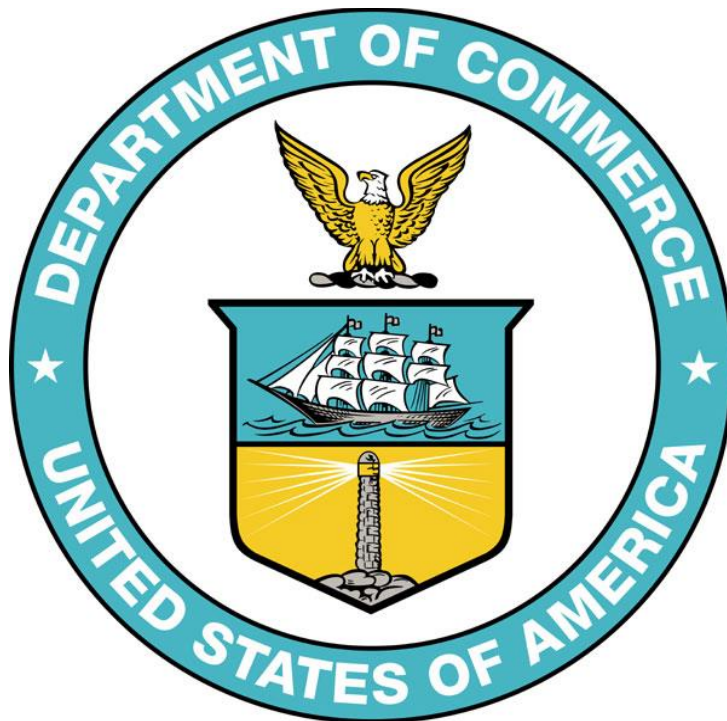


DEPARTMENT OF COMMERCE



SERVICE CONTRACT INVENTORY ANALYSIS REPORT FISCAL YEAR 2019

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; historically, approximately one-third of the Department's budget is expended through the execution of Federal contracts to support mission-critical programs such as: weather forecasting, satellite acquisitions, decennial census activities, 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) 2019 discretionary budget was approximately \$11.4 billion, and the workforce was comprised of over 51,000 employees serving within the 12 Operating Units.

Pursuant to Section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117), agencies are required to prepare an annual inventory of service contracts. 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(a), the Department prepared a Service Contract Inventory (SCI) Analysis for FY 2019. Using data derived from the Federal Procurement Data System (FPDS), 2,724 service contracts totaling over \$4.7 billion were identified as part of the FY 2019 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 twelve (12) selected PSC functions examined from the FY 2019 inventory (as shown in Figure 2) include six (6) special interest functions prescribed by OMB and six (6) 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 service contracts. The following eight (8) OMB-prescribed PSC categories were *excluded* from the analysis as the Department's FY 2019 inventory reported zero actions under those categories: B505 – Cost Benefit Analyses

- R406 – Policy Review/Development Svcs.
- R407 – Program Evaluation Services
- R413 - Specifications Development
- R409 – Program Review/Development Svcs
- R414 – Systems Engineering Services
- R497 – Personal Services Contracts
- R423 - Intelligence Services

The analysis of a sample of the Department’s FY 2019 service contract inventory concluded the following:

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

II. Analysis of FY 2019 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 utilized consisting of representatives from DOC’s 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 selected contract actions. The Department’s FY 2019 service contract inventory consisted of 2,724 contract actions totaling \$4,706,196,869.00. 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 the Product Service Codes 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 in Figure 2. Total actions within the scope of the analysis criteria totaled 1,762 and valued at \$3,742,621,358.90 (79.5% of the total obligated amount for service contracts in FY19). The Department sampled approximately 5.5% of actions within the 12 selected special interest functions of the FY 2019 inventory, representing 98 contract actions, and totaling over \$2,092,088,362.00 or approximately 56% of obligations within the scope of analysis. The following steps were followed in developing the sample size:

1. The percentage of in scope actions for each contracting office was calculated as a proportion to the total number of in scope actions for the Department (1,762). For example, NOAA had 548 of in scope actions which is 31.1% of 1,762.

2. An estimated 5% of total actions within scope ($1762 \times .05 = 88.1$) was proportionally applied to in scope actions for a contracting office to determine an estimated number of actions to be sampled and analyzed. For example, NOAA had 31.1% of all in scope actions which equates to approximately 27.4 actions in proportion to the estimated 88.1 actions to be included in the sample and analyzed.
3. The percentage of dollars obligated for each special interest function for all in scope actions for a contracting office was then multiplied against the estimated total number of actions calculated in step 2 to calculate the estimated number of actions to be sampled and analyzed for each special interest function for a contracting office. For example, for special interest function PSC D302 IT and Telecom – Systems Development, NOAA obligated \$219,171,670.21 in FY19 or 19.26% of \$1,138,010,537.99 of its total obligations across all 12 special interest functions. Therefore, it was estimated that 5 ($19.26\% \times 27.4 = 5.27$) special interest function PSC D302 actions would be sampled and analyzed from NOAA.
4. Once the number of actions to be sampled and analyzed for each special interest function for each contracting office was established, the satisfactory number of actions were selected starting in descending dollar value from highest to lowest for each contracting office to analyze.
5. Rounding occurred on the number of actions to be sampled and analyzed for any given special interest function to ensure accurate representation in the sample. This explains the variation from the estimated 88.1 actions and the actual 98 actions that were sampled and analyzed.

Figure 2: Special Interest Functions Analyzed

PSC	Description of Function	Total Dollars Obligated for In-Scope Actions	% of Total Dollars Obligated for In-Scope Actions	Total In-Scope Actions	Total # of Actions Sampled
OMB Special Interest Functions					
D302	IT AND TELECOM- SYSTEMS DEVELOPMENT	\$ 355,920,277.34	9.51%	152	11
D307	IT AND TELECOM- IT STRATEGY AND ARCHITECTURE	\$ 10,137,985.89	0.27%	11	1
D310	IT AND TELECOM- CYBER SECURITY AND DATA BACKUP	\$ 23,025,228.31	0.62%	23	2
R408	SUPPORT- PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT	\$ 150,791,809.84	4.03%	117	6
R425	SUPPORT- PROFESSIONAL: ENGINEERING/TECHNICAL	\$ 261,637,278.73	6.99%	222	7
R707	SUPPORT- MANAGEMENT: CONTRACT/PROCUREMENT/ACQUISITION SUPPORT	\$ 79,317,332.38	2.12%	26	4
	Sub Total	\$ 880,829,912.49	24%	551	31
Agency-Specific Special Interest Functions					
D318	IT AND TELECOM- INTEGRATED HARDWARE/SOFTWARE/SERVICES SOLUTIONS, PREDOMINANTLY SERVICES	\$ 1,127,199,328.92	30.12%	197	23

R799	SUPPORT- MANAGEMENT: OTHER	\$ 996,794,045.62	26.63%	548	18
R499	SUPPORT- PROFESSIONAL: OTHER	\$ 269,079,201.63	7.19%	198	12
R701	SUPPORT- MANAGEMENT: ADVERTISING	\$ 265,221,756.00	7.09%	28	4
D319	IT AND TELECOM- ANNUAL SOFTWARE MAINTENANCE SERVICE PLANS	\$ 113,218,572.17	3.03%	154	4
R431	SUPPORT- PROFESSIONAL: HUMAN RESOURCES	\$ 90,278,542.07	2.41%	85	6
	Sub Total	\$ 2,861,791,446.41	76%	1210	67
	Grand Total	\$ 3,742,621,358.90	100%	1761	98

C. Data Collection and Analysis

A service contract inventory Questionnaire was developed and provided to the respective 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, data used in human capital planning and evaluation and monitoring information entered in the Contracting Performance Assessment Reporting System (CPARS).

In addition, follow-up calls and interviews with program officials were 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:

1. If the contract is for personal services as defined in FAR 37.104.
2. 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.
3. If contractor employees are performing functions closely associated with the performance of inherently governmental functions.
4. 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.
5. If there are sufficient internal resources to effectively manage and oversee the contract.
6. 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.
7. 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 2019, DOC did not enter into or administer any contracts for personal services in accordance with FAR 37.104.
2. Contractor employees are not being used to perform *inherently governmental functions*. It was also 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.
3. Of the 98 contract actions reviewed, two contracts contained performance elements that could be closely associated with the performance of inherently governmental functions. However, performance is limited to information gathering, documentation of market research and other analytic results and recommendations. Further, management controls are in place to include the use of a Government oversight team for each of the functional areas of the contracts to ensure Government personnel are completing any inherently governmental functions. Also, the Scope of Work (SOW) clearly defines the roles and responsibilities of the contractor versus Government employee so there is no ambiguity. Additionally, the COR, a Federal employee monitoring the project, ensures that the contractor's role does not expand beyond the SOW.
4. Analyses from all contracts 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 continues to be 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.

Specific examples of these safeguards include:

- a) Contractors submit routine progress reports which are reviewed by program officials to monitor progress and compliance with requirements.
- b) Progress review meetings are regularly held with the Contracting Officer, Contracting Officer's Representative and the contractor personnel responsible for site management.
- c) Contracting Officers communicate with Project Managers and CORs when monitoring and evaluating contract performance against the contract requirements.
- d) Contracting Officers review and approve any modification to change work to ensure the change is within the scope of the contract requirements and does not expand into services that are inherently governmental functions.
- e) Appointing responsible and engaged CORs and relying on Program Managers and other Federal technical subject matter experts, when appropriate, to conduct contract oversight.
- f) Developing SOWs which clearly specify and limit the services to be performed by contractor personnel.

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- g) Technical and schedule requirements are stated in terms of desired results, rather than the method of performance.
 - h) Requirements clearly define contract goals and establish deliverables and other reporting requirements such as performance measurement standards in terms of quality, timeliness, and quantity.
 - i) Evaluating the vendor's quality control plan to ensure it complies with the Government's published Quality Assurance Plan.
 - j) Evaluating inspection plans, Quality Assurance Surveillance Plans and other quality control requirements to ensure they protect the government's interests.
 - k) Emphasizing the use of lower-risk contract types when possible (i.e. firm-fixed price).
 - l) Incorporating appropriate inspection and other quality requirements in contracts to protect the Government's interests.
 - m) Providing training on proper service contract monitoring from both the acquisition and program standpoint.
 - n) Emphasizing on a collaborative relationship between program officials and contract employees to foster transfer of knowledge of the support services to reduce Government dependency on contractor expertise.
 - o) Contracting Officers and CORs performing an assessment of the market and a cost-benefit analysis to determine if the work should be conducted in-house.
 - p) Utilizing project management tools to track contractor tasks.
 - q) Conducting site visits.
 - r) Rejecting nonconforming supplies or services, except as provided in FAR 46.407.
 - s) Holding post-award conferences to fully communicate the roles and responsibilities of the parties.
5. All contracts analyzed 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. Of the 98 contract actions reviewed, one contract experienced a cost overrun. While the contracting officer finds the contractor's performance to be satisfactory, the program is anticipated to experience a cost overrun of approximately \$4 million in FY20-FY21 due to unexpected technical challenges experienced by the production of the radio frequency and interference monitory system production model. The contractor has proposed the cost overrun to the government, the contracting officer has reviewed, and accepted the proposal.

7. All 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. 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 2019 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:

1. Identify potential strategic sourcing opportunities to reduce services that are duplicated across the Department.
2. Strategically set priorities for resource allocation, workload distribution and funding requests within the context of the Department's Strategic and Human Capital Plans.
3. 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.
4. Track reduction of contract spending on inefficient and excessive management support services.
5. 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.
6. 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, Office of Acquisition Management. 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.

6. Planned FY 2020 Service Contract Inventory

To ensure data quality, Bureau procurement offices reviewed data elements of the FY 2020 service contract inventory and corrected any identified errors, missing data or other inaccuracies in FPDS. The

Department’s service contract inventory for FY 2020 will be included in the government-wide inventory available at: www.acquisition.gov/service-contract-inventory. Once approved by OMB, a copy of the analysis with a link to DOC’s available services contract inventories will be available on the Department’s website at: <https://www.commerce.gov/oam>.

In assessing the FY 2020 service contract inventory, the Department has selected twelve (12) Product and Service Codes to study in the FY 2020 analysis. The selected functions include six (6) special interest functions identified by OMB and six (6) agency-specific special interest functions. The agency-specific functions include PSC categories that are the largest percentage of obligations for the Department and functions identified by OMB to consider. Nine (9) of the OMB-prescribed PSC categories will be *excluded* from the planned FY2020 analysis (i.e. B505, R406, R407, R409, R413, R414, R42, R497, and D314) as the Department’s FY 2020 inventory reported zero actions under those categories. Figure 3 provides the list of functions to be reviewed in the FY 2020 inventory analysis.

Figure 3: Product & Service Codes Selected for FY 2020 Analysis

PSC	Description of Function	Amount Obligated	# of Actions	% of Total Dollars Obligated for In-Scope Actions
OMB Special Interest Functions:				
D302	IT and Telecom – Systems Development	\$ 40,674,013.17	60	2.16%
D307	Automated Information Systems Services	\$ 24,260,297.83	6	1.29%
D310	ADP Backup and Security Services	\$ 22,859,231.67	23	1.21%
R408	Program Management/Support Services	\$ 1,555,650.64	107	0.08%
R425	Engineering and Technical Services	\$ 1,013,750.40	109	0.05%
R707	Management Services/Contract & Procurement Support	\$ 422,943.59	20	0.02%
Agency-Specific Special Interest Functions:				
R799	Support – Management: Other	\$ 372,017,939.57	322.00	19.75%
D318	IT and Telecom – Integrated Hardware/Software/Svs. Solutions, Predominantly Svs.	\$ 338,880,940.68	141.00	17.99%
R499	Support – Professional: Other	\$ 153,254,618.55	150.00	8.14%
C219	Architect And Engineering- General: Other	\$ 76,742,115.05	45.00	4.07%
D319	IT and Telecom – Annual Software Maintenance Service Plans	\$ 95,538,612.55	113.00	5.07%
R431	Support – Professional: Human Resources	\$ 58,798,143.77	42.00	3.12%