



# ACSM

*government affairs update*



## 2011 DECEMBER GOVERNMENT AFFAIRS UPDATE

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**LightSquared Breaking News** --- Things are moving fast with our LightSquared GPS interference issue. As you may have heard by now, recent test results show that LightSquared's signals will cause harmful interference with 75% of GPS receivers. Additionally, separate analysis by the FAA found that LightSquared's signals will interfere with a flight safety system designed to warn pilots of approaching terrain.

The findings were presented to the technical steering group which represents nine federal agencies that make up the National Executive Committee for Space-Based Positioning, Navigation and Timing. The recent report is still being analyzed and more information should be made available soon.

On the legislative side, there are several bills working through Congress with language specifically relating to LightSquared interference. The National Defense Authorization Act for FY 2012 (H.R. 1540, S. 1253 and S. 1867) forbids the FCC from approving operations of the LightSquared terrestrial wireless network until the FCC has resolved concerns of widespread harmful interference to military GPS devices. The Financial Services and General Government Appropriations Act of 2012 prohibits the FCC from using FY 2012 funds to remove the conditions in LightSquared's January 2011 authorization, or to otherwise permit commercial LightSquared operations until the FCC has resolved GPS interference concerns. Other appropriations bills reference potential GPS interference and state that federal funds will not be released until those interference issues are resolved, but do not specifically mention LightSquared.

Congress has told us in various meetings, that it is the FCC that ultimately controls the direction of the LightSquared issue. A copy of the recent ACSM/NSPS Government Affairs Semi-Annual Report is in this update. In the section of the report related to LightSquared, there are step by step instructions on how to contact the FCC to voice your concerns. The FCC is encouraging feedback from high-precision GPS users on the

LightSquared issue. Please take a moment to let the FCC know how this issue affects you. (See more details in the enclosed semi annual report)

**New Federal Prison Industries Legislation Introduced ---** Legislation was recently introduced in the House which would keep Federal Prison Industries out of the mapping and geospatial data business. H.R. 3634 has bi-partisan support. The bill prohibits FPI and its inmate workers from having access to a variety of geospatial information, about individual citizens' property or critical infrastructure location. We will continue to monitor this legislation and work to get a companion bill introduced in the Senate.

**Lobby Day 2011 ---** We recently held our annual Lobby Day on Capitol Hill. More than 25 people participated, meeting with Members of Congress and staff to discuss a number of Federal issues important to the surveying and mapping profession. As expected, our top issue was LightSquared GPS interference. It is important for Members of Congress and staff to hear directly from the stakeholders who are high-precision GPS users. As in the past, our Lobby Day was successful.

If you participated in Lobby day meetings, please send to us a list of the people you met with on Capitol Hill so that we can make sure we follow-up on all of the meetings.

**ACSM/NSPS Government Affairs Semi-Annual Report ---** One of the reports given at the recent Governors' Meeting was the Government Affairs Semi-Annual report. In case you missed it, here is the report in full.

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## Introduction

It's been a very busy year so far on Capitol Hill. We had a couple of big victories this year, including finally defeating the 3% Withholding Tax. But our biggest fight remains the LightSquared issue. This fight is far from over and we have solid support from a number of our friends on Capitol Hill. This coming year, more than ever, we will require help, input, and advocacy from surveyors across the country. We need you to speak to your personal Representatives and Senators about our issues.

**3% Withholding Legislation VICTORY –** We had a VICTORY recently when the Congress passed H.R. 674, legislation that repeals the requirement that, starting in 2013, Federal, state and some local governments withhold 3% of payments to contractors. This was a long fight, and it was something that we worked on for several years. Thank you for your efforts in winning this fight.

**LightSquared/GPS ---** We are continuing the fight to save nationwide GPS for our members and the millions of people who use the data surveyors create. We submitted comments to the FCC regarding the Technical Working Group's report, stating that we oppose LightSquared's plan, as well as its proposed "solution" and we requested that the FCC take no further action until there is absolute certainty that LightSquared's

plan will not harm GPS. LightSquared continues to blame the GPS manufacturing industry for not taking steps to protect GPS units, and have also made many claims about fixes and "solutions". No one has seen any evidence that their fixes or solutions will actually work.

Congress recently held a number of hearings on the LightSquared/GPS issue, and we expect several more hearings will be held.

One such Congressional hearing was before the House Science Committee. ACSM asked members to contact Chairman Ralph Hall's office regarding surveyors' concerns about the issue. Surveyors from around the country responded to our call and flooded Chairman Hall's office with calls and e-mails. It was such a huge outpour of responses, that Chairman Hall's staff contacted ACSM and asked that we relay to members that Chairman Hall got the message. But ultimately, the LightSquared issue will not be solved in Congress, but rather at the FCC.

The House Committee on Small Business contacted ACSM and requested a meeting to learn how LightSquared's plans will affect surveying professionals and their use of high precision GPS. ACSM met with Committee staff and explained the problems that surveyors will face from a small business perspective. We offered many ideas, suggestions, and antidotes which the staff took to Chairman Sam Graves (R-MO) for consideration.

The House Small Business Committee held a hearing on the LightSquared issue a couple of weeks after our meeting with Chairman Graves' staff. Although ACSM was not called as a witness at this hearing (which focused on the aviation field), language that we wrote was part of Chairman Graves' opening statement and we submitted questions for the witnesses that were geared toward the effect LightSquared's plan would have on high-precision GPS and the people who use that data.

During the hearing (as in all of the other hearings), witnesses were clear that LightSquared's proposed plan --- and proposed solutions --- would disable high-precision GPS devices. LightSquared's Jeff Carlisle testified for LightSquared and stated that there would "only be about 100,000 devices affected"; but that figure fluctuated at various stages of the hearing. Mr. Carlisle also claimed that "99.75% of users won't be affected." Previously, that figure was 99.5%. And in any case, those affected remain to be the high-precision GPS users, including surveying professionals.

After the Congressional hearings, in which many Federal officials testified that LightSquared's plans would hurt Federal agencies' use of GPS; LightSquared announced that it has partnered with Javad GNSS, a GPS manufacturer, to develop a system that, it claims, will eliminate related interference issues for high precision GPS devices. We have not heard the details of this partnership, or how the proposed Javad GNSS system will affect the current problems; but we know that the proposed fix remains cost prohibitive for most surveying and mapping firms.

On September 13, 2011, the FCC issued a Public Notice that states, in part, that the FCC, in consultation with the National Telecommunications and Information

Administration (NTIA), has determined that additional targeted testing is needed to ensure that any potential commercial terrestrial services offered by LightSquared will not cause harmful interference to GPA operations.

**At this point, the best place to voice your concern about the LightSquared issue is directly with the FCC. The FCC has an easy-to-use portal on its website to submit feedback on the testing results and other comments and concerns you may have:**

**In order to submit a letter regarding the LightSquared modification request being processed by the International Bureau, follow these steps:**

1. Go to the FCC International Bureau Electronic Filing System (IBFS): <http://licensing.fcc.gov/myibfs/pleading.do> and fill in the requested information. The type of pleading can be selected using a drop down menu. The selection of "letter" is most likely the correct one; "ex parte presentation notification letter" is used to report a prior oral ex parte meeting, and would not be correct here. Keep "no" checked on the "confidential information" line. Please note that there is no need to have or use an FCC Registration Number (FRN). The sender should fill out the information fields; there is no need to fill out the "Contact Information" field if the sender is posting directly.
2. When this form is complete, select "Next Step" and you will be directed to a page requesting the FCC file number for the LightSquared modification (SAT-MOD-20101118-00239). Enter, or copy and paste the complete file number in the box. Click "Add File Numbers to Pleading List" and then check the box in the row that appears with the file number. Click "Next Step".
3. The next step is to upload your letter. Click the icon under "Replace/Attach" and proceed to fill out the description of the letter and follow the upload instructions. The letter should be in pdf format.
4. Click "Submit" after the letter is uploaded. You will receive an electronic confirmation that you can print and retain for your files.

All of the reports, comments and related FCC documents regarding the LightSquared issue can be found here: <http://fjallfoss.fcc.gov/ecfs/comment/view?id=6016826095>. And more information can be found here: [www.saveourgps.org](http://www.saveourgps.org).

**Preservation of Railroad Monumentation** -- The preservation of railroad monumentation issue has been a big issue for us this year. We met with the staff for many Members of Congress, as well as key Committee staff in the House and the Senate. We spent much of the year educating new Members of Congress about the issue; and we have found quite a bit of support. We also found a lot of staff who don't understand the issue, and several Members of Congress and Staff who never heard of it, but are glad we brought it to their attention.

The take-away from all of these meeting and discussions is this: *If This Issue Is Important to ACSM Members, Then Congress Needs to Hear About It.*

Just about every Member of Congress and staff person with whom we met said the same thing, 'How does this issue affect MY District?' The bottom line is, unless Members of Congress see a direct correlation between the issue and their District, they won't introduce the legislation; they may support it if someone else introduces it, but they won't introduce it.

At this point, Congress does not appear to want to introduce a full bill, even though most Members of Congress support our position, once they understand it. So our steps going forward should be to ask Congress and the Surface Transportation Board to simply amend the regulations relating to Railroad Abandonment Procedures in the U.S. Code by inserting the language we have in our proposed legislation.

In the meantime, we are continuing our efforts to persuade key decision makers in Congress of the importance of this issue; at the same time, we need surveyors (and property owners) affected by this issue to reach out to their Representative and Senator.

**FEMA Floodmap Coalition News** --- The FEMA Floodmap Coalition met recently with FEMA officials to get an update on the Floodmap program. A number of issues were discussed at the meeting. One of the topics discussed was the National Flood Insurance Program (NFIP) re-authorization legislation that passed the House of Representatives and is currently in the Senate. One of the key points of the legislation involves re-authorization of the Technical Mapping Advisory Council (TMAC). The House version of the bill (H.R. 1309) proposes that TMAC rewrite mapping guidelines in 12 months. FEMA would then have 6 months to accept the new guidelines. The Senate version does not have that proposal.

Additionally, the House version of the legislation included an amendment that "places a moratorium on the issuance of any updated rate maps from the date of enactment until the TMAC submits to the FEMA Administrator and Congress new mapping standards, thus allowing for the revision, update and change of rate maps only pursuant to a letter of map change, which includes a letter of map amendment, letter of map revision, and a letter of map revision based on fill."

We are working to make sure we once again have a seat on the TMAC, and can

express our concerns on behalf of ACSM and NSPS members.

FEMA also discussed proposed funding levels for the FY12 RiskMAP budget and program measures. FEMA officials see a significant cut to funding for the RiskMAP program that will impact new levee engineering and mapping policy and procedures as well as coastal mapping programs.

ACSM once again raised our continued concern about the accuracy of the floodmaps being produced, and the additional concern that projected funding cuts do not have a negative affect on floodmap accuracy.

**USGS Coalition** --- We are continuing to work with the USGS Coalition to support the USGS and its programs, particularly those related to surveying, mapping and geospatial issues. We once again are facing a Congress that does not understand the full value of the USGS, and is therefore not inclined to give it the funding necessary to fully carry out its programs and mission. The good news for us is that while most other USGS programs received funding cuts, programs important to the surveying and mapping profession received an increase in funding.

**COFPAES Delegate Meeting** --- COFPAES recently held its Fall Delegate meeting. With this meeting, ACSM Delegate, Joe Dolan, ended his one year term as COFPAES Chairman. Thanks, Joe – we appreciate your hard work.

COFPAES Delegates discussed a number of key issues, here are the highlights.

*GSA Schedule—Abuse on A/E service contracts.* COFPAES engaged the law firm, Crowell & Moring to write a brief on the legal conflict between GSA Schedules affecting A/E services and the Brooks Act. COFPAES staff will use the brief provided by Crowell Moring during our upcoming meetings with Congress and Federal agencies. As the Delegates discussed this issue, we had a fascinating conversation about the GSA contracting process. It gave Delegates and staff a deeper understanding of the process.

*Design-Build Study*— For several years, COFPAES has discussed problems members experience with design-build implementation. A scope of an independent study was developed by COFPAES on the issue and staff held meetings with several parties, including agencies and Congressional staff to explore a study. The Office of Advocacy of the Small Business Administration has included a design-build study as a potential topic in a recent request for proposals for contractor support. The focus on this study will primarily be the impact of design-build on small business.

*Policy on Inherently Governmental Function* --- The Office of Federal Procurement Policy has issued its long awaited policy on inherently governmental functions. COFPAES commented on the initial draft in 2010, as did ACSM. Few of the concerns expressed or recommendations made by COFPAES and ACSM were included in the final policy.

In ACSM's original comments, we stated a concern about the designation of

"construction of buildings or structures intended to be secure from electronic eavesdropping or other penetration by foreign governments" as an inherently governmental function. That item is now listed as an example of functions closely associated with the performance of inherently governmental functions.

The policy letter also states that its purpose is to, among other things, "clarify that determining the criticality of a function depends on the mission and operations, which will differ between agencies and within agencies over time." This statement seems to suggest that federal agencies --- on their own --- can determine what is and what is not an inherently governmental function. The full Federal Register Notice can be found here:

<http://frwebgate2.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=YAGh7s/0/2/0&WALSaction=retrieve>

*QBS Implementation, Enforcement and Application* --- COFPAES Administrator, John Palatiello facilitated a session on current challenges to QBS and possible strategies for addressing these threats. Among the threats to QBS discussed were: the economy, the GSA Schedule, strictly construction related service contracts, design-build, and reduced agency in-house A/E acquisition workforce.

The Delegates discussed a number of questions related to the issue including: (1) Is QBS still relevant or is it an anachronism --- a throwback to a bygone era? (2) Is there a problem? Is there a threat? (3) What should COFPAES do to respond to the threat and remedy the situation?

The Delegates determined that QBS was still relevant. All organizations stated that their members thought QBS and the Brooks Act were very important to the profession and should continue to be protected. But they did recognize that there is a problem and a threat that needs to be addressed. The Delegates discussed several possible solutions to the problems QBS faces. Those possible solutions include: education, public relations and promotion of the value of QBS; lobby for more bidding bans by state licensing boards; re-write/amend the Brooks Act; create a mini-COFPAES organization in each state; revitalize, strengthen the QBS facilitator program.

It was agreed that Administrator Palatiello would send around a copy of the Brooks Act for all COFPAES organizations to review for areas to re-write and amend.

**COFPAES Federal Markets Conference** --- COFPAES recently held a very successful Federal Markets Conference in conjunction with the Delegate meeting. Approximately 55 A/E professionals (including many surveyors) attended the conference. 14 speakers from a number of Federal agencies spoke about their particular agency's procurement process as well as opportunities for A/E to provide services to the federal government.

Congressman Mick Mulvaney (R-SC) gave a keynote address at lunch and spoke about a number of legislative issues, including the status of the 3% withholding tax legislation; which he expects to pass the House of Representatives by Christmas.

(Note: The bill was passed.) Some of the Federal agencies that participated in the Conference were: GSA, BLM, Bureau of Prisons, U.S. Air Force, U.S. Customs and Border Protection, Army Corps of Engineers, Naval Facilities Engineering Command, Federal Highway Administration, Bureau of Overseas Buildings Operations, U.S. Agency for International Development.

One common theme from all of the speakers was the prevalent use of design-build in the contracting process. One of the speakers mentioned noted that design-build is the number one contracting vehicle throughout agencies.

COFPAES received many positive comments about the conference, and it plans to host similar conferences in the future.

COFPAES will post the presentations of the presenters on its website at [www.cofpaes.org](http://www.cofpaes.org).

**Mapping Science Committee Meeting** – We attended a Mapping Science Committee Meeting held at the National Research Council. The purpose of the meeting was to discuss the various mapping programs in a number of Federal agencies. Topics included the History and Status of the National Map, the NIH Geospatial Infrastructure Initiative, and FEMA's Mapping the Zone – status of FEMA's investment in lidar and the status of RiskMAP.

The National Map session, which was led by Mark DeMulder, Director National Geospatial Program discussed the various mapping data sets on the National Map with an emphasis on the topographic maps. The session also discussed the Elevation for the Nation program and water and coastal mapping which is part of a \$20 million a year investment by the Federal government. For more information on the progress of the National Map, go to <http://nationalmap.gov/viewers.html>.

The NIH Geospatial Infrastructure Initiative session discussed ways in which the NIH is using mapping and other geospatial data to track and research illnesses and medical issues throughout the country.

FEMA's Mapping the Zone discussion was led by Paul Rooney. We already knew a lot of the information discussed in this session through our meetings with FEMA staff as part of our Floodmap Coalition meetings. One of the topics discussed was Base Flood Elevation data. Mr. Rooney stated that a 1 to 3 foot uncertainty in the floodmap data was acceptable. He also noted that FEMA is working on procuring lidar data and expects to spend \$20 million in the next two years to acquire that data. Finally, he noted that FEMA has heard the concerns raised by stakeholders and users of the new floodmaps regarding the accuracy of the maps, and FEMA has improved the accuracy of the maps.

**Funding for Trig-Star**– This year, Congress decided to do away with all earmarks in all legislation. So our search for funding for the Trig-Star program got a little more difficult. But we are continuing to work with key Members of Congress to find other avenues of Federal funding for the program including funding from grants through the

National Science Foundation and the Department of Education.

**Federal Geographic Data Committee Launches New Geospatial Website** – The Federal government and its geospatial partners recently unveiled a prototype Geospatial Platform website called [www.geoplatform.gov](http://www.geoplatform.gov). The prototype version of the Geospatial Platform combines map based data and tools with the latest internet technologies to deliver geospatial information in a simple, understandable package. Users can easily find federally-maintained geospatial data, services and applications, as well as access data from state, tribal and local governments.

**National Geospatial Advisory Committee** – The NGAC met recently and made recommendations on a number of important issues. ACSM nominee Gary Thompson was named to the NGAC in 2011. His input has been very valuable.

### *Geospatial Platform*

The NGAC strongly recommends that the FGDC Steering Committee immediately take the following actions:

- Finalize the business plan and shared investment strategy for the Geospatial Platform as a part of the FY 2013 budget cycle.
- Designate the managing partner organization with appropriate authorities and responsibilities to implement the Geospatial Platform.

### *LightSquared/GPS Interference Issue*

The NGAC shares the serious concerns expressed by the Department of the Interior, other Federal agencies, and many geospatial organizations regarding the adverse impacts that the proposed LightSquared network would have on our Nation's Global Positioning System (GPS). The NGAC concurs with the comments submitted to the National

Telecommunications and Information Administration (NTIA) by Deputy Secretary David Hayes on August 8, 2011 about these impacts, and encourages Interior and other agencies to work with NTIA and FCC to ensure that the LightSquared proposal does not result in adverse impacts to GPS.

### *Landsat*

The NGAC agreed to work with DOI and USGS to establish an NGAC subcommittee to provide advice and recommendations on Landsat and the National Land Imaging Program.

**STEM Coalition** -- ACSM is a member of the Science, Technology, Engineering and Mathematics (STEM) Education Coalition, and we signed on to a letter from the Coalition to Senators in support of the America COMPETES Act. The America COMPETES Act, which already passed the House, bolsters America's competitiveness

by strengthening the science, technology, engineering and math education fields at all levels. It gives support for basic research and development programs in the STEM fields in elementary and high school.

Also, as part of STEM Education Coalition, we join over 1,000 diverse groups representing all sectors of the technological workforce – from knowledge workers, to educators, to scientists, engineers, and technicians. Through our affiliation with the Coalition, we hope to be able to secure Trig-Star funding by finding broad support for the funding with STEM Coalition members who can, in turn, help us gain support in Congress.

### **Conclusion**

As you can see, we've been quite busy this year. As we move forward, we need the support of ACSM/NSPS members and surveyors across the country to help us reach our goals. I welcome all questions, suggestions and comments on this report.

Sincerely,

Laurence Socci

The C. L. A. Group --- Government Affairs Consultant

American Congress on Surveying and Mapping, 6 Montgomery Village Avenue, Ste  
403, Gaithersburg, MD 20879

Ph. 240-632-9716; Fax: 240-632-1321. [www.acsm.net](http://www.acsm.net)