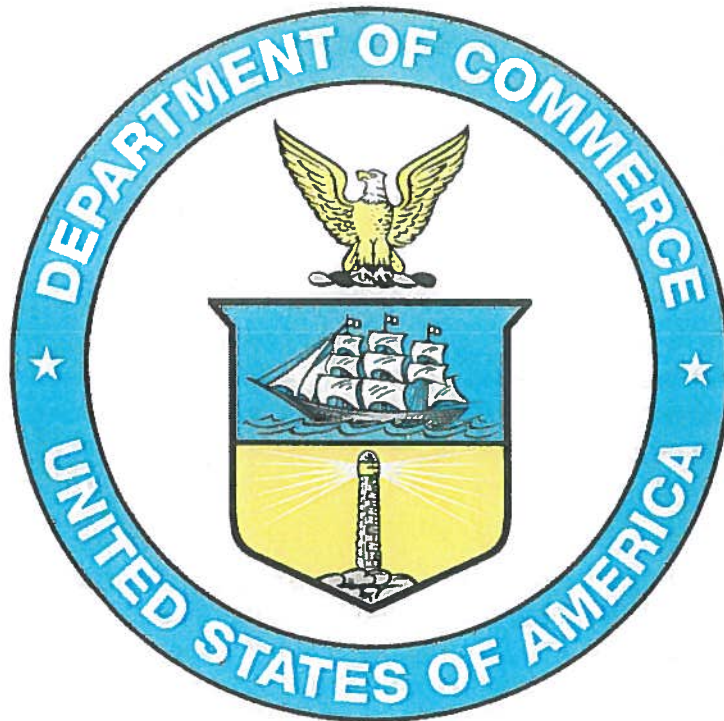


# DEPARTMENT OF COMMERCE



## SERVICE CONTRACT INVENTORY ANALYSIS REPORT FISCAL YEAR 2015

**Department of Commerce**  
**Analysis of Service Contract Inventory for Fiscal Year 2015**



**I. Executive Summary**

The historic mission of the Department of Commerce (Department, DOC) is "to foster, promote and develop the foreign and domestic commerce" of the United States. This has evolved, as a result of legislative and administrative additions, to encompass the responsibility to foster, serve, and promote the Nation's economic development and technological advancement. The Department fulfills this mission by participating with other Government agencies in the creation of national policy; promoting and assisting international trade; strengthening the international economic position of the United States; promoting progressive domestic business policies; improving comprehension and uses of the physical environment and its oceanic life; ensuring effective use and growth of the Nation's scientific and technical resources; acquiring, analyzing, and disseminating information regarding the Nation and the economy to help achieve increased social and economic benefit; and assisting States, communities, and individuals with economic progress.

In order to fulfill DOC's mission, acquiring goods and services is essential as approximately one-third of the Department's budget is expended through the execution of Federal contracts to support mission-critical programs such as: FirstNet, weather forecasting, satellite acquisitions, intellectual property protection, broad-band technology, management of coastal and ocean resources, information technology, and construction and facilities management. The Department's Fiscal Year (FY) 2015 discretionary budget was approximately \$8.5 billion and the workforce comprised of approximately 47,000 employees serving within the 13 Operating Units.

Pursuant to Section 743 of Division C of the FY 2010 Consolidated Appropriations Act and Office of Management and Budget's (OMB) memoranda dated November 5, 2010 and December 12, 2011, agencies are required to prepare an annual inventory of service contracts in excess of \$25,000. In addition, OMB requires agencies to perform a meaningful analysis of such contracts, giving priority consideration to the "special interest functions", those Product and Service Codes (PSCs) identified by OMB that require increased monitoring to ensure the Government is effectively managing risks and receiving the best results for taxpayers.

In compliance with the requirements of Section 743, the Department prepared a Service Contract Inventory (SCI) Analysis for FY 2015. Using data derived from the Federal Procurement Data System (FPDS), 5,544 service contracts totaling over \$3 billion were identified as part of the FY 2015 inventory. This report provides an analysis of the inventory to ensure the Department is effectively managing risks in service contracts and determine if there is risk of overreliance on contracted services.

The 13 selected PSC functions examined from the FY 2015 inventory (as shown in Figure 2) include ten (10) special interest functions prescribed by OMB and three (3) additional agency-specific functions. The agency-specific functions include PSC categories that are the largest percentage of obligations for the Department and functions identified for management support service contracts. The following five (5) OMB-prescribed PSC categories were *excluded* from the analysis as the Department's FY 2015 inventory reported zero actions under those categories:

- B505 – Cost Benefit Analyses
- R409 – Program Review/Development Services
- R423 – Intelligence Services
- R497 – Personal Services Contracts
- D314 – IT and Telecom – Systems Acquisition Support

Analysis of a sample of the Department's FY 2015 service contract inventory concluded the following:

- Contractor performance remains an acceptable choice for contracted services and there is no evidence of overreliance on contracted functions;
- Adequate safeguards and monitoring systems are in place to ensure that work performed by service contractors does not become inherently governmental;
- Contracts are monitored regularly and any issues of poor performance are addressed and corrected; and
- There are sufficient internal resources available to effectively manage and oversee contracts.

## II. Analysis of FY 2015 Service Contract Inventory

### A. Analysis Methodology

To ensure the Department sufficiently addressed the service contract inventory requirements and developed a meaningful Analysis Report, a working group was formed consisting of representatives from each of DOC's five contracting offices. As a result of the collaborative effort of the working group, a repeatable process, as depicted in Figure 1, was established to comply with the annual service contract inventory requirements.



Figure 1: Analysis Process

### B. Sample Selection

Each contracting office conducted an analysis of randomly selected contract actions. As the Department's FY 2015 service contract inventory consisted of 5,544 contract actions totaling over \$3 billion, in order to develop a pool of contract actions that was manageable for conducting a meaningful analysis, the Department's contracting offices were instructed to cull their inventories to exclude contract actions that expanded beyond the analysis criteria. While any contract action could be selected for review if there was a concern of overreliance on contractors or other challenges, priority was given to contract actions within the special interest functions identified in Figure 2.

The sample of contract actions for each contracting office to review for the SCI analysis was developed from the total inventory, after removing any contract action for services not identified as a special interest function. Additionally, the following actions were omitted from the sampling pool based on the following criteria:

- 1) Awards funded under the American Recovery and Reinvestment Act of 2009;
- 2) Tasks and delivery orders placed under Federal Supply Schedule contracts, Government-Wide Acquisition Contracts, Multi-Agency Contracts or Blanket Purchase Agreements; and
- 3) Any duplicated, miscoded or identified erroneous contract actions.

Total actions within the scope of the analysis criteria totaled 1,902 valued at approximately \$1.2 billion (40% of total obligated amount). The Department sampled 5% of actions within the 13 selected special interest functions of the FY 2015 inventory, which represented 95 contract actions totaling over \$330 million. The sampling size for each of the five contracting offices was proportional to their percentage of the total number of actions in the Department’s inventory.

Each of the selected contract actions were assessed to determine:

- The risk of overreliance on contracted functions, particularly those services identified as special interest functions;
- If the mix of Federal employees and contractors for a given program is an effective, multi-sector workforce balance or if rebalancing is needed;
- Contracts that have been poorly performed due to excessive costs or inferior quality;
- If contracts should be considered for conversion to performance by Federal employees; and
- If an alternative acquisition approach would better enable the agency to efficiently utilize its assets and achieve its public mission.

Figure 2: Special Interest Functions Analyzed

<i>PSC</i>	<i>Description of Function</i>	<i>Dollars Obligated</i>	<i>% of Total Obligated</i>	<i>Total Actions</i>	<i># Actions Sampled</i>
<b>OMB Special Interest Functions</b>					
R406	Policy Review/Development Services	\$1,077,000	0.00%	1	1
R407	Program Evaluation Services	\$43,265	0.00%	1	1
R408	Program Management/Support Services	\$120,681,344	2.8%	184	10
R413	Specifications Development Services	\$2,769,009	0.1%	2	1
R707	Management Services/Contract & Procurement Support	\$16,288,006	0.4%	35	2
R425	Engineering and Technical Services	\$230,912,382	5.3%	553	24
R414	Systems Engineering Services	\$130,000	0.0%	1	1
D302	IT and Telecom – Systems Development	\$463,179,174	10.7%	417	20
D307	Automated Information Systems Services	\$94,823,147	2.2%	54	3
D310	ADP Backup and Security Services	\$17,925,489	0.4%	39	2
<b>Agency-Specific PSCs</b>					
<i>PSC</i>	<i>Description of Function</i>	<i>Dollars Obligated</i>	<i>% of Total Obligated</i>	<i>Total Actions</i>	<i># Actions Sampled</i>
D301	IT and Telecom – Facility Operation and Maintenance	\$30,530,328	1.0%	34	2
R699	Support – Administrative: Other	\$75,757,328	1.7%	131	8
R799	Support – Management: Other	\$170,676,814	3.9%	450	20

**C. Data Collection and Analysis**

A service contract inventory Questionnaire was developed and provided to the Contracting Officer (CO) who, in conjunction with the Program or Project Manager, Contracting Officer Representative (COR), and/or Technical Point of Contact, was instructed to gather pertinent information required to conduct an analysis of the selected contract actions for review. The Questionnaire was used in combination with other available sources to gather relevant information, including data used in the FPDS independent verification and validation analysis, inventories prepared in accordance with the Federal Activities Inventory Reform Act, Federal Acquisition Certification programs data, human capital planning data, annual customer survey

results, and evaluation and monitoring information entered in the Contracting Performance Assessment Reporting System (CPARS).

In addition, training on the proper monitoring of service contracts is provided within the Department to both the acquisition and program staff on an on-going basis. Follow-up calls and interviews with program officials were also conducted, where applicable, to obtain information to ensure a complete assessment of the contract action was conducted. The Questionnaire was used to collect data necessary to assess the following:

- If contractor employees are performing inherently governmental functions under the contract in accordance with the definition of “inherently governmental functions,” or critical functions in such a way that could affect the ability of the Department to maintain control of its mission and operations;
- If contractor employees are performing functions closely associated with the performance of inherently governmental functions;
- If specific safeguards and monitoring systems are in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- If there are sufficient internal resources to effectively manage and oversee the contract;
- If the contract has been poorly performed due to excessive costs, inferior quality, or budget overruns, or the organization is experiencing difficulty in managing its contract staff;
- If the contract is for personal services as defined in FAR 37.104;
- If there is a risk of overreliance on contracted functions, particularly those services identified as special interest functions; and
- If the mix of Federal employees and contractors for a given program is an effective multi-sector workforce balance or if rebalancing is needed.

#### **D. Findings**

Analysis of the sampled contracts resulted in the following findings:

1. During Fiscal Year 2015, DOC did not enter into or administer any contracts for personal services in accordance with FAR 37.104.
2. There was no evidence that contractor employees are being used to perform *inherently governmental functions*. We found that roles and responsibilities of contractor versus Government employees were clearly defined in the scope of work to ensure there is no ambiguity.
3. All contracts reviewed in the FY 2015 inventory as having contract employees performing functions *closely associated* with the performance of inherently governmental functions were given special management attention and the oversight and approval functions associated with the assigned tasks remain strictly the responsibility of the Government full-time equivalents (FTEs). Further, it was determined that contractor employees are not performing critical functions in such a way that could affect the ability of the Department to maintain control of its mission and operations.
4. All contracts examined for this analysis confirmed that adequate safeguards and monitoring systems are in place to ensure contractor functions do not change or expand during performance to become inherently governmental functions. Contract management and administration is conducted

by Federal employees with extensive experience, training and certification in the field of work being procured and any changes to the scope of work or an expansion of the contractor's role is proposed and reviewed by the Contracting Officer to prevent inherently governmental functions from being performed by the contractor. A few specific examples of these safeguards include:

- Progress review meetings are held regularly with the Contracting Officer, Contracting Officer's Representative and the contractor personnel responsible for site management;
- Routine progress reports are submitted by contractors and reviewed by program officials to monitor progress and compliance with Statement of Work requirements;
- Contracting Officers communicate with Project Managers and CORs when monitoring and evaluating contract performance against the contract requirements;
- Technical and schedule requirements are required to be stated in terms of desired results, rather than the method of performance;
- Requirements clearly define contract goals and establish deliverables and other reporting requirements such as methods of performance measurement standards in terms of quality, timeliness, quantity;
- Contracts include requirements for inspection, Quality Assurance Surveillance Plan and other quality control requirements to protect the government's interests;
- Greater emphasis placed on the use of lower-risk contract types (i.e. firm-fixed price);
- Contracting Officers review and approve any modification to change work being required to ensure the change is within the scope of the contract requirements and does not expand into services that are inherently governmental functions;
- Prior to exercising an option, Contracting Officers and CORs perform an assessment of the market and a cost-benefit analysis to determine if the work should be conducted in-house;
- Use of project management tools to track contractor tasks;
- Conducting site visits;
- Nonconforming supplies or services are rejected, except as provided in FAR 46.407;
- Appointing responsible and engaged CORs as well as relying on Program Managers and other Federal technical subject matter experts to conduct oversight;
- Training sessions conducted on properly monitoring service contracts provided to both acquisition and program officials on an on-going basis; and
- Program officials work closely with contract employees to foster transfer of knowledge of the support services in order to reduce Government dependency on contractor expertise.

In examining past performance reviews, monitoring contractor performance in CPARS, and interviewing CORs, Contracting Officers and Project Managers, one contract was identified in the sample as performing unsatisfactorily. The issue with performance was a result of inferior quality due to contractor inefficiencies and performance issues not government actions or inactions.

Through collaborative efforts, any issues encountered during contract performance were fully documented and reported to the Contracting Officer who in turn, documented the contract file with resolutions of such issues.

The Department has measures in place to prevent poor performance, which includes the use of a Quality Assurance Surveillance Plan to protect the Government's interest in terms of quality control and quality assurance. The Contracting Officer continually communicates with the program office and COR to ensure monitoring and evaluation of contract performance meets the contract requirements. Additionally, periodic progress reports are required to be submitted by the contractor to track progress on programmatic issues during the execution of the contract.

5. The contracts had sufficient internal resources in place to manage and oversee contract performance effectively. Data collected through questionnaires as well as an examination of the Department's COR, Contracting and Project Management training requirements, certifications, and delegations of authority were reviewed to ensure that acquisition personnel assigned to contracts had the appropriate training, experience and expertise to manage and oversee contracts effectively. Furthermore, to ensure continued successful contract management and oversight, the Department requires additional training requirements in performance-based acquisitions, acquisition and project management for CORs.
6. Contracts analyzed were confirmed as possessing services performed by contract employees that cannot be accomplished in-house by Federal employees due to specialized skills or lack of resources. In some case, the Department does not have adequate full time federal employees available to in-source the work given its overall full time employee ceiling, current staff size, and budget restraints. However, the use of contractor support enables the Department to efficiently utilize its assets and achieve its public mission.

#### **E. Conclusions**

Based on analysis of the FY 2015 service contract inventory it is determined that: contractor performance remains an acceptable choice for contracted services within the Department of Commerce; there is no evidence of overreliance on contracted services; adequate safeguards and monitoring systems are in place to ensure that work performed by service contractors does not become inherently governmental; and the Department has sufficient internal resources available to effectively manage and oversee contractor performance.

#### **F. Planned Actions**

The Department will continue to assess how contract resources are distributed to ensure there is an adequate and effective mix of Federal employees and contractors with a focus on contracts involving "special interest functions," or those at a higher risk of workforce imbalance, including professional and management support services. The service contract inventories will be utilized as a tool to determine that there are adequate resources within the workforce to align with the Department's strategic and human capital goals. Specifically, the inventories will benefit the Department's continued efforts to:

- Identify potential strategic sourcing opportunities to reduce services that are duplicated across the Department.
- Ensure high-risk contracts include adequate surveillance plans that describe how the Government will monitor, control, and mitigate risk of contract performance with reasonable assurance that efficient methods and effective cost controls are utilized.

- Track reduction of contract spending on inefficient and excessive management support services.
- Strengthen the competency standards of the acquisition workforce to ensure all Contracting officials, CORs and Program and Project Managers are fully equipped to perform assigned duties.
- Strategically set priorities for resource allocation, workload distribution and funding requests within the context of the Department's Strategic and Human Capital Plans.
- Reinforce the need for quality data reporting, require validation that PSCs are coded correctly in FPDS, and ensure clear, concise service descriptions are provided.

**G. Responsible Officials**

Within the Department of Commerce the official responsible for policy relating to service contract inventory is Virna Winters, Director of Acquisition Policy and Oversight. The DOC official responsible for management of the service contract inventory process is Barry Berkowitz, Senior Procurement Executive and Director of Office of Acquisition Management.