MEMORANDUM FOR ALL GSA CONTRACTING ACTIVITIES

FROM: JOSEPH A. NEURAUTER
SENIOR PROCUREMENT EXECUTIVE (MV)

SUBJECT: Service Contract Inventories --- Reporting in the Federal Procurement Data System (FPDS)

1. Purpose. This Acquisition Letter provides instructions on FPDS reporting for service contracts, specifically under the "description of requirement" field. The requirements relate to Office of Federal Procurement Policy (OFPP) Memorandum of December 19, 2011, "Service Contract Inventories".

2. Instructions. The OFPP Memorandum requires that, for service contract awards made on or after March 1, 2012, the following is included in the "description of requirement" field of the FPDS report:

   (a) For actions closely associated to inherently governmental functions: include "Closely Associated" as the first words in the "description of requirement" field.

   (b) For critical functions: include "Critical Functions" as the first words in the "description of requirement" field.

   (c) For other functions: include "Other Functions" as the first words in the "description of requirement" field.

Please note that the OFPP Memorandum states a different way of identifying functions; OFPP changed the method to the one shown above on February 10, 2012.

3. Background.

   (a) Per Federal Acquisition Regulation (FAR) 7.503(a), contracts shall not be used for the performance of inherently governmental functions. Section 5 of the Federal Activities Reform Act (Public Law 105-270), defines inherently governmental functions as actions so intimately related to the public interest as

---

1 This Memorandum can be found at: http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventory-guidance.pdf.
to require performance by Federal Government employees. The list of examples contained at FAR 7.503 includes selecting awardees and awarding, administering and terminating contracts. The decision-making, use of discretion, and the power to bind the United States are factors involved in an inherently governmental function.

(b) The OFPP Memorandum focuses on other types of activities that come very near to being inherently governmental, and which require special reporting in FPDS:

(i) Functions closely associated to inherently governmental functions. These functions would include acquisition support through conducting market research; developing inputs for cost estimates; drafting statements of work; participating in source selections by preparing a technical evaluation, and/or acting as a technical advisor to a selection board; preparing a price negotiation memorandum; and assisting in contract management. In these instances, agencies are to give special consideration to Federal employee performance of these functions. In cases where such work is performed by contractors, agencies shall provide greater attention and an enhanced degree of management oversight of contracting activities to ensure that the contractor's duties do not expand to include inherently governmental functions.

(ii) Critical Functions. These functions are necessary to the agency being able to effectively perform and maintain control of its mission and operations. Often, these are recurring and long-term in duration. An example of this would be mediation services for the Federal Mediation and Conciliation Service. Another example is hiring legal assistance in the area of research, but not to represent the Government in a case. In order to contract for these services, agencies must have sufficient internal capability to control its mission and operations (i.e., an adequate number of positions filled by Federal employees qualified to oversee the contractors' work), and must ensure contracting is cost-effective.

Further information on these types of activities can be found in a separate OFPP Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions. See paragraph 6 for a link to this document.

Compliance creates a record in FPDS as to the decisions previously made on the types of services required, and focuses attention on those that need greater management oversight.

4. Applicability. This Acquisition Letter applies to all service contracts awarded by GSA.

5. Effective Date. This Acquisition Letter is effective upon signature, and remains in effect until incorporated into the GSAM, or is otherwise rescinded.
6. **References:**

(a) FAR 7.5, Inherently Governmental Functions. (In particular, see the list at 7.503(c), which provides numerous examples.)

(b) OFPP Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions (September 12, 2011). This letter can be found at http://www.whitehouse.gov/omb/procurement_index_work_performance. This Policy Letter contains detailed information on inherently governmental functions, actions closely associated with inherently governmental functions, and critical functions.

(c) OFPP Memorandum, Service Contract Inventories (December 19, 2011). This Memorandum contains guidance on reporting in FPDS. It can be found at http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service_contract-inventory-guidance.pdf.

7. **Points of Contact.** Please contact Deborah Eble of the General Services Acquisition Policy Division, at (215) 446-5823 or via email at deborah.eble@gsa.gov.