

Federal Communications Commission

Analysis of FY 2010 Service Contract Inventory

Section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, P.L. 111-117, requires civilian agencies to prepare an annual inventory of their service contracts and to analyze the inventory to determine if the mix of Federal employees and contractors is effective or if rebalancing may be required. Pursuant to Section 743 and associated guidance from the Office of Management and Budget (OMB), the FCC performed the following analysis of its Fiscal Year (FY) 2010 Service Contract Inventory, which is available on the FCC's website at:

<http://www.fcc.gov/encyclopedia/service-contract-inventory>.

1. Special interest functions studied by the agency, the dollars obligated to those specific product and service codes (PSCs) in FY 2010, and the rationale for focusing on the identified functions

When the FCC analyzed its FY 2010 Service Contract Inventory against the special interest functions identified in OMB's November 5, 2010 guidance,¹ the FCC found that its greatest percentage of obligations were in D302 (ADP Systems Development Services) and D307 (Automated Information Systems Services). For D302, the FCC reported a total of \$26,566,327.55 dollars obligated in FY 2010, and for D307, the FCC reported a total of \$30,443,388.04. In addition, the FCC identified that it had obligated a total of \$1,532,821.33 for the special interest function, D310 (ADP Backup and Security Services). See Appendix C (Standard Inventory Summary) from the FCC's FY 2010 Service Contract Inventory Analysis for additional information.²

The FCC determined from a review of its FY 2010 Appendix B data (Standard Inventory)³ that the contracts in the D302 and D307 product service codes were primarily comprised of its largest contracts for information technology services. The contracts in the D310 product service code, although smaller in size, were also for information technology related services. Based on this understanding, the FCC embarked on an effort to work with its Information Technology Center to determine which contracts needed to be analyzed.

In addition to the special interest functions noted above, the FCC focused its remaining analysis on other professional services contracts administered by its Office of Managing Director, which includes not only its information technology contracts but also financial, administrative, and human resources related contracts. The services contracts supporting the aforementioned functions of the Office of the

¹ OMB November 5, 2010 guidance available at:

<http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>.

² Appendix C (Standard Inventory Summary) available at: <http://www.fcc.gov/encyclopedia/service-contract-inventory>.

³ Appendix B (Standard Inventory) available at: <http://www.fcc.gov/encyclopedia/service-contract-inventory>.

Managing Director represent the majority of the FCC's contract dollars associated with professional services.

2. Methodology used by the agency to support its analysis (e.g., sampled contract files, conducted interviews of members of the acquisition workforce working on specific contracts of interest)

Based on the analysis of its special interest functions and the FCC's own understanding of its professional service contracts, the FCC's contracts team collaborated with the FCC's Administrative Operations group, Financial Operations Center, Information Technology Center, and Human Resources Management group. While the services provided by the vendors that support these various functions in the FCC differ by contract, the groups involved in the analysis realized that the FCC needed a uniform way to evaluate the contracts. By collaborating across these various divisions in the FCC's Office of Managing Director, the FCC was able to establish a uniform methodology by which to review its contracts as required by Section 743.

The methodology is based on the criteria identified in Appendix D of OMB's November 5, 2010 guidance as well as in Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions.⁴ Through the use of a series of questions for each function of the contractors in each contract, the various groups in the FCC's Office of Managing Director reviewed the contracts under their control for the following issues:

- (i) For any contract in the inventory that is a personal services contract, evaluating whether the contract was entered into, and is it being performed, in accordance with applicable laws and regulations;
- (ii) Determining whether the agency is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions;
- (iii) Ensuring the agency is not using contractor employees to perform inherently governmental functions;
- (iv) Determining whether 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;
- (v) Ensuring 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
- (vi) Evaluating whether there are sufficient internal agency resources to manage and oversee contracts effectively.

Contract leads for each of the selected contracts used the agreed upon methodology to review the work of their contractors by function and the issue areas listed above. Based on the initial analyses that each of the teams performed, the teams collaborated with each other to discuss issues that had arisen

⁴ OFPP Policy Letter 11-01 is available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23165.pdf>.

from their early efforts. Using the feedback gained through these discussions, the various organizational units re-evaluated their initial analyses before finalizing them.

3. Agency 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)

The FCC determined through its review that there are contracts with functions performed by contractors that are closely associated with inherently governmental functions. As a result of this effort, the FCC was able to take a better look at the internal controls that it has in place in those contracts with work closely associated with inherently governmental functions to determine whether that work is being given special management attention. Based on the initial reviews, the organizational units, which reported that their contracts had work being performed by contractors that is closely associated with inherently governmental functions, were also able to report that they were taking appropriate precautions. Beyond this issue, the FCC did not find that it has work being performed by contractors that is inherently governmental, nor did it find that it was over reliant on contractors in a way that could impact the FCC's ability to maintain control of its mission and operations.

4. Actions taken or planned by the agency to address any identified weaknesses or challenges

The FCC found this process to be helpful in evaluating the roles and responsibilities involved in its professional services contracts. The exercise of developing a methodology yielded valuable discussion across various FCC organizational units about their practices and understanding of the issues surrounding inherently governmental functions and critical functions. Ultimately, the FCC's analysis yielded the positive result that there were not any significant weaknesses identified in its use of professional service contracts. Going forward, the FCC will continue to monitor its contracts where functions being performed by contractors are closely associated with inherently governmental functions. These functions require special management attention. The FCC will also work to ensure that its contracts have sufficient oversight and direction from FCC staff to ensure that their functions do not expand towards inherently governmental work. Finally, the FCC is sensitive to the issue of the agency being able to maintain control of its mission and operations when it relies on contractors to perform important functions for the agency's day to day operations. The FCC will continue to monitor contracts that perform support functions that are important to the FCC's operations to ensure that the FCC does not put itself at risk of being unable to maintain control of its operations.