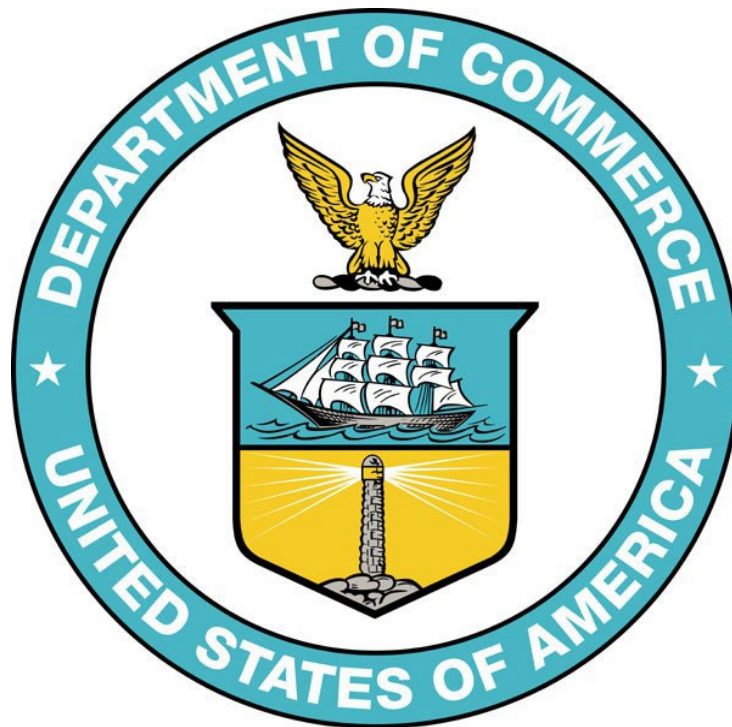


DEPARTMENT OF COMMERCE



SERVICE CONTRACT INVENTORY ANALYSIS REPORT FISCAL YEAR 2022

I. **Executive Summary**

The historic mission of the Department of Commerce (Department, DOC) is "to foster, promote and develop the foreign and domestic commerce" of the United States. This has evolved as a result of legislative and administrative additions, to encompass the responsibility to foster, serve, and promote the Nation's economic development and technological advancement. The Department fulfills this mission by participating with other Government agencies in the creation of national policy; promoting and assisting international trade; strengthening the international economic position of the United States; promoting progressive domestic business policies; improving comprehension and uses of the physical environment and its oceanic life; ensuring effective use and growth of the Nation's scientific and technical resources; acquiring, analyzing, and disseminating information regarding the Nation and the economy to help achieve increased social and economic benefit; and assisting States, communities, and individuals with economic progress.

To fulfill DOC's mission, acquiring goods and services is essential; in Fiscal Year (FY) 2022 \$4.4B of the Department's budget was expended through the execution of Federal contracts to support mission-critical programs such as: weather forecasting, satellite acquisitions, intellectual property protection, broad-band technology, management of coastal and ocean resources, information technology, and construction and facilities management. The Department's FY2022 discretionary budget was approximately \$57.26 billion, and the workforce was comprised of over 40,000 full-time equivalents serving within 13 Operating Units.

Pursuant to Section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117) and Federal Acquisition Regulation (FAR) Subpart 4.17, agencies are required to prepare an annual inventory of service contracts. In addition, the Office of Management and Budget (OMB) requires agencies to perform a meaningful analysis of such contracts, giving priority consideration to the "special interest functions", those Product and Service Codes (PSCs) identified by OMB that require increased monitoring to ensure the Government is effectively managing risks and receiving the best results for taxpayers.

In compliance with the requirements of Section 743(a), the Department prepared a Service Contract Inventory (SCI) Analysis for FY2022. Using data derived from the Federal Procurement Data System (FPDS), 2,866 service contracts (with a value greater than \$150K), totaling over \$3.6 billion were identified as part of the FY2022 inventory. This report provides an analysis of the inventory to ensure the Department is effectively managing risks in service contracts and determine if there is risk of overreliance on contracted services.

The fourteen (14) selected PSC categories examined from the FY2022 inventory (as shown in Figure 2) include seven (7) special interest functions prescribed by OMB and seven (7) additional agency-specific functions. The agency-specific functions include PSC categories that are the largest percentage of obligations for the Department and functions identified for service contracts. The following eight (8) OMB-prescribed PSC categories were *excluded* from the analysis as the Department's FY2022 inventory reported zero actions under those categories:

- B505 – Cost Benefit Analyses
- R407 – Program Evaluation Services
- R409 – Program Review/Development Svcs
- R413 - Specifications Development
- R414 – Systems Engineering Services
- R423 - Intelligence Services
- R497 – Personal Services Contracts
- D314 – IT and Telecom – Systems Acquisition Support

The analysis of a sample of the Department’s FY2022 service contract inventory concluded the following:

1. Contractor performance remains an acceptable choice for contracted services and there is no indication of overreliance on contracted functions.
2. Adequate safeguards and monitoring systems continue to be in place to ensure that work performed by service contractors does not become inherently governmental.
3. Contracts are monitored regularly, and any issues of poor performance are addressed and corrected.
4. There are sufficient internal resources available to effectively manage and oversee service contracts.

II. Analysis of FY2022 Service Contract Inventory

A. Analysis Methodology

To ensure the Department sufficiently addressed the service contract inventory requirements and developed a meaningful Analysis Report, a working group was utilized consisting of representatives from DOC’s contracting offices. As a result of the collaborative effort of the working group, a repeatable process, as depicted in Figure 1, was established to comply with the annual service contract inventory requirements.



Figure 1: Analysis Process

B. Sample Selection

Each contracting office conducted an analysis of selected contract actions. The Department’s FY2022 service contract inventory consisted of 2,866 contract actions totaling \$3.6 billion. While any contract action could be selected for review if there was a concern of overreliance on contractors or other challenges, priority was given to the PSC categories identified in Figure 2.

The sample of contract actions for each contracting office to review for the analysis was developed from the total inventory, after removing any contract action for services not identified as a special interest function. Total actions within the scope of the analysis criteria totaled 1,598 and were valued at \$2.2B (61% of the total obligated amount for service contracts in FY2022). The Department sampled approximately 5% of actions within the 14 selected special interest functions of the FY2022 inventory, representing 81 contract actions totaling over \$904M. The following steps were followed in developing the sample size:

1. The percentage of in-scope actions for each contracting office was calculated in proportion to the total number of in-scope actions for the Department.
2. Five percent of total in-scope actions were sampled (i.e., 5% of 1,598). The sample size for each contracting office was based on the percentage of dollars obligated for all special interest functions. For example, NOAA obligated approximately 37% of total dollars obligated for all special interest functions. Therefore, NOAA was assigned 37% of the sampled actions.
3. The number of sampled actions assigned to each special interest function was based on the total dollars obligated for each special interest function as a percentage of total dollars obligated for all special interest functions.

- The number of actions to be sampled and analyzed was rounded for any given special interest function to ensure accurate representation in the sample.

Figure 2: Product & Service Codes Selected for FY2022 Analysis					
PSC	Description of Function	Total Dollars Obligated for In-Scope Actions	Total In-Scope Actions	% Of Total Dollars Obligated for In-Scope Actions	Total Actions Sampled
OMB Special Interest Functions					
D302	IT and Telecom – Systems Development	\$73,437,265	22	3.23%	2
D307	Automated Information Systems Svs	\$727,018	3	0.03%	0
D310	ADP Backup and Security Services	\$37,497,584	17	1.65%	1
R406	Support – Professional: Policy Review/Development	\$660,662	2	0.03%	0
R408	Program Management/Support Svs	\$222,183,785	183	9.78%	9
R425	Engineering & Technical Svs	\$262,609,840	266	11.56%	10
R707	Management Services/Contract & Procurement Support	\$52,603,831	13	2.32%	2
Sub Total		\$649,719,984	506	28.60%	24
Agency-Specific Special Interest Functions					
C219	Architect and Engineering – General: Other	\$92,387,763	74	4.07%	3
DA01	IT and Telecom – Business Application/Application Development Support Services (Labor)	\$153,190,934	104	6.74%	5
D318	IT and Telecom – Integrated Hardware/Software/Svs Solutions, Predominantly Svs	\$184,740,868	126	8.13%	7
R431	Support – Professional: Human Resources	\$78,555,079	81	3.46%	2
R499	Support – Professional: Other	\$341,641,239	180	15.04%	13
R799	Support – Management: Other	\$507,919,276	518	22.36%	18
T099	Photo/Map/Print/Publication - Other	\$263,582,222	9	11.60%	9
Sub Total		\$1,622,017,380	1,092	71.40%	57
Grand Total		\$2,271,737,365	1,598	100%	81

C. Data Collection and Analysis

A service contract inventory Questionnaire was developed and provided to the respective Contracting Officer (CO) who, in conjunction with the Program or Project Manager, Contracting Officer Representative (COR), and/or Technical Point of Contact, was instructed to gather pertinent information required to conduct an analysis of the selected contract actions for review. The Questionnaire was used in combination with other available sources to gather relevant information, including data used in the FPDS independent verification and validation analysis, inventories prepared in accordance with the Federal Activities Inventory Reform Act, Federal Acquisition Certification programs data, data used in human capital planning, and evaluation and monitoring information entered in the Contracting Performance Assessment Reporting System (CPARS).

In addition, follow-up calls and interviews with program officials were conducted, where applicable, to obtain information to ensure a complete assessment of the contract action was conducted. The Questionnaire was used to collect data necessary to assess the following:

- If the contract is for personal services as defined in FAR 37.104.
- If contractor employees are performing inherently governmental functions under the contract in accordance with the definition of “inherently governmental functions,” or critical functions in such a way that could affect the ability of the Department to maintain control of its mission and operations.
- If contractor employees are performing functions closely associated with the performance of inherently governmental functions.
- If specific safeguards and monitoring systems are in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function.
- If there are sufficient internal resources to effectively manage and oversee the contract.
- If the contract has been poorly performed due to excessive costs, inferior quality, or budget overruns, or the organization is experiencing difficulty in managing its contract staff.
- If there is a risk of overreliance on contracted functions, particularly those services identified as special interest functions.
- If the mix of Federal employees and contractors for a given program is an effective multi-sector workforce balance or if rebalancing is needed.

D. Findings

Analysis of the sampled contracts resulted in the following findings:

1. During Fiscal Year 2022, the Department did not enter into or administer any contracts for personal services as defined in FAR 37.104.
2. The Department is giving special attention to functions that are closely associated with inherently governmental function. Three contracts included in the sample contained performance elements that could be closely associated with the performance of inherently governmental functions. As such, management controls are in place to limit access and functions of contractor personnel. Further, the work is performed in close coordination with federal personnel to ensure that only government employees make appropriate decisions and maintain information required to perform inherently governmental functions. Additionally, the scope of work clearly defines the roles and responsibilities of the contractor versus Government employees so there is no ambiguity. Also, the CORs (who are Federal employees) monitor the projects and ensure that the contractor’s role does not expand beyond the scope of work.

3. Contractor employees are not being used to perform *inherently governmental functions*.
4. Analyses from all contracts confirmed that adequate safeguards and monitoring systems are in place to ensure contractor functions do not change or expand during performance to become inherently governmental functions. Contract management and administration continues to be conducted by Federal employees with extensive experience, training and certification in the field of work being procured and any changes to the scope of work or an expansion of the contractor's role is proposed and reviewed by the Contracting Officer to prevent inherently governmental functions from being performed by the contractor.

Specific examples of these safeguards include:

- a) Contractors submit routine progress reports which are reviewed by program officials to monitor progress and compliance with requirements.
- b) Progress review meetings are regularly held with the Contracting Officer, Contracting Officer's Representative and the contractor personnel responsible for site management.
- c) Contracting Officers communicate with Project Managers and CORs when monitoring and evaluating contract performance against the contract requirements.
- d) Contracting Officers review and approve any modification to change work to ensure the change is within the scope of the contract requirements and does not expand into services that are inherently governmental functions.
- e) Appointing responsible and engaged CORs and relying on Program Managers and other Federal technical subject matter experts, when appropriate, to conduct contract oversight.
- f) Developing requirements documents which clearly specify and limit the services to be performed by contractor personnel.
- g) Technical and schedule requirements are stated in terms of desired results, rather than the method of performance.
- h) Requirements clearly define contract goals and establish deliverables and other reporting requirements such as performance measurement standards in terms of quality, timeliness, and quantity.
- i) Evaluating the vendor's quality control plan to ensure it complies with the Government's published Quality Assurance Plan.
- j) Evaluating inspection plans, Quality Assurance Surveillance Plans and other quality control requirements to ensure they protect the government's interests.
- k) Emphasizing the use of lower-risk contract types when possible (i.e. firm-fixed price).
- l) Incorporating appropriate inspection and other quality requirements in contracts to protect the Government's interests.
- m) Providing training on proper service contract monitoring from both the acquisition and program standpoint.
- n) Emphasizing a collaborative relationship between program officials and contract employees to foster transfer of knowledge of the support services to reduce Government dependency on contractor expertise.
- o) Contracting Officers and CORs performing an assessment of the market and a cost-benefit analysis to determine if the work should be conducted in-house.
- p) Utilizing project management tools to track contractor tasks.

- q) Conducting site visits.
 - r) Rejecting nonconforming supplies or services, except as provided in FAR 46.407.
 - s) Holding post-award conferences to communicate the roles and responsibilities of the parties.
5. While it was also determined that three (3) contracts include performing critical functions (i.e. patent classification services), safeguards and monitoring systems are in place to ensure these services are not being performed in such a way to affect the Department's ability to maintain control of mission and operations.
6. All contracts analyzed had sufficient internal resources in place to manage and oversee contract performance. Data collected through questionnaires, the Department's COR, Contracting and Project Management training requirements, certifications, and delegations of authority were reviewed to ensure that acquisition personnel assigned to contracts had the appropriate training, experience and expertise to manage and oversee contracts effectively. To ensure continued successful contract management and oversight, the Department mandates training requirements in performance-based acquisitions, acquisition and project management for CORs.

Of the 81 contract actions reviewed, two (2) contracts were identified as poorly performed and one experienced budget overages. In the first instance, the contractor was reported as underperforming due to inferior quality. Additional courses of action to improve contractor quality were implemented, specifically a COR-approved Action Plan to ensure future compliance, increased collaboration and increased communication via monthly/quarterly quality meetings.

In the second instance, the contractor consistently struggled to retain quality candidates and experienced increased staff turnover. The lack of adequate contractor support made achieving mission success difficult. The contractor's poor performance was reflected in their most recent Contractor Performance Assessment Report. In response, the contractor has been very responsive to the Government's needs and there have been slight improvements in performance. However, the Government did not exercise the option for one component of this contract, which was the worst performing element.

The third contract action was reported as running over the labor budget due to an increase in consumption in optional contract periods. However, the increase was deemed necessary and justified to accommodate mission needs.

7. All contracts analyzed were confirmed to be services performed by contractor personnel that cannot be accomplished in-house by Federal employees due to specialized skills or lack of resources. The use of contractor support enables the Department to efficiently utilize its assets and achieve its public mission.

E. Conclusions

Based on analysis of the FY2022 service contract inventory it is determined that: contractor performance remains an acceptable choice for contracted services within the Department of Commerce; there is no evidence of overreliance on contracted services; adequate safeguards and monitoring systems are in place to ensure that work performed by service contractors does not become inherently governmental; and the Department has sufficient internal resources available to effectively manage and oversee contractor performance.

F. Planned Actions

The Department will continue to assess how contract resources are distributed to ensure there is an adequate and effective mix of Federal employees and contractors with a focus on contracts involving “special interest functions,” or those at a higher risk of workforce imbalance, including professional and management support services. The service contract inventories will be utilized as a tool to determine that there are adequate resources within the workforce to align with the Department’s strategic and human capital goals. Specifically, the inventories will benefit the Department’s continued efforts to:

1. Identify potential strategic sourcing opportunities to reduce services that are duplicated across the Department.
2. Strategically set priorities for resource allocation, workload distribution and funding requests within the context of the Department’s Strategic and Human Capital Plans.
3. Ensure high-risk contracts include adequate surveillance plans that describe how the Government will monitor, control, and mitigate risk of contract performance with reasonable assurance that efficient methods and effective cost controls are utilized.
4. Track reduction of contract spending on inefficient and excessive management support services.
5. Strengthen the competency standards of the acquisition workforce to ensure all contracting officials, CORs and program and project managers are fully equipped to perform assigned duties.
6. Reinforce the need for quality data reporting, require validation that PSCs are coded correctly in FPDS, and ensure clear, concise service descriptions are provided.

G. Responsible Officials

Within the Department of Commerce, the official responsible for policy relating to service contract inventory is Virna Winters, Executive Director, Acquisition Policy, Oversight and Workforce, Office of Acquisition Management. The DOC official responsible for management of the service contract inventory process is Olivia Bradley, Senior Procurement Executive and Director of Acquisition Management.

III. Planned FY 2023 Service Contract Inventory

To ensure data quality, contracting offices reviewed data elements of the FY2023 service contract inventory and corrected identified errors, missing data or other inaccuracies in FPDS. The Department’s service contract inventory for FY2023 will be included in the government-wide inventory available at: www.acquisition.gov/service-contract-inventory. Once approved by OMB, a copy of the analysis with a link to DOC’s available services contract inventories will be available on the Department’s website at: <https://www.commerce.gov/oam>.

In assessing the FY2023 service contract inventory, the Department has selected fifteen (15) Product and Service Codes to study in the FY2023 analysis. The selected functions include eight (8) special interest functions identified by OMB and seven (7) agency-specific special interest functions. The agency-specific functions include PSC categories that are the largest percentage of obligations for the Department and also functions identified by OMB to consider that had not already been reviewed previously. Seven (7) of the OMB-prescribed PSC categories will be *excluded* from the planned FY2023 analysis (i.e. B505, R407, R409, R413, R414, R423, and D314) as the Department’s FY2023 inventory reported zero actions under those categories. Figure 3 provides the list of functions to be reviewed in the FY2023 inventory analysis.

Figure 3: Product & Service Codes Selected for FY2023 Analysis

PSC	Description of Function	Total Dollars Obligated for In-Scope Actions	Total In-Scope Actions	% of Dollars Obligated for In-Scope Actions
OMB Special Interest Functions				
D302	IT and Telecom – Systems Development	\$8,465,204	2	0.33%
D307	IT and Telecom- IT Strategy and Architecture	\$780,000	2	0.03%
D310	IT and Telecom- Cyber Security and Data Backup	\$16,068,991	9	0.62%
R406	Support- Professional: Policy Review/Development	\$458,077	1	0.02%
R408	Support- Professional: Program Management/Support	\$237,129,240	148	9.15%
R425	Support- Professional: Engineering/Technical	\$345,677,761	167	13.34%
R497	Support- Professional: Personal Services Contracts	\$3,944,197	3	0.15%
R707	Support- Management: Contract/Procurement/Acquisition Support	\$11,334,018	12	0.44%
Subtotal of OMB Selected PSCs		\$623,857,488	344	24.08%
Agency-Specific Special Interest Functions				
C219	Architect and Engineering – General: Other	\$172,361,081	69	6.65%
DA01	IT and Telecom – Business Application/Application Development Support Services (Labor)	\$308,363,816	116	11.90%
DD01	IT and Telecom - Service Delivery Support Services: ITSM, Operations Center, Project/PM (Labor)	\$188,732,740	111	7.29%
Z2AA	Repair or Alteration of Office Buildings	\$178,109,313	3	6.88%
R499	Support- Professional: Other	\$323,391,369	149	12.48%
R799	Support- Management: Other	\$571,740,707	442	22.07%
T099	Photo/Map/Print/Publication - Other	\$224,056,112	13	8.65%
Subtotal of Agency-Specific PSCs		\$1,966,755,138	903	75.92%
Grand Total		\$2,590,612,626	1247	100%