

# **Merit Systems Protection Board**

## **Financial and Administrative Management**



**Fiscal Year 2019 Service Contract Inventory Analysis**

**February 2021**

## **Background**

The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency in the Executive branch that serves as the guardian of Federal merit systems. The MSPB 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 MSPB.

The mission of the 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 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 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, Office of Financial and Administrative Management assessed MSPB’s service contract inventory and coordinated the internal analysis. The results are summarized in this report.

<b>SPECIAL INTEREST FUNCTIONS</b>	
<b>PSC</b>	<b>PRODUCT OR SERVICE DESCRIPTION</b>
D302	AUTOMATIC DATA PROCESSING SYSTEMS DEVELOPMENT
D307	AUTOMATED INFORMATION SYSTEM DESIGN AND INTEGRATION SERVICES
D310	AUTOMATIC DATA PROCESSING BACKUP & SECURITY SERVICES
D314	AUTOMATIC DATA PROCESSING ACQUISITION SUPPORT SERVICES

R408	PROGRAM MANAGEMENT/SUPPORT SERVICES
R413	SPECIFICATIONS DEVELOPMENT SERVICE
R414	SYSTEMS ENGINEERING SERVICES
R421	TECHNICAL ASSISTANCE
R423	INTELLIGENCE SERVICES
R425	ENGINEERING AND TECHNICAL SERVICES
R497	PERSONAL SERVICES CONTRACTS
R707	MANAGEMENT SERVICES/CONTRACT & PROCUREMENT SUPPORT

<b>MSPB TOP TEN PRODUCT SERVICE CODES</b>	
<b>PSC</b>	<b>PRODUCT OF SERVICE DESCRIPTION</b>
D301	IT AND TELECOM- FACILITY OPERATION AND MAINTENANCE
D304	IT AND TELECOM- TELECOMMUNICATIONS AND TRANSMISSION
D318	IT AND TELECOM- INTEGRATED HARDWARE/SOFTWARE/SERVICES SOLUTIONS, PREDOMINANTLY SERVICES
D319	IT AND TELECOM- ANNUAL SOFTWARE MAINTENANCE SERVICE PLANS
J070	MAINTENANCE REPAIR REBUILD OF EQUIPMENT
R499	SUPPORT- PROFESSIONAL: OTHER
R606	SUPPORT- ADMINISTRATIVE: COURT REPORTING
U009	EDUCATION/TRAINING - GENERAL
V229	TRANSPORT/TRAVEL/RELOCATION- TRAVEL/LODGING/RECRUIT: PURCH OF TRANSIT/PUBLIC TRANSPORT FARE MEDIA
W074	LEASE OR RENTAL OF EQUIPMENT- OFFICE MACHINES, TEXT PROCESSING SYSTEMS, AND VISIBLE RECORD EQUIPMENT

### **Scope**

In compliance with the Consolidated Appropriations Act, 2010, MSPB completed a thorough analysis of its FY 2019 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 2019 Service Contract Inventories**

MSPB continues to strengthen its financial stewardship throughout the acquisition life-cycle. The MSPB Procurement office completed the analysis of their 2019 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:

- interview program managers, budget managers, contracting officer representatives, and contracting officers. The interview questions addressed: whether the services were necessary; whether inherently governmental functions were performed; were functions closely related to inherently government functions and if so what oversight methods were used; what procedures were used for inspecting and assessing performance; and how effective were the services performed;
- random sampling of service contracts;
- validate inherently governmental – performance by contractor or government;
- assess need driven by mission;
- identify opportunities to reduce duplication; and
- identify challenges and opportunities.

## **Findings**

There were no special interest functions obligated by MSPB in fiscal year 2019. 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 138 service contracts with only 11 over the \$25,000 threshold. MSPB only had two contracts over the

\$25,000 threshold that utilized support contractors. The review of selected contracts is as follows:

<b>Service Code Detail Level</b>	<b>Service Code Description</b>	<b>% of Total Obligated Dollars</b>	<b>Number of Contracts</b>	<b>Obligated Amount</b>
D3	Information Technology and Telecommunications	13	25	\$525,062.85
J0	Maintenance/Repair	3	8	\$136,127.57
R4	Support - Professional	4	7	\$58,941.88
R6	Support - Administrative	9	72	\$364,808.97
Total		29	112	\$1,804,941.27

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.

## **FY 2020 Planned Analysis**

In accordance with the Service Contract Inventory Checklist of Submissions, the U.S. Merit Systems Protection Board is submitting the identified Planned Analysis for FY 2020.

The functions are:

- D304 Telecommunications and Transmissions Services
- D319 Annual Software and Maintenance Service Plans
- R606 Support - Administrative: Court Report

These are the codes that are of highest interest for the agency to analyze for FY 2020.