

**Subject:**NOAA Draft Contracting Policy comments

**Date:**Fri, 04 Sep 2009 15:41:48 -0500

**From:**Tully, Mike <[mtully@aerialservicesinc.com](mailto:mtully@aerialservicesinc.com)>

**To:**[Roger.L.Parsons@noaa.gov](mailto:Roger.L.Parsons@noaa.gov) <[Roger.L.Parsons@noaa.gov](mailto:Roger.L.Parsons@noaa.gov)>

Please see the attached comments on the Draft Contracting Policy, 2009.

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## Comments on the NOAA DRAFT Contracting Policy, 2009

In short, the draft policy has been changed in many significant ways that require NOAA to be less obligated to use private geospatial profession to provide surveying and mapping services and data (when appropriate). I am unable to think of a valid reason why these changes have been proposed if this is not the intent.

Questions that should be asked: Why have these changes been made? What deficiencies in the previous policy do they rectify?

As a citizen, as an owner of private geospatial company, as a believer in limited government, I **oppose** the language of this contracting policy in that it seems to simply foster a larger role of government employees at the expense of the private industry and good economic sense. There are certainly key services that a government agency must procure using its own resources, but there should not be many legitimate cases. The language of this DRAFT is unacceptable.

<b>Old 2006</b>	<b>New 2009</b>
Therefore, it is incumbent upon NOAA, as recommended by the Hydrographic Services Review Panel (the Panel), to maintain its operational hydrographic services core capability, and contract for the remainder of its hydrographic services to the extent of available funding.	However, it is incumbent upon NOAA, as recommended by the Hydrographic Services Review Panel, to maintain operational ocean and coastal mapping core capabilities and supplement its operational capacity by contracting for mapping services where appropriate and to the extent of available funding.
Comment: Adding "supplement it's operational capacity" to "core capabilities" and "where appropriate". This opens the door wider to allowing funds to be used to compete with private industry.	
In general, it is the intent of NOAA to contract for hydrographic services when qualified commercial sources exist, and when such contracts are the most cost effective method of conducting these functions.	removed.
Comment: They have clearly changed their intent by not explicitly stating this. This further opens the door to private competition and the expansion of Fed gov't even though private enterprise may do it less expensively, more timely, and with higher quality.	
the term "hydrographic services" is defined to include: Geodesy, hydrography, photogrammetry, topography, remote sensing, geophysical (gravity, seismological, geomagnetic) measurements, tide and current	the term "hydrographic services" means the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide and water level, and

<p>observations, and data processing. Although this policy is limited to NOAA's hydrographic services,</p>	<p>current information, including the production of nautical charts, nautical information, data bases, and other products derived from hydrographic data. The term "ocean and coastal mapping" includes hydrographic services and other activities such as coral, benthic habitat, and land cover mapping. It is NOAA's intent to advance contracting and adhere to the principles of this policy to meet its diverse mapping requirements.</p>
<p>Comment: explicitly removed "photogrammetry", "topography", "remote sensing". They also removed "measurements". They replaced these more precise terms with less precise terms like "hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide and water level, and current information". Furthermore, footnote 1 then restores these more precise terms to define the procurement of "acquisition of hydrographic data". This is good. BUT, they then add the clause in footnote 1 "and is used in providing hydrographic services". However, they also redefined "hydrographic services" so they do NOT explicitly include "photogrammetry, topography, and remote sensing". So could NOAA then procure hydrographic data that is used internally – at least at the beginning, using its own resources or procuring equipment to do it themselves thereby excluding private enterprise?</p>	
<p>it is NOAA's intent to advance contracting and adhere to the principles of this policy to meet all of its geospatial, surveying and mapping requirements.</p>	<p>It is NOAA's intent to advance contracting and adhere to the principles of this policy to meet its diverse mapping requirements.</p>
<p>Comment: they are no longer committed to "advance contracting to meet all of is geospatial, surveying and mapping requirements" ... just whatever it feels like, i.e., "to meet its diverse mapping requirements".</p>	
<p>NOAA will procure hydrographic data and services from qualified sources in accordance with its legal authorities, the Federal Acquisition Regulations (FAR) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 <i>et seq.</i>), including Title IX where appropriate.</p>	<p>In general, it is the intent of NOAA to contract for ocean and coastal mapping services when qualified commercial sources exist, when such contracts are determined to be the most cost effective method of conducting these functions, and to the extent funding is available. NOAA will procure ocean and coastal mapping services from qualified sources in accordance with its legal authorities, the Federal Acquisition Regulations (FAR), and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 <i>et seq.</i>). Where required by law or where otherwise deemed appropriate, NOAA will procure the acquisition of hydrographic data <sup>1</sup> in accordance with Title IX of the Federal Property and Administrative Services Act."<sup>2</sup>  NOAA may determine that a particular surveying or mapping activity is inherently governmental or</p>

	otherwise not subject to contracting.
<p>Comment: "In general" changes this section to something less committal. They further add "where required by law" they will procure per Title IX whereas in the current policy they simply state they WILL procure per Title IX. Again, they are building doors in the Title IX room by which they can exit w/o hindrance and procure services and data without private enterprise.</p>	
<p>(6) support Maritime Domain Awareness and Homeland Security preparation and response activities. To carry out the above activities, and to adequately monitor contracted services, NOAA will maintain a core capability of field and office expertise.</p>	<p>(6) support Maritime Domain Awareness and Homeland Security preparation and response activities; as well as (7) services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector. To carry out the aforementioned activities and to adequately monitor contracted services, NOAA will maintain core operational surveying and mapping capabilities.</p>
<p>Comment: They have again broadened the door: from "will maintain a core capability of field and office expertise" to a FAR BROADER "will maintain core operational surveying and mapping capabilities". NOTE: how they removed "surveying" except where it LIMITS their policy.</p>	
n/a	<p>To facilitate the leveraging of government mapping resources, NOAA will continue to make its geospatial and hydrographic services contracts available to State and local government entities that have a need for the services provided by these contracts and can provide adequate funding.</p>
<p>Comment: This clause is new and could allow NOAA to use their "core operational surveying and mapping capabilities" to provide services and data to non-commercial interests and effectively compete with the private sector.</p>	
<p>NOAA may task qualified commercial sources with surveying and mapping services in any part of the U.S. Exclusive Economic Zone for any NOAA mission-related purpose, irrespective of pre-defined priority categories such as those documented in the NOAA Hydrographic Surveying Priorities. The government's interests and responsibilities for surveying and mapping vary broadly, and experience has shown that maintaining flexibility is key to responding to the nation's changing needs for updated surveying and mapping data.</p>	<p>NOAA may task qualified commercial sources with ocean and coastal mapping services in any part of the U.S. Exclusive Economic Zone, territorial sea, Great Lakes, inland waters and coastal watersheds for any mission-related purpose. The government's interests in and responsibilities for mapping vary broadly and experience has shown that maintaining flexibility is key to responding to the nation's changing needs for geospatial data.</p>
<p>Comment: They have removed "surveying" thrice from this clause. This makes it easier for them to procure Lidar, surveying, many measurement activities with their own personnel/equipment instead of using private industry.</p>	
NOAA will continue to utilize a mix of in-house	NOAA will continue to utilize a mix of in-house

and private-sector resources to accomplish its hydrographic services missions. Costs and productivity will be closely monitored within each category (i.e., public and private) to ensure best use of hydrographic services resources.	and private-sector resources to accomplish its ocean and coastal mapping missions. Costs and productivity will be monitored within each category (i.e., public and private) to ensure best use of mapping resources.
Comment: The broader “Hydrographic services” has been replaced with a much narrower “mapping missions”.	



9 September, 2009

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Roger L. Parsons  
NOAA Office of Coast Survey (N/CS)  
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Silver Spring, Maryland 20910

**Re: NOAA Ocean and Coastal Mapping Contracting Policy Comments**

Dear Mr. Parsons:

Fugro EarthData greatly appreciates the role of the HSRP and this opportunity to comment on NOAA Ocean and Coastal Mapping Contracting Policy. As a long-standing contractor to NOAA and one who supports NOAA's mission, we are pleased to submit the following comments:

**1. Second paragraph second sentence - *To support this policy, NOAA will maintain a dialogue with private sector organizations and constituent groups.***

Fugro EarthData Comment: We appreciate NOAA's recognition that continued and closer dialogue between our organizations will foster more public/private partnerships. These partnerships will encourage the development new technologies to increase the efficiency, effectiveness and quality of the data and services delivered and will help create or maintain jobs in the private sector.

**2. Third paragraph first sentence - *In general, it is the intent of NOAA to contract for ocean and coastal mapping services when qualified commercial sources exist, when such contracts are determined to be the most cost effective method of conducting these functions, and to the extent funding is available.***

Fugro EarthData Comment: It appears that all three conditions must exist before contracting with the private sector can commence. Is this the intent of the review panel and if so, how will it be determined if "qualified commercial sources exist". For example, if a firm develops technology and has used it on limited basis, would this be considered as a qualified commercial source? In addition, we appreciate NOAA's desire to determine "the most cost effective method", however, this doesn't support the intent of the Brooks Act. Given the definition of "hydrographic services", quality-based selection of contractors is vital to ensure the integrity of the data and services are maintained for health and safety of the public.

**3. Fourth paragraph first sentence - *NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting.***

Fugro EarthData Comment: The policy doesn't define or refer to a definition of "inherently governmental" and with the understanding that NOAA recognizes the need to be flexible, we are aware that the words "otherwise not subject to contracting" may lead to a more liberal interpretation. We recommend that this sentence be further defined and clarified.

**4. Fourth paragraph reason number seven (7) - *Services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector.***

Fugro EarthData Comment: We recognize there are some operational capabilities not available in the private sector, however, we strongly encourage a private/public partnership in developing new technologies or enhancing existing technology that will increase efficiencies and effectiveness, while reducing the risk and cost to NOAA. Additionally, if there is a slight difference in operational capabilities between what NOAA and the



private sector can provide, it could be determined that either this is an inherently governmental function or the private sector cannot provide these services. With a proactive approach, the private sector may be able to make modifications to their operation capabilities in order to better serve NOAA in the future.

**5. Last paragraph first sentence – NOAA will continue to examine ways to improve its contracting process, including minimizing the turnover frequency of contracting personnel and reducing the length of time required to award contracts and task orders.**

Fugro EarthData Comment: We believe it is worth noting that reducing the length of time required to award contracts and task orders is important and that debriefings help in assessing a firms attributes. We also appreciate NOAA’s comment about “minimizing the turnover frequency of contracting personnel”. We understand that turnover is part of a changing organization, but be assured of our willingness to work with you through these events.

Other Related Items:

- **“Deletes reference to NOAA’s annual hydrographic training and field procedures workshops owing to a recent decision to downsize these workshops and limit participation to Federal employees only.”**

Fugro EarthData Comment: We used to embrace these workshops and our staff used to benefit tremendously from participating in them. We truly believe it was beneficial for both Federal employees and civilian contractors. Furthermore, it reinforced the importance of the strong public/private partnerships that exist between NOAA and its contractors. We would like to see contractor participation in NOAA’s annual hydrographic training and field procedures workshops re-instated.

- **University Competition**

Fugro EarthData Comment: While the FAR allows universities to procure hydrographic service contracts under open competition, we recommend that universities not be selected for work that is operational in nature. There is a vital role for universities to support NOAA hydro services, but that work should be restricted to “...basic research and development and ensure the rapid transfer of derived technologies to the private sector.”

We hope this information is useful and appreciate the opportunity to comment on the NOAA Ocean and Coastal Mapping Contracting Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Saade".

Ed Saade,  
President, Fugro EarthData, Inc.

Date: September 8, 2009

To: Tom Skinner, Chair HSRP

From: Mark Sinclair  
President, Fugro LADS

Re: NOAA Ocean and Coastal Mapping Contracting Policy comments

First, Fugro LADS appreciates the opportunity to comment on HSRP recommendation to NOAA regarding OCMCP. As a long-standing contractor with NOAA and one who supports their endeavor, we humbly submit these comments.

1. In second paragraph second sentence - *To support this policy, NOAA will maintain a dialogue with private sector organizations and constituent groups.*

FLI comment: we appreciate the recognition of a continued and closer dialogue between our organizations to foster more public/private partnerships in developing new technologies to increase efficiencies and effectiveness and the implementation and quality of delivering data and service.

2. Third paragraph first sentence - *In general, it is the intent of NOAA to contract for ocean and coastal mapping services when qualified commercial sources exist, when such contracts are determined to be the most cost effective method of conducting these functions, and to the extent funding is available.*

FLI comment: It appears that all three conditions must exist before contracting with the private sector can commence. From an administrative point of view, this seems to place several hurdles one must navigate through. Is this the intent of the review panel and how is "...commercial sources exist..." determined. For example, if a firm develops technology and has used it on limited bases, would this be considered? In addition, we appreciate "...the most cost effective method..." however, this doesn't support the intent of the Brooks Act. Given the definition of "hydrographic services", quality based selection of contractors is vital to ensure the integrity of the data and services are maintained for health and safety of the public.

3. Fourth paragraph first sentence - *NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting.*

FLI comment: The policy doesn't define or refer to a definition of inherently governmental and with the understanding that NOAA recognizes the need to be flexible, we are aware that the words "...otherwise not subject to contracting" may lead to a more liberal interpretation especially when combined with item number four (4) of this document. We encourage this sentence to further defined and clarified.

4. Fourth paragraph reason number seven (7) - *services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector.*

FLI comment: We recognize there are some operational capabilities not available in the private sector, however, we strongly encourage a private/public partnership in developing new technologies or enhancing existing technology that will reduce the risk, increase efficiencies and effectiveness, and reduce the cost to NOAA. In addition, if there is a slight difference in operational capabilities between what NOAA and the private sector can provide, it could be determined that either this is inherently governmental function or the private sector can not provide these services. With proactive approach, the private sector may be able to make modifications to their operation capabilities.

5. Last paragraph first sentence ....*minimizing the turnover frequency of contracting personnel* .....

FLI comment: We believe it is worth noting that *reducing the length of time required to award contracts and task orders* is important and that *debriefings* help in assessing a firms attributes. We also appreciate the comment from NOAA “...*minimizing the turnover frequency of contracting personnel* ...” We understand that turnover is part of a changing organization but be assure our willingness to work with you through these events.



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4 September, 2009

Roger L. Parsons  
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**Re: NOAA Ocean and Coastal Mapping Contracting Policy Comments**

Dear Mr. Parsons:

Fugro greatly appreciates the role of the HSRP and this opportunity to comment on NOAA Ocean and Coastal Mapping Contracting Policy. As a long-standing contractor to NOAA and one who supports NOAA's endeavor, we humbly submit these comments:

**1. Second paragraph second sentence - *To support this policy, NOAA will maintain a dialogue with private sector organizations and constituent groups.***

Fugro Comment: We appreciate NOAA's recognition that continued and closer dialogue between our organizations will foster more public/private partnerships in developing new technologies to increase the efficiency, effectiveness and quality of delivering data and service.

**2. Third paragraph first sentence - *In general, it is the intent of NOAA to contract for ocean and coastal mapping services when qualified commercial sources exist, when such contracts are determined to be the most cost effective method of conducting these functions, and to the extent funding is available.***

Fugro Comment: It appears that all three conditions must exist before contracting with the private sector can commence. Is this the intent of the review panel and if so, how will it be determined if "qualified commercial sources exist". For example, if a firm develops technology and has used it on limited basis, would this be considered as a qualified commercial source? In addition, we appreciate NOAA's desire to determine "the most cost effective method", however, this doesn't support the intent of the Brooks Act. Given the definition of "hydrographic services", quality-based selection of contractors is vital to ensure the integrity of the data and services are maintained for health and safety of the public.

**3. Fourth paragraph first sentence - *NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting.***

Fugro Comment: The policy doesn't define or refer to a definition of "inherently governmental" and with the understanding that NOAA recognizes the need to be flexible, we are aware that the words "otherwise not subject to contracting" may lead to a more liberal interpretation, especially when combined with item number four (4) of this document. We recommend that this sentence be further defined and clarified.

**4. Fourth paragraph reason number seven (7) - *Services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector.***

Fugro Comment: We recognize there are some operational capabilities not available in the private sector, however, we strongly encourage a private/public partnership in developing new technologies or enhancing existing technology that will increase efficiencies and effectiveness, while reducing the risk and cost to NOAA. Additionally, if there is a slight difference in operational capabilities between what NOAA and the private sector can provide, it could be determined that either this is inherently governmental function or the private sector cannot provide these services. With a proactive approach, the private sector may be able to make modifications to their operation capabilities.



**5. Last paragraph first sentence – NOAA will continue to examine ways to improve its contracting process, including minimizing the turnover frequency of contracting personnel and reducing the length of time required to award contracts and task orders.**

Fugro Comment: We believe it is worth noting that reducing the length of time required to award contracts and task orders is important and that debriefings help in assessing a firms attributes. We also appreciate NOAA’s comment about “minimizing the turnover frequency of contracting personnel“. We understand that turnover is part of a changing organization, but be assured of our willingness to work with you through these events.

Other Related Items:

- **“Deletes reference to NOAA’s annual hydrographic training and field procedures workshops owing to a recent decision to downsize these workshops and limit participation to Federal employees only.”**

Fugro Comment: We used to embrace these workshops and our staff used to benefit tremendously from participating in them. We truly believe it was beneficial for both Federal employees and civilian contractors. Furthermore, it reinforced the importance of the strong public/private partnerships that exist between NOAA and its contractors. We would like to see contractor participation in NOAA’s annual hydrographic training and field procedures workshops re-instated.

- **University Competition**

Fugro Comment: While the FAR allows universities to procure hydrographic service contracts under open competition, we recommend that universities not be selected for work that is operational in nature. There is a vital role for universities to support NOAA hydro services, but that work should be restricted to “solving problems”, such as “... conduct basic research and development and ensure the rapid transfer of derived technologies to the private sector” not production hydrographic survey for instance.

We hope this information is useful and appreciate the opportunity to respond to NOAA Ocean and Coastal Mapping Contracting Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Millar", written over a light grey rectangular background.

David Millar  
President  
Fugro Pelagos, Inc.



September 9, 2009

Roger L. Parsons  
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[Roger.L.Parsons@noaa.gov](mailto:Roger.L.Parsons@noaa.gov)

Reference: Request for public comment on Draft Revised NOAA Contracting Policy  
<http://edocket.access.gpo.gov/2009/pdf/E9-19819.pdf>  
<http://www.nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm>

Dear Mr. Parsons:

MAPPS is a national association of more than 170 firms providing services in mapping, spatial data and geographic information systems services. MAPPS member firms employ more than 10,000 individuals in geospatial related positions. MAPPS actively promotes and monitors legislation, policy and regulations that impact the private geospatial profession.

MAPPS appreciates the opportunity to provide comments on these proposed revisions. Please accept and pass on our comments on the Draft Revised NOAA Contracting Policy to the Hydrographic Services Review Panel and others who are participating in the policy development.

MAPPS applauds NOAA's language on "qualified commercial sources":

*"The National Oceanic and Atmospheric Administration (NOAA) recognizes that qualified commercial sources can provide competent, professional, and cost-effective ocean and coastal mapping services, including hydrographic services, to NOAA in support of its diverse surveying, mapping and charting missions."*

We also support NOAA's language to "advance contracting":

*"It is NOAA's intent to advance contracting and adhere to the principles of this policy to meet its diverse mapping requirements."*

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However, MAPPS is deeply concerned with NOAA's language qualifying as to when contracting out is feasible:

*"In general, it is the intent of NOAA to contract for ocean and coastal mapping services when qualified commercial sources exist, when such contracts are determined to be the most cost effective method of conducting these functions, and to the extent funding is available."*

MAPPS is deeply concerned that the proposed language established a policy rationale and justification to **not** contract to and utilize the private sector. For instance, in the draft the previous language making it incumbent upon NOAA to:

*"maintain its operational hydrographic services core capability, and contract for the remainder of its hydrographic services to the extent of available funding"*

has been changed to read:

*"maintain operational ocean and coastal mapping core capabilities and supplement its operational capacity where appropriate and to the extent of available funding"*

MAPPS understands the substitution of "ocean and coastal mapping" for "operational hydrographic services" and has no objection to that change. However, the focus has obviously changed from where it should be, core capabilities and inherently governmental tasks, to everything that isn't necessary to contract. This change is counter to NOAA's trend over the past 15 years and will, at a time of high unemployment, undermine investment and jobs creation activities of the private sector.

We question why all three conditions must be present for contracting to happen. These place significant hurdles impeding the utilization of the private sector. Moreover, the policy includes no process for making determinations on when to contract out. The practical effect of the draft revised policy is to focus on why NOAA may NOT contract out, rather than one that states why NOAA should contract out.

MAPPS applauds NOAA's language regarding use of the 'Brooks Act' (Title IX of the Federal Property and Administrative Services Act) for contracting.

*"NOAA will procure ocean and coastal mapping services from qualified sources in accordance with its legal authorities, the Federal Acquisition Regulations (FAR), and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.). Where required by law or where otherwise deemed appropriate, NOAA will procure the acquisition of hydrographic data\1\ in accordance with Title IX of the Federal Property and Administrative Services Act.\2\"*

The policy needs clarification of the term, "where otherwise deemed appropriate". The policy needs to set forth who will make that determination, and on what basis such a determination will be made.

MAPPS strongly disagrees with various points in NOAA's language concerning determination of surveying and mapping activities which may not be subject to contracting:

*"NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting. NOAA surveying and mapping activities not subject to contracting"*

*may include, but are not limited to, services necessary to: (1) Monitor the quality of NOAA products; (2) promulgate and promote national and international technical standards and specifications; (3) conduct basic research and development and ensure the rapid transfer of derived technologies to the private sector; (4) maintain the integrity and accuracy of Federal geodetic and navigational databases; (5) support coastal stewardship ecosystem applications; and (6) support Maritime Domain Awareness and Homeland Security preparation and response activities; as well as (7) services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector. To carry out the aforementioned activities and to adequately monitor contracted services, NOAA will maintain core operational surveying and mapping capabilities.”*

The proposed revision of the beginning of the paragraph is from:

*“NOAA may determine that a particular surveying or mapping activity is inherently governmental. NOAA surveying and mapping activities considered inherently governmental in nature may include services necessary to:”*

in the previous policy to:

*“NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting. NOAA surveying and mapping activities not subject to contracting may include, but are not limited to, services necessary to:”*

in the proposed draft revisions.

Again the previous focus on core capabilities and inherently governmental tasks is diminished and instead NOAA is given increased latitude to increase or retain services that are or could be available commercially.

MAPPS disagrees with the changes made to the paragraph referencing inherently governmental activities. The wording gives NOAA increased latitude in determining what activities remain in-house and the subsequent list includes items which are not inherently governmental and either are or could be available commercially.

The subsequent list of activities that are not available to contractors has several activities that are available from commercial sources and should not be in a list of “inherently governmental” activities. They include:

- 1) monitor the quality of NOAA products;
- 2) promulgate and promote national and international technical standards and specifications;
- 3) conduct basic research and development and ensure the rapid transfer of derived technologies to the private sector;
- 6) support Maritime Domain Awareness and Homeland Security preparation and response activities; and
- 7) services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector

With respect to item 1), external certification by outside contractors should be considered as a cost effective method to ensure quality products.

With respect to item 2), this should be done in conjunction with other agencies/industry groups; i.e. RTCM, NMEA, IEC TC80, etc.

With respect to item 3), the definition of ‘basic’ should be more properly defined as it can lead to extended Research & Development projects that go beyond the original intent of what the government role is.

With respect to item 6), to declare that these activities cannot be performed by contractors denies the support our nation may require in time of need. It also does not reflect the reality that civilian contractors can and do support an ever increasing range of activities in support of national defense. This item is not “inherently governmental” or necessary and should be struck from the list. In addition, FEMA currently has this responsibility, and Coast Guard would cover maritime issues while USACE would cover inland navigation. NOAA actions would duplicate preexisting efforts by their Federal agency partners.

Item 7) is not necessary, limits NOAA’s future options and will stifle the adoption of those “unique” capabilities by the private sector. Although NOAA has ships and aircraft that may have unique characteristics, they are obtained commercially and their existence is neither “inherently governmental” nor something that will always be unavailable from commercial sources. The technologies required to build the ships and aircraft are not secret and once required for certain types of work will become available in the private sector. This item is unnecessary and should be struck from the list.

Item 7) is particularly troubling. This is justification for NOAA to NOT contract out the acquisition portion of the Shoreline mapping program. NOAA aircraft includes an aircraft with sensor toys designed to make them unique at great cost to the government. NOAA could get everything that the NOAA aircraft does in pieces more cost effectively, but no one builds a business case to house all of the sensors they "need" on one platform. NOAA does not need a business case, so it is unique.

NOAA needs to focus in-house resources on maintaining core operational capabilities and performing the inherently governmental tasks within its mission and pursue larger budgets for contracting hydrographic surveys rather than compete with commercially available services. The policy as detailed in the draft revisions addresses NOAA’s continued interest in addressing contracting speed but the critical focus on core capabilities and inherently governmental tasks is unfortunately diluted in the Draft Policy Revisions.

MAPPS noticed a lack of focus on the navigational charts issue. We believe regulations in 15 CFR Part 995, “Certification Requirements for Distributors of NOAA Electronic Navigational Charts/NOAA Hydrographic Products”, fail to fully implement the spirit and intent of Congress. The rule does not conform to the provisions of the Hydrographic Services Improvement Act (HSIA), as amended (33 U.S.C. § 892b). NOS failed to provide a public standard of quality that would provide means for certification by NOAA of nautical chart products produced in the private sector. This limits a full competitive market in the private sector. It fails to open this market to competition as suggested by Congress in HSIA and perpetuates a government monopoly where a competitive market would otherwise exist.

The rule’s limits on use of privately-made electronic charts on ECDIS closes the markets for all non-SOLAS vessels in the United States. This is the largest potential market for private chart-making firms, many of which are small business. Public Law 108-293 mandates the use of electronic charts in most commercial vessels in the United States no later than December 31, 2006. The rule prevents the use of commercially produced electronic charts in ECS installations. This means that virtually no chart coverage will be available to meet this mandate. The fact that certified products that are approved under the rule will be limited in coverage, and only apply to ECDIS, brings this rule in conflict with PL 108-293 (section 410), thus creating a hardship not only for small charting firms, but for small businesses in the shipping business as well.

That rule is not consistent with OMB Circular A-119, which requires agencies “to use voluntary consensus standards in lieu of government-unique standards”, and HSIA, which also requires use of such standards. The

rule does not utilize ISO Standard 19379 as the means for certifying privately-made ECS databases. This standard, which was produced by an international committee of experts, including NOS and partially funded by NOS, is appropriate as the standard of quality required by HSIA. This standard will enable NOS to certify and approve electronic charts as mandated by PL 108-293, and will empower many small business charting firms.

NOAA needs to eliminate the limitation in the Part 995 rule that prevents the use of certified electronic charts for mandated chart carriage. This change will enable NOAA to authorize a national, market-based supply of electronic charts for ECS. The goal is to allow privately produced electronic chart databases to be certified as equivalency with official ENC's. The certification process/standards would be created by NOAA in compliance with the HSIA regulation.

NOAA needs a policy that engages the best of what our nation can muster. The proposed draft revisions if enacted will not further that goal. MAPPS respectfully urges that revisions expanding NOAA's role and performance of geospatial activities commercially available in private sector firms be withdrawn.

While revisions of the policy reflecting the changing priorities of NOAA may occasionally be necessary, any revision should not erode the original intent which was to pare away the activities that are not NOAA's core capabilities or inherently governmental and allow for a larger role from the commercial sector. It has become obvious to the contracting community both from the lack of growth in budget funding requests for contracting and also the proposed language in this draft policy revision that it is NOAA's intent to instead grow its internal resources at the expense of contractors. MAPPS respectfully urges that a good contracting strategy states why NOAA needs the private sector and how the private sector's capabilities (married with NOAA's existing capabilities) will better help NOAA fulfill their mission and provide better services to meet the public need. NOAA needs to increase the demand for and utilization of the robust geospatial expertise and capabilities found in private sector firms to satisfy its ocean and coastal mapping responsibilities.

Sincerely,



John M. Palatiello  
MAPPS Executive Director

Wednesday, September 09, 2009

Roger L. Parsons  
NOAA Office of Coast Survey (N/CS)  
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Silver Spring, MD 20910  
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Reference: Request for public comment on Draft Revised NOAA Contracting Policy

Mr. Parsons,

Please accept and pass on my comments on the Draft Revised NOAA Contracting Policy to the Hydrographic Services Review Panel and others who are participating in the draft revision process.

My firm TerraSond Limited (formerly Terra Surveys, LLC) has contracted to NOAA since 1998. Terra Surveys, LLC received the first IDIQ contract awarded by NOAA for hydrographic surveys in support of nautical charting. We have been contracted by NOAA continuously since that time under a series of IDIQ contracts. We now hold a nationwide Hydrographic Survey contract that allows NOAA to contract TerraSond and six other hydrographic firms for up to \$250,000,000 over five years.

We have been watching the evolution of NOAA contracting since before being awarded a contract in 1998 and feel in many ways it has improved greatly. Lately though the improvements appear to be stalled. Contracts and task orders still take too long to produce and NOAA has not increased its funding request for the "Address Survey Backlog" contract funding in their regular budget. In fact NOAA has not requested additional money for the "Address Survey Backlog" line item since 2006, even though charting has been identified by NOAA as a "priority item" and by its own "FY2008 Performance Summary" NOAA failed to "Reduce the hydrographic survey backlog within navigationally significant areas". This was NOAA's only failure identified in the report. NOAA needs to focus in-house resources on maintaining core operational capabilities and performing the inherently governmental tasks within its mission and pursue larger budgets for contracting hydrographic surveys. A unified front between NOAA and the private sector to address the survey backlog sends a more viable and consistent message to congress and tax payers regarding the state of current U.S. nautical charts and the risk they pose to maritime commerce. The policy as detailed in the draft revisions addresses NOAA's continued interest in addressing contracting speed but the

critical focus on core capabilities and inherently governmental tasks is unfortunately diluted in the Draft Policy Revisions.

In the draft the previous language making it incumbent upon NOAA to:

*“maintain its operational hydrographic services core capability, and contract for the remainder of its hydrographic services to the extent of available funding”*

has been changed to read:

*“maintain operational ocean and coastal mapping core capabilities and supplement its operational capacity where appropriate and to the extent of available funding”*

We understand the substitution of “ocean and coastal mapping” for “operational hydrographic services” and have no objection to that but the focus has quite obviously changed from where it should be, core capabilities and inherently governmental tasks, to everything that it isn’t necessary to contract. This change concerns us and is a blow to the long term effort to support NOAA’s activities through increased contract support. Furthermore it fails to recognize the value to the nation added by NOAA partnering with the private sector. The added value comes in many forms and is spawned by the competitive process. Advancements in technology, improved methods, software advancements and improved survey platforms have not only come from government development or through government partnering with the private sector but also often as a result of independent private sector research and development. The change in focus also fails to acknowledge the benefits provided by the private sector to the nation in geographic diversity resulting in lower cost, reduced carbon footprint and faster response as well as the availability of increased assets without direct government investment that can provide highly skilled personnel and equipment that can be activated and deactivated on short notice.

The other concern we have is with the changes made to the paragraph about inherently governmental activities. The wording of the first two sentences give NOAA increased latitude in determining what activities remain in-house and the subsequent list includes items which are not inherently governmental and either are or could be available commercially.

The proposed revision of the beginning of the paragraph is from:

*“NOAA may determine that a particular surveying or mapping activity is inherently governmental. NOAA surveying and mapping activities considered inherently governmental in nature may include services necessary to:”*

in the previous policy to:

*“NOAA may determine that a particular surveying or mapping activity is inherently governmental or otherwise not subject to contracting. NOAA surveying and mapping activities not subject to contracting may include, but are not limited to, services necessary to:”*

in the proposed draft revisions.

Again the previous focus on core capabilities and inherently governmental tasks is diminished and instead NOAA is given increased latitude to increase or retain tasks that are or could be available commercially.

The subsequent list of activities that are not available to contractors has several activities that are available from commercial sources and should not be in a list of “inherently governmental” activities. They include:

*6) support Maritime Domain Awareness and Homeland Security preparation and response activities*

*7) services that can only be carried out aboard a NOAA ship or aircraft because the survey platform possesses unique operational capabilities not available in the private sector*

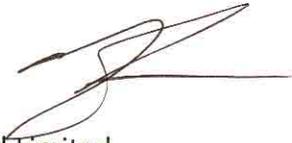
With respect to item 6), a recent New York Times article cited that 65% of the personnel currently operating in the Afghanistan theater for DOD are contractors rather than US servicemen and government personnel. Similar statistics have been cited for Iraq. If civilian contractors can take that active a role in a foreign theater of war, is it unreasonable to think that civilian contractors could support Maritime Domain Awareness or Homeland Security preparation and response activities? TerraSond, through its Department of Defense contract in Texas has repeatedly provided support for large disaster response activities and we are aware of other commercial firms that have as well. TerraSond has, through its DOD contract in Alaska, also provided support following disasters and in fact delivered our maps and reports on one occasion before NOAA could even get to the site. To declare that these activities cannot be performed by contractors denies the support our nation may require in time of need. It also does not reflect the reality that civilian contractors can and do support an ever increasing range of activities in support of national defense. Why not leave open the option to engage this capacity in time of need in our homeland? This item is not “inherently governmental” or necessary and should be removed from the list. To do otherwise is a disservice to the nation in time of need and undervalues what the private sector brings to the table.

Item 7) is not necessary, limits NOAA's future options and will stifle the adoption of those "unique" capabilities by the private sector. Although NOAA has ships and aircraft that may have special characteristics, they are obtained commercially and their existence is not secret, "inherently governmental" or something that cannot be made available from commercial sources. The technologies required to build the ships and aircraft are not proprietary and if required for certain types of work will be made available from the private sector. Further, through the competitive process it is often the private sector that is an early adopter of emergent technology, including advancements in hydrographic platforms. This item is unnecessary and should be removed from the list.

We think that while revision of the policy to reflect the changing priorities of NOAA may occasionally be necessary it should not erode the original intent which was to pare away the activities that are not NOAA's core capabilities or inherently governmental tasks and allow for a larger role from the private sector. We are concerned that the lack of growth in regular budget funding requests for contracting and also the proposed language in this draft policy revision demonstrate that it is NOAA's intent to instead grow its internal resources at the expense of the nation and private sector contractors.

NOAA needs a policy that engages the best resources our nation can muster. The proposed draft revisions if enacted will not further that goal. We would prefer the two paragraphs that are discussed above are not revised as proposed and instead retain the intent, if not the exact language of the current policy.

Sincerely,



TerraSond Limited  
Thomas S. Newman, PLS, CH  
President

- cc: Representative Don Young, Alaska  
Senator Lisa Murkowski, Alaska  
Senator Mark Begich, Alaska  
Representative Sheila Jackson Lee, Texas  
Representative Solomon Ortiz, Texas  
Senator John Cornyn, Texas  
Senator Kay Bailey Hutchinson, Texas  
Representative Jim McDermott, Washington  
Senator Patty Murray, Washington  
Senator Maria Cantwell, Washington