

Report Summarizing the Actions Taken
Pursuant to Subsection (e), Including Any Actions Taken to
Consider/Convert Functions from Contractor to
Federal Employee Performance

On December 30, 2010, the U.S. Nuclear Regulatory Commission (NRC) released its list of service contracts in accordance with the procedures outlined in the November 5, 2010, memorandum from the Administrator, Office of Federal Procurement Policy (OFPP), on Service Contract Inventories. On February 23, 2011, the NRC submitted to the Office of Management and Budget (OMB) Product Service Code (PSC), "Program Management and Support Services" as the special interest function that we selected analyzed.

Consequently, the NRC focused its analysis of the service contract inventory on this special interest function. In fiscal year 2010, the NRC spent \$2.9 million on nine different contracts in this area, with most of the funds obligated on time and materials and labor hour type contracts. As required by Sections 743(e)(3) and (4) of the Federal Activities Reform Act of 1998 and Section C of the attachment to the guidance issued by OMB, these nine contracts were reviewed to determine if they were poorly performed, as determined by the Contracting Officer, because of costs or inferior quality. They were also analyzed to determine if they should be considered for conversion to performance by NRC employees in accordance with insourcing guidelines.

The Contracting Officers of these nine contracts have determined that the work has not been poorly performed due to excessive costs or inferior quality. In addition:

- (i) It was determined that the work performed under these contracts should not be performed by Federal employees in lieu of contractors.
- (ii) The NRC is in the process of implementing an alternative acquisition approach, strategic sourcing, in order to better enable the agency to efficiently utilize its assets and achieve its public mission. The contracts within the special interest function of Program Management and Support Services, as well as those in the other two categories (that were not selected to be analyzed) where the largest percentage of obligations are spent (Technical Assistance and ADP Systems Development Services) will be evaluated by commodity councils to determine if the contracts are being acquired in the optimal way or if a different acquisition approach would better enable the NRC to efficiently utilize its resources and achieve our mission. Teams are being established to study the NRC's spending in these areas and determine the best way to establish the commodity councils.

Agency Inventory Analysis – Program Management and Support Services

In accordance with Section 743(e) of the Federal Activities Reform Act of 1998 and Appendix D of the OMB guidance, the NRC analyzed the contracts in this category as follows:

- (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. *No personal services contracts were identified during the analysis of this category of service contracts.*

- (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. *FAR 37.114 is actively being followed during performance of these contracts.*
- (iii) The agency is not using contractor employees to perform inherently governmental functions. *In accordance with NRC's 2011 FAIR Act Inventory, there are no contractors being used 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. *Contract scope is monitored by the Contracting Officer to ensure that "scope creep" is not occurring, especially into inherently governmental functions through contract modifications. Contracting Officer's Representatives (CORs) are required to ensure that services provided and invoiced are in accordance with scope of the contract and that work does not change or expand during performance to become inherently governmental.*
- (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. *There are sufficient government personnel in place to ensure that contractor employees are not performing critical functions to the point of affecting the NRC's ability to perform its mission and operations.*
- (vi) There are sufficient internal agency resources to manage and oversee contracts effectively. *There are sufficient internal agency resources to manage and oversee contracts effectively. However, the agency continues to study ways in which to improve organizational effectiveness.*

Based on the analysis above, the NRC has not taken any actions to convert functions currently being performed by contractors to have them be performed by NRC employees.