

MAPPS Comments Before IRS Public Hearing: Re: [REG-151687-10] RIN 1545-BJ98

Withholding on Payments by Government Entities to Persons Providing Property or Services

September 12, 2011

Thank you for the opportunity to discuss the 3% withholding on payments by government entities to persons providing property or services. This is a very important issue that stands to impact many people, firms, entities and organizations nationwide. My name is John Palatiello, and I'm the Executive Director for the Management Association for Private Photogrammetric Surveyors (MAPPS).

Formed in 1982, MAPPS 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. Current MAPPS memberships span the entire spectrum of the geospatial community, including Member Firms engaged in satellite and airborne remote sensing, surveying, photogrammetry, aerial photography, LIDAR, hydrography, bathymetry, charting, aerial and satellite image processing, GPS, and GIS data collection and conversion services. MAPPS also includes Associate Member 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. MAPPS provides its 150+ member firms opportunities for networking and developing business-to-business relationships, information sharing, education, public policy advocacy, market growth, and professional development and image enhancement. I also serve as Administrator of the Council on Federal Procurement of Architectural and Engineering Services (COFPAES), a coalition of the nation's leading design professional societies and associations.

MAPPS is also a member of the Government Withholding Relief Coalition (the Coalition), led by the U.S. Chamber of Commerce. The Coalition was formed to seek repeal of Section 511 of Public Law 109-222, which mandates the sweeping new requirement that Federal, state and local governments withhold 3% of their payments for goods and services (the government withholding regime). We continue to advocate vigorously for repeal of this misguided and far-reaching law.

The 3% withholding is an onerous amount. With today's economy resulting in slower business and declining revenues, as well as a crunch on credit, the 3% withholding will drive firms out of business. We're in the mapping business, not the banking business. Small firms cannot afford to be making interest free loans to Uncle Sam on 3% of their revenue on government contracts. In some cases, that is more than their profit!

MAPPS and COFPAES are grateful that the SBA's Office of Advocacy included the retainage of 10% of architecture-engineering (including surveying and mapping) firms on its 2008 Regulatory Review and Reform (R3) top ten list of regulations harmful to small business. However, having the 3% retainage added to the 10% retainage is an intolerable burden on small business. Given the current economic climate, A/E Firms (including those in mapping and surveying), and especially small businesses would have been hurt the most as they would have faced a 13% retainage- not just the 3% or the 10%, BUT 13%! While the Federal Acquisition Regulation (FAR), section 52.232-10, has been changed to make retainage on A/E contracts negotiable and discretionary rather than mandatory, the fact remains some of our members could be facing a 13% retainage or withholding on Federal contracts. This makes small business an interest free loan banker to the Federal government. We believe this will reduce competition on Federal contracts by driving many small businesses out of the Federal procurement market. This regulation is a costly and burdensome mandate on A/E firms generally and small firms in particular.

With specific regard to the regulation, we urge that all long term contracts be grandfathered. In particular, an indefinite delivery/indefinite quantity (ID/IQ) contract should be grandfathered, and the 3 percent withholding

should not apply to any task order entered into against the ID/IQ contract after the effective date of the IRS regulation. The same policy should apply to other types of contract vehicles, such as GSA Schedule and Basic Ordering Agreements (BAOs).

We appreciate this opportunity to share our heightened concerns for all A/E firms (including mapping and surveying), and all small businesses that would face 3% for withholding. We look forward to working with the IRS, and other Federal agencies to remedy these significant hurdles many businesses may soon face.