Recommendation Memo for the Chief Operating Officer

FROM	Joshua Galicki, Senior Procurement Executive, 5-7324		
SUBJECT	Publication of Fiscal Year (FY) 2022 Service Contract Inventory Analysis and Plan for FY2023 Service Contract Inventory Analysis		

Recommendation(s)

I recommend that you approve release of the FY2022 Service Contract Inventory Analysis and the Plan for the FY2023 Service Contract Inventory Analysis.

Timing Considerations

The deadline for the Bureau to release the report is February 20, 2024.

Background

The Executive Office of the President, Office of Management and Budget's (OMB) memoranda dated November 5, 2010, and December 19, 2011, provide agencies with guidance for complying with Section 743 of Division C of the FY2010 Consolidated Appropriations Act, P.L. 111-117, which "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 if rebalancing may be required" (December 19, 2011).

Release Plan

The Service Contract Inventory operates on a two-year schedule: after the close of each fiscal year, agencies collect data on service contracting and prepare a plan for detailed analysis. Execution of the plan (i.e., analysis of the data and contracts) is then performed over the course of the following fiscal year. Once approved, the analysis of FY2022 service contracting and plan for analysis of 2023 service contracting will be posted on the OMB MAX system. Following OMB's acceptance, the analysis and plan will be posted at consumerfinance.gov and a Federal Register Notice will be published announcing their availability.

Attachments

Tab 1: Draft Decision Memorandum from the Chief Operating Officer

Tab 2: Memo Regarding FY2022 Analysis and FY2023 Plan

Tab 3: FY2022 SCI Analysis

Tab 4: FY2023 SCI Plan

Recommendation Memo Reviewer Sheet

Subject/Document Title FY2022 Service Contract Inventory Analysis and Plan for FY2023 Service Contract Inventory Analysis						
Name of Document Owner Nikki Burley Office Finance and Procurement Telephone Extension 5-9329						
Approved by (name of Associate or Assistant Director) Jafnar Gueye, Chief Financial Officer						
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Legal	Angela Puri	1/24/2024 and 2/9/2024				

Consumer Financial Protection Bureau 1700 G Street NW Washington, D.C. 20552



Decision Memo from the Chief Operating Officer

Consumer Financial Protection Bureau

FROM	Adam Martinez
то	Joshua Galicki
SUBJECT	FY2022 Service Contract Inventory Analysis and Plan for FY2023 Service Contract Inventory Analysis

I approved release of the FY2022 Service Contract Inventory Analysis and Plan for FY2023 Service Contract Inventory Analysis.

Adam Martinez

Chief Operating Officer

Date

Memorandum for the Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy

FROM	Joshua Galicki, Senior Procurement Executive, Office of Finance and	
	Procurement, Consumer Financial Protection Bureau	
SUBJECT	Service Contract Inventory (SCI) – Fiscal Year (FY) 2023 SCI Planned	
	Analysis and FY2022 SCI Analysis	

Section 743 of Division C of the FY2010 Consolidated Appropriations Act, Pub. L. 111-117, and the Executive Office of the President, Office of Management and Budget's (OMB) memoranda dated November 5, 2010, and December 19, 2011, on "Service Contract Inventories" require civilian agencies to submit data on an annual basis with respect to service contract inventories, as follows:

- 1) An analysis of FY2022 inventory; and
- 2) Planned analysis of selected Product Service Codes (PSC) for FY2023 (analysis to be completed in FY2024).

The purpose of this memorandum is to identify the FY2023 service contract inventory and provide the FY2022 service contract inventory analysis.

Attachment 1 is a summary report of the CFPB's ten largest service contract obligations and special interest functions as identified by OMB. No additional special interest functions were identified by the CFPB that are not already listed on the summary report.

Table 1 identifies special interest functions from the CFPB's FY2023 inventory which will be the subject of a focused analysis in FY2024.

¹ See also, Sept. 20, 2016, memorandum on "FY2016 Service Contract Inventories" from Anne Rung, Administrator for Federal Procurement Policy.

TABLE 1: FY2023 FUNCTIONS FOR ANALYSIS IN FY2024

Product Service Code (PSC)	PSC Description	FY 2023 Obligation \$	% Total Obligations
R699	Support – Administrative: Other	\$ 12.0M	6%
R702	Support - Management: Data Collection	\$ 8.4M	4%

Of the top ten PSCs by obligation for FY2023, six have been analyzed in recent Service Contract Inventory analyses. Two of the four remaining PSCs among the top ten were selected. PSC R699 is also part of the OMB special interest list.

As part of the FY2023 inventory analysis, the CFPB will monitor/evaluate contracted services to determine whether contractor personnel perform critical agency functions that could affect the CFPB's ability to maintain control of its mission and operations.

Attachment 2 is the FY2022 Service Contract Inventory Analysis.

Questions regarding this memorandum may be referred to Joshua Galicki (email: Joshua.Galicki@cfpb.gov or Nikki Burley (email: <u>Nikki.Burley@cfpb.gov</u>).

Enclosures

Attachment 1: FY2023 PSC Summary

Attachment 2: FY2022 Service Contract Inventory Analysis

FY2022 Service Contract Inventory Analysis

Office of Finance and Procurement, Consumer Financial Protection Bureau

1700 G St NW, Washington DC



1.	Intro	oduction		3
	1.1	Background	4	
	1.2	Scope of Analysis	4	
	1.3	Methodology	5	
2.	Sun	nmary of Findings		6
	2.1	PSC DA10: IT and Telecom – Business Application/Application development Software as a Service	7	
	2.2	PSC R799: Support- Management: Other	9	
	2.3	Analysis	10	
3.	Bus	iness Process Improvement Opportunities		12
	3.1	Ongoing Process Improvements	13	
	3.2	Recommended Process Improvements	13	
4.	Bur	eau Senior Management Official		14

1. Introduction

The Consumer Financial Protection Bureau (CFPB or Bureau) was established on July 21, 2010, under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act). The CFPB was established as an independent bureau within the Federal Reserve System. The Bureau is an Executive agency as defined in Section 105 of Title 5, United States Code.

The Dodd-Frank Act authorizes the CFPB to exercise its authorities to ensure that, with respect to consumer financial products and services:

- Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
- 2. Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- 3. Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;
- 4. Federal consumer financial law is enforced consistently in order to promote fair competition; and
- 5. Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

The Bureau has continued its efforts to listen and respond to consumers and industry, to be a resource for the American consumer, and to develop into a great institution worthy of the responsibility Congress has conferred on it.

The CFPB's Office of Finance and Procurement is committed to enhancing transparency and ensuring proper financial stewardship throughout the acquisition lifecycle. To achieve this, the Bureau's Office of Finance and Procurement has prepared this report using the most recent instructions from the Office of Management and Budget (OMB). This report provides an analysis of the CFPB's service contract inventory to determine if the mix of Federal employees and service contractors is effective.

1.1 Background

In accordance with the Office of Management and Budget, agencies shall conduct a meaningful analysis of the data in their service contract inventory for the purposes of determining if contract labor is being used in an appropriate and effective manner, and if the mix of Federal employees and contractors in the Bureau is effectively balanced. The analysis shall cover the elements called for in the relevant guidance and include any agency findings, any actions taken or planned by the agency to address any identified weaknesses or challenges, and a description of the methodology used by the agency to support its analysis. Agencies shall post their analysis in the OMB MAX system once completed.

1.2 Scope of Analysis

The Office of Finance and Procurement staff has analyzed the Bureau's service contract inventory from FY2022 to validate program requirements, including appropriate contract use and effectiveness, to determine if the mix of Federal employees and service contractors is balanced. Table 1 identifies Product Service Codes (PSCs) selected by the Office of Finance and Procurement. The analysis includes all service contract awards against selected PSCs exceeding \$25,000 and funded by the Bureau in FY2022.

TABLE 1: CFPB PRODUCT SERVICE CODES

PSC	PSC Description	FY 2022 Obligation Dollars	Representative Contract Actions
DA10	IT and Telecom – Business Application/Application Development Software as a Service	\$ 10,248,984	9
R799	Support - Management: Other	\$ 5,031,583	7

Of the top ten PSCs by obligation, six have been analyzed in recent Service Contract Inventory analyses. We selected two of the remaining four, DA10 and R799, both of which represent significant portions of FY2022 obligations. PSC R799 is also included in OMB's list of PSCs designated with special interest.

The review team has conducted a review of each contract for the PSCs identified in Table 1. Specifically, the Office of Finance and Procurement has analyzed the Statement of Work or Performance Work Statement, as well as any Quality Assurance Surveillance Plan and past performance reviews, for each contract.

1.3 Methodology

The Bureau's scope of analysis is assessed by a use-case evaluation approach. The analysis is focused on the following areas:

- a) Gauging if services are being used appropriately for the Bureau's mission;
- b) Ensuring Bureau service contracts are being provided with appropriate and sufficient oversight; and
- c) Identifying necessary improvements to the service-related acquisition practices of the Bureau.

The below list details the data gathering elements collected by the review team:

- Contract files; and
- Contract monitoring practices, mechanisms, and performance standards.

For PSC DA10, the resultant nine actions total \$10.2M. For PSC R799, the resultant seven actions total \$5M.

Tables 2 and 3, below, detail the relevant contract actions issued under each PSC.

TABLE 2: PSC DA10 CONTRACT ACTION DETAILS

Vendor Name	Description of Requirement	Dollars Obligated
Deloitte Consulting LLP	New Identity, Credential, and Access Management Support	\$4,102,637
Deloitte Consulting LLP	Customer Relationship Management Support	\$4,026,450
Excella, Inc.	Excella - Web and Software Development Support	\$1,499,328
Rock Creek Publishing Group Inc.	Multimedia Support	\$421,248
Enterprise Technology Solutions, Inc.	Address Validation Tool	\$89,074
Advanced Computer Concepts, Inc.	Cisco Ironport License	\$43,005
DH Technologies, LLC	Brocade Support	\$30,592
Accessagility LLC	Tecnics TecMFA	\$26,650

TABLE 3: PSC R799 CONTRACT ACTION DETAILS

Vendor Name	Description of Requirement	Dollars Obligated
Censeo Consulting Group, Inc.	Reg Tech Tier 1 and Operational Support	\$1,400,000
Censeo Consulting Group, Inc.	Management and Strategy Consulting	\$1,311,174
Deloitte Consulting LLP	Technical and Advisory Support for Emergency Management	\$975,000
Accenture Federal Services LLC	Data and Knowledge Management Support	\$602,534
Censeo Consulting Group, Inc.	Management Consulting Support	\$431,561
Federal Management Partners, Inc.	Change Management Support	\$187,068
ICF Incorporated, L.L.C.	Barrier Trigger Analysis	\$134,982

2. Summary of Findings

In accordance with the Consolidated Appropriations Act, 2010, Division C, Title VII §743(e), the CFPB has ensured through its analysis that:

- The Bureau is giving special management attention to functions closely associated to inherently governmental functions;
- The Bureau is not using contractor employees to perform inherently governmental functions;
- The Bureau 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 an inherently governmental function;
- The Bureau is not using contractor employees to perform critical functions in a way that could affect the agency's ability to maintain control of its mission and operations;
- There are sufficient internal agency resources to manage and oversee contracts effectively; and
- No contracts have been identified as poorly performed because of excessive costs or inferior quality.

2.1 PSC DA10: IT and Telecom – Business Application/Application development Software as a Service

Product Service Code DA10 is selected for review as it makes up one of the highest percentages of overall CFPB service contract obligations and it has not been included in previous analyses. The vendors for relevant actions awarded under this PSC for FY2022 are listed below:

- AccessAgility LLC
- Advanced Computer Concepts, Inc.
- Deloitte Consulting LLP
- DH Technologies, LLC
- Enterprise Technology Solutions, Inc.
- Excella, Inc.

7

• Rock Creek Publishing Group Inc.

In the first quarter of FY2022, the Bureau awarded two task orders for security management licenses. The first awardee was AccessAgility, LLC, a reseller of multi-factor authentication (MFA) licenses, specifically Tecnics TecMFA. The award allowed CFPB employees and contractors to access CFPB networks, systems, and data, and was issued as a 12-month firm-fixed price award with four option years included. The second awardee was Advanced Computer Concepts, Inc., which provided the Bureau with Cisco IronPort licenses. IronPort is an email filtering software used to secure all incoming and outgoing email communications, specifically protecting against spam and viruses received via email. The services for both awards were classified as not inherently governmental. The Bureau assigned a Level I COR in the Office of Technology & Innovation to oversee and manage performance for both, and no issues have been noted during the period of performance at present.

The Bureau also completed more than a dozen contract actions to Deloitte Consulting, LLP, in FY2022, three of which fall under this PSC. Two of these were funding modifications on a FY2021 contract for support on a Salesforce-based Customer Relationship Management (CRM) system. This CRM system was used to gather consumer complaints, inquiries and "Tell Your Story" narratives. The services provided were deemed closely associated, but not inherently governmental functions. A quality assurance surveillance plan (QASP) was included in this

contract to provide a measure of risk management. The assigned COR (Level II) noted performance issues, including delays and understaffing, which are in the process of being resolved via a corrective action plan from the vendor.

The third action in FY2022 for Deloitte under this PSC was a new award for Bureau-wide Identity, Credential, and Access Management (ICAM) support. Given the nature of these services and their relation to the security of Bureau information, they were deemed closely associated, but not inherently governmental functions. Two Level II CORs were assigned to this award and a detailed QASP was also included. No performance issues have been noted to date.

In December 2021, the Bureau awarded a \$30,000 contract to DH Technologies, LLC, for Brocade support for the various Dell appliances, servers, and storage owned by CFPB. The services for this award were classified as not inherently governmental and low risk. Two Level I CORs were assigned, and no performance issues have been noted.

In the fourth quarter of FY2022, a contract was awarded to Enterprise Technology Solutions, Inc., for address verification and geocoding services, integrated with the Salesforce platform. This was needed in support of the Bureau's public collection of consumer financial complaints. The services provided via this award were deemed not inherently governmental and a Level III COR was assigned to monitor performance. No performance issues have been reported.

Lastly for PSC DA10, the Bureau awarded two task orders off web development blanket purchase agreements (BPAs) in FY2022. One of these was awarded to Excella, Inc., for web and software development support. Specifically, the goal was maintenance of production and creation of new offerings on the Bureau's public facing website and related digital platforms. The other related award went to Rock Creek Publishing Group, Inc., for multimedia support, specifically management of commercial and documentary style videos as well as assistance on the set of a variety of productions. Both of the awards were classified as closely associated, but not inherently governmental functions and each had at least one Level III COR assigned. Both also included QASPs to measure and monitor performance. No performance issues were noted.

2.2 PSC R799: Support- Management: Other

We selected Product Service Code Uoo9 for analysis because we have not analyzed this type of service in previous reports, and because it is included in OMB's list of PSCs designated with special interest. The Bureau contracted with a total of five vendors for these services:

- Accenture Federal Services LLC
- Censeo Consulting Group, Inc.
- Deloitte Consulting LLP
- Federal Management Partners, Inc.
- ICF Incorporated

A contract option on a delivery order for data management and knowledge management support services was awarded to Accenture Federal Services, LLC. The primary focus in this award was two-fold: an assessment of the Bureau's current data management maturity levels and a separate assessment to identify gaps in critical data skills needed by the Bureau. The services were considered not inherently governmental. A Level III COR was assigned and although a stop work worder was issued in early 2023, it was unrelated to performance.

The vendor in this group with the largest FY2022 obligated amount was Censeo Consulting Group, Inc. They were awarded three task orders under a BPA for management and strategy consulting services (MASCS). Two of these awards were funded by separate CFPB program offices with differing details but similar services: the adoption of best practices currently employed in the private and public sectors to improve, sustain, and mature business. The third Censeo award was for regulatory technology (Reg Tech) support. This support was focused on the intake and processing of operational and regulatory questions from vendors and financial institutions. Two of the three awards were deemed closely related to inherently governmental functions with the third classified as not closely related. All three had Level II CORs assigned and no performance issues have been recorded on any of them as of this writing.

In the fourth quarter a task order was awarded to Deloitte for emergency management technical advisory support. This order was focused on leveraging best practice and expert knowledge to incorporate the Bureau's emergency preparedness plan surrounding the COVID-19 pandemic.

The services were consultative in nature and thus were considered not inherently governmental. The COR assigned was Level II and has not reported any performance issues.

Awarded from the same suite of management strategy and consulting BPAs as the Censeo and Deloitte awards was a task order for Federal Management Partners in September of 2022. This award provided change management consulting support for the Bureau's Research Markets and Regulations functions. It was determined to be not inherently governmental. Like the other task orders related to this suite of BPAs, a Level II COR was assigned to the award and has not reported any performance issues.

Lastly, in the fourth quarter of FY2022, a task order was awarded to ICF Incorporated, LLC, for barrier trigger analysis. The aim was to investigate any root causes or barriers to equal employment opportunities for protected groups and recommendations on eliminating them. These services were deemed closely associated to, but not inherently governmental. This award required only a Level I COR, who was assigned and has noted no performance issues to date.

2.3 Analysis

The analysis is completed using the protocols and methods outlined in Section 1.3, with special attention given to answering the five questions below.

- 1. Is the contractor performing a function that is "mission critical"?
- 2. Does the contract requirement include inherently governmental functions?
- 3. Does the contract requirement include unauthorized personal services either in the work statement or in contract operation?
- 4. In the case of work closely associated to inherently governmental functions, or non-competitive contracts, was special consideration given to using Federal government employees?
- 5. Are sufficiently trained and experienced officials available within the Bureau to manage and oversee the contract administration function?

2.3.1 Are contractors performing a function that is mission critical?

In the case of this analysis, many of the contracted functions are deemed mission critical. The Bureau finds that the contractors provided needed capacity, expertise, as well as flexibility and that the detailed contract specifications and Bureau oversight with effective COR involvement mitigated any possibility of contractors performing inherently governmental functions. As stressed across the CFPB, contractors are not authorized approvers regarding decisions to implement guidance or policies at the Bureau. The responsibility for enacting policies and procedures, executing acquisitions, and pursuing enforcement actions remains with the government workforce at the Bureau. In addition, the CFPB provides sufficiently trained officials and CORs that can proactively oversee the contract administration function.

2.3.2 Do contractual requirements include inherently governmental functions?

The Bureau's contractual support requirements do not include inherently governmental functions and, as such, there is little possibility of contractors performing inherently governmental work.

2.3.3 Do contractual requirements include unauthorized personal services?

The Bureau does not have any contracts or contractual requirements that include unauthorized personal services.

2.3.4 If performance is closely associated to inherently governmental functions, or in non-competitive acquisitions, was consideration given to utilizing Federal employees prior to acquisition?

General consideration is given to fulfilling needs with existing government employees prior to synopsizing requirements. To comply with OFPP's Policy Letter 11-01, the Bureau has established a pre-acquisition service code determination checklist built into the online procurement system. This entry is required for service contract obligations over \$25,000,

ensuring adequate review and documentation is complete to avoid any unnecessary "inherently governmental" contract work. A Service Contract Coding determination is required prior to award and documents that the requirement has been vetted and approved by the program office and the Contracting Officer, certifying both a balanced workforce approach and appropriate exercise of discretion.

2.3.5 Are sufficiently trained and experienced officials available within the Bureau to manage and oversee contract administration functions?

Regarding performance related to the PSCs studied in this report, the CORs, Contracting Officers, and Program Managers involved in the contract actions reviewed are sufficiently trained and required to maintain their certification requirements in effective management techniques and oversight of critical/non-critical support services. The CFPB has maintained its expanded COR workforce to ensure that each program office has sufficiently trained employees capable of contract administration. To support this enhancement, four dedicated COR Advisors in the Office of Finance and Procurement serve as experts on all aspects of contract administration and advise the COR workforce to ensure compliance on all CFPB contracts. The Office of Finance and Procurement also offers regular COR training and guidance. As of January 2023, the CFPB has 234 certified CORs.

3. Business Process Improvement Opportunities

The CFPB's Office of Finance and Procurement has implemented strategies aimed at ensuring that service contracts are managed effectively, and that the potential for performing inherently governmental work is avoided. These efforts have been categorized into two groups:

- 1. Ongoing process improvements
- 2. Recommended process improvements

3.1 Ongoing Process Improvements

The Bureau recognizes the need to continue the forum for CORs/program managers to share not only best practices, but also topics such as contract administration techniques and general contract questions. The CFPB's Office of Finance and Procurement continues to host monthly COR roundtable meetings aimed at maintaining and enhancing the professional development of staff sharing ideas, values, and strategies across the COR workforce. These meetings are a forum for discussing current procurement topics and have spawned individual training sessions in program offices throughout the Bureau. Training sessions include topics such as invoice review, contract administration, file/record maintenance, accruals, personal and non-personal services contracts, proper government-contractor relationships, and contractor on/off-boarding procedures.

The Office of Finance and Procurement also has robust internal reports that share contract information, contractor and COR-driven reporting, and obligation profiles. Additional emphasis is placed on the evaluation of contractor performance through periodic internal reviews of Contractor Performance Assessment Reporting System (CPARS) compliance and quality checks. Other oversight mechanisms used by CFPB include the use and enhancement of a procurement dashboard which provides an overview of all contract obligations by fiscal year quarters and associated number of transactions processed. The dashboard is available to all Bureau employees to include upper management and allows users to drill into the data to view and understand top obligation dollars by vendor.

The Bureau maintains a COR Advisor team within the Office of Finance and Procurement. The COR Advisors are specifically responsible for overseeing COR functions and training to help centralize and strengthen contract administration across the Bureau. These experienced individuals serve as internal consultants in all matters of contract administration. In FY2021 the Bureau's Office of Finance and Procurement instituted a COR revamp and has worked with client offices to receive feedback on the COR Advisor services to better improve service delivery moving forward.

3.2 Recommended Process Improvements

The recommendations below provide the Bureau with additional process improvement steps resulting from consideration of the FY2022 service contract inventory:

- 1. Continue to implement COR Advisor recommendations from our COR community and further strengthen relationships between this team and the program office acquisition contacts, to strengthen and centralize contract administration oversight.
- 2. Continue COR awareness efforts, promoting training and encouraging COR Level II/III certification for those CORs administering more complex services contracts.
- 3. Continue to minimize the use of Labor Hour and Time-and-Material contracts and maximizing the use of Firm-Fixed-Price contracts where appropriate.

4. Bureau Senior Management Official

The senior management official accountable for developing the Bureau's policies, procedures, and training associated with OFPP's Policy Letter 11-01 is the Senior Procurement Executive, Joshua Galicki.

CFPB FY 23 Service Contract Inventory - PSC Summary

	Top PSCs by Obligation				
Code	Product or Service Description	FY 2	23 Obligations	% of Total	
R408	Support- Professional: Program Management/Support	\$	25,366,427	16%	
R410	Support- Professional: Program Evaluation/Review/Development	\$	12,218,696	8%	
R699	Support- Administrative: Other	\$	12,052,223	7%	
D399	IT And Telecom- Other IT And Telecommunications	\$	10,483,751	6%	
R424	Support- Professional: Expert Witness	\$	9,234,401	6%	
R702	Support- Management: Data Collection	\$	8,420,569	5%	
DF01	IT And Telecom - IT Management Support Services (Labor)	\$	8,072,136	5%	
R499	Support- Professional: Other	\$	8,014,226	5%	
D302	IT And Telecom- Systems Development	\$	5,954,453	4%	
R799	Support- Management: Other	\$	5,409,899	3%	

	OMB Special Interest PSCs				
Code	Product or Service Description	FY 23	Obligations	% of Total	
B505	Cost Benefit				
D302	IT and Telecom- Systems Development	\$	5,954,453	3%	
D307	IT and Telecom- IT Strategy and Architecture				
D310	Cyber Security and Data Backup				
D314	System Acquisition Support				
R406	Policy Review/Development				
R407	Program Evaluation Services				
R408	Support- Professional: Program Management/Support	\$	25,366,427	13%	
R409	Program Review/Development Services				
R413	Specifications Development				
R414	Systems Engineering				
R423	Intelligence				
R425	Engineering/Technical	\$	724,902	0%	
R497	Personal Services Contracts				
R499	Support - Professional: Other	\$	8,014,226	4%	
R699	Support - Administrative: Other	\$	12,052,223	6%	
R707	Contract/Procurement/Acquisition Support	\$	92,029	0%	
R799	Support - Management: Other	\$	5,409,899	3%	