

September 2012

# CIVILIAN SERVICE CONTRACT INVENTORIES

## Opportunities Exist to Improve Agency Reporting and Review Efforts



G A O

Accountability \* Integrity \* Reliability

## CIVILIAN SERVICE CONTRACT INVENTORIES

### Opportunities Exist to Improve Agency Reporting and Review Efforts

#### Why GAO Did This Study

In fiscal year 2011, civilian agencies reported \$161 billion in contract obligations, \$126 billion (almost 80 percent) of which were for services such as professional management and information technology support. Concerned about agencies' reliance on contractors, Congress included a requirement in the Consolidated Appropriations Act of 2010 for civilian agencies to compile and review an annual inventory of service contracts to examine certain issues, such as contractors performing inherently governmental functions or functions closely associated with inherently governmental functions, which would require enhanced management oversight. It also required OMB to develop guidance to assist agencies in meeting the act's requirements and for GAO to report on agency efforts.

GAO assessed agency efforts to (1) compile their fiscal year 2011 inventories and (2) review and report on their fiscal year 2010 inventories. To meet these objectives, GAO analyzed agencies' fiscal year 2011 service contract inventories and fiscal year 2010 service contract inventory review reports and compared them to legislative requirements, OMB guidance, and federal procurement data.

#### What GAO Recommends

GAO recommends that OMB (1) work with agencies to improve how compliance with the act and with OMB guidance is monitored and (2) clarify guidance to agencies for compiling and reporting on their inventories. OMB generally concurred with our recommendations.

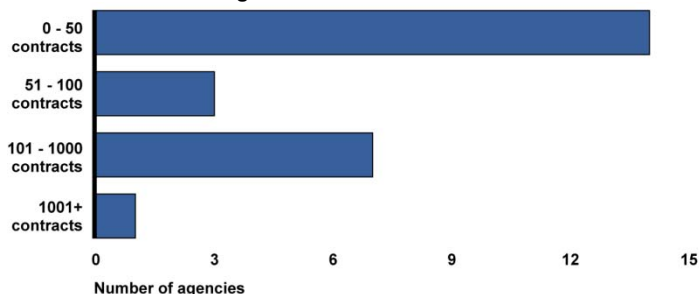
View [GAO-12-1007](#). For more information, contact John Hutton at (202) 512-4841 or [HuttonJ@gao.gov](mailto:HuttonJ@gao.gov).

#### What GAO Found

Civilian agencies did not fully comply with statutory requirements for compiling fiscal year 2011 service contract inventories. For example, because the information is not currently readily available, the Office of Management and Budget (OMB) directed the 49 agencies that were required to submit inventories to defer the collection of three statutorily required data elements for each contract—the role the services played in achieving agency objectives, the total dollar amount invoiced for services under the contracts, and the number and work locations of contractor and subcontractor personnel. Progress, however, is being made to collect this information for future inventories. OMB directed agencies to start collecting information on the role services play in achieving agency objectives for new contracts awarded on or after March 1, 2012. A proposed Federal Acquisition Regulation rule was published in April 2011 to start collecting the remaining two data elements directly from contractors. We also found several instances where agencies significantly underreported obligations in their inventories, either because they misinterpreted or did not follow OMB guidance. For example, the General Services Administration underreported obligations by approximately \$6.4 billion. Without complete and accurate service contract inventories, OMB and Congress cannot meaningfully compare service contract obligations among agencies, or develop spending trends for agencies, thus limiting the overall utility of the inventories.

Nine of the 49 civilian agencies did not submit a report on their fiscal year 2010 inventory review to OMB, as required. Of the 40 agencies that submitted reports on their inventory reviews, 5 agencies identified 3 contracts where contractors could be performing inherently governmental functions and 104 instances where contractors were performing closely associated with inherently governmental functions. It is unclear, however, based on the 40 agency reports, whether these results were a real indication of the agencies' effective and appropriate use of contractors or due to the different approaches agencies used to conduct the reviews. Agencies did not include important context in their reports, such as the number of contracts or the percentage of their inventories reviewed. As shown in the figure below, of the 25 agencies that reported the number of contracts they reviewed, most reviewed 50 or fewer contracts. OMB intends to have agencies share lessons learned, including the use of cross-functional teams, to help future review efforts.

**Number of Contracts Agencies Reviewed**



Source: GAO analysis of civilian agency data.

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## Abbreviations

ADP	Automated Data Processing
Commerce	Department of Commerce
DHS	Department of Homeland Security
DOT	Department of Transportation
FAIR Act	Federal Activities Inventory Reform Act of 1998
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Services Administration
HHS	Department of Health and Human Services
NASA	National Aeronautics and Space Administration
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
State	Department of State

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United States Government Accountability Office  
Washington, DC 20548

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September 27, 2012

### Congressional Committees

Federal agencies rely on a multisector workforce of federal employees and contractor personnel to perform services needed to carry out their missions. These services include professional management support, information technology support, and medical support. In fiscal year 2011, federal civilian agencies reported \$161 billion in total contract obligations, of which \$126 billion, or almost 80 percent, were for services. Determining whether services should be performed by federal employees, contractor personnel, or a mixture of each is an important economic and strategic decision essential to the federal government's effective and efficient use of taxpayers' dollars. Certain functions that government agencies routinely perform, such as setting federal policy, issuing rules and regulations, or making best value determinations among contractors competing to provide needed goods or services are considered to be "inherently governmental" and must be performed by federal employees. In some cases, contractors may be performing services that are considered to be "closely associated with inherently governmental" functions, such as services to support policy makers or procurement officials. Agencies must give special management attention to these activities to guard against their expansion into inherently governmental functions. Other services, such as facilities maintenance or information technology support, may be obtained through a private contractor.

In 2009, however, the President issued a memorandum on government contracting that expressed concerns about whether agencies have become overly reliant on contractors and if the government has outsourced services appropriately.<sup>1</sup> In particular, the President noted that the line between inherently governmental functions—those that must be performed by federal employees—and other services that may be contracted for has been blurred. In the memorandum, the President directed the Office of Management and Budget (OMB) to lead a series of contracting-related efforts including clarifying when outsourcing for services is appropriate.

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<sup>1</sup>The White House memorandum, *Government Contracting* (Mar. 4, 2009).

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Congress has also expressed concern with agencies' reliance on contractors and has directed OMB and other federal agencies to examine similar workforce issues, which include identifying functions that are not appropriate for contractors to perform or require increased government oversight. The Consolidated Appropriations Act of 2010 requires civilian federal agencies to compile an annual inventory of their service contracts and review their contracts and information in the inventories to determine, among other things, whether contracts are being performed in accordance with laws and regulations.<sup>2</sup> In addition, the act requires that after reviewing the annual inventory, each agency must report to OMB on the actions taken to consider and convert functions from contractor to federal employee performance. Under the act, OMB is required to develop guidance to assist agencies in meeting the law's requirements and to ensure that agencies compile their inventories in a consistent manner. The act also requires GAO to report to Congress on OMB's guidance, and agency implementation of the service contract inventory requirement for fiscal years 2010 and 2011.

In May 2011, we reported on OMB's guidance and agency efforts to compile their fiscal year 2010 inventories.<sup>3</sup> For this report, we assessed civilian agencies' efforts to (1) compile their fiscal year 2011 inventories and (2) review and report on their fiscal year 2010 inventories.

To assess agencies' efforts to compile their fiscal year 2011 inventories, we reviewed the act, OMB guidance, and the proposed Federal Acquisition Regulation (FAR) rule on service contract inventories.<sup>4</sup> In addition, we obtained and reviewed available civilian agency inventories to determine whether they contained data elements required by OMB guidance. Further, we compared the obligations reported in their inventories with the Federal Procurement Data System— Next Generation (FPDS-NG) data.<sup>5</sup> While our prior work identified data

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<sup>2</sup>Pub. L. No. 111-117, § 743 (2009).

<sup>3</sup>GAO, *OMB Service Contract Inventory Guidance and Implementation*, [GAO-11-538R](#) (Washington, D.C.: May 27, 2011).

<sup>4</sup>The Federal Acquisition Regulation is the regulation used by federal executive agencies for acquisition of supplies and services with appropriated funds.

<sup>5</sup>FPDS-NG is the primary governmentwide contracting database, providing information on government contracting actions, procurement trends, and achievement of socioeconomic goals, such as small business participation.

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reliability issues with FPDS-NG, for the purposes of this report, we found FPDS-NG data to be sufficiently reliable to determine how agencies compiled their inventories.<sup>6</sup> To assess agencies' efforts to review and report on their fiscal year 2010 inventories, we reviewed civilian agencies' reports of the fiscal year 2010 inventory reviews to determine the number of contracts reviewed, the methodologies used, and the workforce issues identified. In cases where agencies identified contracts that may involve inherently governmental, or closely associated with inherently governmental functions, we did not independently assess whether the functions were in fact inherently governmental or closely associated with inherently governmental functions. We also selected five civilian agencies—the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS), the Department of Transportation (DOT), the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA)—for a more in-depth review as to how they compiled and reviewed their service contract inventories. We selected these agencies because they represent approximately 42 percent of civilian agency service contract obligations for fiscal year 2011. Appendix I provides a detailed description of our scope and methodology.

We conducted this performance audit between April 2012 and September 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

The Consolidated Appropriations Act of 2010 requires the heads of executive civilian agencies subject to the Federal Activities Inventory Reform (FAIR) Act of 1998 to annually submit to OMB an inventory of service contract actions by December 31 of each year, beginning with

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<sup>6</sup>For past reports on FPDS-NG see GAO, *Contracting Strategies: Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts*, [GAO-10-367](#) (Washington, D.C.: Apr.29, 2010); and *Federal Contracting: Observations on the Government's Contracting Data Systems*, [GAO-09-1032T](#) (Washington, D.C.: Sept. 29, 2009).

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fiscal year 2010 contracts.<sup>7</sup> The requirement, according to OMB, applies to 49 executive agencies. Appendix II lists these agencies. The inventories are to include 15 data elements for all contracts awarded or extended in the preceding fiscal year, such as services purchased by the agency, the role the services played in achieving agency objectives, the total dollar amount obligated for services, and the number and work location of contractor and subcontractor personnel compensated under each contract. Agencies are required to make their inventories publicly available no later than 30 days after they submit their inventory to OMB.<sup>8</sup>

The act also directs agencies to review their inventories within 180 days of the December 31 deadline to ensure that:

- each personal service contract is being performed according to laws and regulations;<sup>9</sup>
- the agency is giving special management attention to functions that are closely associated with inherently governmental functions;
- the agency is not using contractor personnel to perform inherently governmental functions;
- the agency has specific safeguards and monitoring systems in place to ensure that work performed by contractors has not changed or expanded during performance to become an inherently governmental function;
- the agency is not using contractor personnel to perform critical functions that could jeopardize the ability of the agency to maintain control of its mission and operations; and
- there are sufficient internal agency resources to effectively manage and oversee contracts.

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<sup>7</sup>Pub. L. No. 111-117, § 743 (2009). The Federal Activities Inventory Reform Act of 1998, as amended (31 U.S.C. § 501 note), requires agencies to submit annual lists of activities that are not inherently governmental functions. Executive agencies subject to the FAIR Act include executive departments such as DHS, and independent establishments, such as NASA.

<sup>8</sup>Pub. L. No. 111-117, § 743(c).

<sup>9</sup>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. Agencies are not permitted to award personal services contracts unless specifically authorized by statute to do so. (FAR § 37.104.)



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Agencies must also identify contracts that (1) have been poorly performed, either because of excessive costs or inferior quality, and (2) should be considered for conversion to performance by federal employees, also known as insourcing, or an alternative acquisition approach to enable the agency to efficiently utilize its resources and achieve its public mission. The law requires that each agency include with its current inventory a report on the actions taken as a result of reviewing their prior year's inventory and to make the report publicly available.

To aid agencies in establishing systems to collect the contract inventory information and to ensure consistency across agencies, the act required the Director of OMB to develop and disseminate guidance to agencies by March 1, 2010. OMB issued the guidance in November 2010. We previously reported on differences between the act and OMB guidance.<sup>10</sup> For example, although the act did not set a minimum dollar threshold for the contracts included in the inventories, OMB directed agencies to report only on contract actions over \$25,000. Additionally, OMB directed agencies to only report the data elements included in FPDS-NG. As a result, agencies did not report three data elements required by the statute in their fiscal year 2010 inventories—(1) the role the services played in achieving agency objectives, (2) the total dollar amount invoiced for services under the contract, and (3) the number and work location of contractor and subcontractor personnel. In recent reviews of both DOD and civilian agencies inventories, we also reported that FPDS-NG does not allow agencies to:

- identify and record more than one type of service purchased for each contracting action entered into the system;
- capture any services performed under contracts that are predominantly for supplies; and
- capture service contracts awarded on behalf of an agency by other agencies.<sup>11</sup>

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<sup>10</sup>GAO-11-538R.

<sup>11</sup>GAO, *Defense Acquisitions: Further Actions Needed to Improve Accountability for DOD's Inventory of Contracted Services*, [GAO-12-357](#) (Washington, D.C.: Apr. 6, 2012), [GAO-11-538R](#); and *Defense Acquisitions: Further Action Needed to Better Implement Requirements for Conducting Inventory of Service Contract Activities*, [GAO-11-192](#) (Washington, D.C.: Jan. 14, 2011).

OMB also provided guidance to agencies on conducting and reporting their fiscal year 2010 inventory reviews. The guidance states that the reviews shall be informed through appropriate techniques, such as sampling of contract files, interviewing program managers and contracting officer technical representatives, and using other supplemental information-gathering methods as needed. Under OMB's guidance, agencies should give heightened management consideration to certain "special interest functions" that require increased management attention due to heightened risk of workforce imbalance, such as agencies becoming overreliant on contractor personnel. OMB anticipated that professional and management services and information technology support services posed an increased risk of agencies losing control of their missions and operations. Table 1 provides an illustrative list of the special interest functions identified by OMB.

**Table 1: Illustrative List of Special Interest Functions**

<b>Professional and Management Services</b>
Cost Benefit Analyses
Policy Review/Development Services
Program Evaluation Services
Program Management/Support Services
Program Review/Development Services
Specifications Development Service
Management Services/Contract and Procurement Support
Intelligence Services
Engineering and Technical Services
Systems Engineering Services
Personal Services Contracts
<b>Information Technology Support Services</b>
Automated Data Processing (ADP) Systems Development Services
Automated Information Systems Services
ADP System Acquisition Support Services
ADP Backup and Security Services

Source: OMB.

The guidance also stated that as part of agencies' reviews of professional and management services, agencies should include acquisition support and an appropriate sampling of policy and program management and development services, and additional functions where the agency may be

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at risk of overreliance on contractors or other challenges, such as inadequate contract management support.

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## The Utility of Service Contract Inventories May Be Diminished by Incomplete Data and Different Reporting Methodologies

In our review of fiscal year 2011 service contract inventories, we found that 48 of the 49 agencies compiled their inventories. However, agencies are continuing to defer collection of three required data elements, per OMB guidance. While most agencies followed OMB's methodology for compiling inventories, some agencies used different methodologies. As a result, OMB and Congress cannot meaningfully use these service contract inventories to compare service contract obligations among agencies or develop spending trends, and agencies did not have a complete universe of service contracts to consider for review.

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## Agencies Are Not Fully Complying with Inventory Reporting Requirements

OMB directed agencies to prepare a fiscal year 2011 service contract inventory, submit the inventory to OMB, and make it publicly available by January 30, 2012. During the course of our review we sought to obtain the inventories from each agency's website and found that as of July 2012, 14 of the 49 agencies did not make their inventories publicly available. We followed up with OMB and the agencies and eventually obtained inventories from 13 of those 14 agencies. For the remaining agency—the Court Services and Offender Supervision Agency for D.C.—we could not find evidence that it compiled its service contract inventory for fiscal year 2011, and nor did it do so for fiscal year 2010. OMB staff indicated that they reminded the agency of its responsibility to prepare and submit an inventory, but they did not devote resources to compelling a response when the agency was not responsive. OMB staff explained that the agency's total spending is well under 1 percent of civilian agency spending and attention on this initiative was more effectively devoted to other agencies and issues. OMB continued to direct agencies to defer collection of three statutorily required data elements—the role the services played in achieving agency objectives, total dollar amount invoiced for services under the contracts, and the number and work locations of contractor and subcontractor personnel. The lack of this required information diminished the utility of the inventory because agencies do not have good visibility as to the number of contractor personnel or their role in supporting agency activities.

Progress, however, is being made towards collecting this information. For example, OMB directed agencies to start collecting information on the role services play in achieving agency objectives for new contracts awarded on or after March 1, 2012. The guidance states that agencies

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are to report, in the “description of requirement” field in FPDS-NG, whether the services provided under the contract are predominantly for functions closely associated with inherently governmental ones, critical functions, or other functions. According to OMB guidance, by identifying closely associated and critical functions at the time of award, agencies can prioritize which contracts may require increased management attention and oversight to ensure that mission creep does not result in contractor personnel performing inherently governmental functions, and ensure that the agency does not lose control of its mission and operations. While this information may be helpful in identifying which service contracts may require additional oversight or be appropriate candidates for insourcing, it is not clear that this information will provide a full description of the role contractors played in achieving agency objectives. OMB staff indicated that they will review this issue, along with others, as they consider revisions to the guidance based on initial agency experience.

Information on the remaining two data elements—total dollar amount invoiced for services under the contracts and the number and work locations of contractor and subcontractor personnel—will continue to be deferred pending the outcome of a proposed FAR rule on service contract inventories. The proposed rule would create a new FAR subpart to address responsibilities for collection, management, and reporting of the inventory information. The rule would also create a new contract clause to be used in contracts that meet certain dollar thresholds and would require contractors to submit the following information for covered service contracts (1) the contract number and, when applicable, order number; (2) the total dollar amount invoiced for services performed during the previous fiscal year under the contract; (3) the number of contractor direct labor hours expended on the services during the previous fiscal year; and (4) the number of direct-labor hours expended on services performed by first-tier subcontractors.<sup>12</sup> The proposed FAR rule is being reviewed by OMB and OMB staff anticipated that the rule would be finalized later this fall. The proposed rule provides that collection of the information be phased in over the next 4 years. Information will be collected directly from contractors through a web portal and housed in the System for Award Management. No additional hard copy reporting will be required.

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<sup>12</sup>Federal Acquisition Regulation; Service Contract Reporting Requirements, 76 Fed. Reg. 22,070 (Apr. 20, 2011).

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## Most Agencies Followed OMB Guidance When Compiling Their Inventories

OMB provided guidance to civilian agencies for compiling their service contract inventories, including the structure and scope of the inventories. To standardize the structure of the service contract inventories, OMB provided a template for agencies to organize contract activities by product and service code.<sup>13</sup> To establish the scope of the service contract inventories, OMB directed agencies to include all service contract actions over \$25,000 that were awarded in fiscal year 2011. Agencies were to include contract actions that they have funded, including contract actions made on their behalf by other agencies, and exclude contract actions that they have made on another agency's behalf with the other agency's funding. We found the following based on our review of 48 available civilian agency inventories:

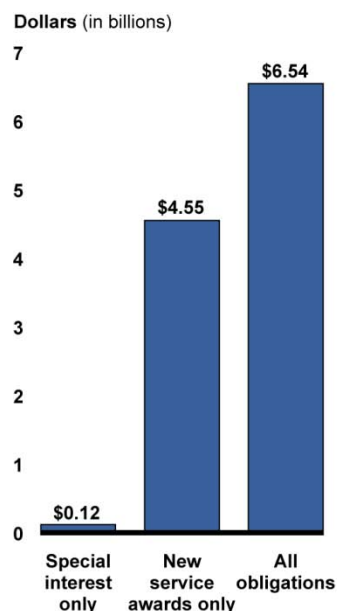
- Forty-five agencies reported on all the data elements in OMB's standard template. The other three agencies did not include certain data elements, such as the extent to which the contract was completed, the product and service code and description, and the date signed. OMB staff was unaware that these agencies had not reported on all data elements.
- Forty-three agencies generally followed OMB's guidance to report on obligations on all contract actions over \$25,000. Five agencies, however, did not. One agency—DOT—reported information on fiscal year 2010 obligations for its fiscal year 2011 inventory. DOT officials were unaware of this error until our review. A DOT official told us DOT sent a revised inventory with the correct fiscal year 2011 information to OMB. Three agencies—the National Endowment for the Humanities, the Selective Service System, and the U.S. Trade and Development Agency—incorrectly interpreted OMB's guidance as limiting the scope of the inventory to just new awards for that fiscal year. As a result, these agencies underreported their inventories. OMB staff told us that they intended for civilian agencies to include all changes in obligations over \$25,000 occurring in fiscal year 2011, regardless of when the contract award occurred. The fifth agency—GSA—did not follow OMB's guidance to include all contract actions over \$25,000 awarded in fiscal year 2011. Instead, GSA included in its inventory only the obligations for contract actions related to the

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<sup>13</sup>Product and service codes describe the products, services, and research and development purchased by the federal government. The codes indicate what was bought for each contract action in FPDS-NG.

special interest function product and service codes identified by OMB as priority areas for the inventory review. As a result, GSA excluded approximately \$6.4 billion in service contracts from its inventory. In response to these findings, GSA officials noted that they are in the process of creating a new report with the correct information, which will be submitted to OMB. We used GSA as an example in figure 1 to illustrate the potential differences in obligations that would be reported based on the three different methodologies we identified. For instance, GSA's obligations would be about \$116 million if it only reported on special interest functions, \$4.5 billion if it only reported on new awards, and \$6.5 billion if it reported on all obligations for fiscal year 2011.

**Figure 1: Illustration of Variations in Service Contract Obligations for Fiscal Year 2011 by Inventory Methodology (Using GSA Obligations)**



Source: GAO analysis of FPDS-NG data.

Note: The information used for this analysis was based on data we obtained from FPDS-NG in February 2012. While we recognize that the data may change slightly over time after the end of a fiscal year, the analysis represents a snapshot of obligations for that time frame.

OMB staff were unaware that some agencies used different methodologies to compile their inventories. OMB staff stated that differences in agency methodologies were not readily apparent when they initially reviewed the inventories because data is organized differently

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than how it would otherwise appear in FPDS-NG. In the absence of a consistent methodology, OMB and Congress cannot meaningfully compare service contract obligations among agencies or develop spending trends for agencies. Further, agency use of a different methodology resulted in a smaller population of contracts to sample from for their review. OMB staff acknowledged that the inconsistency in reporting methods may limit the utility of the inventories.

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## Inventory Review and Reporting Efforts Could Be Improved

Forty of the 49 agencies conducted a review of their fiscal year 2010 inventory and reported the results of their review. The other 9 agencies did not submit an inventory report to OMB or make their reports publicly available. Most agencies that conducted a review followed OMB guidance and reported on the number of product and service codes reviewed and the obligations for these product and service codes. However, since OMB did not require agencies to report the number of contracts reviewed or the percentage of obligations associated with the contracts reviewed, it is unclear how much of their inventories agencies actually reviewed. Based on reports submitted to OMB, 5 of the 40 agencies identified workforce issues such as functions that are not appropriate for contractors to perform, require increased government oversight, or require agencies to change the mix of contractor and government personnel performing a function. Specifically, the 5 agencies identified a total of 3 contracts where contractors could be performing inherently governmental functions and 104 instances of contractors performing closely associated with inherently governmental functions. Agency officials identified several practices that may be effective for future reviews and decision-making efforts.

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## Most Agencies Reviewed Their Fiscal Year 2010 Inventory, but the Extent of Review Is Unclear

OMB directed agencies to conduct a meaningful review of their fiscal year 2010 inventory and identify at a minimum (1) the special interest functions studied by the agency, including the dollars obligated to those specific product and service codes in fiscal year 2010; (2) the methodology used to support their reviews; (3) their findings; and (4) the actions taken or planned by the agency to address any identified weaknesses or challenges. Agencies were also directed to submit an inventory review report to OMB and make the report publicly available.

We collected the required reports for 40 of the 49 agencies, either from their websites or OMB. OMB staff confirmed that the remaining 9 agencies, which accounted for less than 1 percent of civilian agency service contract obligations for fiscal year 2010, did not submit the

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required information or made it publicly available. Table 2 lists these agencies.

**Table 2: Agencies Not Submitting Fiscal Year 2010 Inventory Review Reports to OMB**

Broadcasting Board of Governors
Court Services and Offender Supervision Agency for D.C.
Federal Energy Regulatory Commission
Federal Maritime Commission
Merit Systems Protection Board
National Archives and Records Administration
National Endowment for the Arts
Selective Service System
U.S. Trade and Development Agency

Source: GAO analysis of reports collected through civilian agencies' websites and OMB.

We followed up with these agencies to determine why they did not submit the required information and received one response from the National Endowment for the Arts as to why it had not conducted an inventory review. An agency official told us the National Endowment for the Arts did not conduct a fiscal year 2010 inventory review because it did not have any service contracts for special interest functions as defined in OMB's guidance.

Based on the reports submitted to OMB by 40 agencies, we observed that

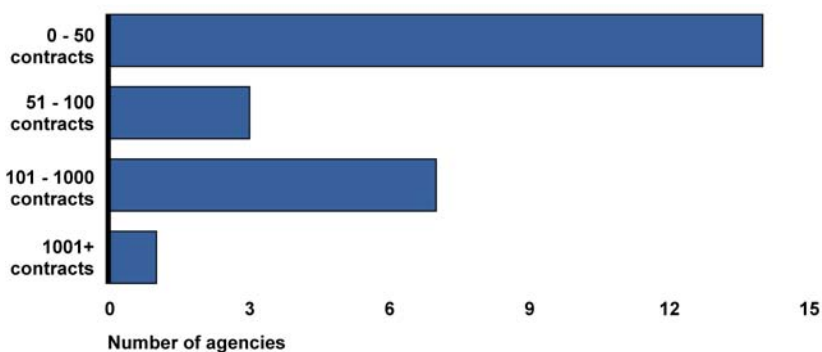
- Thirty-four agencies reported on the number of product and service codes reviewed and the associated obligations for these product and service codes. The number of product and service codes and obligations reviewed varied widely. For example, GSA reviewed 4 product and service codes, while HHS reviewed 31 codes. OMB staff expected variance because agencies were directed to select service codes that warranted the agency's increased management attention or posed an increased risk of workforce imbalances.
- Twenty-five agencies reported on the number of contracts they reviewed; however, OMB did not require agencies to provide this information. The number of contracts reviewed ranged from one contract by the Federal Labor Relations Authority to more than



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2,000 contracts by the Department of the Interior. As shown in figure 2, the majority of the agencies reviewed less than 50 contracts.

**Figure 2: Number of Contracts Agencies Reviewed**



Source: GAO analysis of civilian agency data.

More than a third of the 25 agencies, however, did not provide enough context in their reports for us to determine the percentage of contracts they reviewed, or the percentage of obligations that the selected contracts represented. This information would provide an indication of the extent to which agencies reviewed their inventories and context that would be important for oversight purposes. For example, DOT reported approximately \$1.2 billion in contract obligations for the product and service codes it reviewed. The agency reviewed 42 contracts, but did not report how they selected these contracts or the percentage of obligations the contracts covered. These 42 contracts could represent anywhere from all of the contracts to a small fraction of the contracts in those product and service codes. NASA was one of the agencies that reported on the percentage of obligations covered under the contracts they reviewed. NASA reported that the eight contracts it chose to review represented more than 70 percent of the \$3.2 billion in obligations for the two product and service codes on which it focused its review.

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### Some Agencies Reported Workforce Issues

The Consolidated Appropriations Act of 2010 required agencies to review their fiscal year 2010 inventories and report on the findings and actions taken as a result of the review. Of the 40 reports that were submitted to OMB, 5 agencies—the Department of Commerce (Commerce), DHS, GSA, HHS, and the Department of State (State)—identified a total of 3 contracts where contractors could potentially be performing inherently

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governmental functions and 104 instances of contractors performing closely associated with inherently governmental functions.

- State identified two of the contracts where contractors could potentially perform inherently governmental functions, but did not identify, in its report, how many contractor personnel were involved. State officials explained that no inherently governmental functions have been outsourced. In its report, State identified a contract where contractors could potentially perform inherently governmental functions. State officials told us that this contract was for private security contractors that perform security functions. Officials explained that while this contract was originally thought to potentially include inherently governmental functions, upon further analysis, they determined that strategies currently in place—including increased oversight, pre-mission briefs, video recording of movement, and recording of radio traffic—mitigated this risk. In its report, State explained that the departure from government control is only temporary, and government officials typically provide contingency direction to contractors in these instances.
- DHS identified one contract as containing potentially inherently governmental functions. This contract was for watch officer support for the Transportation Security Administration Call Center. DHS officials stated that this contract included 5.5 full-time equivalent positions, which the component planned to insource, but has delayed action pending an organizational review to determine if the agency still needs the positions.
- Each of the five agencies reported instances where contractors were identified as performing functions closely associated with inherently governmental functions. HHS was the only agency that reported that it insourced positions as a result of their findings. The other four agencies provided mixed responses as to whether their project managers or contracting officers' representatives provided sufficient monitoring of activities and performance for these contracts. For example, State reported that while one contract received special management attention, a number of acquisition and program staff were unclear whether there was sufficient oversight for their contracts.

The act and OMB guidance also directed agencies to ensure that there are sufficient internal resources to effectively manage and oversee contracts. To do this, for example, DHS asked its components to report the number of federal workers providing oversight and management of service contracts. Similarly, NASA officials told us that they conducted

interviews with contracting officers and contracting officers' representatives to determine whether contractor personnel had appropriate oversight.

Three of the five agencies we reviewed—DHS, HHS, and NASA—identified workforce issues and took steps to resolve them. Table 3 summarizes these findings and the actions that these agencies have taken or planned to take to resolve their workforce issues. While the resolutions were outlined in the agencies' reports, we followed up with the agencies to obtain the status of their resolutions.

**Table 3: Selected Agency Inventory Analysis Findings and Resolutions**

Agency	Workforce issue	Proposed resolution	Resolution status
DHS	One contract containing potentially inherently governmental functions	Insource 5.5 full-time equivalents	Officials stated that this resolution is pending internal review
HHS	Two functions at risk of becoming inherently governmental functions	Insource 22 full-time equivalents; redefine contractor roles and responsibilities	Officials stated that this resolution is complete
	Two functions that are closely associated with inherently governmental functions	Insource 14 full-time equivalents; eliminate unnecessary contractor positions; reassign work to federal employees	HHS noted in its report that this resolution was complete
NASA	Federal full-time equivalents needed to maintain control and oversight of mission	Insource 4 full-time equivalents	Officials stated that this resolution is complete

Source: GAO analysis of civilian agency data.

As shown in the table, some agencies reported their workforce issues as functions, while others reported them in terms of contracts. Agencies that report their issues in terms of contracts present a challenge because a service contract can include multiple functions. As a result, it is unclear whether the issue identified is pertinent to the entire contract or a specific function within a contract.

Officials at two of the five agencies we visited stated more generally that if workforce issues were to be identified, the agencies may not be able to take immediate action due to resource limitations. For example, officials from DHS cited instances where components could not implement insourcing recommendations because they could not secure the full-time equivalent positions to do so. While OMB requires that agencies report, at a minimum, the actions taken or planned by the agency to address any identified weaknesses or challenges, OMB staff agreed with our observation that it would be helpful if agencies also reported on the resolution of any findings identified as part of their inventory review in

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future reports. We recently reported that DOD had not resolved workforce issues identified during its fiscal year 2009 inventory review and in some instances, contractors continued to perform functions identified as being inherently governmental a year after they were originally identified.<sup>14</sup>

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### Agencies Identified Practices That May Help Future Efforts

According to OMB staff, some agencies struggled with their inventory review efforts and OMB intends to have agencies share lessons learned to help facilitate future efforts. Officials at the five agencies we selected for a more in-depth review identified several practices they found effective in reviewing their fiscal year 2010 inventories, including using cross-functional teams, leveraging existing related efforts, and obtaining management support. Two of these agencies also used the inventories for strategic sourcing purposes.<sup>15</sup>

- **Using Cross-Functional Teams:** Four of the five agencies we reviewed employed cross-functional teams and some agency officials noted that the team helped them to resolve workforce issues. For example, the DHS cross-functional teams included representatives from acquisition, budget and finance, general counsel, and human resources at both the department and component levels. DHS officials stated that the department-level team is equipped to resolve issues involving costly or high-visibility contracts and has enabled DHS to determine if workforce balance issues were widespread or only affected certain components. HHS also used cross-functional teams, which allowed the agency to identify and expeditiously resolve workforce imbalance issues. For instance, HHS identified two functions in the areas of acquisition assistance and human resource classification specialists that the agency felt were more appropriately suited for execution by federal employees. HHS took corrective action by hiring 14 government employees, eliminating unnecessary contractor support and reassigning work to federal employees as necessary.
- **Leveraging Existing Efforts:** Two agencies—NASA and DHS—leveraged other ongoing efforts to conduct their reviews, thus

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<sup>14</sup>[GAO-12-357](#).

<sup>15</sup>Strategic sourcing is the collaborative and structured process of critically analyzing an organization's spending and using this information to make business decisions about acquiring commodities and services more effectively and efficiently.

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reducing the amount of additional resources dedicated to the effort. For example, NASA incorporated the findings of an ongoing information technology program and a workforce pilot into their service contract inventory review. NASA reported it selected the workforce pilot because portions of the work being studied were perceived to be either critical or inherently governmental functions. Further, leveraging knowledge gained from the information technology program allowed NASA to include several high visibility information technology acquisitions in their reviews without having to independently review all the contracts associated with them.

DHS relied on its existing Balanced Workforce Strategy to conduct the required inventory reviews and used its standardized Balanced Workforce Strategy Tool to review 212 service contracts. The tool is an automated decision support survey that enables components to categorize work as inherently governmental, personal services, closely associated with an inherently governmental function, or a critical function. The tool is also intended to facilitate an assessment of mission risk, level of contractor oversight needed, mitigation strategies, and cost analysis. Based on component responses, the tool is to provide a recommended sourcing decision on whether the work is appropriate for federal or contractor performance, or both.

- **Obtaining Management Support:** Officials at four of the five agencies we reviewed had significant and visible management support and involvement, which helped facilitate inventory review efforts and department-level decision making. For example, the Assistant Secretary for Financial Resources at HHS, who also serves as the agency's Chief Acquisition Officer, issued a memorandum to division heads outlining the requirements of the inventory review process. According to HHS' senior procurement executive, this helped ensure participation from all divisions, and the agency was able to address redundancies and duplications from an enterprisewide perspective because of management involvement in the review. In contrast, GSA officials stated that management was kept up to date on, but did not actively participate in, the effort. Additionally, the GSA official responsible for overseeing the inventory review said that, to his knowledge, the inventory had not been used for any department-level decision making.
- **Strategic Sourcing:** Some agencies reported that they used the inventories to identify redundancies and duplications, which led to strategic sourcing decisions. For example, HHS officials stated that the agency used its inventory to obtain visibility into redundant

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contracts across the department. As a result, it consolidated 15 service contracts into 4 contracts, resulting in an estimated savings of \$20 million. DOT reported that it concentrated its analysis efforts on management support services contracts to identify ways to reduce spending in these areas by 15 percent by the end of fiscal year 2012.

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## Conclusions

The Consolidated Appropriations Act of 2010 required agencies to collect information and compile an inventory of their service contracts and review the inventories to help agency officials determine, among other things, whether they have the right balance of contractor and in-house resources needed to accomplish their missions. If the service contract inventories are to be a valuable management tool, it is essential that civilian agencies' inventories contain comprehensive, accurate, and actionable data. OMB plays an important role in ensuring that agencies are meeting statutory requirements and providing useful information. OMB efforts to date have been focused on issuing guidance to agencies on how to compile, review, and report on their service contract inventories. However, civilian agency efforts are in the early stages and agencies have not been able to meet all the requirements for compiling and reviewing the service contract inventories. In some cases this is due to the fact that some of the statutorily required data elements to be contained in the inventories are not available. Under the proposed FAR rule, if finalized, agencies would start collecting unavailable, but required data elements directly from contractors. In other cases, agencies misinterpreted or did not follow OMB's guidance, which caused them to significantly underestimate the scope of their inventories.

Although most agencies followed OMB guidance for reporting on their inventory reviews, it is unclear based on the information provided in their reports whether the results of the reviews were a real indication of the agencies' effective and appropriate use of contractors or due to the different approaches used to conduct the inventory reviews. When workforce issues were identified, such as contractors performing potentially inherently governmental functions, agencies did not consistently report on the number of contractor personnel and functions involved. Further, three of the five agencies that we reviewed identified workforce issues and took corrective action. However, the agencies did not report if the issues had been fully resolved. Agencies were not required to report on either the number of contracts or the percentage of their inventories they reviewed. As a result, many of the reports did not have important context on the scope of the analyses performed. Without OMB's continued guidance and agency commitment to improve the

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compliance, consistency, and context for the inventory and inventory reviews, the utility of the inventories for agency decision making and OMB and congressional oversight will be limited.

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## Recommendations for Executive Action

To help improve civilian agency compliance for compiling, reviewing, and reporting on inventories, we recommend that the Administrator of OMB's Office of Federal Procurement Policy work with agencies to improve how compliance with statutory and OMB requirements is monitored, which might include agencies designating accountable officials to ensure appropriate internal management attention and responsiveness.

To help ensure that the service contract inventories contain consistent and reliable information and that the service contract inventory analysis reports have sufficient information to provide greater context and value, we recommend that the Administrator of OMB's Office of Federal Procurement Policy clarify guidance to:

- Require agencies to fully describe in their inventory review reports the scope of the inventory reviews, including information such as the number of contracts and the percentage of contracts reviewed for each product and service code selected and the total universe of contracts;
- Require agencies to consistently report on the number of contractor personnel and functions that were involved with the workforce issues identified during their inventory reviews; and
- Require agencies to include, as part of their inventory review reports, the status of agency efforts to resolve findings identified in previous reviews until they are resolved.

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## Agency Comments and Our Evaluation

We requested comments on a draft of this report from DHS, DOT, HHS, GSA, NASA, and OMB. HHS and NASA responded that they did not have comments. DHS, DOT, and GSA provided us with technical comments, which we incorporated as appropriate. OMB provided comments via e-mail, stating that it generally concurs with our recommendations. More specifically, OMB stated that it believes a service contract inventory is a useful management tool for assisting an agency in better understanding how contracted services are being used to support mission and operations and where opportunities may exist for improvement. Moving forward, OMB commented that the Office of Federal Procurement Policy

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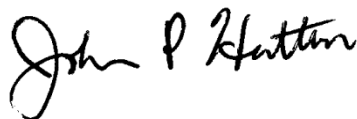
(OFPP) intends to work with agencies to strengthen their use of this tool by sharing lessons learned and best practices derived from the initial inventories, such as the promising practices highlighted in the report.

OMB also commented on our first recommendation and asked that we modify it to shift primary responsibility for monitoring inventory compliance from OMB to the civilian agencies. OMB stated that OFPP is a policy-making organization, not an enforcement agency, and greater progress can be achieved if OFPP works collaboratively with agencies by continually refining the guidance to make it a more useful management tool and ensuring agencies are doing effective self-governance, such as with the help of an accountable official that can liaison with OFPP to ensure appropriate management attention is being given to this initiative. In recognition that conducting and reviewing the service contract inventory is an agency responsibility, and to ensure that civilian agencies are held accountable for complying with statutory and OMB requirements, we agreed to modify the recommendation.

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We are sending copies of this report to the Director of the Office of Management and Budget; Secretaries of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Transportation; the Administrators of the General Services Administration and the National Aeronautics and Space Administration; and interested congressional committees. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you have any questions about this report or need additional information, please contact me at (202) 512-4841 or [huttonj@gao.gov](mailto:huttonj@gao.gov). Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



John P. Hutton  
Director  
Acquisition and Sourcing Management



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# Appendix I: Scope and Methodology

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Section 743 of the 2010 Consolidated Appropriations Act directed GAO to report on the second annual service contract inventory that civilian agencies were required to submit to the Office of Management and Budget (OMB) by December 31, 2011. To satisfy the mandate, we assessed civilian agencies' efforts to (1) compile their fiscal year 2011 inventories and (2) review and report on their fiscal year 2010 inventories.

To assess civilian agencies' efforts to compile their fiscal year 2011 inventories, we reviewed the act and OMB guidance to determine what data elements were required to be included in the service contract inventories. In addition, we obtained and reviewed available civilian agency inventories to determine whether they contained data elements required by OMB guidance. We also reviewed the proposed Federal Acquisition Regulation (FAR) rule on service contract inventories and interviewed staff from OMB to determine the status of efforts to collect all required inventory data elements. In addition, we used OMB guidance and conducted a logic check for five selected agencies—the Department of Health and Human Services, the Department of Homeland Security, the Department of Transportation, the General Services Administration, and the National Aeronautics and Space Administration—to ensure that the obligations reported by these agencies were close to our own analysis of the Federal Procurement Data System—Next Generation (FPDS-NG) data. These agencies were selected because they represent approximately 42 percent of total fiscal year 2011 service contract obligations for civilian agencies. In addition, they are also among the agencies with the largest obligations for the special interest functions identified by OMB for heightened management consideration because they present an increased risk of losing control of mission and operations.

During our logic check, we identified differences between obligations the agencies reported in their inventories and what we obtained by applying OMB guidance. To determine if these differences were more widespread, we expanded our logic check to all available agency inventories. To determine possible reasons for these differences, we pulled data from FPDS-NG by funding agency using eight different methodologies for fiscal year 2011—all obligations for service contract actions; obligations for service contract actions over \$25,000; obligations for new awards; obligations for new awards over \$25,000; all obligations for special interest product and service code contract actions; obligations for special interest product and service code contract actions over \$25,000; obligations for new awards on special interest product and service code contract actions; and all obligations for new awards on special interest product and service code contract actions over \$25,000. After our initial

comparison, we determined that the difference between the obligations in all categories and those above \$25,000 was small. In addition, we determined that only one agency had reported its inventory using the special interest function methodology. Therefore, we reported only three main methodologies—all obligations, new awards, and special interest functions. While our prior work identified data reliability issues with FPDS-NG, for the purposes of this report, we found FPDS-NG data to be sufficiently reliable for determining how agencies compiled their inventories. We also identified agencies with missing elements to determine what data elements were missing from their inventories.

To assess the result of agencies' efforts to review and report on their fiscal year 2010 inventories, we reviewed civilian agencies' reports on the fiscal year 2010 inventory review submitted to OMB to determine the number of contracts that were analyzed, the methodologies used, and the workforce issues identified. While we reported the workforce issues identified, we did not independently assess whether the functions the civilian agencies identified were in fact inherently governmental or closely associated with inherently governmental functions. In addition, for the five selected agencies, we interviewed officials to identify the resources used and methodologies they applied to conduct the reviews, as well as challenges they encountered, lessons learned, and practices they identified that can be applied to future reviews. We also met with agency officials to determine the extent to which agencies have used their reviews for decision making, including workforce planning and strategic sourcing efforts, and to determine how agencies identified instances in which contractors were performing inherently governmental functions or functions closely associated with inherently governmental functions.

We conducted this performance audit between April 2012 and September 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Forty-Nine Agencies Required to Report on Service Contract Inventories

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Agency for International Development  
Broadcasting Board of Governors  
Commodity Futures Trading Commission  
Consumer Product Safety Commission  
Court Services and Offender Supervision Agency for D.C.  
Defense Nuclear Facilities Safety Board  
Department of Agriculture  
Department of Commerce  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of Housing and Urban Development  
Department of Justice  
Department of Labor  
Department of State  
Department of the Interior  
Department of Transportation  
Department of the Treasury  
Department of Veterans Affairs  
Environmental Protection Agency  
Equal Employment Opportunity Commission  
Federal Communications Commission  
Federal Election Commission  
Federal Energy Regulatory Commission  
Federal Labor Relations Authority  
Federal Maritime Commission  
Federal Trade Commission  
General Services Administration  
International Trade Commission  
Merit Systems Protection Board  
National Aeronautics and Space Administration  
National Archives and Records Administration  
National Endowment for the Arts  
National Endowment for the Humanities  
National Labor Relations Board  
National Science Foundation  
National Transportation Safety Board  
Nuclear Regulatory Commission  
Office of Management and Budget  
Office of Personnel Management  
Office of Special Counsel  
Peace Corps

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**Appendix II: Forty-Nine Agencies Required to  
Report on Service Contract Inventories**

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Railroad Retirement Board  
Securities and Exchange Commission  
Selective Service System  
Small Business Administration  
Social Security Administration  
U.S. Trade and Development Agency

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

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## Staff Acknowledgments

Key contributors to this report were Cheryl Andrew, Assistant Director; Richard Burkard; Danielle Greene; Laura Jezewski; Julia Kennon; Bryan Miller; and Guisseli Reyes-Turnell.

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# Related GAO Products

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*Defense Acquisitions: Further Actions Needed to Improve Accountability for DOD's Inventory of Contracted Services.* [GAO-12-357](#). Washington, D.C.: April 6, 2012.

*Government Operations: OMB Service Contracts Inventory Guidance and Implementation.* [GAO-11-538R](#). Washington, D.C.: May 27, 2011.

*Defense Acquisitions: Further Action Needed to Better Implement Requirements for Conducting Inventory of Service Contract Activities.* [GAO-11-192](#). Washington, D.C.: January 14, 2011.

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