

Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552



February 12, 2021

Memorandum for the Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy

FROM	Rachelle Vaughan, Senior Procurement Executive, Consumer Financial Protection Bureau, Office of Procurement
SUBJECT	Service Contract Inventory – FY 2020 Service Contract Inventory and Planned Analysis and FY 2019 Service Contract Inventory Analysis

Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Pub. L. 111-117, and the Executive Office of the President, Office of Management and Budget's (OMB) memoranda dated 05 November 2010 and 19 December 2011 on “Service Contract Inventories” require civilian agencies to submit data on an annual basis with respect to service contract inventories, as follows¹:

- 1) An analysis of FY 2019 inventory,
- 2) Planned analysis of selected Product Service Codes (PSC) for FY 2020 (analysis to be completed in FY 2021).

The purpose of this memorandum is to identify the FY 2020 service contract inventory and CFPB-specific special interest functions planned for analysis in FY 2021, and the FY 2019 service contract inventory analysis.

Attachment 1 is a summary report of the CFPB’s 10 largest service contract obligations and special interest functions as identified by OMB. No additional special interest functions were identified by the CFPB that are not already listed on the summary report.

¹ See also, Sept. 20, 2016 memo on “FY 2016 Service Contract Inventories” from Anne Rung, Administrator for Federal Procurement Policy.

Table 1 identifies special interest functions from the CFPB's FY 2020 inventory which will be the subject of a focused analysis in FY 2021.

TABLE 1: FY 2020 SPECIAL INTEREST FUNCTIONS FOR ANALYSIS IN FY 2021

Product Service Code (PSC)	PSC Description	FY 2020 Obligation \$	% Total Obligations
D325	IT and Telecom – Data Centers and Storage	\$ 3,834,234	3%
R406	Policy Review/Development	\$ 474,944	0.3%

Of the top 10 PSCs by obligation for FY20, eight have been analyzed in recent Service Contract Inventory analyses and another included only awards that were contracted via the General Services Administration. The remaining PSC among the top 10, D325, was selected. PSC R406 was selected as it is part of the OMB special interest list and it also differs in nature from the other PSC selected for analysis.

As part of the FY 2020 inventory analysis, the CFPB will monitor/evaluate contracted services to determine whether contractor personnel perform critical agency functions that could affect the CFPB's ability to maintain control of its mission and operations.

Attachment 2 is the FY 2019 Service Contract Inventory Analysis.

Questions regarding this memorandum may be referred to Joshua Galicki (email: Joshua.Galicki@cfpb.gov) or Nikki Burley (email: Nikki.Burley@cfpb.gov).

FY 2019 Service Contract Inventory Analysis

Office of Procurement, Consumer Financial Protection Bureau
1700 G St NW, Washington DC



Consumer Financial
Protection Bureau

Table of Contents

1. Introduction	3
1.1 Background	4
1.2 Scope of Analysis.....	4
1.3 Methodology.....	5
2. Summary of Findings.....	8
2.1 PSC D318: IT and Telecom – Integrated Hardware/Software/Services.	8
2.2 PSC M1AA: Operation of Office Buildings.....	11
2.3 Analysis	11
3. Business Process Improvement Opportunities.....	14
3.1 Ongoing Process Improvements	14
3.2 Recommended Process Improvements.....	15
4. Bureau Senior Management Officials.....	16

1. Introduction

The Consumer Financial Protection Bureau (CFPB or Bureau), was established on July 21, 2010 under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act). The CFPB was established as an independent bureau within the Federal Reserve System. The Bureau is an Executive agency as defined in Section 105 of Title 5, United States Code.

The Dodd-Frank Act authorizes the CFPB to exercise its authorities to ensure that, with respect to consumer financial products and services:

1. Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
2. Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
3. Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;
4. Federal consumer financial law is enforced consistently in order to promote fair competition; and
5. Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

The Bureau has continued its efforts to listen and respond to consumers and industry, to be a resource for the American consumer, and to develop into a great institution worthy of the responsibility Congress has conferred upon it.

The CFPB's Office of Procurement is committed to enhancing transparency and ensuring proper financial stewardship throughout the acquisition lifecycle. To achieve this, the Bureau's Office of Procurement has prepared this report as instructed by Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Public Law (P.L.) 111-117. The goal of the report is to analyze its service contract inventory to determine if the mix of Federal employees and contractors is effective.

1.1 Background

According to the Office of Management and Budget (OMB), agencies shall conduct a meaningful analysis of the data in their service contract inventory for the purposes 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 Bureau is effectively balanced. The analysis shall cover the elements called for in the Consolidated Appropriations Act, 2010, Division C, Title VII §743(e)(2) and include any agency findings, actions taken or planned by the agency to address any identified weaknesses or challenges, and a description of the methodology used by the agency to support its analysis. In carrying out these actions, agencies should review OMB Memorandum M-09-26, Public Law 111-8, and the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01. Agencies shall post their analysis in the OMB MAX system once completed.

1.2 Scope of Analysis

The Office of Procurement staff has analyzed the Bureau's service contract inventory from FY 2019 to validate program requirements, including appropriate contract use and effectiveness, to determine if the mix of Federal employees and service contractors is balanced. Table 1 identifies Product Service Codes (PSCs) selected by the Office of Procurement. The analysis includes all service contract awards against selected PSCs exceeding \$25,000 and funded by the Bureau in FY 2019.

TABLE 1: CFPB PRODUCT SERVICE CODES

PSC	PSC Description	FY 2019 Obligation Dollars	Representative Contract Actions
D318	IT and Telecom – Integrated Hardware/Software/Services	\$12,361,844	6
M1AA	Operation of Office Buildings	\$3,833,465	3

Of the top ten PSCs by obligation, five have been analyzed in recent Service Contract Inventory analyses, including the only one among CFPB's top ten that was included in OMB's list of PSCs designated with special interest. From the remaining five PSCs, we selected D318 which

represents a significant portion of obligations and M1AA which differs significantly in nature from the types of services we have analyzed previously.

The review team has conducted a review of each contract for the PSCs identified in Table 1. Specifically, the Office of Procurement has analyzed the Statement of Work or Performance Work Statement, as well as any Quality Assurance Surveillance Plan and past performance reviews for each contract.

1.3 Methodology

The Bureau's scope of analysis is assessed by a use-case evaluation approach. The analysis is aimed at determining the following areas:

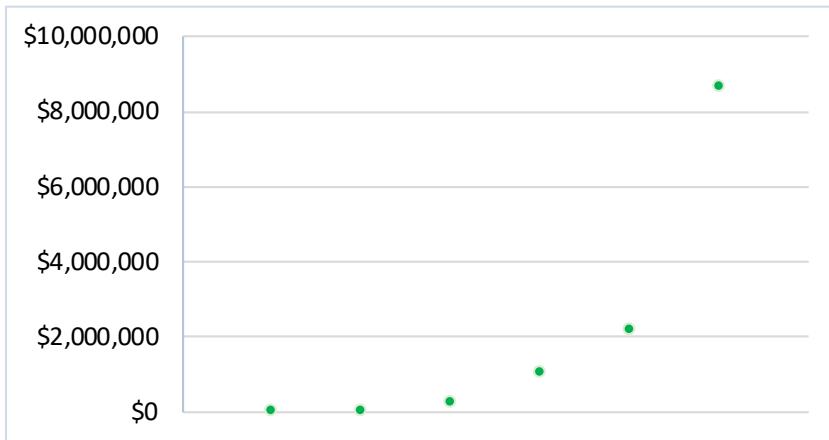
- a) Gauging if services are being used appropriately for the Bureau's mission
- b) Ensuring Bureau service contracts are being provided with appropriate and sufficient oversight
- c) Identifying necessary improvements to the service-related acquisition practices of the Bureau

The below list details the data gathering elements collected by the review team:

- Contract files
- Contract monitoring practices, mechanisms, and performance standards

Figures 1-2 illustrate the obligation dollars for each relevant action by PSC.

FIGURE 1: PSC D318 – ACTION OBLIGATIONS



For PSC D318, the resultant 6 actions are depicted in Figure 1. The obligation dollars range in value from a low of \$36,660 to a high of \$8,712,014, with an average action obligation of \$2,060,307.

FIGURE 2: PSC M1AA – ACTION OBLIGATIONS



For PSC M1AA, the resultant 3 actions are depicted in Figure 2. The obligation dollars range in value from a low of \$92,640 to a high of \$3,490,825 with an average action obligation of \$1,277,822.

Tables 2-3, below, detail the relevant contract actions issued under each PSC.

February 2021

TABLE 2: PSC D318 CONTRACT ACTION DETAILS

Vendor Name	Description of Requirement	Action Obligation
DATASOURCE, INC	Personnel Security Case Management System	\$36,660
INFOTREND INCORPORATED	E-Discovery Litigation Support Services	\$38,781
MINBURN TECHNOLOGY GROUP, LLC	Microsoft Enterprise Agreement	\$289,631
THOUGHT OBJECT LLC	Digital Money Tools	\$1,078,733
INFOTREND INCORPORATED	E-Discovery Litigation Support Services	\$2,206,026
MAXIMUS FEDERAL SERVICES, INC.	Contact Center Tools for Consumer Resource Center	\$8,712,014

TABLE 3: PSC M1AA CONTRACT ACTION DETAILS

Vendor Name	Description of Requirement	Action Obligation
ELECTRONIC METROLOGY LABORATORY, LLC	Building Management and Operations	\$92,640
ELECTRONIC METROLOGY LABORATORY, LLC	Building Management and Operations	\$250,000
ELECTRONIC METROLOGY LABORATORY, LLC	Building Management and Operations	\$3,490,825

2. Summary of Findings

In accordance with the Consolidated Appropriations Act, 2010, Division C, Title VII §743(e), the CFPB has ensured through its analysis that:

- The Bureau is giving special management attention to functions closely associated to inherently governmental functions
- The Bureau is not using contractor employees to perform inherently governmental functions
- The Bureau 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 Bureau is not using contractor employees to perform critical functions in a way that could affect the agency's ability to maintain control of its mission and operations
- There are sufficient internal agency resources to manage and oversee contracts effectively
- No contracts have been identified as poorly performed because of excessive costs or inferior quality

2.1 PSC D318: IT and Telecom – Integrated Hardware/Software/Services

Product Service Code D318 is selected for review as it is designated by OMB with special interest and also because it makes up one of the highest percentages of overall CFPB service contract obligations, and it has not been included in previous analyses. Five vendors were responsible for these services: DataSource, Infotrend, Maximus Federal Services, Minburn Technology Group, and Thought Object.

During FY 2016, the Bureau awarded a task order to DataSource, Inc. under GSA Schedule # GS-35F-5903H, for the provision of a Personnel Security Case Management System (PSCMS) solution to facilitate conducting, tracking, and maintaining background investigations. The award included one base year plus four additional option year periods. The goal was to

streamline and integrate various programs and to generate timely metrics to measure the performance of the Personnel Security Office. The Bureau requires an internal Service Contract Coding (SCC) determination during the acquisition planning process for all service contract actions over the \$25,000 threshold. The Bureau classified the services provided as Other Than Inherently Governmental. It was contracted out due to the service being (a) not available to meet the Government's needs under any current CFPB contracts, (b) available commercially, and (c) of a type customarily used by the general public or by non-government entities for purposes other than government purposes. The order included detailed performance metrics subject to the technical direction of the certified COR. The Bureau assigned a Level II COR to the task order. The COR did not identify any of the work as poorly performed.

In FY 2017, the Bureau awarded a task order off a GSA schedule with Infotrend Incorporated for litigation support services. These services included providing day-to-day eDiscovery processing, document review and analysis, system and application support, audio review and analysis, data analytics and docket management support. The award included base plus option years for services through December 2019. The services provided were classified as Critical Functions but not Inherently Governmental as they were deemed IT support. Any risk of inherently governmental functions being performed under this contract would be mitigated by COR oversight. The award included detailed experience requirements, as well as lists of duties to be performed by each key contractor personnel. There were also weekly and monthly status reports submitted to the COR to track deliverables, including hours worked, accomplishments, issues/resolutions and planned future activities. The COR on the base award was an experienced Level II and has been replaced with a Level III COR toward the end of the period of performance with no break in monitoring. No adverse performance has been identified.

In the first quarter of FY 2019, the Bureau contracted with Minburn Technology Group for various Microsoft licenses and to acquire an enterprise licensing agreement (Microsoft Enterprise Agreement) inclusive of associated software assurance. This included a base award of one year plus two option years. The pricing called for annual "true-up" reconciliations to account for the total number (quantity) of licenses CFPB added in the previous 12-month period of performance. These services were classified as not Inherently Governmental Functions as the contractor would simply be providing the agency with software programs. The Bureau

assigned an experienced Level II COR in the office of Technology & Innovation to oversee and manage performance, and the COR did not identify this contract as poorly performed.

In FY 2019, the Bureau awarded a firm-fixed price task order to Thought Object LLC for the development of mobile-first financial education tools for the “Your Money, Your Goals” toolkit. The goal was to help consumers in the process of improving their finances in order to accomplish their financial goals. This included project planning, implementation, training, and maintenance all in consultation with CFPB. The Bureau classified these services as Other Than Inherently Governmental Functions as no procurement or policy work was involved. The order included a detailed deliverables list with associated timelines as well as base levels of education and experience for key contractor personnel. The Bureau assigned a Level III COR to manage and oversee performance to include the monitoring and updating of performance metrics. No adverse performance issues were noted.

Finally, the Bureau contracted with General Dynamics Information Technology (later partially acquired by Maximus Federal Services) during FY 2017 for contact center tools and services to assist CFPB’s Consumer Resource Center (CRC). The base award included option periods which allowed for services through May 2021. The majority of the service costs for this award were for customer service representatives who performed their duties in off-site call centers. These services were classified as Closely Associated but not Inherently Governmental Functions as contractors would potentially have access to confidential or sensitive information. The work was considered administrative in nature. The related Service Contract Coding document certifies that the bureau has sufficient internal capacity to oversee and manage contractor activities and maintain control of its mission and operations. Additionally, the Bureau provided an extensive Performance Work Statement including detailed requirements and a Quality Assurance Plan to guide the vendor’s work. These efforts further ensured the Bureau maintained appropriate control over the life of the contract. In order to manage and oversee performance, the Bureau assigned a Level III COR. The COR did not identify any adverse performance under this contract.

2.2 PSC M1AA: Operation of Office Buildings

The Office of Procurement selected Product Service Code M1AA for analysis because this type of service has not been previously analyzed, and because it constituted one of the largest obligations in FY 2019. The Bureau contracted with a single vendor for these services: Electronic Metrology Laboratory, LLC (EML, LLC).

The Bureau awarded a GSA task order to EML, LLC for facilities operations and maintenance services in FY 2017. These services were classified as Other than Inherently Governmental as the services required do not authorize the contractor to execute any action that is a federal employee's responsibility. This service was contracted out per Office of Management and Budget (OMB) Circular A-76, "Performance of Commercial Activities," and the Supplement to OMB Circular A-76. Specifically, the Government does not possess adequate capacity or expertise to manufacture and deliver these products and services in the required timeframe and within the allocable budget. The contract enumerated expectations for the timing and quality of the services provided, and the COR had ultimate control over their acceptance. An experienced Level II COR oversaw the performance of this contract and did not document any adverse performance issues.

2.3 Analysis

The analysis is completed using the protocols and methods outlined in Section 1.3, with special attention given to answering the five questions below.

1. Is the contractor performing a function that is mission critical?
2. Does the contract requirement include inherently governmental functions?
3. Does the contract requirement include unauthorized personal services either in the work statement or in contract operation?
4. In the case of work closely associated to inherently governmental functions, or non-competitive contracts, was special consideration given to using Federal government employees?

5. Are sufficiently trained and experienced officials available within the Bureau to manage and oversee the contract administration function?

2.3.1 Are contractors performing a function that is mission critical?

In the case of this analysis, many of the contracted functions are deemed mission critical. The Bureau finds that the contractors provided needed capacity, expertise, and flexibility. In addition, the detailed contract specifications and Bureau oversight with effective COR involvement mitigated any possibility of contractors performing inherently governmental functions. As stressed across CFPB, contractors are not authorized approvers regarding decisions to implement guidance or policies at the Bureau. The responsibility for enacting policies and procedures, executing acquisitions, and pursuing enforcement actions remains with the government workforce at the Bureau. In addition, the CFPB provides sufficiently trained officials and CORs that can proactively oversee the contract administration function.

2.3.2 Do contractual requirements include inherently governmental functions?

The Bureau's contractual support requirements do not include inherently governmental functions and, as such, there is little possibility of contractors performing inherently governmental work.

2.3.3 Do contractual requirements include unauthorized personal services?

The Bureau does not have any contracts or contractual requirements that include unauthorized personal services.

2.3.4 If performance is closely associated to inherently governmental functions, or in non-competitive

acquisitions, was consideration given to utilizing Federal employees prior to acquisition?

General consideration is given to fulfilling needs with existing government employees prior to synopsizing requirements. To comply with OFPP's Policy Letter 11-01, the Bureau has established a pre-acquisition service code determination checklist built into the online procurement system. This entry is required for service contract obligations over \$25,000, ensuring adequate review and documentation is complete to avoid any unnecessary "inherently governmental" contract work. A Service Contract Coding determination is required prior to award and documents that the requirement has been vetted and approved by the program office and the contracting officer, certifying both a balanced workforce approach and appropriate exercise of discretion.

2.3.5 Are sufficiently trained and experienced officials available within the Bureau to manage and oversee contract administration functions?

Regarding performance related to the PSCs studied in this report, the CORs, Contracting Officers, and Program Managers involved in the contract actions reviewed are sufficiently trained and required to maintain their certification requirements in effective management techniques and oversight of critical/non-critical support services. The CFPB has maintained its expanded COR workforce to ensure that each program office has sufficiently trained employees capable of contract administration. To support this enhancement, four dedicated COR Advisors in the Office of Procurement serve as experts on all aspects of contract administration and advise the COR workforce to ensure compliance on all CFPB contracts. The Office of Procurement also offers regular COR training and guidance. The CFPB currently has 212 certified CORs.

3. Business Process Improvement Opportunities

The CFPB's Office of Procurement has implemented strategies aimed at ensuring that service contracts are managed effectively, and that the potential for performing inherently governmental work is avoided. These efforts have been categorized into two groups:

1. Ongoing process improvements
2. Recommended process improvements

3.1 Ongoing Process Improvements

The Bureau recognizes the need to continue the forum for CORs/program managers to share not only best practices, but also topics such as contract administration techniques and general contract questions. The Bureau's Office of Procurement continues to host monthly COR roundtable meetings aimed at maintaining and enhancing the professional development of staff sharing ideas, values, and strategies across the COR workforce. These meetings have become a forum for discussing current procurement topics and have spawned individual training sessions in program offices throughout the Bureau. Training sessions include topics such as invoice review, contract administration, file/record maintenance, accruals, specific training topics such as personal and non-personal services contracts and proper government-contractor relationships, and contractor on/off-boarding procedures.

The Office of Procurement also has robust internal reports that share contract information, contractor and COR-driven reporting, and obligation profiles. Additional emphasis is placed on the evaluation of contractor performance through periodic internal reviews of CPARS compliance and quality checks. Other oversight mechanisms used by CFPB include the use and enhancement of a procurement dashboard which provides an overview of all contract obligations by fiscal year quarters and associated number of transactions processed. The dashboard is available to all Bureau employees to include upper management and allows users to drill into the data to view and understand top obligation dollars by vendor.

The Bureau maintains a COR Advisor team within the Office of Procurement. The COR Advisors are specifically responsible for overseeing COR functions and training to help centralize and strengthen contract administration across the Bureau. These experienced individuals serve as internal consultants in all matters of contract administration. In FY 2021 the Bureau's Office of Procurement is working with client offices to receive feedback on the COR Advisor services in order better improve service delivery moving forward.

3.2 Recommended Process Improvements

The recommendations below provide the Bureau with additional process improvement steps resulting from consideration of the FY 2019 service contract inventory:

1. Continue to implement COR Advisor team initiatives and strengthen collaborative relationships between this team and the program office acquisition contacts to improve contract administration oversight.
2. Further enhance and improve the procurement dashboard to enable more comprehensive views into contract awards such as minority and women owned business participation regardless of business size.
3. Continue COR awareness efforts, promoting training and encouraging COR Level II/III certification for those CORs administering more complex services contracts.
4. Provide guidance and training to acquisition personnel on inherently governmental functions, Federal Acquisition Regulation policy, and Federal Procurement Data System – Next Generation (FPDS-NG) procedures.

4. Bureau Senior Management Officials

The senior management official accountable for developing the Bureau's policies, procedures, and training associated with OFPP's Policy Letter 11-01 is the Senior Procurement Executive, Rachelle Vaughan, Ed.D..

The official responsible for ensuring appropriate internal management attention is provided to the development and analysis of the service contract inventory for the Bureau is the Chief Human Capital Officer, Jeffrey Sumberg.

The Chief Information Officer for the Bureau is Christopher Chilbert.