



FMCS

FEDERAL MEDIATION & CONCILIATION SERVICE

Federal Mediation and Conciliation Service FY2015 Service Contract Inventory Analysis

Background

The Federal Mediation and Conciliation Service (FMCS) is an independent agency of the federal government established by Congress in 1947 to help employers and unions avoid costly work stoppages and minimize their potentially devastating effects on regional or national commerce. The FMCS, headquartered in Washington, D.C., has mediators located in over 60 field offices and ten regional offices across the country and is best known for its history of successful and innovative advances in labor-management collaboration, joint problem-solving and the resolution of major collective bargaining disputes. In 1996, Congress recognized this record for pioneering dispute resolution techniques and highly skilled professional mediators and called upon the FMCS to help other federal, state and local agencies minimize costly litigation by resolving disputes arising under their jurisdictions.

Thus, while the FMCS fulfills its statutory obligations by mediating collective bargaining disputes and by assisting employers and unions in developing collaborative problem-solving relationships, it also provides federal agencies with a wide variety of alternative dispute resolution services. In all aspects of its work, the FMCS seeks to minimize the potential for and the impact of work stoppages and to promote improved labor management relationships and organizational effectiveness.

Special Interest Functions

This memorandum serves as the report for the FMCS analysis of the FY 2015 service contract inventory and the use of contractors for special interest functions. When we conducted a review of our inventory, two categories represented the majority of dollars spent in FY 2015: Automated Information Systems Services (D307) and Personal Service Contracts (R497). The total amount of special interest functions are \$1,044,807. Funding for Automated Information Systems primarily consisted of the agency redesign of the Internet and Intranet and other software purchases to support agency functions. The Personal Services received this fiscal year include specialized business support and conference planning.

PSC	Special Interest Functions	Number of Contracts for PSC	Total for FY2015
D307	IT AND TELECOM- IT STRATEGY AND ARCHITECTURE	10	\$ 815,147.09
R497	SUPPORT- PROFESSIONAL: PERSONAL SERVICES CONTRACT	3	\$ 229,660.00

Twenty-one (21) service contracts totaling \$1,566,857.77 were reviewed by Administrative Office staff. FMCS gives special attention as set forth in FAR 37.114, to avoid contracting for functions that are closely associated with inherently governmental functions.

Methodology

FMCS has a small number of service contracts to manage and all contracts were reviewed by Administrative staff which includes a Contracting Officer (CO) and a Contracting Officer Representative (COR). Throughout the lifecycle of the contract, the assigned COR is responsible for monitoring and evaluating performance, ensuring both that the services are completed in accordance with the terms of the contract and the performance of service meets government standards.

Findings

FMCS has determined that the service contract employees performing under these contracts are not performing any Inherently Governmental Functions, any Functions Closely Associated to Inherently Governmental Function, or any Critical Functions.

§ 743(e) Review Responsibilities	FMCS review results
(i) 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.	<i>Personal service contracts are managed by a COR and a CO.</i>
(ii) The agency is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions.	<i>None of the contractors are performing closely associated with inherently governmental functions.</i>
(iii) The agency is not using contractor employees to perform inherently governmental functions.	<i>Contractors are not performing inherently governmental functions.</i>
(iv) 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.	<i>Each contract is assigned a certified COR, who continuously reviews and monitors contractor performance to ensure that mission overlap does not occur.</i>
(v) 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.	<i>Contractors do perform important functions but FMCS has concluded that it has sufficient internal expertise both to maintain control of its operations and to manage the contractors that are supporting the federal employees.</i>
(vi) There are sufficient internal agency resources to manage and oversee contracts effectively.	<i>FMCS administrative staff has sufficient internal expertise of IT and support services to oversee and manage these contracts.</i>

Actions Taken or Planned

Consistent with the findings, FMCS determined no insourcing of work was necessary. FMCS will continue to carefully manage and monitor its contracted work in accordance with law, regulation, and policy – including the new guidance set forth in OFPP Letter 11-01, that addresses which contracts may require increased management attention and oversight to ensure that mission creep does not result in contractors performing inherently governmental functions and ensure that the agency does not lose control of its missions and operations.

During this review, we have not identified contract issues requiring corrective actions.

Responsible Officials

Official responsible for the development of agency policies, procedures and associated training.	Cynthia Washington Head of Contracting Activity (HCA) Supervisor, Administrative Services
Official responsible for ensuring appropriate internal management of service contract inventories.	Cynthia Washington Head of Contracting Activity (HCA) Supervisor, Administrative Services