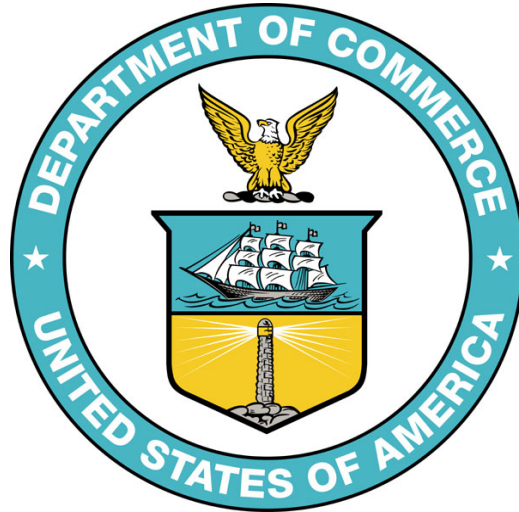


Department of Commerce



SERVICE CONTRACT INVENTORY ANALYSIS FISCAL YEAR 2010

DEPARTMENT OF COMMERCE

Service Contract Inventory Analysis

Fiscal Year 2010

Executive Summary

The Department of Commerce (Department) is one of the oldest executive-level departments in the United States Government, with a mission to “create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.” A key component in the Department’s mission is to partner with U.S. businesses to maintain a prosperous, productive America. In doing so, it has established an exemplary record of innovation in the areas of manufacturing, transportation, communications, and measurement. The Department is a dynamic organization with a diverse mission that impacts national and international business, the economy, telecommunications, research, trade, and weather forecasting.

Acquiring goods and services is critical in supporting the success of the Department’s mission as historically, approximately one-third of the Department’s budget is expended through acquisitions to acquire a wide range of goods and services to support mission-critical programs such as: the Decennial Census, satellite acquisitions, intellectual property protection, broad-band technology opportunities, management of coastal and ocean resources, information technology, and construction and facilities management.

Like most agencies, the Department of Commerce has seen significant increases in the procurement of services over the last decade to include management, professional, administrative and information technology support. Recognizing the considerable surge in contracted services and the increased potential risk of overreliance on contracted functions, Section 743 of Division C of the Consolidated Appropriations Act of Fiscal Year (FY) 2010 required agencies to prepare an annual inventory of service contract actions and analyze these contracted services to determine if the mix of Federal employees and contractors is effective or if rebalancing is required. Office of Federal Procurement Policy (OFPP) memorandum dated November 5, 2010 provided guidance for implementing the requirements.

In compliance with the requirements of Section 743, the Department of Commerce prepared a Service Contract Inventory (SCI) for FY 2010 using data in the Federal Procurement Data System (FPDS) which totaled nearly \$2.4 billion and conducted an analysis. Based on the analysis, it was determined that contractor performance remains an acceptable choice for contracted services and there is no evidence of overreliance on contracted functions. In addition, adequate safeguards and monitoring systems are in place to ensure that work performed by contractors does not become inherently governmental; and there are sufficient internal resources available to effectively manage and oversee contracts.

The detailed report provides a listing of the covered service contracts with contractual related information as required in the standard format provided in OFPP’s guidance. The Department’s detailed inventory for FY 2010 as well as a summary of the inventory that highlights data on the use of contractors to perform special interest functions and those services that account for the Department’s greatest percentage of obligations in FY 2010, is available on the Department’s Office of Acquisition Management website at: <http://www.osec.doc.gov/oam/> and also attached as Appendix A.

Analysis Methodology

The OFPP memorandum required agencies to prepare an annual inventory of service contract actions in excess of \$25,000 and analyze the contracted services, specifically those activities identified by OFPP as “special interest functions”, to determine if the mix of Federal employees and contractors is effective or if rebalancing is required. The special interest functions are captured under 15 Product & Service Codes (PSCs) and consist of activities such as: program evaluation, acquisition support, information systems development, engineering and technical services and other related functions. In addition to the 15 OFPP-prescribed special interest functions, the Department identified seven additional PSCs to include in the analysis based on concerns of heightened management risks. The additional seven functions were selected by the Department for analysis as “Other Professional Services” accounts for the greatest percentage of obligations in FY 2010, while other activities were selected due to concerns that the activity may involve critical functions or functions closely associated with inherently governmental functions. In total, priority consideration for analysis was given to services within the 22 functions as listed in Table 1.

Table 1 - OMB Product & Service Codes Selected

<u>PSC</u>	<u>Description of Function</u>	<u>\$ Obligated in FY 10</u>
<u>Special Interest Functions</u>		
B505	Cost Benefit Analyses	\$ 181,639.00
R406	Policy Review/Development Services	\$ 810,054.74
R407	Program Evaluation Services	\$ 6,669,462.11
R408	Program Management/Support Services	\$ 41,175,156.62
R409	Program Review/Development Services	\$ 1,932,342.23
R413	Specifications Development Services	\$ 0
R707	Management Services/Contract & Procurement Support	\$ 6,669,462.11
R423	Intelligence Services	\$ 0
R425	Engineering and Technical Services	\$157,143,843.05
R414	Systems Engineering Services	\$ 47,021,748.63
R497	Personal Services Contracts	\$ 532,537.29
D302	ADP Systems Development Services	\$339,264,884.88
D307	Automated Information Systems Services	\$ 7,697,360.30
D314	ADP System Acquisition Support Services	\$ 805,579.20
D310	ADP Backup and Security Services	\$ 1,002,583.19
<u>Additional functions identified by DOC</u>		
R499	Other Professional Services	\$552,961,364.33
R699	Other Administrative Services	\$ 27,752,278.31
R706	Logistics Support Services	\$ 2,095,274.36
R710	Financial Services	\$ 1,722,012.39
R799	Other Management Support Services	\$ 11,046,572.32
D399	Other ADP & Telecommunications Services	\$198,455,502.06
S206	Guard Services	\$ 17,087,415.26

As the Department’s FY 2010 service contract inventory consisted of over 5,000 contract actions, in order to develop a pool of contract actions that was manageable for conducting a meaningful analysis, the Department’s Bureau procurement 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 functions identified in Table 1.

To further refine the sample population, the following actions were excluded from the sampling pool:

- Awards funded under the American Recovery and Reinvestment Act of 2009 as the contract period on these actions were established for completion within the fiscal year; and
- Any duplicated, miscoded or identified erroneous contract actions identified in the SCI.

Once inventories were filtered to eliminate contract actions outside the scope of the analysis, a sampling formula was used and a percentage of the remaining contract actions were randomly selected for analysis that represented a total of 106 contract actions.

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 contract action for review. The questionnaire was used in addition to other available sources to gather relevant information including data used in the Independent Verification and Validation (IV& V) analysis, inventories prepared in accordance with the Federal Activities Inventory Reform Act (FAIR Act), Federal Acquisition Certification (FAC) programs data, as well as data used in human capital planning.

The questionnaire was used to collect data necessary to conduct an analysis of the selected contract actions, which incorporated parameters to assess the following:

- Determine if contractor employees are performing functions closely associated with the performance of inherently governmental functions;
- Determine 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;
- Determine if contractor employees are performing inherently governmental functions under the contract in accordance with the definition of “inherently governmental functions” and explained in OFPP Policy Letter 11-01, *Performance of Inherently Governmental and Critical Functions*, or critical functions in such a way that could affect the ability of the Department to maintain control of its mission and operations;
- Determine if there are sufficient internal resources to effectively manage and oversee the contract;
- Determine 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;
- Determine if the contract is for personal services as defined in FAR Subpart 37.104;
- Determine if there is a risk of overreliance on contracted functions, particularly those services identified as special interest functions; and
- Determine if the mix of Federal employees and contractors for a given program is an effective multi-workforce balance or if rebalancing is needed.

Findings

Analysis of the sampled contracts resulted in the following findings:

1. The Department identified only one contract as having activities that are closely associated with inherently government functions. The contract is to assist in the development of the National Institute of Standards and Technology's (NIST) Occupational, Health and Safety policy. As such, special management attention is given to this function, which includes implementing a five-stage review process to ensure that the contractor does not performance functions that are inherently governmental. Also, a COR has been assigned to oversee and manage the development of the policy; review and approve all materials produced; and act as Subject Matter Expert in the 43 areas in which the policy is being developed. The five-stage review process as well as the COR activities are considered more than adequate to ensure that the work performed by the contract has not changed or expanded during performance to become an inherently governmental function. If it is determined that there is a continued need for this service beyond the existing contract term, an additional analysis will be conducted to determine if the services should be in-sourced by either current FTEs or new hires.
2. All contracts had adequate safeguards and monitoring systems in place to ensure that contractor functions do not change or expand during performance to become inherently governmental function. Contract management and administration is conducted by Federal employees with extensive experience, training and certification in the field of work being procured, any changes to the scope of work or an expansion of the contractor's role is proposed and reviewed by the Contract Manager to prevent inherently governmental functions from being performed by the contractor. A few specific examples of these safeguards include:
 - Progress review meetings are held with the Contracting Officer, Contracting Officer's Representative and the Contractor personnel responsible for site management;
 - Routine progress reports are submitted by contractors;
 - Contracting Officers communicate with the Project Managers and CORs when monitoring and evaluating contract performance against the contract requirements;
 - Require technical and schedule requirements to be stated in terms of desired results, rather than the method of performance;
 - Ensure 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; and
 - Contracts include requirements for inspection, Quality Assurance Surveillance Plan and other quality control requirements to protect the government's interests.
3. There was no evidence that contractor employees are being used to perform 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. As in the case with contracted support for the development of NIST Occupational, Health and Safety policy, special management attention is adequately provided to these functions as they were identified as closely associated with inherently governmental functions.

4. The contracts had sufficient internal resources to manage and oversee contracts 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 the acquisition workforce assigned to the contracts had the appropriate training, experience and expertise to understand requirements and proper contract administration in accordance with Bureau, Department, and Federal oversight processes and procedures; and possess the ability to monitor contractor performance through written reviews into federal monitoring systems such as the Past Performance Information Retrieval System (PPIRS) and the Contractor Performance Assessment Reporting System (CPARS).
5. In examining past performance reviews; monitoring contractor performance in CPARS; and interviewing CORs, Contracting Officers and Project Managers, it was determined that contracts have not been poorly performed due to excessive costs or inferior quality. In addition, the analysis revealed that ample contractor monitoring is in place to ensure contractors perform contract requirements in a successful manner. Moreover, 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.
6. The Department has not entered into any unauthorized Personal Services contracts in violation of the provisions in FAR 37.104(b) and special management attention is given to existing personal services contracts in accordance with applicable laws and regulations.
7. Contractor performance remains an acceptable choice for the contracted services and there was no evidence of overreliance on contracted functions.
8. The analysis did not identify any contracts for consideration of conversion in accordance with Department's in-sourcing guidelines, nor was it determined that an alternative acquisition approach would better enable the agency to efficiently utilize its assets and achieve its public mission.

Next Steps

To ensure adequate support and resources to effectively manage contract labor and appropriate balance of federal employees and contractors in the Department, functions and processes specific to acquisition support, program evaluation, engineering and technical services, information systems development and professional and management services will continue to be reviewed and evaluated on an ongoing basis. In addition, proper training will continue to be provided and competency standards of the acquisition workforce will be assessed to ensure a sound knowledge-base is in place and fully equipped to perform assigned duties. Further, Bureau procurement offices will continue to effectively and strategically set priorities for resource allocation, workload distribution and funding requests within the context of the Department's Strategic and Human Capital Plans, ensuring that there are adequate resources within the Bureau's workforce to align with the Department's strategic goals.