

# U.S. Securities and Exchange Commission



## FY 2015 Service Contract Inventory Analysis

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Office of Acquisitions  
SEC Headquarters  
Washington, DC 20549

## Background

The Securities and Exchange Commission (SEC) is a United States Agency with a mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. In addition to the Securities Exchange Act of 1934 that created the agency, the SEC enforces the Securities Act of 1933, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Sarbanes–Oxley Act of 2002, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and other statutes.

It is the responsibility of the Commission to:

- interpret federal securities laws;
- issue new rules and amend existing rules;
- oversee the inspection of securities firms, brokers, investment advisers, and ratings agencies;
- oversee private regulatory organizations in the securities, accounting, and auditing fields; and
- coordinate U.S. securities regulation with federal, state, and foreign authorities.

The SEC consists of five presidentially-appointed Commissioners, with staggered five-year terms. One of them is designated by the President as Chairman of the Commission — the commission’s chief executive. By law, no more than three of the Commissioners may belong to the same political party, ensuring non-partisanship. The commission’s functional responsibilities are organized into five divisions and 23 offices, each of which is headquartered in Washington, DC. The Commission's approximately 4,425 staff are located in Washington, D.C. and in 11 Regional Offices throughout the country.

The Commission convenes regularly at meetings that are open to the public and the news media unless the discussion pertains to confidential subjects, such as whether to begin an enforcement investigation.

## Scope

Section 743 of Division C of the FY2010 Consolidated Appropriations Act P.L. 111-117, requires civilian agencies to prepare annual inventory of their service contracts. Inventories are required to be submitted in accordance with the Office of Management and Budget (OMB) guidance dated November 5, 2010 and December 19, 2011, and FY 2016 Service Contract Inventory Alert September 20, 2016. In addition, agencies are to perform an analysis of their data in their inventories 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.

Per OMB guidance, agency reviews are to give priority consideration to agency use of contracted (a) professional and management services and (b) information technology support services. Review of professional and management services should include acquisition support and an appropriate sampling of policy and program management and development services. OMB identified the Special Interest Functions listed below (Table 1) for heightened management consideration. This was based on concerns of increased risk of losing control of mission and operations as identified through a review of reports issued in recent years, such as by the Government Accountability Office, the Commission on Wartime Contracting, agency Inspectors General, Congressional Committees, and the Acquisition Law Advisory Panel (also referred to as the “SARA Panel”), as well as by OMB’s own analysis. In addition, each agency is required to identify the top ten Product Service Codes (PSC) that accounted for the agency’s greatest percentage of spending (Table 2).

<b>PSC</b>	<b>Product or Service Description</b>
B505	Cost Benefit
D302	Systems Development
D307	Strategy and Architecture
D310	Cyber Security and Data Backup
D314	System Acquisition Support
R406	Policy Review/Development
R407	Program Evaluation Services
R408	Program Management/Support
R409	Program Review/Development Services
R413	Specifications Development
R414	Systems Engineering
R423	Intelligence
R425	Engineering/Technical
R497	Personal Services Contracts
R707	Contract/Procurement/Acquisition Support

**Table 1: Special Interest Items**

<b>PSC</b>	<b>Product or Service Description</b>
D317	IT AND TELECOM- WEB-BASED SUBSCRIPTION
D399	IT AND TELECOM- OTHER IT AND TELECOMMUNICATIONS
R499	SUPPORT- PROFESSIONAL: OTHER
R424	SUPPORT- PROFESSIONAL: EXPERT WITNESS
D318	IT AND TELECOM- INTEGRATED HARDWARE/SOFTWARE/SERVICES SOLUTIONS, PREDOMINANTLY SERVICES
R408	SUPPORT- PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT
R418	SUPPORT- PROFESSIONAL: LEGAL
D307	IT AND TELECOM- IT STRATEGY AND ARCHITECTURE
D301	IT AND TELECOM- FACILITY OPERATION AND MAINTENANCE
D302	IT AND TELECOM- SYSTEMS DEVELOPMENT

**Table 2: SEC's Top Ten PSCs**

When reviewed in total, there were only two service codes at the detailed level that represented the SECs top ten and the special interest product service codes. They are listed as follows (Table 3):

<b>Service Code – Detailed Level</b>	<b>Service Code Description</b>	<b>% of Total Obligated Dollars</b>	<b># of Contracts</b>	<b>Obligated Amount</b>
D3	Information Technology and Telecommunications	51%	467	\$182,518,336.50
R4	Support – Professional	26%	721	\$93,104,521.79
<b>Totals</b>		77%		\$275,622,858.29

**Table 3: SEC’s Detailed Level Service Codes**

On January 15, 2015, SEC notified OMB of the areas planned for analysis in the FY 2015 inventory. While selecting the PSC’s for review, SEC found that 77% of the services funding fell into two of the detailed level services codes; D3 Information Technology (51%) and R4 Support – Professional (26%). SEC selected five PSC’s to analyze as part of the FY 2015 Service Contract Inventory. SEC focused analysis on three that are on the special interest list and had not previously been reviewed, one that is regularly on the top ten obligations and special interest but not reviewed in the previous year, and one that is in the top ten obligations but not reviewed in the previous year. The functions selected were PSC D301- Facility Operation and Maintenance, PSC D307 IT Strategy and Architecture, PSC 410- Program Evaluation/ Review/Development, PSC R413- Specifications Development Service and PSC R707- Management Services/ Contract/Procurement/ Acquisition Support. The details regarding SEC’s FY15 Service Contract Inventory are listed as follows (Table 4):

<b>Service Code – Selected</b>	<b>Service Code Description</b>	<b>% of Total Obligated Dollars</b>	<b># of Contracts Reviewed</b>	<b>Obligated Amount</b>
D301	Facility Operation and Maintenance	13%	4	\$48,546,969
D307	IT Strategy and Architecture	8%	33	\$29,126,100
R410	Program Evaluation/ Review/Development	<1%	3	\$727,054
R413	Specifications Development Service	<1%	5	\$406,233
R707	Management Services/ Contract/Procurement/ Acquisition Support	<1%	3	\$1,228,839
<b>Totals</b>		21%	48	\$80,035,195

**Table 4: SEC’s Service Contract Inventory Detail**

1. Facility Operation and Maintenance- PSC D301 was selected because it is on the top ten obligation each year, but has not been reviewed since FY 2013. Approximately 13% (\$48,546,969) of the total service dollars were obligated under this PSC.
2. IT Strategy and Architecture -PSC D307 was selected because it is on the special interest list and the top ten obligation list, but has not been reviewed since FY 2012. Approximately 8% (\$29,126,100) of the total service dollars were obligated under this PSC.
3. Program Evaluation/ Review/Development- PSC R410 was selected because it on the special interest list and has not been previously reviewed. Approximately 0% (\$727,054) of the total service dollars were obligated under this PSC.
4. Specifications Development Service -PSC R413 was selected because it is on the special interest list and not been previously reviewed. Approximately 0% (\$406,233) of the total service dollars were obligated under this PSC.
5. Management Services/ Contract/Procurement/ Acquisition Support-PSC R707 was selected because it is on the special interest list and not been previously reviewed. PSC

also has potential for personal services, inherently governmental work to be performed by contractors and cover some SEC critical functions. Approximately 0% (\$1,228,839) of the total service dollars were obligated under this PSC.

## Methodology

All five PSC analyses were conducted in the same manner. A total of 48 contracts were analyzed and this was accomplished in two steps. First, the team reviewed the Statement of Work for each of the 48 contracts within the PSCs to determine if inherently governmental functions were being performed. Second, the analysis team sent out surveys and set up interviews with the Contracting Officer Representatives (CORs) for all contracts selected for this review. During the SOW Reviews and Survey and Interview process a number of contracts were omitted due to the actions being a base BPA or IDIQ contract (work is performed at the Call or Task Order/Delivery/Order level for these actions), the action was canceled, or all work was performed and there was no activity on the contract in FY 2015 except for closeout. The total omitted was 13. The surveys and interviews were conducted to determine the following: the approximate number of full time employee equivalents performing under each contract; if the contractor was performing inherently governmental functions; if there are sufficient government personnel for oversight of the contractor's performance; if the contractor is performing critical functions; and whether the COR communicated the SAM service contract reporting requirement to the contractors.

The SEC tracked its contractors' response rate for the annual SAM service contract reporting requirement. The team worked with the contracting officers and contract specialists to ensure contractors were reporting or to determine any reasons why contractors may not have reported their contracts. Analysis was conducted based on data gathered and disseminated by OMB.

## Findings

The Office of Acquisitions (OA) determined, by reviewing the Statements of Work, and conducting surveys and COR interviews, that the contractors were not tasked to perform inherently governmental functions or personal services. The contracts reviewed accounted for approximately 635 full time employee equivalents, as some of the contracts had turnover and requirement changes the number fluctuated frequently throughout the fiscal year. The analysis of the survey responses and COR Reviews conducted as part of the FY15 Inventory determined that the government possesses the expertise to perform oversight of the contractor's performance. The analysis revealed that there were some improvements over previous years. One notable area of improvement was the availability of training. Several CORs had favorable

comments regarding the COR training that is offered by the Office of Acquisitions. Additionally, the results showed that 82% of CORs are spending less than 50% percent of their time on COR duties. Although many acknowledged improvement from the previous year, there were still some areas of concern noted such as, the need for a better way to distinguish COR duties from Project Manager (PM) duties when the same individual serves as both the COR and PM, and balancing primary work duties with COR duties/responsibilities.

The SEC conducted our inventory analyses in accordance with section 743(e) to ensure that:

- 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;
- 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 that 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.

***PSC D301- Facility Operation and Maintenance - \$48,546,969 (13%)***

The analysis was centered on 3 contracts which accounted for 98% of the dollars obligated under this PSC and 268 full time employee equivalents. The role these contracted services played were all for other functions, none were for critical functions or inherently governmental functions.



***PSC D307- IT Strategy and Architecture - \$29,126,100 (8%)***

The analysis was centered on 25 contracts which accounted for 100% of the dollars obligated under this PSC and 246 full time employee equivalents. The role these contracted services played were all for other functions, none were for critical functions or inherently governmental functions.

***PSC R410 - Program Evaluation/ Review/Development- \$727,054 (<1%)***

The analysis was centered on 2 contracts which accounted for 100% of the dollars obligated under this PSC and 5 full time employee equivalents. The role these contracted services played were all for other functions, none were for critical functions or inherently governmental functions.

***PSC R413 - Specifications Development Service - \$406,233 (<1%)***

The analysis was centered on 3 contracts which accounted for 100% of the dollars obligated under this PSC and 7 full time employee equivalents. The role these contracted services played were all for other functions, none were for critical functions or inherently governmental functions.

***PSC R707- Management Services/ Contract/Procurement/ Acquisition Support- \$1,228,839 (<1%)***

The analysis was centered on 2 contracts which accounted for 100% of the dollars obligated under this PSC and 6 full time employee equivalents. The role these contracted services played were all for other functions, none were for critical functions or inherently governmental functions.

**Service Contract Reporting**

Contractors holding service contracts were required to enter their invoicing data into System for Acquisition Management (SAM). Throughout the reporting period, several Contractors experienced issues with the SAM. The SEC's Office of Acquisitions and the SEC's Service Contractors worked diligently with the Federal Service Helpdesk in order to get issues resolved so that the necessary service contract reporting could be accomplished. In spite of the challenges that vendors were experiencing, as of the cut-off date for timely reporting, December 15, 2016, the SEC's compliance rate was roughly 75%. The final report from OMB dated February 6, 2017, shows our extensive efforts resulted in an 87% compliance rate. This is an increase over FY14's compliance rate of 62% and is the highest rate that SEC has achieved since the Service Contract Requirement was introduced.

## Actions Taken or Planned

Several actions will be taken to address/continue to address concerns raised by the CORs. In order to address the majority of the findings identified by the CORs, further training on all levels has been provided and continues to be available. Training was provided to leadership/supervisors in FY16 and the SEC's OA anticipates providing it again in FY18. The Office of Acquisitions provides many opportunities for CORs to attend extensive training and is continuing to build upon the training that is available to ensure that CORs are fully equipped to perform their duties effectively. Training has been provided to the contracting officers and contract specialists, specifically in the area of proper entry of information into FPDS. Additional checks of contract actions are conducted throughout the year by way of contract reviews and FPDS-V&V. As contracts are found to have areas of concern, for instance inaccurate PSC, they are brought to the contracting officer for correction or clarification.

There are initiatives underway or in place to ensure COR needs/concerns are addressed. One such initiative includes a team that was established within the Office of Acquisitions to address concerns with the COR program and they met with CORs to better determine what can be done to improve the procurement process. One of the outcomes of the Team's efforts is to provide agency specific COR training which started in calendar year 2017. Additionally, in order to help with communications and assist with fostering a more collaborative working relationship with the CO and COR, the SEC is planning to engage COs in the Service Contract Inventory survey and COR Review process for FY 2016.

Based on the analysis performed it has been determined that adequate controls are currently in place to ensure contractors are not performing inherently governmental functions, contractors' performance under their contracts are satisfactory, and there are adequate government personnel to perform oversight of contractors' performance. It is not necessary to incorporate any additional controls into existing procedures.

## Accountable Officials

The SEC's senior management official who is accountable for development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 addressing the performance of inherently governmental and critical functions is Vance Cathell, Director of the Office of Acquisitions. Mr. Cathell is also the official responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories.