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## Lawsuit seeks to curb government insourcing

[By David Hendricks](#) - Express-News

Saying he wants to curb a federal government effort that takes contracts away from small businesses, a San Antonio lawyer has filed a lawsuit in San Antonio's federal Western District of Texas aimed at stopping Edwards AFB in California from terminating a contractor that provides audiovisual services.

Lawyer David Barton said Edwards AFB is not following the U.S. Air Force's own guidelines in deciding what private-sector contractors to terminate. The lawsuit also alleges the Air Force is not using accurate cost comparisons in deciding whether support services are cheaper if carried out by government civilian workers.

San Antonio-based Rohmann Services Inc. has been notified by Edwards AFB that its five-month contract for still and video photography documentation, public address systems maintenance and presentation support services will not be renewed at the end of February because the Air Force will take over that function with civilian workers, states the lawsuit, pending before federal Judge Xavier Rodriguez.

Neither the contracting official nor the installation's public affairs office at Edwards AFB would comment on the lawsuit.

Barton, of San Antonio's Gardner Law Firm, said small-business contractors across the nation could be affected as the government adds employment through the process called insourcing.

U.S. Defense Secretary Robert Gates set a goal last April "to decrease funding for contract support" and to hire 33,400 civilian workers over the next five years, 10,000 of them for the Defense Department's "acquisition work force," according to a Defense Department memo dated May 28, 2009.

Gates' directive stems from President Barack Obama's March 4, 2009, government contracting memo ordering "inherently governmental" functions and those closely associated with inherently governmental functions be performed by government personnel and not by contractor personnel.

Barton said there is nothing illegal about Gates' directive, but the Defense Department in some cases is insourcing functions without following set regulations and administrative procedures.

The Air Force, Barton said, is comparing salaries of civilian workers and contract workers unfairly in an effort to show taxpayer money is being saved. But other costs, including equipment, benefits, office expenses are left out of cost comparisons.

The Rohmann lawsuit states that Edwards AFB will pay 70 percent more to have the same audiovisual services performed by civilian personnel instead of contract workers.

“Although the agency talks about being careful to not be arbitrary and capricious and to justify the cost savings, it is clear that contracting officers are on a headlong charge to move forward as quickly as possible, with or without justification,” Barton said.

“What insourcing boils down to is that it won't help small businesses, but it will help (federal worker) unions. That's where the real focus is,” Barton said.

Most contractors have few options when the government stops bidding on contracts, Barton said.

“One difficulty is the cost of litigation, and so many of these small businesses just can't afford it. Another difficulty is the precedent that the government is pretty free to do whatever they want with their contracting,” Barton said. Watching the San Antonio federal court case is the Professional Services Council based in Arlington, Va., which has 340 member companies that sell services to the federal government.

The federal government is engaging in “fuzzy math” when it reduces contracts put out for bid and hires workers to do jobs contractors once performed, said Alan Chvotkin, the council's executive vice president and counsel.

“The federal government needs to rebuild in-house capability it has lost over time. We've been supportive, but in practice, the military is going through budget reductions. Government salaries are being compared to contractor billing rates, so they are terminating contracts,” Chvotkin said.

“That's been a concern we've raised, (government) salaries vs. total cost. It's not the same costs. Contractors will lose every time,” he said. He said last year the council asked to see a document detailing the Air Force's methodology on cost comparisons but hasn't seen it yet.

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