

FY 2015 Service Contract Inventory Analysis

Office of Procurement, Consumer Financial Protection Bureau
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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 Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens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 on 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 2015 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 2015.

TABLE 1: CFPB PRODUCT SERVICE CODES

PSC	PSC Description	FY 2015 Obligation Dollars	Representative Contract Actions
C1AA	Architect and Engineering – Construction: Office Buildings	\$108,252,177	12
D304	IT and Telecom – Telecommunications and Transmission	\$25,533,547	3

The above PSCs are chosen because they represent the two largest percentages of total FY 2015 service contract obligations. PSC C1AA makes up approximately 45% of total FY 2015 contract obligations. PSC D304 makes up approximately 11% of total FY 2015 contract obligations.

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 Service Contract Code (SCC) determination worksheets for each contract. Before a procurement action for services is awarded, the relevant CFPB program office is required to submit an SCC determination worksheet to the Office of Procurement and the Office of Human Capital (OHC). The Chief Human Capital Officer or designee reviews the scope of work and approves the worksheet, certifying that the action does not involve an inherently governmental function.

According to OFPP's Policy Letter 11-01, civilian agencies must reserve performance of certain work to Federal employees and guarantee sufficient management oversight over how contractors are used to support government operations. Furthermore, it is the responsibility of management to ensure that "as part of the acquisition planning, agencies shall confirm that the services procured do not include work that must be reserved for performance by Federal employees and that the agency will be able to manage the contractor consistent with its responsibility to perform all inherently governmental functions and maintain control of its mission and operations."¹ Thus, CFPB has created the SCC determination worksheet for completion for every contract for services over \$25,000 as part of its pre-award process. For the analysis, the Office of Procurement has reviewed the SCC determination worksheets for the contract actions identified in FY 2015 under PSCs C1AA and D304.

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

¹ "Publication of the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions", Federal Register, Monday, September 12, 2011, pg. 56238

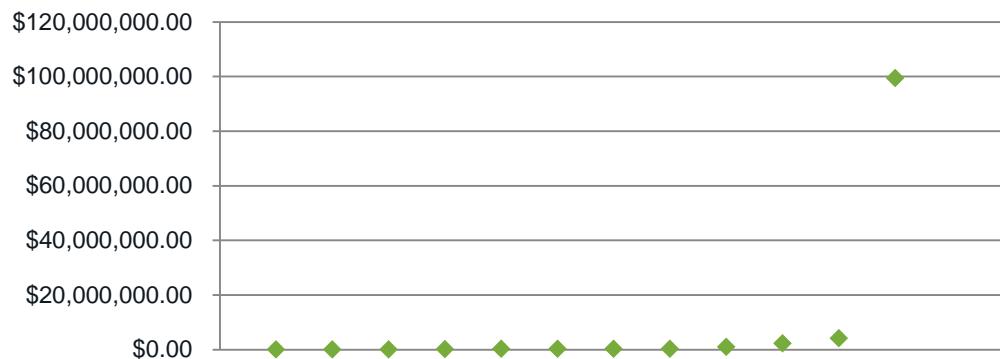
- b) Ensuring Bureau service contracts are being provided with appropriate and sufficient oversight
- c) Identifying necessary improvements to the service-related acquisition practices of the Bureau

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

- Contract files, including scopes of work
- Contract monitoring practices, mechanisms, and performance standards
- SCC determination worksheets

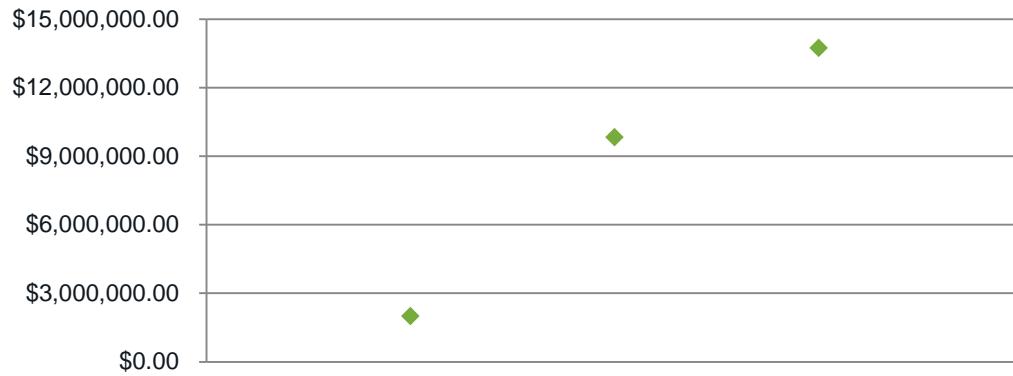
Figures 1 and 2 illustrate the obligation dollars for each PSC C1AA and D304 action.

FIGURE 1: PSC C1AA– ACTION OBLIGATIONS



For PSC C1AA, the resultant 12 actions are depicted in Figure 1. The obligation dollars range in value from a low of \$26,963 to a high of \$99,446,000, with an average action obligation of \$9,021,014.

FIGURE 2: PSC D304 – ACTION OBLIGATIONS



For PSC D304, the resultant three actions are depicted in Figure 2. The obligation dollars range in value from a low of \$1,986,086 to a high of \$13,733,547 with an average action obligation of \$8,511,182.

Tables 2 and 3, below, detail the 12 contract actions under PSC C1AA and the three contract actions under PSC D304 respectively.

TABLE 2: PSC C1AA CONTRACT ACTION DETAILS

Vendor Name ²	Description of Requirement	Action Obligation
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$26,963.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$51,390.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$86,622.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$120,900.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$240,000.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$294,664.82
SKIDMORE, OWINGS &	ARCHITECTURE AND	\$315,369.00

² Vendor names are displayed exactly as they are registered and appear in the Federal Procurement Data System (FPDS).

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Vendor Name²	Description of Requirement	Action Obligation
MERRILL LLP	ENGINEERING SERVICES FOR HQ RENOVATION	
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$329,000.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$978,500.00
SKIDMORE, OWINGS & MERRILL LLP	ARCHITECTURE AND ENGINEERING SERVICES FOR HQ RENOVATION	\$2,217,768.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$4,145,000.00
GRUNLEY CONSTRUCTION CO., INC.	CONSTRUCTION SERVICES FOR HQ RENOVATION	\$99,446,000.00

TABLE 3: PSC D304 CONTRACT ACTION DETAILS

Vendor Name	Description of Requirement	Action Obligation
VANGENT, INC.	CONSUMER RESPONSE CALL CENTER	\$1,986,086.00
VANGENT, INC.	CONSUMER RESPONSE CALL CENTER	\$9,813,914.00
VANGENT, INC.	CONSUMER RESPONSE CALL CENTER	\$13,733,546.83

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 with 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, and
- No contracts have been identified as poorly performed because of excessive costs or inferior quality.

2.1 PSC C1AA: Service – Architect and Engineering – Construction: Office Buildings

Product Service Code C1AA is selected for review because it makes up one of the highest percentages of overall CFPB service contract obligations. The Bureau has reported approximately 45% of its total FY 2015 obligation dollars under PSC C1AA. Two vendors are

responsible for these services: Grunley Construction Co., Inc. and Skidmore, Owings, and Merrill LLP.

Since the Bureau was a new agency created as a result of the Dodd-Frank Act, the Office of the Comptroller of the Currency (OCC) and the Bureau entered into an agreement early on to use space in the OCC's building located at 1700 G Street NW, Washington, DC. The 1700 G Street building has not undergone any major renovations or modernization since the late 1970s when it was constructed; therefore, to better suit the Bureau's needs, the Bureau is renovating the building.

Through an Interagency Agreement (IAA), the General Services Administration (GSA) issued a contract on the Bureau's behalf to Grunley Construction Co., Inc. for Construction services for the Bureau's building renovation project. In FY 2015, approximately \$6.3 million was obligated on this contract. GSA's National Capital Region Public Buildings Service oversees this award. Consistent with all PBS construction contracts, the PBS contracting and program management staff has determined that the contractor does not perform any inherently governmental or closely associated functions. GSA's own contract administration staff further ensures that contractor performance remains within the scope of work and does not extend to inherently governmental or closely associated functions. Inherently governmental work such as approval of project plans and invoices is performed exclusively by government employees at GSA-PBS and CFPB.

The Bureau awarded a contract to Skidmore, Owings, and Merrill LLP in FY 2015 for Architecture and Engineering services for the Bureau's building renovation project. The total obligation for this contract in FY 2015 was approximately \$2.5 million. Specifically, Skidmore, Owings, and Merrill, LLP was retained to perform studies and surveys as needed for the design and engineering; assist with processes of construction planning, permitting, and approval; deliver complete drawings to support the construction process; provide support services as required during the construction; and produce "as-built" drawings and other documentation (e.g., operations and maintenance manual) at the conclusion of the renovation. Two Bureau Contracting Officer's Representatives (CORs) oversee the administration of this contract and both are Level II Certified CORs. The CORs are required to report the status of the contractor's performance on a monthly basis to the Office of Procurement who shares it with upper management. The COR's evaluation of the contractor's performance covers quality of service, timeliness of performance, business relationship, and cost control.

The Chief Administrative Office (CAO) is the Bureau office responsible for overall approval authority for all aspects of the building renovation project, including determining requirements associated with the renovation needs, project scope, design, schedule, and budget. The CAO has assigned a full-time Federal employee with the construction-related expertise required to oversee the overall renovation project, including both architecture and construction phases. This Bureau employee is also certified as a Contracting Officer's Representative (COR), and meets regularly with the contractors and GSA staff regarding progress.

All contract actions reported under PSC C1AA have been examined by reviewing SCC worksheets and contract documents, and by interviewing contracting staff and CORs. In each case, as demonstrated, there are processes in place for adequate government oversight. The CFPB has continued to expand its COR workforce, and each office has at its disposal well-trained and experienced CORs. Additionally, the Bureau has an internal monthly report in place for CORs to report on the status of contractors' performance to staff in the Office of Procurement, who shares it with upper management. The COR's evaluation of the contractor's performance covers aspects similar to those evaluated in the Contractor Performance Assessment Reports System (CPARS). The work the CORs perform and other controls have enabled the CFPB to ensure that no contractor is performing any inherently governmental work.

2.2 PSC D304: IT & Telecommunications – Telecommunications and Transmission

Product Service Code D304 is selected for review because it makes up one of the highest percentages of overall CFPB service contract obligations. Three contract actions impacting contracts with one vendor, Vangent (now GDIT), make up the overall PSC D304 obligations in FY 2015.

In FY 2015, the CFPB has continued its contract for contact center support with GDIT. Obligations for contact center support reported under PSC D304 are approximately \$26 million. There are two major components to this award: building and managing a system to support and manage the Bureau's interactions with consumers, regulated entities and other government agencies and managing a contact center to collect and respond to consumer inquiries. Since the public may assume that contact center staff are agency employees, work performed on this contract is considered closely associated with inherently governmental functions.

To guide the contractor's exercise of discretion and mitigate conflicts, the government has implemented a number of quality assurance measures. The contractor is required to provide a quality monitoring solution that records 100% of voice communication, web chats, customer service representative (CSR) desktop activities and all outgoing correspondences with consumers. The Bureau also conducts both remote and side-by-side monitoring sessions with CSRs at any time, without advance notice to GDIT. The Bureau is able to remotely monitor up to five live and/or recorded consumer calls simultaneously, anonymously, and autonomously. Other methods of managing contract performance include consumer satisfaction surveys, employee surveys, and external operational assessments.

Service level agreements/performance standards and incentives are also included as part of the contract and a certified Bureau COR is designated to oversee overall contract performance. The COR is required to report the status of the contractor's performance on a monthly basis to the Office of Procurement who shares it with upper management. The COR's evaluation of the contractor's performance covers quality of service, timeliness of performance, business relationship, and cost control.

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 with 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, the contact center support is deemed mission-critical. It should be noted that contractors are not authorized approvers regarding decisions to implement guidance and policies at the Bureau. The responsibility for enacting policies and procedures (to include final draft signatures) remains with the government workforce at the Bureau. In addition, the CFPB provides sufficiently trained officials and CORs that are able to 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 with 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 and approval worksheet. CFPB's SCC determination worksheet is required for service contract obligations over \$25,000, ensuring adequate review and documentation is complete to avoid any unnecessary "inherently governmental" contract work. An approved SCC determination worksheet is required prior to award and documents that the requirement has been vetted and approved by both the program office and the Office of Human Capital, certifying both a balanced workforce approach and

appropriate exercise of discretion. In addition, the worksheet documents that proper staffing for oversight of closely related inherently governmental functions has been considered.

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 in effective management techniques and oversight of critical/non-critical support services. Over the last five years, the CFPB expanded its COR workforce to ensure that each program office has sufficiently trained employees capable of contract administration. Five dedicated COR Advisors in the Office of Procurement serve as experts on all aspects of contract administration. The Office of Procurement also offers regular COR training and guidance. The CFPB currently has 207 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, and contractor on/off-boarding procedures. In addition to the monthly COR roundtable meetings, the Office of Procurement offers formal COR training throughout the year including classes such as COR Refresher, Contract Changes, Developing a Performance Work Statement, Ethics in Federal Contracting, and Developing an Independent Government Cost Estimate.

The Office of Procurement also has robust internal reports that share contract information, contractor and COR-driven reporting, obligation profiles, and summaries of contractor

performance for service contracts valued over the Simplified Acquisition Threshold for intra-agency consumption. Additional emphasis is paid to CORs' evaluation of contractor performance through an internally-developed contractor performance report, which details monthly performance in the areas of quality of service, cost control, timeliness of performance, and business relations between the Bureau and its contractors. Other oversight mechanisms include the development 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. Users can drill into the data to see top obligation dollars by vendor.

The Bureau has established 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 addition, the Client Care lead in the Office of Procurement guides program offices through pre-award activities such as acquisition package development, further developing acquisition skills across the Bureau's workforce and ensuring the highest quality in the Bureau's procurement actions.

3.2 Recommended Process Improvements

The recommendations below provide the Bureau with additional process improvement steps for the FY 2016 service contract inventory:

1. Continue to implement COR Advisor team initiatives, and develop relationships between this team and the program office acquisition contacts, to strengthen and centralize contract administration oversight
2. Further develop the procurement dashboard to enable deeper views into contract awards such as small business status, competition, etc.
3. Continue COR awareness efforts, promoting training and encouraging COR Level II/III certification
4. Minimize Labor Hour and Time-and-Material contracts; maximize usage of Fixed Price contracts

4. Bureau Senior Management Officials

The senior management official accountable for the development of the Bureau's policies, procedures, and training associated with OFPP's Policy Letter 11-01 is the Senior Procurement Executive, David P. Gragan.

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 Jerry Horton.