Department of Education

Service Contract Inventory (SCI)

FY2019 SCI Analysis Report

FY2020 SCI Analysis Plan

February 2021



Submitted to:

U.S. Office of Management and Budget

Department of Education

Service Contract Inventory (SCI)

|  |  |
| --- | --- |
| Table of Contents |  |
| **Executive Summary** | **3** |
| **1.0 - Introduction/Background** | **4** |
| **2.0 - Scope** | **4-5** |
| **3.0 - Methodology** | **6** |
| **4.0 - Agency Findings** | **7-8** |
| **5.0 - Actions Taken or Planned** | **8** |
| **6.0 - Conclusions** | **8** |
| **7.0 - Accountable Officials** | **9** |
| **8.0 - Attachments** |  |

**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 Education (ED) conducted its annual SCI for FY 2019. ED 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. ED 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 2019, ED obligated an approximate total of $2.890 billion dollars on all contracts for goods and services. Of that total amount, $2.778 billion was obligated on all service contracts. With, $2.419 billion dollars being obligated as follows, to the OMB-suggested management support services and the ED’s FY 2019 selected support services in the amounts of $182.202 million and $2.237 billion dollars respectively, as the spend categories denoted by the 10 Federal Product Service Codes (PSC) identified within the subsequent chart. ED conducted a detailed review of its FY 2019 SCI and presents the results herein.

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

**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.

In FY 2019, ED obligated $2.890 billion dollars on all contracts for goods and services.[[2]](#footnote-2) Of that amount, approximately 79% or $2.297 billion was obligated on service contracts only, and 6.3% or $182.202 million dollars was obligated to the OMB-selected management support services as spend categories denoted by 3 Federal [Product Service Codes](https://www.acquisition.gov/PSC_Manual) (PSC)[[3]](#footnote-3). Considering the high dollar value ED spends on service contracts, ED conducted a detailed review of its FY 2019 SCI and presents the results below. As required, we completed our fiscal year (FY) 2019 analysis and posted it on our website at

<https://www2.ed.gov/fund/data/report/contracts/servicecontractinventoryappendix/servicecontractinventory.html>.

**2.0 – Scope**

ED conducted an analysis of its FY 2019 SCI to identify successes and areas for opportunities to better manage its service contracts. In addition to the three (3) PSCs identified by OMB, ED included the following additional PSCs per it’s FY 2019 SCI plan (see Attachment No. 1 – ED FY 2019 SCI Plan):

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

|  |  |
| --- | --- |
| Product Service Code (PSC) | PSC Description |
| B542 | Special Studies/Analysis- Educational |
| D301 | IT and Telecom – Facility Operation and Maintenance |
| D313 | IT AND TELECOM - COMPUTER AIDED DESIGN/COMPUTER AIDED MANUFACTURING (CAD/CAM) |
| D399 | IT AND TELECOM - OTHER IT AND TELECOMMUNICATIONS |
| R705 | Support- Management: Debt Collection |
| R710 | Support- Management: Financial Includes: Credit Card Services |
| AF11 | Education, Training, Employment, & Social SVCS R&D SVCS; Education SVCS R&D; Basic Research |

ED identified these additional PSCs based on high levels of spend, the likelihood for over reliance by the government on the use of contractors, in addition to them being mission critical. ED evaluated the extent that contract awards within these PSCs spend by, PSC percentage of total FY 2019 SCI spend.

Based on the review criteria, ED reviewed a total of 10 PSCs, which equates to $2.419 billion in FY 2019 obligations**.**

**Table 2: ED FY 2019 SCI PSCs reviewed and spend by PSC**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| PSC | PSC DESCRIPTION | FY 2019 Spend | % of Total Obligations | Detail and Rationale For Reviewing |
| B542 | Special Studies/Analysis- Educational | $ 72,606,129  | **2.51%** | Many of the services under contract in this PSC are non-commercial; therefore, there is a higher risk for over-reliance on contractors for these types of contracts. Selected PSC to evaluate per last year’s analysis plan. |
| D301 | IT and Telecom – Facility Operation and Maintenance | $ 105,151,399  | **3.64%** | This is a top 10 PSC in terms of obligations. Selected PSC to evaluate per last year’s analysis plan. |
| D313 | IT AND TELECOM - COMPUTER AIDED DESIGN/COMPUTER AIDED MANUFACTURING (CAD/CAM) | $ 59,993,583  | **2.08%** | This PSC includes contracts for IT Acquisition Support Services, which are high on OMB’s priority list.  |
| D399 | IT AND TELECOM - OTHER IT AND TELECOMMUNICATIONS | $ 69,252,374  | **2.40%** | This PSC includes other types of IT and Telecom related contracts and services. Selected PSC to evaluate per last year’s analysis plan. |
| R499 | Support- Professional: Other | $ 152,948,251  | **5.29%** | Identified as a targeted PSC under the ongoing effort to reduce contract spending for professional and other services. Recommended for review per OMB. |
| R699 | Support- Administrative: Other | $ 15,157,294  | **0.52%** | Identified as a targeted PSC under the ongoing effort to reduce contract spending for professional and other services. Recommended for review per OMB. |
| R705 | Support- Management: Debt Collection | $ 884,377,852 | **30.60%** | Identified as a targeted PSC under the ongoing effort to reduce contract spending for management support services. This PSC is included to guard against expansion of the contractor’s duties into inherently governmental functions and to ensure enough management and oversight remains in place. Selected PSC to evaluate per last year’s analysis plan. |
| R710 | SUPPORT - MANAGEMENT: FINANCIAL INCLUDES: CREDIT CARD SERVICES | $ 980,600,717  | **33.93%** | This PSC is included to guard against expansion of the contractor’s duties into inherently governmental functions and to ensure enough management and oversight remains in place. Selected PSC to evaluate per last year’s analysis plan. |
| R799 | SUPPORT - MANAGEMENT: OTHER | $ 14,096,340  | **0.49%** | Identified as a targeted PSC under the ongoing effort to reduce contract spending for professional and other services. Recommended for review per OMB. |
| AF11 | Education, Training, Employment, & Social SVCS R&D SVCS; Education SVCS R&D; Basic Research | $ 64,859,122  | **2.24%** | This PSC is considered a mission critical function of the Department. Research and Special Studies are services that are identified as being commercial services and appropriately outsourced under prior FAIR Act Inventory reviews. Selected PSC to evaluate per last year’s analysis plan. |
|   | **TOTAL** | **$ 2,419,043,061**  |   |  |

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

1. Assessment of the effective balancing of contracted and government resources for these efforts; and
2. Overall assessment of the sufficiency of internal agency resources to oversee and effectively manage service contracts.

**3.0 – Methodology**

The SAMI developed a FY 2019 SCI analysis spreadsheet pre-populated with basic contract award information available in FPDS-NG for selected PSCs with all obligation for the fiscal year (see Attachment No. 2 – ED SCI Analysis Spreadsheet Template). The spreadsheet was organized by ED Operating Administration (OA) and listed all FY 2019 award obligations within the scope of this analysis, i.e. above the $150k *Simplified Acquisition Threshold* (SAT). For the purposes of this review, each OA was instructed to:

1. Select and review a minimum of 25% of the total obligations and/or three (3) contracts whichever is greater within the cited product service codes,
2. 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.),
3. Select and review all PSC R497 – Personal Services Contracts listed on the FY 2019 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 ED OA.

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

|  |  |  |  |
| --- | --- | --- | --- |
| Operating Administration | FY2019 Action Obligations Reviewed | FY2019 Obligations by % Reviewed | Number of Contract Actions Reviewed |
|  |
| FSA |  $ 1,589,571,009  | 55% | 15 |
| CAM |  $ 232,570,081  | 8% | 41 |
| NAGB |  N/A | N/A | 0 |
| Others |  $ N/A  | N/A | 0 |
| Total |  **$ 1,822,541,090**  | **63%** | **56** |

As illustrated in the above table, the Federal Student Aid (FSA) is the largest OA within the Department and has the highest amount of spend analyzed for the purpose of this review. In FY 2019, the ED total contract spending was $2.890 billion; of that amount, FSA obligated $2.229 billion or approximately 77% of the total obligations.

**4.0 – Agency Findings**

Use of contractors to perform inherently governmental functions or functions closely associated with inherently governmental functions[[9]](#footnote-9)

ED’s analysis confirmed that ED’s FY 2019 SCI did not include any awards that are inherently governmental functions. However, there was one instances in which closely associated to inherently governmental functions, were being performed under an ED contract – it was being performed based on appropriate statutory authority.

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[[10]](#footnote-10)

ED’s FY 2019 SCI analysis revealed that ED OAs utilized contractor personnel to perform critical functions: FSA and CAM.

In FSA, contractor’s assist government personnel with these mission critical functions, the Customer Relationship Management (CRM) tool, which supports a platform based on salesforce, and a

Customer Call Center (FDMS/Ombudsman, Borrower Defense (BD), this call center provides support for various business units ranging from mailings to complaint resolutions.

In CAM, contractor’s assist government personnel with these mission critical functions, the PIVOT-O Contractor provides the Department with support services for oversight of Planning, Programming, and Operations activities within the PIVOT infrastructure, including detailed monitoring and analysis of data as well as providing expert advice to the Department; Cyber Security Operations Support, which includes technical, engineering, management, operation, logistical and administrative support to plan, coordinate, integrate, and conduct the activities necessary to ensure the protection and availability of the Department’s information infrastructure and assets; Annual Report to Congress (ARC), a contractor prepares the annual report to congress, which is required by P.L. 108-446, the Individuals with Disabilities Education Improvement Act of 2004 (IDEA); and Annual Performance Reports (APRs), is also supported by a contractor which conducts analyses of grantees' data, as presented in their Annual Performance Reports (APRs).

In all instances, the OA’s have sufficient internal capability to maintain control over functions that are essential to the agency’s mission and operations. The OA’s 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 – 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

During ED’s FY 2019 SCI, “No” inherently governmental contracts were identified; however, there were limited instances in which closely associated to inherently governmental functions, and critical functions were being performed under ED contracts. The number and respective distribution of such are as follows, one instances germane to “closely associated to inherently governmental” and six instances germane to “critical functions” – and all were being performed based on appropriate statutory authority.

Other - Compliance with applicable FAR clauses

ED’s review found that, although the OAs reported sufficient balancing of contracted efforts and agency resources to effectively manage and oversee contracts. While, contracts are administered by a team of highly trained and qualified acquisition professionals, there were limited instances wherein the contractor appears to have not complied with FAR 52.204-14, Service Contract Reporting Requirements or 52.204-15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts; and likewise has not filed the required “Services Contract Inventory Report.” These limited instances of omission are not deemed as putting the Department at significant risk; however, the Department is swiftly working to resolve these types of omissions going forward.

**5.0 – Actions Taken or Planned**

#### Based on ED’s review, and in response to the limited instances wherein the contractor appears to have not complied with FAR 52.204-14, Service Contract Reporting Requirements or 52.204-15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts. The following action is recommended, it is encouraged that all acquisition professionals within the Department become familiar with the applicable sections of the FAR (Subpart 4.17-Service Contracts Inventory) and additionally, they should review the “ Quick Start Guide for Service Contract Reporting (SCR) located within the SAM.Gov site. Contracting professionals should encourage contractors to comply when applicable and likewise hold them accountable when it’s been determined that compliance has not occurred.

**6.0 – Conclusion**

ED’s review found that the 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. Therefore, based on this review/analysis, it’s determined that no further actions are required beyond that which has been noted within section 5.0 above and that there are no “Personal Service Contract” within ED and likewise no contracts to recommend for further in-sourcing study.

**7.0 – Accountable Official:**

Phillip R. Juengst
Deputy Assistant Secretary for Acquisition and Grants Administration
Senior Procurement Executive
U.S. Department of Education
400 Maryland Avenue
Washington, DC 20202

**8.0 – ATTACHMENTS:**

1. ED FY 2020 Service Contract Inventory Plan for Analysis
2. ED SCI Analysis Spreadsheet Template

**ATTACHEMENT I**

**FY2020 Service Contract Inventory** **Plan for Analysis**

The Department of Education (ED) analysis will be performed in accordance with the criteria in Consolidated Appropriations Act, 2010, (Pub. L. No. 111-117, §743 – 2009). ED will develop the basic inventory analysis as directed and encouraged by OMB’s guidance using FPDS-NG data. The following is a list of PSC special interest functions that will be used in the Departments analysis for FY 2020:

|  |  |
| --- | --- |
|  | OMB’s suggested PSC to review: |
| PSC | **Descriptions** |
| R499 | SUPPORT - PROFESSIONAL: OTHER |
| R699 | SUPPORT - ADMINISTRATIVE: OTHER |
| R799 | SUPPORT - MANAGEMENT: OTHER |
|  |  |
|  | **ED’s planned PSC to review:** |
| PSC | **Descriptions** |
| D301 | IT AND TELECOM - FACILITY OPERATION AND MAINTENANCE |
| D313 | IT AND TELECOM - COMPUTER AIDED DESIGN/COMPUTER AIDED MANUFACTURING (CAD/CAM) |
| D318 | IT AND TELECOM- INTEGRATED HARDWARE/SOFTWARE/SERVICES SOLUTIONS, PREDOMINANTLY SERVICES |
| D399 | IT AND TELECOM Other IT and TELECOMMUNICATIONS |
| R705 | SUPPORT- MANAGEMENT: DEBT COLLECTION |
| R710 | SUPPORT- MANAGEMENT: FINANCIAL |
| AF11 | R&D - EDUCATION: EDUCATIONAL (BASIC RESEARCH) |
|  |  |

ED’s Analysis Plan:

**Step 1:** Identify the pool of service contracts with special interest functions.

**Step 2:** Identify contracts for review by using OMB’s FY2020 Government-wide Service Contract
 Inventory report.

**Step 3:** Build the Analysis/data collection spreadsheet.

**Step 4:** Provide a copy of the Analysis/data collection spreadsheet to the OA’s.

**Step 5:** Consolidate the data within the Analysis/data collection spreadsheet upon receiving them

 from the OA’s.

**Step 6:** Draft report summarizing results of analysis.

**ATTACHEMENT II**

ED SCI Analysis Spreadsheet Template

Provided underneath as an excel

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, 2021 [↑](#footnote-ref-2)
3. OMB identified the following 3 PSCs for the purpose of this review: R499 Support – Professional: Other, R699 Support- Administrative: Other, R799 Support- Management: Other

. [↑](#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. PL 111-117, Section 743(e)(2)(B) though (D) requirement. [↑](#footnote-ref-9)
10. 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-10)