

OMB to Bypass GPO and Buy U.S. Budget Printing Directly from the Private Sector

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Printers have been following the battle between the Office of Management and Budget (OMB), Government Printing Office (GPO), and Congress with interest since OMB's May 3, 2002 Memorandum. In that Memo, OMB voiced its opinion that Section 501 of Title 44 of the U.S. Code, which requires Executive agencies to go through GPO to buy printing, was unconstitutional. The Memo went on to direct that new Federal Acquisition Regulations (FAR) be issued to allow agencies to buy their printing directly from the private sector, rather than go through GPO to get to printers (GPO buys over 75% of Executive Branch print from private sector printers).

Since the time of the Memo, the "dispute" between OMB and Congress (which supports enforcement of Section 501 of Title 44, and therefore the GPO) has been escalating.

Congress has included specific language in budget resolutions requiring Executive Branch agencies (including OMB) to send their printing through the GPO. OMB has repeatedly indicated that it will, despite Congressional directives, issue the FAR regulations allowing agencies to buy their own printing. Those FAR regulations were scheduled to be published for comment on August 31, 2002, but no one has seen them yet.

Commentators on this turf war have questioned whether OMB should be resolving what it says is a separation of powers violation by taking on the role of Congress and/or the Supreme Court, and declaring a longstanding statute unconstitutional.

Government printers and Printing Industries of America (PIA) took a more practical view. PIA questioned OMB's plan because it did not provide for: 1) the same type of universally applicable rules, regulations, and quality standards that have been developed and used by the GPO; 2) the publication of all government printing job opportunities, which permits open competition and helps small businesses get government printing contracts (as is currently done by the GPO); and 3) maintaining GPO's prohibition against subcontracting, which helps keep jobs from being "bundled" until the contract gets too large for the average printing company. On the other hand, printers and PIA are strongly supportive of OMB Director Daniels' desire to use some type of "best value" analysis when awarding printing contracts, so that quality, on-time delivery, and any other factors important to a particular job would be considered along with price, in order to obtain the best deal for the government.

The issue may be coming to a head. OMB has announced that it will not go through GPO to buy the printed copies of the President's 2004 Budget. OMB has posted copies

of the solicitation (EOPOA23001) on <http://www.fedbizopps.gov/> and on its site at www.omb.gov .

As of this writing, Congress has not reacted to what it will surely see as a clear violation of 44 USC 501.

One of the reasons commonly given for this risky move by OMB was the fiasco on the printing of the President's Budget last year for FY2003. That job was processed through GPO, as required by Section 501. Unfortunately, after the job was printed, OMB discovered that a number of minus signs were deleted from an important Budget summary. The error was discovered on a Friday, and the books were to be released early Monday morning.

Initially, higher-ups at OMB blamed GPO and its print contractor for the error. However, very quickly those at OMB involved in the printing of the Budget admitted that the error was not the fault of either GPO or its private sector printer. In fact, the error occurred at OMB, when OMB converted their Arbortext EPIC software to pdf. According to the OMB employee involved in the publishing of the Budget, the error was caused by a previously undocumented problem that only occurs when three conditions are met. Unfortunately, they were all met in this situation, and as a result, the pdf file that OMB created and transmitted via ftp directly to the printer was missing minus signs. The error occurred even though OMB proofed the job twice: once using Microsoft Word, (not the pdf print file) and once at the printer's location (but only for page layout, color, etc.).

Both publishers and printers are very familiar with this type of technical "glitch" which has become all too common with the use of electronic files generated and/or converted from different software programs.

Not only did OMB staff involved in the publication not blame GPO, but praised GPO for calling in staff to work over the weekend after the error was discovered, printing a corrected addendum, and getting enough books out to meet the immediate demand in the beginning of the week. OMB notified GPO in writing that "Without GPO's willingness to pitch in and do whatever it took, the Budget would have either been transmitted late or transmitted without the error being addressed." Unfortunately, this information did not circulate throughout OMB as it probably should have, and senior OMB staff is still indicating that the Budget "fiasco" last year is the reason that OMB is not going through GPO this year.

Although OMB may be buying this one job outside the GPO procurement system, there are no statutes or FAR regulations in place that would allow other agencies to follow suit.