

Security Jobs Come Under Scrutiny in Insourcing Debate

BY TIM KAUFFMAN | JUNE 8, 2010

One of the most heated debates over which government tasks can be outsourced and which should be done only by federal employees is centering on security jobs.

The government employs thousands of contractors who perform security tasks: security guards at federal buildings, personal bodyguards for federal officials working in combat zones, and guards at federal detention facilities. But that could change later this year, depending on how the government decides to define "inherently governmental" work.

Thousands of citizens and numerous industry groups have weighed in with public comments after the Office of Management and Budget announced March 31 it will clarify later this year which jobs cannot be done by contractors. Public comments are available online at www.regulations.gov.

The National Association of Security Companies — whose members include Wackenhut, DSI Security and other companies providing contracted security at federal, commercial and other government buildings — said it may make sense to insource combat-related security services, but not building security services.

"For the sake of performance and cost, federal agencies must proceed cautiously with their insourcing efforts, especially in function areas such as 'security' and 'guard services' that, for the most part, cannot be considered critical," the trade group said.

OMB specifically asked for comments on the types of security services that could be considered inherently governmental, closely associated with inherently governmental work or critical to the agency's mission.

Existing regulations already exclude building security functions, such as those performed by Federal Protective Service contract guards, from the list of jobs that should be considered inherently governmental. But the Homeland Security Department already is reviewing whether to bring some or all of those FPS contract guards in house, following scathing reports of security lapses. And the Obama administration's insourcing initiative could pave the way for additional contracted security functions to be declared off limits to contractors.

More than 4,900 people submitted a form letter urging the administration to expand the types of security services that must be performed by federal employees. The letter, circulated by the petition website CredoMobile.com, says the list of inherently governmental jobs should include physical security guards, prison and detention center security teams, security activities currently contracted out to private military contractors such as those in Afghanistan and Iraq, and "any security operations that reasonably require the use of deadly force."

The National Association of Security Companies, however, says the deadly force standard is too broad to define the types of security services that might be better suited to federal employees. The job of a security guard at a federal building who could use deadly force against a lone, threatening gunman should not be considered the same job as a contractor coordinating security with service members in a war zone, the group said.

Joseph West, partner in the Washington law firm Gibson, Dunn & Crutcher, said the administration should leave it up to agencies to decide on a case-by-case basis whether federal employees or contractors are best suited to perform specific security services.

A variety of unions and employee groups made arguments that other sectors of work should be done only by federal employees:

- The International Federation of Professional and Technical Engineers said the definition of inherently governmental work should be expanded to include the operation and maintenance of federal critical waterway infrastructures such as floodgates, locks and dams. These systems are inextricably entwined with

the nation's overall water supply, transportation infrastructure and hydroelectric power supply, the union argues.

- The National Association of State Highway and Transportation Unions said the inspection of federally funded roads, bridges and other transportation projects should be considered an inherently governmental function.
- The National Association of Government Employees said the final rule should establish a presumption that all functions closely associated with the performance of inherently governmental work should be performed by federal employees. In addition, the administration should combine this "closely associated" standard with a separate proposed category of work that is critical to the agency's mission and operations to avoid confusion of how to apply the two standards, NAGE said.

However, encouraging agencies to expand the types of jobs that must be performed by federal employees beyond those deemed inherently governmental could be detrimental to small businesses, said Ronald Martin, a member of the board of directors of the Small Business Coalition for Fair Contracting, a group of small-business contractors formed in response to the insourcing initiative.

It also runs counter to President Obama's call to enhance contracting opportunities for small businesses, Martin wrote. "Many small businesses that rely on government contracting opportunities will not remain viable if broad insourcing continues," he said.

The coalition also called for the administration to stop agencies from insourcing positions until the final guidance is issued.

Many mapping, surveying and geospatial firms have had contracts canceled recently so agencies could bring the work in-house, said Jeff Lovin, president of the Management Association for Private Photogrammetric Surveyors, a national association of such firms. Agencies did not perform any evaluations to justify that they could get better performance out of federal employees, Lovin said.

The administration needs to include in its final rule an illustrative list of commercial activities that should be reserved for the private sector, Lovin said. This would help clarify what is and what is not inherently governmental.

The Senior Executives Association said decisions on whether federal employees or contractors should perform particular jobs should be made on a case-by-case basis. In this way, the administration would guard against the wholesale insourcing of jobs, which could be as detrimental as the wholesale outsourcing under the previous administration.

"As with outsourcing, insourcing of federal jobs should serve a distinct purpose and jobs should be determined to be inherently governmental, not just brought back in-house to show that efforts are being made to end outsourcing," SEA said.