



**U.S. Department of Justice
Completed Analysis of FY 2021
Service Contract Inventory**

Department of Justice (DOJ)
FY 2021 Service Contract Analysis

A. Executive Summary:

Through its analysis, the Department of Justice (Department of DOJ) has determined that contract labor is being used in an appropriate and effective manner and that the mix of federal employees and contractors is effectively balanced; therefore, rebalancing is not required. The Department continues to effectively award, manage, and oversee its service contracts and has the infrastructure and resources necessary to ensure contractors are not performing inherently governmental functions. The Department will continue to take actions to ensure contract labor in the Product Service Code (PSC) Special Interest Functions categories are used in an effective manner.

B. Background:

Section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, P.L. 111-117, requires civilian agencies to prepare an annual inventory of their service contracts and complete a meaningful analysis of its inventory. The Act further requires agencies to make the inventory and the analysis publicly available. The inventory must include all service contract actions exceeding \$25,000 that were awarded in a specific fiscal year. Only actions funded by the agency are to be included in the agency inventory. Actions made on behalf of an agency using another agency's funding are to be excluded.

Initial guidelines for the development and format of the inventory were provided to agencies in the Office of Federal Procurement Policy (OFPP) Memorandum, Service Contract Inventories, dated November 5, 2010.¹ Those guidelines were updated on December 19, 2011². In addition to the mandatory data reporting, the OFPP Memorandum requires that agencies conduct a meaningful analysis of their inventory data to determine whether contract labor is being used in an appropriate and effective manner. Furthermore, agencies were tasked with determining whether the mix of federal employees and contractors used in the identified functional areas is effectively balanced.

Agencies were instructed to submit their inventories to the Office of Management and Budget (OMB), in accordance with the guidance in the OFPP Memorandum. Further, agencies were tasked with making the inventory available to the public via its agency homepage. Accordingly, the Department of Justice provides its annual submission to OMB and has made previous Service Contract Inventories available on the Justice Management Division's website at <http://www.justice.gov/jmd/service-contract-inventory>.

C. Agency Mission:

The DOJ enforces the law and defends the interests of the United States (U.S.) according to the law; ensures public safety against threats foreign and domestic; provides federal leadership in preventing and controlling crime; seeks just punishment for those guilty of unlawful behavior; and ensures fair and impartial administration of justice for all Americans. The DOJ has nine (9) components with the procurement authority to manage the Department's contracting activities. Each of these components are led by a Bureau Procurement Chief. The following is a description of each component's mission:

¹ <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf>

² <https://obamawhitehouse.archives.gov/sites/default/files/omb/procurement/memo/service-contract-inventory-guidance.pdf>

- The **Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)** is a unique law enforcement agency that protects our communities from violent criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products.
- The **Federal Bureau of Prisons (BOP)** protects society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.
- The **Drug Enforcement Administration (DEA)** enforces the controlled substances laws and regulations of the U.S. and brings to the criminal and civil justice system those organizations and principal members of organizations involved in the growth, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the US; and recommends and supports non-enforcement programs aimed at reducing the availability of illicit controlled substances on domestic and international markets.
- The **Federal Bureau of Investigation (FBI)** protects and defends the United States against terrorist and foreign intelligence threats; upholds and enforces the criminal laws of the U.S.; and provides leadership and criminal justice services to federal, state, municipal, and international agencies and partners.
- The **Federal Prison Industries (FPI)** employs and provides job skills training to the greatest practicable number of inmates confined within the Federal Bureau of Prisons; contributes to the safety and security of our Nation's federal correctional facilities by keeping inmates constructively occupied; provides market-quality products and services to government agencies; operates in a self-sustaining manner; and minimizes FPI's impact on private business and labor.
- The **Justice Management Division (JMD)** provides advice to senior management officials and direct services to DOJ's litigation components and components that support the Attorney General regarding Departmental policy, budget and financial management, human resources management and training, procurement, equal employment opportunity, information policy and records, information technology, security, and all matters pertaining to organization, management, and administration. Procurement Services Staff (PSS) is an office within the JMD that primarily supports the Department's litigating components but will also assist other DOJ components as needed.
- The **Office of Justice Programs (OJP)** increases public safety and improves the fair administration of Justice across America through innovative leadership and grant programs.
- The **Office of the Inspector General (OIG)** reviews and investigates the programs and personnel of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Federal Bureau of Prisons, the U.S. Marshals Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the U.S. Attorneys, and all other organizations in the Department.
- The **United States Marshals Service (USMS)** protects the judiciary, witnesses, and court officers; detains and transports prisoners; apprehends fugitives; and manages the asset forfeiture program.

The Department also includes various **Offices, Boards and Divisions (OBDs)** which consist of the litigation components of the Department (Antitrust Division, Civil Division, Civil Rights Division, Criminal Division, Environment and Natural Resources Division, Tax Division and the U.S. Attorneys), along with other components that support the Attorney General. The PSS office, within JMD, provides acquisition support to the OBDs.

D. Purpose:

The purpose of this report is to submit the DOJ analysis of its FY 2021 Service Contract Inventory Special Interest Functions, which were selected for study. This report summarizes:

- a) the special interest functions studied, the dollars obligated to those PSCs in FY 2021, and the rationale for focusing on the identified functions;
- b) the methodology used by the agency to support the analysis;
- c) agency findings; and
- d) actions taken or planned.

E. Analysis:

In accordance with the OFPP Memorandum, the DOJ conducted analysis of the data in its inventory for priority special interest functions. Special interest functions are considered functions that require increased management attention due to heightened risk of workforce imbalance.

1. **Scope of analysis:**

Appendix D to the OFPP Memorandum directed agencies to include in its analyses a review of the contracts and information in the inventory for the purpose of ensuring that –

- (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.
- (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.
- (iii) The agency is not using contractor employees 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 inherently governmental functions.
- (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.
- (vi) There are sufficient internal agency resources to manage and oversee contracts effectively.

2. **Special Interest Functions studied:**

The DOJ chose four special interest PSC functions from its FY 2021 Service Contract Inventory for further analysis:

- Support – Professional: Other (R499)
- IT and Telecom – Other IT and Telecommunications (D399)
- Support – Management: Other (R799)
- IT and Telecom – Systems Development (D302)

The four PSCs were selected because they are the top four special interest functions listed on the FY 2021 Service Contract Inventory. The aforementioned PSCs have the biggest percentage of obligations for services with the exception of PSC G004 “Social – Social Rehabilitation” and PSC Q201 “Medical – General Health Care,” which are very specific services relevant to the Department’s law enforcement mission. The selected PSCs accounted for approximately 22% of the DOJ total FY 2021 contract awards reported on USASpending.Gov. Additionally, PSC R499 “Support – Professional: Other” and R799 “Support – Management: Other” are functions where the government-wide potential for inappropriate use of high-risk awards and the mix of contract labor and federal employees is a major concern.

Table 1 – Special Interest PSCs Studied as Obligations per PSC and as a Percentage of DOJ Total FY 2021 Contract Awards

PSC	Product and Service Code Descriptions	Total FY 2021 Obligations Per PSC	As a Percentage of Total FY 2021 Awards
R499	Support – Professional: Other	\$1,150,413,735	12%
D399	IT and Telecom – Other IT and Telecommunications	\$470,297,350	5%
R799	Support – Management: Other	\$332,500,223	3%
D302	IT and Telecom – Systems Development	\$190,903,642	2%
TOTAL		\$2,144,114,950	22%

3. **The methodology used by the agency to support the analysis:**

The DOJ utilized a methodology leveraged for previously completed procurement related assessments. Specifically, the Department sampled contracts and performed USASpending queries to establish baseline data for FY 2021. For the purposes of the sample, the Department identified all contracts for the selected PSCs. From this list, contracts were selected representing a mixture of Bureaus and dollar values. A strict random sample was not utilized to ensure greater contract size and scope diversity. For the identified contracts, the Department reviewed contract information and ran a USASpending query for total FY 2021 obligations. Based on the information derived from the sample, the Department performed a final data review and prepared its report.

The reviewed contracts for PSC R499 are summarized as follows:

Table 2 – PSC R499 Support – Professional: Other

Contracting Bureau	Vendor Name	Contract No.	Description	Total FY21 Obligations
FBI	Dynamo Technologies LLC	15F06718P0006521	Accounting / administrative services	\$1,374,883
FBI	Tuva, LLC	15F06721F0001743	Administrative management and general management consulting services	\$1,381,096
OBD	Kingstonville, LLC	15JA0520C00000110	Program management and support services	\$1,334,100
OJP	WHH Nisqually Federal Services, LLC	15PBJA18C00000500	Engineering services	\$1,812,317

The reviewed contracts for PSC D399 are summarized as follows:

Table 3 – PSC D399 IT and Telecom – Other IT and Telecommunications

Contracting Bureau	Vendor Name	Contract No.	Description	Total FY21 Obligations
OBD	Information Technology Coalition, Inc.	15JPSS19F00000677	Software development services and support	\$5,169,888
FBI	Booz Allen Hamilton Inc.	DJF161200D0002557	Procurement systems support	\$8,699,566
DEA	NTT Data Federal Services, Inc.	15DDHQ20F00001553	Professional technology support services	\$4,888,785
FBI	Soft Tech Consulting, Inc.	15F06719F0001163	Computer systems design services	\$3,701,421

The reviewed contracts for PSC R799 are summarized as follows:

Table 4 – PSC R799 Support – Management: Other

Contracting Bureau	Vendor Name	Contract No.	Description	Total FY21 Obligations
FPI / UNICOR	Microsoft Corporation	15UC0C21F00001961	Administrative support services	\$2,069,253
OBD	Information Systems & Networks Corp	15JPSS18D00000140	Quality assurance support services	\$2,430,000
OBD	CACI, Inc.	15JPSS20F00000868	Automated litigation support services	\$6,894,000
FBI	IAP Worldwide Services, Inc.	DJF171200D0001382	Program management and data support	\$11,010,891

The reviewed contracts for PSC D302 are summarized as follows:

Table 5 – PSC D302 IT and Telecom – Systems Development

Contracting Bureau	Vendor Name	Contract No.	Description	Total FY21 Obligations
FBI	Telos Corporation	15F06720P0001661	Systems support and services	\$1,275,684
FBI	CACI Enterprise Solutions	15F06718F0001089	Financial management support services	\$13,455,642
OBD	IBM	15JPSS18F00000167	Claims management systems development	\$39,670,403
BOP	JHC Technology, Inc.	15BNAS20FV9M10128	Cloud accounts and web development	\$4,725,870

4. **Analysis Summary:**

Under *PSC R499 Support – Professional: Other*, the scope of work to be performed under the selected contracts included accounting / administrative services, administrative management and general management consulting services, program management and support services, and engineering services.

Under *PSC D399 IT and Telecom – Other IT and Telecommunications*, the scope of work to be performed under the selected contracts included software development services and support, procurement systems support, professional technology support services, and computer systems design services.

Under *PSC R799 Support – Management: Other*, the scope of work to be performed under the selected contracts included administrative support services, quality assurance support services, automated litigation support services, and program management and data support.

Under *PSC D302 IT and Telecom – Systems Development*, the scope of work to be performed under the selected contracts included systems support and services, financial management support services, claims management systems development, and cloud accounts and web development.

Analysis of the scope of work for each contract selected as part of the sample confirms that 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.

5. **Agency findings and actions taken or planned:**

Below are the resulting findings and actions taken or planned for each topic presented in Appendix D of the OFPP Service Contract Inventories Memorandum:

Topic (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.*

There are instances when the DOJ enters into personal services contracts. Typically, these contracts are used to procure security guards services and services in support of summons on complaints, subpoenas, and notices in lieu of services by U.S. Marshals and Deputy Marshals. Individuals engaged under personal services contracts are not employees of the DOJ or any of its components. The DOJ awards personal service contracts under the authority at 28 U.S.C. Section 565. These contracts are being performed in accordance with applicable laws and procedures.

Topic (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.*

The DOJ is cognizant that government-wide, the line between inherently governmental functions and commercial activities that may be contracted for is not a precise one. The DOJ will continue to monitor this area to minimize when necessary, or eliminate when possible, awarding contracts for functions that are closely associated with inherently governmental functions.

The DOJ is following the guidance provided by OFPP and the General Services Administration (GSA) for the collection of additional data in FPDS to report whether an action is closely associated with inherently governmental functions. This activity is being monitored at the Department-level and DOJ procurement offices are made aware of changes to the FPDS reporting requirements as they occur. The DOJ will continue to direct its procurement offices to maintain a clear separation between inherently governmental functions and contractor performed services. This issue has and will continue to be addressed at future DOJ Justice Acquisition Council meetings.

Topic (iii): *The agency is not using contractor employees to perform inherently governmental functions.*

None of the reviewed contracts awarded under the Special Interest Function PSCs were found to have been

using contractor employees to perform inherently governmental functions.

Topic (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 inherently governmental functions.*

The DOJ has a capable acquisition workforce that has been trained to implement leading practices, monitoring systems, and safeguards to ensure that work being performed by contractors has not changed or expanded during performance to become inherently governmental functions. Oversight roles and responsibilities are clearly defined and the individuals responsible for monitoring are knowledgeable and properly trained. Review activities vary due to the decentralized nature of the Department's procurement operation. Each component has identified the appropriate level of management required to review contract actions. For example, some components require a review by the management level above the contracting officer for all contracting actions that exceed a certain threshold. While they are not uniform in their application, a range of controls have been implemented at DOJ components to maintain the separation between inherently governmental functions and contractor performed services.

Topic (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.*

The DOJ is a large, complex, and multifaceted organization comprised of over 40 separate components located both domestically and abroad. DOJ components have sufficient safeguards in place and resources available to ensure that the use of contractor employees in support of critical functions does not negatively affect its ability to maintain control of its mission and operations regarding its service contracts.

Topic (vi): *There are sufficient internal agency resources to manage and oversee contracts effectively.*

The DOJ defines its acquisition workforce in accordance with the OFPP Policy Letter 05-01, *Developing and Managing the Acquisition Workforce*, dated April 15, 2005. This definition includes all Contract Specialists and Procurement Analysts (General Schedule (GS) 1102s); all Program and Project Managers assigned to exhibit 300 projects; and, all Contracting Officer's Representatives, whether serving in that role as a collateral or full-time duty. In FY 2021, DOJ procurement offices were comprised of 4,128 acquisition professionals.

Due to staffing shortages in the past, some DOJ components hired contractors to support their procurement activities. Now, procurement offices have begun to rebuild their professional acquisition staff to reduce reliance on contractors in favor of developing DOJ in-house procurement expertise. The DOJ Chief Acquisition Officer and Senior Procurement Executive strongly support the initiatives that components undertake to manage and strengthen their acquisition workforce.

Each DOJ procurement office is responsible for the training and development of its acquisition workforce. Some of the most critical challenges experienced by DOJ in managing its acquisition workforce include:

- Limited 1102 population; shortage of qualified contracting professionals in the labor force; and retention of existing acquisition workforce.
- Resource constraints, which impact the Department's ability to respond to data calls.
- Transfer of knowledge and skills from one generation of contracting professionals to the next generation.
- Customers are stretched thin which, in turn, placed more demands on the acquisition workforce.

Due to budget constraints, some offices reported that their training budgets have been significantly reduced.

All DOJ acquisition professionals continue to participate in free online courses and “low-fill” Department of Homeland Security, and Department of Treasury course offerings. The DOJ procurement offices also conduct in-house training that covers basic to advanced procurement utilizing no-cost training, seminars, and round table discussions.

F. Conclusion:

Through its analysis, the DOJ has determined that contract labor is being used in an appropriate and effective manner and that the mix of Federal employees and contractors is effectively balanced; therefore, rebalancing is not required. The DOJ continues to effectively award, manage, and oversee its service contracts and has the infrastructure and resources necessary to ensure contractors are not performing inherently governmental functions. The DOJ will continue to take actions to ensure contract labor in the PSC Special Functions categories of contracts is used in an effective manner.

G. Accountable Officials:

Arthur E. Gary, Senior Procurement Executive

Valarie Mulcahy, Deputy Chief Human Capital Officer