

National Labor Relations Board (NLRB)

Analysis of FY 2013 Service Contract Inventories

RESPONSIBLE OFFICIALS:

Mr. Christopher Henshaw, Chief Acquisitions Officer

Background

The National Labor Relations Board is an independent Federal Agency created by Congress in 1935 to administer the National Labor Relations Act, the primary law governing relations between and among unions, employees, and employers in the private sector. The statute guarantees the right of employees to organize and bargain collectively with their employers or to refrain from all such activity. Generally applying to all employers involved in interstate commerce other than airlines, railroads, agriculture, and government, the Act implements the national labor policy of assuring free choice and encouraging collective bargaining as a means of maintaining industrial peace. Through the years, Congress has amended the Act and the Board and courts have developed a body of law drawn from the statute. The NLRB consists of 51 regional, sub-regional, and resident offices, and a headquarters office.

Scope

Pursuant to the December 19, 2011 Memorandum from the Office of Federal Procurement Policy (OFPP), Federal agencies are requested to conduct an analysis of special interest functions within the FY 2013 Service Contract Inventories submitted to the Office of Management and Budget (OMB) in accordance with Section 743 of Division C of the FY 2013 Consolidated Appropriations Act, P.L. 111-117. The NLRB hereby submits its analysis and findings.

Methodology

The NLRB performed an analysis of the special interest functions by pulling information on all FY 2013 service contracts from FPDS-NG. The selected sample consists of the special interest Product Service Codes (PSC) based on the NLRB FY-2013 Service Contract Summary.

The contracts were analyzed by NLRB Contracting Officers at time of award by gathering information in cooperation with Contracting Officers Representative (COR) and Program Managers to determine whether the contract labor is used appropriately and efficiently. Also, ensuring the mix of Federal employees and

contractors in the agency is effectively balanced for effective oversight of the contract.

The analysis specifically addresses the desired outcomes in Section 743(e) of Division C of the FY 2013 Consolidated Appropriations Act, P.L. 111-117 ensuring that:

- (A) each contract in the inventory that is a personal services contract has been entered into, and is being performed, in accordance with applicable laws and regulations (There are no Personal Services Contracts);
- (B) the agency is giving special management attention to functions that are closely associated with inherently governmental functions;
- (C) the agency is not using contractor employees to perform inherently governmental functions;
- (D) The agency 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;
- (E) The agency 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 operations; and
- (F) There are sufficient internal agency resources to manage and oversee contracts effectively.

Observations

The NLRB inventory consists of service contracts from two (2) PSC Category Codes. The codes are:

- R408: SUPPORT- PROFESSIONAL: PROGRAM MANAGEMENT/SUPPORT; and
- R699: SUPPORT PROFESSIONAL, OTHER-HUMAN RESOURCES.

Findings

➤ **PSC Code R408:**

The contract obligated under code R408 for a total of \$3,023,643 was awarded to Optimos in FY-2012. This contract provides the NLRB program management and support for Business Application Development and Support Systems.

This contract provides 5 major objectives: (1) Enterprise Electronic Case Management, to include experience in federal case management; developing and maintaining integrated COTS applications – Siebel, Documentum, Oracle Business Intelligence Enterprise Edition (OBIEE); (2) Enterprise Web Site Management, to include experience in developing,

managing and maintaining Drupal-based public websites and intranets; web governance, policies and standards; (3) Application Support, to include experience in configuration management, development, operations and maintenance of existing applications with various web-based programming languages; (4) Project Management, to include experience with Agile development methodologies; (5) Application Modernization, to include delivering enterprise-wide IT solutions that support the mission and business effectiveness of the Agency.

This contract was awarded as a Performance Based Contract. There is a COR whose responsibility is to ensure the performance standards identified in the Quality Assurance Surveillance Plan (QASP) are met. He has several other CORs that provide oversight on the 5 objectives who report back to him on the contractor performance to the QASP. The COR is ensures that the contract does not change or expand services to become inherently governmental along with the additional CORs monitoring the work and systems in place. The contractor did not perform critical functions that would affect the ability of the agency to maintain control of its mission and operations and is typically not on site. The contractor advises the Chief Information Officer (CIO), on trends in the government and industry and control is maintained by the government by managing it closely and effectively at all times.

➤ **PSC Code R699:**

The contracts representing R699, obligated in the amount of \$404,079 is for Support Professional, Other-Human Resources, and is the only contract listed under the R699 PSC code. Discussions with the Office of Human Resources (OHR) reveal that the contract continues to be well-managed by the contractors who meet the scope and intent of the requirement to provide advisement information to the OHR, and adheres to all applicable laws and regulations. The contract is not a personal services contract. The agency is not using contractor employees to perform inherently governmental functions. The advisement information provided by the contractor is typically beyond the intrinsic duties and knowledge of the government and the OHR continues to provide management attention to ensure any functions that could be closely associated with inherently governmental functions do not surface. The contractor did not perform critical functions that would affect the ability of the agency to maintain control of its mission and operations and is never on site. The contractor advises the OHR, on trends in the government and industry and control is maintained by the government by managing it closely and effectively at all times.

Summary:

It is determined that none of the service contractors within the special interest contracts have been observed to perform poorly. The costs of the contracts analyzed were not excessively priced and did not present excessive risks to the government. The NLRB takes pride in monitoring service contracts closely with full cooperation from Contracting Officers, CORs, and Program Staff and Managers. Based on this analysis, we believe we have a balanced mix of contractors to employees and have the resources necessary to continue monitoring contracts effectively and efficiently to reduce risks of personal or inherently governmental contracts. The NLRB is committed to identifying and addressing any new risks related to service contracts, and will meet the challenges with swift and evasive action.