

New federal database is one contractors will want to avoid

FY2011 defense act puts a contractor's reckless behavior to the Web.

- By [Matthew Weigelt](#)
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On the heels of an interim rule to withhold award fees for putting a government employee's health or safety in danger, a new law will put that information in a database of contractor work history.

In November, the Defense Department amended its own acquisition regulations to require contracting officers to consider reducing or even denying a company's award fee if it jeopardizes a federal employee. A company also possibly can lose award money for a subcontractor's negligent behavior.

The interim rule was required by the fiscal 2010 National Defense Authorization Act, which became law Oct. 28, 2009.

Now though, the fiscal 2011 defense authorization act, which became law Jan. 7, takes the reckless behavior to the Web.

If DOD officials conclude a contractor put a federal worker's life in harm's way, the information can be added to the Federal Awardee Performance and Integrity Information System, or FAPIIS.

It's a database of specific information about a contractors' past work with the government. Contracting officers are required to look at the work history in FAPIIS and to factor it into an award decision. The new law calls for officials to add a final determination of contractor fault to the database.

Meanwhile, as more information detailing companies' past performances is added to the database, FAPIIS may be the frontier of new bid protests, one procurement lawyer said.

Companies might object to an agency's inappropriate consideration of a past performance when selecting an awardee, Puja Satiani, an associate at Crowell and Moring law firm, said this week in a webinar on contracting trends in 2011.

Companies might also say there was no meaningful consideration or disclosure of a company's past performance history before a contract was awarded.

Other government contracting attorneys say 2011 is going to be a tough year for contractors as oversight gets tougher.

"There will be no rest of the weary," said Dan Forman, a partner at the law firm.

About the Author

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