

The U.S. Small Business Administration Service Contract Inventory Analysis of FY 2010 inventories

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Background

Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117 requires civilian agencies subject to the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501) to prepare an annual inventory of their service contracts. The Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP), issued a memorandum on November 5, 2010 to provide guidance to federal agencies on preparing their initial inventories of service contracting for fiscal year (FY) 2010. In December 2010, the U.S. Small Business Administration (SBA) issued its initial inventory of all its services contracts. SBA submitted this service contract inventory (SCI) for the FY 2010 period to OMB. The SCI was also made available at <http://www.sba.gov/content/service-contract-inventory> and a notice of its availability was published in the Federal Register.

Since this initial posting, SBA conducted a meaningful analysis of the Agency's Service Contract Inventory (SCI) in compliance with the November 5, 2010 OMB memo. The following is the final analysis, which was conducted in accordance with that original memo and more recent December 19, 2011 guidance.

Methodology

Selecting Contracts to Analyze

In its initial guidance, OMB directed agencies to conduct a meaningful analysis of their SCIs for the purpose of determining if contract labor is being used in an appropriate and effective manner and if the mix of federal employees and contractors in the agency is effectively balanced. OMB advised that agencies should give priority consideration to special interest functions, which are those that require increased management attention due to heightened risk of workforce imbalance. OMB identified 15 product service codes (PSCs) that possibly would merit heightened management consideration, based on concerns of increased risk of losing control of mission and operations. Eleven of these functions were in the fields of Professional and Management Services and four functions were within Information Technology Support Services.

For conducting their individual analyses, OMB has directed agencies to identify special interest functions to study. To conduct its SCI Analysis, SBA chose five product service codes to analyze. The product service codes SBA analyzed were primarily in the Profession and Management Services area and were selected based on either overall dollar percentage within the PSC or for a PSC where SBA had a high density of high-risk contract action. These codes also were chosen because the functions that are of the type of services identified as special interest functions in OMB's guidance. Chart 1 is a list of product service code description and codes used to filter SBA's SCI for the purpose of analyzing SBA's special interest functions.

Chart 1: Product Service Descriptions and Codes

Product Service Description	Product Service Code
Auditing Services	R704
Credit Reporting Services	R611
Other Professional Services	R499
Program Management /Support Services	R408
Technical Assistance	R421

After filtering the original Service Contract Inventory to these five product service codes, 154 contracting actions with total obligations of \$68,747,561 made to 84 unique vendors were in the sample population. This is 47% of the total \$144 million in contracting action obligations made by SBA in FY 2010. Chart 2 provides summary information about the contracts in the selected product service codes.

Chart 2: Summary of Analysis

Product-Service Code:	Fixed Price		Other		T&M/Labor Hour		Totals	
	\$ Value	# of Actions	\$ Value	# of Actions	\$ Value	# of Actions	\$ Value	# of Actions
Auditing Services	\$2,066,120	3			\$1,294,822	6	\$3,360,942	9
Credit Reporting Services	\$416,802	6	\$5,777,371	3			\$6,194,173	9
Other Professional Services	\$32,227,428	99	\$6,613,696	8	\$9,990,000	12	\$48,831,124	119
Program Management /Support Services	\$121,497	1	\$6,555,235	2	\$29,888	1	\$6,706,620	4
Technical Assistance	\$2,144,918	6			\$1,509,784	7	\$3,654,702	13
Grand Totals:	\$36,976,765	115	\$18,946,301	13	\$10,527,566	22	\$68,747,561	154
% of Total:	53.8%	74.7%	27.6%	8.4%	15.3%	14.3%	100%	100%

Breakdown by Product-Service Code:	Fixed Price		Other		T&M/Labor Hour		Totals	
	% of \$ Value	% of # of Actions	% of \$ Value	% of # of Actions	% of \$ Value	% of # of Actions	% of \$ Value	% of # of Actions
Auditing Services	61.5%	33.3%			38.5%	66.7%	100%	100%
Credit Reporting Services	6.7%	66.7%	93.3%	33.3%			100%	100%
Other Professional Services	66.0%	83.2%	13.5%	6.7%	20.5%	10.1%	100%	100%
Program Management /Support Services	1.8%	25.0%	13.4%	1.7%	0.4%	25.0%	100%	100%
Technical Assistance	58.7%	46.2%			41.3%	53.8%	100%	100%

The November 5, 2010 OMB memorandum indicated that an agency may choose to sample contract files in order to conduct its analysis. To analyze its service contracts efficiently, SBA refined the sample to include only the top five contracts by dollar amount. These five contracts account for 48.2% of the sample population by dollar amount.

Analysis of Contracts

Analysis of the selected service contracts was conducted using the contract files and meetings with SBA's program offices. The Acquisition Division holds regular meetings with internal clients concerning contracts. In reviewing contract files, the contracts were analyzed for their relation to inherently governmental or mission critical tasks. An inherently governmental task is a function that is so intimately related to the public interest as to require performance by Federal Government employees. The OMB memoranda directed agencies to determine whether the inventory contracts were personal service contracts, were closely associated with inherently governmental functions, were using contractor employees to perform inherently governmental functions, and/or were subject to safeguards to ensure that contract performance had not changed to become an inherently governmental function. A mission critical task is a function that is necessary to the agency being able to effectively perform and maintain control of its mission and operations. The OMB memoranda directed agencies to analyze whether the agency was 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 contracts also were analyzed to determine whether sufficient internal agency resources to manage and oversee contracts effectively.

Agency Findings

Of the five contracts in SBA's sample, four are contracts for the maintenance and supervision of large IT projects. The maintenance and supervision of large IT projects is not within SBA's core mission and is not an inherently governmental function. The fifth contract is used primarily for the Lender Loan Monitoring System for Credit Risk Management Reviews. While this vendor collects information during the performance of their function, the contractor employees do not make decisions for the Agency. SBA reviews the collected information and SBA employees make decisions based on that information. It is the Agency's determination that the effort performed by this contractor is not inherently governmental. SBA contracts for these services in such a way that allows the agency to maintain appropriate control of its mission and operations. SBA determined that its Acquisition Division is adequately staffed and has sufficient internal agency resources to manage and oversee contracts effectively.

SBA's FY11 analysis in accordance with Appendix D of the November 5, 2010 OMB guidance indicates the Agency:

1. has no personal service contracts or contracts which require personal services;
2. utilized acquisition personnel to provide training to improve the management oversight of awards for critical functions;
3. conducted reviews of selected contracts and the reviews did not indicate that contractors were performing inherently Governmental functions;

4. utilized acquisition personnel to provide training to improve understanding of the necessary oversight to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
5. conducted reviews of selected contracts and the reviews did not indicate that contractors were performing in a manner which could affect the Agency's ability to maintain control of its mission and operations; and
6. has determined that its acquisition staff has sufficient resources to oversee contracts and is continuing to provide training to other Agency resources regarding management and oversight of existing service contracts.

Actions Taken

Currently, SBA is implementing OMB Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions. In accordance with the Policy Letter, an Agency Designee has been appointed to conduct reviews of all actions over the simplified acquisition threshold. The designee is the Chief Human Capital Officer and all FY12 actions to date have been reviewed in accordance with the guidance.

Since the beginning of FY11, the SBA's acquisition team, from CAO to Contract Specialist, has been advocating and implementing a change away from high-risk contract instruments. FY11 began with a density of multiple year, high-dollar awards from previous FYs. As practicable, these existing awards are planned for phase out and conversion to less risky and more flexible acquisition instruments.

Additionally in FY11, the Agency reinstated its Contract Review Board (CRB), giving greater oversight to high-risk contracts. Members of the CRB include the Chief Acquisition Officer, Senior Procurement Executive, and the Director of Procurement Law. In FY12, it is anticipated that implementation and training in accordance with OMB Policy Letter 11-01 will further augment the training efforts of the acquisition staff and provide a more clear understanding of the roles and responsibility regarding acquisition team and programmatic oversight of contractors.