

U.S. Environmental Protection Agency FY 2018 Service Contract Inventory Meaningful Analysis Report

February 19, 2020



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Executive Summary

The attached report represents EPA's annual 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: reviews of contract files; questionnaires completed by EPA Contracting Officers; Contracting Officer Representatives and other acquisition personnel; and utilizing the FAIR database and PSC crosswalk to help identify vacant management positions throughout the Agency. EPA also reviewed its existing internal guidance/policies, prior OIG/GAO oversight reviews, and training curricula for the Agency's acquisition workforce.

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

The attached report was coordinated through the Senior Procurement Officer and the Policy, Training, and Oversight Division Director and it is due to OMB by February 21, 2020.

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, and analyze that inventory to determine if the mix of federal employees and contractors is effective, or if rebalancing may be required. 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 Federal Procurement Policy (OFPP) issued guidance addressing the requirements of section 743 on November 5, 2010, and December 19, 2011. Agencies are required to use that guidance and the OMB Alert dated September 25, 2019. Agencies must ensure that their contractors are entering data on the amount invoiced and direct labor hours expended into the System for Award Management (SAM), and analyze their FY 2018 service contract inventory data. OFPP required executive agencies to include all service contract actions over \$25,000 that were awarded in FY 2018. 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 2018 inventory includes data on the number of full-time equivalents and the amount invoiced as collected in the SAM. Beginning with the FY 2014 inventory, agencies' inventories must include a supplement with information collected from contractors on the amount invoiced and the direct labor hours expended on covered service contracts. The Federal Acquisition Regulation (FAR) Subpart 4.17 addresses the collection of this information.

OMB required agencies to submit to OFPP by February 21, 2020 a plan for analyzing the FY 2018 meaningful analysis. The plan is to provide the list of PSCs, dollars obligated for those PSCs in FY 2018, a brief description of the rationale for selection, and the special interest functions that will be evaluated.

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 to determine 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 2018 Service Contract Inventory as part of human capital planning. The Office of Acquisition Solutions (OAS) issued surveys, researched OAS internal policies and procedures, reviewed contract files for management control documents, and conducted interviews of Contracting Officers (COs), Contracting Officers' Representatives (CORs), and Task Order Project Officers (TOPOs).

EPA’s 12 Special Interest PSCs and Top 10 PSCs

In the inventory report submitted to OMB on March 14, 2019, EPA identified the top 10 product service codes (PSCs) by contract obligations and the 12 special interest PSCs that were designated by OMB. Of the 12 special interest PSCs, OAS selected to review those functional 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 12 Special Interest PSCs

PSC	Description	Total Value 2018
R499	Support-Professional: Other	\$358,001,977.83
R425	Support-Professional: Engineering/Technical	\$186,957,676.29
F999	Other Environmental Services	\$161,264,022.90
C214	A&E Management Engineering Services	\$146,375,221.30
R408	Support-Professional: Program Management/Support	\$143,204,113.83
C211	A/E Services (incl. landscaping interior)	\$ 98,135,211.11
D399	IT and Telecom-Other IT and Telecommunications	\$ 49,029,632.58
B510	Study/Environmental Assessments	\$ 37,744,544.54
D308	IT and Telecom-Programming	\$ 35,734,419.31
R699	Support – Administrative: Other	\$ 23,322,556.24
R799	Support-Management: Other	\$ 8,346,268.90
D302	IT and Telecom – Systems Development	\$ 2,935,358.71

EPA’s Top 10 PSCs

PSC	Description	Total Value 2018
F108	Environmental System Protection - Remediation	\$436,729,428.31
R499	Support - Professional Other	\$358,001,977.83
R425	Support-Professional: Engineering/Technical	\$186,954,676.29
F999	Other Environmental Services	\$161,264,022.90
C214	A&E Management Engineering Services	\$146,375,221.30
R408	Support-Professional: Program Management/Support	\$143,204,113.83
C211	A/E Services (incl. landscaping interior)	\$ 98,135,211.11
Y1DB	Construction of Laboratories and Clinics	\$ 68,267,419.18
AH11	R&D Environmental Protection: Pollution Control	\$ 59,454,194.65
D399	IT and Telecom-Other IT and Telecommunications	\$ 49,029,632.58

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 \$1,000,000 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

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contract dollar values. Also, the percentage of obligations for the PSCs on which the review focused is included in the table.

EPA selected 4 contracts for its meaningful analysis as shown in the table below:

PSC	Contracting Office	Contract Number	Action Obligation	Obligation %
R499	CAD	EPC17046	\$3,180,211.31	0.89%
C211	Region 1	EPS10603	\$2,045,207.66	2.08%
R425	CAD	EPC17041	\$3,947,453.84	2.11%
R408	ITAD	EPW17011	\$6,887,231.10	4.81%

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;
- Contractors' employees are not performing inherently governmental functions;
- Contractors' 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.
- 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 contracting officers and contracting officer representatives 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 4 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?
- (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 FAR, the EPA Acquisition Regulations (EPAAR), and EPA Acquisition Guide (EPAAG), 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

OAS 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 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, OAS reviewed the Agency's 2018 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 FY 2018 Service Contract Inventory review and analysis. The PSC

Crosswalk methodology would be used in the FY 2018 meaningful analysis if the contractors were working on Agency or federal policy, advisory and assistance services. The OAS referenced the Federal Acquisition Regulations (FAR) and General Services Acquisition Manual (GSAM) to establish existing definitions for the identified PSCs. In addition, OAS 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, OAS was able to develop definitions to the service contracts inventory PSCs for agency-wide use (*See Attachment 2 – FAIR-PSC Crosswalk*).

Results: Meaningful Analysis Survey

EPA distributed the surveys to the relevant contracting officers for the selected contracts. 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 4 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. The surveys disclosed no workload issues that would indicate that the Program Office had inadequate internal resources to manage and oversee their contracts.

In addition, we noted 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, that were being utilized, provided adequate guidance on conducting management oversight of service contracts and precluded the contractor 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 EPAAG, Chapter 7, Subsection 7.1.1.5.5, III, L., 4, *Advisory and Assistance Services*, provides guidance that addresses management controls and oversight of service contracts. In general, advisory and assistance services (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 EPAAG, Chapter 42, Subsection 42.4.1, *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 ensure the quality of the Agency's contracting function overall. OAS has implemented a Performance Measurement and Performance Management Program (PMMP) 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 PMMP, the Agency is better positioned to strengthen its acquisition systems and its workforce.

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

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

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 OAS Reports

Our office reviewed all of the EPA Office of Inspector General (OIG) reports that pertain to contract management, information resource management, and grants. 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 condition existed for all 4 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.

Accountable Officials

The Senior Agency Management Official who is accountable for the development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 addressing the performance of inherently governmental and critical functions (this designation is already required by section 5-4(e) of the Policy Letter) is Raoul D. Scott Jr., Director of Policy, Training, and Oversight Division.

The Senior Agency Management Official who is responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories is Kimberly Patrick, Senior Procurement Executive.

Attachments:

1. Survey Questionnaire
2. FAIR Act Inventory Functions and Service Contract Inventory Product Service Codes Crosswalk
3. EPA Procurement Integrity Guide
4. An Acquisition Guide for Executives