

Department of Energy

FY 2010 Service Contract Inventory Analysis

Department of Energy
Office of Procurement & Assistance Management
Strategic Programs Division (MA-622)

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Section 1: Background

Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117, requires civilian agencies to prepare an annual inventory of their service contracts. The Office of Management and Budget's (OMB) November 5, 2010 and December 19, 2012 Memorandums entitled, "Service Contract Inventories," provided additional guidance to agencies on how to prepare and analyze a survey of service contracting actions awarded in FY 2010. The service contract inventory should be used as a tool for assisting an agency in better understanding how contracted services are being used to support mission and operations and whether the contractors' skills are being utilized in an appropriate manner. Each agency should conduct a meaningful analysis of the data in the inventory for the purpose of determining if contract labor is being used in an appropriate and effective manner and if the mix of federal employees and contractors in the agency is effectively balanced.

As directed by the OMB Memorandum, the Department used the data elements cited in section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117 and considered the guidance provided in OMB's Office of Federal Procurement Policy's Policy (OFPP) Letter 11-01 "Performance of Inherently Governmental and Critical Functions" (dated September 12, 2011).

OMB, in realizing the demands of performing meaningful reviews for every contract concurrently, provided a list of priority functions for review called Special Interest Functions (SIFs). OMB has identified the SIFs, most of which overlap with OFPP's management support services initiative, for increased management consideration for review based on concerns of increased risk of losing control of mission and operations as identified through a review of recent Government reports¹ and its own analysis. The SIFs for increased management attention are listed by their Product Service Codes (PSC) in *Figure 1: Special Interest Functions*.

¹ OMB November 5, 2010 Memorandum titled Service Contract Inventories states such reports were authored by the Government Accountability Office, the Commission on Wartime Contracting, agency Inspectors General, Congressional Committees, and the Acquisition Law Panel (also referred to as the "SARA Panel").

Special Interest Functions	
PSC	Product or Service Description
D302	ADP Systems Development Services
D307	Automated Information Systems Services
D310	ADP Backup and Security Services
D314	ADP Acquisition Support Services
R408	Program Management/Support Services
R413	Specifications Development Services
R414	Systems Engineering Services
R421	Technical Assistance
R423	Intelligence Services
R425	Engineering and Technical Services
R497	Personal Services Contracts
R707	Management Services/Contract & Procurement Support

Figure 1: Special Interest Functions

The Department took a three-phased approach to conducting the inventory and its analysis:

Phase 1: Data Collection: Collect data required for the FY 2010 contractor inventory and for contract analysis as directed in OMB Memorandum.

Phase 2: Data Analysis and Prioritization: Review and analyze the data collected in Phase 1 in order to create a Contract Review Plan that prioritizes the contracts for further study according to the criteria in the OMB Memorandum, and section 743.

Phase 3: In-depth Contract Review: Provide in-depth analysis of the contracts according to the Contract Review Plan.

Section 2: Analysis and Findings

To comply with the OMB Memorandum, the Department conducted a three-phase approach: Data Collection, Data Analysis and Prioritization, and In-depth Contract Review.

Phase 1: Data Collection

To create its FY 2010 Service Contract Inventory, the Department started with an extraction of contract data from the Federal Procurement Data System – Next Generation (FPDS-NG). The Department was able to extract the majority of required inventory data elements for FY 2010.

Because the remainder of the required information as specified in section 743 Consolidated Appropriations Act 2010 is not captured in FPDS-NG, the Department sent a survey to all Heads of Contracting Activities (HCA) to collect the additional contract information needed. The survey was conducted in April 2011 to collect data on contracts in effect during FY 2010. The following data was requested through the survey:

1. Is the contract a personal services contract that has been entered into, and is being performed, in accordance with applicable laws and regulations? If not, why?
2. Is special management attention being given, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions? If not, why?
3. Are contractor employees performing inherently governmental functions? If so, what functions are they performing?
4. Are specific safeguards and monitoring systems in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function? If so, what are the safeguards?
5. Are contractors being used to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations? If so, what are those functions?
6. Are there sufficient internal agency resources to manage and oversee contracts effectively? If not, explain why.
7. Approximately how many contractors are working under this contract? How many Contracting Officer Representatives are providing oversight?

Phase 2: Data Analysis and Prioritization

In Phase 2, the Department analyzed the contract data from the FY 2010 Contractor Inventory and the survey data in order to prioritize each contract according to section 743 criteria. To meet time

constraints and appropriately utilize resources, a four-tier analysis structure was developed to analyze service contracts in accordance with policy and guidance.

The Department developed selection criteria to identify contracts for in-depth review. Based on the criteria identified within policy, the Department prioritized its selection of contracts in the following order:

- Tier 1: Potential for inherently governmental performance by contractors based on survey response data,
- Tier 2: Contracts providing services classified as special interest functions based on Contractor Inventory data,
- Tier 3: Contracts that do *not* include special interest functions, but were awarded on a non-competitive basis based on Contractor Inventory data; and
- Tier 4: Contracts that do *not* include special interest functions, but meet any one of the remaining designated criteria based on survey response data.

Although each Tier constitutes a review for a certain criteria, each Tier review includes an analysis to determine if any other required criteria applicable for further review. For example, special interest contract reviews performed in Tier 2 will also be reviewed to determine if any other criteria applies and requires further review. The data collected on the FY 2010 Contractor Inventory and the survey provided the following observations:

- The FY 2010 Contractor Inventory consisted of 1,677 contracts with a total of 4,305 action obligations
- The FY 2010 Contractor Inventory amounts to a total of \$25,899,758,101 in obligations
- Special Interest Functions account for 3 percent or \$738,159,291 of the total

Phase 3: In-Depth Contract Review

Due to the limited resources, the Department chose to focus on only Tier 1- Potential for Inherently Governmental Performance by Contractors. During this phase, the Department pulled actual contract files to gather more data and to conduct in-depth analysis.

Six survey responses were received, identifying the potential performance of inherently governmental functions. Analysis of contract information and documents for these contracts determined that there are no inherently governmental functions being performed.

Section 3: Next Steps

As the Department gets ready to perform its FY 2011 Contractor Inventory and analysis, it will incorporate lessons learned from the FY 2010 inventory and apply them to its next inventory cycle. A sample of lessons learned and future actions that will be incorporated into the process to make the inventory analysis a more useful tool for the Department are identified below.

Survey

OMB guidance directed agencies to use data currently available in FPDS for Service Contract Inventories. However, in an attempt to collect all of the elements in Section 743 prior to issuance of the civilian agency Federal Acquisition Regulation rule, DOE will continue to issue a follow-on survey. The Department will take the following actions in regard to the FY 2011 Inventory Survey:

- **Add the following data element** to the survey:
 - Provide the total dollar amount invoiced for services under the contract.
- **Strive for a larger survey response.** While the survey request was issued to all HCAs, the response rate was poor. The Department will look for ways to increase participation by (a) increasing communication regarding the beneficial uses of the resulting analysis, and (b) making it easier (and quicker) to respond to the survey questions. The FY 2010 survey data was received in a variety of formats. The Department will look for ways to streamline the survey so that data is received in a single usable format. This will speed up the response time and allow more time for analysis.

Continued In-Depth Analysis

The Department will continue its in-depth analysis of contracts in Tiers 2, 3, and 4 as additional resources become available.