



Testimony of Marvin E. Miller, CP, PPS, PLS
on behalf of the
Management Association for Private Photogrammetric Surveyors (MAPPSS)
before the
Subcommittee on Fisheries, Wildlife & Oceans
Committee on Natural Resources
U.S. House of Representatives

H.R. 3352 - Reauthorization of the
Hydrographic Services Improvement Act
October 24, 2007

Madam Chairman, I am Marvin Miller, Vice President of AERO-METRIC, INC. in Maple Grove, MN. It is my honor to serve as President of MAPPSS, the national association of private geospatial firms. It is in that capacity that I am privileged to appear before you today. I am a Professional Surveyor and Certified Photogrammetrist with more than 25 years of professional level, private practice experience. I have also served as an adjunct professor of photogrammetry at North Hennepin Community College and served on the school's geographic information systems (GIS) curriculum committee.

My firm provides a full spectrum of professional geospatial services to NOAA, as well as USGS, the National Geospatial-Intelligence Agency, the Corps of Engineers, Bureau of Reclamation and other Federal agencies, state and local government and private clients, as a prime and sub contractor.

Formed in 1982 and currently celebrating the 25th anniversary of the association, MAPPSS (www.MAPPSS.org) is the only national association exclusively comprised of private firms in the remote sensing, spatial data and geographic information systems field in the United States. The current MAPPSS membership of more than 170 firms spans the entire spectrum of the geospatial community, including Active Member Firms engaged in satellite and airborne remote sensing, surveying, photogrammetry, aerial photography, hydrography, charting, aerial and satellite image processing, GPS, and GIS data collection and conversion services. MAPPSS also includes Associate Members Firms, which are companies that provide hardware, software, products and services to the geospatial profession in the United States and other firms from around the world. MAPPSS provides its members opportunities for networking and developing business-to-business relationships, information sharing, education, public policy advocacy, market growth, and professional development and image enhancement.

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As I begin, first let me commend this Subcommittee for its leadership in creating the hydrographic survey contracting program in NOAA, in the Hydrographic Services Improvement Act. Were it not for the bi-partisan leadership of the House Resources Committee, now the Natural Resources Committee, and the Oceans Subcommittee, the NOAA program would be beyond life support. Over the past 15 years, under the leadership of Mr. Young of Alaska, and many other former and current members, Republicans and Democrats alike, this Committee and the Appropriations Committee, has led the effort to modernize and transform NOAA.

The transition from NOAA performance to contractor performance of hydrographic surveying, shoreline mapping, airport obstruction surveys, geodesy, aerial photography, LIDAR and other geospatial services is **NOT** something that has been initiated by NOAA. It is because of the leadership of Congress, and this Subcommittee in particular, that NOAA has begun the transition from being a source of competition for the private geospatial community to a source of business.

For the hydrographic services that NOAA contracts, as well as other geospatial activities, we believe the agency is highly satisfied. Private firms have been innovative in staffing, scheduling, applying technology and deployment to ensure that the government receives value for its money. However, there are still a number of qualified private firms, including those experienced in performing hydrographic services for the Corps of Engineers in its inland waterways program, that have not been selected for contracts by NOAA. There is an enormous capacity and capability in the private sector that NOAA fails to utilize. While much progress has been made, NOAA still duplicates, competes with, and under-utilizes the private sector in hydrographic surveying, charting, aerial photography, photogrammetry, and other geospatial disciplines.

NOAA can stretch its dollars in the production of nautical charts to support commerce and ensure safe navigation by transforming itself into an organization that performs only those services that are inherently governmental in nature. It should not be expending funds for in-house performance of commercially available mapping activities.

We believe NOAA should focus its in-house activities on the establishment of professional and technical standards, certification of data, research and development, funding and administration of grants, and perform those services that are inherently governmental in nature and which are not competitive with the private sector. NOAA should be a leader in putting hydrographic data and other geospatial data in the hands of users who need such data for a variety of applications.

Madam Chairman, there is a model for the roles and responsibilities we are recommending. And that model resides in NOAA. In fact, it is located in the district of your distinguished Ranking Republican.

MAPPs strongly supports, and enthusiastically recommends the coastal geospatial services contract program carried out by NOAA's Coastal Services Center in Charleston, SC. In this program, roles and responsibilities are clearly defined. NOAA, as a data partner for Federal, State and local government, created the demand for geospatial data. The private sector provides the supply of geospatial data.

This is a model that should be emulated at NOAA headquarters, and frankly, by other Federal agencies as well.

For too long, NOAA and other Federal agencies have unwisely spent taxpayers' dollars by attempting to perform commercially available hydrographic and other geospatial activities. We urge the subcommittee to use the Hydrographic Services Improvement Act to change this paradigm. This is not a recommendation that comes solely from MAPPS, but it is one that has been advocated by virtually every study conducted on NOAA's programs. Numerous studies, including those in which NOAA has participated or which NOAA funded, have recommended that NOAA end its performance of commercially available surveying, charting, photogrammetric mapping, aerial photography and geodetic activities and focus on inherently governmental functions. Despite these findings, NOAA continues to operate their activities in-house, costing the taxpayers millions of dollars a year.

Vice President Gore's "Reinventing Government" study, 1993, said, "The National Oceanic and Atmospheric Administration (NOAA) will experiment with a program of public-private competition to help fulfill its mission. NOAA, a part of the Commerce Department, maintains a fleet of ships to support its research on oceans and marine life and its nautical charting. But its fleet is reaching the end of its projected life expectancy. And even with the fleet, NOAA has consistently fallen far short of the 5,000 days at sea that it claims to need each year to fulfill its mission. NOAA faces a basic question--whether to undertake a total fleet replacement and modernization plan, estimated to cost more than \$1.6 billion in the next 15 years, or charter some privately owned ships. The experience of the U.S. Army Corps of Engineers, which contracts out 30 to 40 percent of its ocean floor charting to private firms, shows that the private sector can and will do this kind of work. Competition among private companies for these services also might reduce costs."

In the U.S. Department of Commerce, Office of Inspector General, Semiannual Report to Congress, March 1996, is said, "In 1992, NOAA began a \$1.9 billion, 15-year plan to modernize its in-house fleet of research vessels. Since then, the Commerce Department's IG repeatedly has urged NOAA to explore more cost-effective options such as privatization. NOAA has ignored these suggestions even though the IG found that "(1) NOAA's fleet is clearly more expensive than available alternatives, (2) its decisions regarding the fleet have been based on faulty assumptions and inaccurate cost data, and (3) its actions have impeded attempts to form external partnerships with public and private sector organizations."

The Commerce Department Inspector General reported that NOAA's costs for performing hydrographic surveys are significantly higher than the private sector, at a rate of \$21,000 per ship per day or \$15 million per year. (NOAA Should Decommission its Ships and Terminate the Recent Billion-Dollar Fleet Modernization Plan, Inspector Report IPE-7794, March 1996).

In response to the Commerce IG report, NOAA contracted with Mitretek Systems to review the IG recommendations and the push toward fleet privatization. The review confirmed what everyone outside of NOAA has been saying. It concluded "maintenance of the needed core capability does not require government ownership of ships supporting NOS hydrographic surveys" (emphasis added). (Hydrographic Survey Data Collection: Analysis, Conclusions, and

Recommendations, Mitretek Systems, report to NOAA pursuant to task order 56-SPNA-8-23032 of contract 50-SPNA-4-00023, October, 1998).

As a result, NOAA was designated as a "high risk" agency by the Government Accountability Office (GAO). Its hydrographic surveying fleet of ships has been so designated because its operation is so much more expensive than the private sector. It was on the GAO list of "major performance and management challenges" at the Department of Commerce (GAO/OCG-99-3). The GAO said, "Although NOAA has increased its outsourcing with the private sector, universities and other public entities for these services, it continues to rely on its old, inefficient fleet, which lacks the latest available technology ... the Commerce IG recommended that NOAA terminate its fleet modernization efforts; cease investing in its ships; immediately begin to decommission, sell or transfer them; and contract for the required ship services. According to the Commerce IG, NOAA's failure to adopt a sound business approach to obtaining the best fleet services for its programs will continue to expose its programs to unnecessary costs and risks. ... Although NOAA has made some progress, more needs to be done. When NOAA first identified this issue as a material weakness in 1990, it estimated that the issue would be resolved by 1993. Today, NOAA has not committed to a specific completion date ... In the meantime, NOAA continues to rely on its old, inefficient in-house fleet, which does not have the latest state-of-the-art technology."

As early as 1973 an OMB study found that mapping is a commercial activity and recommended that more of it be contracted. NOAA participated in that study. (Report of the Federal Mapping Task Force on Mapping, Charting, Geodesy and Surveying, OMB, July 1973) "Private cartographic contract capability is not being used sufficiently. We found this capacity to be broad and varied and capable of rendering skilled support to federal MC&G (mapping, charting and geodesy) programs. Contract capability is a viable management alternative, and using it would be consistent with the President's desire to limit the size of the Federal payroll. Its use should be encouraged in lieu of continued in-house build-up." The President referred to was Nixon and the build-up that it warned against has indeed occurred.

In 1985, NOAA asked the National Academy of Sciences to study the Office of Charting and Geodetic Services. It found, "commercial resources offer time-proven expertise and professionalism in a wide range of cartographic activities."

President Reagan's last budget submission to Congress in January, 1989, recommended increased use of private mapping firms by all Federal agencies, including NOAA, when it reported use of the private sector "is an important management tool to raise productivity, cut costs and improve the quality of Government services (the advantage of which is) efficiency, quality and innovation in the delivery of goods and services ... specific areas where the Government could place greater reliance on private sector providers include ... map-making activities".

In 1994, the GAO investigated NOAA's fleet and recommended contracting of mapping activities. Even then, GAO found NOAA moving slowly. It said, "NOAA is beginning to take some additional actions to experiment with chartering activities, in particular for hydrographic charting and mapping services – one NOAA program mission for which chartering shows promise as an alternative to purchasing or leasing new vessels." (Research Fleet Modernization:

NOAA Needs to Consider Alternatives to the Acquisition of New Vessels, GAO/RCED-94-170, August, 1994.)

NOAA asked the Marine Sciences Committee of the National Research Council, National Academy of Sciences, to look at its nautical charting program. The report recommended “NOAA should facilitate private contractor participation in performing the required surveying by providing opportunities for private companies to compete for contracts to survey.” (Charting a Course into the Digital Era: Guidance for NOAA’s Nautical Charting Mission”, National Academy Press, 1994.)

The National Academy of Public Administration found, “NOS will likely be contracting for an increasing portion of its activities – which the panel thinks is desirable.” It said, “there also appears to be potential for increased contracting in the geodetic and photogrammetry sector ...” While NAPA said it opposed outright privatization, citing a Federal management responsibility, it found “participation by the private sector might be substantially increased through contracts.” (A Performance Based Organization for Nautical Charting and Geodesy, National Academy of Public Administration, June, 1996)

Congressional Directives

For nearly 15 years, Congress has mandated or encouraged more contracting of mapping services by NOAA. The House-approved the fiscal year 1996 appropriations bill (H.R. 2076) for the Department of Commerce, including the mapping, charting and geodesy functions of the NOAA, included language in the Appropriations Committee Report seeking more contracting out of mapping activities. It read as follows:

Mapping and Charting.--The Committee has included \$37,500,000 for the NOAA mapping and charting program. This increase above the request is intended to increase the percentage of critical areas that could be surveyed in fiscal year 1996 and hasten the implementation of NOAA's new digital charting system. The Committee intends that NOAA increase its reliance on contracting with the private sector to conduct mapping and charting activities. An increased reliance on the private sector will enable NOAA to decrease its FTE requirements and the need for additional vessels in its own fleet for these purposes. The Committee intends that the entire increase provided will be used to contract with the private sector and does not approve additional FTE for this activity.

The Senate joined with the House in its admonishment to NOAA with language in its Commerce Appropriations Committee Report saying:

For mapping and charting, the Committee recommendation includes the requested amount of \$33,586,000, instead of an increase as provided in the House-passed bill. The Committee supports efforts to privatize the charting and mapping functions and expects NOAA to rely more on use of contract vessels for these purposes instead of on its own fleet.

The House-Senate Conference on H.R. 2076 (Commerce Appropriations) adopted the following conference report language:

The conferees expect funds made available under this account and the NOAA Fleet Modernization account, including prior year carryover funds, for mapping, charting, and geodesy services to be used to acquire such services through contracts entered into with qualified private sector contractors. The conferees expect that contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 541 et. seq.), as proposed in the House report. Further, the conferees intend that no funds provided under this account, in this Act or in any prior year appropriation, be used to procure equipment that replaces or modernizes NOAA's in-house measurement capabilities when similar services may be obtained by contract through the private sector. The conferees believe that it is inappropriate for NOAA to use its limited resources to acquire specialized equipment for the NOAA fleet, considering the uncertainty of the future of the fleet as well as the availability of such equipment among potential private sector contractors for mapping and charting activities.

Congress again addressed the issue in the FY1999 Commerce Appropriations bill, noting NOAA's failure to comply with previous Congressional directives.

The recommendation includes \$16,000,000 under the line item Address Survey Backlog/Contracts exclusively for contracting out with the private sector for data acquisition needs, an increase of \$2,500,000 above the current level and \$7,500,000 above the request. The Committee remains concerned that the NOS and NOAA have not taken sufficient steps to develop a viable short-term and long-term plan for hydrographic services. Given the age of NOAA's current hydrographic ships, and the fact that fiscal constraints will preclude additional government-owned replacement vessels, such failure jeopardizes NOAA's ability to meet this critical mission requirement. While the Committee appreciates the efforts of NOS to work with the Committee and all interested parties to address this matter, the Committee was disappointed that the report lacked specific plans to comply with some of the direction provided in the fiscal year 1998 report, including a plan for 50% outsourcing, as well as the development of innovative mechanisms and alternatives to maintain core capabilities for appropriate oversight to ensure data quality. The Committee is aware that an independent study is currently being conducted to address these issues. Therefore, the Committee directs NOAA to provide a report to the Committee no later than February 1, 1999, which address these issues and includes a plan for outsourcing not less than 50% of hydrographic survey work by fiscal year 2000. (House Report 105-636, to accompany H.R. 4276, July 20, 1998).

In 2004, the House Appropriations Committee instructed NOAA again.

The Committee expects NOAA to 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 capabilities in fulfillment of NOAA's mapping and charting responsibilities. NOAA shall submit a report on such a strategy to the Committee no later than November 1, 2004. This report shall include a description of activities currently performed by NOAA, and activities performed by contractors, accompanied by cost and percentage information for each.

(House Report 108-576, to accompany H.R. 4754, July 1, 2004)

Hydrographic Surveying

Congress has been involved in reforming NOAA's hydrographic program for several years. Since 1995, Congress has included language in the Commerce appropriations bill to require increased contracting out, and in fact has increased NOAA's hydrographic budget, but earmarked those funds for contracting. Despite objections from the Commerce IG and the private sector, Congress compromised in its FY98 appropriation and provided funds for NOAA to upgrade one of its ships, in order to increase its ability to chart the waters off Alaska. Finally, Congress enacted the Hydrographic Services Improvement Act (Title III of Public Law 105-384), which capped NOAA's in-house hydrographic surveying at \$16 million per year and required (sec. 305(b)) a report to Congress on a plan "to ensure that Federal competence and expertise in hydrographic surveying will be maintained after the decommissioning of the 3 existing Administration hydrographic survey vessels ... (and) an estimated schedule for decommissioning the 3 existing survey vessels."

There was agreement that NOAA would transition from in-house to contractor performance. However, NOAA has since tried to break that compromise. It continues to ask Congress for additional funds to further upgrade their costly and inefficient ships and hydrographic operations. Their justification is its need to work on recovery of aircraft, such as the JFK plane and the EgyptAir crash and the TWA crash off New York. In testimony before the House Resources Subcommittee on November 10, 1999, Captain Ted Lillestolen, then-Deputy Assistant Administrator of NOAA for the National Ocean Service, said, "NOAA needs to ensure that we maintain our ability to carry out our core mission and function, as well as provide support in times of crisis. One of the ways this can be accomplished is by getting the latest technology for our hydrographic survey ships."

This is in direct conflict with every study that has been done on NOAA's hydrographic survey operations. It is an example of NOAA's refusal to accept the reality of its inefficiency and the inevitability of private sector performance. It is clear that NOAA is unwilling to act on privatization of its fleet on its own.

For the 50% of hydrographic surveys that NOAA does contract out, the agency is highly satisfied. Private firms have injected new technology into the hydrographic surveying process – technology that brings greater accuracy, enhanced productivity and lower costs which NOAA had not employed in its in-house operation.

A legislative mandate is needed to force NOAA to save taxpayers money by decommissioning its ships and contracting out its remaining hydrographic requirements.

Aerial Photography

The Commerce IG has also recommended shutting down NOAA's fleet of aircraft, including its aerial photography program, citing NOAA's costs at 42% higher than the private sector. (NOAA's Light Aircraft Fleet Should Be Privatized, STD-9952-8-001, August, 1998).

Rather than accept and implement the audit report, NOAA has again hired Mitretek, to study its aircraft operations. The Mitretek report found that NOAA historically has used more crew members for its flight operations than the private sector. Mitretek also found that some NOAA aircraft, including those used for aerial imaging, are **twice** as expensive to operate as the equipment used by the private sector. (*NOAA Light Aircraft Operations: An Independent Internal Assessment*, prepared by Mitretek Systems, contract 50-SPNA-9-00009 for NOAA, Office of Marine and Aviation Operations, U.S. Department of Commerce, February 2000).

The aforementioned Mitretek report made the case in unequivocal terms. It stated, “NOAA light aircraft services are not inherently governmental in nature”. It went on to say, “Missions requiring the collection of data only with no government personnel on board (e.g. aerial photography) represent the easiest missions to transfer to the private sector.”

Each summer, NOAA ferries an aircraft from its Flight Operations Center in Tampa, Florida all the way to Alaska! This is costly and inefficient. There are private firms in Alaska, including ours in Anchorage, who can do this work at a quality equal to NOAA and at a lower cost. In order to help justify this long trek, NOAA markets its aerial photo services to Alaska State agencies and other Federal agencies. This puts NOAA in direct competition with the private sector. There is a short summer aerial flying season in Alaska, thus private firms have to get as much work as they can in a short period of time. When NOAA does work for other agencies, it severely hurts private firms in Alaska.

In 2006, NOAA contracted with AERO-METRIC to conduct obstruction surveys for more than 100 airports around the country, including 6 in AK. We successfully completed the surveys in AK in 2006. This year we learned that NOAA sent their own aircraft and survey crews to AK to perform exactly the same type of surveys that we had performed the previous year. Our firm is still under contract with NOAA and could have easily performed this work. We have uncovered documents that FAA is not at all happy that NOAA performed this work in-house.

Other agencies with similar requirements have concluded that private sector performance is more cost effective. The U.S. Geological Survey, for example, operates the National Aerial Photography Program (NAPP), which pools funds from several Federal agencies, as well as State government, to obtain high resolution, highly accurate aerial imagery. This program is 100% contractor-performed. The Tennessee Valley Authority and the Texas Department of Transportation recently sold their aircraft and made the transition to complete contractor performance of their aerial photography needs. TVA and TxDOT determined that the cost to maintain its equipment, re-invest to keep current with state-of-the-art technology, and recruit and retain scarce aerial photography personnel made in-house performance far more costly than contract performance – the same conclusion the Commerce IG came to with regard to NOAA.

Despite this background, NOAA continues to acquire new aircraft, purchase not one but two digital aerial cameras, and add other equipment to upgrade its aerial photo capability. It recently announced it would acquire an IMU system, at a cost of nearly \$250,000 for one project in Hawaii. This is an investment in equipment that the private sector has already made. NOAA is upgrading its ships, adding new hydrographic equipment, purchasing several new LH Systems “softcopy” photogrammetry workstations, acquiring new planes and aerial cameras and other

sensors, and rather than transitioning more work to the private sector, as GAO, the IG, the National Academy of Sciences, National Academy of Public Administration and other studies have recommended, NOAA is buying the very equipment that is already resident in many private sector firms.

Its acquisition of digital aerial cameras has been particularly upsetting to the members of MAPPS. NOAA claims they needed the first camera to write standards, specifications and guidelines for digital aerial photography. After purchasing its first digital camera in 2003, NOAA still has no standards, specifications and guidelines for digital aerial photography. When it wanted to test digital aerial photography, what did it do? It tasked its private contractors – a solution MAPPS recommended when it lobbied NOAA not to buy its original digital aerial camera. Other than the test, NOAA still does not task its aerial contractors to collect digital imagery. NOAA also justified both its digital cameras based on an emergency response requirement. However, it is USGS, not NOAA, that has a memorandum of understanding with FEMA to acquire aerial photography for emergency response. It was the Corps of Engineers, not NOAA, that FEMA used to obtain contractor support for digital aerial imagery after Hurricane Katrina.

The National Academy of Sciences looked at the issue of emergency response. In fact, it was briefed by NOAA on its activities in Katrina. Yet the National Academy did not recommend that government have its own planes and cameras. In its report, “Successful Response Starts With A Map”, the Academy recommended “standing contracts and other procurement mechanisms should be put in place at local, regional and national levels by the responsible agencies to permit state and local emergency managers to acquire overhead imagery and other types of event-related geospatial data rapidly during disasters”.

Photogrammetry

Photogrammetry, the engineering process of using measurements on precise aerial photographs to produce topographic, planimetric and other forms of maps, is a commercial activity provided by some 250 firms in the United States. NOAA has increased its contracting for this service in recent years, but has not aggressively begun its transition to contractor performance of photogrammetry. NOAA is using out-dated techniques, old equipment, and productivity that are far behind the private sector. NOAA has not complied with OMB Circular A-76 with regard to its photogrammetry activity. Other agencies, such as the Corps of Engineers, Fish and Wildlife Service, USGS, and the National Geospatial-Intelligence Agency (NGA) have moved to contractor performance of photogrammetric services that are as difficult, and in some cases more challenging, than NOAA’s requirements. NOAA should be required to use this cost effective strategy as well.

Conclusion

NOAA should not be expending funds for in-house performance of commercially available mapping activities, unless that in-house performance is more cost effective than the private sector.

Since 1955 it has been the policy of the Government of the United States to rely on the private sector for commercially available goods and services. The policy stated “the Federal Government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels.” (SEE Office of Management and Budget Circular A-76) NOAA has not complied with this policy.

NOAA has accomplished some valuable work in the establishment of professional and technical standards, research and development, and the funding and administration of grants. Moreover, NOAA has responsibility for a national charting program and an obligation to perform services that are inherently governmental in nature, which are not competitive with the private sector, and which will not interfere with their Federal responsibilities. It is not, however, a proper role of government to perform activities that are commercially available. This is a responsibility of the private sector.

NOAA operates and maintains aircraft (planes, aerial cameras and crews) at a cost that is significantly greater than the private sector. The aircraft is a make and model far in excess of what is needed for aerial photography and what is used more efficiently by the private sector, the aerial cameras duplicate those used and available from the private sector, and the number of flight crew members for aerial photo missions are in excess of the norm in the private sector.

There is a capable and qualified private sector in mapping that can and should be used to a greater extent by NOAA. There is no justification, from a policy or fiscal point of view, for NOAA to maintain government activities that duplicate or compete with the private sector. Activities that are commercial in nature, such as geodetic surveying, aerial photography, remote sensing, and photogrammetric mapping should be performed by the private sector.

By requiring NOAA to use the private sector for commercial mapping services unless it is more cost effective to do the work in-house, NOAA would be able to focus on in-house activities on the establishment of professional and technical standards, research and development, funding and administration of grants, and to perform those services that are inherently governmental in nature and which are not competitive with the private sector.

It is important to note that the Hydrographic Services Review Panel has recommended that NOAA conduct a thorough cost-comparison of its hydrographic surveys. NOAA has failed to do so. The lack of such an accounting has also been cited by GAO. Nevertheless, without any justification for continuing its in-house operation, NOAA does just that.

MAPPS commends NOAA for its application of the “Brooks Act” (40 U.S.C. 1101 et. seq.), to provide for qualifications based selection of its shore line, coastal remote sensing, hydrographic surveys and related contractors. This time-tested and proven process assures that contractors are selected based on demonstrated competence and qualifications, not the lowest price. This is a highly competitive process that permits NOAA to evaluate firms based on their track record, past performance, capabilities, and qualifications first, and then negotiate a price that is fair and reasonable to the government with the most qualified firm, or if a price cannot be negotiated, go on to the second ranked firm. For services such as hydrographic surveys and other geospatial services, where the public health, welfare and safety are at stake, the Brooks Act is the only way

to go. We are disappointed the Administration's proposed HSIA bill would repeal the Brooks Act requirement in current law and we commend Mr. Young for not including that repeal in H.R. 3352. We would also note that the bill reported by the Senate Commerce Committee does not include the repeal provision and we would urge that such a repealer not be in the bill reported by this Subcommittee.

MAPPS is deeply concerned that the chart certification regulations promulgated by NOAA does not conform to the provisions of the Hydrographic Services Improvement Act (HSIA), as amended. We believe NOAA has 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 fully 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. We are also concerned about 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 market is the largest open to our chart-making member firms. We are chagrined that 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 NOAA and partially funded by NOAA, is appropriate as the standard of quality required by HSIA. This standard will enable NOAA to certify and approve electronic charts as mandated by PL 108-293, and will empower many small business charting firms. Under OMB Circular A-119, NOAA should be required to use an available private sector standard, but has not done so. Finally, MAPPS urges NOAA to eliminate the limitation in the 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, including those from the private sector.

The Hydrographic Services Review Panel has noted, "But in 2006 alone, some 70 million recreational boaters traveled the same waters in yachts, fishing boats, sailboats, and everything in between. According to the 2004 Recreational Boating Statistical Abstract, maintained by the National Marine Manufacturers Association, "sales growth of recreational boats continued to outpace the U.S. economic growth, increasing an average of 8% annually since 1997." Also in 2004, the number of boats in use grew to 17.6 million, an increase of 210,000 from 2003. NOAA's navigation data is quite accessible to the recreational boater. Undoubtedly these user-friendly products - including the NOAA Electronic Navigational Chart, the Pocket Chart, small-craft charts, and the Coast Pilot® series - have helped many recreational mariners navigate safely. But in many instances recreational boaters may be operating with a false sense of security. As the consumer market for marine electronics, GPS navigation systems, and chart plotters explodes, boaters presume that the data they can zoom in and out on is as accurate as the GPS systems in their cars."

We believe NOAA should certify any privately produced electronic charts in use, using the existing ISO 19379 standard. Even if not used in the regulated market, it is clear even from the HSRP's recommendations that the use of electronic charts in the recreational market is continuing to grow and that they recognize the need to educate these customers on the limitations of electronic charts. Private electronic chart producers know how important it is to maintain an up to date database of EC's, and as such, are producing commercially available updates that

include but is not limited to: new chart editions as released from NOAA, weekly Coast Guard Notice to Marina updates (navigation aid changes, chart feature changes, etc.) as well as other data sets that are integrated to the EC's (large scale or macro charts for marinas and inner harbor areas, satellite and aerial photos, marina information, etc.). Aside from running our own near-shore hydro, our member firms updated EC's are more current than what NOAA itself.

The snail's pace of reform is in sharp contrast with Federal agencies such as the USGS and NGA who not only entered into discussions with MAPPS at the same time as NOAA, but have indeed implemented reforms, reinventions and redirections that have resulted in tens of millions of dollars in business opportunities for MAPPS member firms and a partnership with MAPPS on issue resolution and support for funding initiatives, but millions of dollars in savings to the American taxpayer.

We would recommend the following enhancements to H.R. 3352 --

A provision to require NOAA to utilize the private sector for all commercially available surveying and mapping services;

A provision that provides that NOAA should maintain an "intellectual" core capability in hydrography, versus a large dollar a capital capability and that authorizations be directed toward the data collection requirements, rather than capital equipment;

A provision to require NOAA to embrace the value of competition and utilize multiple firms in the marketplace, versus a government-created monopoly, in electronic chart production and dissemination and not discriminate between NOAA charts and hydrographic products and those produced by the private sector, using the ISO 19379 standard;

A provision to integrate the various ocean, coastal and shoreline mapping activities into a comprehensive "Digital Coast" program, managed by the Coastal Services Center.

A line item authorization for the Shoreline Mapping Program;

A provision to develop a strategy for an enhanced acquisition workforce in NOAA, with particular expertise in qualifications based selection under 40 USC 1101 and the parallel requirements in HSIA.

Again, we commend this Subcommittee for its leadership on NOAA's hydrographic services program. An important first step has been taken, but we must continue to strive to bring the full expertise, innovation and efficiency of the private sector to all of NOAA's mapping and charting activities.

Madam Chairman, I thank you and your subcommittee for the opportunity to appear before you today.