



REPORT TO CONGRESS

The National Oceanic and Atmospheric Administration's Report on Contract Positions at the National Weather Service

Developed pursuant to the Weather Research and Forecasting

Innovation Act, 2017 (P.L. 115-25)

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THE WEATHER RESEARCH AND FORECASTING INNOVATION
ACT, 2017 (P.L. 115-25) INCLUDED THE FOLLOWING LANGUAGE

“Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall submit to Congress a report on the use of contractors at the National Weather Service for the most recently completed fiscal year.”

THIS REPORT RESPONDS TO THE REQUEST OF THE COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION OF THE SENATE AND THE COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY OF THE HOUSE OF REPRESENTATIVES.

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Report to Congress
Committee on Commerce, Science, and Transportation of the Senate and
Committee on Science, Space, and Technology of the House of
Representatives
on Use of Contractors at the National Weather Service

The Weather Research and Forecasting Innovation Act (Public Law 115-25) directs the Under Secretary of Commerce for Oceans and Atmosphere to submit a report to Congress on the use of contractors at the National Weather Service (NWS) for the most recently completed fiscal year. This report addresses each of the eight points raised in the Act, ranging from an analysis of full-time equivalent (FTE) employees to an analysis of contractor support at the NWS. This report also includes the National Oceanic and Atmospheric Administration's (NOAA's) response to the Department of Commerce (DOC) Office of the Inspector General's (OIG) investigation into the use of contractors by the NWS. Section 410 of the Act states:

(a) Report Required.--Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall submit to Congress a report on the use of contractors at the National Weather Service for the most recently completed fiscal year.

(b) Contents.--The report required by subsection (a) shall include, with respect to the most recently completed fiscal year, the following:

(1) The total number of full-time equivalent employees at the National Weather Service, disaggregated by each equivalent level of the General Schedule.

(2) The total number of full-time equivalent contractors at the National Weather Service, disaggregated by each equivalent level of the General Schedule that most closely approximates their duties.

(3) The total number of vacant positions at the National Weather Service on the day before the date of enactment of this Act, disaggregated by each equivalent level of the General Schedule.

(4) The five most common positions filled by full-time equivalent contractors at the National Weather Service and the equivalent level of the General Schedule that most closely approximates the duties of such positions.

(5) Of the positions identified under paragraph (4), the percentage of full-time equivalent contractors in those positions that have held a prior position at the National Weather Service or another entity in National Oceanic and Atmospheric Administration.

(6) The average full-time equivalent salary for Federal employees at the National Weather Service for each equivalent level of the General Schedule.

(7) The average salary for full-time equivalent contractors performing at each equivalent level of the General Schedule at the National Weather Service.

(8) A description of any actions taken by the Under Secretary to respond to the issues raised by the Inspector General of the Department of Commerce regarding the hiring of former National Oceanic and Atmospheric Administration employees as contractors at the National Weather Service such as the

The report is broken down into eight sections, responding directly to the issues raised in the Act.

(1) The total number of full-time equivalent employees at the National Weather Service, disaggregated by each equivalent level of the General Schedule.

As of pay period 19 (9/17/17 – 9/30/17), the last pay period of the latest fiscal year (FY 2017), the total number of onboard employees of the NWS was 4,329. The below table disaggregates this onboard employee count by each level of the General Schedule.

Grade	Onboard Staff	Grade	Onboard Staff
ES-00	30	GS-13	1,507
GM-13	2	GS-14	516
GM-14	1	GS-15	200
GM-15	1	SL-00	1
GS-04	1	WG-06	7
GS-05	2	WG-10	2
GS-06	10	WL-06	1
GS-07	31	ZA-03	1
GS-08	139	ZA-05	1
GS-09	20	ZP-03	4
GS-10	50	ZP-04	11
GS-11	682	ZP-05	6
GS-12	1,103	Sum:	4,329

Source: Data from United States Department of Agriculture, National Finance Center and as compiled in NOAA's Management Analysis Reporting System (MARS), as of pay period 19 (9/17/17 – 9/30/17)

(2) The total number of full-time equivalent contractors at the National Weather Service, disaggregated by each equivalent level of the General Schedule that most closely approximates their duties.

NOAA does not track or maintain information that identifies or characterizes contractors' employees as FTEs or the number of FTE contractors at the NWS that is disaggregated by equivalent level of the General Schedule. The General Schedule pertains to the federal workforce, and the Federal Acquisition Regulation does not require government agencies to link or crosswalk contractor-provided services personnel duties to the federal General Schedule. Contractors provide services in accordance with contract Statements of Work and, as a general matter, determine the qualifications and duties of the composition of the workforce they will provide. Contractor hiring data are proprietary, and NOAA does not have access to this information.

In a November 2016, in the report titled “National Weather Service’s Oversight of Service Contracts, Document Retention, and Reporting Needs Improvement” (OIG-17-007-A), the DOC OIG looked specifically into the issue of data NOAA provided to Congress on the number of contractor employees at NWS. The OIG analyzed NOAA’s staff directory, badging data from the DOC Office of Security, and other employee datasets. Following its review of these various datasets, the OIG noted that "NWS and NOAA are not required to track or maintain comprehensive listings of the number of employed contractors or the number of former employees that return to the agency as contractors, and have no mechanism in place to do so." This is consistent with what NOAA and NWS have previously explained, which is that contractors provide NWS with services, and determine who among their employees provide those services.

(3) The total number of vacant positions at the National Weather Service on the day before the date of enactment of this Act, disaggregated by each equivalent level of the General Schedule.

Since the date of enactment of this Act, Congress has provided more direction to the NWS. Both the Consolidated Appropriation Act, 2018 (PL 115-141) Explanatory Statement and the Consolidated Appropriation Act, 2019 (PL 116-6) Explanatory Statement state that:

NOAA shall provide quarterly briefings to the Committees on all NWS management and budget issues, to include: a list of funded vacancies, by type and location, including the length of time the positions have been vacant; the Program, Project, or Activity (PPA) from which each vacancy is funded, and the plan for addressing each vacancy; an update on the implementation of the Operations and Workforce Analysis; budget execution by PPA; major procurements; and other topics as appropriate.

The NWS annually reviews and updates its staffing estimate. This means that a new baseline positions/FTE count will be identified each year after making adjustments to reflect the actual appropriation and the program changes that were either accepted or rejected. These briefings to Congress provide updated NWS staffing information on a quarterly basis and inform Congress of the status of NWS vacancies and progress made to-date to fill them.

(4) The five most common positions filled by full-time equivalent contractors at the National Weather Service and the equivalent level of the General Schedule that most closely approximates the duties of such positions.

As mentioned in the response to section two (2), NOAA is not required to and does not track or maintain information that identifies or characterizes contractors’ employees as Federal FTEs or compares their salaries (which NOAA does not necessarily know) to an equivalent level of the General Schedule. NOAA does not receive or maintain contractor data to compare the job duties of contractor personnel with the Federal job series descriptions and grade levels as prescribed by the Office of Personnel Management. Contractor personnel occupy positions that are uniquely defined by each vendor. It should further be noted that the contractors providing NOAA with services determine the appropriate level of compensation for their employees, not NOAA.

In lieu of specific contractor positions, NOAA’s AGO has compiled all NWS obligations for service contracts in fiscal year 2017 and sorted them by the corresponding Product and Service Code (PSC) descriptors as recorded in the Federal Procurement Data System – Next Generation (FPDS-NG). Based on this compilation, the five PSC descriptors where NWS obligated the most amount of funds in fiscal year 2017 were “Professional, Administrative and Management Support,” “Automatic Data Processing and Telecommunication,” “other Professional Support,” “Other Telecommunications” and “Maintenance, repair, and rebuilding of equipment.”

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(5) Of the positions identified under paragraph (4), the percentage of full-time equivalent contractors in those positions that have held a prior position at the National Weather Service or another entity in National Oceanic and Atmospheric Administration.

NOAA contracts for services to be performed and the contractor selects which of its employee(s) will perform the services. As such, NOAA does not maintain records of the employment history of individuals assigned by the contractor to perform under an NWS support services contract.

(6) The average full-time equivalent salary for Federal employees at the National Weather Service for each equivalent level of the General Schedule.

The below table identifies average salaries of Federal employees in the NWS for each equivalent level of the General Schedule as of pay period 19, which ended on September 30, 2017.

Pay Plan	Grade	Average Salary	Pay Plan	Grade	Average Salary
ES	0	\$ 173,109.50	GS	12	\$ 88,698.62
GM	13	\$ 122,115.33	GS	13	\$ 108,204.31
GM	14	\$ 142,650.83	GS	14	\$ 129,864.22
GM	15	\$ 161,900.00	GS	15	\$ 150,326.88
GS	3	\$ 27,518.00	SL	0	\$ 162,397.00
GS	4	\$ 33,373.33	WG	6	\$ 52,395.20
GS	5	\$ 34,153.86	WG	10	\$ 73,091.20
GS	6	\$ 47,982.92	WL	6	\$ 58,198.40
GS	7	\$ 46,047.05	ZA	3	\$ 101,641.00
GS	8	\$ 55,842.00	ZA	5	\$ 161,900.00
GS	9	\$ 56,231.11	ZP	3	\$ 100,826.75
GS	10	\$ 68,499.73	ZP	4	\$ 140,608.91
GS	11	\$ 73,119.64	ZP	5	\$ 161,438.17

Source: Salary data based on United States Department of Agriculture, National Finance Center, as of Pay Period 19 (9/17/17 – 9/30/17)

(7) The average salary for full-time equivalent contractors performing at each equivalent level of the General Schedule at the National Weather Service.

¹ Source: Comprizon Suite – Procurement and Acquisition System Department of Commerce, FY 2017

Similar to the response to section five (5), NOAA contracts for services to be performed based on a description of services needed, and the contractor determines the pay and benefits of its employees that are assigned to perform the required services. Accordingly, NOAA does not manage or track the salary or benefits of individuals assigned to perform its contracts.

(8) A description of any actions taken by the Under Secretary to respond to the issues raised by the Inspector General of the Department of Commerce regarding the hiring of former National Oceanic and Atmospheric Administration employees as contractors at the National Weather Service such as the issues raised in the Investigative Report dated June 2, 2015 (OIG-12-0447).

It was concluded in the OIG Investigative Report, OIG-12-0047, that a former senior official from the NWS was personally and substantially involved in the procurement of his own post-retirement consulting services and took improper steps prior to his retirement to have NWS pay for his housing expenses while he served as a consultant to the agency. In a December 8, 2015, memorandum to the DOC OIG, the NWS Deputy Assistant Administrator and the Director of NOAA's AGO outlined seven actions taken to address the Investigative Report's findings.

Below are the actions undertaken by NOAA to address the findings in the OIG Report:

1. Senior employees and policy-making officials were provided ethics training, conducted on a number of dates in July, August, and September 2015. The training included a module explaining that a federal employee may not, as part of official duties, take actions to arrange for the employee's post-employment activities, including contracting with the government.
2. As of September 1, 2015, all senior employees and policy-making officials are provided with a handout outlining restrictions relating to an employee engaging in activities as part of official duties regarding future contracts with the government (or other post-government employment activities).
3. Materials on-line (and available to all Department employees) have been updated to include a new guide, "A Word About Ethics: Post-Federal Employment as Agency Contractor," which not only sets out the post-government employment restrictions, but also clearly states that, among other prohibited conduct, an employee may not draft a statement of work or otherwise participate in creating a position that the employee expects to fill after leaving federal service.
4. Ethics Office staff was recently reminded (in January 2019) that when the Ethics Office receives a notice from a senior employee or policy-making official about entering into employment negotiations (in accordance with the STOCK Act), the employee must receive, with an acknowledgement of receipt of the notice, a short summary of rules regarding seeking employment and an explanation of the restriction on engaging in actions in an official capacity concerning post-employment activities (including contracting with the government).

5. Ethics training and materials have been modified to further emphasize the obligation to report fraud, waste, and abuse to the OIG. The following statement is included under the Misuse of Resources tab on the Ethics web site: “Employees have **an obligation to report waste, fraud, abuse, or other violations of law.** You may contact the Office of Inspector General Hotline at 800-424-5197 or 202-482-2495 or email hotline@oig.doc.gov to report waste, fraud, abuse, or other violations of law, or to request an investigation. (The Ethics Law and Programs Division does not investigate allegations of violations of law.)” The 2015 Commerce Summary of Ethics Rules also instructs employees to contact the OIG to report fraud, waste, abuse, or other violation of law, and provides the OIG’s contact information. Finally, all Ethics employees who conduct new entrant orientation were recently reminded to emphasize, during new employee orientation, the duty of the employees to report waste, fraud, abuse or other violations of the law.
6. NOAA’s Office of Acquisition and Grants (AGO) issues Acquisition Alerts, the most recent of which was issued on December, 2018, to all NOAA Heads of Contracting Offices for dissemination within their respective Acquisition Divisions. The purpose of the Acquisition Alert is to increase awareness of and compliance with the post-government employment restrictions applicable to federal employees engaged in service to NOAA under contractual arrangements. The Acquisition Alert provides that in all solicitations and contracts exceeding the simplified acquisition threshold, there is language by which the contractor acknowledges the restriction on current NOAA employees regarding contact with offers concerning prospective employment and the corresponding obligations for contractors who engage them. By submission of an offer in response to a NOAA solicitation or acceptance of a contract, the contractor also acknowledges that it has provided notice to former NOAA employees who will provide service to NOAA under the contract of post-government employment restrictions that apply to them. A copy of Acquisition Alert 16-02 is attached.
7. NOAA AGO also issued Acquisition Alert 16-01 (“Acquiring Space for Short-Term Use”), which makes clear that an AGO contracting officer or field delegate is authorized to enter into a lodging agreement for **invitational travelers or NOAA employees on a temporary detail or temporary duty (TDY)** in accordance with the Federal Travel Regulations. The Acquisition Alert also established several internal controls for nonconventional lodging requisitions submitted to AGO. A copy of Acquisition Alert 16-01 is also attached.

Conclusion

We appreciate the work of the OIG and believe that the steps outlined in response to the OIG Report will increase awareness of and compliance with post-government employment restrictions and use of nonconventional lodging.