



U.S. Department of Transportation
Fiscal Year 2018
Service Contract Inventory Analysis

Submitted to:

U.S. Office of Management and Budget

1. Introduction

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, and to analyze the inventory to determine if the mix of federal employees and contractors is effective or requires balancing. This report provides information on the Department of Transportation (DOT)'s review of its FY2018 Service Contract Inventory (SCI).

2. Scope

For the DOT FY 2018 SCI, the analysis focused on select functions codes shown below. These product service codes (PSC) were selected based on high levels of DOT spend¹, the Office of Management and Budget (OMB) recommended PSCs, and all actions coded PSC No. R497 (Personal Services). Focusing on these codes for the FY 2018 review allowed DOT to assess whether contractor and federal staff for services performed on the Department's behalf were sufficiently balanced, and to assess DOT's compliance with Section 743(e)(2) of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Pub. L. 111-117. Additionally, focusing on the selected PSCs for the FY 2018 review allowed DOT to better understand how funds are spent on services and provide insight on how to potentially manage these services for performance and cost efficiencies.

The table below outlines the PSCs selected for DOT's FY 2018 SCI review along with spend during FY 2018 for those PSCs².

PSC	Description	Spend
R425	SUPPORT- PROFESSIONAL: ENGINEERING/TECHNICAL	\$2,290,652,510
Y1LB	CONSTRUCTION OF HIGHWAYS, ROADS, STREETS, BRIDGES, AND RAILWAYS	\$1,610,961,963
R408	SUPPORT- PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT	\$560,254,708
S216	HOUSEKEEPING- FACILITIES OPERATIONS SUPPORT	\$538,642,103
R499	SUPPORT- PROFESSIONAL: OTHER	\$535,289,768
D399	IT AND TELECOM- OTHER IT AND TELECOMMUNICATIONS	\$343,712,090
R427	SUPPORT- PROFESSIONAL: WEATHER REPORTING/OBSERVATION	\$185,463,271
AD26	R&D- DEFENSE OTHER: SERVICES (MANAGEMENT/SUPPORT)	\$169,418,869
N061	INSTALLATION OF EQUIPMENT- ELECTRIC WIRE AND POWER DISTRIBUTION EQUIPMENT	\$156,504,760
D301	IT AND TELECOM- FACILITY OPERATION AND MAINTENANCE	\$140,515,595
R699	SUPPORT- ADMINISTRATIVE: OTHER	\$90,838,498

¹ Defined as the top ten product service codes of spend for DOT contracted services.

² OMB recommended PSCs are shown as bold in the table above.

R799	SUPPORT- MANAGEMENT: OTHER	\$51,336,873
R497	SUPPORT- PROFESSIONAL: PERSONAL SERVICES CONTRACTS	\$4,399,508

3. Methodology

The Office of the Senior Procurement Executive (OSPE) developed a FY 2018 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)³ (see Attachment No. 2 – DOT SCI Analysis Spreadsheet Template). The spreadsheet was organized by DOT Operating Administration (OA)⁴ and listed all FY 2018 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 the selected and review awards includes at least one of each PSC listed in the FY 2018 DOT scope;
3. Ensure a comprehensive review by selecting and reviewing multiple contract types (i.e., Firm-Fixed-Price (FFP), Time and Material (T&M), Cost Reimbursable (CR), etc.);
4. Select and review all PSC R497 – Personal Services Contracts listed on the FY 2018 master spreadsheet;
5. Provide answers to highlighted columns to contribute to the analysis; and
6. 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. The FY 2018 SCI report consists of 300 contracts samples with a total action obligation of over \$3.353B. The sample amounts to 50% of DOT's annual obligations reported in the FY 2018 Service Contract Inventory.

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

Operating Administration	FY2018 Action Obligations Reviewed	Number of Contract Actions Reviewed
FAA	\$1,973,241,711	44
FHWA	\$938,352,798	61
FMCSA	\$122,590,958	10
FRA	\$53,363,317	41

³ The FY 2018 Service Contract Inventory Notice notes that “Because the FAR Council has not yet implemented changes raising the SAT to \$250,000, OMB intends to pull data based on the \$150,000 threshold.” The data analyzed in this report uses the \$150K threshold for simplified acquisitions.

⁴ DOT has ten Operating Administrations (or bureaus), they are as follows: Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), Office of the Secretary of Transportation (OST), Maritime Administration (MARAD), National Highway Traffic Safety Administration (NHTSA), Pipeline and Hazardous Materials Safety Administration (PHMSA), and Saint Lawrence Seaway Development Corporation (SLSDC).

FTA	\$56,529,285	95
OST⁵	\$127,857,976	20
MARAD	\$9,123,443	10
NHTSA⁶	\$47,341,075	7
PHMSA	\$24,379,052	10
SLSDC⁷	\$613,658	2
Total	\$3,353,393,273	300

As illustrated in the above table, the FAA is the largest OA within the Department and has the highest amount of spend analyzed for the purpose of this review. In FY 2018, the DOT total contract spending was \$6.678 billion; of that amount, FAA obligated \$3.877 billion or approximately 58% 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. Summary of Findings

a. Use of Personal Service Contracts.

DOT's FY 2018 SCI analysis revealed that FAA processed an action on a personal services contract. 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. The determination required by AMS Section 3.8.2.3.2 was completed for the FAA personal services contract awards included in this review and were sufficiently justified.

The FY 2018 SCI analysis confirmed one personal services contract action and uncovered coding errors. The FY 2018 SCI analysis found that OST, NHTSA, FHWA, FMCSA, and MARAD reported having personal services contracts, however, upon further investigation, it was found that the awards being reported were coding errors. OSPE has followed up with the OAs to request correction of the FPDS records. OSPE has given all OAs until February 28, 2020 to correct their entries. No other DOT OAs reported or were found to have personal services contract awards.

⁵ The OST data is comprised of both the "Office of the Secretary of Transportation" and VOLPE.

⁶ The methodology allowed OAs to "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."

⁷ The methodology allowed OAs to "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."

b. Use of contractors to perform functions that are closely associated with inherently governmental functions

DOT identified one contract that used contractors to perform function closely associated to inherently governmental functions. The SLSDC contract had the contractor provided quality assurance/inspection of a construction project. OSPE shall ensure that OA confirm understanding of the requirements under Office of Federal Procurement Policy (OFPP), Policy Letter (PL) 11-01 “Performance of Inherently Governmental and Critical Functions”. OSPE has requested the that the checklist be provided by the OA.

c. Use of contractors to perform inherently governmental functions

DOT’s analysis indicated that DOT’s FY 2018 SCI did not include any awards that are inherently governmental.

d. Specific safeguards and monitoring systems in place to ensure the work being performed by contractors has not changed or expanded during the performance to become an inherently governmental function

Each OA within the Department deploys their own specific safeguards and monitoring system in place to ensure the work being performed by contractors has not changed or expanded during the performance to become an inherently governmental function. In some instances, the contractor was performing in accordance with the statement of work, which is not inherently governmental. In all other instances, examples of safeguards and monitoring systems include (but are not limited to):

- Regular communication between the Contracting Officer (CO), Contracting Officer Representative (COR), and the contractor;
- Monitoring of the work by an appropriate level Federal Acquisition Certification in Contracting (FAC-C) COR (I, II, or III); and
- Utilizing audits, reports, site inspections, and quality assurance surveillance plans (QASP).

e. 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.

DOT’s FY 2018 SCI analysis revealed that two DOT OAs utilized contractor personnel to perform critical functions: OST and PHMSA.

VOLPE (an OA that falls under OST) has contractors that enable the operating administration to meet Bureau of Transportation Statistic’s statistical release and distribution dates, maintain a current Web presence, and support events approved by leadership.

PHMSA has multiple contracts that they've identified utilizes contractor personnel to perform critical functions. The services range from administrative, operation and maintenance of their IT system, acquisition support management, data analytics and collection, SharePoint maintenance and technical support. PHMSA is heavily reliant on collecting and disseminating information digitally.

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.

f. Assessment of sufficient internal agency resources to manage and oversee contracts effectively

The FY 2018 SCI analysis found that all DOT contracts have sufficient internal agency resources to manage and oversee contracts effectively.

5. Actions Taken or Planned

Based on DOT's SCI 2018 report, no action is required. DOT is planning to develop a training on common errors when inputting PFDS-NG entries. The training will cover selecting the correct product service code and doing the proper analysis for identifying if the work is "inherently governmental function". The training is anticipated to take place during DOT's 2020 Acquisition and Financial Assistance Conference.

6. Accountable Official

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