

U.S. Securities and Exchange Commission



FY 2013 Service Contract Inventory Analysis

January 15, 2015

**Office of Acquisitions
SEC Headquarters
Washington, DC 20549**

Background

The Securities and Exchange Commission (SEC) is a United States Agency with a mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. In addition to the Securities Exchange Act of 1934 that created the agency, the SEC enforces the Securities Act of 1933, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Sarbanes–Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and other statutes.

It is the responsibility of the Commission to:

- interpret federal securities laws;
- issue new rules and amend existing rules;
- oversee the inspection of securities firms, brokers, investment advisers, and ratings agencies;
- oversee private regulatory organizations in the securities, accounting, and auditing fields; and
- coordinate U.S. securities regulation with federal, state, and foreign authorities.

The SEC consists of five presidentially-appointed Commissioners, with staggered five-year terms. One of them is designated by the President as Chairman of the Commission — the agency's chief executive. By law, no more than three of the Commissioners may belong to the same political party, ensuring non-partisanship. The agency's functional responsibilities are organized into five Divisions and 19 Offices, each of which is headquartered in Washington, DC. The Commission's approximately 4,300 staff are located in Washington, D.C. and in 11 Regional Offices throughout the country.

The Commission convenes regularly at meetings that are open to the public and the news media unless the discussion pertains to confidential subjects, such as whether to begin an enforcement investigation.

Scope

Section 743 of Division C of the FY2010 Consolidated Appropriations Act P.L. 111-117, requires civilian agencies to prepare annual inventory of their service contracts. Inventories are required to be submitted in accordance with the Office of Management and Budget (OMB) guidance dated November 5, 2010 and December 19, 2011, a Federal Procurement Policy Letter dated November 25, 2014. In addition, agencies are to perform an analysis of their data in their inventories for the purpose of determining if contract labor is being used in an appropriate and effective manner and if the mix of federal employees and contractors in the agency is effectively balanced.

Per OMB guidance, agency reviews are to give priority consideration to agency use of contracted (a) professional and management services and (b) information technology support services. Review of professional and management services should include acquisition support and an appropriate sampling of policy and program management and development services. OMB identified the Special Interest Functions listed below (Table 1) for heightened management consideration. This was based on concerns of increased risk of losing control of mission and operations as identified through a review of reports issued in recent years, such as by the Government Accountability Office, the Commission on Wartime Contracting, agency Inspectors General, Congressional Committees, and the Acquisition Law Advisory Panel (also referred to as the “SARA Panel”), as well as by OMB’s own analysis. In addition, each agency is required to identify its top ten Product Service Codes (PSC) that accounted for the agency’s greatest percentage of spending (Table 2).

PSC	Product or Service Description
B505	Cost Benefit
D302	Systems Development
D307	Strategy and Architecture
D310	Cyber Security and Data Backup
D314	System Acquisition Support
R406	Policy Review/Development
R407	Program Evaluation Services
R408	Program Management/Support
R409	Program Review/Development Services
R413	Specifications Development
R414	Systems Engineering
R423	Intelligence
R425	Engineering/Technical
R497	Personal Services Contracts
R707	Contract/Procurement/Acquisition Support

Table 1: Special Interest Items

PSC	Product or Service Description
D301	Facility Operation and Maintenance
D307	IT Strategy and Architecture
D311	Data Conversion
D399	Other IT and Telecommunications
R408	Program Management/Support
R424	Expert Witness
R499	Other
R612	Information Retrieval
R710	Financial
S206	Guard

Table 2: SEC's Top Ten PSCs

When reviewed in total, there were only five Service Codes at the detailed level that represented the SECs top ten and the special interest product service codes. They are listed as follows with their agency information (Table 3):

Service Code – Detailed Level	Service Code Description	% Obligated	# of Contracts	Obligated Amount
D3	Information Technology and Telecommunications	33%	176	\$106,590,436.66
R4	Support – Professional	17%	394	\$55,637,990.71
R6	Support – Administrative	3%	18	\$10,847,522.52
R7	Support – Management	7%	28	\$21,247,483.50
S2	Housekeeping	2%	8	\$4,819,342.83
Totals		62%	624	\$199,142,776.22

Table 3: SEC's Detailed Level Service Codes

On December 31, 2013, SEC notified OMB of the areas planned for analysis in the FY 2013 inventory. While selecting the PSC's for review, SEC found that 50% of services funding fell into two of the detailed level services codes; D3 Information Technology and Telecommunications (33%) and R4 Support – Professional (17%). SEC selected four PSC's to analyze as part of the FY13 Service Contract Inventory. SEC focused analysis on the two PSC's where the agency obligated the most funds, one from the OMB Special Interest Functions that was not reviewed in the previous year and one from the top ten most funds that was not reviewed in the previous year. The functions selected were PSC D399 Other ADP Telecommunications, D301 ADP Facility Management, D310 ADP Backup and Security Services and R710 Management: Financial.

1. The Other IT and Telecommunications PSC D399 function was selected for review due to the dollar amount obligated under this area and because it was not reviewed last year. Approximately 13% (\$41,722,184.18) of the total service dollars were obligated under this PSC.
2. The Facility Operation and Maintenance Support Program/Management Support PSC D301 function was selected for review due to the dollar amount obligated under this area and because it was not reviewed last year. Approximately 8% (\$25,551,745.56) of the total service dollars were obligated under this PSC.
3. The Financial Management PSC R710 function was selected for review due to the dollar amount obligated under this area and because it was not reviewed last year. Approximately 4% (\$13,397,560.14) of the total service dollars were obligated under this PSC.
4. The Cyber Security and Data Backup PSC D310 function was selected for review due to the dollar amount obligated under this area and because it was not reviewed last year. Approximately 1% (\$2,570,292.02) of the total service dollars were obligated under this PSC.

Methodology

All four PSC analyses were conducted in the same manner. The analysis was accomplished in two steps. First, the team reviewed the Statement of Work for each of the 92 contracts that remain current within the PSCs to determine if inherently governmental functions were being performed and the approximate number of full time employee equivalents. Contract that were only for closeout which had expired and no work performed during FY 2013, were omitted from the survey. Second, the analysis team surveyed and interviewed the Contracting Officer Representatives (CORs) for 82 contracts being reviewed. The additional ten contracts not reviewed were due to the contracts having been closed since FY 2013 and the COR is no longer available. A new COR was not assigned to these awards since they were closed. The surveys and interviews were conducted to determine the following: if the contractor was performing

inherently governmental functions; if there are sufficient government personnel for oversight of the contractor's performance; and if the contractor is performing critical functions.

Findings

It was determined from the review of the Statements of Work, surveys and COR interviews that the contractors were not tasked to perform inherently governmental functions or personal services. The contracts reviewed accounted for approximately 720 full time employee equivalents. The analysis also determined that the government possesses the expertise to perform oversight of the contractor's performance. There was a finding that in some areas, mainly IT, that CORs felt there may not have adequate personnel to perform oversight of the contractor's performance due to employee turn-over and changes in job duties.

The SEC conducted our inventory analyses in accordance with section 743(e) to ensure that:

- Each contract in the inventory that is a personal services contract has been entered into, and is being performed, in accordance with applicable laws and regulations;
- The agency is giving special management attention, as set forth in Federal Acquisition Regulation (FAR) 37.114, to functions that are closely associated with inherently governmental functions;
- The agency is not using contractor employees to perform inherently governmental functions;
- The agency has specific safeguards and monitoring systems in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- The agency is not using contractor employees to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations; and
- There are sufficient internal agency resources to manage and oversee contracts effectively.

PSC D399 IT and Telecom – Other IT and Telecommunications - \$41,722,184.18

The analysis was centered on 59 contracts which accounted for 94% of the dollars obligated under this PSC. The role these contracted services played were primarily for other functions, with only two serving critical functions and three for closely associated to inherently governmental functions. Between these five contracts, there were approximately nine full time employee equivalents.

PSC D301 IT and Telecom – Facility Operation and Maintenance Support – Professional: Program/Management Support - \$25,551,745.56

The analysis centered on five contracts which accounted for 100% of the dollars obligated under this PSC. The role these contracted services played were primarily for other functions, with only one for closely associated to inherently governmental functions. There were approximately seven full time employee equivalents contracted for on the contract containing closely associated to inherently governmental functions.

PSC R710 Support – Management: Financial - \$13,397,560.14

The analysis centered on 14 contracts which accounted for 100% of the dollars obligated under this PSC. The role these contracted services played were primarily for other functions, with only one for closely associated to inherently governmental functions. There were no full time employee equivalents as part of the contract containing closely associated to inherently governmental functions.

PSC D310 IT and Telecom – Cyber Security and Data Backup - \$2,570,292.02

The analysis centered on four contracts which accounted for 100% of the dollars obligated under this PSC. The role these contracted services played were all for other functions.

Actions Taken or Planned

Due to the concern of inadequate personnel (too few COR's) these findings were explored further. The finding was discussed with IT management to determine a path forward. In the past year, additional personnel have been hired and the workload has been more evenly distributed. Based on the analysis performed it has been determined that adequate controls are currently in place to ensure contractors are not performing inherently governmental functions, contractor's performance under the contract is satisfactory and there are adequate government personnel to perform oversight of the contractor's performance. No additional controls are found necessary to be incorporated into existing procedures.

Accountable Officials

The SEC's senior agency management official who is accountable for development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 addressing the performance of inherently governmental and critical functions is Vance Cathell, Director of the Office of Acquisitions. Mr. Cathell is also the official responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories.