

The U.S. Small Business Administration: FY 2011 Service Contract Inventory Analysis

December 31, 2012

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 Service Contract Inventory (SCI). The Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP), issued memorandum on November 5, 2010 and December 19, 2011 to provide guidance to federal agencies on preparing their inventories of service contracting for fiscal year (FY) 2011. In February, 2012 the U.S. Small Business Administration (SBA) sent its FY 11 inventory of all the agency's contract actions for services above \$25K to OMB for review. SBA also submitted an analysis of the FY 2010 SCI data that was published the prior year. The FY 2011 SCI is available at <http://www.sba.gov/content/service-contract-inventory> and a notice of its availability was published in the Federal Register in March, 2012.

Since the initial posting of the FY 2011 SCI, SBA has conducted a meaningful analysis of the contracting actions that were included in the inventory, as per OFPP guidance. The following is a final summary of that analysis, prepared in accordance with OMB requirements.

Scope of Review - *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 Professional 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 they are of the type of services identified as special interest functions in OMB's guidance. Table 1 is a list of product service code description and codes used to filter SBA's SCI for the purpose of analyzing the agency's special interest functions.

Table 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, 109 contracting actions with total obligations of \$60,849,641 made to 58 unique vendors were in the sample population. This is 46% of the total \$131.6 million in contracting action obligations made by SBA in FY 2011. Table 2 provides summary information about the contracts in the selected product service codes.

Table 2: Summary of PSC 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	\$7,141,902	15			\$710,020	1	\$7,851,922	16
Credit Reporting Services	\$742,786	5	\$5,126,978	2			\$5,869,764	7
Other Professional Services	\$27,176,684	55	\$632,602	3	\$12,851,346	15	\$40,660,632	73
Program Management/Support Services	\$5,821,944	11	\$546,139	1			\$6,368,083	12
Technical Assistance	\$99,240	1					\$99,240	1
Grand Total	\$40,982,556	87	\$6,305,719	6	\$13,561,366	16	\$60,849,641	109
Contract Type % of Total:	67.4%	79.8%	10.4%	5.5%	22.3%	14.7%	100%	100%

Breakdown by 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	91.0%	93.8%	0.0%	0.0%	9.0%	6.3%	100%	100%
Credit Reporting Services	12.7%	71.4%	87.3%	28.6%	0.0%	0.0%	100%	100%
Other Professional Services	66.8%	75.3%	1.6%	4.1%	31.6%	20.5%	100%	100%
Program Management/Support Services	91.4%	91.7%	8.6%	8.3%	0.0%	0.0%	100%	100%
Technical Assistance	100.0%	100.0%	0.0%	0.0%	0.0%	0.0%	100%	100%

To analyze its service contracts efficiently, SBA refined the sample population to include only the top five contracts by dollar amount. These five contracts account for 47% of the sample population by dollar amount.

Analysis Methodology

Analysis of the selected service contracts was conducted using contract records 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 size, product service code and 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.

OMB guidance also directs agencies to determine whether the SCI includes any contracts that are:

- Personal service contracts;
- Closely associated with inherently governmental functions;
- Using contractor employees to perform inherently governmental functions; and/or
- 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 also directed agencies to analyze whether the agency was using contractor employees to perform mission critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations. Finally, the contracts 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, three 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 fourth largest contract in the FY 11 SCI sample population is to provide Credit Report information to the agency. The vendor provides credit report information on businesses and borrowers which is used to assess loan risk and also to monitor the lending portfolio. The fifth largest contract is used primarily for Auditing Services related to the Lender Loan Monitoring System for Credit Risk Management Reviews. While this vendor collects information during the performance of their function, the contractor employees are not authorized to make final determinations of creditworthiness for the Agency. Similar to the contract Credit Report information, SBA reviews the provided information and agency employees make decisions based on that information. It is the Agency's determination that the services performed by the fourth and fifth largest contractor are 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 also determined that its Acquisition Division is adequately staffed and has sufficient internal agency resources to manage and oversee these contracts effectively.

A summary of the FY 11 SCI Analysis done in accordance with Appendix D of the November 5, 2010 OMB guidance indicates that SBA:

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 the 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

SBA reinstated its Contract Review Board in FY 11, giving greater oversight to high-risk contracts. Members of the CRB include the Chief Acquisition Officer, Senior Procurement Executive, and the Director of General Counsel's Division of Procurement Law. As a result, the SBA has reduced the amount of Time & Materials contracts across the 5 PSCs identified in the FY 11 SCI Analysis.

SBA implemented the OFPP policies on inherently governmental with a Procedural Notice from the CFO's office, issued on April 6, 2012. The memo outlines two new processes related to Inherently Governmental Functions at the SBA.

First, the process for submitting Inherently Governmental Justification Memos to the SBA's Chief Human Capital Officer (CHCO) is described. In FY 12, SBA's CHCO signed off on all service procurements above the simplified acquisition threshold of \$150,000 before contracting staff began issuing a solicitation or exercising an option.

Second, the memo describes the process for identifying services for more than \$25,000 but less than \$150,000 that are Closely Associated with Inherently Governmental Functions, and Critical Functions of the Agency or Other Functions. Attachments were included in the memo that describes in detail what types of activities are considered Inherently Governmental with examples.