



OMB Calls for Analysis of Agency Service Contracts

By Leigh Kamping-Carder

Law360, New York (November 11, 2010) -- The U.S. Office of Management and Budget has released guidelines to help civilian agencies prepare an annual inventory of service contracts to better understand which government functions should be performed by contractors and which by federal employees.

Agencies will be required to disclose any service contracts of more than \$25,000, including those carried out on their behalf by other agencies, according to a Nov. 5 memorandum sent by OMB Administrator Daniel I. Gordon to chief acquisition officers and senior procurement executives.

The service contract inventories, a provision of the Obama administration's budget for fiscal year 2010, are part of a push to determine whether the federal government is effectively balancing its mix of federal employees and contractors, particularly for jobs closely aligned with inherently governmental functions, the memorandum said.

"Information about how contract resources are distributed, when taken into consideration as part of a balanced work force analysis, can help an agency determine if its practices are creating an over-reliance that requires increased contract management or rebalancing to ensure the government is effectively managing risks and getting the best results for the taxpayer," Gordon said.

By June 2011, agencies will have to conduct a "meaningful" analysis of the data collected, to determine if they are using contract labor appropriately and effectively, the memorandum said.

The guidelines require agencies to take stock of poorly performed contracts — those that are too costly or low in quality — and consider whether an alternative acquisition process would be more effective or if the contracts should be handed over to federal employees.

For some agencies, the guidelines said, that could require combing through tens of thousands of actions.

Agencies should pay particular attention to contracts involving "special interest functions," or those at a higher risk of work force imbalance, including professional and management services and information technology support services, the memorandum said.

Among the elements agencies must consider in their analysis are whether safeguards are in place to ensure contract work doesn't expand into an inherently governmental function during the course of the job and whether there are enough resources to effectively manage contracts.

"In many cases, analysis will reveal that contractor performance remains an acceptable choice, but may require increased oversight to manage performance risk," the guidelines said. "In some cases, however, analysis may indicate that the work must or should be performed by federal employees."

Initially, agencies will not be required to disclose the number of contractor employees, the total dollar amount invoiced for the services or the role those services play in securing agency objectives. But efforts are under way to put together a standard, government-wide data collection process so this information can be included in inventories for fiscal year 2011, the memorandum said.

The OMB said this information, which will be required in submissions for the next fiscal year, may help agencies better assess the cost-effectiveness of contracted labor. The OMB said it plans to issue additional guidelines for preparing 2011 inventories.

Data submissions are due to the OMB by Dec. 30, and must be posted online and published in the Federal Register by Jan. 30.

The guidelines cover any agency required to submit an inventory under the Federal Activities Inventory Reform Act of 1998, with the exception of the U.S. Department of Defense.
