

U.S. NUCLEAR REGULATORY COMMISSION

FY 2012 SERVICE CONTRACT INVENTORY ANALYSIS

BACKGROUND

In accordance with the procedures outlined in the Office of Federal Procurement Policy's (OFPP) memoranda on Service Contract Inventories dated November 5, 2010 and December 19, 2011, NRC released its list of service contracts on December 31, 2012. On February 14, 2013, NRC submitted to the Office of Management and Budget (OMB) Product Service Code (PSC) R799, entitled "Support - Management: Other" as the special interest function selected to be analyzed during Fiscal Year (FY) 2013.

This PSC (R799) was selected because it was not the subject of a previous analysis, it did not appear in the NRC's Top 10 PSCs reported in FY11, and the remaining top 9 PSCs for FY11 were being evaluated as part of NRC's ongoing strategic sourcing initiatives. The selection of this code is consistent with PSC selections during the FY10 and FY11 service contract inventory. Accordingly, NRC focused its analysis of the service contract inventory on this special interest function.

The contracts that fall under PSC R799 are primarily for professional consulting services to support NRC employees with various technical issues and to provide training services. During fiscal year 2012, NRC spent approximately \$2.2 million on 16 commercial contracts and one consultant contract under this product service code. Approximately 46% of those funds were obligated on fixed-price contracts and approximately 54% of those funds were obligated on time-and-materials or labor-hour contracts.

SCOPE OF REVIEW

The FY12 service contract inventory was reviewed for special interest functions that required increased management attention due to possible over-reliance on contractor support for activities that may otherwise be performed by Federal employees. The special interest function selected for review is under the "R" of the Product Service Codes. Contracts within this code include those that provide professional, administrative and management services which could be considered closely associated with inherently governmental functions in accordance with OMB Policy Letter 11.01, Performance of Inherently Governmental and Critical Functions.

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, a representative sample (50%) of these 17 contract files were reviewed to determine if they were performed poorly, in terms of quality and timeliness of performance, and cost constraints. They were also analyzed to determine if they should be considered for conversion to performance by NRC employees in accordance with insourcing guidelines.

METHODOLOGY

The Contracting Officers (COs) for these awards were consulted and interviewed to determine if the work under these contracts has been performed properly in terms of quality and timeliness of performance, and met budgetary constraints. According to the COs, they had no knowledge of or information pertaining to any negative performance matters or cost overruns for the contracts selected for this review. Time-and-materials and labor-hour contracts are being closely monitored by the COs to ensure that no cost overruns occur and that the contractors are providing quality services that are within budget and on schedule.

In addition, based on the established criteria for classifying functions as inherently governmental, it was determined that none of the contractors are performing inherently governmental functions. However, as some of the services performed support inherently Governmental functions, the NRC has ensured that these activities are closely monitored by qualified Government employees. Accordingly:

- (i) It was determined that the work performed under these contracts should not be performed by Federal employees in lieu of contractors. Having the work performed by contractors rather than Federal employees does not jeopardize NRC's ability to perform its mission and operations.
- (ii) NRC has implemented 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 "Support – Management: Other", as well as those where the largest percentage of obligations are spent (Information Technology-related services and Technical Assistance) are being evaluated by commodity councils to determine if the services are being acquired in an optimal way or if a different acquisition approach would better enable NRC to efficiently utilize its resources and achieve our mission.

In accordance with Section 743 of the Federal Activities Reform Act of 1998 and Appendix D of the OMB guidance, 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. ***A review of NRC's FY2012 Service Contract Inventory, shows that 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 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.***

CONCLUSION

Based on the above analysis, the NRC has determined that it is not necessary to take any actions to convert these functions currently being performed by contractors under PSC R799 to performance by NRC employees.

There are no planned or pending actions identified in previous inventories that require follow-up.