

# North Pacific Fishery Management Council

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Crystina Jubie  
Contracting Officer  
NOAA Acquisition and Grants Office  
Via email: [CRYSTINA.R.JUBIE@NOAA.GOV](mailto:CRYSTINA.R.JUBIE@NOAA.GOV)

RE: Solicitation Number: ALASKAOBSERVER

Dear Ms. Jubie:

The Council appreciates the opportunity to provide feedback on the two draft Performance Work Statements for the Alaska Observer Program and Electronic Monitoring (EM), and the availability of staff from the NOAA Acquisition and Grants Office (AGO) to help us understand the contracting process and opportunities for building cost efficiency within the contract. It was very productive for our stakeholders and Council members to be able to discuss what can and cannot be included within this Federal contract with yourself and Ms. Kate Steff, both at the Observer Advisory Committee meetings in Seattle, and most recently at the Council meeting in Anchorage.

One of the topics on which you were requesting input is whether to combine the two Work Statements into a single requirement, or keep them as two separate requirements. The Council heard clearly from the agency some of the benefits of issuing a single contract, particularly that it preserves the flexibility to move money between the human observer and EM selection pools on the timeline dictated by the Annual Deployment Plan, and reduces the administrative burden of managing a second contract. The flexibility to move resources between the two portions of our catch monitoring program has always been one of the Council's primary objectives for melding EM and human observers. At the same time, the Council is concerned that there is the real possibility that a strong bid from, for example, an observer provider, could be combined with a suboptimal EM provider and still be awarded the bid. The agency may not get to choose their preferred observer provider AND their preferred EM provider, if they are partnered on competing bids. Also, as there exists a limited pool of bidders, combining the contracts may result in fewer bids and less competition. We ask that NMFS keep these dynamics in mind in the choice of a contract structure, and continue to look for approaches that select for quality bidders, maximize flexibility, and minimize administrative burdens.

Overall, the Council preference is for the contracting process to foster a marketplace environment throughout the life of the contract, where the effects of competition result in cost efficiency, and innovation is encouraged to improve both the quality of the program and cost efficiency. The Council requests that AGO explore with the agency whether there are other observer services procurement models in operation, for example between NMFS and the PSMFC, which could provide more flexibility to allow market incentives to affect cost efficiency. We heard from you that other contracting mechanisms, such as the Multiple Award Task Order Contract, are not conducive to the needs of this program, but that it would be possible for service providers to structure themselves as a team under the contract. In order to

encourage companies to cooperate, the Council recommends that the technical approach require bidders to describe how they will work as a team to ensure cost efficiency and promote innovation.

Managing the cost of the program is a high priority for the Council, as the funds for this program are provided by industry, and it is crucial that we demonstrate prudent management of their funds. Proposals that offer cost efficiencies should be prioritized through the solicitation process. While the Council certainly agrees that there needs to be a minimum standard of data quality required under the contract, we are reassured on that front, as we know there are several proven observer service providers in Alaska that already meet the necessary high technical standards. As such, when setting the relative priorities of evaluation criteria, the technical approach should be weighted such that service providers must meet a minimum technical hurdle, after which cost efficiency should then be the highest priority. In order to focus the pool of proven providers, perhaps a consideration of experience as a provider in Alaska fisheries can be reflected as a criterion of either past performance or technical approach.

The Council also recommends that consideration be given to the bidding unit for these RFPs, noting that trying to wrap all potential cost variability into a single unit masks elements of uncertainty and likely increases the overall cost structure. The Council recommends that, especially for the EM component of the contract, some of the more uncertain elements of the contract should be separated out as options, so that the additional cost from uncertainty does not factor in to the baseline bidding unit. For example, in the EM contract, there should be separate bidding units for the costs associated with baseline activities such as equipping and servicing a vessel that is new to EM and maintaining a vessel that already has EM installed. For services that include more uncertainty, such as helping to develop innovation, or installing and maintaining EM lite systems, these should be listed as options under the contract with separate pricing, rather than items built into a particular option year. The Council recommends that AGO consider the same concept for the observer Statement of Work, parsing out bidding units that incorporate different levels of uncertainty, rather than requesting that a bidder roll them all up into a single bidding unit. One example could be distinguishing between providing observers for surveys rather than for partial coverage, noting that survey contracts are planned ahead. Another could be estimating 'layover' costs separately from travel costs and actual onboard time.

The Council notes that the draft EM Work Statement is an early draft, and still requires further clarification and refinement. Attached, we include many specific comments about the EM Work Statement as currently conceived. If possible, the Council requests that AGO provide a revised Work Statement for the EM component only, for additional comment before it is finalized. The Council understands the fixed constraints of the contracting schedule, but in the October Council meeting evening session, Ms. Steff noted that there may be some room to consider extending the public input period. The Council would support this, focused narrowly on the EM component, as long as it does not mean that the time for bidders to respond to the solicitation would be reduced to the minimum time period of 30 days.

In general, in refining the EM Work Statement, the Council recommends that the revised draft focus more on clarifying service level expectations for overall service and maintenance needs, rather than prescribing specific details, for example of the number of personnel required in each port. It may help to include expectations for in-person technical service, for example between primary and secondary ports. Additionally, the section that addressed EM system replacement and innovation should be restructured to remove the prescriptive plan for technical specifications of replacement equipment and innovative technology. The contract should not pre-suppose, and thus limit, where innovation might go. Rather, there should be a distinction in the contract between replacement technology that is similar to equipment currently in use, and a task to help develop and introduce innovation into the EM equipment. The process for bringing new technology into the program should be consistent with the steps outlined in the EM analysis and assurances in the final rule, both about the vetting process for new technology and about not

using the fee for EM research and development. The contract should reference research and development objectives that are identified in the Annual Deployment Plan or the agency's EM/Electronic Reporting Strategic Plan, and explain the process by which NMFS works with the Council to identify and achieve objectives.

The Council also recommends defining a core set of services or equipment that would be supplied to the vessel on an annual basis out the observer fee, and identifying optional items that a vessel would be expected to pay for. For example, field service repair for malfunctions that are listed on the last pages of the VMP should be covered by the contract and billed based on actual costs incurred. If a vessel wants to install additional cameras, however, for example in the engine room, or to carry spare parts, these costs should be paid for directly by the vessel. The EM system should be able to accommodate those customizations, but labor and equipment should not be paid for from the fee.

Again, we appreciate the opportunity to comment on the draft Performance Work Statements, and look forward to seeing how they are reflected in the final solicitation.

Sincerely,

A handwritten signature in blue ink that reads "Dan Hull". The signature is written in a cursive, flowing style.

Dan Hull  
Chairman

cc Dr. Jim Balsiger  
Dr. Doug Demaster

attachment