



U.S. COMMODITY FUTURES TRADING COMMISSION

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CFTC Service Contract Inventory: FY2021 Analysis Report

Pursuant to Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, P.L. 111-117, the Commodity Futures Trading Commission (CFTC) has completed the analysis and review of the agency Fiscal Year 2021 Service Contract Inventory to determine if the mix of Federal employees and contractors is effective or if rebalancing may be required.

As required, the agency focused the analysis on the following two (2) special interest functions that we identified to OMB by Product Service Code (PSC):

<u>PSC</u>	<u>PSC Description</u>
D302	IT and Telecom-Systems Development
R425	Support – Professional Engineering/Technical

The analysis, review and the write-up herein reflect interviews and input from agency Contracting Officers and Contracting Officer Representatives (CORs). In conducting our analysis we carefully reviewed and considered OMB Memorandum M-09-26, dated July 29, 2009, Office of Federal Procurement Policy (OFPP) policy letter "Performance of Inherently Governmental and Critical Functions" (76 Fed. Reg. 56227; September 12, 2011), the insourcing guidelines required under section 736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, division D) and all applicable internal agency guidance pertaining to this subject matter.

The analysis and review revealed that the support activities provided under the outlined special interest functions are neither inherently Governmental, nor are they personal services contracts as defined in FAR 37.104. Current safeguards in place for monitoring contractor services provide reasonable assurance that work does not become inherently governmental during contract performance.

In addition, the analysis and review revealed that the CFTC is not utilizing contractor services to perform agency critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations. Lastly, the analysis revealed that the agency is increasingly relying on contract resources to support its expanded mission as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173) which was enacted in July 2010. The agency faces a number of challenges to effectively manage and oversee contract performance to ensure we remain in compliance with all guidelines and laws regarding the subject matter.

Following is a summary of our review by PSC:

For PSC D302 - IT and Telecom-System Development, the CFTC's Division of Administration's, Information Technology Branch (DA-IT) contractor employees are used to provide Information Technology (IT) systems development and services support based on specialized technical skills that are not performed by DA-IT staff; but instead, monitored by agency staff project managers. Of the funds obligated under PSC D302, over 81.5% of the dollars (approximately \$14.8m) were awarded under BPA CFODT-15-BP-0214. The BPA provided CFTC the ability to adjust to surges in workload required to enhance existing infrastructure requirements as it relates to security, telecommunications, and equipment that are needed as a part of the implementation of new initiatives as well as perform operations and maintenance (O&M) of the network, telecommunications and customer support center. Due to the nature of the work performed and the large percentage of dollars associated with the core infrastructure operations and maintenance task, a Contracting Officer's Representative (COR), an Alternate Contracting Officer's Representative, and three (3) Task Monitors were assigned to monitor and oversee the contractor services. Almost 18.7% of the dollars (approximately \$3.4m) were awarded to obtain development and operations and maintenance of the market and financial systems, as well as the enterprise wide systems used by CFTC to execute our mission.

For PSC R425 - Support-Professional: Engineering/Technical, the Senior Procurement Executive (SPE) decided to analyze the type of services being procured to not only determine if the mix of Federal employees and contractors is effective but to ascertain if a more specific PSC Code would have been more appropriate instead of the generic code. Of the funds obligated under PSC R425, over 17.9% (approximately \$1.4m) were awarded to provide data standards, data analysis, reporting requirements, design specifications and data validation support necessary to improve the Commission's surveillance and enforcement activities to improve market transparency and mitigate system risk and market abuse. Another approximately 17.9% of the dollars (approximately \$1.4m) were awarded for ongoing development, maintenance and support of customer applications developed to ingest operational market information and obtain monthly and financial quarterly reports from participants as well as to accommodate the access and submission of CFTC forms necessary in obtaining information to fulfill our mission. In addition, over 14.2% of the dollars (over \$1.1m) were awarded to ongoing technical support for the maintenance and enhancements to the data standards managed and supported by the Data Standards team. Another approximately 13% of the dollars (over \$1m) were awarded to obtain services to review, manipulate, and visualize the data submitted by participants in order to meet the mission of the CFTC for enforcement, surveillance, risk assessment and compliance functions as well as provide data management activities that improve data quality. In addition, 12.5% of the dollars (\$1m) were awarded to provide technical architecture and support for the operation, maintenance, and enhancement of the SAS and MicroStrategy platforms.

All CFTC contracts are assigned a COR responsible for tracking contractor performance via project milestones, project deliverables and/or performance standards/metrics. The COR is also responsible for managing and overseeing the various tasks within a contract, which ensures that CFTC is maintaining control of its mission and operations.

In summary, the CFTC continued to use contractor resources, in particular services provided under the special interest functions noted in our FY2021 Service Contract Inventory, to support agency staff. CFTC can provide reasonable assurance that it complies with laws and regulations governing contract resource use and is committed to undertaking the action necessary to reduce risks in delivery of contract services.

Please do not hesitate to reach out to any of the CFTC personnel listed below if you have any questions about the FY2021 Service Contract Inventory and analysis.

The following contact information is provided:

- (1) The CFTC senior agency management official accountable for the development of agency policies, procedures, and training associated with OFPP Policy Letter 11-01 and addressing the performance of inherently governmental and critical functions is Alice Macklin, Human Capital Analyst, amacklin@cftc.gov, 202-418-5860.
- (2) Mrs. Macklin is also the official responsible for ensuring appropriate internal management attention is given to the development and analysis of service contract inventories.
- (3) The CFTC individual who has been designated to serve on the working group responsible for sharing best practices and lessons learned in the use of inventories as a management tool is:
 - Livia Bykov, Procurement Analyst, lbykov@cftc.gov, 202-418-5103.