

	OFFICE OF MARINE AND AVIATION OPERATIONS National Oceanic and Atmospheric Administration	POLICY 0307	VERSION 1.0
		EFFECTIVE DATE 5/3/10	
	AUTHORIZED BY:  RADM Jonathan W. Bailey Director, Office of Marine and Aviation Operations	REVIEW DATE 5/3/13	
		RESPONSIBLE POSITION NOAA Diving Program Manager	

DIVING SERVICES CONTRACT LANGUAGE

1. PURPOSE

- 1.1 This policy specifies the language to be included in all National Oceanic and Atmospheric Administration (NOAA) dive contracts and associated statements of work for divers or diving services contracted by NOAA.

2. SCOPE

- 2.1 This policy applies to all NOAA programs that contract divers or diving services.

3. POLICY

- 3.1 This policy is to ensure that diving operations are conducted in accordance with this policy and the below referenced documents. Contracts issued for work or services will reference this policy or its most recent revisions whenever diving services are required as a part of contracted work. Wherever conflicting requirements exist, the more conservative requirement will be invoked. Contractors shall operate in accordance with applicable safety standards and to accurately apportion responsibility and liability related to any possible incidents. All NOAA dive contracts and associated statements of work shall contain the following or similar language:

The Contractor shall comply with all applicable Federal and state safety and health standards and regulations applicable to this work, including but not limited to the Occupational Safety and Health (OSHA) Act, 29 U.S.C § 651 et seq. To the extent the Contractor relies on sub-contractors in executing this work, the Contractor shall have sole responsibility for ensuring the sub-contractors are qualified, appropriately trained and outfitted, and comply with all applicable safety and health standards and regulations.

- 3.2 Pre-Award Criteria. The Contractor shall provide:

- A. A list of the qualifications and experience for key individuals involved in the operations to include, but not limited to, divers, tenders, designated persons-in-charge, and vessel captains.
- B. A preliminary Dive Safety Plan that includes potential risks involved in the operation, a mitigation plan to address the risks, and emergency contacts and evacuation plan.
- C. Disclosure of any serious, willful, or repeat Federal or state dive related OSHA safety violations within the past 12 months preceding the proposal due date.

- 3.3 Post Award. Within 5 days after contract award, the Contractor shall:

- A. Submit a written proposed plan which shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; a hazard mitigation plan and a safety and training plan for the divers, incident reporting plan, decompression plan, equipment inspection plan, and subcontractor plan to ensure the safety of divers.

- B. The contractor shall meet with the Contracting Officer's Representative to discuss and develop a mutual understanding relative to administration of the contractor's overall safety program.
- 3.4 The Contractor further agrees to indemnify and hold harmless the Federal Government and its agents and assigns from any claim or liability for injury, death, or loss that allegedly arises from the Contractor or any sub-contractor's work undertaken in performance of this contract.
- 3.5 Insurance Requirements: Dive contractors shall, at their own expense, provide and maintain during the entire performance of the dive contract a minimum of the following kinds of insurance:
- A. Workman's Compensation and Employer's Liability Insurance. The Contractor is required to comply with applicable Federal and state workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in states with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.
 - B. General Liability. The Contractor shall have bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
 - C. Automobile Liability. The Contractor shall have automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.
 - D. Aircraft Public and Passenger Liability. When aircraft are used in connection with performing the contract, the Contractor shall have aircraft public and passenger liability insurance.
 - E. Liability Coverage. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.
 - F. Vessel liability. When contract performance involves use of vessels, the Contracting Officer shall require, as determined by the agency, vessel collision liability and protection and indemnity liability insurance.

4. GUIDANCE

Associated procedures will provide guidance.

5. RESPONSIBILITIES

- 5.1 The contractor shall immediately notify the Federal Government of any incident within 8 hours of occurrence followed by written correspondence within 24 hours detailing the problem, what corrective action was taken, and how the contractor plans to mitigate the reoccurrence of future problems. Failing to report any breach of safety could be a reason for immediate termination.
- 5.2 Should the Contracting Officer become aware of any non-reported non-compliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Federal Government personnel, the Contracting Officer shall immediately notify the Contractor orally and with written confirmation and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the non-compliance and that corrective action shall be required. After receiving the notice, the Contractor shall immediately take corrective action. If the

Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

- 5.3 The Contracting Officer shall inform the OSHA, or other cognizant Federal, state, or local officials, of instances where the Contractor has been notified to take immediate action to correct serious or imminent dangers.
- 5.4 If at any time the Contracting Officer or the Contracting Officer's Representative has questions or concerns and is unsure of the applicable laws governing work to be conducted by the contract diver, the Contracting Officer may seek guidance through their NOAA Line or Staff Office Unit Dive Supervisor, the NOAA Diving Program Safety Officer, or the NOAA Diving Program Manager. (NOTE: This shall not be included in the contract; the NOAA Diving Program's expertise shall be relied on to identify any violation.)

6. DEFINITIONS

Contracted Diving Services	Diving performed in response to specific statements of work by non-NOAA personnel using their own equipment and vessels, independent of NOAA supervision.
Contract Divers	Non-NOAA contracted personnel certified to dive as either NOAA science or working divers by the NOAA Diving Program Manager in support of NOAA's undersea activities.
Unit Diving Supervisor	NOAA divers appointed by Diving Officers of the respective NOAA Line Office (LO) to oversee, direct, and approve all diving activities conducted within the unit and to administer to the needs of assigned dives.

7. REFERENCES

Code of Federal Regulations (29 CFR § 1910.401(a)(2)(iv)) – <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=29&PART=1910&SUBPART=T&TYPE=PDF>

United States Coast Guard, 46 CFR 197, Subpart B

8. AUTHORITY

OMAO Policy 0301 – Category 0300 - Diving

9. NOTES

Effect on Other Documents: None

Distribution: NOAA Divers, LO CFOs