

Although non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal Council action during its 134th meeting. Council action will be restricted to those issues listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522-8220 (voice) or (808) 522-8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 9, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of Final Contracting Policy

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Availability of Final Revised Contracting Policy.

SUMMARY: The NOAA National Ocean Service (NOS) is publishing its updated contracting policy for hydrographic services per NOAA's 2005 plans to review and update the subject policy.

DATES: No comments are solicited through this notice.

ADDRESSES: Ashley Chappell, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Station 6113, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Ashley Chappell, Office of Coast Survey, National Ocean Service, NOAA (N/CS), 1315 East West Highway, Station 6113, Silver Spring, Maryland 20910; Telephone: 301-713-2770 ext. 148; fax (301) 713-4019, Attention: Ashley Chappell; E-mail ashley.chappell@noaa.gov.

SUPPLEMENTARY INFORMATION: The contracting policy for hydrographic services within the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS) is final.

Background

In House Report 108-576, which accompanied the FY 2005 Consolidated Appropriations Act, Congress recommended that NOAA's National Ocean Service "work with the private mapping community to develop a strategy for expanding contracting with private entities to minimize duplication and take maximum advantage of private sector capability in fulfillment of NOAA's mapping and charting responsibilities."

NOAA first consulted with congressional staff to clarify the scope of the request. Subsequently, on June 13, 2005, NOAA submitted a report to Congress outlining its intent to utilize its advisory group, the Hydrographic Services Review Panel (the Panel), as the primary vehicle for reevaluating its existing mapping and charting contracting policy established in 1996. The report stated that the scope of NOAA's efforts would be limited to hydrographic services programs funded under the "Mapping and Charting" section of the NOAA budget. NOAA then issued a **Federal Register** notice publishing and soliciting comments on its 1996 policy. The majority of comments were from private sector mapping firms and in general were supportive of NOAA's existing policy. Upon review of the public comments and in consultation with the Panel, NOAA concluded that a moderate revision of its existing policy was the appropriate approach. On April 7, 2006, NOAA issued a second **Federal Register** notice publishing and soliciting comments on its draft revised policy. Two comments were received. One was generally supportive and the second detailed several concerns.

Two concerns were that NOAA's efforts (1) did not respond to the congressional request and (2) that the revised policy mistakenly focused solely on NOAA's hydrographic services. As noted, personnel met with congressional staff and then provided Congress a report outlining the scope of NOAA's intended efforts. That strategy included utilizing the Panel as the primary mechanism for engaging the public, including the private mapping community, in reexamining the contracting policy. In terms of the scope, the congressional language requesting NOAA to undertake this effort appeared in the "Mapping and

Charting" section of the annual appropriations report that addresses only NOAA's hydrographic services.

The second comment disagreed with the draft policy's conclusion that acquisition of geospatial data is a core agency mission and that the agency should maintain a core capability. Upon review, NOAA concludes its legal authorities provide language indicating acquisition of data is a core agency mission and that the agency should maintain an adequate operational capability. For example, the Hydrographic Services Improvement Act says that the NOAA administrator "shall acquire and disseminate hydrographic data." (33 U.S.C. 892a(a)(1)). The Act authorizes NOAA to procure vessels, equipment and technologies in order to "maintain operational expertise in hydrographic data acquisition and hydrographic services." (33 U.S.C. 892a(b)(1)).

NOAA Hydrographic Services Contracting Policy

NOAA recognizes that qualified commercial sources can provide competent, professional, cost-effective hydrographic services to NOAA in support of its mapping and charting mission for enhancing navigation safety. NOAA also recognizes that the provision of hydrographic services, including the acquisition and dissemination of hydrographic and shoreline data, is a core mission requirement of NOAA under the 1947 Coast and Geodetic Survey Act and the Hydrographic Services Improvement Act of 1998 (as amended). In the interest of public and environmental safety, the Federal government's responsibility for executing its hydrographic services missions is manifest and non-delegable. 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.

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. This policy documents the framework and conditions under which contracting will be employed to ensure an open and consistent approach. To support this policy, NOAA will maintain a dialogue with private sector organizations and constituent groups. For the purposes of this policy, the term "hydrographic services" is defined to include: Geodesy, hydrography,

photogrammetry, topography, remote sensing, geophysical (gravity, seismological, geomagnetic) measurements, tide and current observations, and data processing. Although this policy is limited to NOAA's hydrographic services, 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.

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 *et seq.*), including Title IX where appropriate. Commonly known as the "Brooks Act" for Architect/Engineering (A/E) contracts, Title IX is a contract mechanism for use in situations where the professional nature of the services to be procured requires that potential contractors have specialized technical expertise.

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: (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 to the private sector of the derived technology; (4) maintain the Federal geodetic and navigational databases necessary to support safe and efficient marine operations; (5) support coastal stewardship ecosystem applications; and (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.

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.

Ancillary Statements and Actions

As recommended by the Panel, 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. NOAA will also seek to determine the optimal resource allocation between in-house and private-sector resources based on the strength of the governmental interest, the total requirement for mapping and charting services, and the particular operational capabilities of either government or private-sector resources that may make one more suitable.

NOAA will continue to examine ways to improve its contracting process, such as methods for minimizing the turnover frequency of contracting personnel and for reducing the length of time required to award contracts and task orders. NOAA will maintain its offer of debriefings to successful and unsuccessful hydrographic services contractors after final selection has taken place. The purpose of these debriefings is to assist contractors with identifying significant weaknesses or deficiencies in their submissions. NOAA is also exploring the establishment of an Ocean and Coastal Mapping Training Center. The Training Center was initially conceived as a curriculum to support NOAA's in-house hydrographic surveying training requirements. But NOAA now recognizes value in broadening the Center's scope to include training for NOAA and private sector contractors in techniques, standards, and technologies that support NOAA's many shoreline, coastal and ocean mapping activities. This concept builds on NOAA's annual Hydrographic Training and Field Procedures Workshops currently held for NOAA personnel and its hydrographic services contractors to train and trade valuable lessons learned from surveying experience. Such training would be beneficial to current or prospective NOAA contractors seeking to strengthen their proposal submissions.

To view the 1996 National Ocean Service Contracting Policy; the Brooks Act, Public Law 92-582 or the 1998 and 2002 Hydrographic Services Improvement Acts (which authorize NOAA Navigation Services programs), visit <http://nauticalcharts.noaa.gov/ocs/hsrp/archive/library.htm>.

Dated: August 9, 2006.

Captain Steven Barnum,

NOAA, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

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DEPARTMENT OF COMMERCE

Technology Administration

Technology Administration Performance Review Board Membership

The Technology Administration Performance Review Board (TA PRB) reviews performance appraisals, agreements, and recommended actions pertaining to employees in the Senior Executive Service and reviews performance-related pay increases for ST-3104 employees. The Board makes recommendations to the appropriate appointing authority concerning such matters so as to ensure the fair and equitable treatment of these individuals.

This notice lists the membership of the TA PRB and supersedes the list published in **Federal Register** Vol. 70, No. 158, pages 48374-48375, on August 17, 2005.

Bruce Borzino (C), Deputy Director, National Technical Information Service, Springfield, VA 22161, Appointment Expires: 12/31/2008, General.

Alan Cookson (C) (Alternate), Deputy Director, Electronics and Electrical Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/07, Limited.

Paul Doremus (C), Director of Strategic Planning, Program Planning and Integration, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910, Appointment Expires: 12/31/07, Limited.

Cita Furlani (C), Director, Information Technology Laboratory, National Institute of Standards & Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/07, Limited.

Patrick Gallagher (C) (Alternate), Director, NIST Center for Neutron Research, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, Appointment Expires: 12/31/07, Limited.

Howard Harary (C), Deputy Director, Manufacturing Engineering Laboratory, National Institute of