

**U.S. Department of Transportation**

**Fiscal Year 2017 Service Contract Inventory Analysis**

Submitted to:

U.S. Office of Management and Budget

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# Executive Summary

Section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Pub. L. 111-117 requires civilian agencies to prepare an annual inventory of their service contracts.

The Department of Transportation (DOT) conducted its annual SCI for FY 2017. DOT continues its efforts to improve the management of service contracts and utilizes information gathered during this process to assess successes and areas for additional opportunities. DOT is committed to driving on-going initiatives and efforts to cut waste and reduce unnecessary spending, while delivering efficient and effective service to its stakeholders, manage service contracts more effectively and to proactively find cost savings without adversely affecting the mission as a top priority.

In FY 2017, DOT obligated $6.367 billion dollars on all contracts for goods and services. Of that amount, $5.461 billion was obligated on service contracts, and $1.089 billion dollars was obligated to the OMB-selected management support services as spend categories denoted by 16 Federal Product Service Codes (PSC). DOT conducted a detailed review of its FY 2017 SCI and presents the results herein.

Overall, DOT’s analysis revealed appropriate balancing of contracted efforts and agency resources to effectively manage and oversee contracts. There were only limited instances in which personal services were being performed under DOT contracts – and all were being performed based on appropriate statutory authority. Additionally, there were no contracts identified where inherently governmental or closely associated to inherently governmental functions were being performed under DOT contracts, and very limited circumstances where critical functions were being performed under contracts.

# 1.0 – Introduction/Background

Section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Public Law 111-117,[[1]](#footnote-1) requires civilian agencies to prepare an annual inventory of their service contracts. In 2011, the Office of Management and Budget (OMB) issued a memorandum entitled “Service Contract Inventories” to Chief Acquisition Officers (CAO) and Senior Procurement Executives (SPE), providing specific guidance for developing, analyzing, and reporting on their agency’s Service Contract Inventory (SCI). Additionally, OMB issues guidance to agencies on documenting the results of its analysis.

Based on these requirements, the Department of Transportation (DOT) conducted its annual SCI for FY 2017. DOT continues its efforts to improve the management of service contracts and utilizes information gathered during this process to assess successes and areas for additional opportunities. DOT is committed to driving on-going initiatives and efforts to cut waste and reduce unnecessary spending, while delivering efficient and effective service to its stakeholders, managing service contracts more effectively and proactively finding cost savings without adversely affecting the mission as a top priority.

In FY 2017, DOT obligated $6.367 billion dollars on all contracts for goods and services.[[2]](#footnote-2) Of that amount, approximately 86% or $5.461 billion was obligated on service contracts, and 17% or $1.089 billion dollars was obligated to the OMB-selected management support services as spend categories denoted by 16 Federal [Product Service Codes](https://www.acquisition.gov/PSC_Manual) (PSC)[[3]](#footnote-3). Considering the high dollar value DOT spends on service contracts, DOT conducted a detailed review of its FY 2017 SCI and presents the results below.

# 2.0 – Scope

DOT conducted an analysis of its FY 2017 SCI to identify successes and areas for opportunities to better manage its service contracts. In addition to the PSCs identified by OMB, DOT included the following additional PSCs per it’s FY 2017 SCI plan (see Attachment No. 1 – DOT FY 2017 SCI Plan):

**Table 1: Additional PSCs Identified by DOT for Review**

|  |  |
| --- | --- |
| **PSC** | **PSC Description** |
| D301 | IT and Telecom – Facility Operation and Maintenance |
| D306 | IT and Telecom – Systems Analysis |
| R710 | Support – Management: Financial Includes Credit Card Services |
| R799 | Support – Management: Other |

DOT identified these additional PSCs based on high levels of spend in addition to their alignment with the Government-wide Category Management initiative. DOT evaluated the extent contract awards within these PSCs leverage existing OMB-designated Best-in-Class (BIC) contracts and Federal or Departmental enterprise contract vehicles or present future opportunities for strategic purchasing. Table 2 below outlines both the OMB-identified and DOT-selected service contract PSCs, FY 2017 spend by PSC, percentage of total FY 2017 SCI spend and Category Management categories.

Based on the review criteria, DOT reviewed a total of 20 PSCs, which equates to $4.170 billion in FY 2017 obligations**.**

**Table 2: DOT FY 2017 SCI PSCs reviewed and spend by PSC**

|  |  |  |  |
| --- | --- | --- | --- |
| **PSC** | **PSC DESCRIPTION** | **FY 2017 Spend** | **Category Management Level 1** |
| AD26 | R&D - DEFENSE OTHER: SERVICES (MANAGEMENT/SUPPORT) | $265,775,173 | Services |
| AD61 | R&D - DEFENSE OTHER: CONSTRUCTION (BASIC RESEARCH) | $158,794,322 | Development |
| D301 | IT AND TELECOM - FACILITY OPERATION AND MAINTENANCE | $104,962,781 | IT |
| D302 | IT AND TELECOM - SYSTEMS DEVELOPMENT | $64,345,348 | IT |
| D306 | IT AND TELECOM - SYSTEMS ANALYSIS | $130,878,960 | IT |
| D307 | IT AND TELECOM - IT STRATEGY AND ARCHITECTURE | $12,964,769 | IT |
| D310 | IT AND TELECOM - CYBER SECURITY AND DATA BACKUP | $36,095,512 | IT |
| D314 | IT AND TELECOM - SYSTEM ACQUISITION SUPPORT | $12,875,774 | IT |
| D316 | IT AND TELECOM - TELECOMMUNICATION NETWORK MANAGEMENT | $166,813,806 | IT |
| D399 | IT AND TELECOM - OTHER IT AND TELECOMMUNICATIONS | $232,954,970 | IT |
| R408 | SUPPORT - PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT | $504,503,773 | Services |
| R413 | SUPPORT - PROFESSIONAL: SPECIFICATIONS DEVELOPMENT | $18,883,747 | IT |
| R414 | SYSTEMS ENGINEERING SERVICES | $23,630,865 | Professional Services |
| R421 | TECHNICAL ASSISTANCE | $1,207,508 | Professional Services |
| R425 | SUPPORT - PROFESSIONAL: ENGINERRING/TECHNICAL | $1,856,506,719 | Professional Services |
| R497 | SUPPORT - PROFESSIONAL: PERSONAL SERVICES CONTRACTS | $4,262,716 | Services |
| R499 | SUPPORT - PROFESSIONAL: OTHER | $421,972,543 | Services |
| R707 | SUPPORT - MANAGEMENT: CONTRACT/PROCUREMENT/ACQUISITION SUPPORT | $37,053,494 | Professional Services |
| R710 | SUPPORT - MANAGEMENT: FINANCIAL INCLUDES: CREDIT CARD SERVICES | $70,022,584 | Professional Services |
| R799 | SUPPORT - MANAGEMENT: OTHER | $45,698,910 | Professional Services |
|   | **TOTAL** | **$4,170,204,274** |   |

During this review, DOT evaluated the following areas in accordance with Public Law 111-117, Section 743(e)(2)[[4]](#footnote-4) and DOT objectives:

1. Assessment on whether contractors are performing personal services[[5]](#footnote-5), inherently governmental[[6]](#footnote-6), closely associated to inherently governmental[[7]](#footnote-7) or critical[[8]](#footnote-8) functions;
2. Assessment of the effective balancing of contracted and government resources for these efforts;
3. Assessment of the extent to which contract awards within these functions leverage existing Federal or Departmental enterprise contract vehicles or present future opportunities for contract consolidation and reduction of duplicated efforts; and
4. Overall assessment of the sufficiency of internal agency resources to oversee and effectively manage service contracts.

# 3.0 – Methodology

The OSPE developed a FY 2017 SCI analysis spreadsheet pre-populated with basic contract award information available in FPDS-NG for selected PSCs with obligations exceeding the Simplified Acquisition Threshold (SAT)[[9]](#footnote-9) (see Attachment No. 2 – DOT SCI Analysis Spreadsheet Template). The spreadsheet was organized by DOT Operating Administration (OA)[[10]](#footnote-10) and listed all FY 2017 award obligations within the scope of this analysis. For the purposes of this review, each OA was instructed to:

1. Select and review a minimum of 50% of the total obligations provided in the OA’s spreadsheet and/or ten contract actions, whichever was greater;
2. Ensure a comprehensive review by selecting and reviewing mutiple contract types (i.e., Firm-Fixed-Price (FFP), Time and Material (T&M), Cost Reimbursable (CR), etc.);
3. Select and review all PSC R497 – Personal Services Contracts listed on the FY 2017 master spreadsheet;
4. Provide answers to highlighted columns to contribute to the analysis; and
5. Certify accuracy and completion of the submission.

To complete the analysis, each OA reviewed the identified contract files and, as necessary, conducted interviews with the relevant officials. Table 3 below outlines number of contracts and amount of obligations reviewed by DOT OA.

  **Table 3 – Number of contract actions and amount of obligations reviewed by DOT OA**

|  |  |  |
| --- | --- | --- |
| **Operating Administration** | **FY2017 Action Obligations Reviewed** | **Number of Contract Actions Reviewed** |
|
| **FAA** |  $ 2,055,475,398  | 178 |
| **FMCSA** |  $ 75,438,045  | 11 |
| **FRA** |  $ 109,453,395  | 182 |
| **FTA** |  $ 174,091,954  | 125 |
| **FHWA** |  $ 140,509,522  | 61 |
| **MARAD** |  $ 18,425,234  | 5 |
| **NHTSA** |  $ 196,096,520  | 41 |
| **OST** |  $ 4,651,168  | 5 |
| **PHMSA** |  $ 38,792,664  | 10 |
| **Volpe** |  $ 82,849,216  | 47 |
| **SLSDC** |  $ 7,778,402  | 3 |
| **Total** |  **$ 2,820,712,302**  | **668** |

As illustrated in the above table, the Federal Aviation Administration (FAA) is the largest OA within the Department and has the highest amount of spend analyzed for the purpose of this review. In FY 2017, the DOT total contract spending was $6.367 billion; of that amount, FAA obligated $4.275 billion or approximately 67% of the total obligations. Due to its unique mission, the FAA is not required to comply with the Federal Acquisition Regulation (FAR), but follows the Acquisition Management System (AMS), which is unique to FAA. The AMS was developed in response to Section 348 of Public Law 104-50. Because of FAA’s unique situation, many requirements that apply to other DOT OAs do not apply to FAA. In those instances, DOT has noted where FAA has unique authority in its findings below.

# 4.0 – Agency Findings

Use of personal services contracts[[11]](#footnote-11)

DOT’s FY 2017 SCI analysis revealed that FAA had four personal services contracts. As noted above, FAA is one of a few executive agencies that is not required to comply with the FAR. FAA policy and procedures that authorize FAA’s use of personal services contracts can be found in the [AMS Section 3.8.2.3](https://fast.faa.gov/docs/acquisitionManagementPolicy/acquisitionManagementPolicy.pdf). The determination required by AMS Section 3.8.2.3.2 was completed for each of the FAA personal services contract awards included in this review and were sufficiently justified.

Based on DOT’s review of the dataset pulled from FPDS-NG for PSC R497 – Personal Services Contracts for the FY 2017 SCI, it is also noted that both FRA and FMCSA reported having personal services contracts. However, upon further investigation, it was found that the awards being reported were coding errors and OSPE has followed up with the OAs to request correction of the FPDS records. No other DOT OAs reported or were found to have personal services contract awards.

Use of contractors to perform inherently governmental functions or functions closely associated with inherently governmental functions[[12]](#footnote-12)

DOT’s analysis confirmed that DOT’s FY 2017 SCI did not include any awards that are inherently governmental or closely associated to inherently governmental functions.

Use of contractors to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations[[13]](#footnote-13)

DOT’s FY 2017 SCI analysis revealed that three DOT OAs utilized contractor personnel to perform critical functions: FAA, OST and PHMSA.

In its FY 2017 SCI analysis response, FAA stated that every contract included in its analysis provides either indirect or direct support to critical functions, which in turn has a direct impact on FAA's overall mission and operations. Examples of services FAA contracts are those that support aviation safety, air traffic, information systems, security and hazardous material safety.

In OST, contractor’s assist government personnel and develop strategies on the Department-wide Enterprise Risk Management implementation. In PHMSA, contractors are utilized to establish a system of records via an integrated database for the Office of Pipeline Safety (OPS). The contractor provides inspection, investigation, and future enforcement data as a comprehensive data repository; these services are critical to OPS overall safety mission.

In all instances, the OAs have sufficient internal capability to maintain control over functions that are essential to the agency’s mission and operations. The OAs sufficiently manage these functions by having a trained Federal Acquisition Certification-Project/Program Manager (FAC-P/PM), FAC-Contracting Officer’s Representatives (FAC-COR) and FAC-Contracting (FAC-C) individuals assigned to these contracts – as required by the FAR and Departmental acquisition policies – to monitor and conduct surveillance to ensure contracts do not become inherently governmental. Regular communication occurs between the Government and contractor to ensure that contract requirements are being met and that critical functions being performed do not transition into performance of inherently governmental functions by contractor employees.

Assessment of the effective balancing of contracted and government resources for service contracts

No inherently governmental or closely associated to inherently governmental contracts were identified during DOT’s FY 2017 SCI analysis. Considering that none of these awards were identified, DOT concludes that contracted functions and those functions performed by Federal employees is effectively being balanced. However, one DOT OA – FMCSA – identified one contract where it is in the process of transitioning the duties being performed under the contract to Federal staff and discontinue procurement of the services via a contract.

Although no inherently governmental services are being performed under DOT contracts reviewed, FMCSA is in the process of converting services currently performed by contractors on an IT support services contract over to federal employees to perform as collateral duties in order to achieve a cost savings. OSPE will continue to monitor progress of this effort and document results in future SCI submissions.

Extent to which service contract awards leverage existing Federal or Departmental enterprise contract vehicles or present future opportunities for contract consolidation and reduction of duplicated efforts

As a result of this and other reviews conducted in accordance with the Federal Category Management initiative, DOT has found that while it has made significant progress since the OMB FY 2016 baseline of DOT spend under management (SUM) and best in class (BIC) contract utilization, there is still work that is needed to more effectively implement Category Management principals into DOT spend. Table 4 below outlines DOT’s SUM and BIC progress from FY 2016 to 2017.

**Table 4 – DOT SUM and BIC achievement FY 2016-2017**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **FY 2016 SUM** | **FY 2016 BIC** | **FY 2017 SUM** | **FY 2017 BIC** |
| **Dollars Obligated** | $1.388B | $105M | $1.198B | $117.9M |

As shown in Table 4 above, DOT is making slow, but increasing progress towards consolidating contracts and moving awards to enterprise Departmental or Government-wide contract vehicles. DOT understands that there is still much progress to be made in its implementation of Category Management more broadly across the Department and has a number of initiatives planned as outlined in Section 5.0 below.

# 5.0 – Actions Taken or Planned

Information Technology Workforce Initiatives

In June 2014, the DOT Office of the Chief Information Officer (OCIO) completed an information technology (IT) workforce analysis to evaluate the current alignment of Federal staff and contractor resources supporting the Department’s IT efforts.  Based on the analysis and the changing nature of IT, DOT has engaged in a multi-year IT workforce initiative to reduce reliance on contractors and increase the number of Federal positions in parallel efforts.  The realignment will provide two main benefits:

1. Cost savings and efficiencies: The cost of contractor support is often significantly higher than the full-cost of Federal employees.  The use of contractors also creates the possibility of increased duplication of roles and additional layers of reporting that may create barriers to operations.  Converting contracted positions to Federal positions will reduce this potential redundancy; and
2. Realign Federal and contractor roles: Many IT functions historically performed by contractors may be more appropriately performed by government employees.  Generally, these are contractors who are funded on a time and materials basis to perform full-time work reflective of steady state responsibilities that are ongoing year after year.

Based on the IT workforce analysis, DOT has successfully converted several contractor positions to Federal positions. The analysis is currently being reevaluated for additional conversion opportunities.

From a procurement standpoint, DOT has begun consolidating the procurement of IT contract requirements by a single IT Acquisition Center of Excellence (IT ACE) in FY 2018 (currently in pilot-phase of the initiative). Currently, three OAs’ IT requirements are procured by the IT ACE with a plan to expand the program to the remaining OAs[[14]](#footnote-14) at a time to be determined following review and analysis of lessons learned during the pilot phase of this initiative. Using a single ACE to procure IT services, which made up 20.4% of DOT’s FY 2017 service contract spend, will allow for more consistent and efficient procurement of these services and allow for the direct oversight of all IT service contracts by the DOT OCIO in accordance with Federal IT Acquisition Reform Act (FITARA) requirements. It is anticipated that the IT ACE will have a significant impact on the reduction of duplicative IT services contracts across the OAs through the establishment of enterprise vehicles to leverage the buying power of the Department to receive better contract pricing and negotiate more favorable terms and conditions.

DOT-wide Acquisition Oversight

Beginning in FY 2014, the Department implemented a formal acquisition oversight and risk management policy and structure by establishing formal governance by the Senior Procurement Executive (SPE), Chief Financial Officer (CFO) and Chief Information Officer (CIO) to oversee DOT’s contracts portfolio via the Acquisition Strategy Review Board (ASRB). The ASRB provides a departmental-level review of the business and acquisition approaches utilized by the OAs in meeting DOT mission requirements and program objectives, ensures that Federal and Departmental initiatives and requirements are being addressed, and emphasizes the importance of acquisition planning, source selection criteria, contract type, socioeconomic objectives, competition benefits and award determinations. The ASRB provides a venue for OAs to address issues that may be of concern to the Department, and ensures that management support service contracts are appropriately justified and managed within DOT. In FY 2017, the ASRB reviewed and approved 15 acquisition plans, which included services valued more than $1.5 billion dollars.

Through the ASRB, the SPE, CFO, and CIO continue to lay the groundwork for establishing internal management controls for new service contracts, as well as identifying existing service contracts that are in high-risk categories and candidates for transition to BICs or other Government- or Agency-wide contract vehicles.

Category Management & Training Initiatives

For the first time in FY 2018, OMB issued targets for agencies for SUM and BIC. On an annual (formal) and on-going (informal) basis, DOT is analyzing all new and existing contracts to ensure acquisition of products and services are planned in a strategic manner, consistent with the Federal Category Management (CM) initiative. DOT has established an internal CM Implementation Group comprised of representatives from each of the DOT OAs to help educate individuals across the Department regarding the CM initiative, and advocate for the use of BIC and other well-managed, government-wide vehicles. In addition, DOT recently held a half-day of training sessions on CM, and plans to hold individual discussions with each contracting office across DOT to ensure appropriate considerations are provided for BIC and CM vehicles. Additionally, acquisition policies requiring mandatory consideration of BIC vehicles will be issued in FY 2019.

Finally, DOT is working with GSA and the Defense Acquisition University to develop a requirements package for professional services through a Services Acquisition Workshop that will support the needs of all DOT OAs. The SAW is a Department of Defense best practice for establishing service contracts and is included in OMB’s FY 2019-2020 Government-wide Category Management Strategic Plan.

In addition to DOT’s Category Management-specific initiatives, DOT holds an annual acquisition conference where relevant contracting topics are discussed and training is provided to the DOT acquisition workforce. In FY 2019, DOT plans to host breakout sessions on service contract topics to ensure continued focus in this area.

# 6.0 – Conclusion

Throughout FY 2017, DOT remained focused on improving the management of service contracts. DOT’s ability to manage service contracts more effectively and to identify cost savings without adversely affecting the mission remains a top priority. DOT continued initiatives to reduce overall contract spending and risks by increasing awareness and improving governance; implementing DOT-wide category management; and, reducing the use of high-risk contract types to the maximum extent possible.

DOT’s review found that all OAs reported sufficient balancing of contracted efforts and agency resources to effectively manage and oversee contracts. All contracts are administered by a team of highly trained and qualified acquisition professionals, such as project/program managers, CORs, contracting officers and contract specialists. All individuals performing official roles are certified at an appropriate FAC-level and have various other relevant experience and training.

# 7.0 – Accountable Official:

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# 8.0 – ATTACHMENTS:

1. DOT FY 2017 SCI Plan
2. DOT SCI Analysis Spreadsheet Template
3. DOT FY 2018 SCI Plan
1. Service Contract Inventory Requirement. Public Law 111-117. Section 743. December 16, 2009. [↑](#footnote-ref-1)
2. Federal Procurement Data System-Next Generation (FPDS-NG) as of February 22, 2018 [↑](#footnote-ref-2)
3. OMB identified the following 16 PSCs for the purpose of this review: AD26 R&D – Defense Other: Services (Management/Support), AD61 R&D – Defense Other: Construction (Basic Research), D302 IT and Telecom - System Development, D307 IT and Telecom – IT Strategy and Architecture, D310 IT and Telecom – Cyber Security and Data Backup, D314 IT and Telecom – System Acquisition Support, D316 IT and Telecom – Telecommunication Network and Management, D399 IT and Telecom – Other IT and Telecommunications, R408 Support- Professional: Program Management/Support, R413 Systems Engineering Services, R414 Systems Engineering Services, R421 Technical Assistance, R425 Support – Professional: Engineering/Technical, R497 Support – Professional: Personal Services Contracts, R499 Support – Professional: Other, R707 Support Management: Contract/Procurement/Acquisition Support. [↑](#footnote-ref-3)
4. OMB’s SCI requirements include assessment of desired outcomes being met per Public Law (PL) 111-117, Section 743, dated December 16, 2009. [↑](#footnote-ref-4)
5. The Federal Acquisition Regulation (FAR) defines a personal services contract as “a contract that, by its express terms or as administered, makes the contractor personnel appear to be, in effect, Government employees.” [↑](#footnote-ref-5)
6. OMB Policy Letter 11-01 defines inherently governmental functions as, “a function that is so intimately related to the public interest as to require performance by Federal Government employees.” [↑](#footnote-ref-6)
7. OMB Policy Letter 11-01 states that closely associated to inherently governmental functions, “approach being… [inherently governmental] because of the nature of the function and the risk that performance may impinge on Federal officials’ performance of an inherently governmental function, agencies must give

special consideration to using Federal employees to perform these functions. [↑](#footnote-ref-7)
8. OMB Policy Letter 11-01 defines a critical function as, “a function that is necessary to the agency being able to effectively perform and maintain control of its mission and operations.” [↑](#footnote-ref-8)
9. For FY 2017, the SAT was $150K. [↑](#footnote-ref-9)
10. DOT has ten Operating Administrations (or bureaus), they are as follows: Federal Aviation Administration, Federal Highway Administration, Federal Motor Carrier Safety Administration, Federal Railroad Administration, Federal Transit Administration, Office of the Secretary of Transportation, Maritime Administration, National Highway Traffic Safety Administration, Pipeline and Hazardous Materials Safety Administration and Saint Lawrence Seaway Development Corporation. [↑](#footnote-ref-10)
11. PL 111-117, Section 743(e)(2)(A) requirement. [↑](#footnote-ref-11)
12. PL 111-117, Section 743(e)(2)(B) though (D) requirement. [↑](#footnote-ref-12)
13. PL 111-117, Section 743(e)(2)(E) requirement. OMB defines critical function as a function that is necessary to the agency being able to effectively perform and maintain control of its mission and operations. Typically, critical functions are recurring and long-term in duration. [↑](#footnote-ref-13)
14. Excluding FAA. [↑](#footnote-ref-14)