



**Department of Veterans Affairs
Service Contract Inventory
Analysis Report
For Fiscal Year 2017**

Executive Summary
Department of Veterans Affairs
Service Contract Inventory
Fiscal Year 2017

The Service Contract Inventory (SCI) is mandated by the Office of Management and Budget (OMB), and Office of Federal Procurement Policy (OFPP) in a memorandum dated November 5, 2010, and reiterated in an SCI Memorandum, dated December 19, 2011. These memorandums required a review of Department of Veterans Affairs (VA) service contracts coded with special interest functions identified by OMB.

OMB directed agencies to undertake a meaningful analysis of the inventory data to determine whether there is an appropriate and effective use of contract labor. Agencies were also directed to determine if the mix of Federal employees and contractors is effectively balanced and to provide a report of findings to OMB by April 15, 2018. Observations presented in this report are based on a review of VA selected contract actions and data elements prescribed by OMB.

The VA Director of Procurement Policy and Warrant Management Service, Office of Acquisition and Logistics identified 339 contract actions, representing the 14 special interest functions with the largest percentages of obligations in fiscal year (FY) 2017 from the list of special interest function codes provided in the OMB memorandum.

As required by OMB, the analysis focused on determining how well the VA is managing service contracts in the following six areas of interest:

- Each contract in the inventory coded as a personal services contract is being performed in accordance with (IAW) applicable laws and regulations;
- The agency is giving special management attention, as set forth in Federal Acquisition Regulation (FAR) 37.114, to functions that are closely associated with inherently governmental functions;
- The agency is not using contractor employees to perform inherently governmental functions;
- The agency has specific safeguards and monitoring systems in place to ensure work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- 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
- There are sufficient internal agency resources to manage and oversee contracts effectively.

The analysis showed that contractors are utilized in an appropriate manner and that the contracted services effectively support VA's mission and operations. The analysis further showed that in keeping with Federal requirements, the primary reasons for service contract awards in FY 2017 were to obtain a highly technical and/or specialized skill not found within the Government which resulted from Government staffing limitations or were to fulfill short-term requirements.

In a continuous effort to assess effective balancing of contracted and Government resources, aside from taking the below actions, VA will continue to evaluate the extent to which contract awards within these functions leverage existing Federal or Departmental enterprise contract vehicles or present future opportunities for strategic sourcing. Therefore, VA is:

- Continuously validating and updating acquisition policy and guidance to provide standardization and clarity across the agency;
- Updating its Supplement to the FAR to improve the quality of procurements and better protect the interests of the Government;
- Maintain a VA Acquisition Manual that will include procedures, guidance, and information which will define inherently governmental functions that in some cases may be unique to VA. This manual will require even more strengthening of VA oversight of contracts for *functions closely associated with inherently governmental functions*, and *critical mission functions*;
- Issuing Procurement Policy Memorandums that provide acquisition guidance to the VA's acquisition community;
- Operating and maintaining an official VA Procurement Policy Service website to provide VA's acquisition community a single-source location to receive current and relevant information and guidance as it pertains to procurement policy; and
- Engaging stakeholders through the procurement policy outreach program that spans the full-spectrum of procurement and acquisition policy professionals within VA; to include presentations at the VA Acquisition Academy (VAAA), briefings to the Heads of Contracting Activity (HCAs) and presentations to Senior Procurement Council (SPC) members.

The review and analysis of the FY 2017 SCI data determined that all reviewed contracts and contract actions adhered to the key parameters set forth in OMB's policy and procedures.

- No Personal Services Contracts identified;
- There was special management attention to functions closely associated with inherently government functions;
- No contractors were used to perform inherently governmental functions;

- Safeguards and monitoring systems were in place to ensure contractor work did not expand to include governmental functions;
- Contractors did not perform critical functions in such ways that affected the ability of the VA to maintain control of missions and operations, and;
- There were sufficient VA internal resources to effectively manage and oversee contracts.

Finally, the analysis showed the VA has an appropriate mix of Federal employees and contractors, and no contract requirements were identified that should be considered for conversion to performance by Federal employees, nor did contracting officers identify any contracts that should be converted due to excessive costs or inferior quality, IAW agency in-sourcing guidelines required under section 739 of Division D of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2030) as amended by section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, Division D) and OMB Memorandum M-09-26, Managing the Multi-Sector Workforce.

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1. Background: The Department of Veterans Affairs (VA), is an agency subject to section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Public Law 111-117, is required to develop an inventory of the agency's service contracts.

2. Methodology: The VA used the functions outlined by the Office of Management and Budget (OMB) in the November 5, 2010 memorandum and reiterated in the December 19, 2011 memorandum, to develop the inventory analysis sample. The total population size for the FY 2017 Service Contract Inventory (SCI) records was 14,212; the total number of contract actions identified as special interest functions was 339.

VA's FY 2017 SCI and Inventory Summary are posted on the VA's official website at: <https://www.va.gov/oal/business/pps/scalInventory.asp>. The VA selected contract actions from within special interest functions that represent the 14 largest percentages of obligations for VA in FY 2017 from the descriptive list of special interest function codes provided in the OMB memorandum. VA derived a sample size of 65 contract actions which represented 19 percent of the total population of contract actions OMB identified as special interest functions. High dollar value contract actions were then selected for each of the selected codes to ensure acceptable representation within the sample population based on dollars obligated. The special interest functions represented in the sample are identified in the Table below. The "Total FY 2017 Obligation" column represents total dollars obligated for each service code in the inventory.

Special Interest Codes					
Code	Description	# of Contracts	\$ Value	Sample	Sample \$
B505	Special Studies/Analysis - Cost Benefit	1	\$ 130,000.00	0	\$ -
D302	IT and Telecom - Systems Development	13	\$ 13,688,662.75	1	\$ 4,239,443.24
D307	IT and Telecom - IT Strategy and Architecture	11	\$ 78,079,123.21	3	\$ 7,486,134.30
D310	IT and Telecom - Cyber Security and Data Backup	15	\$ 210,643,998.82	3	\$ 207,497,026.87
D314	IT and Telecom - System Acquisition Support	4	\$ 56,126,798.22	1	\$ 1,909,068.93
R406	Policy Review/Development Services	7	\$ 51,253,580.43	2	\$ 37,914,580.05
R407	Program Evaluation Services	0	\$ -	0	\$ -
R408	Program Management/Support Services	187	\$ 532,301,400.54	37	\$ 220,872,601.08
R409	Program Review/Development Services	0	\$ -	0	\$ -
R413	Specifications Development Services	6	\$ 28,637,210.10	2	\$ 12,275,268.66
R414	Systems Engineering Services	0	\$ -	0	\$ -
R423	Intelligence Services	3	\$ 859,180.08	0	\$ -
R425	Engineering and Technical Services	75	\$ 110,437,247.87	12	\$ 38,003,644.32
R707	Management Services/Contract and Procurement Support	17	\$ 21,036,857.00	4	\$ 12,945,431.52
Total		339	\$ 1,103,194,059.02	65	\$ 543,143,198.97

The Office of Procurement Policy and Warrant Management Service (PPS) identified a sample of 65 contracts with VA special interest codes. The list of contracts and the survey questions were sent to VA's Heads of Contracting Activity (HCA's) as required by OMB. The HCA's Contracting Officers (COs) and Contracting Officer's

Representatives (CORs) were instructed to ensure the identified SCI sample contract documents were uploaded into the Electronic Contract Management System (eCMS) briefcases and to validate the information that was being uploaded by contractors. Each contract identified within the sample size of 65 required a comprehensive examination of the contract documents by the CO and/or the COR as outlined within the eCMS. Participants were to review the following: (a) identified contract procurement requests, (b) acquisition plans, (c) statements of work (SOW), (d) performance work statements (PWS), (e) solicitations, (f) contracts, (g) contract modifications, and (h) post-award contract management records. PPS conducted a random sampling of the documents supporting the CO's decisions in addition to documents required by the Federal Acquisition Regulation (FAR) and the VA Acquisition Regulation.

This process consisted of reviewing and analyzing contracts and contract file information in the OMB's six focus areas of interest identified in the Government Accountability Office (GAO) Report, "Civilian Service Contract Inventories: Opportunities Exist to Improve Agency Reporting and Review Efforts, GAO-12-1007", as follows:

- Each VA personal service contract is being performed in accordance with (IAW) applicable laws and regulations;
- An evaluation of whether the VA is giving special management attention, as set forth in FAR 37.114 (b), to functions that are closely associated with inherently governmental functions;
- A determination of whether the VA is not using contractor employees to perform inherently governmental functions;
- To confirm the VA has specific safeguards and monitoring systems in place to confirm that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- An analysis to ensure the VA is not using contractor employees to perform critical functions in such a way that could affect the ability of the VA to maintain control of its mission and operations; and
- An assessment to ensure there are sufficient internal VA resources to manage and oversee contracts effectively.

3. Analysis and Observations:

a. Each contract that is a personal services contract has been entered, and is being performed, in accordance with applicable laws and regulations.

As defined by FAR Subpart 37.104, Personal Services Contracts, a Personal Services Contract is characterized by the employer-employee relationship it creates between the government and the contractor's personnel. The government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Unless specifically authorized by statute, the VA is not to award personal services contracts.

Based on the review of file information and the survey responses received, it was determined that no VA service contracts within the sample size of 65 were personal in nature. Review and analysis of the data call responses and contract files for those actions within the sample found no contractors integrating into the VA's organizational structure during the execution of their services in a manner that constitutes a Personal Service Contract. The review showed that service contracts in the sample were necessary to obtain highly technical or specialized services not presently available within the VA workforce, to compensate for the impact to workloads from government staffing limitations, or to fulfill short-term service requirements.

b. The agency is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions.

IAW FAR Subpart 37.114 – Special Acquisition Requirements - and Subpart 7.5 - Inherently Governmental Functions. Agencies must ensure that, “(1) a sufficient number of qualified Government employees are assigned to oversee contractor activities, (2) a greater scrutiny and an appropriate enhanced degree of management oversight is exercised, (3) all contract personnel ... identify themselves as such or that contractor participation is appropriately disclosed.”

Within the sample, all contract actions identified as containing functions that could be considered closely associated with inherently governmental functions were verified as having sufficient numbers of technically-qualified Government employees overseeing contract compliance of contractor activities for these special requirements. Also, the contracting officers ensure that the contracts and the performance provided are provided greater scrutiny in monitoring performance and recurring need of the requirement.

Within the sample, seven percent of contract actions contained functions that could be considered closely associated with inherently governmental functions. The contracts reviewed were Product Service Codes (PSC) for Information Technology (IT) and Telecom, Cost Benefit Special Studies/Analysis, Policy Review/Development Services, Program Evaluation Services, Program Management/Support Services, Program Review/Development Services, Specifications Development Services, Systems Engineering Services, Intelligence Services, Engineering and Technical Services and Management Services/Contract and Procurement Support. The contractors were fulfilling services based on their industry experience and technical skills for short-term service requirements, strategic and professional in nature for high visibility and impact. Projects were highly technical or specialized in nature such as special task order contracts for data quality management services to enable the Virtual Electronic Record Health Program to improve upon and expand VA's ability to securely share computable electronic health information with other healthcare providers in providing care to Veterans. The task order areas included project management, data quality management, VA-consolidated clinical document architecture, standards expansion, interoperability performance metrics, external engagement, emerging standards, and acquisition management support to help in procuring supplies, services, leases, sharing/selling agreement, construction and clerical work related to VA. Special skill

sets were needed for major and technical energy equipment. As a result, these various areas could not be fulfilled in an agile manner with Government employees due to insufficient Government resources, lack of Government expertise, and staffing limitations.

c. The agency is not using contractor employees to perform inherently governmental functions.

IAW FAR subpart 37.114 and subpart 7.5, contractors shall not perform inherently governmental functions, defined in OMB Circular A-76 as "... an activity that is so intimately related to the public interest as to mandate performance by Government personnel."

The review did not find any instances of contractor employees performing inherently governmental functions. Contractor personnel when selected have experience associated with contracting support IAW the statement of work to perform contracting acquisition support. No exception is given for signature authority on contracts and interim/annual contractor performance assessment reports, and this remains inherently governmental. Government officials in the offices receiving contractor support provide the necessary managerial attention to ensure contractors are not performing inherently governmental functions. The analysis of the sample showed a correct level of understanding by VA's procurement and requirements officials as to the appropriate roles and responsibilities of contractor employees concerning inherently governmental functions. The services provided were not inherently governmental IAW the Office of Federal Procurement Policy Letter 11-01, "Performance of Inherently Government and Critical Functions".

d. 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 inherently governmental functions.

Survey results confirm specific safeguards and monitoring processes are in place demonstrating the work that contractors are performing has not changed or expanded during the contract performance period to become inherently governmental. As an example, the requiring activity's operational staff can manage any contractor support consistent with its responsibility to perform inherently governmental functions and maintain control of its mission and operations by conducting monthly evaluations. A new organization is taking on non-mission critical functions to support the use of existing facilities. The agency is ensuring VA staff is acquired to take on the new responsibilities of the organization. The job assignments make it easy to address weaknesses and challenges without changing or expanding workload requirements.

A robust training and communication network are also available through Enterprise Acquisition Systems Service and VAAA to provide training, exchange ideas, and provide guidance to the acquisition community. There are enough qualified Federal employees assigned to the active contracts to ensure sufficient oversight of contractor performance.

Based on contract file reviews and survey responses from COs and requirements officials, it was determined that VA has appropriate safeguards and monitoring systems in place to prevent any change or expansion of contractor work from becoming inherently governmental. The analysis concluded that work being performed by the contractors had not changed or expanded to include inherently governmental functions. Contractors cannot perform inherently governmental functions such as preparing contract performance assessment reports or signing contracts for award.

e. 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 operation.

The analysis of contract file documents and data call responses revealed no indication that contractor employees are being used to perform critical functions in such a way that could affect the requiring activity's ability to maintain control of its mission and operation.

Within the sample population, 2 percent (survey indicated 1 activity answered Yes vice 60 who answered No) of contract actions that contained activities performed by contractors considered to be critical functions by the Government. An example provided referred to a VA requirement for contractors to assist in a mandated Continuous Readiness Information Security Program across all VA. Special skill sets were needed, and there were Government staff limitations. The duties were not inherently governmental.

Where contractors must perform critical mission functions, VA's requiring activities ensure control of their missions and operations through frequent monitoring of contractor performance, placement of Government employees in positions to oversee and manage the contractors, or by transitioning contractor positions into permanent Government employee positions. As organizational structures and budgets permit, HCAs are advised of the need to continue to closely monitor these contracts.

f. There are sufficient internal agency resources to manage and oversee contracts effectively.

VA's primary method of contract oversight is through the Contracting Officer's Representative (COR) who is appointed to ensure contractor compliance with the terms and conditions of the contract. All work being performed by contract employees is monitored by Government employees. The work is monitored through eCMS, and the contractor provides monthly reports on work accomplished during the performance period of the contract.

The VA continues to look for ways to increase the quality of oversight through proper training and awareness. Most contract files showed evidence of heightened management attention. Based on these findings and part of an agency initiative to ensure 100 percent file completeness, HCA's will be made aware of isolated discrepancies to take the necessary corrective action to remedy identified problems.

4. Conclusion: The review and analysis of the FY 2017 SCI data concluded that VA's contracted services adhered to the key parameters set forth in OMB's six areas of assessment IAW the GAO Report, "Civilian Service Contract Inventories: Opportunities Exist to Improve Agency Reporting and Review Efforts, GA-12-1007". The procurement policy analysis determined contractors were utilized in an appropriate manner and contracted services effectively supported VA's mission and operations. The analysis revealed contracts were awarded to obtain a highly technical and/or specialized skill not found within the Government; and was awarded because of Government staffing limitation and to fulfill short-term service requirements.

In an ongoing effort towards improvement, VA is seeking steps to remedy the minor concerns identified during this review. These include continuous enforcement to:

- Establish procurement coordinators to serve as liaisons between VA's customers and the procurement offices and assist in the preparation of requirements packages. This will minimize acquisition lead times.
- Issue and update acquisition policy and guidance to provide standardization and clarity across the agency.
- Develop a VA Acquisition Manual that will include procedures, guidance, and information that will define inherently governmental functions that may be unique to VA. This guidance will require even greater strengthening of oversight of contracts for functions closely associated with inherently governmental functions and critical mission functions;
- Operate and maintain an official VA PPS website to provide the VA's acquisition community a single-source location to receive current, real, and relevant information and guidance as it pertains to procurement policy; and
- Engage stakeholders through the procurement policy outreach program that spans the full-spectrum of procurement and acquisition professionals within VA; to include presentations at the VAAA, briefings to the HCAs, and presentations to SPC members.

The results of the review and analysis of the FY 2017 SCI revealed that all reviewed contracts and contract actions, adhered to the key parameters set forth in OMB's policy and procedures. The following were noted:

- No Personal Services Contracts were identified;
- The agency is giving special management attention to functions closely associated with inherently government functions;
- The agency is not using contractor personnel to perform inherently governmental functions;

- Safeguards and monitoring systems were in place to ensure work being performed by a contractor had not changed or expanded during performance to become an inherently governmental function;
- The agency is not using contractor personnel to critical functions in such ways that could jeopardize the ability of VA to maintain control of missions and operations, and;
- There were sufficient VA internal resources to effectively manage and oversee contracts.

Responsible Officials:

IAW the recommendation in the GAO report “Civilian Service Contract Inventories: Opportunities Exist to Improve Agency Reporting and Review Efforts,” GAO-12-1007, September 2012, VA has designated Sheila Darrell, Director, Procurement Policy and Warrant Management Service as the official responsible for policy; and Edna Taylor-Capers, Senior Procurement Analyst, as the official responsible for management of the process. The designation of officials should help ensure appropriate management attention and responsiveness.

As a final point, VA has an appropriate mix of Federal employee and contractors, and no contract requirements were identified that should be considered for conversion to performance by Federal employees in accordance with agency in-sourcing guidelines required under section 739 of Division D of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2030) as amended by Section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, Division D) and OMB Memorandum M-09-26, Managing the Multi-Sector Workforce.