

# USDA

## ANALYSIS OF FY 2010

### SERVICE CONTRACT INVENTORY

#### Background

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. On December 19, 2011, the Office of Management and Budget (OMB) issued a memorandum for Chief Acquisition Officers and Senior Procurement Executives providing guidance regarding: (1) the submission of analyses for the FY 2010 inventories, (2) the preparation of FY 2011 inventories, and (3) the development of analyses of the FY 2011 inventories. This report documents the Department of Agriculture's (USDA) analysis of the FY 2010 service contract inventory and the use of contractors for the special interest functions that the agency selected to study.

#### Highlights

- Heads of contracting activities reported a clear separation between inherently governmental functions and service contracts performed in FY 2010.
- There were very few personal services contracts in FY 2010, and those that were initiated complied with USDA's statutory authority to enter into personal services contracts.

#### Challenges

- Some service contracts entered into the Federal Procurement Data System (FPDS) were improperly coded.
- Heads of contracting activities expressed concern with maintaining sufficient resources to manage and oversee contracts effectively.

## Special Interest Functions

Special Interest Functions		FY 10 \$ Obligations
AD23	SERVICES (ADVANCED)	\$26,683,003
AD25	SERVICES (OPERATIONAL)	\$12,667,954
D306	ADP SYSTEMS ANALYSIS SERVICES	\$45,415,792
R407	PROGRAM EVALUATION SERVICES	\$409,121
R413	SPECIFICATIONS DEVELOPMENT SERVICES	\$1,098,688
R414	SYSTEMS ENGINEERING SERVICES	\$1,386,292
R607	WORD PROCESSING/TYPING SERVICES	\$129,523
R612	INFORMATION RETRIEVAL	\$583,353
R699	OTHER ADMINISTRATIVE SUPPORT SVCS	\$18,620,721
R704	AUDITING SERVICES	\$8,960,456
R710	FINANCIAL SERVICES	\$14,024,861
R799	OTHER MANAGEMENT SUPPORT SERVICES	\$18,705,764

The table shows the special interest functions studied by the agency and the dollars obligated to those specific product and service codes (PSCs) in FY 2010. The rationale for focusing on the selected functions was the amount of spending on these PSCs at USDA as well as their use in multiple locations.

## Methodology

The methodology used by the agency to support its analysis began with questionnaires sent to the head of each contracting activity with a contract in one or more of the selected functions. In addition to questions regarding the specific contracts at the contracting activity, each head of contracting activity was asked to engage contracting officers, contracting officer's representatives and program/project managers in both the discussion and the response to the areas reviewed in compliance with section 743(e). To the greatest extent possible, contract files were examined individually by the acquisition workforce assigned to the identified contracts.

## Summary Findings

All contracting activities report a clear separation between inherently governmental functions and service contracts performed in FY 2010. Services performed under contract were necessary, but largely incidental to the central mission of the agency or were closely managed by agency officials to prevent contractor employees from performing work that is properly

performed by federal employees. Below is a summary of USDA's analysis of its service contract inventories, including achievement of outcomes described in section 743(e)(2):

- There were no reports or other indication that any of the contracts in the inventory that are coded as a personal services contract were not entered into, or are not being performed, in accordance with applicable laws and regulations.

Only a relatively small number of service contracts were coded as personal services contracts in the FPDS system in FY 2010. Upon further analysis, it was noted that the majority of these did not include personal services and were incorrectly coded. Review and discussion with heads of contracting activities clarified the need for continued review of contract coding in the FPDS-NG system by managers, as well as training for new acquisition staff in the proper coding of contract actions. Those contracts that did include personal services were awarded and performed consistently with USDA's statutory authority to enter such contracts at 7 USC 2225 or 7 USC 1627.

- The agency is giving special management attention to functions that are closely associated with inherently governmental functions;

Although consistently reported as a challenge, heads of contracting activities did not cite instances where functions closely associated with inherently governmental were not given special attention by management within their activities.

- The agency is not using contractor employees to perform inherently governmental functions.

Heads of contracting activities reported consistent and clear separation between inherently governmental functions and contractor performed services.

- 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;

USDA depends on its acquisition workforce and agency managers to monitor and report on the activities of contractor employees. As such, contracting officers, contracting officer's representatives and other agency officials that monitor or utilize service contracts to achieve program objectives utilized their training, experience and judgment to prevent award of contracts for inherently governmental functions, and to prevent changes or expansions of contractor employee work subsequent to award from becoming inherently governmental in nature. As stated above, heads of contracting activities reported consistent and clear separation between inherently governmental functions and contractor performed services for

FY 2010 service contracts. Additional safeguards or monitoring systems were not put in place in FY 2010 to ensure that work being performed by contractors did not change or expand to become an inherently governmental function. This can be attributed in part to initiation of this objective in FY 2010, and in part to the changing understanding of inherently governmental functions, which the Office of Federal Procurement Policy has recently attempted to clarify by its Policy Letter 11-01, not released until FY 2011.

- 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;

Heads of contracting activities reported no instances of contractor employees performing 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.

Maintaining sufficient resources was widely reported by heads of contracting activities as a challenge in FY 2010 and continues to be today. The lack of qualified applicants, the pending retirements of knowledgeable staff and heavy reliance on contractor personnel all contribute to existing acquisition staffing challenges. In addition, USDA faced specific acquisition staffing challenges in FY 2010 based on the structure and complexity of the acquisition functions. In addition to the separation of function common to all acquisitions, USDA also faced challenges from the separation of decision making by agency and office, the separation of programmatic decisions also by agency and office, and a lack of USDA-wide standards for development and assignment of Program Manager, COR and Contracting Officer roles for acquisitions.

## **Actions to Resolve Identified Weaknesses**

- Some service contracts entered into the Federal Procurement Data System (FPDS) were improperly coded.

Proper coding of contract actions is central to USDA's ability to analyze its service contract inventory. Increased attention has been given to proper coding of contract actions during all phases of the acquisition cycle, beginning with acquisition planning, and carrying through to action reporting in FPDS. As a result of noted weaknesses in this area, managers have been asked to pay special attention to coding funding requests, requisitions, solicitations and contract obligations by those with the responsibility to do so. Where indicated, managers have been asked to seek out and provide training to agency staff responsible for coding acquisition-

## Analysis of FY 2010 Service Contract Inventory

related transactions, and to monitor reporting on a regular basis and take corrective actions where needed to ensure that contract actions are properly coded for later reporting and analysis.

- Maintaining sufficient resources to manage and oversee contracts effectively.

USDA is addressing this identified weakness with a currently underway in-depth analysis of acquisition functions USDA-wide, expected to complete by December 31, 2012. USDA expects that in addition to the determinations required for assignment of resources to manage and oversee contracts, consideration of the need for establishment of specialized cadres and standard procedures will be implemented agency-wide in FY 2012. In the interim, the training and development of the acquisition workforce will remain consistent with the Acquisition Human Capital Plan submitted in March, 2011. Although there are no contractor personnel performing acquisition functions at USDA, contractor personnel providing support to acquisition offices will also be evaluated as part of USDA's self-assessment in 2012.