

U.S. Environmental Protection Agency FY 2012 Service Contract Inventory Meaningful Analysis Report

December 30, 2013



US EPA: Meaningful Analysis of the FY 12 Service Contract Inventory

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Executive Summary

The attached report represents EPA's response to the Office of Management and Budget (OMB) memorandum on Service Contract Inventories dated November 5, 2010. In the memorandum, OMB called for agencies to perform meaningful analyses of their service contracts to gain insight into how their contractors are being used to fulfill their agencies' missions.

To perform its analysis, EPA identified the contracts through a combination of the special interest product service codes (PSCs) identified by OMB and its own internal assessment of the most highly vulnerable PSCs for EPA's contracts. EPA then performed its analyses through a combination of contract reviews; questionnaires sent to EPA's Contracting Officers/Contracting Officer Representatives/other relevant personnel, the FAIR database and PSC crosswalk which helped identify vacant management positions within the AA-ships and Regional offices. EPA also reviewed its existing relevant internal guidance and policy, prior OIG reviews, and training curricula for its acquisition workforce.

As a result of this analysis, EPA found no adverse findings regarding its service contracts.

The attached report was coordinated through EPA's Senior Procurement Officer and the Policy, Training, and Oversight Division Director.

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Background

On December 16, 2009, Public Law 111-117, Fiscal Year (FY) 2010 Consolidation Appropriations Act, Section 743 of Division C, required civilian agencies to prepare an annual inventory of their service contracts. The Service Contract Inventory is a tool to help the Agency gain a better understanding of how contracted services are being used to support mission and operations, and whether contractors' skills are being utilized in an appropriate manner.

The Office of Management and Budget (OMB) memorandum on Service Contract Inventories dated December 19, 2011, provided guidance to agencies to prepare their inventories covering service contracting in FY 12. OMB required executive agencies to include all service contract actions over \$25,000 that were awarded in FY 12. EPA had to report contract actions that were funded by EPA and include actions made on their behalf by other agencies. Contract actions that EPA made on another agency's behalf with the other agency's funding were excluded from the inventory report. The FY 12 inventory excludes data on the number of full-time equivalents and the amount invoiced as this information is not currently collected in the Federal Procurement Data System (FPDS). Therefore, the Office of Federal Procurement Policy (OFPP) will continue to defer the collection of this information pending the outcome of further analysis.

OMB required agencies to submit to OFPP a planned analysis by December 30, 2013 that identified which special interest functions will be evaluated for the meaningful analysis. The submission is to provide the list of product service codes (PSCs), dollars obligated for those PSCs in FY 12, and a brief description of the rationale for selection. Additionally, OMB required agencies to conduct a meaningful analysis of the data in their FY 12 service contract inventories.

Purpose and Scope of the Meaningful Analysis

The purpose of the meaningful analysis is for Agency Managers to gain insight into how their contractors are being used to fulfill their agencies' missions. In accordance with section 743(e)(2), agencies are required to conduct meaningful analyses of their inventories for the purpose of determining if contract labor is being utilized appropriately and if the mix of federal employees and contractors is effectively balanced or if rebalancing may be required.

The meaningful analysis was performed using OMB's guidance for the development and analysis of FY 12 Service Contract Inventory as part of human capital planning. The Office of Acquisition Management (OAM) issued surveys, researched OAM internal policies and procedures, reviewed contract files for management control documents, and conducted interviews of Contracting Officers (COs), Contracting Officers' Representatives (CORs), Task Order Project Officers (TOPOs) and Work Assignment Managers (WAMs).

Top 10 PSCs and 13 Special Interest PSCs

In the inventory report submitted to OMB on December 30, 2012, EPA identified the top 10 product service codes (PSCs) by contract obligations and the 13 special interest PSCs that were designated by OMB. Of the 13 special interest PSCs, OAM selected to review those functional

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areas within OMB’s designation that had the greatest potential for vulnerability based on value and type of work involved. Those PSCs are outlined in the table below:

EPA’s 13 Special Interest PSCs

PSC	Description	Total Value 2012
C211	A/E Svcs. (incl. landscaping interior)	\$166,363,046.81
R499	Other Professional Services	\$120,456,492.63
F999	Other Environmental Assessments	\$ 88,064,507.85
R408	Program Management/Support Services	\$ 46,412,133.44
D399	Other ADP & Telecommunications Svcs.	\$ 45,679,076.51
C214	A&E Management Engineering Svcs.	\$ 38,667,723.38
R425	Engineering and Technical Services	\$ 36,694,321.92
R421	Technical Assistance	\$ 34,384,518.66
B510	Study/Environmental Assessments	\$ 30,608,012.68
D308	Program Services	\$ 21,534,445.84
R799	Other Management Support Services	\$ 14,835,417.33
D302	IT and Telecom – Systems Development	\$ 10,948,150.83
D314	IT and Telecom – System Acquisition Support	\$ 9,160,735.37

Contract Identification Process

EPA selected PSCs pursuant to OMB’s guidance and the potential vulnerable nature of these services. EPA focused on contracts that had over \$1 million in obligations and contained services in advisory and assistance, information technology and management support, and other vulnerable and related services to ensure full organizational and regional coverage. EPA used the dollar value as an initial indicator of risk and selected the PSCs with the greatest obligated contract dollar values.

EPA down-selected four PSCs for its meaningful analysis as shown the table below:

PSC	Description	Dollars Obligated
B510	Study/Environmental Assessments	\$ 30,608,012.68
R425	Engineering and Technical Services	\$ 36,694,321.92
R499	Other Professional Services	\$120,456,492.63
R799	Other Management Support Services	\$ 14,835,417.33

Additionally, EPA added one additional PSC category to ensure geographic diversity amongst its Regional offices. While this PSC was outside of the core PSCs identified, it was still considered to represent some degree of risk:

PSC	Description	Dollars Obligated
F108	Haz Rem/Clean-up/Disp/Op	\$235,010,451.69

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EPA's analysis included a review of contracts to ensure that:

- Personal Services contracts are in accordance with laws & regulations;
- Special attention is given to functions that are closely associated with inherently governmental functions;
- Contractor's employees are not performing inherently governmental functions;
- Contractor's work has not changed to become an inherently government function;
- Contractor's employees are not performing critical functions that could affect the ability of the agency to maintain control of its mission and operations; and
- Agency has sufficient internal resources to manage and oversee contracts effectively.

EPA's methods were as follows:

- Step 1: Consolidate the data described above;
- Step 2: Crosswalk the data with EPA's contractor inventory and FPDS data;
- Step 3: Evaluate the data in accordance with Agency and Federal policy and guidance; and
- Step 4: Develop criteria to identify individual contracts for in-depth review.

Based on the criteria identified and in accordance with the Consolidated Appropriations Act, EPA selected individual contracts for detailed review in the following order:

- Tier 1: Potential for inherently governmental performance by contractors;
- Tier 2: Contracts providing professional and management services or information technology services;
- Tier 3: Contracts that do *not* include professional and management services or information technology services, but were awarded on a non-competitive basis; and
- Tier 4: Contracts that do *not* include professional and management services or information technology services, but meet any one of the remaining designated criteria.

To perform its analysis, EPA contacted the cognizant COs and CORs to gain access to the contracts and related documents as well as to gather information via survey, in-person interviews, and reviews of task orders, invoices, deliverables, and facilities, as appropriate.

EPA narrowed the set of contracts to be reviewed to contracts valued at over \$1 million. This resulted in a total of 13 contracts for the Agency's in-depth, meaningful analysis.

Methodology: Meaningful Analysis Survey

After identifying the contracts for analysis, EPA contacted cognizant COs and CORs to review these contracts to determine the following:

- (1) Is service contract labor being used in an appropriate and effective manner?
- (2) Is the mix of federal employees and service contractors effectively balanced?

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- (3) Are the service contracts being poorly performed because of excessive costs or inferior quality?
- (4) Are there any service contracts that should be considered for conversion to performance by EPA employees? and
- (5) Are there any service contracts that should be considered for conversion to an alternative approach aimed at using EPA assets more efficiently?

To conduct the analysis, EPA developed a 29 question survey (see Attachment 1). We used relevant sections of the Federal Acquisition Regulations (FAR), the EPA Acquisition Regulation (EPAAR), EPA's Contracts Management Manual (CMM) as well as OMB's guidance to formulate our questions. The purpose of the survey was to determine if there were any potential issues such as:

- Personal Services;
- Contractors performing inherently governmental functions;
- Contractors' work changing to include inherently governmental functions;
- Contractors performing critical functions that could affect the ability of the Agency to maintain control of its mission and operations; and
- Whether the Agency has sufficient internal resources to manage and oversee contracts.

Methodology: PSC Crosswalk

OAM created a crosswalk between the FAIR Act function codes and the Service Contract Product Service Codes (PSCs) in preparation for the integration of the FAIR Act Inventory and the Service Contract Inventory. The crosswalk will serve as a tool to begin coding functions closely associated with inherently governmental functions, critical functions and other functions in the "description of requirement field" in FPDS for new contracts awarded after March 1, 2012. Additionally, the crosswalk will serve the Agency's ongoing efforts to ensure the most effective use of federal employees and contractors in accordance with OMB OFPP Policy Letter 11-01 and ultimately provide a uniform method of reviewing and categorizing agency functions of both federal employee and contractor resources.

The service contract inventory PSCs are very general and vague in description. Therefore, OAM reviewed the Agency's 2013 Fair Inventory function codes and definitions to assess the principal functions performed within their organizations as they applied to the statements of work identified as a part of the 2012 Service Contract Inventory review and analysis. The OAM referenced the FAR and General Services Acquisition Manual (GSAM) to establish existing definitions for the identified PSCs. In addition, OAM reviewed the PSC crosswalks of other agencies such as the Department of Treasury, the Department of State, the Department of Education, the Department of Homeland Security, and the Department of Labor. Finally, utilizing the representatives from the program and regional offices operations, OAM was able to develop definitions to the service contracts inventory PSCs for agency-wide use (*See Attachment 2 – FAIR-PSC Crosswalk*).

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Results: Meaningful Analysis Survey

In September 2013, EPA distributed the surveys to the relevant contracting officers for the selected contracts. During the month of November 2013, the surveys were collected and reviewed for the aforementioned issues. We grouped the results of the surveys into three categories:

1. Full information received. No findings or workload issues.
2. Full information received. Findings or workload issues revealed.
3. Incomplete information received. Need additional information.

As a result, all of the 13 surveys fell into category 1. Our main focus on the surveys was reviewing the responses concerning the contract's statement of work and whether the contractor is working on Agency or federal policy. We selected two contracts to review their statement of work in order to determine whether the contractor is performing work that could be considered personal services or inherently governmental functions. In order to determine whether the contractor is performing inherently governmental functions for the Assistant Administrator Offices (AA-ships) or Region offices, we used the FAIR inventory database and the FAIR-Service Contract Inventory Crosswalk. The FAIR data and PSC crosswalk were used to help identify vacant positions within the AA-ships and Regional offices at the Senior Executive Service and senior management levels.

As part of our analysis, we selected contract no. EP-S3-09-02, which is coded as PSC R799 under the Program Office of Enforcement and Compliance Assurance (OECA). Utilizing the FAIR data, we reviewed the management positions in OECA to determine if they had adequate internal resources to manage and oversee the contract. As a result of reviewing the FAIR data, we concluded that OECA had sufficient management resources to manage and oversee its contracts. Also, we reviewed the PSC crosswalk to determine what OECA positions are coded as functions closely associated with inherently governmental functions, critical functions and other functions. This tool helped compare the functions between the contractor and the agency to determine whether any of the contractor's functions fell in the inherently governmental or closely associated with inherently governmental. As a result of the analysis, we noted no potential risk of issues relating to contractors performing critical functions that could affect the ability of the Agency to maintain some control of mission and operations.

In addition, we performed some compliance testing on two contracts to verify and examine the existing internal control policies and procedures. We noted that only one of the contracts contained advisory and assistance services in their statement of work and the other contract did not contain advisory and assistance services. The compliance tests on the Agency's management controls policies were to determine whether or not the Agency's internal policies and procedures were being administered and adhered to in accordance with the CMM section 7.1.5.4 (Procurement Initiation). We obtained the pre-award contract files to review the management control documents that were created for contract oversight and control measures.

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As a result of our compliance testing of the sample contracts, we disclosed that the administrative policies and procedures were being followed and that management controls were established for the contracts. Also, we noted that the existing internal policies and procedures on management controls provided oversight of service contracts and precluded the contractors from drifting into those services that are considered inherently vulnerable.

Existing Internal Guidance and Management Controls

As mentioned above, EPA has significant existing internal guidance and management controls in place to prevent inappropriate use of service contracts. These include:

The CMM, Chapter 7, Section 7.1.5.5 III L 4, *Advisory and Assistance Services (AAS)*, provides guidance that addresses management controls and oversight of service contracts. In general, AAS are services that support agency policy development, decision-making, management and administration, or research and development activities. For contracts that involve AAS, EPA requires the COR to prepare a discussion of management controls and submit it to the CO for approval. After CO approval, the management controls are submitted for appropriate higher level approval.

The CMM, Chapter 3, Section 3.1, *Contracting Officer Site Visits for On-Site Contractors*, is a separate reporting requirement for COs to perform on-site visits periodically on all on-site contracts. This policy is intended to notify employees involved in contract management about the potential vulnerabilities in personal services. If weaknesses are identified, then the CO will perform an annual visit and will discuss personal services issues with CORs for individual on-site contracts annually.

Also, EPA has an internal controls program designed to enhance the quality of the Agency's contracting function overall. OAM is implementing a Balanced Scorecard (BSC) Performance Measurement and Management Program (PMMP) as the methodology for assessing the Agency's acquisition-related business functions. The PMMP is intended to facilitate an EPA-wide collaborative approach to ensure that business systems effectively support EPA's mission, vision, and strategy statements, follow best business management practices, and comply with applicable statutes, regulations, and contract terms and conditions. Through the utilization of the BSC PMMP, the Agency will be better positioned to strengthen its acquisition systems and its workforce. A copy of the EPA BSC PMMP Guide is included as Attachment 3. See Part 6 of the Guide for details on the BSC Assessment Plan and Reporting.

Based on the results of our analysis, we have concluded that OAM's procurement policies and implementation procedures are comprehensive and provide assurance of effective management controls for our resources and service contractors. OAM policies are provided to prohibit improper relationships with contractors and federal employees, to prohibit contractors from performing inherently governmental functions, and to prevent unauthorized personal services. In addition, OAM's acquisition workforce training curriculum for COs, CORs, and others was reviewed and has been determined to be sufficient to address these issues.

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In addition, to ensure proper orientation of all EPA personnel to the acquisition function, including the proper use of service contracts EPA has published and distributed Agency-wide the following educational brochures:

- Acquisition Guide for Executives;
- Procurement Integrity; and
- Support Service Contracts

The principles and guidance contained in these brochures are referenced in the EPA's most recent version of Agency-wide mandatory "Ethics Training."

Review of OIG and OAM Reports

Our office reviewed all of the EPA Office of Inspector General (OIG) reports that pertain to contract management, information resource management, grants and the American Recovery and Reinvestment Act. The OIG reports did not address any issues concerning Agency use of contractor employees to perform critical functions that could affect the ability of the Agency to maintain control of its mission and operations.

Contractor Support

Our office did not rely on any contractor support in conducting the analysis or in the preparation of this report.

Conclusion: Meaningful Analysis Findings

As described above, in this meaningful analysis EPA found that appropriate safeguards and conditions existed for all 13 contracts reviewed in terms of whether:

- (1) Service contract labor is being used in an appropriate and effective manner;
- (2) The mix of federal employees and services contractors is effectively balanced;
- (3) Service contracts are poorly performed due to excessive costs or inferior quality;
- (4) Any service contracts should be considered for conversion to performance by EPA employees; and
- (5) Any service contracts should be considered for conversion to an alternative approach aimed at using EPA assets more efficiently.

Thus, there are no adverse findings to report regarding EPA's service contracts.

Recommendations and Action Items

Based on our analysis, we noted that there are no functions being performed by contractors that are recommended for in-sourcing or conversion of contract work year equivalents (CWYE) to the agency's full-time equivalents (FTEs). In addition, there are no functions that are currently performed by EPA program offices that are recommended for outsourcing.

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EPA is always looking for ways to improve and streamline its contracting function. As part of its ongoing self-assessment and improvement, EPA is in the process of revamping its existing COR program in order to make it more comprehensive. EPA intends to create a structure similar to the model program which is highlighted by OFPP. The program will consist of four components: (1) Development, (2) Resources and tools, (3) Incentives, (4) Policies and procedures. OAM recognizes that the CORs play a critical and direct role in contract placement and management. Therefore, OAM plans to implement a strong agency COR program that prepares CORs to plan and monitor contract performance successfully.

Attachments:

1. Survey Questionnaire
2. FAIR Act Inventory Functions and Service Contract Inventory Product Service Codes Crosswalk
3. Balanced Scorecard Program (See Part 6, Contract Management Assessment Program)
4. EPA Support Service Contracting Guide
5. EPA Procurement Integrity Guide
6. An Acquisition Guide for Executives