

Department of Energy

FY 2012 Service Contract Inventory Analysis

Department of Energy
Office of Acquisition and Project Management
Strategic Programs Division (MA-622)

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Section 1: Scope

Service Contract Inventories

Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117, requires civilian agencies to prepare and analyze an annual inventory of their service contracts. Office of Management and Budget’s (OMB) memorandum dated November 5, 2010, Subj: “Service Contract Inventories,” provided additional guidance to agencies on how to prepare and analyze a survey of service contracting actions in FY 2010. Each agency was to 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 of Energy used the data elements cited in section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117 and followed the guidance outlined 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 provided a reminder of those requirements in a memorandum dated December 21, 2012, Subj: “Development and Analysis of Service Contract Inventories”.

OMB provided a list of priority functions for review called Special Interest Functions (SIFs). OMB identified the SIFs 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: OMB Designated Special Interest Functions*.²

| Special Interest Functions | |
|----------------------------|--|
| PSC | PSC Description |
| D302 | IT and Telecom- Systems Development |
| D307 | IT and Telecom- IT Strategy and Architecture |
| D310 | IT ad Telecom- Cyber Security and Data Backup |
| D314 | IT and Telecom- System Acquisition Support |
| R408 | Support - Professional: Program Management/Support |
| R413 | Support - Professional: Intelligence |
| R414 | Systems Engineering Services |
| R421 | Technical Assistance |
| R423 | Support - Professional: Intelligence |
| R425 | Support - Professional: Engineering/Technical |
| R497 | Support - Professional: Personal Services Contracts |
| R707 | Support - Management: Contract/Procurement/Acquisition Support |

Figure 1: OMB Designated 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”).

² The PSCs designated as SIFs have been updated per OMB email from Daniel I. Gordon, Administrator for Federal Procurement Policy to the CAO Council, August 2011.

Management of Support Services

OMB memorandum dated November 7, 2011 Subj: "Reduced Contract Spending for Management Support Services," was issued to agencies to highlight the objective of reducing expenditures for Management Support Services (MSS) as an important component of the Campaign to Cut Waste and the Executive Order on Delivering an Efficient, Effective, and Accountable Government.

During the White House Forum on Accountability in Federal Contracting in the summer of 2011, OMB announced a goal of reducing spending on MSS contracts by 15 percent by the end of FY 2012. For the purposes of this initiative, OMB identified the MSS as functions covered by twelve PSCs which are identical to the SIF codes identified in the Service Contract Inventory guidance.

In order to better align the other OMB/OFPP Service Contract related initiatives to include the OMB MSS initiative, the list of SIFs was further expanded for use with the Department identified spending reduction initiatives. Many of the SIF PSCs and MSS PSCs are duplicative as highlighted in *Figure 2: FY 2012 Special Interest Functions*.

| PSC | PSC Description | Action Obligation | % of Total Obs |
|------|---|-------------------------|----------------|
| D302 | IT AND TELECOM- SYSTEMS DEVELOPMENT | \$16,605,368 | 0.07% |
| D307 | IT AND TELECOM- IT STRATEGY AND ARCHITECTURE | \$3,110,313 | 0.01% |
| D310 | IT AND TELECOM- CYBER SECURITY AND DATA BACKUP | \$94,944 | 0.00% |
| D314 | IT AND TELECOM- SYSTEM ACQUISITION SUPPORT | \$12,033,817 | 0.05% |
| D399 | IT AND TELECOM- OTHER IT AND TELECOMMUNICATIONS | \$44,789,258 | 0.18% |
| F999 | OTHER ENVIRONMENTAL SERVICES | \$370,877,614 | 1.48% |
| R408 | SUPPORT- PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT | \$131,454,893 | 0.52% |
| R413 | SUPPORT- PROFESSIONAL: INTELLIGENCE | (\$107) | 0.00% |
| R414 | SYSTEMS ENGINEERING SERVICES | \$0 | 0.00% |
| R421 | TECHNICAL ASSISTANCE | \$38,143,867 | 0.15% |
| R423 | SUPPORT- PROFESSIONAL: INTELLIGENCE | \$7,148,479 | 0.03% |
| R425 | SUPPORT- PROFESSIONAL: ENGINEERING/TECHNICAL | \$176,713,159 | 0.70% |
| R497 | SUPPORT- PROFESSIONAL: PERSONAL SERVICES CONTRACTS | \$178,002 | 0.00% |
| R499 | SUPPORT- PROFESSIONAL: OTHER | \$226,741,342 | 0.90% |
| R699 | SUPPORT- ADMINISTRATIVE: OTHER | \$114,350,676 | 0.46% |
| R707 | SUPPORT- MANAGEMENT: CONTRACT/PROCUREMENT/ACQUISITION SUPPORT | \$15,080,314 | 0.06% |
| S206 | HOUSEKEEPING- GUARD | \$241,828,296 | 0.96% |
| U099 | EDUCATION/TRAINING- OTHER | \$255,450,552 | 1.02% |
| Y153 | CONSTRUCT/PRODUCTION BLDGS | \$469,643,750 | 1.87% |
| Y199 | CONSTRUCT/MISC BLDGS | \$158,415,731 | 0.63% |
| Y299 | CONTRACT/ALL OTHER NON-BLDG FACS | \$121,284,252 | 0.48% |
| | Total | \$2,403,944,520 | 9.57% |
| | Total Obligations | \$25,118,858,087 | |

Figure 2: FY 2012 Special Interest Functions

The Department of Energy studied the SIFs/PSCs reflected in Figure 2 above. The applicable contracts were selected for review based upon their being encompassed in OMB's list of SIFs, as well as DOE's list of contracts to be studied. The total dollars obligated to those specific PSCs were \$2,403,944,520, representing 9.57% of total obligations. The number of contract actions reviewed totaled 3,549.

Section 2: Methodology

The DOE and NNSA approach was performed in accordance with the criteria set out in Consolidated Appropriations Act, 2010, (Pub. L. No. 111-117, § 743 (2009)) and Appendix D of the November 5, 2010 Office of Management and Budget (OMB) Memorandum on Service Contract Inventories, and will ultimately identify contracts for a more in-depth review.

The DOE Office of Acquisition and Project Management (APM) and NNSA Acquisition Management (AM) developed the basic inventory in accordance with OMB guidance with the help of the Heads of Contracting Activities (HCA). A list of special interest functions by Product Service Code (PSC) for contracts to be reviewed in response to the criteria required by Section 743 was provided in guidance to the HCAs.

DOE and NNSA took the following steps in the process of its analysis:

- Step 1: The Department identified the list of special interest functions by PSC for contracts to be reviewed.
- Step 2: HCAs identified contracts with the specified SIFs PSCs for in-depth review based on following criteria:
 - Based on the 10 criteria identified within the Consolidated Appropriations Act, HCAs prioritized their selection of contracts for further review in the following order:
 - Tier 1: Potential for Inherently Governmental (IG) performance by contractors;
 - Tier 2: Contracts providing services classified as special interest functions;
 - Tier 3: Contracts that do *not* include special interest functions, but were awarded on a non-competitive basis; and
 - Tier 4: Contracts that do *not* include special interest functions, but meet any one of the remaining designated criteria.
- Step 3: HCAs evaluated contracts in accordance with policy and guidance.
- Step 4: HCAs reported the results of evaluation to NNSA AM and DOE APM for consolidation.
- Step 5: NNSA AM consolidated input from the NNSA HCAs and reported the results of evaluations to DOE APM for agency consolidation.
- Step 6: APM consolidated results of analysis for reporting to OMB/Office of Federal Procurement Policy (OFPP).

OFPP has issued guidance documents addressing these requirements; Service Contract Inventories, Memoranda to Chief Acquisition Officers and Senior Procurement Executives, dated November 5, 2010 and December 19, 2011, available at <http://www.whitehouse.gov/omb/procurement-service-contract-inventories>. Since OFPP has not issued new guidance for the current reporting cycle; DOE and NNSA used the prior years' guidance for their FY 2012 inventory analysis and inventory.

The Department also made procurement activities aware of several recommendations that were made recently by the Government Accountability Office (GAO) in its report “Civilian Service Contract Inventories: Opportunities Exist to Improve Agency Reporting and Review Efforts”, GAO-12-1007 (September 2012) to help improve the quality of agency analyses and the value of inventories as a management tool.

In its report, GAO reviewed a sample of agencies’ analyses of their FY 2010 inventories and identified several practices that could help to improve the quality of agency analyses in determining the effective and appropriate use of contractors. Specifically, GAO recommended that agencies --

- Fully describe the scope of the inventory reviews, including information such as the number of contracts and the percentage of contracts reviewed for each product and service code selected and the total universe of contracts;
- Report on the number of contractor personnel and functions that were involved with the workforce issues identified during their inventory reviews; and
- Include the status of agency efforts to resolve findings identified in previous reviews until they are resolved.

The Department guidance also told the procurement activities to consider the points below as they prepared and refined their draft reports:

Scope. The report should describe the special interest functions studied by the agency, and the dollars obligated to those specific product and service codes (PSCs) in FY 2012. The report should also describe how many contracts were reviewed, how the contracts were selected for review, and the percentage of obligations the contracts covered for the product and service codes on which the review focused (provided by HCAs).

Methodology (provided by HCAs). The report should discuss the methodology used to support its analysis (e.g., sampled contract files, conducted interviews of members of the acquisition workforce working on specific contracts of interest).

Findings (provided by HCAs). The report should summarize the findings, including a brief discussion of the extent to which the desired outcomes described in section 743(e) (2) are being met (e.g., the activity is not using contractor employees to perform critical functions in such a way that could affect the ability of the activity to maintain control of its mission and operations). Where workforce issues are identified, the report should identify the estimated number of contractor personnel and/or labor resources involved (e.g., in “full-time equivalents”).

Actions taken or planned (provided by HCAs). The report should explain the steps the activity has taken or plans to take to address any identified weaknesses or challenges.

Section 3: Findings

Summary

The Service Contract inventory is a tool for assisting agencies 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.

Service Contract Inventory

The results of the Department's service contract inventory continue to be favorable in terms of meeting OMB initiatives. Specifically, the outcome of the Department's inventory analysis resulted in the following findings:

1. None of the contracts are characterized as "personal services" as defined by the Federal Acquisition Regulation;
2. Contractor employees do not perform any inherently governmental functions;
3. Ongoing comprehensive monitoring and evaluations are performed by government personnel and the contractor performance requirements have not changed or been expanded to be classified as inherently governmental type functions;
4. Contractor employees are not performing critical functions in such a way that would affect the Department's ability to maintain control of its missions and operations; and
5. Sufficient government personnel are available and assigned to manage and oversee contracts effectively without the need to rebalance the mix of federal and contractor employees.

The service contracts that contain special interest functions comprise only 9.57 percent of the Department's overall obligations, or \$2,403,944,520. A vast majority of the contracts are competed, and most are either cost reimbursable or time and material type. Most of the special interest functions are supported by small businesses.

The Department's top 10 PSCs are encompassed by Management and Operating (M&O) contracts or contracts related to the M&O business model. The obligations for these series of PSCs are consistent with what the Department has reported for several years: 80 percent or more of Department of Energy obligations are associated with M&O contracts. The inventory also shows that a majority of these contracts are competed and because of the business model that is used, a majority are cost type contracts.

Section 4: Actions Taken or Planned

FY13 Analysis Plan

The Department of Energy (DOE) approach will be performed in accordance with the criteria set out in Consolidated Appropriations Act, 2010, (Pub. L. No. 111-117, § 743 (2009)) and Appendix D of the November 5, 2010 OMB Memorandum on Service Contract Inventories, and will ultimately identify contracts for a more in-depth review.

DOE will develop the basic inventory in accordance with OMB guidance using FPDS-NG data to address a number of the inventory requirements consistent with the Consolidated Appropriations Act. The Office of Acquisition and Project Management (APM) will provide this list of contracts with special interest functions to the Programs in order to gather supplemental contract data in response to the criteria required by Section 743.

DOE will take the following steps in the process of its analysis:

- **Step 1: Identify service contracts with special interest functions.**
- **Step 2: Notify respective programs responsible for contract functions.**
- **Step 3: Programs identify contracts for in-depth review based on following criteria:**
 - Based on the 10 criteria identified within the Consolidated Appropriations Act, DOE Programs will prioritize its selection of contracts for further review in the following order:
 - Tier 1: Potential for IG performance by contractors;
 - Tier 2: Contracts providing services classified as special interest functions;
 - Tier 3: Contracts that do *not* include special interest functions, but were awarded on a non-competitive basis; and
 - Tier 4: Contracts that do *not* include special interest functions, but meet any one of the remaining designated criteria.
- **Step 4: Programs evaluate contracts in accordance with policy and guidance.**
- **Step 5: Programs report results of evaluation to APM for consolidation.**
- **Step 6: APM reports consolidated results of analysis to OMB/OFPP.**

The senior agency management official who is accountable for the development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 addressing the performance of inherently governmental and critical functions (this designation is already required by section 5-4(e) of the Policy Letter) is **Ingrid Kolb, Director, Office of Management**.

The official who is responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories, if different than the official named in (1) above is **Ingrid Kolb, Director, Office of Management**.

The individual who can serve on the working group is Jeff Davis, Procurement Analyst (jeff.davis@hq.doe.gov, (202)287-1877).