & Defense Business Council appreciates the opportunity to comment on the Office of Management & Budget, Office of Federal Procurement Policy's Notice of proposed policy letter on Work Reserved for Performance by Federal Government Employees. The Council's member companies work closely with numerous federal agencies and provide critical consulting, operations, advisory and analysis functions to improve and enhance the efficiency and effectiveness of the federal government.

The Homeland Security & Defense Business Council is a not-for-profit, non-partisan organization of senior executives that works to ensure that the perspective, innovation, expertise and capabilities of the private sector are recognized, respected and integrated with the public sector. To that end, we have worked extensively in partnership with the federal government and Congress on improving the acquisition and procurement process; assuring that our member companies are aware of, and contribute to government transformation initiatives; developing open information exchange between industry and government among other activities that increase the public sector's success in achieving mission. The Council represents the most extensive and respected collective of homeland security companies in the nation.

As with many business organizations, we support and applaud any effort that can contribute to business certainty. We agree with the intent of the Proposed Policy Letter -- to define and clarify the definition of "inherently governmental functions" -- with the following clarifications:

- ***"Inherently governmental functions" should be defined and implemented consistently across agencies.***

Overall, members of the Council are encouraged and take no exception to the well-established definition of "inherently governmental functions" in the Federal Activities Inventory Reform Act (FAIR Act) Public Law 110-417 becoming the government wide definition of inherently governmental functions. Our members are very supportive of a definition and clarification, as directed by the President's March 4 Memorandum on Government Contracting that would "clarify when governmental outsourcing for services is and is not appropriate."

Council members would like to see that standard definition promulgated and used by all agencies with as much consistency and predictability as possible so that implementation is fair, open and transparent. The Council supports the review of governmental functions based on the federal government's strategic workforce needs and improving the effectiveness and efficiency of its operations.

- ***Appendix B on "closely related functions" is too broad and should be eliminated.***

Appendix B introduces unnecessary ambiguity and allows for broad interpretation from agency to agency during implementation. This will result in legal and bureaucratic challenges resulting in delays, if not

paralysis in the conduct of the federal government's business. The Council supports eliminating Appendix B and assuring that the definition of inherently governmental is as consistent as possible throughout the federal government to allow for a fair and equitable application of the definition.

- ***Implementation of this Policy Letter must continue to maintain transparency and dialogue.***

Regardless of the specificity of the definition, opportunities for interpretation will inevitably arise in the implementation of this Policy Letter. Council members encourage the public sector to develop a fair and open process to resolve any ambiguities and to provide vehicles for the private sector to continue to provide input and engage in the conversations about its execution. Our members support the federal government in many capacities and offer their expertise and experience to assist in producing the desired result.

- ***The private sector adds great value -- and there are legitimate reasons -- for a continued partnership between industry and government.***

The private sector provides extremely valuable products, services and expertise that greatly assist the government's ability to achieve its numerous missions. The value, quality, availability and performance offered by industry is unsurpassed. Additionally, the private sector responds and supports the government with great urgency, agility and talent enabling government to respond to any circumstance with the highest level of professionalism. The appropriate partnership between government and industry allows for the constant reinvigoration of ideas, concepts and best practices to improve and add value to the government enterprise. The proper definition and implementation of this Policy Letter is a step toward improving and enhancing this partnership.

Members of the Homeland Security & Defense Business Council believe that a clear, standard definition of "inherently governmental functions" that minimizes broad interpretations is beneficial to both government and industry. We appreciate the opportunity to comment and offer our continued input, expertise and knowledge on this important initiative to assist the public sector in the best interests of the nation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marc Pearl', with a stylized flourish at the end.

Marc Pearl
President & CEO
Homeland Security & Defense Business Council