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Noncompete agreements are commonplace in federal contracting. So what's wrong with that? They can't really be enforced.

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In a market saturated with noncompete agreements that often forbid employees from taking jobs at direct competitors, there is one key piece of information contractors might be interested to know.

Those agreements hold little water.

Companies that work primarily for private sector customers will be affected by a Nov. 4 Virginia Supreme Court decision, which stated that a noncompete agreement barring someone from working in a former employer's industry was too broad. But federal contractors already face restrictions from the federal government that all but void such agreements — even if those restrictions are largely ignored.

"The federal government has clearly indicated that there is a benefit — a federal interest, actually — in what they describe as continuity of government operations," said Greg Grant, an attorney at Potomac-based Shulman Rogers Gandal Pordy & Ecker PA , who chairs the firm's employment law practice. "Who does the majority of the work for government? Contractors. Technically that means that no company can restrict an individual from providing services" under a federal contract because, in theory, the restriction could disrupt an agency's ability to meet its requirements.

Specifically, Grant and other lawyers point to the continuity of services provision included in the federal acquisition regulation, which they say invalidates all noncompetes by requiring that government work be able to proceed uninterrupted. In other words, workers capable of meeting federal requirements can't be restricted from doing so, regardless of their employer at time.

Nonetheless, "every contractor client of mine, and every individual that I've represented that used to work for one, tells me the same thing: Whether or not these agreements are enforceable, contractors still use them," Christopher Glaser, an attorney at Jackson & Campbell PC. "A lot don't know about the restrictions, while others figure if it's going to cost employees a lot of money to fight this, they might not bother. So let's put the clause into their contract anyway and scare them into submission."

Stan Sloane, CEO of Chantilly-based Decision Sciences International Corp. and the former chief executive of SRA International Inc., said non competes are fairly common for senior-level personnel in particular, often restricting employees from working for named competitors after leaving their positions.

"It's in the interest of the employer to write as broad a limitation as possible, whereas it's in the interest of the employee to have the most narrow limitations as possible," he said. "Where the agreement ends up is a function of a whole lot of circumstances, [including] how much leverage each party has in the situation."

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Also common, Sloane added, are non-solicit agreements, which prevent partner companies from poaching employees but do little to prevent an employee from actively seeking out a position with a competitor.

For Barry Kane, president of Catapult Technology Ltd. Catapult Technology Ltd. Latest from The Business Journals Federal Contracts: Big Wins for Sept. 29, 2011Federal Contracts: Small Business Wins for Aug. 29, 2011Federal Contracts: Big Wins for June 30, 2011 Follow this company in Bethesda, noncompete agreements are a key mechanism for protecting the company's interests, regardless of whether they would hold up in a court.

Catapult places restrictions not on which company or agency an employee can work for — which Kane calls ludicrous — but on the type of work they can perform for a specific customer.

If an employee is providing software development work for the chief information officer at the Commerce Department, for example, that employee can't accept a job with another contractor to pursue similar work for that same office in the agency.

In the five years since Kane has been at Catapult, only twice has the company issued a cease-and-desist letter, ordering a former employee to stop work with a specific customer. Neither matter ended up in a courtroom.

"We want to protect our own interests, but we don't try to rule out the world," Kane said. "It's a common-sense approach, which means that it rarely gets challenged, and, if it did, that maybe we'd win."