

## Posting all fed contracts online alarms contractors

### Source: Federal Times

By TOM SPOTH | Last Updated: May 30, 2010

The Obama administration said it expects to begin posting online the full texts of federal contracts, task orders and delivery orders as a way to advance government transparency, kicking off a public debate on how and whether that should be done.

Procurement experts say there are critical questions to work out — namely, how federal staffs will handle the additional workload and how proprietary, classified and other sensitive types of information will be protected.

"Right now, if the government makes a mistake about releasing confidential information under a FOIA [Freedom of Information Act request], the damage that does is fairly limited," said Larry Allen, president of the Coalition for Government Procurement industry group. "If you make a mistake and put proprietary information on a database for everyone to see, you're really putting a company at a significant risk of harm." Information that shouldn't be released includes pricing policies and executive compensation, Allen said.

In its May 13 Federal Register notice announcing the proposal, the administration said the government would post contracts "without compromising contractors' proprietary and confidential commercial or financial information." It also cited the need for "uniform, consistent processing methods that are fair and equitable as well as cost effective and efficient."

The notice suggests that the government may rely on contractors themselves to review and redact texts of contracts, task orders and delivery orders. Agencies already notify contractors if their documents will be released under FOIA and work with companies to decide what should be redacted.

Hugo Teufel, director of forensic services at PricewaterhouseCoopers and former chief privacy officer at the Homeland Security Department, said federal officials will need guidance on how to structure contracts to make them easier to redact and more clarity on what information should be redacted. Currently, federal law on proprietary information is not clear-cut: The Justice Department's guide to FOIA exemptions for trade secrets and commercial or financial information is 94 pages long.

Teufel said agencies might err on the side of caution and redact more information from contracts than they do under FOIA. He added that high-profile contracts may already be getting scrubbed because FOIA was amended in 1996 to require pre-emptive disclosure of documents expected to be the subject of multiple FOIA requests.

Allan Burman, a consultant and former federal procurement policy administrator at the Office of Management and Budget, said the need to redact contracts to hide confidential information would create a significant burden on both contractors and federal employees. "Some of these contracts can be quite massive," Burman said. "If you're looking at posting whole contracts ... you're talking about a level of work that probably would be substantial."

The government would have to develop a streamlined approach to posting contracts, instead of putting them online on a case-by-case basis, in order to minimize the workload, said Alan Chvotkin, executive vice president of the Professional Services Council.

Although posting contracts online will be complicated, Teufel said, he supports the effort.

"The public has a right to know how its tax dollars are being spent," he said. "One of the great things about living in an information society is that it becomes much more cost effective to make available ... public records, to include contracts."

Teufel predicted that FOIA requests would decrease if contracts are posted online, because in some cases that information would meet interested parties' needs.

Tom Lee of the Sunlight Foundation, a nonprofit that promotes government transparency, also praised the initiative. He said current databases on government spending are inadequate, and posting contracts online would help the foundation do its work by giving taxpayers a clearer window into the business of government.

Lee also suggested that if vendors had better access to information on government contractors, it would encourage competition and result in better deals for government. Markets run more efficiently when those operating in them have better information, he said.

Lee said he formerly worked for a Navy subcontractor and the "amount of waste that was present ... was staggering."

"I don't think there's anything wrong with exposing the inefficiencies in this black box of contracting," he said.

The Federal Register notice is an "advance notice of proposed rulemaking," which means that top acquisition officials have not yet formulated a plan on how to proceed. Public comments on the idea are due by July 12.