

US Environmental Protection Agency  
Meaningful Analysis of the Fiscal Year 2010 Service Contract Inventory



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**Executive Summary**

The attached report represents EPA's response to the Office of Management and Budget (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 to include 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 contract reviews, questionnaires sent to EPA's contracting officers/contracting officer representatives/other relevant personnel, follow-up in-person interviews, and detailed reviews of contract deliverables, ordering documents, technical direction, and facilities. EPA also reviewed its existing relevant internal guidance and policy, prior OIG reviews, and its existing training curricula for EPA'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 EPA's Chief Acquisition Officer, Senior Procurement Officer, and Chief Human Capital Officer.

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### **Background**

On December 16, 2009, Public Law 111-117, Fiscal Year (FY) 2010 Consolidation Appropriations Act, Section 743 of Division C, required civilian agencies to prepare an annual inventory of their service contracts. 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 Management and Budget (OMB) memorandum on Service Contract Inventories, November 5, 2010, provided final guidance to agencies to prepare their initial inventories covering service contracting in FY 2010. OMB required executive agencies to include all service contract actions over \$25,000 that were awarded in FY 2010. EPA had to report contract actions that were funded by EPA and include 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. Additionally, OMB required agencies to conduct a meaningful analysis of the data in their FY 2010 service contract inventories.

### **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. Furthermore, the analysis serves as a tool to assist managers in determining if the mix of federal employees and contractors in the Agency 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 2010 Service Contract Inventory as part of human capital planning. During the analysis, EPA issued surveys, researched OAM internal policies and procedures, reviewed contract files for management control documents, and conducted interviews of contracting officers (COs), contracting officers' representatives (CORs), task order project officers (TOPOs) and work assignment managers (WAMs).

In accordance with section 743(e)(2), agencies are required to conduct meaningful analyses of their inventories for the purpose of determining if contract labor is being utilized appropriately and if there is an effective balance between federal employees and contractors.

In the inventory report submitted to OMB on December 30, 2010, EPA identified the top 10 product service codes (PSCs) by contract obligations and included the 15 special interest PSCs that were designated by OMB. Of the 15 special interest PSCs, EPA selected to review those functional areas that were identified in OMB's guidance and had the potential to be inherently vulnerable.

### **Contracts Identification Process**

In order to select contracts for this analysis, EPA ran reports in its internal financial and contracting systems as well as FPDS-NG to identify contracts under those 15 special interest PSCs. EPA then selected the top five PSCs that represented the highest risk. Those five are shown in the table below:

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PSC	Description	Dollars Obligated
R407	Program Evaluation Services	\$ 2,873,838.36
R408	Program Management/Support Services	\$59,711,441.53
R425	Engineering and Technical Services	\$49,494,001.26
D302	ADP Systems Development Services	\$43,100,347.56
D314	ADP Systems Acquisition Support Services	\$13,996,157.32

Additionally, EPA selected two other categories that it identified as representing some risk in terms of inherently governmental functions as shown in the table below:

PSC	Description	Dollars Obligated
D314, R407, R408, R425	Advisory and Assistance	\$280,393,582.99
R499	Other Professional Services	\$105,834,745.90

EPA then added several additional contracts to ensure geographic diversity among its Headquarters and Regional offices. While these PSCs were outside of the core PSCs identified, they were still considered to represent some degree of risk:

PSC	Description	Dollars Obligated
S216	Facilities Support	\$21,134,929.63
R605	Library Services	\$28,531,972.46
R421	Technical Assistance	\$ 87,806,250.76
F108	Hazardous Substance Removal, Cleanup, and Disposal Services and Operation Support	\$306,180,268.13

Finally, using value as a secondary indicator of risk, EPA narrowed the set of contracts to be reviewed to contracts over \$1 million. This resulted in a total of 30 contracts for its in-depth, meaningful analysis.

**Meaningful Analysis Survey**

After identifying the contracts for analysis, EPA planned on contacting 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?

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To conduct the analysis, EPA developed a 29-question survey (see Attachment 1). We used relevant sections of the FAR, the EPA Acquisition Regulation (EPAAR), EPA's Contracts Management Manual (CMM) as well as OMB's guidance to formulate our questions. In addition, the survey included questions from EPA's Management Effectiveness Review (MER) program questionnaire, a biennial review of contracts that are considered vulnerable to improper personal services. The purpose of the survey was to determine if there were any potential issues such as:

- personal services,
- contractors performing inherently governmental functions,
- contractor's 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.

In May 2011, EPA distributed the surveys to the relevant contracting officers for the selected contracts.

In July 2010, the surveys were collected and reviewed for the aforementioned issues. We grouped the results of the surveys into three categories:

1. Full information received. No findings.
2. Full information received. Findings revealed.
3. Incomplete information received. Need additional information.

As a result of the initial review, the survey responses fell into either category 1 or 3; none of surveys fell into category 2. We followed up with in-person interviews of those contracts in category 3 (incomplete information received). After receiving complete information, those contracts ultimately fell into category 1. There were no findings for any of the issues addressed for any of the contracts surveyed.

We then decided to further the analysis to verify and test the existing internal control policies and procedures. We selected a sample of nine contracts that contained advisory and assistance services to perform a compliance test on the Agency's management controls policies and to determine whether or not the Agency's internal policies and procedures were being administered and adhered to in accordance with the CMM section 7.3 (Procurement Initiation, Vulnerable Services). We obtained the pre-award contract files to review the management control documents that were created for contract oversight and controls measures. We reviewed samples of the contractor's invoices to identify work assignments and orders that contained advisory and assistance services, IT services, and program management support services.

Once the work assignments and orders were selected, we created an additional questionnaire that related to the specific work being performed by the contractor (See Attachment 2). These questionnaires were distributed to the CORs and Program Offices for their responses. For local Washington DC offices, we conducted on-site interviews with the CORs, COs, and Managers. In one program office, we performed an on-site inspection of the contractors' office computers and electronic equipment that were located in the EPA facilities. The inspection revealed, among

other things, that appropriate signs were displayed to note the distinction between contractor offices and electronic equipment versus those that were for federal employees only.

As a result of our compliance testing of the nine contracts, we determined that the management controls established for each contract were being followed by the CORs and the program offices. Also, we noted that the existing internal policies and procedures on management controls provided 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:

EPA Contracts Management Manual (CMM), Chapter 3, Section 3.2, *Agency's Relationship with Contractors*, which provides guidance pertaining to the Management Effectiveness Review (MER). The MER is a biennial review of contracts that are considered vulnerable to improper personal services involving on-site support services contracts at EPA. These types of relationships could lead to situations where contractor employees perform services for federal employees that conflict with EPA's policies, Federal Acquisition Regulations, and other pertinent procurement laws. The objectives of the MER reviews are to (a) evaluate whether any unauthorized personal services activity is occurring under EPA contracts, (b) evaluate whether conditions may exist that create potential vulnerabilities for improper relationships between EPA staff and on-site contractors; and (c) develop and implement appropriate corrective actions, if deemed necessary.

The CMM, Chapter 7, Section 7.3.5.5, *Advisory and Assistance Services and Vulnerable 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, or research and development activities. For contracts that involve AAS, EPA requires the project officer 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 CMM, Chapter 3, Section 3.1, *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.

EPA also has a new internal controls program designed to enhance the quality of the Agency's contracting function overall. OAM is implementing a Balanced Scorecard (BSC) performance measurement and performance management program (PMP) as the methodology for assessing the Agency's acquisition-related business functions. The PMP 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

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applicable statutes, regulations, and contract terms and conditions. Through the utilization of the BSC, the Agency will be better positioned to strengthen its acquisition systems and its workforce. A copy of the EPA Balanced Scorecard Performance Measurement and Management Program Guide is included as Attachment 2. See Parts 7 and 8 of the Guide for details on the BSC Assessment Plan and Reporting.

Based on the results of our analysis, we have concluded that OAM's procurement policies and procedures are comprehensive and provide assurance of effective management controls for our resources and service contractors. OAM policies are provided to prohibit improper relationships with contractors and federal employees, to prohibit contractors from performing inherently governmental functions, and to prevent unauthorized personal services. In addition, EPA's acquisition workforce training curriculum for COs, CORs, and others was reviewed and has been determined to be sufficient to address these issues.

In addition, to ensure proper orientation of all EPA personnel to the acquisition function, including the proper use of service contracts EPA has recently published the following educational brochures:

- Acquisition Guide for Executives
- Procurement Integrity
- Support Service Contracts

These brochures have been distributed to all EPA employees.

The principles and guidance contained in these brochures are referenced in the EPA's most recent version of Agency-wide mandatory "Ethics Training."

### **Review of Reports**

Our office reviewed all of the EPA Office of Inspector General (OIG) reports that pertain to contract management, information resource management, grants and the American Recovery and Reinvestment Act. The OIG reports did not address any issues concerning Agency use of contractor employees to perform critical functions that could affect the ability of the Agency to maintain control of its mission and operations.

In addition, we reviewed the EPA's most recent Office of Administration and Resource Management's (OARM) OIG Management Effectiveness Review report dated July 31, 2009. The results of the 2009 MER reports disclosed no substantial findings that required corrective action.

### **Contractor Support**

Our office did not rely on any contractor support in conducting the analysis or in the preparation of this report.



**Conclusion: Meaningful Analysis Findings**

As described above, in this meaningful analysis EPA found that appropriate safeguards and conditions existed for all 30 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.

Thus, there are no adverse findings to report regarding EPA's service contracts.

**Recommendations and Action Items**

Based on our analysis, there were no significant findings suggesting that any functions currently performed by contractors should be recommended for in-sourcing or conversion of contractor contract work year equivalents (CWYE) to the agency's full-time equivalents (FTEs). In addition, our analysis did not uncover any significant findings that would suggest functions, currently performed by EPA program offices, should be recommended for outsourcing.

EPA is always looking for ways to improve and streamline its contracting function. As part of its ongoing self-assessment and improvement, EPA is in the process of revamping its existing COR program in order to make it more comprehensive. EPA intends to create a structure similar to the model program which is highlighted by OFPP. The program will consist of four components: (1) development, (2) resources and tools, (3) incentives, (4) policies and procedures. OAM recognizes that the CORs play a critical and direct role in contract placement and management. Therefore, OAM plans to implement a strong agency COR program that prepares CORs to plan and monitor contract performance successfully.

This report was coordinated through EPA's Director of the Office of Administration and Resource Management, who is the Chief Acquisition Officer and the Chief Human Capital Officer, and the director of the Office of Acquisition Management, who is the EPA's senior procurement executive.

**Attachments:**

1. Survey Questionnaire
2. Additional Survey Questionnaire
3. Balanced Scorecard Program (See Sections 7 and 8, Assessment Plan and Assessment Report)
4. EPA Support Service Contracting Guide
5. EPA Procurement Integrity Guide
6. An Acquisition Guide for Executives