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How to Buy Free Software

Procuring Web 2.0 Technology for the Federal Government

Peter Swire May 2009

Executive summary

Federal procurement laws that dictate how the government selects software predate the rise of Web 2.0 technologies. Congress passed the Competition in Contracting Act in 1984, which requires “full and open” competition for all software and other governmental purchases. These regulations, which require a formal bidding process before selecting any new service, do not appear to apply to free Web 2.0 technologies. Yet they do highlight important considerations for the federal government, which will not want to show favoritism for any one service over another, and will need to comply to the extent possible with privacy, security, accessibility, and other regulations.

The Obama administration favors the development of Web 2.0 technologies in the federal government, and its first websites, such as whitehouse.gov and recovery.gov will serve as the model and test case for all other federal sites. The central decision is whether it should put Web 2.0 technologies through a formal procurement process, or whether it should allow more flexible, open use of Web 2.0 technologies.

The Bush administration created essentially no government-wide policy for how to use Web 2.0 technologies. The Obama-Biden campaign pioneered the political use of many Web 2.0 technologies. Change.gov continued that pattern, with weekly addresses posted on YouTube, public comments on health care and other issues, and other initiatives. Whitehouse.gov and recovery.gov have since picked up the mantle by beginning to use some of these same tools, such as including embedded YouTube videos on whitehouse.gov

What is Web 2.0?

Precise definitions of Web 2.0 vary, but Web 2.0 technologies generally feature free, hosted services that enable users to post and share content. These include social-networking sites, video sharing sites, wikis, and blogs. Roughly speaking, Web 1.0 highlighted one-way communication from a website to its users. Web 2.0 enables much richer, two-way communication that includes the users themselves. Web 2.0 technologies can help the federal government foster a sense of community, increase transparency, and provide ways for more people to participate in governmental processes.¹

and accepting public comments on recovery.gov. But wider and deeper use on whitehouse.gov and all agency websites will require the Obama administration to make a decision about how strict or open the federal approach to Web 2.0 should be.

The approach that whitehouse.gov takes will have far-reaching implications all the way down to “typical” federal websites, such as the National Weather Service site for Boise, Idaho.² Boise’s National Weather Service site has an extensive set of Web 1.0 links that allow visitors to learn a great deal about local weather, road reports, etc. The site does not yet appear to have any Web 2.0 applications, but there are a variety of possibilities. The National Weather Service, for example, might team up with the United States Forest Service to help develop user communities for hunting or hiking. If Web 2.0 applications are easy for the government to use, Idaho federal employees can display nimbleness and innovation at the edges. If strict rules make it difficult to use Web 2.0 technologies, then the Idaho offices quite likely lack clout with headquarters, find it time-consuming to get approvals, and be much slower to deploy the new technologies.

There are three principal options for the federal government’s treatment of Web 2.0 technologies:

Option 1: Procurement. This option emphasizes procedural fairness. The basic idea is that government use of a Web 2.0 technology is an implicit “endorsement” of that technology. Agencies should, therefore, conduct a thorough procurement process to avoid any appearance of impropriety and assure that the government is getting the best possible services.

Option 2: Open use. This option encourages all agencies and other federal employees to use Web 2.0 technologies. The basic idea is that federal employees should use Web 2.0 technologies in their interactions with the public in the same ways that individuals and private-sector organizations use the technologies, and those sign-up processes should be approximately as easy for federal agencies as for private companies.

Option 3: Conditional use. This option falls between the strict procurement and open use options and could require either fairly mild substantive and procedural requirements or very strict requirements.

Each of the three options has benefits and drawbacks, which are detailed in this report. But the Obama administration should ultimately aim for a variation of conditional use that leans toward the more open end of the spectrum. This approach would enable the far reaches of the federal government to experiment with and rapidly use Web 2.0 technologies. At the same time, it would allow high-visibility sites, such as whitehouse.gov, to use their leverage to help secure improved licenses for all federal web sites.

It would be a mistake for the Obama administration to move forward with Web 2.0 technologies without considering and encouraging Web 2.0 technologies to offer or adopt services that comply with federal privacy and security guidelines, Section 508 compliance for Americans with disabilities, and other open access regulations. Some Web 2.0 services have already made strides toward federal compliance since the inauguration, including YouTube creating a version of its video player that doesn't use cookies and Facebook announcing that it will make its website more accessible for the blind and visually impaired.

The federal government should also make sure to include a public comment feature so that agencies receive feedback on how to improve their use of Web 2.0 technology. But while the Obama administration should actively encourage public feedback and work to ensure that all content is as accessible and compliant with federal guidelines as possible, it should not hinder the great advances that are possible with the adoption of Web 2.0 technologies.

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