

Service Contract Report

Guiding Principles

- Understanding how contracted services are being used to support mission and operations.
- Are the contractors' skills being utilized in an appropriate manner?
- Gain insight into where, and the extent to which, contractors are being used to perform activities by analyzing how contracted resources are distributed by function and location across the agency and within its components.
- Help an agency determine if its practices are creating an over-reliance that requires increased contract management or rebalancing to ensure the government is effectively managing risks and getting the best results for the taxpayer.
- Ensure that contractor employees do not perform inherently governmental functions.
- Ensure agency is resource loaded to efficiently oversee and manage the contracts effectively.

References

[Section 743 of Division C of the Fiscal Year \(FY\) 2010 Consolidated Appropriations Act, P.L. 111-117](#)

Government Accountability Office (GAO)

- [GAO-12-1007](#) (September 2012) report, "*Civilian Service Contract Inventories: Opportunities Exist to Improve Agency Reporting and Review Efforts*"

Federal Acquisition Regulation (FAR)

- [Subpart 4.17](#) – Service Contracts Inventory

System for Award Management (SAM)

- [Quick Start Guide for Service Contract Reporting](#)

Department of Energy (DOE)

- Memorandum dated July 25, 2013, Development and Analysis of Service Contract Inventories
- Memorandum dated October 17, 2014, Development and Analysis of Service Contract Inventories - 2014
- Memorandum dated November 9, 2015, Development and Analysis of Service Contract Inventories - 2015

- [Class Deviation Findings And Determination - 970.5244-1](#)

Purpose

This document defines the DOE's approach to conducting the annual Service Contract Report (SCR) and analysis of the inventory, to include its features, functions, and objectives, and the steps necessary to institutionalize the SCR within the DOE.

Overview

Section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117) requires executive agencies covered by the Federal Activities Inventory Reform (FAIR) Act (Pub. L. 105-270), except for the Department of Defense, to prepare an annual inventory of their service contracts and to analyze that inventory to determine if the mix of Federal employees and contractors is effective or if rebalancing may be required. Service contract inventories can assist agencies in better understanding how contractors are being used to support their mission and operations and whether contractors are being used appropriately. Contractors are required to enter the amount invoiced and the direct labor hours expended on covered contracts in the SAM.

Background

The DOE approach will be performed in accordance with the criteria set out in Section 743 and OMB guidance with the help of the Heads of Contracting Activity (HCA), and will ultimately identify contracts for a more in-depth review.

The DOE will take the following steps in the process of its analysis:

- Step 1: The Office of Acquisition Management (OAM) will identify the list of special interest functions by Product and Service Code (PSC) for contracts to be reviewed.
- Step 2: HCAs identify contracts with the identified special interest function PSCs for in-depth review
- Step 3: HCAs evaluate contracts in accordance with policy and guidance.
- Step 4: HCAs report results of evaluation to OAM for consolidation (see attached Sample Report for format).
- Step 5: OAM reports consolidated results of analysis to OMB.

In its report, GAO reviewed a sample of agencies' analyses of their FY 2010 inventories and identified several practices that could help to improve the quality of analyses in determining the effective and appropriate use of contractors. Specifically, GAO recommended -

- Fully describe the scope of the inventory reviews, including information such as the number of contracts and the percentage of contracts reviewed for each PSC selected and the total universe of contracts;

- Report on the number of contractor personnel and functions that were involved with the workforce issues identified during their inventory reviews; and
- Include the status of efforts to resolve findings identified in previous reviews until they are resolved.
- OMB work with agencies to monitor and improve compliance with the Act and to clarify guidance for compiling and reporting their inventory.

Requirements

In accordance with section 743(e), the inventory analyses shall include a review of the contracts and information in the inventory for the purpose of ensuring 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 activity is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions;
- The activity is not using contractor employees to perform inherently governmental functions;
- The activity 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 activity 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;
- There are sufficient internal agency resources to manage and oversee contracts effectively;
- Agencies must also identify contracts that have been poorly performed, because of excessive cost or inferior quality, and contracts that should be considered for conversion to performance by federal employees, also known as in-sourcing; and
- Each HCA must certify that their Contracting Officers (CO) have taken the appropriate steps to ensure compliance with FAR 4.17.

Each HCA must prepare a report (see attached Sample Report for format) suitable for public disclosure that discusses the analysis of the annual service contract inventory and the use of contractors for the special interest functions that have been selected to study. The report should address –

1. **Scope.** Describe the special interest functions studied by the activity, the dollars obligated to those specific PSCs and the rationale for focusing on the identified functions. The report should also describe how many contracts were reviewed, how the contracts were selected for review, and the percentage of obligations the contracts covered for the PSCs on which the review focused.

2. **Methodology.** Discuss the methodology used by the HCA to support the analysis (e.g., sampled contract files, conducted interviews of members of the acquisition workforce working on specific contracts of interest).
3. **Findings.** Summarize the findings, including a brief discussion of the extent to which the desired outcomes described in section 743(e)(2) are being met (e.g., 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). Where workforce issues are identified, the report should identify the estimated number of contractor personnel and/or labor resources involved (e.g., in “*full-time equivalents*”).
4. **Actions Taken or Planned.** Explain the steps the HCA has taken or plans to take to address any identified weaknesses or challenges. In addition, the report should describe follow up steps on actions in the previous inventory that were identified as pending or planned.

Timeline

As specified in the FAR Subpart 4.17, the following summary timeline is specified. OMB may modify the specific dates as required.

| | |
|----------------|--|
| October 1 | SAM opens for supplemental reporting |
| November 15 | Contractors complete initial data entry for inventory supplement reporting |
| November 30 | Contractors shall revise the inventory supplemental report, or document its rationale for the agency. |
| Dec 1 - Jan 15 | Agencies review contractor data and work with contractors to make revisions and fill gaps, as necessary. SAM closes for reporting. |
| January 1-15 | OMB provides the agencies a final report on the data entry and the supplemental spreadsheet for inclusion in the inventory report; agencies submit other parts of the inventory to OMB for review. |
| January 15 | OMB completes review of agency inventory reports, agencies post the documents on their public website and announce the availability of the inventories in the Federal Register. |

Frequently Asked Questions

On December 31, 2013, the FAR Council issued a rule, effective January 30, 2014, requiring contractors to begin reporting the total amount invoiced and the direct labor hours expended on the services performed under certain contracts. These changes are required by section 743 of Division C of the FY 2010 Consolidated Appropriations Act (P.L. 111-117).

The information is collected through the SAM and included in the agency service contract inventory. The information below should be provided to the contractors, who are encouraged to review the information and to make note of reporting dates and deliverables to ensure their compliance with the law and regulation.

What contracts are covered by the new Federal Acquisition Regulation (FAR) rule?

FAR 37.1 -- Service Contracts - Definitions - "*Service contract*" means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply.

Policy Flash 2015-17 Class Deviation - FAR subpart 4.17 is not applicable to DOE M&O contracts as they are not considered "*service contracts*." However, both the SCA and the newly effective service contract reporting and contractor minimum wage requirements are applicable to M&O subcontracts for services.

For Fiscal Year (FY) 2016 onwards, reporting is required according to the following thresholds (see FAR 4.1703).

- All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the simplified acquisition threshold.
- All fixed-price service contracts awarded or issued with an estimated total value of \$500,000 or greater.

Are subcontractors required to report?

First-tier subcontracts for services will be reported using the same thresholds (see FAR 4.1703).

How are indefinite-delivery contracts handled?

For indefinite-delivery contracts, reporting requirements will be determined based on the expected dollar amount and type of orders issued under the contracts. Indefinite delivery contracts include, but are not limited to, indefinite-delivery, indefinite-quantity (IDIQ) contracts, Federal Supply Schedule (FSS) contracts, Government-wide Acquisition Contracts (GWACs), and multi-agency contracts.

What is the purpose of collecting the information, including the invoiced amounts and direct labor hours?

Service contract inventories are a management tool that are designed to help agencies better understand how contractors are being used to support the mission and whether contractors' skills are being used appropriately. The agencies analyze the data to determine if the mix of Federal employees and contractors is effective or if rebalancing is needed. Information on the

total amount invoiced and the direct labor hours expended, when combined with other market research information and, where available, benchmarking data, can help to support agency efforts to eliminate costly duplicative service contracts in favor of more affordable solutions by providing insight into the relative cost-effectiveness and efficiency of contracted work.

Will the information on amount invoiced and direct labor hours be made public?

Yes. Consistent with section 743, agencies will include this information in their annual inventories, which also include a description of the work performed, the name of the vendor and the total dollar value of the contract.

What are the Contracting Officers responsibilities?

Per FAR 4.1704, for other than indefinite-delivery contracts, ensure the clause 52.204-14, Service Reporting Requirements, is included in solicitations, contracts, and orders. For indefinite-delivery contracts, ensure that clause 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts, is included in solicitations and contracts. The contracting officer at the order level shall verify the clause's inclusion in the contract.

When must contractors provide their data on amount invoiced and direct labor hours?

In accordance with the new rule, contractors performing on covered contracts must report their information between October 1 and October 31. Agencies are required to review contractor input and work with them to make revisions, if and as necessary, by November 30.

What happens if a contractor fails to work with the agency to provide the required data in a timely manner?

The contracting officer is expected to make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under FAR Subpart 42.15.

Where can I find the complete text of the rule for reporting on amount invoiced and direct labor hours?

The Federal Register notice was published on December 31, 2013. The link to the notice is <https://www.federalregister.gov/articles/2013/12/31/2013-31148/federal-acquisition-regulation-service-contracts-reporting-requirements>.

Point of Contact

For further information relating to the guidance contained herein, contact the Strategic Programs Division at (202) 287-1877.

Sample Report

Office Name

Development and Analysis of Service Contract Inventories - Fiscal Year 2015 Report

Scope:

The special interest functions considered included Product and Service Codes (PSC) D302, D314, D399, R408, R423, R425, R499 and R699 totaling approximately \$319 million or 80% of total Fiscal Year 2015 obligations. Seven contracts and eight delivery orders were reviewed based on the extent of services type efforts performed and the highest probability for an adverse finding, if any, should occur.

| Award Number | Vendor Name | PSC | Obligated Amount |
|--------------|---|--------------|-------------------------|
| DT0003143 | ACTIONET, INC. | R499 | \$175,137,317.02 |
| AU0000014 | GOLDEN SVCS, LL.C. | R499 | \$19,626,600.54 |
| IN0000069 | SYSTEMATIC MANAGEMENT SERVICES, INC. | R423 | \$17,124,852.96 |
| DT0002463 | VALUE RECOVERY HOLDING, LIMITED LIABILITY COMPANY | R408 | \$16,999,531.65 |
| DT0003246 | INSCOPE INTERNATIONAL, INC. | D302 | \$12,092,545.00 |
| EE0000002 | NEW WEST-ENERGETICS JOINT VENTURE, LLC | R425 | \$11,956,225.95 |
| DT0002457 | CRI ADVANTAGE, INC. | D314 | \$10,911,351.56 |
| EI0000515 | IMG-CROWN ENERGY SERVICES JOINT VENTURE | R408 | \$9,318,708.88 |
| HS0000018 | PARAGON TECHNICAL SERVICES, INC. | R499 | \$8,563,358.25 |
| HS0000088 | GET-NSA | R699 | \$8,484,899.09 |
| DT0002641 | HIGHLAND TECHNOLOGY SERVICES INC. | R499 | \$7,435,000.19 |
| EI0000567 | Z INC | R408 | \$6,739,201.92 |
| EI0000664 | CHENEGA GOVERNMENT CONSULTING, LLC | D302 | \$5,365,000.00 |
| DT0001916 | DELTA RESEARCH ASSOCIATES, INC | R423 | \$5,258,783.82 |
| DT0000088 | PROJECT ENHANCEMENT CORPORATION | R499 | \$4,971,751.74 |
| | | Total | \$319,985,128.57 |

Methodology:

Office conducted its analysis against the criteria required by Public Law 111-117, Section 743. An inventory of contracts was established based on the designated special interest functions identified in Attachment 2 of the DOE Memorandum for Heads of Contract Activity, Development and Analysis of Service Contract Inventories - 2015, dated November 9, 2015. Discussions were held with the cognizant **Office** contracting officer personnel regarding the management and oversight of the work performed under their respective contracts, as well as the current segregation of duties and responsibilities and direct interaction of participating Federal and contractor personnel.

Findings:

The outcome of the service contract inventory analysis resulted in the following findings:

1. None of the contracts are characterized as "personal services" as defined by the Federal Acquisition Regulation (FAR);
2. Contractor employees do not perform any inherently governmental functions;
3. Ongoing comprehensive monitoring and evaluations are

performed by Government personnel and the contractor performance requirements have not changed or been expanded to be classified as inherently governmental type functions;

4. Contractor employees are not performing critical functions that would affect the program's ability to maintain control of its missions and operations; and
5. Sufficient government personnel are available and assigned to manage and oversee contracts effectively without the need to rebalance the mix of Federal and contractor employees.

Actions taken or planned:

Office does not believe any further action or a more in-depth review is needed at this time based on the above noted Findings. Also, no weaknesses were identified during the analysis review of **Office's** service contract inventories. However, **Office** will continue to guard against any expansion of contractor work activities into inherently governmental and critical work functions.

Certification:

After considering the above, I hereby certify that the responsible **Office** Contracting Officers have taken the appropriate steps to ensure compliance with FAR 4.17, as applicable.