



Legal Briefing

MAPPS v. United States:

The Stakes for the GIS and Mapping Communities

The case of *MAPPS v. United States* (E.D. Va. No. 1:06cv378), currently pending in federal court in Alexandria, Virginia, could have dramatic consequences for the entire mapping community, including the GIS industry. Simply put, an adverse outcome would effectively exclude everyone but licensed architects, engineers and surveyors from federal government contracts for “mapping” services of every sort and description – not just those mapping services traditionally performed by surveyors.

The MAPPS Plaintiffs’ Claims

In the *MAPPS* case, four trade associations of engineers and surveyors are suing the U.S. Government, alleging that the government is awarding mapping and GIS contracts in violation of a federal law known as the Brooks Architect-Engineers Act. (See 40 U.S.C. §§ 1101 – 1104). This law requires the federal government to use certain restrictive procedures when it awards contracts for various types of “architectural and engineering” (A&E) services, including “surveying and mapping” pertaining to the design, construction and repair of buildings, facilities and other real property – the traditional preserve of surveyors.

The *MAPPS* trade association plaintiffs are claiming, however, that this law is not limited to “surveying and mapping” services of the types traditionally performed by surveyors. Instead, relying on a tortured reading of the law and its history, they claim that it covers literally *all* mapping activity – including the great majority of mapping and GIS activity that cartographers, geographers, GIS specialists, computer science and IT professionals, planners, academics, GIScientists, technicians, and many others in the “non-A&E firm” mapping community and GIS industry have historically performed and are continuing to perform for the federal government.

The *MAPPS* plaintiffs have attempted, so far unsuccessfully, to lobby Congress to amend the Brooks Act to accommodate their special interests. They have now initiated a lawsuit against the U.S. Government seeking to require the Federal Acquisition Regulatory (FAR) Council to change the regulations implementing the Brooks Act so as to:

“define ‘surveying and mapping’ so as to include contracts and subcontracts for services for Federal agencies for *collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man made physical features, phenomena and boundaries of the earth and any information relating thereto, including but not limited to surveys, maps, charts, remote sensing data and images and aerial photographic services.*”

MAPPS’ Amended Complaint, ¶¶ 17, 22-29 (June 9, 2006) (emphasis added).

The Stakes for the GIS and Mapping Communities

In a recent court filing, the *MAPPS* plaintiffs attempted to play down the consequences for the broader mapping community and GIS industry if the court were to accept this definition and rule in *MAPPS*' favor. (See *Pltfs' Mem.* at 23 (Feb. 1, 2007)). But those consequences would be both real and dramatic. If the court were to rule for the plaintiffs, the broader mapping community and much of the GIS industry would find itself shut out of federal mapping contracts. This is because the Brooks Act restricts the award of federal contracts for "architectural and engineering" services to "firms," which the Act defines as entities "permitted by law to practice the profession of architecture or engineering." (See 40 U.S.C. §§ 1102(3) & 1103(d).) With a court victory in this case, the plaintiffs could prevent the government from ever awarding another contract for "mapping" to anyone but a licensed architect, engineer or surveyor.

The evidence indicates that such an outcome would have far-reaching effects on the GIS industry and the broader mapping community. As outlined in affidavits filed with the court on behalf of the Association of American Geographers and four other sponsors* of an amicus brief opposing the *MAPPS* lawsuit, a court victory by the plaintiffs could negatively affect not only those individuals and companies involved in GIS but also those involved in many other types of mapping activity, including GPS field data collection, internet mapping, geospatial analysis, location-based services, remote sensing, academic research involving maps, and map creation or cartographic production of almost any type. The effects would be felt in many industries and applications, ranging from electric utilities to city planning, from environmental protection to national defense, and from agriculture to homeland security.

In short, the evidence shows that limiting federal procurement of all mapping and GIS services to licensed engineers and surveyors – as the *MAPPS* plaintiffs are attempting to do – could cripple the GIS industry; damage U.S. geographic science, research capacity, and competitiveness; and shackle government agencies, all of which depend upon the productivity, talent, scientific and technical skills, and the creativity and innovation that characterize the vast majority of the existing GIS and mapping workforce, which is not represented by *MAPPS*.

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*The amicus brief was submitted to the court on January 24, 2007, by the Association of American Geographers (AAG), the GIS Certification Institute (GISCI), the Geospatial Information & Technology Association (GITA), the University Consortium for Geographic Information Science (UCGIS), and the Urban and Regional Information Systems Association (URISA). The court issued an order accepting the brief on January 29, 2007, making it part of the record in the case. The court will conduct a hearing on the merits of the plaintiffs' claims on February 23, 2007. A decision could follow within the next few months, if not sooner.