



Analysis of Department of Homeland Security (DHS) FY 2015 Service Contract Inventory

Introduction

Section 743 of Division C, of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Pub. L. 111-117 requires civilian agencies to prepare an annual inventory of their service contracts, and to analyze the inventory to determine if the mix of federal employees and contractors is effective or requires rebalancing. This report provides information on DHS service contracts, in accordance with implementing guidance contained in the OMB Memorandum to Chief Acquisition Officers and Senior Procurement Executives, dated December 19, 2011.

In March 2010, the department established the Balanced Workforce Program Management Office (BW PMO)¹ within the Office of the Chief Human Capital Officer (OCHCO). In August 2010, the BW PMO released the Balanced Workforce Strategy (BWS) to provide a comprehensive and repeatable risk-based approach to comply with policies, statutes, regulations, and guidance issued by the President, Congress, OMB, and DHS leadership related to managing the total workforce – both federal employees and contractors. The goals of the BWS are to:

- Ensure compliance with applicable statutes, regulations, and policies, through a repeatable, documented decision-making process;
- Determine the proper workforce balance for each component activity; and
- Reduce mission risk while, as practicable, reducing or controlling costs.

In collaboration with the Office of the Chief Procurement Officer (OCPO), the Office of the Chief Financial Officer (OCFO), and the Office of the General Counsel (OGC), the BW PMO developed a three-step methodology to analyze the department's service contracts. The current review process requires components to review all proposed requirements for services, with the exception of those requirements in select Product and Service Codes (PSCs) that have been designated on the BWS Exemption List.

In a memorandum dated January 7, 2014, the DHS Undersecretary for Management (USM) mandated the use of the Balanced Workforce Assessment Tool (BWAT) department-wide to document the appropriate workforce balance needed (federal and/or contract support) to perform proposed requirements for services. Use of the BWAT ensures full compliance with the Federal Acquisition Regulation and OFPP Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions.

¹ In September 2013, OCHCO redesignated the BW PMO as the Office of Strategic Workforce Planning and Analysis (SWPA) and added additional, related functions. The Balanced Workforce Strategy Division within SWPA conducted this analysis.

I. Proposed Requirements for Services Analyzed and Dollars Obligated in FY 2015

On December 14, 2016, the BWS Division, in coordination with the OCPO, provided components with a list of analyses analyzed via the BWAT for FY 2015. The list contained all proposed requirements for service contracts (including SIFs, shown below) awarded in FY 2015 with an ultimate value greater than or equal to the Simplified Acquisition Threshold (SAT)² of \$150,000.

DHS SPECIAL INTEREST FUNCTIONS³

PSC	DESCRIPTION OF FUNCTION
<i>Special Studies/Analysis — Not Research & Development (R&D)</i>	
B505	Special Studies/Cost Benefit Analyses
<i>Professional/Administrative/Management Support Services</i>	
R406	Policy Review/Development Services
R408	Program Management/Support Services
R410	Program Evaluation/Review/Development Services
R413	Specifications Development Service
R423	Intelligence Services
R425	Engineering and Technical Support Services
R497	Personal Services Contracts
R499	Other Professional Support Services
R699	Other Administrative Support Services
R707	Contract/Procurement/Acquisition Support
R799	Other Management Support Services
<i>Information Technology Support Services</i>	
D302	IT & Telecom Systems Development Services
D307	IT & Telecom – IT Strategy and Architecture
D310	IT & Telecom – Cyber Security & Data Back-up
D314	IT & Telecom – System Acquisition Support
D399	IT & Telecom – Other IT & Telecommunications

Components were required to review the FY 2015 BWAT Analysis list, confirm all contracts were analyzed under the BWS review process, and produce related BWS information by January 23, 2017. Components were also required to submit additional BWS analyses completed during FY 2015 that were not included in the contract inventory data call to the BWS Division for technical review.

Dollars Obligated in FY 2015. The total value of all proposed (single and multi-year) requirements for service contracts identified for BWS analysis was \$21,130,653,359⁴.

² The Simplified Acquisition Threshold applies to the total contract value: base plus option years.

³ The department adopted a subset of codes previously recommended by OMB and added two additional codes for functions identified as critical.

⁴ Total value denotes base plus option years of service contracts, including IDIQ contracts.

II. Methodology Used to Support Analysis

The department based this report on data entered by the components into the Balanced Workforce Assessment Tool (BWAT). The BWAT is an enterprise-wide online questionnaire used to analyze proposed requirements for services and re-competed work functions. The BWAT enabled components to categorize work as an inherently governmental function (in accordance with OFFP Policy Letter 11-01, FAR 7.5, HSAM 3007.5), personal services (in accordance with FAR 37.1), closely associated with an inherently governmental function (OFFP Policy Letter 11-01, OFFP M-09-26 memo, FAR 7.5 & 37.1, Section 736), or a critical function (OFFP Policy Letter 11-01). The analysis further included assessment of possible mission risk, level of contractor oversight and management needed, mitigation strategies, and cost analysis. The results of this analysis facilitate recommended sourcing decisions – whether work functions must be performed by federal personnel only, or can be performed through a combination of federal expertise and contractor support. For the purposes of this report, the department focused on contracts awarded or exercised in FY 2015.

III. Summary of Findings

Components analyzed 691 requirements with an ultimate value equal to or above the SAT of \$150,000 using the BWAT. Below are the total numbers of contracts analyzed via the BWS process in each PSC in comparison with the total number of FY 2015 service contracts.

FY 2015 SERVICE CONTRACTS ANALYZED BY PSC

PSC	ANALYSES	TOTAL CONTRACTS
B505	4	4
D302	39	66
D307	25	50
D310	24	54
D314	5	2
D399	64	120
R406	7	5
R408	103	184
R410	16	20
R413	4	1
R423	2	4
R425	42	133
R497	0	0
R499	72	125
R699	31	80
R707	9	20
R799	18	80
Non-SIF PSC	226	1,906
Total	691	2,854

There were no analyses completed during the FY 2015 period that produced the sourcing recommendation “Must Be Performed by Federal Employees.”

IV. Outcomes Achieved in Accordance with Section 7439(e) (2)

1. Any personal services contract listed in the inventory has been executed, and is being performed, according to applicable laws and regulations.

The BWS analysis of proposed requirements for services addresses personal services and indicates that DHS is in full compliance with FAR Part 37.104, only entering into personal services contracts authorized by statute. The analysis determines if a contract may have inadvertently entered into the realm of personal services with the following content included in the BWAT:

The function is obtained through a contract and contractor personnel are subject to relatively continuous supervision and control by a Governmental officer or employee. Consider all the following factors and when answered affirmatively, tend towards the conclusion that a personal service contract exists:

- Contractor is performing on Government site and using Government equipment.
- Need for the service can reasonably be expected to last beyond one year.
- Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.
- Comparable services meeting comparable needs are performed in the same or similar agencies using civil service personnel.

The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to:

- Adequately protect the Government's interest;
- Retain control of the function involved; or
- Retain full personal responsibility for the function supported in a duty authorized Federal officer or employee.

Does the contract require the services of individual experts or consultants, which is limited by the Classification Act?

- If so, has the Program Office reviewed the Office of Personnel Management (OPM) requirements?
- And, has the Component coordinated the request with DHS Human Capital/Human Resources office?

If any of the criteria above are selected it leads to a follow-up question: There are some statutory provisions that allow the department to obtain personal services through contract, rather than through the normal process of hiring employees through civil service appointments. Do any of the following exemptions apply to the function you are analyzing?)

None of these apply (which leads to the next question in the BWAT)

2. As set forth in FAR 37.114, the agency is giving special management attention to functions that are closely associated with inherently governmental functions.

BWS analysis includes items in the BWAT to assess the extent to which a function might be closely associated with inherently governmental functions. Once identified, the tool determines the appropriate mix of federal employees and contractors to perform the function with an enhanced degree of oversight to ensure the department maintained control of its mission.

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

In the department's review of the proposed requirements for service contracts, none of the applicable contracts were identified as performing inherently governmental functions.

4. 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.

DHS depends on well-trained Contracting Officer Representatives (CORs) to advise Contracting Officers that contractors do not inadvertently assume inherently governmental functions during contract performance. The BWAT includes an evaluation of the risk that the function will evolve into inherently governmental work.

5. 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.

The BWAT evaluates critical functions, including whether the department has sufficient internal capability to control its mission. Items on the Sufficient Internal Capability Test included in these tools address the following issues:

- Relationship of the work to the department's mission;
- Complexity of the function;
- Extent of sufficient in-house capability to perform the function;
- Impact of contractor ceasing performance; and
- Risk of function evolving into inherently governmental (i.e., restricted) work.

By responding to these items, components can determine that contractor employees are used appropriately, enabling DHS to effectively control its mission.

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

The BWAT directly requests information from components about the number of federal workers providing oversight and management of service contracts in relation to the number of contractors. In addition, components provide information about the sufficiency of contract management through the availability of appropriately trained and experienced contract administration staff. DHS uses technical subject matter experts (SMEs), in addition to CORs and Contracting Officers, to administer its complex contracts.

V. Explanation of actions taken or planned to resolve weaknesses

This year's analysis of the FY 2015 Service Contract Inventory reflects the use of the enhanced BWAT with all applicable contracts analyzed using the Continuous Monitoring (i.e., Implementation of Recommendations) feature.

Since deploying the BWAT, the BWS Division is monitoring component activity and compliance with the mandatory use requirement⁵. As components continue to integrate the BWAT and BWS processes into their business processes, the BWS Division conducts audits to evaluate program implementation, use, and compliance with associated guidance. As of January 2017, the BWS Division concluded audits of nine components and offices: U.S. Immigration and Customs Enforcement (ICE), the National Protection and Programs Directorate (NPPD), U.S. Citizenship and Immigration Services (USCIS), the Federal Emergency Management Agency (FEMA), Federal Law Enforcement Training Center (FLETC), the Office of the Chief Information Officer (OCIO), the Office of Intelligence & Analysis (I&A), the Office of Policy (PLCY), and Transportation Security Administration (TSA). The BWS Division plans to complete 4-5 audits of component use of the BWS/BWAT each fiscal year.

In FY 2017, DHS will:

- Complete BWS audits of four components or offices.
- Update and enhance the Balanced Workforce Assessment Tool (BWAT) based on lessons learned, component feedback, BWS policy changes, and best practices.
- Complete the FY 2016 Service Contract Inventory utilizing data from the BWAT.

Utilizing the BWS has allowed DHS to make significant progress in:

- Achieving the appropriate mix of federal and contractor skills, expertise, experience and other assets necessary to effectively achieve the Department's mission;
- Ensuring inherently governmental functions and unauthorized personal services are not performed by contractors;
- Dedicating an adequate number of federal employees to the performance of critical functions or functions closely associated with inherently governmental such that the Department can maintain control of its mission and operations;
- Giving consideration to using, on a regular basis, federal employees to perform new functions and functions currently performed by contractors that could be performed by federal employees (including Special Consideration to the use of federal employees in those areas specifically identified by law); and
- Integrating management and planning activities to reduce risk to the department's mission and promoting improvements in economy, efficiency, and performance.

The BWS Division will continue to work in conjunction with representatives from OCPO, OCFO, and OGC to update BWS policy, as necessary.

⁵ The DHS Undersecretary for Management (USM) mandated the use of the Balanced Workforce Assessment Tool (BWAT) for all proposed requirements for services on January 7, 2014.

VI. Responsible Officials

Policy

Steven McPeck (DHS Balanced Workforce Strategy, OCHCO)

Laura Auletta (Procurement Policy, OCPO)

Management

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