



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

September 21, 2011

The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Section 743 of Division C of the Consolidated Appropriations Act of Fiscal Year (FY) 2010, Public Law 111-117, requires civilian agencies to develop inventories of their service contractors. Pursuant to subsections 743(a)(2) and (d), the Office of Management and Budget (OMB) must report on its efforts to help agencies prepare annual inventories as well as on the inventories agencies prepared in response to OMB's guidance. This letter addresses these reporting requirements.

In March 2009, the President directed agencies to give greater management attention to contracting activities, so that the government may achieve the best value from the more than \$500 billion in taxpayer dollars that are spent annually for contracted goods and services. The Memorandum calls on agencies to more carefully consider the way they use contractors to ensure that we strike the right balance to both protect the public's interest and serve the American people in a cost-effective manner. The effective development and analysis of a service contract inventory as part of human capital planning can serve as a starting point to help an agency determine if its mix of federal employees and contractors for a given program is effectively balanced or if rebalancing may be required.

Section 743 requires civilian agencies subject to the Federal Activities Inventory Reform Act to prepare an inventory of their service contracts by the end of each calendar year and make the inventory publicly available by January 31. Agencies must then analyze the functions identified in their inventories and, beginning this year, report to OMB on actions taken as a result of their analyses, which might include allocating additional resources to contract management or by undertaking limited insourcing.

On November 5, 2010, OMB's Office of Federal Procurement Policy (OFPP) issued guidance to agency Chief Acquisition Officers and Senior Procurement to address the requirements of section 743 and the development of the FY 2010 inventories. A copy of this guidance is provided as Enclosure 1. This guidance is designed to help agencies maximize the

management insights that can be gained from preparing and evaluating an inventory. It is further designed to increase public awareness of how agencies use service contractors. The guidance:

- *provides a standard format and data sequence for preparing inventories.* Agencies must organize contract activity by function, referred to as “service codes,” to support reviews of contract activity that are focused around specific agency functions. This structure should help give agency managers an initial sense of how, where, and the extent to which, contractors are being used by the agency.
- *calls on agencies to conduct focused analyses of their inventories.* Recognizing the challenges associated with conducting meaningful reviews of every contracted function simultaneously, which may involve tens of thousands of actions for some federal organizations and many thousands for others, OFPP’s guidance directs agencies to pay closer attention to functions where risk associated with contract performance might be heightened. The guidance provided an illustrative list of management support functions where reports by the Government Accountability Office, agency Inspectors General, and others have suggested that some agencies may be at increased risk of losing control of their operations in this area due to overreliance on contractors. Agency spending on service codes included in this illustrative list has also increased more rapidly in the last ten years than spending on other goods and services. These activities include acquisition support, information systems development, and other related functions. These types of functions were the subject of many pilots carried out by agencies in accordance with instructions in OMB Memorandum M-09-26, issued in July 2009, to evaluate internal operations of at least one organization that may be overreliant on contractors. The illustrative list of the special interest functions is set forth in Table 1 of OMB’s November guidance. The guidance further instructs agencies to focus on actions over \$25,000. Although section 743 does not include a threshold, well over 95 percent of civilian agencies’ total service contract obligations for FY 2010 are above \$25,000 and the magnitude of potential risk that may arise from contracting is likely to be greater in these larger contract actions.
- *lays out a template for agencies to summarize their activities.* Agencies must prepare a summary of their inventory to show the services that accounted for the agency’s greatest percentage of spending in FY 2010 as well as spending on the special interest functions described above.
- *requires agencies to look at the full fiscal year in conducting their analyses.* Although the statute only asked for information on contracts awarded or extended on or after April 1, 2010 (i.e., the second half of FY 2010), OFPP required agencies to capture activity covering all of FY 2010 so they would have a more complete picture when conducting their follow-up analyses. In FY 2010, service contracting represented nearly 80 percent of the \$168 billion of contract obligations made by civilian agencies.

Enclosure 2 provides a list of each agency covered by section 743 and its reporting status. As of September 1, 2011, all but one agencies have posted inventories, including all of the civilian agencies covered by the Chief Financial Officers Act. OFPP has created a central site on its homepage with links to each agency's inventory so the public can easily locate and carefully review individual agency submissions. To access OFPP's central site, go to <http://www.whitehouse.gov/omb/procurement-service-contract-inventories>.

Agencies followed OFPP's November 2010 guidance in preparing their inventories. They included the data elements set forth in section 743 that are available in the Federal Procurement Data System (FPDS), including: a description of the services purchased; the organization administering the contract and the organization whose requirements are being met through contractor performance; the total amount obligated and the funding source; the contract type and date of award; the name of the contractor and the place of performance; whether the contract is a personal services contract; and whether the contract was awarded on a noncompetitive basis.

OFPP's guidance did not require agencies' FY 2010 inventory to include information on three data elements required by section 743: (1) the number and work locations of contractor and subcontractor employees compensated under the contract, (2) the amount invoiced for services, and (3) the role the services play in achieving agency goals. This information is not collected in FPDS and, agencies advised OFPP that, as a general matter, it is not otherwise readily available to them. The first and second elements must be collected from contractors. The third element will require additional contract file documentation.

OFPP is working closely with the Federal Acquisition Regulatory Council (FAR Council) on a contract clause to require data necessary for the collection of information on contracted labor and the amount invoiced from contractors and their first-tier subcontractors. A proposed amendment to the Federal Acquisition Regulation (FAR) was published for comment in the Federal Register on April 20, 2011 (76 Fed. Reg. 22070). A copy of the rule is provided as Enclosure 3. At OMB's direction, the proposed FAR rule provides a phase-in period for fixed-price contracts, where this type of information has not been historically required, to give contractors time to devise appropriate compliance mechanisms. Initial reporting would cover new fixed price contracts awarded with a total estimated value over \$5 million with the threshold being gradually lowered to \$500,000 over a three-year period. Contractor reporting would also be required for new cost-reimbursement and time-and-material/labor hour (T&M/LH) contracts with a total estimated value over the simplified acquisition threshold (i.e., \$150,000).<sup>1</sup>

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<sup>1</sup> To properly bill the government, contractors must track this information for cost-reimbursement and T&M/LH contracts, so they should be able to meet reporting requirements for these contract types without a phase-in period, especially if the threshold is kept about the SAT.

In addition, OFPP is working with the managers of government-wide acquisition support systems, known as the Integrated Acquisition Environment, to identify an appropriate technology solution to support the collection of the requisite information from contractors so that agencies can begin including these elements in their inventories when the rule is finalized. Finally, OFPP is conferring with agency senior procurement executives to consider the best way to document and collect information on the role played by the service contractor.

A service contractor inventory is one of a number of management tools agencies may use to determine if they have the right balance of contractor and in-house resources needed to accomplish their missions. OFPP will soon finalize its policy letter addressing the performance of inherently governmental and critical functions. The policy letter will clarify definitions and provide tests and examples to assist agencies in deciding when functions may be contracted and when they must be performed by federal employees. It will also outline a series of agency management responsibilities to strengthen accountability for the effective implementation of these policies. We look forward to working with you and other members of Congress in our efforts to achieve the best mix of work between federal employees and contractors.

Sincerely,



Daniel I. Gordon  
Administrator

Enclosures

Identical Letters Sent to The Honorable Susan M. Collins, The Honorable Darrell E. Issa  
and The Honorable Elijah E. Cummings



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

November 5, 2010

MEMORANDUM FOR CHIEF ACQUISITION OFFICERS  
SENIOR PROCUREMENT EXECUTIVES

FROM: Daniel I. Gordon  
Administrator

SUBJECT: Service Contract Inventories

Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117, requires civilian agencies to prepare an annual inventory of their service contracts. This memorandum provides guidance to help agencies prepare their initial inventory covering service contracting in FY 2010.

A service contract inventory is a tool for assisting an agency in better understanding how contracted services are being used to support mission and operations and whether the contractors' skills are being utilized in an appropriate manner. An agency manager can 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. This insight is especially important for contracts whose performance may involve critical functions or functions closely associated with inherently governmental functions, as may be the case, for example, with contracts for various professional, administrative and management services falling within "Code R" of the Product and Services Code (PSC) Manual. Information about how contract resources are distributed, when taken into consideration as part of a balanced workforce analysis, can 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.

To maximize the management benefits associated with a service contract inventory and to ensure consistency across agencies, FY 2010 inventories shall be developed by agencies in accordance with the attached guidance. OMB will issue additional guidance to address the preparation of FY 2011 inventories, taking into consideration experiences with the development and use of FY 2010 inventories.

In accordance with section 743, agencies required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note), other than the Department of Defense, shall also prepare a service contract inventory.

Completed inventories shall be submitted to OMB's Office of Federal Procurement Policy (OFPP) through the MAX system. Agencies shall make the inventory available to the public by January 30, 2011. Additional instructions are provided in the attached guidance.

Questions regarding this memorandum may be referred to Jennifer Swartz (tel. 202-395-6811; e-mail: [jswartz@omb.eop.gov](mailto:jswartz@omb.eop.gov)) or Mathew Blum (tel. 202-395-4953; e-mail: [mblum@omb.eop.gov](mailto:mblum@omb.eop.gov)) in OFPP.

Attachment

## **Guidance for the Development and Analysis of Service Contract Inventories for FY 2010**

The effective development and analysis of a service contract inventory as part of human capital planning can help an agency determine if its mix of federal employees and contractors for a given program is effectively balanced or if rebalancing may be required. The Office of Federal Procurement Policy (OFPP) has developed the following guidance to support the creation of service contract inventories for FY 2010.

### **A. Scope of coverage**

1. **Covered agencies.** Agencies subject to section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117, shall follow these instructions to address the requirements in section 743. Section 743 applies to agencies, other than the Department of Defense, that are required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270, 31 U.S.C. 501 note).

2. **Covered contract actions.** Agency inventories should include all service contract actions over \$25,000 that were awarded in FY 2010. Agencies should include contract actions that they have funded, including contract actions made on their behalf by other agencies. Similarly, agencies should exclude contract actions that they have made on another agency's behalf with the other agency's funding.

### **B. Development of inventory**

1. **Data elements.** Using information in the Federal Procurement Data System (FPDS), agencies shall develop an inventory of their covered contract actions that includes the elements identified in section 743(a)(3) that are currently available in FPDS. FY 2010 inventories will not be required to include (i) the number of contractor employees, (ii) the total dollar amount invoiced for services, and (iii) the role the services play in achieving agency objectives. Separate efforts are being pursued to facilitate a standard, government-wide data collection process for this information so that it may be incorporated into agency inventories beginning in FY 2011. See Appendix A for a list of required elements for the FY 2010 inventory (and those that will be required in FY 2011). Additional information about the FY 2011 inventory is provided in subsection E, below.

2. **Structure.** The inventory shall be prepared in the standard format and data sequence shown in Appendix B. This standard format requires agencies to organize contract activity by service code to support reviews of contract activity that are focused around specific agency functions. Agencies shall also prepare a summary of their inventory using the standard format in Appendix C. The summary is designed to highlight information on the use of contractors to perform "special interest functions" (see subsection C, below) and also to show the services that accounted for the agency's greatest percentage of spend in FY 2010. Instructions for

downloading information from FPDS into the required formats are provided on the MAX community page, available at <https://max.omb.gov/community/x/z4OqHQ>.

3. **Submission and posting.** Agencies shall adhere to the following statutory deadlines for completion of their inventories:

a. **Submission to OMB.** By December 30, 2010, each agency that is required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note), other than the Department of Defense, shall submit the inventory prepared in accordance with this guidance to OFPP. Submissions shall be made through the MAX system at <https://max.omb.gov/community/x/z4OqHQ>. Instructions for registering with MAX can be found at <https://max.omb.gov/maxportal/>.

b. **Publication.** By January 30, 2011, the agency shall (1) make the inventory available to the public by posting the inventory on its agency homepage, (2) provide OFPP with the Web site address (URL) on which the inventory is being posted so that the inventory can be linked to a central OMB Web page, and (3) publish in the *Federal Register* a notice that the inventory is available to the public along with the name, telephone number, and e-mail address of an agency point of contact.

### C. Analysis of inventory

By June 30, 2011, agencies shall conduct a meaningful analysis of the data in their inventories 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. Analyses shall cover the elements called for by section 743(e)(2) (see Appendix D for a description of these elements), and be based on reviews informed through sampling of contract files, interviews of program managers and contracting officer technical representatives, and other appropriate information-gathering activities. In carrying out these actions, agencies should review OMB's rebalancing guidance, OMB Memorandum M-09-26, issued on July 29, 2009, and take into consideration, as appropriate, the management responsibilities described in OFPP's proposed policy letter, "Work Reserved for Performance by Federal Government Employees" (75 Fed. Reg. 16188; March 31, 2010), or the final form of that policy letter, when issued. They should also refer to any relevant internal guidance addressing contract management and balanced workforce planning.

As required by section 743(e)(3) and (4), agency analyses should identify contracts that have been poorly performed, as determined by the responsible contracting officer, because of excessive costs or inferior quality; and contracts that should be considered for conversion to--

- (i) performance by Federal employees of the executive agency in accordance with agency insourcing guidelines required under section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, division D) and OMB Memorandum M-09-26; or



- (ii) an alternative acquisition approach that would better enable the agency to efficiently utilize its assets and achieve its public mission.

Recognizing the challenges associated with conducting meaningful reviews of every contracted function simultaneously, which may involve tens of thousands of actions for some federal organizations and many thousands for others, agencies should give priority consideration to special interest functions. Special interest functions are functions that require increased management attention due to heightened risk of workforce imbalance.

Accordingly, agency reviews shall give priority consideration to agency use of contracted (a) professional and management services and (b) information technology support services. Review of professional and management services should include acquisition support and an appropriate sampling of policy and program management and development services. An illustrative list of suitable functions is provided in Table 1, below. These functions have been identified by OMB for heightened management consideration, based on concerns of increased risk of losing control of mission and operations as identified through a review of reports issued in recent years, such as by the Government Accountability Office, the Commission on Wartime Contracting, agency Inspectors General, Congressional Committees, and the Acquisition Law Advisory Panel (also referred to as the "SARA Panel"), as well as by OMB's own analysis.

**Table 1. Special Interest Functions – FY 2010**

<b>Description of Function</b>	<b>Product &amp; Service Code</b>
<b>PROFESSIONAL &amp; MANAGEMENT SERVICES</b>	
Cost Benefit Analyses	B505
Policy Review/Development Services	R406
Program Evaluation Services	R407
Program Management/Support Services	R408
Program Review/Development Services	R409
Specifications Development Service	R413
Management Services/Contract & Procurement Support	R707
Intelligence Services	R423
Engineering and Technical Services	R425
Systems Engineering Services	R414
Personal Services Contracts	R497
<b>INFORMATION TECHNOLOGY SUPPORT SERVICES</b>	
ADP Systems Development Services	D302
Automated Information Systems Services	D307
ADP System Acquisition Support Services	D314
ADP Backup and Security Services	D310

Although agencies are expected to evaluate the types of services described above, reviews are not intended to be limited to these activities. Each agency should identify additional contracted functions, as appropriate, and especially if they are critical functions,<sup>1</sup> where the agency may be at risk of overreliance on contractors or other challenges, based on factors such as inadequate contract management support, historical performance challenges associated with contracting, or the level of risk associated with contract performance. Agencies may wish to consider a broader review of a functional area that was the subject of the agency's workforce pilot (under Attachment 2 of M-09-26) where the analysis indicated the agency was overly reliant on contractors. Agency evaluations should be conducted as part of, or in conjunction with, human capital workforce planning reviews and should consider, as appropriate, information in inventories prepared in accordance with the Federal Activities Inventory Reform Act.

In many cases, analysis will reveal that contractor performance remains an acceptable choice, but may require increased oversight to manage performance risk. In some cases, however, analysis may indicate that the work must or should be performed by federal employees.

#### **D. Agency reporting**

By March 1, 2011, the agency should inform OFPP of the special interest functions, by PSC code that it will analyze from the FY 2010 inventory. By December 30, 2011, each agency shall submit a report to OMB that discusses the analyses conducted pursuant to subsection C and the actions taken, including any actions taken to convert functions from contractor to Federal employee performance. The report should indicate concurrence, at a minimum, by the Chief Acquisition Officer / Senior Procurement Executive, the Chief Human Capital Officer, and, if information technology functions are identified as special interest functions, the Chief Information Officer. The report shall include an executive summary suitable for public disclosure with the FY 2011 inventory.

#### **E. Future inventories**

1. **Additional inventory data elements.** Beginning in FY 2011, agency inventories will be required to include: (i) the number of contractor and first tier subcontractor employees, (ii) the total dollar amount invoiced for services, and (iii) the role the services play in achieving agency objectives. This additional information can help to provide a more detailed understanding of how an agency is using contractors to accomplish its mission. Greater visibility into the amount of contractor (and subcontractor) personnel may help an agency in performing a balanced workforce analysis, especially for professional and technical services that are performed by contractor and government personnel co-located in government workspace. Knowing the amount invoiced, in combination with direct labor hours, may help an agency assess the cost-effectiveness of contracted labor.

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<sup>1</sup> For purposes of this guidance document, critical functions are those that are necessary to the agency being able to effectively perform and maintain control of its mission and operations. A function that would not expose the agency to risk of mission failure if performed entirely by contractors is not a critical function for these purposes.

Information on the number of contractor employees is not currently collected on a government-wide basis and requires a regulatory action so that this information may be obtained in a consistent manner from contractors. Information regarding the role the service plays requires additional documentation in the contract file. The Federal Acquisition Regulatory Council will soon publish regulatory changes to address the collection of this information so that these elements may be included in agencies' inventories beginning in FY 2011.

2. **Updating of special interest functions.** Prior to issuing guidance for the FY 2011 inventory, OMB will confer with the President's Management Council, the Chief Acquisition Officers Council, the Chief Human Capital Officers Council, the Chief Financial Officers Council, and the Chief Information Officers Council to consider additions or changes to the list of special interest functions in Table 1 based on current management challenges. Agencies will be expected to continually review and revise, as appropriate, special interest functions for priority analysis.

cc: Chief Human Capital Officers  
Chief Information Officers  
Chief Financial Officers

**Appendix A: Required Inventory Data Elements**

	<i>Phase I - FY10 Inventory</i>	<i>Phase II - FY11 inventory</i>
(A) A description of the services purchased by the executive agency	✓	✓
(B) A description of the role the services played in achieving agency objectives.		✓
(C) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service.	✓	✓
(D) The total dollar amount obligated for services under the contract and the funding source for the contract.	✓	✓
(E) The total dollar amount invoiced for services under the contract.		✓
(F) The contract type and date of award.	✓	✓
(G) The name of the contractor and place of performance.	✓	✓
(H) The number and work location of contractor employees, expressed as full-time equivalents for direct labor, compensated under the contract.		✓
(I) Whether the contract is a personal services contract.	✓	✓
(J) Whether the contract was awarded on a noncompetitive basis, regardless of date of award.	✓	✓

Appendix B: Standard Inventory Format

PIC	Project or Service Code (ABC)	Commodity Description	Contracting Agency	Contracting Department	Funding Agency	Name of Performance City	State	Country	Order Signal	Event Completed	Fair Opportunity Limited Source	Type of Contract	Description of Requirement	Vendor Name	Action Obligation	FPO	Referenced FPO	Order Number
A001	SERVICES (BASIC)	ABC	ABC		SAN FRANCISCO	CA	US	510000	NOT COMPLETED			TIME AND MATERIALS	EXPER WITNESS SERVICES	ABC	\$10,250.00	ABC0001		124801
A002	SERVICES (BASIC)	ABC	ABC		SAN FRANCISCO	CA	US	510000	NOT COMPLETED			TIME AND MATERIALS	EXPER WITNESS	ABC	\$10,800.00	ABC0002		124802
A003	SERVICES (BASIC)	ABC	ABC	ABC			US	320000	NOT COMPLETED			FIRM FIXED PRICE	PUBLICATION OF LEGAL NOTICE	ABC	\$18,220.00	ABC0010	03/2000	24401
A004	SERVICES (BASIC)	ABC	ABC		FRANKFURT	FR	DE	300000	NOT COMPLETED			FIRM FIXED PRICE	PUBLICATION OF LEGAL NOTICE	ABC	\$4,844.00	ABC0018	02/2000	34002
A005	SERVICES (BASIC)	ABC	ABC		CHICAGO	IL	US	340000	COMPLETED UNDER SAP			FIRM FIXED PRICE	CONFERENCE FACILITY (KASING)	ABC	\$1,275.00	ABC004		531203
A006	SERVICES (BASIC)	ABC	ABC		BOSTON	MA	US	610000	NOT COMPLETED			FIRM FIXED PRICE	SOUTHCAMP CONFERENCE	ABC	\$449.00	ABC0016	02/2002	390000
A008	SERVICES (OPERATIONAL)	ABC	ABC		WASHINGTON	DC	US	410000	FULL AND OPEN COMPETITION			FIRM FIXED PRICE	PUBLIC COMPANY ACCOUNTING INTELLIGENCE SUBSCRIPTION SERVICE	ABC	\$100,000.00	ABC0014		660000
A009	MANAGEMENT (SUPPORT)	ABC	ABC				US	801000	NOT AVAILABLE FOR COMPETITION			FIRM FIXED PRICE	SUPPORT SERVICES	ABC	\$0.00	ABC0005		123400
A020	SERVICES (MANAGEMENT/SUPPORT)	ABC	ABC		ALEXANDRIA	VA	US	320000	NOT AVAILABLE FOR COMPETITION			FIRM FIXED PRICE	BUSINESS PROCESS REVIEW	ABC	\$248,000.00	ABC0047	02/2002	121407
A021	SERVICES (MANAGEMENT/SUPPORT)	ABC	ABC		ALEXANDRIA	VA	US	320000	NOT AVAILABLE FOR COMPETITION			FIRM FIXED PRICE	LABOR HOURS	ABC	\$680,000.00	ABC0078		23407
A022	SERVICES (MANAGEMENT/SUPPORT)	ABC	ABC		ALEXANDRIA	VA	US	030000	FULL AND OPEN COMPETITION			FIRM FIXED PRICE	WARRANTY OF UNAUTHORIZED COMMITMENT	ABC	\$300.00	ABC017		24007
A023	SERVICES (MANAGEMENT/SUPPORT)	ABC	ABC		ALEXANDRIA	VA	US	192000	NOT COMPLETED			FIRM FIXED PRICE	WARRANTY OF UNAUTHORIZED COMMITMENT	ABC	\$215.00	ABC018	10/2040	531203
A024	SERVICES (MANAGEMENT/SUPPORT)	ABC	ABC		ALEXANDRIA	VA	US	840000	NOT COMPLETED			FIRM FIXED PRICE	APPLICATION	ABC	\$11,000.00	ABC0010	05/1967	306000
A061	CONSTRUCTION (BASIC)	ABC	ABC				US	610000	FULL AND OPEN COMPETITION			FIRM FIXED PRICE	THE CONTRACTOR SHALL FURNISH ALL LABOR MATERIALS, EQUIPMENT TRANSPORTATION, INSURANCE, NOTIFICATIONS, LICENSES, PERMITS, FEES AND SUPERVISION REQUIRED TO PERFORM HVAC ALTERATIONS IN ACCORDANCE WITH THE SPECIFICATIONS, DRAWINGS, CONTRACT CLAUSE AND WAGE RATES.	ABC	\$10,000.00	ABC007		890000
A067	CONSTRUCTION (BASIC)	ABC	ABC		WASHINGTON	DC	US	701000	FOLLOW ON TO COMPLETED ACTION	ONLY ONE SOURCE		FIRM FIXED PRICE	THE CONTRACTOR SHALL FURNISH ALL LABOR MATERIALS, EQUIPMENT TRANSPORTATION, INSURANCE, NOTIFICATIONS, LICENSES, PERMITS, FEES AND SUPERVISION REQUIRED TO PERFORM HVAC ALTERATIONS IN ACCORDANCE WITH THE SPECIFICATIONS, DRAWINGS, CONTRACT CLAUSE AND WAGE RATES.	ABC	\$139,728.00	ABC029		121212
A071	EDUCATION (BASIC)	ABC	ABC		WASHINGTON	DC	US	300000	NOT COMPLETED			FIRM FIXED PRICE	AUTHORIZATIONS/JUDGES	ABC	\$1,000.00	ABC0043		121212
A083	ADVISORY SERVICES (OPERATIONAL)	ABC	ABC		NEW YORK	NY	US	804000	NOT COMPLETED			FIRM FIXED PRICE	TAX/COMFY	ABC	\$104,248.00	ABC0002		1101010
A085	ADVISORY SERVICES (OPERATIONAL)	ABC	ABC		ALEXANDRIA	VA	US	1100000	NOT COMPLETED			FIRM FIXED PRICE	SATELLITE AND ELECTRICAL FEED INVENTORY AND ASSESSMENT OF AUTOMOBILE AND PHOTOGRAPHIC STUDIOS	ABC	\$8,780.00	ABC0053	MA9000	101010
B046	STUDY OF SECURITY (PHYSICAL & PERSONAL)	ABC	ABC		WASHINGTON	DC	US	914000	COMPLETED UNDER SAP			FIRM FIXED PRICE	FOIA AUDIT SERVICES	ABC	\$59,730.00	ABC0071		300000
B047	STUDY OF SECURITY (PHYSICAL & PERSONAL)	ABC	ABC		ALEXANDRIA	VA	US	340000	FULL AND OPEN COMPETITION			TIME AND MATERIALS	EXERCISE OPTION PENNOLA OF THE CONTRACT	ABC	\$68,000.00	ABC0005		000000
B048	STUDY OF SECURITY (PHYSICAL & PERSONAL)	ABC	ABC		WASHINGTON	DC	US	300000	COMPLETED UNDER SAP			TIME AND MATERIALS	FOIA AUDIT SERVICES	ABC	\$78,000.00	ABC0033		040404
B050	STUDY OF SECURITY (PHYSICAL & PERSONAL)	ABC	ABC		WASHINGTON	DC	US	610000	NOT COMPLETED			TIME AND MATERIALS	LEGAL CONSULTANT/INVESTIGATIVE SERVICES	ABC	\$9,000.00	ABC0028		000000
B211	LANDSCAPING (INTERIOR)	ABC	ABC		ALEXANDRIA	VA	US	1210000				FIRM FIXED PRICE	A/E SERVICES FOR INTERIOR RENOVATION	ABC	\$0.00	ABC001		470707
B212	LANDSCAPING (INTERIOR)	ABC	ABC		ALEXANDRIA	VA	US	1202000				FIRM FIXED PRICE	A/E SERVICES FOR RENOVATION	ABC	\$7,794.00	ABC0003		600000
B213	LANDSCAPING (INTERIOR)	ABC	ABC		ALEXANDRIA	VA	US	1120000				FIRM FIXED PRICE	A/E SERVICES FOR RENOVATION	ABC	\$42,000.00	ABC0004		020202
B214	LANDSCAPING (INTERIOR)	ABC	ABC		ALEXANDRIA	VA	US	510000				FIRM FIXED PRICE	A/E SERVICES FOR RENOVATION	ABC	\$48,000.00	ABC005		300300
B215	LANDSCAPING (INTERIOR)	DEF	DEF	ABC	ALEXANDRIA	VA	US	\$10000				FIRM FIXED PRICE	PROVIDE CONSTRUCTION DOCUMENTS FOR CONVERTING SEVERAL ROOMS INTO A NEWLY RECONFIGURED WORK AREA FOR FACILITIES.	ABC	\$58,701.00	ABC0006		050505





## Appendix D: Agency Inventory Analyses

In accordance with section 743(c), agency inventory analyses shall include a review of the contracts and information in the inventory for the purpose of ensuring that --

- (i) 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;
- (ii) 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) the agency is not using contractor employees to perform inherently governmental functions;
- (iv) 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) 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) there are sufficient internal agency resources to manage and oversee contracts effectively;



## Enclosure 2: FY 2010 Service Contract Inventory Submission Status

Civilian CFO Act Agencies	Submitted	Other FAIR Act Agencies	Submitted
Department of Agriculture	◆	Broadcasting Board of Governors	◆
Agency for International Development	◆	Commodity Futures Trading Commission	◆
Department of Commerce	◆	Consumer Product Safety Commission	◆
Department of Education	◆	Court Services and Offender Supervision Agency for DC	
Department of Energy	◆	Defense Nuclear Facilities Safety Board	◆
Environmental Protection Agency	◆	Equal Employment Opportunity Commission	◆
General Services Administration	◆	Federal Communications Commission	◆
Department of Health and Human Services	◆	Federal Election Commission	◆
Department of Homeland Security	◆	Federal Energy Regulatory Commission	◆
Department of Housing and Urban Development	◆	Federal Labor Relations Authority	◆
Department of the Interior	◆	Federal Maritime Commission	◆
Department of Justice	◆	Federal Trade Commission	◆
Department of Labor	◆	International Trade Commission	◆
National Aeronautical and Space Administration	◆	Merit Systems Protection Board	◆
National Science Foundation	◆	National Archives and Records Administration	◆
Nuclear Regulatory Commission	◆	National Endowment for the Arts	◆
Office of Personnel Management	◆	National Endowment for the Humanities	◆
Small Business Administration	◆	National Labor Relations Board	◆
Social Security Administration	◆	National Transportation Safety Board	◆
Department of State	◆	Office of Management and Budget	◆
Department of Transportation	◆	Office of Special Counsel	◆
Department of Treasury	◆	Peace Corps	◆
Department of Veterans Affairs	◆	Railroad Retirement Board	◆
		Securities and Exchange Commission	◆
		Selective Service System	◆
		U.S. Trade Development Agency	◆

Contact: Mark Dow, Registration Division (7505P), (703) 305-5533, e-mail address: [dow.mark@epa.gov](mailto:dow.mark@epa.gov).

3. PP 0F7729. (EPA-HQ-OPP-2010-0096). DSM Food Specialties B.V., Alexander Fleminglaan 1, 2613 AX Delft, The Netherlands, c/o Keller and Heckman, LLP, 1001 G. Street, NW., Washington, DC 20001 request to establish an exemption from the requirement of a tolerance for residues of the biochemical pesticide natamycin, (6,11,28-Trioxatricyclo[22.3.1.0<sup>5,7</sup>]octacos-8,14,16,18,20-pentaene-25-carboxylic acid, 22-[(3-amino-3,6-dideoxy-β-D-mannopyranosyl)oxy]-1,3,26-trihydroxy-12-methyl-10oxo-, (1R,3S,5R,7R,8E,12R,14E,16E,18E,20E,22R,24S,25R,26S) (CAS Reg. No. 7681-93-8), in or on mushrooms. An analytical method is available to EPA for the detection and measurement of the pesticide residues. Contact: Cheryl Greene, Biopesticides and Pollution Prevention Division (7511P), (703) 308-0352, e-mail address: [green.cheryl@epa.gov](mailto:green.cheryl@epa.gov).

*Amended Tolerance Exemption*

PP 1E7830. (EPA-HQ-OPP-2007-0158). Interregional Research Project Number 4 (IR-4), Rutgers University, 500 College Road East, Suite 201W, Princeton, NJ 08540 on behalf of the Arizona Cotton Research and Protection Council, 3721 East Wier Avenue, Phoenix, AZ 85040-2933, request to amend 40 CFR 180.1206 to establish a permanent exemption from the requirement of a tolerance for *Aspergillus flavus* AF36 on pistachio. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance for residues of the microbial pesticide *A. flavus* AF36 in/on pistachios, without any numerical limitation is being requested for pistachios. Contact: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7511P), (703) 308-8097, e-mail address: [bacchus.shanaz@epa.gov](mailto:bacchus.shanaz@epa.gov).

**List of Subjects**

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 11, 2011.

**Daniel J. Rosenblatt,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 2011-9447 Filed 4-19-11; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Part 5**

**Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting**

**Correction**

Proposed Rule document 2011-9081 was inadvertently published in the Rules section of the issue of April 14, 2011, beginning on page 20867. It should have appeared in the Proposed Rules section.

[FR Doc. 2011-9600 Filed 4-19-11; 8:45 am]

**BILLING CODE 1505-01-D**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 4, 8, 17, 37, and 52**

[FAR Case 2010-010; Docket 2010-0010, Sequence 1]

**RIN 9000-AM06**

**Federal Acquisition Regulation; Service Contracts Reporting Requirements**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 743 of Division C of the Consolidated Appropriations Act, 2010. This proposed rule amends the FAR to require service contractors for executive agencies, except the Department of Defense (DoD), covered by the Federal Activities Inventory Reform (FAIR) Act of 1998, to submit information annually in support of agency-level inventories for service contracts.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before June 20, 2011 to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2010-010, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2010-010" under the heading "Enter Keyword or ID and selecting "Search". Select the link "Submit a Comment" that corresponds with FAR Case 2010-010 at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2010-010" on your attached document.

- *Fax:* 202-501-4067.
- *Mail:* General Services Administration, FAR Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street, NE., Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAR Case 2010-010, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Clare McFadden, Procurement Analyst, at (202) 501-0044 for clarification of content. Please cite FAR Case 2010-010. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501-4755.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 743 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 DoD, to submit to the Office of Management and Budget (OMB) annually an inventory of activities performed by service contractors. DoD is exempt from this reporting requirement because 10 U.S.C. 2462 and 10 U.S.C. 2330a(c) already requires DoD to develop an annual service contract inventory.

House Report 111-366 notes, in connection with section 743, that, "(i)n the absence of complete and reliable information on the extent of their reliance on service contractors, Federal agencies are not well-equipped to determine whether they have the right balance of contractor and in-house resources needed to accomplish their missions. This section requires agencies to review the contents of the inventory and report on actions taken."

Section 743 mandates that, for each service contract, the agency-level inventory report must include the following information—

- (1) A description of the services purchased by the executive agency and

the role the services played in achieving objectives, regardless of whether such a purchase was made through a contract or task order;

(2) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service;

(3) The total dollar amount obligated for services under the contract and the funding source for the contract;

(4) The total dollar amount invoiced for services under the contract;

(5) The contract type and date of award;

(6) The name of the contractor and place of performance;

(7) The number and work location of contractor and subcontractor employees, expressed as full-time equivalents for direct labor, compensated under the contract;

(8) Whether the contract is a personal services contract; and

(9) Whether the contract was awarded on a noncompetitive basis, regardless of date of award.

Additionally, the Office of Federal Procurement Policy's November 5, 2010, guidance, entitled Service Contract Inventories ([http://www.whitehouse.gov/omb/procurement\\_index\\_memo](http://www.whitehouse.gov/omb/procurement_index_memo)), requires agencies to include contract actions funded by that agency, including contract actions made on behalf of the agency by other agencies. Similarly, agencies should exclude contract actions that they have made on another agency's behalf with the other agency's funding. This guidance provided a framework to help agencies prepare service contract inventories for Fiscal Year (FY) 2010. To maximize the management benefits associated with a service contract inventory and ensure consistency across agencies, FY 2010 inventories followed the format provided in the guidance and included only the data elements identified in section 743(a)(3) that are currently reported in the Federal Procurement Data System—Next Generation (FPDS-NG). However, certain data elements, namely the total amount invoiced for services and number of direct labor hours expended on services performed during the previous Government fiscal year, which will be used to calculate the number of contractor manpower full-time equivalents, must be collected from service contractors.

The service contractor inventory requirements in section 743 create significant management responsibilities to support the appropriate rebalancing of work performed by Federal

employees and contractors. To implement this requirement in the FAR, OMB directed DoD, GSA, and NASA to use a phased-in approach similar to that proposed in the President's Budget for FY 2011. A phased-in approach will help agencies more effectively manage the challenges associated with launching and maintaining an inventory.

In accordance with Section 743, this rule proposes to amend the FAR to create a new FAR subpart 4.16, entitled Service Contracts Inventory, to address responsibilities for collection, management, and reporting of this information, and a new clause, 52.204-XX, Service Contract Reporting Requirements, to incorporate into covered solicitations and contracts. An Alternate clause will be used for orders placed on indefinite-delivery contracts.

Agencies placing orders on these existing contracts after the effective date of a resulting final rule will be required to report this information if the order meets the thresholds established in FAR 4.1603 (*e.g.*, at or above the simplified acquisition threshold (SAT) for cost-reimbursement, time-and-materials, and labor-hour contracts, and fixed-price contracts at or above \$5 million in FY 2011 and phased-in thresholds thereafter).

Under this proposed rule, contractors must submit the following four data elements for each covered contract or order for a given year by October 31st annually:

(1) Contract number and, as applicable, task order number.

(2) The total dollar amount invoiced for services performed during the previous fiscal year under the contract.

(3) The number of contractor direct labor hours expended on the services performed during the previous fiscal year.

(4) Data reported by subcontractors. Subcontractor information is also required under Section 743. To implement this requirement in the FAR, in a manner that is least burdensome, OMB directed collection of this information from first-tier subcontractors (similar to the subcontractor reporting requirement in FAR subpart 4.14, Reporting Executive Compensation and First-Tier Subcontract Awards). Prime contractors would be required to obtain from each first-tier subcontractor performing under a covered contract the following information by October 15th annually:

(1) Subcontract number (including subcontractor name, and, if available, Data Universal Numbering System (DUNS) number associated with the subcontract number).

(2) Number of first-tier subcontractor direct-labor hours expended on services performed during the previous Government fiscal year.

The proposed reporting requirement applies only to solicitations, contracts, and orders for services, to first-tier subcontracts at or above the established thresholds.

## II. Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## III. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this new requirement does impose some additional requirements on small businesses that provide services to Executive agencies, other than DoD.

An Initial Regulatory Flexibility Analysis (IRFA) has been prepared. The analysis is summarized as follows:

The statute requires agencies covered by the FAIR Act, except DoD, to submit annual agency inventories of their service contracts. The inventory must address nine data items for each service contract (see "I. Background"). DoD, GSA, and NASA attempted to minimize the information-collection requirement for contractors by requiring agencies to obtain as much of the data as possible from existing sources such as the Federal Procurement Data System (FPDS). For each service contract or order, contractors would be expected to report annually—

(1) Contract number and, as applicable, task order number;

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract;

(3) The number of contractor direct labor hours expended on the services performed during the previous Government fiscal year; and

(4) Data reported by first-tier subcontractors.

Consistent with the thresholds for prime contracts, first-tier subcontractors with subcontracts valued at or above the thresholds established for new contracts (*e.g.*, \$5 million for new fixed-price contracts in FY 2011 and at or above the simplified acquisition threshold for cost-reimbursement, time-and-materials, and labor-hour contracts) would be expected to report the following data elements to the prime contractor by October 15th annually:

(1) Subcontract number (including the subcontractor name and if available, the DUNS number).

(2) Number of first-tier subcontractor direct labor hours expended on services performed during the previous Government fiscal year.

To further minimize the impact, OMB elected to implement the contractor reporting requirements over a period of four years beginning with larger dollar obligations for new fixed-price contracts (*i.e.*, \$5 million for FY 2011) that goes down to a \$500,000 contract reporting threshold for FY 2014. A lower threshold was selected for cost-reimbursement, time-and-materials, and labor-hour contracts (*i.e.*, at or above the SAT) because contractors already track the required information to invoice the Government.

The reporting requirement would apply to Government contractors, other than DoD contractors, that supply services to executive agencies during a Government fiscal year (beginning in FY 2011) and over the specified reporting thresholds.

Each contractor would be required to report annually on the services provided during the previous Government fiscal year. The information would be input to a new Service Contract Reporting Portal (currently under development). This information will be collected through this portal, and no hard-copy reporting is required. When providing a proper invoice to the Government for cost-reimbursement, time-and-materials, and labor-hour contracts, the information on the number of direct labor hours worked is already compiled by contractors, so the information collected should be minimal for these types of contracts. The direct costs to small business firms to comply with this rule are primarily for data collection and input associated with the single annual report.

To minimize the burden on small businesses, the following alternatives were considered and included in the proposed FAR rule:

- Minimizing the inventory data elements collected by using existing systems, such as FPDS.
- Minimizing the reporting to once a year.
- Enabling electronic reporting by the contractor into the new portal.

- Requiring contractors to provide only the number of direct labor hours and developing the system to automatically generate the number of full-time equivalents.

- Limiting the reporting requirement to first-tier subcontractors for services in lieu of all subcontractors.

- Establishing a phased-in approach based on contract type and estimated total dollar amount, from 2011 to 2014 based on thresholds, to minimize the collection of information.

The Regulatory Secretariat will be submitting a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the affected regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 2010-010) in all correspondence.

**IV. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because the proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat has submitted a request for approval of a new information collection requirement: 9000-0179, Service Contractor Reporting Requirements, FAR Case 2010-010, Proposed Rule, to the Office of Management and Budget.

*Annual Reporting Burden:*  
Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Because this is a new information collection requirement, historical data is not available. Further, the ceiling amount for certain service contracts to include the reporting requirement will be phased in over several years. Data from FY 2009 was used to determine the burden, with the most recent year for which data is available used as a baseline for the number of affected service contracts. DOD awards were excluded.

If this reporting requirement had been in place during FY 2009, it would have

covered 17,120 fixed-price service contracts over \$5 million and 6,725 cost-reimbursement, time-and-materials, and labor-hour service contracts above the simplified acquisition threshold.

Therefore, the total number of contracts on which reports would have been submitted is 23,845. Only one report is required for each contract annually, and we estimate that it will take approximately 2 hours to prepare and submit the report. The annual reporting burden is estimated as follows:

Respondents .....	23,845
Responses/respondent .....	× 1
<b>Total annual Responses .....</b>	<b>23,845</b>
Preparation hours per response .....	× 2
<b>Total response burden hours .....</b>	<b>47,690</b>

**List of Subjects in 48 CFR Parts 4, 8, 17, 37, and 52**

Government procurement.

Dated: April 14, 2011.

**Millisa Gary,**

*Acting Director, Office of Governmentwide Acquisition Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 4, 8, 17, 37, and 52 as set forth below:

1. The authority citation for 48 CFR parts 4, 8, 17, 37, and 52 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

**PART 4—ADMINISTRATIVE MATTERS**

2. Add subpart 4.16 to read as follows:

**Subpart 4.16—Service Contracts Inventory**

- Sec.
- 4.1600 Scope of subpart.
  - 4.1601 Definitions.
  - 4.1602 Applicability.
  - 4.1603 Contractor reporting requirements.
  - 4.1604 Contracting officer responsibilities.
  - 4.1605 Contract clause.

**Subpart 4.16—Service Contracts Inventory**

**4.1600 Scope of subpart.**

This subpart implements section 743 of Division C of the Consolidated Appropriations Act, 2010, (Pub. L. 111-117), which requires agencies to report annually to the Office of Management and Budget (OMB) on activities performed by service contractors. Section 743 applies to executive agencies, other than the Department of Defense (DoD), covered by the Federal Activities Inventory Reform Act (Pub. L. 105-270) (FAIR Act). The information reported in the inventory will be publicly accessible.

**4.1601 Definitions.**

*FAIR Act agencies*, as used in this subpart, means the agencies required under the FAIR Act to submit inventories annually of the activities performed by Government personnel.

*First-tier subcontract* means a subcontract awarded directly by a contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a contractor's general and administrative expenses or indirect cost.

*Service contract* is defined in 37.101.

**4.1602 Applicability.**

(a) This subpart applies to—

(1) All FAIR Act agencies, except DoD;

(2) Solicitations, contracts, and orders for services that meet or exceed the thresholds at 4.1603; and

(3) Contractors and first-tier subcontractors.

(b) Procedures for compiling and submitting agency service contract inventories are governed by section 743(a)(3) of Division C of Pub. L. 111–117 and Office of Federal Procurement Policy (OFPP) guidance. The guidance is available at the following Web site: <http://www.whitehouse.gov/omb/procurement-service-contract-inventories>.

(c) This subpart addresses requirements for obtaining information from, and reporting by, agency service contractors.

**4.1603 Contractor reporting requirements.**

(a) *Thresholds.* (1) Except as exempted by OFPP guidance, service contractor reporting shall be required for contracts and first-tier subcontracts based on type of contract and estimated total value. For indefinite-delivery contracts, reporting shall be determined based on the type and estimated total value of the orders issued under the contract. Indefinite-delivery contracts include, but are not limited to, contracts such as indefinite-delivery indefinite-quantity (IDIQ) contracts, Federal Supply Schedule contracts (FSSs), Governmentwide acquisition contracts (GWACs), and multi-agency contracts.

(2) Reporting is required for contracts and orders according to the following thresholds:

(i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the simplified acquisition threshold.

(ii) All fixed-price contracts awarded or orders issued according to the following thresholds:

(A) Awarded or issued in Fiscal Year (FY) 2011, on or after [DATE] with an estimated total value of \$5 million or greater.

(B) Awarded or issued in FY 2012, with an estimated total value of \$2.5 million or greater.

(C) Awarded or issued in FY 2013, with an estimated total value of \$1 million or greater.

(D) Awarded or issued in FY 2014 and subsequent years, with an estimated total value of \$500,000 or greater.

(3) For all first-tier subcontractors performing work under a covered contract, subcontract reporting is required based on the thresholds as prescribed in paragraphs (a)(2)(i) and (ii) of this section.

(b) *Agency reporting responsibilities.*

(1) Agencies shall ensure that contractors comply with the reporting requirements of 52.204–XX, Service Contract Reporting Requirements.

(2) Agencies are required to compile annually an inventory of service contracts performed for, or on behalf of, the agency during the prior fiscal year in order to determine the extent of the agency's reliance on service contractors. Agencies shall submit a service contract inventory to OMB by December 30 annually. Then, each agency must post the inventory on its Web site and publish a **Federal Register** Notice of Availability by January 30 annually.

(3) Most of the required information is already collected in the Federal Procurement Data System (FPDS). Information not collected in FPDS will be provided by the contractor, as specified in 52.204–XX, Service Contract Reporting Requirements. Contracts reported using the generic DUNS number allowed at 4.605(b)(2) will interfere with the contractor's ability to comply with this reporting requirement, because the data will not pre-populate from FPDS.

**4.1604 Contracting officer responsibilities.**

(a) The contracting officer shall ensure that the contract reporting clause is included in solicitations, contracts, and orders as prescribed in 4.1605 and that the contractor complies with the reporting requirements in 52.204–XX, Service Contract Reporting Requirements. For indefinite-delivery contracts, the contracting officer who awarded the contract shall ensure that 52.204–XX, Service Contract Reporting Requirements, is included in the contract. The contracting officer at the order level shall verify the clause's inclusion in the contract and ensure that

each contractor awarded an order against the contract is submitting the report in a timely manner.

(b) The contracting officer shall make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under subpart 42.15.

**4.1605 Contract clause.**

The contracting officer shall insert the clause at 52.204–XX, Service Contract Reporting Requirements, in solicitations and contracts for services that meet or exceed the thresholds at 4.1603. The contracting officer shall use the clause with its Alternate I in indefinite-delivery contracts where one or more orders issued thereunder are expected to each meet or exceed the thresholds at 4.1603. This clause is not required in classified solicitations, contracts, or orders.

**PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

3. Amend section 8.404 by adding paragraph (f) to read as follows:

**8.404 Use of Federal Supply Schedules.**

\* \* \* \* \*

(f) Ensure that service contractor reporting requirements will be met in accordance with subpart 4.16, Service Contracts Inventory.

**PART 17—SPECIAL CONTRACTING METHODS**

4. Revise section 17.504 to read as follows:

**17.504 Reporting requirements.**

(a) The senior procurement executive for each executive agency shall submit to the Director of OMB an annual report on interagency acquisitions, as directed by OMB.

(b) The contracting officer shall ensure that service contractor reporting requirements will be met in accordance with subpart 4.16, Service Contracts Inventory.

**PART 37—SERVICE CONTRACTING**

5. Amend 37.103 by adding paragraph (e) to read as follows:

**37.103 Contracting officer responsibility.**

\* \* \* \* \*

(e) Ensure that service contractor reporting requirements will be met in accordance with subpart 4.16, Service Contracts Inventory.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

6. Add section 52.204–XX to read as follows:

**52.204-XX Service Contract Reporting Requirements.**

As prescribed in 4.1605, insert the following clause:

**Service Contract Reporting Requirements (Date)**

(a) The Contractor shall report, in accordance with paragraph (b) of this section, annually by October 31st for services performed under this contract during the preceding Government fiscal year (October 1–September 30).

(b) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (d) of this clause.

(c) The information required in paragraph (b) of this section shall be submitted to the online Service Contract Reporting Portal and will be publicly available at <http://www.acquisition.gov>.

(d)(1) The Contractor shall require each first-tier subcontractor performing under this

contract, with contracts valued at or above the thresholds set forth in 4.1603(a)(2), to provide the following detailed information to the Contractor by October 15th:

(i) Subcontractor DUNS number, or if DUNS number is unavailable, subcontractor name.

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

(End of clause)

*Alternate I (DATE).* As prescribed in 4.1605, substitute the following paragraphs (a), (b), and (d) for paragraphs (a), (b), and (d) of the basic clause.

(a) The Contractor shall report, in accordance with paragraph (b) of this Alternate I, by October 31st annually for services performed during the preceding Government fiscal year (October 1–September 30) under this contract for orders that exceed the thresholds established in 4.1603(a)(2).

(b) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (d) of this clause.

(d)(1) The Contractor shall require each first-tier subcontractor with contracts valued at or above the thresholds set forth in 4.1603(a)(2) performing services under this contract to provide the following detailed information to the Contractor by October 15th:

(i) Subcontractor DUNS number, or if DUNS number is unavailable, subcontract name.

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

[FR Doc. 2011–9515 Filed 4–19–11; 8:45 am]

**BILLING CODE 6820-EP-P**