

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



February 20, 2020

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

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**FROM** Rachelle Vaughan, Senior Procurement Executive, Consumer Financial Protection Bureau, Office of Procurement

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**SUBJECT** Service Contract Inventory – FY 2019 Service Contract Inventory and Planned Analysis and FY 2018 Service Contract Inventory Analysis

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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 follows<sup>1</sup>:

- 1) An analysis of FY 2018 inventory,
- 2) Planned analysis of selected Product Service Codes (PSC) for FY 2019 (analysis to be completed in FY 2020).

The purpose of this memorandum is to identify the FY 2019 service contract inventory and CFPB-specific special interest functions planned for analysis in FY 2020, and the FY 2018 service contract inventory analysis.

Attachment 1 is a summary report of the CFPB's ten 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.

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<sup>1</sup> 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 2019 inventory which will be the subject of a focused analysis in FY 2020.

**TABLE 1: FY 2019 SPECIAL INTEREST FUNCTIONS FOR ANALYSIS IN FY 2020**

<b>Product Service Code (PSC)</b>	<b>PSC Description</b>	<b>FY 2016 Obligation \$</b>	<b>% Total Obligations</b>
D318	IT and Telecom – Integrated Hardware/Software/Services	\$12,361,844	12%
M1AA	Operation of Office Buildings	\$3,833,465	4%

Of the top ten PSCs by obligation, five have been analyzed in recent Service Contract Inventory analyses, including the only top ten PSC that OMB has 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.

In FY 2019, the CFPB incurred obligations for six OMB-identified special interest functions outside of our top ten codes by obligation – R406, R408, R499, R699, R707, and R799 – as shown in Attachment 1. Three of these have been analyzed in recent years. The remaining three represent relatively small obligations but may be considered for analysis in a future report.

As part of the FY 2019 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 2018 Service Contract Inventory Analysis.

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## 1.1 Enclosure(s)

Attachment 1: FY 2019 PSC Summary

Attachment 2: FY 2018 SCI Analysis

# FY 2018 Service Contract Inventory Analysis

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



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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 2018 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 2018.

TABLE 1: CFPB PRODUCT SERVICE CODES

PSC	PSC Description	FY 2018 Obligation Dollars	Representative Contract Actions
B507	Special Studies/Analysis - Economic	\$4,995,144	16
R418	Support – Professional: Legal	\$5,996,905	33

Of the top ten PSCs by obligation during FY18, six have been analyzed before. From the remaining four, we selected these two PSCs based on their covering significantly different services than those we have analyzed in recent years.

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.

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."<sup>1</sup>

## 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:

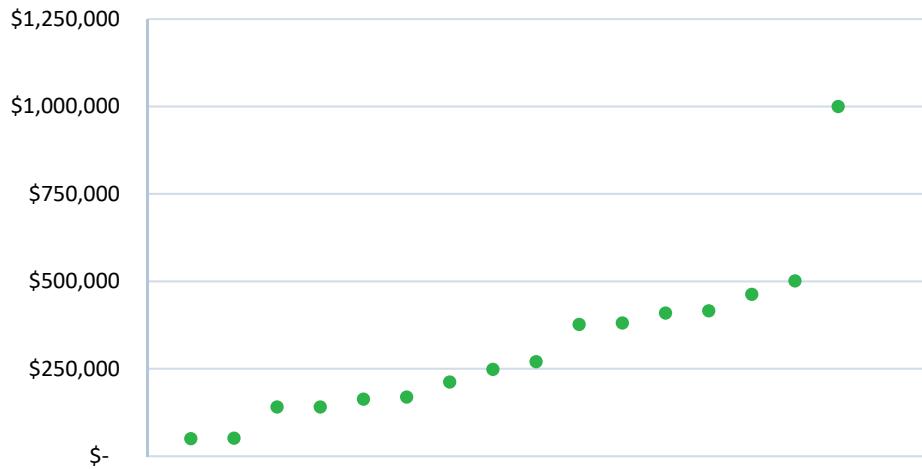
- Contract files, including scopes of work
- Contract monitoring practices, mechanisms, and performance standards

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

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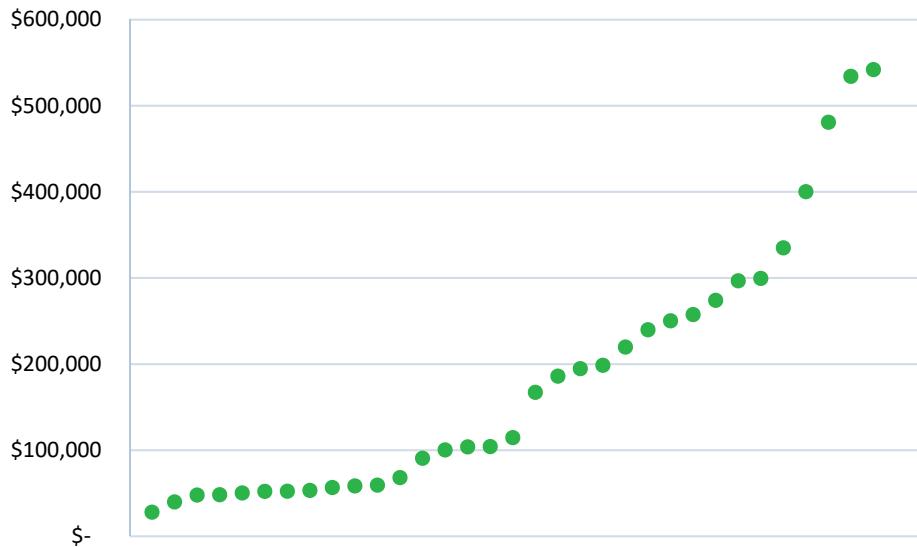
<sup>1</sup> "Publication of the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions", Federal Register, Monday, September 12, 2011, pg. 56238

**FIGURE 1:** PSC B507 – ACTION OBLIGATIONS



For PSC B507, the resultant 16 actions are depicted in Figure 1. The obligation dollars range in value from a low of \$50,231 to a high of \$999,988, with an average action obligation of \$312,196.

**FIGURE 2:** PSC R418 – ACTION OBLIGATIONS



For PSC R418, the resultant 33 actions are depicted in Figure 2. The obligation dollars range in value from a low of \$27,713 to a high of \$541,688 with an average action obligation of \$181,724.

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

**TABLE 2: PSC B507 CONTRACT ACTION DETAILS**

<b>Vendor Name<sup>2</sup></b>	<b>Description of Requirement</b>	<b>Action Obligation</b>
ABT ASSOCIATES INC.	Research and Innovation support	\$50,231.00
FORS MARSH GROUP LLC	Disclosure testing	\$51,635.88
RESEARCH TRIANGLE INSTITUTE	Research and Innovation support	\$141,008.00
ABT ASSOCIATES INC.	Research and Innovation support	\$141,050.16
ABT ASSOCIATES INC.	Research and Innovation support	\$163,447.00
RESEARCH TRIANGLE INSTITUTE	Research and Innovation support	\$169,025.00
RESEARCH TRIANGLE INSTITUTE	Expanding Financial Inclusion support services	\$212,031.00
ABT ASSOCIATES INC.	Research and Innovation support	\$248,246.90
RAND CORPORATION, THE	Research and Innovation support	\$270,415.00
DOMESTIC AWARDEES (UNDISCLOSED) <sup>3</sup>	Litigation Consultant: Consumer credit reporting	\$377,090.00
ABT ASSOCIATES INC.	Financial Well-Being research	\$381,240.33
ARGUS INFORMATION AND ADVISORY SERVICES LLC	Credit Card Data reporting	\$409,500.00
ABT ASSOCIATES INC.	Research and Innovation support	\$415,846.50
ABT ASSOCIATES INC.	Future Self Project research	\$462,894.00
RESEARCH TRIANGLE INSTITUTE	Consumer-Oriented digital portfolio development	\$501,495.00
ABT ASSOCIATES INC.	Financial Well-Being research	\$999,988.00

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

<sup>3</sup> In public documents, the Bureau obscures the names of some vendors, such as expert witnesses, in order to protect litigation strategies.

**TABLE 3:** PSC R418 CONTRACT ACTION DETAILS

<b>Vendor Name</b>	<b>Description of Requirement</b>	<b>Action Obligation</b>
NEXUS INVESTIGATIONS	Equal Employment Opportunity investigations	\$27,713.07
DOMESTIC AWARDEES (UNDISCLOSED)	Data Security expert witness	\$39,600.00
DOMESTIC AWARDEES (UNDISCLOSED)	Industry practice expert witness	\$47,700.00
DOMESTIC AWARDEES (UNDISCLOSED)	Consumer Finance industry expert	\$48,000.00
DOMESTIC AWARDEES (UNDISCLOSED)	Consumer Finance industry expert	\$50,000.00
NEXUS INVESTIGATIONS	Equal Employment Opportunity investigations	\$52,000.00
JURISTAFF, INC.	Paralegal support services	\$52,181.00
NEXUS INVESTIGATIONS	Equal Employment Opportunity investigations	\$53,105.76
DOMESTIC AWARDEES (UNDISCLOSED)	Consumer behavior litigation consultant	\$56,400.00
DOMESTIC AWARDEES (UNDISCLOSED)	Data Security expert witness	\$58,200.00
DOMESTIC AWARDEES (UNDISCLOSED)	Fair Lending enforcement litigation consultant	\$59,100.00
DOMESTIC AWARDEES (UNDISCLOSED)	Consumer Behavior expert witness	\$68,000.00
JURISTAFF, INC.	Paralegal support services	\$90,480.00
DOMESTIC AWARDEES (UNDISCLOSED)	Forensic Accounting litigation consultant	\$100,000.00
JURISTAFF, INC.	Paralegal support services	\$103,562.00
JURISTAFF, INC.	Paralegal support services	\$104,000.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$114,440.00
JURISTAFF, INC.	Paralegal support services	\$167,040.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$185,780.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$194,535.00
JURISTAFF, INC.	Paralegal support services	\$198,432.00
DOMESTIC AWARDEES (UNDISCLOSED)	Payment Processing expert witness	\$219,500.00
DOMESTIC AWARDEES (UNDISCLOSED)	Labor Economics and Consumer Finance expert witness	\$239,637.90

<b>Vendor Name</b>	<b>Description of Requirement</b>	<b>Action Obligation</b>
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$250,000.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$257,200.00
JURISTAFF, INC.	Paralegal support services	\$273,728.00
DOMESTIC AWARDEES (UNDISCLOSED)	Consumer Behavior expert witness	\$296,385.00
HERITAGE REPORTING CORP	Court Reporting	\$299,237.59
DOMESTIC AWARDEES (UNDISCLOSED)	Labor Economics and Consumer Finance expert witness	\$334,755.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$400,015.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$480,560.00
DOMESTIC AWARDEES (UNDISCLOSED)	Litigation consultant/Expert witness	\$533,930.00
DOMESTIC AWARDEES (UNDISCLOSED)	Labor Economics and Consumer Finance expert witness	\$541,688.00

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

### 2.1 PSC B507: Special Studies/Analysis - Economic

Product Service Code B507 is selected for review because it makes up one of the highest percentages of overall CFPB service contract obligations, and it has not been included in previous analyses. Six vendors were responsible for these services: ABT Associates, Argus Information and Advisory Services, Fors Marsh Group, Rand Corporation, Research Triangle Institute, and one undisclosed vendor.

During FY 2013, the Bureau set up a multiple-award Blanket Purchase Agreement (BPA) for research and innovation support services with several vendors including ABT, Rand, and Research Triangle Institute (RTI). This type of award allows the Bureau flexibility and the opportunity to get the most qualified vendor at the best price through competition of each task order. The Bureau requires an internal Service Contract Coding determination during the

acquisition planning process for all service contract actions over the \$25,000 threshold. The Bureau classified most of the services provided as Closely Associated to Inherently Governmental Functions, with two task orders marked Other Than Inherently Governmental, one marked as a Critical Function, and one marked as both Closely Associated and Critical. The limited term of each project and the variety of the work necessitated contracting out these services. In particular, where research and development were needed to support rulemaking or other work with statutory deadlines, the pace of work and timelines did not lend themselves to hiring. Each order included a detailed Performance Work Statement with a schedule of deliverables and regular progress reports, and most also had a Quality Assurance Surveillance Plan (QASP). Vendors performed non-discretionary tasks such as research, developing recommendations, drafting documents, and testing Bureau-provided proposals based on the Bureau's criteria. As specified in the contract documents, all deliverables were subject to Bureau approval as well as the requirements of the Paperwork Reduction Act (PRA). The contracts also included commercially available logistics and administration for events such as research symposia, individual interviews with consumers, or program site visits. The Bureau assigned, at minimum, a Level II COR to each task order, and in most cases a team of a Level II and Level III COR and Alternate COR. These experienced professionals had the training and expertise needed to fully oversee and manage the contractors' performance. The CORs did not identify any task orders as poorly performed.

The Bureau contracted with Argus Information and Advisory Services for managing credit card data from the Federal Reserve Board. These services were classified as Other Than Inherently Governmental, as these commercially available services are not specific to government needs and do not involve discretion. Rather, Argus provided technical and logistical skills, and technological capabilities in developing and managing a database and reporting tools for Bureau use. The specialized nature of these services and their customized application for financial purposes led the Bureau to code this contract as an economic analysis service rather than simply software development. In the course of performing the contract, Argus staff did have access to confidential or sensitive information, but all staff were required to sign a non-disclosure agreement and provided access to information on a need-to-know basis. Argus was also required to abide by the Bureau's cybersecurity guidelines in order to protect the credit card research tool and all Bureau electronic systems. An extensive Performance Work Statement including a detailed Deliverables schedule and a Quality Assurance Surveillance Plan guiding the vendor's work ensured the Bureau maintained control over its functions throughout performance of the contract. The Bureau assigned a Level I COR and a Level I Alternate COR,

both senior staff in the Research division, to manage and oversee Argus's performance. The CORs did not identify this contract as poorly performed.

In FY 2015, the Bureau set up multiple Indefinite-Delivery, Indefinite-Quantity awards (IDIQs) for research services with vendors including Fors Marsh Group. In FY 2018, Fors Marsh performed a task order for survey services to test the effectiveness of proposed financial product disclosures. The Bureau classified these services as Other Than Inherently Governmental Functions because of their broad commercial availability and applicability, and little to no risk of the contractor needing to exercise discretion. Fors Marsh provided the logistical and technical support for execution and data collection for two rounds of digital surveys. The Bureau developed, approved, and provided to Fors Marsh all the questions on the survey and the sample disclosures to be tested. The vendor maintained the technology and expertise in recruiting respondents for such projects and collecting the response data, which was then transmitted to the Bureau for review and acceptance according to the detailed Deliverables schedule. Because of the low risk surrounding this contract, the Bureau assigned a Level I COR to manage and oversee performance. The COR did not identify this contract as performing poorly.

The Bureau contracted for economic analysis services with one vendor whose identity is not disclosed in order to protect our litigation strategy. This consultant performed and provided an expert analysis of matters related to consumer credit reporting and debt collection. A portion of the contract also called for litigation support including testifying, but the preponderance dealt with analysis. The Bureau found that contracting out for this highly specialized service was cost-effective as we anticipated a limited number of hours and for this requirement to end upon resolution of the legal matter. While this service is Closely Associated to Inherently Governmental Functions and the vendor did have access to sensitive or confidential information, all vendor staff were required to sign a non-disclosure agreement and abide by the Bureau's cybersecurity policies. The contract called for the vendor to provide both biweekly data analysis updates and monthly progress reports, as well as keeping to all court deadlines, which helped the Bureau maintain control over the contract performance. The Bureau assigned an experienced Level II COR in the office of Enforcement to oversee and manage performance, and the COR did not identify this contract as poorly performed.

## 2.2 PSC R418: Support – Professional: Legal

We selected Product Service Code R418 for analysis because we have not analyzed this type of service in past reports, and because it constituted one of the largest obligations in FY 2018. The Bureau contracted with seventeen different vendors for these services: Heritage Reporting, Juristaff (now known as Jurisolutions), and Nexus Investigations, as well as fourteen individuals and organizations whose identities are undisclosed in order to protect the Bureau’s litigation strategy.

The Bureau entered into a BPA with Heritage Reporting Corp for court reporting and transcription services in FY 2018 and received services under a BPA order. These services were classified as Other than Inherently Governmental due to the administrative nature of the tasks. Government agencies generally contract out this service because of the sporadic and short-term schedule of needs for this specialized skill and accompanying technology. While vendor staff did have access to sensitive or confidential information in the course of performing the contract, the contract required all staff to sign a non-disclosure agreement and also included a “Special Protections for Sensitive Information” clause with guidelines for handling such information in physical and electronic media. The contract enumerated specific expectations for the timing and quality of the deliverables, and the COR had ultimate control over their acceptance. An experienced Level II COR oversaw the performance of this contract and did not identify any contracts as having poor performance.

During FY 2017, the Bureau set up a BPA with Nexus Investigations for investigations of employee complaints under Equal Employment Opportunity (EEO) regulations. In FY 2018, Nexus performed several orders under this BPA. The primary reason for contracting out this service rather than using government employees to perform it was the workload. The Bureau found that the workload of investigations was highly variable, which did not lend itself to Bureau employees being able to meet the regulation’s deadlines for investigations during periods with many complaints open. The limited timeline of each investigation allows the Bureau to contract individually per case. Using vendor staff has the additional benefit of reducing impartiality or conflict of interest as employees are not investigating their colleagues. The contract further stipulates that staff on this contract may never perform the same services for another office in the Bureau. We rated this contract as Closely Associated to Inherently Governmental Functions because of the sensitive nature of the work and information that contractors will access, and the

legal implications of the work. The Equal Employment Opportunity Commission (EEOC) publishes Management Directives relating to the regulation that thoroughly define and inform the contractor's work, including initial and ongoing training for all EEO investigators. The Bureau also developed its own Protocol for Investigations which was included in the contract to ensure performance and deliverables meet expectations. Contract staff were also required to sign a non-disclosure agreement. The contract specifies that Bureau staff including the complainant, the Office of Civil Rights, and the Legal division will have authority to review and approve all deliverables, and the performance of the inherently governmental function of acting based on the evidence provided in the investigation always remains with Bureau employees. The Bureau also controlled performance by reserving the right to define certain cases as "highly complex" and thus eligible for costs over the fixed unit price. The Bureau assigned an experienced Level I COR to oversee performance of this contract, and the COR did not identify any contracts as poorly performed.

The Bureau set up a BPA with Juristaff (now called Jurisolutions) for paralegal support in FY 2015 and received services under several orders during FY 2018. While the Bureau can and does hire paralegals as employees, and the work is rated as Closely Associated to Inherently Governmental Functions, contract paralegals do not exercise discretion or perform strategic work. The work at times allows contractors access to sensitive information, however, all contractor staff are required to sign a non-disclosure agreement. Using contractor support provides the Bureau flexibility in times of high need based on short-term research or enforcement projects, such as when setting up new processes with an uncertain workload. Each order had, at minimum, a Level I COR, and most had a Level II Alternate COR as well. One of the CORs assigned is a paralegal and all have experience with legal and enforcement work enabling them to sufficiently oversee and manage the contract. The contract requires personnel to perform commercially available services such as preparing briefs, recommendations, and proposals for Bureau employees, including attorneys and chiefs of staff, to review and approve. Contractors were also required to provide periodic status and activity reports to the CORs. CORs did not identify any contracts as having poor performance.

During FY 2018, the Bureau contracted with over a dozen vendors for expert witness or consulting services. The identities of these individuals and organizations remain confidential to protect the Bureau's litigation strategy. Most of these services were classified as Closely Associated to Inherently Governmental Functions, and some were additionally considered Critical Functions. Only one contract was classified as Other than Inherently Governmental. This is due to the importance of litigation in the Bureau's enforcement mission, and the sensitive

or confidential nature of the information that these consultants access and develop during their work for the Bureau. However, all consultants were required to sign a non-disclosure agreement and provided access only to necessary information. The Bureau found that the short-term and sporadic need for expert consulting services in these matters did not lend itself to hiring full-time employees. A full-time employee works about 2,000 hours per year; none of the contracts analyzed reached that level and the average was under 1,000 hours, in some cases spread across multiple personnel. The variety of topics where the Bureau needed expertise during FY 2018 included data security, consumer behavior, payment processing, forensic accounting, and labor economics. Where the Bureau sees the need for longer-term or full-time expert services, we make use of Intergovernmental Personnel Act agreements (IPAs) to bring on scholars or experienced staff from universities and state and local governments. An additional benefit of using contractor personnel as expert consultants is reducing risk of subjectivity or personal bias in their analyses. In general, the deliverables consist of reports, briefs, and recommendations that Bureau staff have the ultimate authority to accept and act on. Testifying experts also may testify in depositions or in court for the Bureau, where their contributions are limited to admissible evidence within the purview of their expertise. The contracts required vendors to submit written progress reports monthly (for four vendors) or biweekly (for nine vendors). In one contract, each deliverable was due one month after request, so no interim reports were required. The Bureau assigned an experienced Level II COR from the office of Enforcement or the Legal division to each of these procurements and, in some cases, an Alternate COR as well. The CORs did not identify any contracts as performing poorly.

## 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 and that the detailed contract specifications and Bureau oversight mitigated any possibility of contractors performing inherently governmental functions. 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 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 which is built in to 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. An SCC 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 in effective management techniques and oversight of critical/non-critical support services. The CFPB has progressively expanded its COR workforce to ensure that each program office has sufficiently trained employees capable of contract administration. Four 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 200 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, obligation profiles, and summaries of contractor performance for service contracts valued over the Simplified Acquisition Threshold for intra-agency consumption. Additional emphasis is put on evaluation of contractor performance through periodic internal reviews of CPARS compliance and quality checks. 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 FY 2020 the Bureau's Office of Procurement intends to strengthen COR Advisor relationships with program offices and increase their involvement in pre- and post-award activities.

## 3.2 Recommended Process Improvements

The recommendations below provide the Bureau with additional process improvement steps resulting from consideration of the FY 2018 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/minority-owned business status, competition, etc.
3. Continue COR awareness efforts, promoting training and encouraging COR Level II/III certification for those CORs administering more complex services contracts.
4. Minimize Labor Hour and Time-and-Material contracts and maximize using Firm-Fixed-Price contracts where appropriate.

## 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.

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 Donna Roy.