



**Department of Veterans Affairs  
Service Contract Inventory  
Analysis Report  
for Fiscal Year 2021**

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**1. Background:** The Department of Veterans Affairs (VA) is an agency subject to section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Public Law 111-117 and is required to develop an inventory of the agency's service contracts.

**2. Methodology:** VA used the guidance from the Office of Management and Budget (OMB) to determine which Product and Service Codes should be special interest functions for the FY 2021 inventory. VA identified 17 special interest functions for analysis. These special interest functions were selected for review because they meet one or more of the following criteria:

- Special Interest Functions identified by OFPP in the guidance provided on November 5, 2010 for heightened management consideration, including B505, D302, D307, D310, D314, and all the “R” codes.
- Special Interest Functions where contracts were awarded and coded as Closely Associated with Inherently Governmental Functions, recommended for heightened management consideration in OFPP's guidance of December 19, 2011. For VA's FY 2021 inventory, these included R408, R499, R707 and R799.
- Additional special interest functions recommended by OFPP in their FY 2021 SCI Notice to Agencies, dated November 1, 2021. These include R499, R699 and R799.

The total population of the FY 2021 Service Contract Inventory (SCI) records was 13,154; the total number of contract actions identified as special interest functions was 897.

VA's FY 2021 Service Contract Inventory Analysis Report and a link to the Inventory will be posted on VA's official website at:

<https://www.va.gov/oal/business/pps/scalInventory.asp>. VA selected contract actions from within the special interest functions that represent a large percentage of obligations or functions specified by OMB. VA derived a sample of 74 contract actions which represented 8.2% of the total population of contract actions identified as special interest functions. High dollar value contract actions were then selected for each of the selected codes to ensure acceptable representation within the sample population based on dollars obligated. The special interest functions represented in the sample are identified in the Table below. The “\$ Value” column represents total dollars obligated on reportable contracts for each of the special interest service codes as of FY 2021.

Special Interest Codes					
Code	Description	# of Contracts	\$ Value	Sample	Sample \$
B505	Special Studies/Analysis - Cost Benefit	0	\$ -	0	\$ -
D302	IT and Telecom - Systems Development	9	\$ 187,353,031.54	2	\$ 88,537,556.71
D307	IT and Telecom - IT Strategy and Architecture	3	\$ 160,815,037.83	1	\$ 2,027,948.83
D310	IT and Telecom - Cyber Security and Data Backup	12	\$ 177,778,955.94	2	\$ 69,361,949.51
D314	IT and Telecom - System Acquisition Support	5	\$ 189,583,062.50	1	\$ 999,310.00
R406	Policy Review/Development Services	2	\$ 49,170,738.05	1	\$ 23,536,957.57
R407	Program Evaluation Services	0	\$ -	0	\$ -
R408	Program Management/Support Services	153	\$ 2,045,588,238.33	16	\$ 186,893,461.04
R409	Program Review/Development Services	0	\$ -	0	\$ -
R413	Specifications Development Services	2	\$ 1,724,924.00	1	\$ 1,128,276.00
R414	Systems Engineering Services	0	\$ -	0	\$ -
R423	Intelligence Services	0	\$ -	0	\$ -
R425	Engineering and Technical Services	79	\$ 357,048,607.81	8	\$ 92,481,695.24
R499	Support - Professional: Other	421	\$ 6,305,326,395.44	20	\$ 446,476,994.82
R699	Support - Administrative: Other	83	\$ 624,563,328.02	7	\$ 186,573,544.69
R707	Management Services/Contract and Procurement Support	29	\$ 106,977,560.33	2	\$ 23,366,077.04
R799	Support - Management: Other	99	\$ 1,268,366,185.41	13	\$ 793,551,881.19
Total		897	\$ 11,474,296,065.20	74	\$ 1,914,935,652.64

The Procurement Policy and Warrant Management Service (PPS) identified a sample of 74 contracts with the VA special interest codes. The list of contracts and the survey questions were sent to the VA Heads of the Contracting Activity (HCAs). The HCAs' Contracting Officers (COs) were instructed to answer the questions for each of the 74 SCI contracts in order to validate the information uploaded by their contractors. PPS reviewed a sample of contract file documents supporting the CO survey responses.

This process consisted of reviewing and analyzing contracts and contract file information related to these six OMB focus areas:

- Each VA personal service contract is being performed in accordance with applicable laws and regulations;
- An evaluation of whether VA is giving special management attention, as set forth in FAR 37.114 (b), to functions that are closely associated with inherently governmental functions;
- A determination of whether VA is not using contractor employees to perform inherently governmental functions;
- To confirm VA has specific safeguards and monitoring systems in place to confirm that work being performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- An analysis to ensure VA is not using contractor employees to perform critical functions in such a way that could affect the ability of VA to maintain control of its mission and operations; and
- An assessment to ensure there are sufficient internal VA resources to manage and oversee contracts effectively.

### **3. Analysis and Observations:**

**a. Each contract that is a personal services contract has been entered, and is being performed, in accordance with applicable laws and regulations.**

As described in FAR Subpart 37.104, a personal services contract is characterized by the employer-employee relationship it creates between the government and the contractor's personnel. The government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. VA does not have specific statutory authority to award personal services contracts.

Based on the review of file information and the survey responses received, it was determined that no VA service contracts within the sample size of 74 were personal in nature. Review and analysis of the data call responses and contract files for the sampled contracts found no indications of contractors integrating into VA's organizational structure during the execution of their services in a manner that constitutes a personal services contract.

**b. VA is giving special management attention, as set forth in FAR 37.114, to functions that are closely associated with inherently governmental functions.**

In accordance with FAR Subpart 37.114 – Special Acquisition Requirements - and Subpart 7.5 - Inherently Governmental Functions. Agencies must ensure that," (1) a sufficient number of qualified government employees are assigned to oversee contractor activities, (2) a greater scrutiny and an appropriate enhanced degree of management oversight is exercised, (3) all contract personnel ... identify themselves as such or that contractor participation is appropriately disclosed."

Within the sample, 14 percent of contract actions contained functions that were considered closely associated with inherently governmental functions. The contracts reviewed were Product Service Codes (PSC) for Management Support - Contract/Procurement Acquisition Support, Program Management Support, and Other Professional Support. The contracted services do not include inherently governmental functions as defined in the FAR.

VA provides special management attention to functions that are closely associated with inherently governmental functions. In one case where the contractor provides services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy, the COR reviews all deliverables to ensure that they are in accordance with the performance work statement and not expanding into inherently governmental functions.

**c. VA is not using contractor employees to perform inherently governmental functions.**

In accordance with FAR subpart 37.114 and subpart 7.5, contractors shall not perform inherently governmental functions, defined in FAR 2.101 as "... a function that is so

intimately related to the public interest as to mandate performance by Government employees.”

The review did not find any instances of contractor employees performing inherently governmental functions. Contractors did not provide final approval of financial or acquisition documents on behalf of the government. Contractors did not determine agency policy, such as determining the content and application of regulations. Government officials in the offices receiving contractor support provide the necessary managerial attention to ensure contractors are not performing inherently governmental functions. The analysis of the sample showed a correct level of understanding by VA procurement and requirements officials as to the appropriate roles and responsibilities of contractor employees concerning inherently governmental functions. The services provided by contractors were not inherently governmental functions.

**d. VA 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 inherently governmental functions.**

File reviews and contracting officer survey results confirm specific safeguards and monitoring processes are in place demonstrating the work that contractors are performing has not changed or expanded during the contract performance period to become inherently governmental. As an example, the requiring activity’s operational staff are able to manage any contractor support consistent with its responsibility to perform inherently governmental functions and maintain control of its mission and operations by conducting monthly evaluations. There are sufficient qualified Federal employees assigned to the active contracts to ensure sufficient oversight of contractor performance.

**e. VA is not using contractor employees to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operation.**

The analysis of contract file documents and data call responses revealed no indication that contractor employees are being used to perform critical functions in a way that affects the requiring activity’s ability to maintain control of its mission and operation.

Within the sample population, contractor performance of critical functions, as defined in Office of Procurement Policy (OFPP) letter 11-01, is tightly controlled by VA. Two contracts provide acquisition management support; VA still has enough internal acquisition management support capability to maintain control of its mission and operation.

Where contractors must perform critical mission functions, VA’s requiring activities ensure control of their missions and operations through frequent monitoring of contractor performance, placement of government employees in positions to oversee and manage the contractors, or by transitioning contractor positions into permanent government employee positions. HCAs are advised of the need to continue to closely monitor these contracts.

**f. There are sufficient internal VA resources to manage and oversee contracts effectively.**

VA's primary method of contract oversight is through the Contracting Officer's Representative (COR) who is appointed to ensure contractor compliance with the terms and conditions of the contract. All services performed by contractor employees are monitored by government employees. The CORs monitors the work. If needed, contractors are required to provide frequent reports on work accomplished.

The overall analysis indicates that VA has sufficient internal agency resources to manage and oversee contracts effectively.

**4. Conclusions:** The review and analysis of the FY 2021 SCI data concluded that VA's contracted services adhered to the key parameters of OMB's six focus areas. The analysis indicated that contractors were utilized in an appropriate manner and contracted services effectively supported VA's mission and operations. The analysis revealed that contracts were awarded to obtain highly technical and/or specialized skills not found within the government, or because of government staffing limitations or to fulfill short-term service requirements.

The results of the review and analysis of the FY 2021 SCI revealed that all reviewed contracts adhered to the key parameters set forth in OMB policy and procedures. The following were noted:

- No Personal Services Contracts were identified;
- VA gives special management attention to functions closely associated with inherently government functions;
- VA is not using contractor personnel to perform inherently governmental functions;
- Safeguards and monitoring systems are in place at VA to ensure services performed by a contractor had not changed or expanded during performance to become an inherently governmental function;
- The agency is not using contractor personnel for critical functions in such ways that could jeopardize the ability of VA to maintain control of missions and operations, and;
- There are sufficient VA internal resources to effectively manage and oversee contracts.

As a final point, we found no indications that VA has an inappropriate mix of Federal employees and contractors. No contract requirements were identified that should be considered for conversion to performance by Federal employees in accordance with agency in-sourcing guidelines required under section 739 of Division D of the Consolidated Appropriations Act, 2008 (Public Law 110-161) as amended by Section

736 of the Financial Services and General Government Appropriations Act, 2009 (Public Law 111-8, Division D) and OMB Memorandum M-09-26, Managing the Multi-Sector Workforce.

**Responsible Officials:**

In accordance with OMB guidance, VA designated accountable officials to help ensure appropriate management attention and responsiveness. Ms. Deeneen U. Akeo, Associate Executive Director of Procurement Policy, Systems and Oversight, is responsible for SCI-related policy. Dr. Angela Billups, Executive Director, Office of Acquisition and Logistics and Senior Procurement Executive, is responsible for ensuring appropriate management attention is given to the development and analysis of service contract inventories.