

National Labor Relations Board (NLRB)

PRELIMINARY ANALYSIS OF FY-14

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.

Planned 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 2011 Service Contract Inventories submitted to the Office of Management and Budget (OMB) in accordance with Section 743 of Division C of the FY 2011 Consolidated Appropriations Act, P.L. 111-117. The NLRB hereby submits its preliminary analysis considerations for FY-2014 Service Contract Inventory.

Planned Methodology: The NLRB will perform an analysis of the special interest functions by pulling information on all FY 2014 service contracts over \$25,000 from FPDS-NG selected for special interest from the Service Contract Inventory Summary. A sample of two (2) contracts that are representative of the NLRB service contract inventory and which provide an illustrative representation of the overall inventory of special interest contracts follow.

The contracts will be analyzed by NLRB Contracting Officers by gathering information in cooperation with Contracting Officers Representative (COR) and Program Managers to determine whether the contract labor is used appropriately and efficiently and if the mix of Federal employees and contractors is effectively balanced. The analysis specifically addresses the desired outcomes in Section 743(e) of Division C of the FY 2011 Consolidated Appropriations Act, P.L. 111-117 to ensure 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;
- (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.

Initial Observations and Findings: The NLRB inventory analysis will consist of service contracts from two (2) PSC Category codes. The codes are:

- R606 Court Reporting ; and
- R431 Support-Professional – Human Resources

R606 – The contracts representing R606 “Court Reporting”, were obligated at \$1,366,900., for the Office of Operations Management Services, and involve five contractors because of the geographic requirement for NLRB. Several COR’s throughout the United States are required to ensure that the contract does not change or expand the scope of the services. The contractors do perform a critical function in the recording of testimony at NLRB hearings; however it is believed that at no time does this service affect the ability of the Agency to maintain control of its mission and operations.

R604 – The contract selected to represent PSC code R-431 is for mailrooms services at the NLRB headquarters. In FY-2012, \$122,000 was obligated to provide this service Retirement Counseling and other Human Resource services. It is the opinion of Program Management that these inherently governmental services cannot be performed by current staffing. This will be reviewed for opportunities to be covered by Government employees.