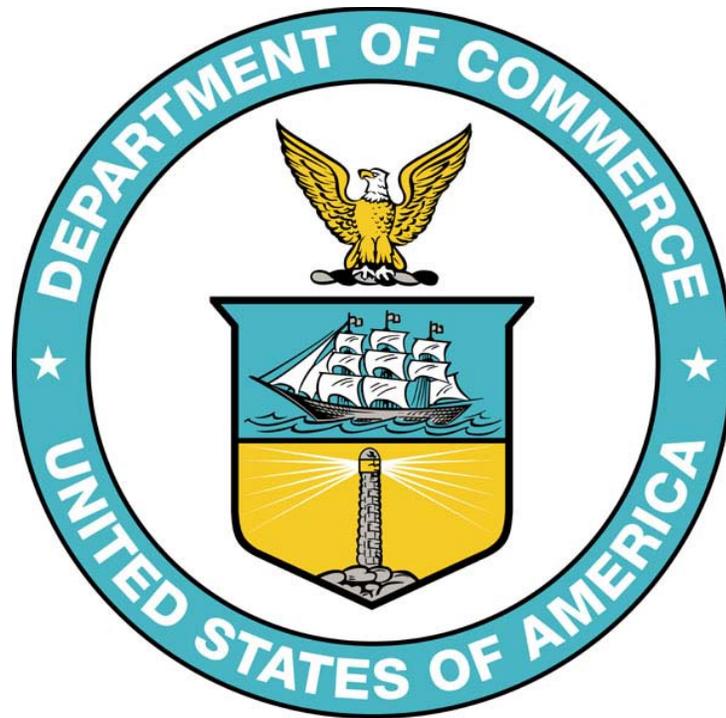


# DEPARTMENT OF COMMERCE



## SERVICE CONTRACT INVENTORY ANALYSIS REPORT FISCAL YEAR 2011

December 31, 2012

**Department of Commerce**  
**Service Contract Inventory Analysis**  
**Fiscal Year 2011**

**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: Decennial Census, weather forecasting, satellite acquisitions, intellectual property protection, broad-band technology opportunities, management of coastal and ocean resources, information technology, and construction and facilities management. The Department's Fiscal Year (FY) 2011 budget was approximately \$5.7 billion and the workforce comprised of approximately 48,000 employees serving within 12 Bureaus that report to the Office of the Secretary.

Pursuant to Section 743 of Division C of the FY 2010 Consolidated Appropriations Act and Office of Management and Budget's (OMB) memorandum dated November 5, 2010 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 Analysis (SCI) for FY 2011. Using data derived from the Federal Procurement Data System (FPDS), over 5,000 service contracts totaling nearly \$1.9 billion were identified as part of the FY 2011 inventory. This report provides an analysis of the inventory to determine if the Department is effectively managing risk in service contracts and if there is a risk of overreliance on contracted services.

The 16 selected PSC functions from the FY 2011 inventory (as shown in Figure 2) include 11 functions prescribed by OMB and five additional agency-specific functions. The agency-specific functions were identified based on potential heightened management risks as well as initiatives to reduce expenditures for management support service contracts as part of the Campaign to Cut Waste and Executive Order 13576 on Delivering an Efficient, Effective, and Accountable Government. Four of the OMB-prescribed PSC categories were *excluded* from the analysis as the Department's FY 2011 inventory reported zero actions under those categories.

Analysis of the FY 2011 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;
- All personal service contracts analyzed were entered into, and performed in accordance with applicable laws and regulations and in compliance with statutory authority;
- Adequate safeguards and monitoring systems are in place to ensure that work performed by service contractors does not become inherently governmental; and
- There are sufficient internal resources available to effectively manage and oversee contracts.

## II. Analysis of FY2011 Service Contract Inventory

### A. Analysis Methodology

In preparation of the Service Contract Inventory and Analysis Report, a working group was established consisting of representatives from each of DOC's five Bureau procurement offices. As a result of the collaborative effort of the working group, a repeatable process, as depicted in Figure 1, was developed to comply with the annual service contract inventory requirements.



Figure 1: Analysis Process

### B. Sample Selection

Each Bureau procurement office conducted an analysis of randomly selected contract actions. As the Department's FY 2011 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 Figure 2. The Department sampled 5% of actions within the 16 selected special interest functions of the FY 2011 inventory, which represented 132 contract actions totaling over \$67 million. The sampling size for each of the five Bureau procurement offices was proportional to the 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-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>Analysis</i>	
			<i>% of Actions Sampled</i>	<i>Dollar Amount</i>
<b><i>OMB Special Interest Functions:</i></b>				
R406	Policy Review/Development Services	\$3,318,584	9% (1 of 11)	\$308,848
R407	Program Evaluation Services	\$6,805,324	12% (1 of 8)	\$340,000
R408	Program Management/Support Services	\$55,661,010	4% (10 of 231)	\$3,720,738
R409	Program Review/Development Services	\$3,960,493	11% (1 of 9)	\$109,496
R707	Management Services/Contract & Procurement Support	\$2,355,104	5% (1 of 21)	\$30,000
R425	Engineering and Technical Services	\$89,923,089	5% (15 of 287)	\$6,971,423
R414	Systems Engineering Services	\$19,230,358	8% (3 of 39)	\$812,419
R497	Personal Services Contracts	\$621,318	33% (1 of 3)	\$79,040
D302	ADP Systems Development Services	\$162,031,315	7% (12 of 182)	\$8,703,171
D307	Automated Information Systems Services	\$8,675,721	6% (2 of 35)	\$375,310
D310	ADP Backup and Security Services	\$1,572,574	0% (0 of 7)	0
<b><i>Agency-Specific Special Interest Functions:</i></b>				
R499	Other Professional Services	\$526,162,698	5% (59 of 1,194)	\$33,496,562
R699	Other Administrative Services	\$28,683,318	5% (7 of 128)	\$8,297,578
AD25	Services (Operational)	\$10,692,682	7% (1 of 14)	\$562,320
R421	Technical Assistance	\$24,920,860	4% (8 of 192)	\$721,149
D399	Other ADP & Telecommunications Services	\$108,452,228	6% (10 of 159)	\$3,360,120

### **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 Independent Verification and Validation analysis, inventories prepared in accordance with the Federal Activities Inventory Reform Act, Federal Acquisition Certification programs data, and data used in human capital planning. 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:

- 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 Subpart 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-workforce balance or if rebalancing is needed.

### **D. Findings**

Analysis of the sampled contracts resulted in the following findings:

1. There was no evidence that contractor employees are being used to perform inherently governmental functions. 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.
2. No contracts assessed from the FY 2011 inventory were identified as having contract employees performing functions closely associated with the performance of inherently governmental functions.

3. All contracts had adequate safeguards and monitoring systems in place to ensure that contractor functions do not change or expand during performance to become an 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 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;
  - 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; and
  - Contracts include requirements for inspection, Quality Assurance Surveillance Plan and other quality control requirements to protect the government's interests.
4. In examining past performance reviews; monitoring contractor performance in CPARS; and interviewing CORs, Contracting Officers and Project Managers, one contract to acquire Information Technology support services was identified as not performing satisfactorily due to inferior quality. As a result, the contract options were not exercised and the requirement was re-competed. The new contractor is currently performing well and 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.
5. Of the 132 contracts sampled for analysis, only one consisted of personal services as defined in FAR Subsection 37.104. The contract was analyzed and determined to be performed appropriately under the authority of H.R. 2272 IAW Sec. 3109, Title 5. Additionally, special management attention is given to existing personal services contracts in accordance with applicable laws and regulations.
6. The contracts had sufficient internal resources in place to manage and oversee contracts effectively. Data collected through questionnaires as well 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 manage and oversee contracts effectively. Also, to ensure continued successful contract management and oversight, the Department requires additional training requirements in performance-based acquisitions, acquisition and project management for CORs. In addition, all Project Managers assigned to exhibit 300 projects, CORs and Contracting Officers meet the appropriate Federal Acquisition Certification requirements for their contract-related function.

7. The vast majority of contracts analyzed confirmed that the services performed by contract employees cannot be accomplished in-house by Federal employees due to specialized skills that enable the Department to efficiently utilize its assets and achieve its public mission. However, two contract actions were determined to include services that might otherwise be performed by Federal employees but these procurements are used to supplement federal staffing.

#### **E. Conclusions**

Based on the analysis of the FY 2011 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; the Department has sufficient internal resources available to effectively manage and oversee contractor performance; and personal services contracts are entered into and performed in accordance with applicable laws and regulations and in compliance with applicable statutory authorities.

#### **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 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 and requiring validation that PSCs are coded in FPDS correctly and clear, concise service descriptions are provided.

### III. **FY 2012 Service Contract Inventory**

In assessing the FY 2012 service contract inventory, the Department has selected 17 Product and Service Codes to study in the analysis. The selected functions include 11 special interest functions identified by OMB and six 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 for management support service contracts. Four of the OMB-prescribed PSC categories will be *excluded* from the analysis as the Department's FY 2012 inventory reported zero actions under those categories. Figure 3 provides the list of functions to be targeted in the FY 2012 inventory analysis.

To ensure data quality, Bureau procurement offices reviewed data elements of the FY 2012 service contract inventory and corrected any identified errors, missing data or other inaccuracies in FPDS. The Department's detailed service contract inventory for FY 2012, listing all covered service contracts as required in the standard format provided in OMB's guidance, is attached as Appendix A. Further, Appendix B provides 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 2012. Once approved by OMB, both appendices will be available on the Department's website at: <http://www.osec.doc.gov/oam/>.

**Figure 3: Product & Service Codes Selected for FY 2012 Analysis**

<b>PSC</b>	<b>Description of Function</b>	<b>Amount Obligated</b>	<b>Number of Actions</b>
<b>OMB Special Interest Functions:</b>			
R406	Policy Review/Development Services	\$5,675,010	33
R407	Program Evaluation Services	\$4,428,028	12
R408	Program Management/Support Services	\$84,975,976*	657
R409	Program Review/Development Services	\$375,300	23
R707	Management Services/Contract & Procurement Support	\$12,719,170	79
R425	Engineering and Technical Services	\$103,411,186*	713
R414	Systems Engineering Services	\$5,736,634	46
R497	Personal Services Contracts	\$ 1,998,922	30
D302	ADP Systems Development Services	\$297,224,115*	478
D307	Automated Information Systems Services	\$52,505,192*	114
D310	ADP Backup and Security Services	\$6,608,874	22
<b>Agency-Specific Special Interest Functions:</b>			
R499	Other Professional Services	\$395,904,735*	2,845
AR35	R & D – Space: Flight (Operational Systems Development)	\$162,741,345*	35
F999	Other Environmental Services	\$151,928,324*	159
D301	IT & Telecom – Other IT & Telecommunications	\$59,503,766*	215
D399	Other ADP & Telecommunications Services	\$68,682,682*	347
J070	Maintenance/Repair/Rebuild of Equip – ADP Equip/ Software/ Supplies/Support Equip	\$38,790,957*	558

\* DOC Top 10 Largest Percentage of Obligations

#### **IV. Update to FY 2010 Analysis**

The FY 2010 Service Contract Inventory analysis noted that one contract was identified as having activities that were closely associated with inherently governmental functions; the contract is to assist in the development of the National Institute of Standards and Technology's (NIST) Occupational, Health and Safety policy. Due to the nature of this function, this contract was given special management attention, which included implementing a five-stage review process to ensure the contractor did not perform functions that are considered inherently governmental. A Contracting Officer Representative was 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 of the policy. The contract has been completed. The risk mitigation activities implemented for this requirement were more than adequate to ensure that the work performed by the contractor did not change or expand to become an inherently governmental function.