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Cloud Computing Contracts Run Into Bottleneck At GSA

By Dietrich Knauth

Law360, New York (March 28, 2013, 10:50 PM ET) -- The General Services Administration's FedRAMP program, designed to vet the security of contractors helping the government move its data to the cloud, has certified only two companies so far, and contractors fear that the program's slow pace will create a bottleneck that restricts competition.

The agency launched the Federal Risk and Authorization Management Program, or FedRAMP, in the summer of 2012 as a follow-on to the government's "Cloud First" strategy, which seeks to save money by consolidating agencies' servers and moving data storage to the cloud.

The GSA wants tough security standards for companies providing cloud infrastructure and services to the government. It is using FedRAMP as a centralized, governmentwide clearinghouse so that individual agencies don't have to perform an exhaustive security review every time they begin a cloud procurement.

But so far, the program has certified only two contractors, CGI Federal, which was approved in mid-February, and Autonomic Resources LLC, which obtained the first FedRAMP approval in December.

Autonomic Resources, the GSA and the Veris Group — one of the GSA's third-party FedRAMP accreditors — told Law360 that certification is slow because few companies are really ready to meet the program's standards.

But contracting attorneys are concerned about the two-tier system FedRAMP could create until other companies get over that hump.

"It's a good idea in theory: 'Approve once, use often.' In practice, it is moving at a glacial pace, creating a bottleneck for cloud services providers," said David Bodenheimer, a partner at Crowell & Moring LLP. “If that pace doesn't pick up, the FedRAMP process is not going to achieve its hope of greater efficiency in the approval of the security process."

Few people expected the program to move quickly, because the kind of rigorous security reviews it entails always take time. But many experts were surprised at just how extensive the growing pains have been.

“Many people have been surprised at how long it has taken to get the FedRAMP system in place and to get approvals through,” said Elizabeth Ferrell, a partner in McKenna Long & Aldridge LLP's government contracts group. “To only have two authorized cloud service providers several years after this policy was articulated certainly isn't the streamlined approval process that it was supposed to be.”

The biggest concern for contractors, at least in the near term, is the competitive advantage FedRAMP approval could give contractors that have made it through the system. The problem would be exacerbated if companies that begin the certification process simultaneously are approved at different times because of backlogs or delays.

“That mismatch in timing is going to create a two-caste system in the IT world, in which you have the approved and the unapproved trying to compete for cloud opportunities,” Bodenheimer said. “It's hard to imagine that the companies with FedRAMP approval are going to have anything other than a sizable advantage over the unapproved companies."

Agencies could use approval as a de facto requirement on cloud procurements in order to save time and money on security reviews. That matches with FedRAMP's ultimate goal, but if agencies rely on the program before enough companies have made it through, they could restrict their options.

Agencies may be better off vetting security standards themselves in order to bring more companies into the mix, attorneys say.

“There is a risk that agencies will conclude that they are more comfortable with a company or a system that is approved by the FedRAMP Joint Authorization Board, and those agencies may limit competition to companies that have that seal of approval,” said Michael McGill, a partner at Hogan Lovells. “If they jump the gun by effectively requiring a provisional FedRAMP [authority-to-operate] before this initial transition process has run its course, that approach could unduly restrict competition.”

Such an approach could also be fertile ground for protest. Companies that can meet the FedRAMP standards but have not been able to complete the process will likely challenge acquisitions where an agency requires a certification. Just because a company hasn't received official FedRAMP approval, that doesn't meet it can't meet the program's standards, McGill said.

The GSA has defended the pace of approvals, saying the program is just getting started and reviews will accelerate after the initial learning period for agencies and contractors.

According to the GSA, the program is on schedule to reach full operating capability in 2013, and more companies will get provisional FedRAMP authorizations once that transition is complete.

Any issues with the pace of security approvals has more to do with the strictness of the standards than any lack of effort or resources on the part of the GSA or its accreditation partners, according to Kathy Conrad, principal deputy associate administrator for the GSA's Office of Citizen Services and Innovative Technologies. The agency uses 16 third-party assessment organizations, or 3PAOs, for FedRAMP reviews.

“To date, we haven’t seen any challenges with the availability of 3PAOs for cloud service providers; 3PAOs have been able to test on schedule, produce Security Authorization Reports on time, and retest when required,” Conrad said. “Vendors have found that the level of effort and time required to thoroughly address FedRAMP security controls and adequately document their security implementations is often greater than expected.”

The GSA is conducting outreach and education to prospective FedRAMP applicants, to ensure that interested companies fully understand the government's requirements, Conrad said.

John Keese, CEO and founder of Autonomic Resources, said his company was the first to get through FedRAMP because it had laid the groundwork early on, and was ready to roll when the program was up and running.

Whereas other companies have tried to retrofit commercial cloud services to meet the government's needs, Autonomic built its system from the ground up, with an eye toward the government's needs from the start, Keese said.

"There's no backlog with FedRAMP. They're actually anxious to work with cloud services providers who have a cloud and are ready to meet the security requirements," Keese said. "It is an arduous and difficult process, but it's supposed to be."

Autonomic, a recent graduate from the Small Business Administration's 8(a) program to help small, disadvantaged businesses, has seen a significant boost in interest from federal agencies after its FedRAMP approval, especially as FedRAMP standards begin to be written into contract solicitations.

"FedRAMP has legitimized our offerings in a significant way," Keese said. "We've probably briefed 40 agencies about our services, and FedRAMP really helps answer the questions about security."

Michael Carter, director of FedRAMP at Veris, the 3PAO that approved Autonomic, agreed that most of the delays result from contractors' unpreparedness to meet the government's requirements. But he expects the process to gain momentum once other companies have seen the competitive edge that approval will give to companies like Autonomic.

"Once you get a couple more of these through, and once you see the return on investment from certification, I think you'll see a lot more people jump in and put more resources towards getting approval," Carter said.

But until acceleration picks up, competition will remain a concern, Bodenheimer said.

"If acceleration means going from two approvals in six months to four approvals in the next six months, the FedRAMP program is not going to be a success," Bodenheimer said. "There needs to be a very substantial acceleration in order to maintain a level playing field for future cloud competitions."

--Editing by Kat Laskowski and Jeremy Barker.

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