



**Department of Veterans Affairs
Service Contract Inventory
Analysis Report
for Fiscal Year 2019**

Executive Summary
Department of Veterans Affairs
Service Contract Inventory
Fiscal Year 2019

The Service Contract Inventory (SCI) is mandated by the Office of Management and Budget (OMB), and Office of Federal Procurement Policy (OFPP) in a memorandum dated November 5, 2010, and reiterated in a SCI Memorandum, dated December 19, 2011. These memorandums required a review of the Department of Veterans Affairs (VA) service contracts coded with special interest functions identified by OMB.

OMB directed agencies to undertake a meaningful analysis of the inventory data to determine whether there is an appropriate and effective use of contract labor. Agencies were also directed to determine if the mix of Federal employees and contractors are effectively balanced and to provide a report of findings to OMB. Observations presented in this report are based on a review of VA selected contract actions and data elements prescribed by OMB.

VA identified 1,061 contract actions, representing 17 special interest functions with large percentages of obligations in fiscal year (FY) 2019 or functions specified by OMB.

As required by OMB, the analysis focused on determining how well VA is managing service contracts in the following six areas of interest:

- Each contract in the inventory coded as a personal services contract 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 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.

The analysis showed that contractors are utilized in an appropriate manner and that the contracted services effectively support VA's mission and operations. The analysis

further showed that in keeping with Federal requirements, the primary reasons for service contract awards in FY 2019 were to obtain a highly technical and/or specialized skills not found within the government, or because of government staffing limitations or to fulfill short-term service requirements.

In a continuous effort to effectively balance contracted and government resources, aside from taking the below actions, VA will continue to evaluate the extent to which contract awards within these functions leverage existing Federal or Departmental enterprise contract vehicles or present future opportunities for strategic sourcing. Additionally, VA is:

- Continuously validating and updating acquisition policy and guidance to provide standardization and clarity across the agency;
- Updating the VA Acquisition Regulation - the VA supplement to the FAR - to improve the quality of procurements and better protect the interests of the government;
- Developing a VA Acquisition Manual that will include procedures, guidance, and information that will define inherently governmental functions that may be unique to VA. This guidance will require even greater strengthening of oversight of contracts for functions closely associated with inherently governmental functions, and critical mission functions;
- Maintaining an official website to provide VA's acquisition community with a single-source location to receive current and relevant information and guidance related to procurement policy; and
- Engaging stakeholders through the procurement policy outreach program that spans the full spectrum of procurement and acquisition professionals within VA; to include presentations at the VA Acquisition Academy, briefings to the Heads of Contracting Activity (HCAs) and presentations to Senior Procurement Council members.

The review and analysis of the FY 2019 SCI data determined that all reviewed contracts and contract actions adhered to the key parameters set forth in OMB policy and procedures.

- No Personal Services Contracts were identified;
- There was special management attention to functions closely associated with inherently government functions;
- No contractors were used to perform inherently governmental functions;
- Safeguards and monitoring systems were in place to ensure contractor work did not expand to include governmental functions;

- Contractors did not perform critical functions in ways that affected the ability of VA to maintain control of missions and operations, and;
- There were sufficient VA internal resources to effectively manage and oversee contracts.

Finally, the analysis showed that VA has an appropriate mix of Federal employees and contractors, and no contract requirements were identified that should be considered for conversion to performance by Federal employees in accordance with agency insourcing guidelines required under section 739 of Division D of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2030) as amended by section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, Division D) and OMB Memorandum M-09-26, Managing the Multi-Sector Workforce.

**Department of Veterans Affairs
Service Contract Inventory Analysis Report
Fiscal Year 2019**

1. Background: The Department of Veterans Affairs (VA), is an agency subject to section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Public Law 111-117, and is required to develop an inventory of the agency's service contracts.

2. Methodology: VA used the functions outlined by the Office of Management and Budget (OMB) in the November 5, 2010 memorandum and reiterated in the December 19, 2011 memorandum, to develop the inventory analysis sample. The total population size for the FY 2019 Service Contract Inventory (SCI) records was 18,922; the total number of contract actions identified as special interest functions was 1,061.

VA's FY 2019 Service Contract Inventory and Inventory Summary will be posted on VA's official website at: <https://www.va.gov/oal/business/pps/scalInventory.asp>. VA selected contract actions from within the special interest functions that represent a large percentage of obligations or functions specified by OMB. VA derived a sample of 75 contract actions which represented 5.6% of the total population of contract actions identified as special interest functions. High dollar value contract actions were then selected for each of the selected codes to ensure acceptable representation within the sample population based on dollars obligated. The special interest functions represented in the sample are identified in the Table below. The "\$ Value" column represents total dollars obligated on reportable contracts for each of the special interest service codes as of FY 2019.

Special Interest Codes					
Code	Description	# of Contracts	\$ Value	Sample	Sample \$
B505	Special Studies/Analysis - Cost Benefit	1	\$ 325,000.00	1	\$ 325,000.00
D302	IT and Telecom - Systems Development	9	\$ 65,403,036.29	1	\$ 16,759,976.64
D307	IT and Telecom - IT Strategy and Architecture	10	\$ 41,255,272.17	1	\$ 6,624,424.09
D310	IT and Telecom - Cyber Security and Data Backup	16	\$ 411,303,415.61	1	\$ 61,155,454.86
D314	IT and Telecom - System Acquisition Support	5	\$ 189,543,706.52	2	\$ 187,595,143.20
R406	Policy Review/Development Services	8	\$ 84,424,504.30	1	\$ 11,095,955.00
R407	Program Evaluation Services	0	\$ -	0	\$ -
R408	Program Management/Support Services	181	\$ 1,095,163,017.12	14	\$ 197,441,301.21
R409	Program Review/Development Services	0	\$ -	0	\$ -
R413	Specifications Development Services	8	\$ 25,089,547.58	1	\$ 6,504,347.72
R414	Systems Engineering Services	0	\$ -	0	\$ -
R423	Intelligence Services	0	\$ -	0	\$ -
R425	Engineering and Technical Services	95	\$ 343,232,701.53	8	\$ 92,792,655.17
R499	Support - Professional: Other	465	\$ 3,373,420,828.96	34	\$ 1,554,890,085.04
R699	Support - Administrative: Other	85	\$ 594,225,669.01	2	\$ 227,786,052.63
R707	Management Services/Contract and Procurement Support	19	\$ 55,816,222.57	2	\$ 25,366,390.46
R799	Support - Management: Other	159	\$ 1,222,124,244.13	7	\$ 107,968,546.72
Total		1061	\$ 7,501,327,165.79	75	\$ 2,496,305,332.74

The Procurement Policy and Warrant Management Service (PPS) identified a sample of 75 contracts with the VA special interest codes. The list of contracts and the survey questions were sent to the VA Heads of the Contracting Activity (HCAs). The HCAs' Contracting Officers (COs) were instructed to answer the questions for each of the 75 SCI contracts and to validate the information that was being uploaded by contractors. PPS reviewed a sample of contract file documents supporting the CO survey responses.

This process consisted of reviewing and analyzing contracts and contract file information related to these six OMB focus areas:

- Each VA personal service contract is being performed in accordance with applicable laws and regulations;
- An evaluation of whether VA is giving special management attention, as set forth in FAR 37.114 (b), to functions that are closely associated with inherently governmental functions;
- A determination of whether VA is not using contractor employees to perform inherently governmental functions;
- To confirm VA has specific safeguards and monitoring systems in place to confirm that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- An analysis to ensure VA is not using contractor employees to perform critical functions in such a way that could affect the ability of VA to maintain control of its mission and operations; and
- An assessment to ensure there are sufficient internal VA resources to manage and oversee contracts effectively.

3. Analysis and Observations:

a. Each contract that is a personal services contract has been entered, and is being performed, in accordance with applicable laws and regulations.

As described in FAR Subpart 37.104, a personal services contract is characterized by the employer-employee relationship it creates between the government and the contractor's personnel. The government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Unless specifically authorized by statute, VA is not to award personal services contracts.

Based on the review of file information and the survey responses received, it was determined that no VA service contracts within the sample size of 75 were personal in nature. Review and analysis of the data call responses and contract files for the sampled contracts found no indications of contractors integrating into VA's organizational structure during the execution of their services in a manner that

constitutes a personal services contract. The review showed that service contracts in the sample were necessary to obtain highly technical and/or specialized skills not found within the government, or because of government staffing limitations or to fulfill short-term service requirements.

b. The agency is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions.

In accordance with FAR Subpart 37.114 – Special Acquisition Requirements - and Subpart 7.5 - Inherently Governmental Functions. Agencies must ensure that,” (1) a sufficient number of qualified government employees are assigned to oversee contractor activities, (2) a greater scrutiny and an appropriate enhanced degree of management oversight is exercised, (3) all contract personnel ... identify themselves as such or that contractor participation is appropriately disclosed.”

Within the sample, eleven (11) percent of contract actions contained functions that could be considered closely associated with inherently governmental functions. The contracts reviewed were Product Service Codes (PSC) for Program Management Support, Management Support, Administrative Support and Professional Support. The contractors were fulfilling services based on their industry experience and provided highly technical and/or specialized skills not found within the government, or because of government staffing limitations or to fulfill short-term service requirements. The services do not include inherently governmental functions as defined in the FAR.

VA provides special management attention to functions that are closely associated with inherently governmental functions. In one case where the contractor is providing claims processing and a customer service contact center, VA provides the contractor with business rules to make eligibility decisions, any exceptions to business rules or judgement calls are referred to VA for determination. Additionally, quality review teams pull samples to audit, and subsequent steps in processing the claims provide additional review. On a different contract, for Occupational Safety risk identification and reduction, the VA program office develops the script that outlines the contractor's agenda and communication parameters with the VA facilities.

c. The agency is not using contractor employees to perform inherently governmental functions.

In accordance with FAR subpart 37.114 and subpart 7.5, contractors shall not perform inherently governmental functions, defined in FAR 2.101 as “... a function that is so intimately related to the public interest as to mandate performance by Government employees.”

The review did not find any instances of contractor employees performing inherently governmental functions. Contractors did not provide final approval of financial or acquisition documents on behalf of the government. Contractors did not determine agency policy, such as determining the content and application of regulations. Government officials in the offices receiving contractor support provide the necessary managerial attention to ensure contractors are not performing inherently governmental

functions. The analysis of the sample showed a correct level of understanding by VA procurement and requirements officials as to the appropriate roles and responsibilities of contractor employees concerning inherently governmental functions. The services provided by contractors were not inherently governmental functions.

d. 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 inherently governmental functions.

Survey results confirm specific safeguards and monitoring processes are in place demonstrating the work that contractors are performing has not changed or expanded during the contract performance period to become inherently governmental. As an example, the requiring activity's operational staff can manage any contractor support consistent with its responsibility to perform inherently governmental functions and maintain control of its mission and operations by conducting monthly evaluations.

A robust training and communication network are also available through the Enterprise Acquisition Systems Service and the VA Acquisition Academy to provide training, exchange ideas and provide guidance to the acquisition community. There are enough qualified Federal employees assigned to the active contracts to ensure sufficient oversight of contractor performance.

Based on contract file reviews and survey responses from contracting officers, it was determined that VA has appropriate safeguards and monitoring systems in place to prevent any change or expansion of contractor work from becoming inherently governmental. The analysis concluded that work being performed by the contractors had not changed or expanded to include inherently governmental functions. Contractors cannot perform inherently governmental functions such as providing final approval on healthcare claims.

e. 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 operation.

The analysis of contract file documents and data call responses revealed no indication that contractor employees are being used to perform critical functions in such a way that could affect the requiring activity's ability to maintain control of its mission and operation.

Within the sample population, contractor performance of critical functions, as defined in Office of Procurement Policy (OFPP) letter 11-01, is tightly controlled by VA. One contract provides acquisition management support in a limited amount; VA still has enough internal acquisition management support capability to maintain control of its mission and operation. Another contract provides change management support to help VA resolve certain Government Accountability Office audit findings more quickly than VA could on its own; the contractor support is helpful, but VA is maintaining control of the resolution/improvement effort.

Where contractors must perform critical mission functions, VA's requiring activities ensure control of their missions and operations through frequent monitoring of contractor performance, placement of government employees in positions to oversee and manage the contractors, or by transitioning contractor positions into permanent government employee positions. HCAs are advised of the need to continue to closely monitor these contracts, as budgets permit.

f. There are sufficient internal agency resources to manage and oversee contracts effectively.

VA's primary method of contract oversight is through the Contracting Officer's Representative (COR) who is appointed to ensure contractor compliance with the terms and conditions of the contract. All services performed by contractor employees are monitored by government employees. The work is monitored through the Electronic Contract Management System and the contractor provides frequent reports on work accomplished.

On one of the 75 contracts reviewed, the contracting officer indicated that a second COR should be assigned; the requiring activity has personnel with the appropriate training and expertise, so the CO intends to assign a second COR. The overall analysis indicates that VA has sufficient internal agency resources to manage and oversee contracts effectively.

VA continues to look for ways to increase the quality of oversight through proper training and awareness. The survey responses showed evidence of heightened attention to contract file completeness. Based on these findings and part of an agency initiative to ensure 100% file completeness, HCAs will be made aware of isolated discrepancies to take the necessary corrective action to remedy identified problems.

4. Conclusion: The review and analysis of the FY 2019 SCI data concluded that VA's contracted services adhered to the key parameters of OMB's six focus areas of assessment. The analysis indicated that contractors were utilized in an appropriate manner and contracted services effectively supported VA's mission and operations. The analysis revealed contracts were awarded to obtain highly technical and/or specialized skills not found within the government, or because of government staffing limitations or to fulfill short-term service requirements.

In an ongoing effort to improve, VA is:

- Continuously validating and updating acquisition policy and guidance to provide standardization and clarity across the agency.
- Updating the VA Acquisition Regulation - the VA supplement to the FAR - to improve the quality of procurements and better protect the interests of the government;
- Developing a VA Acquisition Manual that will include procedures, guidance, and information that will define inherently governmental functions that may be unique to VA. This guidance will require even greater strengthening of oversight of

contracts for functions closely associated with inherently governmental functions, and critical mission functions;

- Maintaining an official website to provide VA's acquisition community with a single-source location to receive current and relevant information and guidance related to procurement policy; and
- Engaging stakeholders through the procurement policy outreach program that spans the full spectrum of procurement and acquisition professionals within VA; to include presentations at the VA Acquisition Academy, briefings to the HCAs and presentations to Senior Procurement Council members.

The results of the review and analysis of the FY 2019 SCI revealed that all reviewed contracts adhered to the key parameters set forth in OMB policy and procedures. The following were noted:

- No Personal Services Contracts were identified;
- The agency gives special management attention to functions closely associated with inherently government functions;
- The agency is not using contractor personnel to perform inherently governmental functions;
- Safeguards and monitoring systems are in place to ensure services performed by a contractor had not changed or expanded during performance to become an inherently governmental function;
- The agency is not using contractor personnel for critical functions in such ways that could jeopardize the ability of VA to maintain control of missions and operations, and;
- There are sufficient VA internal resources to effectively manage and oversee contracts.

As a final point, VA has an appropriate mix of Federal employee and contractors, and no contract requirements were identified that should be considered for conversion to performance by Federal employees in accordance with agency in-sourcing guidelines required under section 739 of Division D of the Consolidated Appropriations Act, 2008 (Public Law 110-161) as amended by Section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, Division D) and OMB Memorandum M-09-26, Managing the Multi-Sector Workforce.

Responsible Officials:

In accordance with OMB guidance, VA designated accountable officials to help ensure appropriate management attention and responsiveness. Sheila P. Darrell, Director, Procurement Policy and Warrant Management Service is responsible for SCI-related policy and Forrest R. Browne, Senior Procurement Analyst, is responsible for managing the SCI process.