

Merit Systems Protection Board

Financial and Administrative Management



Fiscal Year 2015 Service Contract Inventory Analysis

February 2017

Background

The Merit Systems Protection Board is an independent, quasi-judicial agency in the Executive branch that serves as the guardian of Federal merit systems. The Board was established by Reorganization Plan No. 2 of 1978, which was codified by the Civil Service Reform Act of 1978 (CSRA), Public Law No. 95-454. The CSRA, which became effective January 11, 1979, replaced the Civil Service Commission with three new independent agencies: Office of Personnel Management (OPM), which manages the Federal work force; Federal Labor Relations Authority (FLRA), which oversees Federal labor-management relations; and, the Board.

The mission of the Merit Systems Protection Board (MSPB) is to protect the Merit System Principles and promote an effective Federal workforce free of Prohibited Personnel Practices. MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals and by conducting merit systems studies. In addition, MSPB reviews the significant actions of the Office of Personnel Management (OPM) to assess the degree to which those actions may affect merit.

Introduction

As required by Division C, Section 743 of the Fiscal Year (FY) 2010 Consolidated Appropriations Act (P.L. 111-117) and further guidance from the Office of Management and Budget (OMB) – Office of Federal Procurement Policy (OFPP) Memorandum to Chief Acquisition Officers (CAO) and Senior Procurement Executives (SPE), entitled “Service Contract Inventories” - dated November 5, 2010, the U.S. Merit Systems Protection Board (MSPB), Office of Financial and Administrative Management assessed MSPB’s service contract inventory and coordinated the internal analysis. The results are summarized in this report.

Scope

In compliance with the FY 2010 Consolidated Appropriations Act, MSPB completed a thorough analysis of its FY2015 inventory to:

- Gauge whether contracts for services are being used appropriately to support the MSPB mission;
- Determine the effectiveness of MSPB’s use of support contractors; and

- Identify future improvements to our service-related acquisition practices.

MSPB is submitting this report, in accordance with OMB's guidance and the GAO Report #GAO-12-1007, to present its analysis, methodologies, significant findings, accomplishments, and future actions required for continued improvements.

Analysis of FY 2015 Service Contract Inventories

MSPB continues to strengthen its financial stewardship throughout the acquisition life-cycle. The MSPB Procurement office completed the analysis of their 2015 service contract inventory assuring service contracts supported valid program requirements along with considering the balance between federal employees and service contractors.

The MSPB recognizes that the ongoing critical success of the services that the agency acquires to support its missions require definitive processes to execute services acquisitions and ensure governance and oversight. The ongoing review processes create opportunities to engage customers early on in the acquisition planning process which enables them to develop effective, results-oriented strategies that meet the need with solutions and incentives for efficient innovation throughout the acquisition process.

The MSPB conducted the inventory analysis in accordance with section 743(e) to ensure that:

- no personal service contracts have been awarded;
- special management attention is given, as set forth in Federal Acquisition Regulation (FAR) 37.114, to functions that are closely associated with inherently governmental functions;
- contractor employees are not utilized to perform inherently governmental functions;
- specific safeguards and monitoring systems are in place to ensure that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;

- contractor employees are not utilized to perform critical functions 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.

Methodology

The inventory was acquired from a report compiled from the Federal Procurement Data System (FPDS). The report was created using the parameters established in P.L. 111-117.

The inventory review methods included:

- surveying program managers, budget managers, contracting officer representatives, and contracting officers;
- random sampling of service contracts;
- validating contractor performance;
- assessing agency needs.

Findings

There were no special interest functions obligated by MSPB in Fiscal Year 2015. The service contracts reviewed were selected from the price range of \$25,000 or above, as required by P.L. 111-117. The MSPB has only a limited number of service contracts over the \$25,000 threshold. MSPB only had one contract over the \$25,000 threshold that utilized support contractors.

Of the contracts MSPB reviewed, all were deemed necessary and in direct support of the MSPB mission. MSPB Procurement staff did not identify any contracts with inherently governmental functions or personal services. MSPB contracts met performance expectations and contractual requirements.

MSPB does not use 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.

Conclusion

In the reviews accomplished, MSPB has determined that contractors are not performing inherently governmental functions, safeguards and monitoring systems are in place to ensure that work being performed does not become inherently governmental, contractors are not performing critical functions that could affect the agency's ability to maintain control of its mission and operations and there are adequate resources to effectively manage contracts.

After reviewing the Services Contract Inventory, MSPB has identified no significant weaknesses or challenges to its contracting process. Therefore, no corrective actions have been needed and no plans to address future contracts are necessary. Similarly, no deficiencies were uncovered in the previous fiscal year inventory.

Responsible Officials

Kevin Nash, Director, Financial and Administrative Management - is accountable for the development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 addressing the performance of inherently governmental and critical functions. Mr. Nash is also responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories.