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Defining 'Inherently Governmental' Jobs

By Ed O'Keefe

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What kind of tasks should be performed by federal workers and which ones can be handled by contractors? In other words, what are "inherently governmental" tasks?

The Obama administration hopes to have answers by the fall and will start formally seeking input Wednesday from agencies, contractors, federal workers and their unions on when to use feds and when to hire outside help.

The Office of Federal Procurement Policy published draft guidance (pdf) on Wednesday that seeks to clarify the definition of jobs that should be performed by government workers instead of private contractors. The guidance states that such tasks are so directly tied to the public interest that they must be done by government workers. Those tasks include setting agency policy, hiring workers, awarding contracts and other core activities, such as labor inspectors at the Labor Department or airport security screeners at the Department of Homeland Security.

But the guidance also seeks to define tasks that could be performed by either private- or public-sector workers, such as providing technical assistance to government officials evaluating contracts or managing an agency's information technology infrastructure.

The move comes amid a growing appetite in Washington to rein in wasteful government spending and lax oversight of multimillion-dollar contracts. Wednesday's appeal is part of a series of reforms put forth by the White House, including plans to cut \$40 billion in high-risk and noncompetitive contracts by the end of fiscal 2011 and hiring more government workers to manage large contracts.

Administration officials stressed that Wednesday's move is not designed to abolish the use of private contractors.

"This is not about a bigger government, it's about a better government," said Office of Management and Budget Deputy Director Jeffrey Zients.

"There are situations where the mix of works of federal workers and contractors is out of balance," Zients said. "Contractors are doing work that federal workers need to do. That needs to be fixed and this effort is about identifying those areas, correcting them and striking the right balance that corrects it." The proper balance will be different at each agency, he said.

And over time, agencies will need to avoid allowing a contractor's duties to become more inherently governmental, said OFPP Administrator Dan Gordon.

"The remedy is oversight and management," Gordon said, promising that his office and OMB will keep closer tabs on the balance in the future.

Wednesday's draft also asks respondents to consider whether certain positions currently held by contractors -- including contract managers, security guards, cybersecurity experts and interrogation officers -- should be considered government positions instead. The public comment period will continue for the next two months and officials hope to publish final guidance by the fall.

Stan Soloway, president of the Professional Services Council, which represents hundreds of contracting firms, credited the administration's review and applauded its focus on government management instead of potential political gain.

"It's focused on really understanding the different kinds of work the government does and I think they've really put out something that's really balanced," Soloway said, acknowledging that some of his members may eventually lose business.

"If the government can find work that's being performed by contractors that is inherently governmental, no one can argue with them bringing it back in house," Soloway said.

Union leaders, who have long fought privatization efforts, applauded the move.

Colleen M. Kelley, president of the National Treasury Employees Union, said the new efforts should "level the playing field in public-private competitions for federal work" after privatization efforts during the Bush administration "wasted millions of taxpayer dollars."

John Gage, president of the American Federation of Government Employees, said the administration "can ensure that the private interests of contractors will finally be subordinate to the public's interest in accountable and efficient federal services."