

U.S. Environmental Protection Agency FY 2022 Service Contract Inventory Meaningful Analysis Report

February 1, 2024



Table of Contents

<u>Section</u>	<u>Page Number</u>
Executive Summary	2
Background	3
Purpose and Scope of the Meaningful Analysis	3
12 Special Interest Product Service Codes and Top 10 Product Service Codes	4
Contracts Identification Process	4
Methodology: Meaningful Analysis Survey	6
Methodology: Product Service Codes Crosswalk	6
Results: Meaningful Analysis Survey	7
Existing Internal Guidance and Management Controls	7
Review of OIG and OAS Reports	8
Contractor Support	8
Conclusion: Meaningful Analysis Findings	8
Recommendations and Action Items	9
Accountable Officials	9
Survey Questionnaire	Attachment 1
FAIR Act Inventory Functions and Service Contract Inventory Product Service Codes Crosswalk	Attachment 2

Executive Summary

The attached report represents the U.S. Environmental Protection Agency's (EPA) annual response to the Office of Management and Budget's (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 Officers' Representatives, and other acquisition personnel; and utilizing the Federal Activities Inventory Reform (FAIR) database and PSC crosswalk to help identify vacant management positions throughout the Agency. EPA also reviewed its existing internal guidance/policies, prior Office of Inspector General and Government Accountability Office 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 Executive and the Policy Oversight, Purchase Card & Interagency Agreements Division Director and it is due to OMB by February 27, 2024.

Background

On December 16, 2009, Public Law 111-117, Fiscal Year (FY) 10 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 of Division C on November 5, 2010, and December 19, 2011. Agencies are required to use that guidance and the OMB Alert dated, September 13, 2023. Agencies must ensure that their contractors are entering data on the amounts invoiced and direct labor hours expended into the System for Award Management (SAM) and analyze their FY 22 service contract inventory data. OFPP required executive agencies to include all service contract actions over \$25,000 that were awarded in FY 22. EPA had to report contract actions that were funded by EPA, and included 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 22 inventory includes data on the number of full-time equivalents and the amounts invoiced as collected in SAM.

Beginning with the FY 14 inventory, agencies' inventories must include a supplement with information collected from contractors on the amount invoiced and the direct labor hours expended on covered

U.S. EPA: Meaningful Analysis of the FY 2022 Service Contract Inventory

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 27, 2024, a meaningful analysis report on their previous FY 22 inventory and a plan for analyzing the FY 23 inventory and the names of the responsible officials. The plan is to provide the list of PSCs, dollars obligated for those PSCs in FY 23, 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 22 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 Contracting Officers' Representatives (TOCORs).

EPA's 12 Special Interest PSCs and Top 10 PSCs

In the inventory report submitted to OMB on February 22, 2022, 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 the value and type of work involved. Those PSCs are outlined in the table below:

EPA's 12 Special Interest PSCs as Designated by OMB

PSC	Description	Total Value 2022
R499	Support-Professional: Other	\$601,555,214.68
F999	Other Environmental Services	\$506,882,295.68
R408	Support-Professional: Program Management/Support	\$299,631,658.64
R425	Support-Professional: Engineering/Technical	\$215,230,333.54
C214	A&E Management Engineering Services	\$213,914,444.65
C211	A/E Services (incl. landscaping interior)	\$ 54,371,330.35
D399	IT and Telecom-Other IT and Telecommunications	\$ 85,753,133.66
B510	Study/Environmental Assessments	\$ 74,645,229.71
D308	IT and Telecom-Programming	\$ 61,215,242.89
R699	Support – Administrative: Other	\$ 28,612,719.19
D302	IT and Telecom – Systems Development	\$ 14,148,627.55

U.S. EPA: Meaningful Analysis of the FY 2022 Service Contract Inventory

R799	Support-Management: Other	\$ 4,356,407.65
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EPA’s Top 10 PSCs by Contract Obligation

PSC	Description	Total Value 2022
F108	Environmental System Protection - Remediation	\$1,214,754,207.60
R499	Support - Professional Other	\$ 601,555,214.68
F999	Other Environmental Services	\$ 506,882,295.68
R408	Support-Professional: Program Management/Support	\$ 299,631,658.64
R425	Support-Professional: Engineering/Technical	\$ 215,230,333.54
C214	A&E Management Engineering Services	\$ 213,914,444.65
R429	Support – Professional: Emergency Response	\$ 177,764,072.89
D399	IT and Telecom – Other IT and Telecommunications	\$ 85,753,133.66
Y1DB	Construction of Laboratories and Clinics	\$ 82,018,883.80
B510	Special Studies/Analysis – Environmental Assessments	\$ 74,645,229.71

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

EPA selected 7 contracts for its meaningful analysis as shown in the table below:

PSC	Contracting Office	Contract Number	Task Order Number	Contract Obligation	Obligation
R499	CAD	EPC17019	68HERC21F0126	\$1,689,200.00	0.28%
F108	Region 3	68HE0320D0003	68H0320F0049	\$12,164,394.28	1.00%
F108	Region 5	68HE0118D0010	VARIOUS	\$2,808,167.20	0.23%
F108	Region 6	68HE0422D0001	68HE0622F0025	\$8,818,000.00	0.73%
R499	Region 7	68HERH19D0018	68HE0722F0005	\$1,768,891.00	0.29%
R429	Region 8	68HE0820D0001	VARIOUS	\$17,397,018.47	9.78%
C214	Region 9	EPS91401	VARIOUS	\$4,619,466.95	2.16%

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

- Personal services contracts are in accordance with laws and regulations;
- Special attention is given to functions that are closely associated with inherently governmental functions;
- Contractor employees are not performing inherently governmental functions;
- Contractor’s work has not changed to become an inherently government function;

U.S. EPA: Meaningful Analysis of the FY 2022 Service Contract Inventory

- Contractor 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 Federal Procurement Data System (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, CORs and TOCORs to gain access to the contracts and related documents, as well as to gather information via survey 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 7 contracts for the Agency's in-depth meaningful analysis.

Methodology: Meaningful Analysis Survey

After identifying the contracts for analysis, EPA contacted the 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?

U.S. EPA: Meaningful Analysis of the FY 2022 Service Contract Inventory

To conduct the analysis, EPA developed a 29-question survey (see Attachment 1). EPA used relevant sections of the FAR, the EPA Acquisition Regulations (EPAAR), and EPA Acquisition Guide (EPAAG), as well as OMB's guidance to formulate the 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: Product Service Codes Crosswalk

OAS created a crosswalk between the FAIR Act function codes and a limited number of Service Contract Product Service Codes (PSCs) for OMB's integration of the FAIR Act Inventory and the Service Contract Inventory data. The crosswalk serves 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 serves as the Agency's ongoing efforts to ensure the most effective use of federal employees and contractors in accordance with OMB's OFPP's Policy Letter 11-01 and provides a uniform method of reviewing and categorizing Agency functions of both federal employees and contractor resources.

The PSC Crosswalk methodology is a tool that can be used in the FY 22 meaningful analysis if the contractors were working on Agency or federal policy, advisory and assistance services. 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 representatives from Program and Regional offices, OAS was able to develop definitions for the service contracts inventory PSCs for Agency-wide use (*See Attachment 2 – FAIR-Act Inventory Functions and Service Contract Inventory PSC Crosswalk*).

Results: Meaningful Analysis Survey

EPA distributed the surveys to the relevant COs for the selected contracts. The surveys were collected and reviewed for the aforementioned issues. EPA 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; and
3. Incomplete information received. Need additional information.

All 7 surveys fell into category 1. EPA's 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 Offices had inadequate internal resources to manage and oversee their contracts.

In addition, EPA noted that the administrative policies and procedures were being followed and that management controls were established for the contracts. Also, EPA 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, I., M., b., Phase 9.2: Contract Considerations/Determination for COR, *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, program and/or project 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 Contract Management Plan (CMP) for assessing the Agency's acquisition-related business functions. The CMP 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 CMP, 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 EPA's 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 comprehensive training curriculum for COs, CORs, and others was reviewed, and has been determined to be sufficient to support EPA's conclusion.

Review of OIG and OAS Reports

The listing of applicable EPA Office of Inspector General (OIG) reports located on the OIG's website and OAS reports located on OAS' website were reviewed. Based on the review, there are no current reports concerning the Agency's use of contractor employees performing functions which impacts EPA's ability to maintain control of its mission and operations.

Contractor Support

Contractor support was not relied upon in conducting the analysis nor in the preparation of this report.

Conclusion: Meaningful Analysis Findings

As described above in this meaningful analysis, EPA found that appropriate safeguards existed for all 7 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.

As a result of applying the criteria identified above, there are no adverse findings to report regarding EPA's service contracts.

Recommendations and Action Items

Based on EPA's analysis, 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 the Policy Oversight, Purchase Card & Interagency Agreements 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 Pamela Legare, Senior Procurement Executive.

U.S. EPA: Meaningful Analysis of the FY 2022 Service Contract Inventory

Attachments:

1. Survey Questionnaire
2. FAIR Act Inventory Functions and Service Contract Inventory Product Service Codes Crosswalk