HEARING ON FEDERAL PRISON INDUSTRIES: IMPACT ON SMALL BUSINESS IN FEDERAL PROCUREMENT

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

WASHINGTON, DC, JUNE 6, 2001

Serial No. 107–11

Printed for the use of the Committee on Small Business

U.S. GOVERNMENT PRINTING OFFICE

76–147 WASHINGTON : 2001

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON SMALL BUSINESS

DONALD MANZULLO, Illinois, *Chairman*

LARRY COMBEST, Texas
JOEL HEFLEY, Colorado
ROSCOE G. BARTLETT, Maryland
FRANK A. LOBIONDO, New Jersey
SUE W. KELLY, New York
STEVE CHABOT, Ohio
PATRICK J. TOOMEY, Pennsylvania
JIM DEMINT, South Carolina
JOHN R. THUNE, South Dakota
MICHAEL PENCE, Indiana
MIKE FERGUSON, New Jersey
DARRELL E. ISSA, California
SAM GRAVES, Missouri
EDWARD L. SCHROCK, Virginia
FELIX J. GRUCCI, JR., New York
W. TODD AKIN, Missouri
SHELLEY MOORE CAPITO, West Virginia
BILL SHUSTER, Pennsylvania

NYDIA M. VELÁZQUEZ, New York
JUANITA MILLENDER-MCDONALD, California
DANNY K. DAVIS, Illinois
BILL PASCRELL, JR., New Jersey
DONNA M. CHRISTENSEN, Virgin Islands
ROBERT A. BRADY, Pennsylvania
TOM UDALL, New Mexico
STEPHANIE TUBBS JONES, Ohio
CHARLES A. GONZALEZ, Texas
DAVID D. PHELPS, Illinois
GRACE F. NAPOLITANO, California
BRIAN BAIRD, Washington
MARK UDALL, Colorado
JAMES R. LANGEVIN, Rhode Island
MIKE ROSS, Arkansas
BRAD CARSON, Oklahoma
ANÍBAL ACEVEDO-VILÁ, Puerto Rico

DOUG THOMAS, *Staff Director*
PHIL ESKELAND, *Deputy Staff Director*
MICHAEL DAY, *Minority Staff Director*

CONTENTS

	Page
Hearing held on June 6, 2001	1

WITNESSES

Hoekstra, Hon. Pete, Member, U.S. House of Representatives	4
Maloney, Hon. Carolyn, Member, U.S. House of Representatives, 14th district, New York	6
Aragon, Mr. Joseph, Chairman, Federal Prison Industries	14
Gentile, Ms. Bobbi President, Q–Mark, Dayton, OH	17
DeGroft, Mr. Robert, President, Source One Office Furnishings, Albuquerque, NM	19
Green, Ms. Kass, President, Pacific Meridian Resources, Emoryville, CA	21
Votteler, Mr. Carl, President, Chapter 144, Federal Managers Association	26

APPENDIX

Opening statements:	
Manzullo, Hon. Donald	54
Velázquez, Hon. Nydia	59
LoBiondo, Hon. Frank	61
Prepared statements:	
Hoekstra, Pete	63
Maloney, Carolyn	69
Aragon, Joseph	71
Gentile, Bobbi	77
DeGroft, Robert	82
Green, Kass	98
Votteler, Carl	106
Additional Information:	
Statement of Lawrence Skibbie, President, National Defense Industrial Association	112
Statement of the Small Business Legislative Council	116
Additional material submitted by NDIA	118
Mr. Aragon's responses to post hearing questions	154

HEARING ON FEDERAL PRISON INDUSTRIES: IMPACT ON SMALL BUSINESS IN FEDERAL PROCUREMENT

WEDNESDAY, JUNE 6, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:05 a.m. in room 2360, Rayburn House Office Building, Hon. Donald Manzullo (chairman of the Committee) presiding.

Chairman MANZULLO. The Committee will come to order. If the panel will have a seat?

Who has my book? Is this the one I brought? Okay. Thank you.

Today the Committee will be examining the role of Federal Prison Industries and its role in government procurement and the effect it has on small businesses and the provisions of H.R. 1577, the Federal Prison Industries Competition and Contracting Act.

At the outset, let me say this. I believe prisoners need training and education and real life skills. I believe in the goal of prison work and Federal Prison Industries. The goal—I think it is important that prisoners are not idle and that they contribute in some way to restitution for their victims.

However, I believe that these goals cannot overshadow the increasing impact that Federal Prison Industries has on private sector businesses, particularly small businesses seeking to sell to the federal government.

For example, in the congressional district I am proud to represent, there is a blind and drapery manufacturer, John Miceli, Sr., of Marengo, Illinois. He would have been here today, but a recent heart attack prevented his testifying. If he were here, he would tell us that he was completely shut out of federal contracting for draperies and has been for several years. This is because Federal Prison Industries has seized all opportunities in that field. He does not even get to bid.

The same thing occurs to other small businesses in various industries all across the country. There are laws that prohibit the importation of goods produced by prison labor into this country, yet U.S. companies face competition from home grown prison labor at slave labor wages. That competition continues to grow.

How are people who are law abiding, pay the taxes and follow the increasingly ridiculous regulations supposed to compete against the government subsidized, tax exempt, regulation exempt behemoth that continues to grow and grow and grow?

Worst of all, FPI meets in secret. No FPI industry board meeting is open to the public. They can come and testify if they submit their testimony two weeks in advance, but when the decisions are made the doors are closed. How can this be an arm of the government?

FPI is constantly seeking to expand into new products and now plans to move into the service sector of federal procurement, all the while combating changes to the many advantages that they enjoy—direct borrowing from the Treasury, low cost labor, subsidies from the Bureau of Prisons and preferential treatment in federal contracting.

Our first panel will be Representative Peter Hoekstra, the author of H.R. 1577, a legislative proposal to reduce some of these competitive advantages and allow businesses to compete with Federal Prison Industries. He will be joined by Congresswoman Carolyn Maloney of New York.

On our second panel, we will hear firsthand about the competitive disadvantages facing small business from three small business people. We will also hear from Mr. Joseph Aragon, the chairman of the Board of Federal Prison Industries. I want to thank him for coming because I believe we need to have all sides fully explored. Finally, we will hear from Mr. Carl Votteler from the Federal Managers Association, an organization which represents federal procurement officials and civil servants.

I am going to yield to Mrs. Velazquez, our Ranking Minority Member, and then I have one Member that wants to give a very brief statement in lieu of being able to stay here and question the witnesses. Mrs. Velázquez has a similar request.

Mrs. Velázquez?

[Chairman Manzullo's statement may be found in appendix.]

Mrs. VELÁZQUEZ. Good morning, and thank you, Mr. Chairman.

One of the most important roles this Committee plays is to serve as a watchdog for the interests of small businesses. Too often, even though small businesses remain the driving force in the economy, they must do so on a less than level playing field. In our work, we see a whole host of examples where small businesses are forced to compete without many of the advantages enjoyed by their competitors.

Time and time again, whether it is health care, pension or worker training, we have one set of rules for small business and one set of rules for corporate America. This Committee has well documented the unfair treatment that small businesses have received in the federal marketplace through such practices as contract bundling where we have seen opportunity after opportunity stalling from small businesses all in the name of streamlining government. Unfortunately, we all know the real story, which is the fact that due to these practices, small businesses are being streamlined right out of business without a single penny of taxpayers' money saved.

Today, we look at another form of unfair competition for small businesses, that coming from the Federal Prison Industries. The idea behind FPI is to use work as a means of rehabilitation and to teach inmates a skill which can be used to put them back on the right track. Every Member of this Committee supports this.

If it was only that simple. Unfortunately, somewhere along the way this honorable goal has gone awry. This laudable goal of giving individuals a means for a second chance has turned into an industry whose sole focus is not rehabilitation, but turning a profit.

In just five years, the number of industries FPI has dealt with has nearly doubled, making them the fortieth largest federal contractor, just ahead of Motorola. This level of involvement might be justified, but when you realize that while FPI has become a mega contractor and it benefits only 17 percent of the federal prison population, clearly something is wrong.

FPI has expanded their system through the use of preferential contracting treatment, exemption from such labor laws as OSHA and minimum wage standards to an unendless line of credit from the federal government. FPI has used this benefit to expand its market share. When you look at how the playing field has become so skewed in favor of FPI, it is little wonder any small business can compete.

Compounding these advantages is that FPI are not even held to basic standards of product quality or requirements to meet deadlines. If any one of the small businesses testifying today ran their business the way FPI does, they would quickly find themselves out of business. This is especially a concern because many of the problems that come from FPI are used by the troops in our military and agencies like FAA that ensure safe transportation.

These are areas that cannot be taken lightly. We have an obligation to ensure that the public is safeguarded. Today the Committee will examine just how to put the brakes on the runaway train that is Federal Prison Industries. One thing is clear. The FPI system is robbing small businesses of opportunities with little or no benefits to this nation's inmates, and that must change.

Thank you, Mr. Chairman.

[Mrs. Velázquez's statement may be found in appendix.]

Chairman MANZULLO. Thank you.

I am going to recognize Mr. LoBiondo, who has to go to the Floor and manage a bill, and then after him Mr. Udall. They both have to leave. Then we will get on with the questioning.

Mr. LoBiondo?

Mr. LOBIONDO. Thank you, Mr. Chairman, for the courtesy extended. Many of my comments, and I will shorten them up in the interest of time, follow yours and Ms. Velázquez's.

Last October I testified before the House Education and Workforce Committee, Subcommittee on Oversight Investigation, regarding Federal Prison Industries' proposed expansion into the military apparel market. At that hearing, Mr. Hoekstra had given me the courtesy of allowing one of my constituents, Mr. Donald DeRossi of Donald DeRossi & Son in Vineland, to testify about the difficulties with business experience that this would create.

In essence, what we are hearing this morning is that Federal Prison Industries would allow convicted felons to take jobs from Main Street, America. Basically what we are talking about here are hardworking men and women who would be thrown out of work almost immediately because the word that they use, compete, is used very loosely. They really do not have to compete because they are a mandatory source.

I strongly support the introduction of this legislation, support Mr. Hoekstra in his work on this legislation, and ask us all to take a very close look at this on this Committee and in this Congress.

Do we want convicted felons making military uniforms for our men and women in armed services? Do we want convicted felons to be taking jobs from Main Street America? How are we going to go back home and explain that to hardworking men and women who have jobs that have good benefits that we are just going to by the stroke of a pen with this situation allow that to happen?

I echo the Chairman's statements about wanting to make sure that we have activities for prisoners that allow our corrections officers to remain safe, but this is good legislation that Mr. Hoekstra has introduced. It is common sense legislation that I think we need to all support, so thank you very much, Mr. Chairman.

Chairman MANZULLO. Thank you.

Mr. Udall.

Mr. UDALL. Thank you, Mr. Chairman, for the courtesy and Ranking Member Velázquez. Unfortunately, I am trying to juggle a couple of things today, and I am going to be over on the Resources Committee to hear Secretary Norton testify.

I just wanted to take this time to welcome all the witnesses who are here with us today. Mr. Robert DeGroft, from my home state of New Mexico, is here. Mr. DeGroft is a small business——

Chairman MANZULLO. Why do you not have Mr. DeGroft stand up so we can recognize him?

Mr. UDALL. He is right here.

Chairman MANZULLO. Thank you.

Mr. UDALL. He is a small business operator in Albuquerque, New Mexico. I am glad he is with us to share his views as they pertain to today's hearing.

Mr. Chairman, I would just ask that my full statement be placed in the record, and I hope that I might be able to make it back to hear some of the panels.

Thank you very much.

Chairman MANZULLO. All statements will be placed in the record of all Members of Congress and all witnesses.

Welcome, Congressman Hoekstra, and welcome, Congresswoman Maloney. Which of you wants to go first? Who has the worst schedule? Whoever wants to go first, just start.

Mr. HOEKSTRA. All right.

Ms. MALONEY. I will respect the Majority.

STATEMENT OF THE HONORABLE PETER HOEKSTRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. HOEKSTRA. Thank you, Mr. Chairman and Ms. Velázquez.

I will just take one exception with Ms. Velázquez's opening statement. I think many small businesses in America would love to conduct their business exactly the way that Federal Prison Industries does, which means they could go to their captive customers and mandate the product that they will buy, the price that they will pay and when they will receive the product. Other than that, I think your characterization of Federal Prison Industries is very accurate.

I want to thank this Committee for scheduling this hearing. Over the last number of years, we have tried to carry this ball somewhat in the Education and Workforce Committee, but as this business definitely impacts small business, this is the appropriate venue to have this dialogue, this debate and this discussion as to exactly what is happening with Federal Prison Industries and how it is impacting what many of you have described and passionately believe the engine of growth in America, which is small businesses. I think in a disproportionate way, the impact of Federal Prison Industries has been felt by our small businesses, the entrepreneurs that make this such a special place.

The hearings that we have held through the 1990s have demonstrated that what is going on with Federal Prison Industries has only gotten worse. FPI has expanded its traditional product and service lines to its captive federal agency "customers". By 1999, FPI had annual sales of $566 million. It is now the thirty-sixth largest government contractor. It employed almost 21,000 inmate workers at a centrally managed chain of 100 factories across the country. This is a formidable competitor.

Beginning in 1998, FPI began a statutorily what we believe unauthorized expansion into the commercial market for services. This expansion was based on a very flimsy legal opinion.

As you will hear from one of today's witnesses, businesses of all sizes continue to be denied the opportunity to even bid on government contracts funded with their own taxpayer dollars. Law abiding workers continue to lose job opportunities or their very jobs. Federal managers must obtain FPI's permission before they can make purchases that will get them the best value for the taxpayer dollars entrusted to their care.

Even federal inmates would have a better chance to make a successful return to society if they had more access to modern hands-on vocational training linked to needed remedial education. We share the Chairman's goal of making sure that prisoners work, but, most importantly, that they receive the skills that will enable them to make the transition back into private life when they leave prison.

The bill that we have introduced, the Federal Prison Industries Competition in Contracting Act of 2001, has probably been one of the more rewarding opportunities that I have had to work on in my time in Congress not because of the progress that we have made, but because of the relationships that we have built and the coalitions that we have put together to work on this issue.

Representative Maloney has been with us from the beginning. Mac Collins is another lead co-sponsor, but on the Democratic side the person that has been the lead co-sponsor has been Representative Frank from Massachusetts, so we have a good cross section of the Congress, a bipartisan consensus that change needs to take place.

Also with outside groups we have been able to bring the Chamber of Commerce, the AFL–CIO, the Teamsters, you know, various business groups and labor organizations together. We have the Federal Government Managers Association, who is supporting what we are taking a look at doing.

We have, I think, put together a good coalition that has obviously looked at this issue from a number of different vantage points and said this bill represents a fair return to competitiveness, to protecting the interests of American taxpayers, American workers and American businesses.

You know, Mr. Chairman, you mentioned in your opening statement some of the comments or the practices of the Federal Prison Industries, the board that provides oversight. I am glad that they are testifying today because I think that you have a number of good questions that need to be asked and need to be fully explained.

The expansion into services, into the commercial market. Where does that authority come from? An explanation as to why the decisions that they make that have such an impact on American workers and American businesses; why those decision are made in secret? Why the door is not opened up on this process and why in many cases with the Federal Prison Industries Board with their mandate being to protect the interest of taxpayers, of workers and American businesses, why so often the decisions appear to become a captive of Federal Prison Industries with their main goal and interest being to protect the interest of Federal Prison Industries rather than the interest of American workers. How has that change come about?

You know, you have pointed out also a number of other advantages and benefits that Federal Prison Industries has versus the private sector. I would like to submit my entire statement for the record and will stay to answer any questions or comments that you may have.

Again, thank you very much for leading this oversight effort through this Committee, and we look forward to working with you and the other Members of your Committee.

[Representative Hoekstra's statement may be found in appendix.]

Chairman MANZULLO. Thank you very much.

Congresswoman Maloney?

STATEMENT OF THE HONORABLE CAROLYN MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Ms. MALONEY. Thank you very much, Mr. Chairman. I am particularly proud to be here with Ranking Member Velázquez and Sue Kelly from the great State of New York, and I thank all of you for being here today and for having this oversight hearing.

I would request that my entire testimony be placed in the record. I know you are anxious to hear the people testifying. As my colleague mentioned, we have broad bipartisan support from Members in Congress and also business, labor and really all factions of our society.

I feel very passionately about this bill. I believe that it is important, and I congratulate Congressman Hoekstra for his leadership. I would like to publicly thank him for his efforts to help me in New York to save jobs that we would have lost to the galloping prison industry that is going forward in many cases claiming jobs and not even following their own procedures of hearings and openness.

I went to my office one day. I think all of you as Members of Congress can identify with this. I was greeted by roughly 50 people who worked in Glamour Glove factory and their owner, Mr. LaBovier. They announced that they were making gloves for many places, but one of their biggest clients was the U.S. Government. They were making the military gloves, the dress gloves, the gloves that our officers and combat personnel wear when they defend this country.

They woke up one day and found out that they had lost their entire government order and that they would then be going bankrupt because this was a very important part of their business.

This is an example where the FPI did not follow their own rules. They were supposed to have a hearing. They were supposed to notify. With Congressman Hoekstra, we appealed to FPI. We went through several years, through letters, meetings, et cetera, and we reversed that decision.

It is hard enough for American workers to compete with foreign competition, but to have prisoners who have basically guaranteed work against your job where you are paying taxes and you are law abiding is absolutely dead wrong. I can tell you that in this particular case and in every case in short the FPI, the Federal Prison Industries, has a corner on the federal market.

Under the FPI authorizing statute, all federal agencies are required to purchase products from the FPI if FPI believes its products meet the agencies' needs and if its prices do not exceed the highest price offered to the government.

This preferential status is expanded further by the provisions of the government wide Federal Acquisition Regulation which designated FPI's status as, "mandatory source of supply" by requiring an agency contracting officer to obtain FPI's clearance before purchasing any product on FPI's list of approved products from a commercial source.

Now, we have two areas that we need to look at. I know that we all are concerned about saving revenues, saving taxpayers dollars, and also protecting American jobs, but under the FPI procedures now you are not getting the best price for the product because the American worker is not allowed to even compete if that product is on FPI's list. They can then just contract with the Federal Bureau of Prisons.

Now, I totally support rehabilitative work, and I totally support supporting our convicts and getting them education and training them for jobs, but not at the expense where they are basically subsidized and they have a lock on the door to keep American workers from competing with them.

What is very good about the bill that the congressman has put forward, and I am proud to be original co-sponsor and to have worked with him on this for roughly now five years, or is it getting to be six? In any event, we have worked on this steadily every single year, and the American worker is not allowed to compete.

Under our bill, the American worker would be able to compete for the business, and government would hire the person who gives the best price. That saves the government's money, and it also allows the hardworking citizens to keep their jobs and not have them taken away by convicted felons.

I feel that this is an extremely important bill, and I support it completely. I look forward to hearing the testimony of the various businesses that are coming forward today and workers who are coming forward today, and I hope that it will be considered in a positive way by the Committee.

[Representative Maloney's statement may be found in appendix.]

Chairman MANZULLO. Thank you very much. I have no questions of both of you.

I would request that the Members here on the panel if possible limit the amount of time that they would take in questioning our two Members so that we can get on to the second panel because many of them have traveled a great distance.

Mrs. Velázquez, you had a question?

Mrs. VELÁZQUEZ. Yes. I have two questions. First and foremost, I want to congratulate both of you for the work on this issue and being persistent regarding this issue.

Congressman, I have two questions regarding your legislation. I see there are two items that were not included in your legislation. I did not see any specific requirement that FPI be held responsible for workplace safety issues like OSHA requirements that every other U.S. business is subject to. Have you considered adding workplace safety requirements such as OSHA oversight?

Mr. HOEKSTRA. No, but we will take it under advisement, and we will consider it.

Mrs. VELÁZQUEZ. Okay.

Mr. HOEKSTRA. That is a very good suggestion. Thank you.

Mrs. VELÁZQUEZ. Great. Thank you.

Additionally, I understand that FPI can borrow expansion funds from the U.S. Treasury at reduced rates. This is not fair to U.S. businesses. Why not require in your legislation FPI to only access capital at similar rates to small businesses?

Mr. HOEKSTRA. I think that is another good suggestion. We are glad we are here today. We are looking at ways to improve the legislation. Obviously we have not thought of everything as we have gone through this process. Actually, I did not even know about that until last night when I think maybe somebody from your staff or whatever had notified us that there was an interest on that.

My understanding is yes, that they do get loans from the Treasury at very favorable rates and then on occasion actually go back and invest those dollars at a higher rate, which again that is another thing that some of our small businesses would like to have what FPI does.

A very good suggestion. We will take a look at both of those issues.

Mrs. VELÁZQUEZ. Great. I look forward to working with you——

Mr. HOEKSTRA. Yes.

Mrs. VELÁZQUEZ [continuing]. On those issues.

Mr. HOEKSTRA. Great. Thank you.

Mrs. VELÁZQUEZ. Thank you, Mr. Chairman.

Chairman MANZULLO. Thank you.

Mr. Toomey?

Mr. TOOMEY. Thank you, Mr. Chairman.

I also would like to commend you for your work on this. You know, I was, frankly, shocked when constituents of mine first ex-

plained to me the nature of this problem and the fact that we have a system in which small businesses and law abiding workers are systematically denied jobs and business by a government monopoly, essentially, that is employing convicted criminals. It is really shocking I think to most people's sensibility.

I want to congratulate you for developing this bill. I am happy to be a co-sponsor of the bill. A couple of questions. I want to make sure I understand some features here.

What I understand is that your bill would allow the FPI to compete for business. What it takes away is the mandate that would force government agencies to purchase their products. Is that correct?

Mr. HOEKSTRA. That is right. I mean, there is a possibility that we could come back or someone would come back in three or five years after this goes into effect and says hey, FPI is still taking jobs.

What the business community has really in a compromise mode said is we are willing to compete. Just give us the opportunity to compete. There is nothing more frustrating to see this business, you know, like the glove business go to Federal Prison Industries without even providing this company with the opportunity to bid.

Mr. TOOMEY. You know, I am glad you mentioned the glove business because in my district the textile and garment industry has been terribly hurt with terrible job loses that have come from a variety of factors. It seems to me kind of outrageous that we would impose further job losses from the government's own doing.

Are you concerned that this is really just a modest step and, in fact, that prison industries would still have tremendous competitive advantages in their cost structure, for instance, that we need to go back to look at subsequently?

Mr. HOEKSTRA. I think this is an initial step. You know, once we open it up it will change the nature of how FPI competes in the markets that it goes into, I believe, when you eliminate the mandatory sourcing.

I think, you know, what we can actually see them going into is a whole different set of businesses, which I think would be recommended. Remember how they get their business today. They do not do it on quality or competitiveness. They just go in and say we would like to do this. By the way, you have to buy from us.

We would have to see how Federal Prison Industries would respond, but, you know, we never get anything right the first time, and I would guess that this would require constant oversight for both reasons.

We want to see what it does to small business, but we also want to see the impact on the inmates to make sure that they are still getting or that they would have the opportunity to get the training and the skill necessary to make the successful transition when they leave prison.

Ms. MALONEY. I appreciate Mr. Toomey's statements, and I support your statements. We have had this bill around for a long time, and it is a modest bill. I agree with you. We should have gone farther but we have not passed it yet.

What we are saying is we do not want companies like Glamour Glove to have to close down because FPI decides without notice

they are going to take their business away from them. As the owner and the workers said to me, give us an opportunity to compete. We can beat the prison workers—we are sure of it—if you would just give us an opportunity to compete.

Until we got involved, they were not even giving them a chance to compete. They were just taking the business away and giving it to FPI without even allowing them to say I can do it better and I can do it faster and I can do it at a better cost to the government.

Mr. TOOMEY. Well, I think the—I will wrap up, Mr. Chairman.

Chairman MANZULLO. Yes. Let me cut you off there. I really want to move on.

Mr. TOOMEY. I will yield the balance of my time.

Chairman MANZULLO. Mr. Davis, you had a question?

Mr. DAVIS. Yes, I did, Mr. Chairman, if I could. I have a statement that I will submit for the record.

I certainly want to commend both the witnesses in terms of their work on the issue. However, I must confess that the questions and comments that I have been hearing have caused some serious concerns in my mind in terms of whether or not we are just talking about making sure that there is an opportunity for businesses to compete. I hear people talking about a comparison between law abiding citizens having a chance to work, as opposed to these convicts. That alarms me.

I mean, when I think of the number of people who are incarcerated in this country and the poor job of rehabilitation that we are doing and the fact that they come out of the penitentiary and jail each and every week in worse shape when they were when they went in wrecking havoc back on the communities where they come.

I think that we have to seriously be about the business of making sure that people who are incarcerated not only have an opportunity to work, but to learn skills, to learn work ethics, to be trained, that they have all of the assessments that are needed so that when they come out they are not in worse shape than they were when they went in because if they are they are going right back in, and we are going to be using the taxpayers' money to take care of them.

I also want to know what is going to happen as the trend is developing where there are many people who believe that individuals who are incarcerated should be paying for their stay. I think there are people now, a school of thought, suggesting that people who are incarcerated should be paying for their keep. If they do not have an opportunity to work, then how do they pay for their keep?

I am a strong defender of small businesses and small business development, but I have a great deal of concern about our prison system and what we are doing and whether or not we just want to correct this so that there is competitiveness or are we concerned that these inmates are working and other people are not?

I mean, I hope that is not the case, and I am not suggesting that that is the intent of the sponsor, but I must confess that some of the comments that I am hearing as we discuss the issue seem to be suggesting that.

Mr. HOEKSTRA. Just to comment, I mean, we are also through this bill taking a look at other opportunities where prisoners could work and where they could make the successful transition.

We have talked about, and it is not part of the bill, but it is something that we are considering as we are working with the Judiciary Committee, who has the jurisdiction over a lot of these other issues. We are taking a look at perhaps allowing and facilitating work with the prisoners with not-for-profit organizations, things like Habitat for Humanity and those types of things. We would work with the business community and organized labor. Working on those kinds of projects actually might give the prisoners some of the training that would enable them to go into the construction trade after they leave prison. We are very aware of that issue.

As the Chairman indicated in his opening remarks, we are concerned about providing the vocational training and the essential skills necessary for when they leave prison.

Ms. MALONEY. I want to congratulate Mr. Davis for the points that he brought up that are very important. I totally, completely support rehabilitation, work opportunities and supporting and educating our clientele, our citizens that are in prison.

But, Danny, if you could have seen the faces of the 50 people who came to my office and were basically told that they did not have a job by the federal government because they took the contract away, and when I looked in the faces of those people—many of them were in their forties, their fifties, their late thirties. I could just see that they would never get another job. The jobs are not there. The jobs in their industry are not there. It is the last glove factory in New York. The jobs were not there for those people.

We are hearing two things. You know, some people say we should be more supportive to prisoners, and I am supportive to prisoners, but not to the extent that government allows them to take away a job and does not even allow the American workers to compete for it. That is wrong, too; especially some of these jobs where the people are older. They cannot learn a new skill. The jobs are not there. I remember just looking at their faces.

Actually, I compliment my colleague. He came to New York and toured the factory. I would say that most of those people, if they lost their job, would not find another one.

Mr. DAVIS. And I would agree with you because I want to go ahead and let the Chairman move ahead, but when I see the helplessness, the hopelessness, the numbers of families who are impacted because they have relatives who have come out of the penitentiaries who can do nothing but live off them, who do not have a job, cannot work, it is a big debate. I think we are going to be debating it a great deal.

I certainly do not want to, Mr. Chairman, delay your movement on to other witnesses. I think it is a real issue, and I think it is one that is going to require tremendous analysis and debate as we move to the point of making some decisions.

Again, I commend you and thank you both for your work on the issue and the legislation.

Chairman MANZULLO. Thank you.

Mrs. Kelly?

Mrs. KELLY. Thank you, Mr. Chairman.

Danny, I, too, have some concern. I represent a great many state prisons, as well as a federal prison, and I have been through those

facilities. There are a couple of underlying currents I hear here, and I understand what you are talking about, but I also know that perhaps you may, as I, be concerned about prison guards.

I am concerned that if the prisoners have nothing to do but body build—we have reduced the number of prison guards because we have reduced the amount of monies going into the prisons. The guards' lives are at stake at times. It is important that we acknowledge that.

I am pleased to see the new provisions in this bill where you say that you have enhanced the deductions from the wages of inmates of FPI to pay for the restitution to their crime victims—I think that is really good—and to support the inmates' family and to help accumulate that gate fund that they need in order to get back into the community. I think that is a very good thing. I am glad to see it is here in the bill.

My only question about the bill at this point, and I stand very strongly in favor of making the FPI live up to the same mandates that everyone in small business has to do. I do not have a problem with that. I only am sorry that we can only reach the federal prison system and not the state prison system because all prison systems need to be affected here.

When you say here that what this bill would do is eliminate FPI's ability to overcharge by specifying that FPI's price not exceed a fair market price, which is perfectly logical, as determined by the agency contracting officer, then you say generally through competition. When would there be exceptions? I cannot imagine that there would ever be an exception to competition in this kind of a situation.

What are you thinking about in terms of acceptance, if any?

Mr. MONTALTO. I am Bill Montalto, special counsel to Mr. Hoekstra, and have some experience in government procurement.

There are in current law seven statutory exceptions to competition, so it is possible that FPI could be a producer of an item that they are the only source at this time of the government in which case you cannot have competition because it is not possible.

I was just trying to key this statutory change into the 1984 Competition in Contracting Act. That is I think——

Mrs. KELLY. Thank you very much. That very succinctly answers my question.

Thank you very much. I want to thank both of you for appearing here today. This is a very important issue for our small businesses.

Chairman MANZULLO. Thank you, Mrs. Kelly.

Mrs. Tubbs?

Mrs. TUBBS JONES. Thank you. I came in late on the testimony. Unfortunately, today or tomorrow is my page's last day, and I wanted to do a one minute on the Floor to salute him.

I did come in hearing some of the same commentary that my colleague—Mr. Chairman, thank you very much; I apologize; and Ranking Member—was making with regard to inmates. Both of you know that I am a former Judge, as well as a former prosecutor, district attorney from Cuyahoga County, and I say this with a lot of heartfelt feeling about the issue to suggest to you that if in fact we are going to move some of the work from FPI to some of the small

businesses perhaps then we might include in a requirement that they employ ex-offenders.

We have a ton of ex-offenders out here who need jobs, who need to be paid. If they are not going to be able to get the work in prison, perhaps we could put a stipulation on the end that they would be encouraged to do that.

I know that might be kind of forward thinking and far thinking, but there are people who are out of jail who have paid their time and who have done their dividend, and they need to have employment. Why not let them do some of the work that they have already been trained to do in a penitentiary somewhere?

I would secondly encourage my colleagues that even though people may be ex-offenders or convicts that they are still human beings in our society and all are due the same respect as other members of our society.

I am for small business. I spoke with the small business organization this morning at 8:00 at their breakfast, and I think as we do things to make changes to supporting small business we need to keep in mind that in addition to small business there are other people out there, and there has to be a balancing. Let us put FPI in check, but let us not do it to the detriment of those who are supported by it as well.

Thank you very much, Mr. Chairman, and I congratulate both of you on the work that you are doing. If I can be of assistance, please do not hesitate to let me know.

Mr. HOEKSTRA. Just a quick comment to that. I think we are very concerned about the integrity of the prisoners. I mean, one of the folks that we have brought into this has been Chuck Colson in Prison Fellowship to make sure that the things that we will do will enhance the dignity of the people in the prisons and the process that they go through rather than reduce the dignity.

Mrs. TUBBS JONES. Thank you.

Chairman MANZULLO. I appreciate it very much. You know, I was telling Mrs. Velázquez with regard to her suggestion to make prisons subject to OSHA that you might have the first time in history where Republicans would be in favor of the expansion of OSHA. [Laughter.]

You know, in a sense what she says makes sense because if the purpose of OSHA is for workplace safety, then prisoners should be treated as anybody else and have the opportunity to work in a safe place. The theory is there; one of the other things that I would suggest is perhaps treating goods that come from FPI the same as we do with the general system of preferences, GSP, which we do for imports. Those are special laws that allow imports from third world nations, and we have special laws that say that they really cannot compete in private sectors, et cetera.

You know, maybe by making your bill more complicated—I am serious—it can gain more foothold in more Committees.

We really want to take this opportunity to thank both of you for coming here. We appreciate your wisdom and your insight and the tremendous amount of work that you have been doing. Obviously we believe that you are headed in the right direction. Thank you for coming.

Mr. HOEKSTRA. Good. Thank you.

Mrs. MALONEY. Thank you.

[Panel excused.]

Chairman MANZULLO. If the panel will come up, we can continue our hearing.

[Pause.]

Chairman MANZULLO. Glad to have you here. The lights up here, when it is on green that is go. Do not push it yet. When it is yellow, that means you have one minute to go. It is usually a five minute clock.

First of all, thank you for coming today. If I mispronounce your name, please do not hesitate to correct it.

Our first witness will be Mr. Joseph is it Aragon?

Mr. ARAGON. Aragon, Mr. Chairman. Aragon.

Chairman MANZULLO. Aragon. Okay. First I thought it was an Italian name like mine with a vowel missing like Mr. Pascrell. I tease him all the time on it.

I appreciate your coming here, and we look forward to your testimony. Thank you very much.

STATEMENT OF JOSEPH ARAGON, CHAIRMAN, FEDERAL PRISON INDUSTRIES, ACCOMPANIED BY STEVE SCHWALB, CHIEF OPERATING OFFICER

Mr. ARAGON. Thank you, Mr. Chairman. As a fellow restaurateur, Mr. Chairman, my roots, I guess Italians and Hispanics, we share a lot of commonalities.

I am a small businessman. I believe I have a lot of commonalities with the people in this room. Mr. Chairman, Ms. Velázquez and other Members of the Committee, I appreciate the opportunity to appear before you today to discuss Federal Prison Industries, which I will refer to in my testimony as FPI, and its relationship with small businesses.

I might also mention, Mr. Chairman, that I have been honored to be selected as the Small Businessman of the Year for Colorado for 1996 and have long—thank you, Mr. Davis. And have long been appreciative of the support this Committee has for small businesses.

It is widely accepted that small businesses are the most prolific producers of jobs in America. As a member of the Small Business Administration's National Advisory Committee, I recognize how critical small businesses are to the economic vitality of our country. While that position is similar to my FPI role in that it is non-paid public service, I continue to work in those capacities so that I may carefully monitor the state of small businesses in this country.

The hearing today is entitled Federal Prison Industries: The Need for Reform. Let me state at the outset that the FPI board has endorsed for many years reforming the 67-year-old statute under which FPI operates. The question before us is not whether we should reform it, but how we should reform it. With the presumption in favor of change, I would like to provide certain facts and address several premises which need to be taken into consideration as public policy choices are made.

It is well established that FPI is an effective means of teaching inmates valuable job training and work skills, thereby directly impacting their ability to successfully reintegrate into society fol-

lowing release from prison. Inmates who work in FPI are less likely to return to criminal activity.

Additionally, FPI provides work assignments for substantial numbers of inmates in medium and higher security prisons who would be prone to engage in illegal and violent activities if not productively occupied. FPI is wholly financially self-sufficient, thereby substantially lowering the cost to the taxpayer of a safely managed federal prison.

According to the Bureau of Prisons, by 2006 the federal inmate population will likely reach as high as 200,000 inmates. The Bureau of Prisons has 29 new prisons under development to keep pace with this growth. I might point out, Mr. Chairman, that not 20 years ago those 29 federal prisons that are under development represented the total amount of federal prisons that were in operation. Now we have 100 more.

All of these new prisons will house medium and high security inmates, which are the most difficult inmates to safely manage and are those who most need to positively change their lives by acquiring strong work habits and job skills.

We also know that over 95 percent of all federal inmates will return to our communities upon completion of their sentences. Professional, rigorous research has demonstrated that inmates who participated in vocational training and FPI work are 24 percent less likely to recidivate and are 14 percent more likely to be employed even as long as 12 years after release. This research has also confirmed that inmates from racial and ethnic minority groups, which are the fastest rising subgroups in prisons, as well as those who benefit more from Federal Prison Industries, and the research has demonstrated that many times.

With the growth trend in the federal inmate population and the future activation of so many new prisons, it is clear that if the Bureau of Prisons is going to continue to operate safe and secure federal prisons and reduce recidivism, the number of inmate jobs provided by FPI will need to grow correspondingly.

This needed growth has drawn increased attention to the program, not all of it positive. Several industry trade associations and organized labor unions have expressed their strong reservations about FPI because of the presumed negative impact on their constituencies. The board disagrees with this characterization of FPI's impact and strongly opposes the abolishment of FPI's mandatory source status without providing some sort of alternative such as providing FPI with the authority to offer its products to the commercial market.

The alternative would allow FPI to generate the business necessary to occupy its inmate workforce. FPI would also need ample time to transition to new alternatives, and the board of directors has discussed various alternative legislative proposals that would provide FPI with markets in which to sell their goods that could replace existing sales to the federal government pursuant to the current mandatory source.

However, the board is convinced that the best means of creating a legislative proposal that would be beneficial to all is through an open dialogue involving all parties to the controversy, which the FPI board has consistently endorsed.

The FPI board members bring a broad array of perspectives to bear on the manner in which FPI operates. As I mentioned earlier, the small, service oriented business I founded in 1984 actually performs some work for the government which FPI also provides. While my company could conceivably perform that work, our employees also recognize and support the need for FPI's role in public service.

Our vice-chair, Mr. Arthur White, is also an original founder of his firm and has been personally involved in the establishment of several national organizations which focus on literacy and work skills such as Jobs for the Future and Reading is Fundamental.

Susan Loewenberg is the producing director of the Los Angeles Theater Works and has been involved for years in education and training programs for juveniles and adults. Mr. Richard Womack represents organized labor on our board and has been particularly instrumental in reviewing inmate job proposals with an eye towards protecting workers.

Our newest member, Deidre Lee, directs the procurement program for FPI's largest customer, the Department of Defense. Her extensive federal procurement experience has been invaluable in FPI's continuing efforts to expand its business partnerships with the small business community.

There are numerous examples of FPI's support for and avoidance of harm to small businesses. Our procurement program regularly meets or exceeds goals for purchases from small and minority owned businesses or women owned businesses. For six years in a row, FPI has been recognized by the Department of Justice for our support of these businesses. Last year, 63 percent of all of our purchases, nearly $260 million, were awarded to small firms.

Our statute requires that whenever we are considering——

Chairman MANZULLO. Time is running. If you could sum up, sir?

Mr. ARAGON. Yes. I am on my last statement, Mr. Chairman.

Our statute requires that whenever we are considering a new product or the expanded production of an existing product, we prepare a detailed written analysis of the probable impact on the private sector. We carefully consider those people who consult with us, including the Small Business Administration, and we do everything in our power to make decisions and avoid impacting negatively small businesses.

In summary, it is our goal that inmate employment be viewed as a legitimate means of fostering positive economic development and supporting private sector job growth. This is possible if the parties not view their interests as mutually exclusive and conflicting. FPI must be just as committed as the private sector to economic growth and is also committed to protecting companies and their workers.

Mr. Chairman, that concludes my remarks. I would be happy to answer any questions you or other Members may have.

[Mr. Aragon's statement may be found in the appendix.]

Chairman MANZULLO. Thank you very much.

Our next witness is Bobbie is that Gentile?

Ms. GENTILE. Yes.

Chairman MANZULLO. Okay. I have to struggle with these names here.

Ms. GENTILE. Very good.

Chairman MANZULLO. She is with Q–Mark, Inc.

I will take this a little bit out of order here, but I understand you have been trying to get one of those impact statements available?

Ms. GENTILE. Yes, sir, we have.

Chairman MANZULLO. Have you been denied that?

Ms. GENTILE. Yes. We have never received one.

Chairman MANZULLO. Mr. Aragon, would you be willing to furnish this Committee with copies of the impact statements that you put out in the last couple of years?

Mr. ARAGON. Absolutely, Mr. Chairman.

Chairman MANZULLO. When can you have those here by?

Mr. ARAGON. Probably within an hour after this meeting is held. All of our impact studies are published in the Commerce Business Daily.

We conduct impact studies, Mr. Chairman, on all products we consider expanding in or adding to our process, but we produce——

Chairman MANZULLO. Do you have an impact statement as to each contract that you enter into?

Mr. ARAGON. We have an impact statement—I cannot say that that is accurate, Mr. Chairman.

Chairman MANZULLO. Which one have you been seeking, Mrs. Gentile?

Ms. GENTILE. I have been seeking the impact study on the connector specification, MIL–C–5015.

Mr. ARAGON. I am not familiar, Mr. Chairman, with that specific case, but I certainly will look into it.

Chairman MANZULLO. Whom have you asked?

Ms. GENTILE. I have asked Tony Griffin, who is the Associate Director of small and disadvantaged business, at Defense Supply Center-Columbus. He is also the FPI liaison at Defense Supply Center-Columbus.

Chairman MANZULLO. I would suggest to anybody here at the table or anybody in this room if you are requesting documents from FPI and you cannot get them to contact our Committee.

Mrs. Gentile.

STATEMENT OF BOBBIE GENTILE, PRESIDENT, Q–MARK; ROBERT DeGROFT, PRESIDENT, SOURCE ONE OFFICE FURNISHINGS

Ms. GENTILE. Thank you. Good morning, Mr. Chairman and Members of the Committee.

Chairman MANZULLO. Could you put the mike a little bit closer to you? Thank you.

Ms. GENTILE. Good morning, Mr. Chairman and Members of the Committee. Thank you for holding this hearing and allowing me to testify on Federal Prison Industries.

My name is Bobbie Gentile, the owner of Q–Mark, Inc., a small, woman-owned business in Dayton, Ohio. I am a member of the National Federation of Independent Business and the president of the National Association of Manufacturers and Representatives.

In 1990, I made a decision to pursue one of my goals and opened Q–Mark. Q–Mark is a manufacturers' representative firm. Presently we have five employees, three of whom are the sole providers

in their household. Q–Mark represents 15 manufacturing firms. Of these 15 firms, 12 are small business, and four of the small business are electronic connector manufacturers.

I am here today because my small business and the small businesses I represent cannot compete against FPI's unfair monopoly over federal contracts. FPI continues to penetrate the electronic connector market, enjoying mandatory source status. This means that the federal government agencies must purchase these products from FPI.

Many small businesses are not permitted to compete fairly in the government marketplace, even if they can produce lower pricing, on-time delivery and better quality. FPI must issue a waiver in order to have our quotes even considered. Keep in mind that the items are used in critical applications for the defense of our country, which includes anything that flies, floats, rolls or shoots.

I represent J–Tech, Inc., a small business connector manufacturer in Tustin, California. J–Tech was founded in 1987. The initial product in which they invested was the same product that FPI is now restricting. The time, effort and money that it took J–Tech to become a military qualified manufacturer was a huge investment for a new small business.

In order to maintain their qualification, costly tests must be completed on a yearly basis. It is estimated that in the last 12 years, J–Tech has spent over $5 million on the qualification of MIL–C–5015. The series of parts that FPI is now supplying is the lifeblood of J–Tech and Q–Mark. The loss of this revenue would cause us both to rethink our employment and our growth strategy.

Last April, FPI became a value added distributor on a large portion of this specification, meaning that all they added to the product was the assembly of the connectors. FPI teamed with Amphenol/Bendix, one of the largest electronic manufacturers in the world. I think it is important that you know that not one small business I represent was solicited by FPI, even though they are military qualified sources and have been supplying these same parts to the federal government for years. Once the partnership was complete, FPI declared their right to the mandatory set-aside.

Based on the volume of business my company and the companies I represent stood to lose to FPI, I requested a copy of the impact study performed by FPI, which was never received. By law, this study must show that the federal monopoly would not adversely affect small business. Had FPI conducted a proper study, they would have found that out of the five manufacturers, three were small business that would be devastated by the loss of this business.

Regarding the impact studies, FPI performs the impact studies and reviews the impact studies without any review by an impartial source. Is it not like the fox watching the henhouse? Who is protecting industry from FPI?

Last week, I was advised by Defense Supply Center-Columbus that they are in the process of reviewing for an award to FPI 235 part numbers under the exact connector specification of which I just spoke. The estimated value of this five year order is $1 million per year for a total value of $5 million. This five year order would cover FPI should Representative Hoekstra's bill, H.R. 1577, pass.

To make this situation even worse, I was told that the military specification had between 2,000 and 3,000 parts listed, and this was just the first order. The situation with FPI is becoming worse as time progresses. FPI has the right to demand that the government set aside any connector series FPI chooses. They now successfully dominate the circular connector market.

I have brought with me today examples of quotes that I sent to the government. In all cases, my price was lower than the price offered by FPI. FPI received the award. Once again, the government had no option but to award to them. I find that their pricing is an example of price gouging when their labor rates are so low.

In conclusion, I would like to thank you again for inviting me to testify and urge you to support Representative Hoekstra's bill, H.R. 1577, that will help end unfair competition, as well as the unfair hold that FPI has on federal government procurement.

Thank you, Mr. Chairman.

[Ms. Gentile's statement may be found in appendix.]

Chairman MANZULLO. Thank you very much.

Our next guest is Bob DeGroft, Sr., owner of Source One Office Furnishings, and also chairman of the Independent Office Products and Furniture Dealers Association. Welcome.

STATEMENT OF ROBERT DeGROFT, OWNER, SOURCE ONE OFFICE FURNISHINGS

Mr. DEGROFT. Thank you. You said it better than I did.

Chairman MANZULLO. I said it slowly.

Mr. DEGROFT. Mr. Chairman and Members of the Committee, I appreciate the opportunity to testify before your Committee today to address the issue of Federal Prison Industries reform and in support of H.R. 1577, the Federal Prison Industries Competition in Contracting Act.

My name is Bob DeGroft, Sr., and I am the owner of Source One Office Furnishings located in Albuquerque, New Mexico, and I serve as chairman of the Independent Office Products and Furniture Dealers Association. The IOPFDA is the trade association for independent dealers of office products and office furniture.

My company, Source One Office Furnishings, is a family owned and operated company founded by my wife, Karla, and I in 1977. We are a small company by anyone's standards, employing just seven employees. I am here today in hopes that you will hear the plea of business and labor communities and change the system under which FPI currently operates on the federal level.

As a small businessman, I do not have a problem with open and fair competition. What I have a problem with is the fact that FPI is not competing with anyone, but instead is guaranteed by statute all the government business it wants.

For instance, if a government agency needs to buy office furniture it must first look to purchase these items through FPI regardless of price, quality of product or service. If FPI can provide it, the government must buy the product from them even if the agency can get a better product for less money from a small business like mine.

If this is not hard enough to fathom, FPI has begun looking to broaden its interpretation of the current statute governing the way

it operates in a way that will allow them to enter and sell their products in the commercial marketplace. If this is allowed to continue, FPI will not only continue to have a monopoly over federal contracts, but would now be in a position to expand their scope and compete unfairly in the open market against honest, hardworking small business owners like myself.

I find it ironic that we have laws in this country that prohibit the United States from importing products that are made by prisoners in other countries, but here at home our own government in many cases is solely dependent on prison labor for its goods.

I agree with those who believe prisoners should learn skills and trades while incarcerated that they can use outside prison walls to earn a living. However, it should not come at the expense of hardworking small businessmen and women, and skills learned while in prison should apply to the new economy.

Let us focus on the real problem, the educational, vocational and every day living experiences inmates lack that we take for granted. If FPI is serious about helping inmates, let us focus less on jobs that will not be around when they get out and more on real life skills that will help inmates in real life situations.

FPI was created in 1934 with the mission of providing inmates with real skills that they could use once released back into society. This is nice in principle, but in reality FPI is not living up to that mission. What you have today is a 1930s philosophy that does not fit today's FPI and its mission.

If you look closely at FPI, its mission appears to be more about expanding FPI and turning a profit than it is in inmate rehabilitation. A perfect example is in the area of office furniture. What you see is what I like to call "drive by" manufacturing. Having inmates simply assembling furniture or, even worse case, just unloading fully assembled products from trucks and putting FPI labels on it is not teaching inmates real skills that they can expect to use and support themselves and their families once released back into the community.

Reform is desperately needed to help level the playing field for small business, in particular small office products and furniture dealers like myself, who are the hardest hit by the unfair and monopolistic advantage FPI has over us. The Federal Prison Industries Competition in Contracting Act changes the way FPI is able to operate and forces them to compete openly and fairly for contracts they are currently guaranteed by statute.

As you may or may not be aware, this legislation received broad bipartisan support in the 106th Congress. With support from Republicans, Democrats, business and labor, it is my hope that this piece of legislation is one Congress passes this year. With your help and support, small business can achieve a level playing field.

This reform is necessary because the numbers and problems are staggering. During fiscal year 1999, FPI generated roughly $550 million in sales, of which 40 percent came at the expense of the office products and furniture industry. Should FPI branch out into the commercial market, this move would be a blatant disregard for current law and could force some of the office products industry people to close their doors.

As the owner of a small furniture dealership in New Mexico, I can tell you that having to deal with prison industries has not been easy and one that has come at a high price. Take my state of New Mexico, for example. Ten years ago, New Mexico had a law in place that gave state prisons in Los Lunas and Las Cruces mandatory source status for building office furniture and panel systems.

With this law having serious impacts on my business and others in the community, three other New Mexico office furniture dealers and I banded together for the purpose of trying to change the way New Mexico Corrections operates. Our goal was to get the state legislature to level the playing field for businesses in New Mexico trying to compete with New Mexico Corrections by opening up the prison business to outside competition.

After what seemed like an eternity, we prevailed and changed the system. Changing the system cost me and my colleagues $14,000 out of our own pockets. It was a decision I had to make, and I was glad I made it, but I was lucky that I could afford to do that. How many others in my position were not? I do not know.

Today I am happy to report that the New Mexico state prison industries program is alive and well, employing over 400 New Mexico inmates in furniture, telemarketing, garment, dairy and print shop industries.

Mr. Chairman, for time purposes I have touched on the state program in New Mexico, and I hope that during the question phase of today's hearing we can get into greater detail of how this was accomplished in New Mexico.

In closing, my written testimony submitted today is filled with real life stories from dealers all across the country that have been impacted by FPI's practices. I hope each of you will take a moment to read each of them because they touch on the every day real problems we encounter with the way FPI is currently able to operate.

Mr. Chairman and Members of the Committee, thank you for allowing me the opportunity to testify here today. I hope you will take a hard look at FPI's practices and pass reform in the form of H.R. 1577 this year.

I would be happy to answer any questions.

[Mr. DeGroft's statement may be found in appendix.]

Chairman MANZULLO. Thank you, Mr. DeGroft. I appreciate it.

Our next witness is Kass Green of Pacific Meridian Resources. She is with the Management Association for Private Photogrammetric Surveyors.

Ms. GREEN. It took me two years to get that, so that was pretty good.

Chairman MANZULLO. Welcome. If you could watch the green light, we would appreciate it. We expect a series of votes, and I want to make sure that all of your testimony gets in before that.

Ms. GREEN. Certainly. Certainly.

STATEMENT OF KASS GREEN, PACIFIC MERIDIAN RESOURCES

Ms. GREEN. Mr. Chairman, Members of the Committee, MAPPS is a national trade association of more than 160 private firms doing professional mapping and related geographic information services. We are pleased to have this opportunity to testify this morning.

We hear a lot of talk about that the government should be run more like a business. However, Mr. Chairman, Federal Prison Industries has taken that idea too far. MAPPS is deeply concerned that federal and state prisons have discovered the market for geographic data conversion services and is using convict labor to encroach into our business and displace hardworking, law abiding, taxpaying citizens with criminals employed by a new form of government sponsored, unfair, tax exempt, below market, non-profit competition. It is a systematic and predatory strategy to take market share from the private sector.

Specifically, FPI has developed the capability to provide mapping services. FPI has created a loophole for itself in the law. It has determined administratively that the requirement to consult with an affected industry prior to introducing a new product or embarking upon the expansion does not apply to services. I want to emphasize that. They have determined that it does not apply to services. Thus, FPI was judge, jury and prosecutor when it came to deciding to compete with private firms for mapping services.

FPI must understand that entering the mapping field adversely affects small businesses. Numerous studies, including those by the Office of Management and Budget, recognize that the federal government is in competition with the private sector in mapping, and Congress has repeatedly targeted mapping activities in federal agencies for increased contracting out.

While FPI is not a mandatory source in services as it is in the product area, it does enjoy the status of preferential source. Services must be purchased by federal agencies from FPI without going through competitive procurement procedures, seriously impairing the ability of private firms, particularly small businesses, to compete.

Recently, FPI announced proposed regulations providing a huge expansion of activities without any legislative authority from Congress. Specifically, FPI proposed to provide services such as mapping services described above not just to other government agencies, but to the private commercial market as well.

The Justice Department has astonishingly ruled that a current provision in law which prohibits the interstate commerce of prison made products does not apply to services. While FPI withdrew its regulations, it is still proceeding with offering services in the commercial market.

FPI has actually hired private consultants to enable FPI to compete in our market, yet they have never conducted an analysis that the impact of their entry into our market would have on the private sector. FPI is now productive in this area, providing mapping data conversion, data entry, optical scanning and digitizing services for a variety of federal agencies. This is clearly an inappropriate area for prison industry activity.

In recognition of the importance of using the highest quality contractors to perform mapping services, Congress in 1972 enacted a qualifications based selection law. This law required federal agencies to award mapping contracts to firms based on their demonstrated competence and qualification rather than awarding such contracts to the lowest bidder.

Public health, welfare and safety is dependent on the quality of work performed by professionals in the fields of architecture, engineering and surveying. To add to these highly technical and professional services images and maps processed by prison inmates is not only an affront to the professionals in this field, but questionable to the public interest.

Permitting prisons access to data that becomes important to national security is unwise. We question the wisdom of giving prisoners access to important information about the precise location of underground utilities, water, electrical and fiber optic lines, as well as pipelines.

It is questionable from a civil liberties and personal privacy standpoint to provide prisoners access to homeowner data, property appraisal and tax assessment records and other information. Most citizens would be horrified and outraged to know that such data is in the hands of inmates.

Finally, and most alarming, we are at a loss as to why prison industries are training inmates in scanning, imaging and digitizing skills that with little embellishment and imagination can be used for counterfeiting.

FPI claims it is concentrating its efforts on performing commercial services that are currently being performed outside the United States, being performed offshore. We would like to state that this is simply untrue.

As mentioned earlier——

Chairman MANZULLO. How are you doing on time, Mrs. Green?

Ms. GREEN. Excuse me?

Chairman MANZULLO. Your red light just went on there.

Ms. GREEN. Yes, I know.

Chairman MANZULLO. Are you going to sum up?

Ms. GREEN. That is why I was skipping ahead to some pages.

Chairman MANZULLO. Please.

Ms. GREEN. I am almost done right now.

Chairman MANZULLO. Thank you.

Ms. GREEN. Mr. Chairman, we are not unmindful of the difficult challenge prison administrators face. It is unfortunate that in our society today prison populations are increasing. It is obvious that something must be done to keep inmates occupied, to train and rehabilitate them and to pay their debt to their victims and to society at large. However, in that process another law should not be violated, the law of unintended consequences.

In summary, I want to hold up the services from Unicor Services. It is a summary. Frankly, it is their marketing document for Unicor Services. In the back of this is a map that they have produced of an area of San Francisco. My home office is in the San Francisco Bay area, and what I would like to know is what do I tell my law abiding employees who I only have about three months of work left for right now? What do I tell them when they find out that they are losing work to federal industries rather than me being able to get contract work for them?

It is incredible reading this document and this marketing material that just blatantly competes with small businesses.

[Ms. Green's statement may be found in appendix.]

Chairman MANZULLO. I want to stop you right there and ask a question. I know this is very unusual.

Mr. Aragon, was there an impact study made on her industry before FPI went into that?

Mr. ARAGON. Mr. Chairman, I am unaware of the specifics in this particular case.

Chairman MANZULLO. You were not with FPI at the time? Is that so?

Mr. ARAGON. No, sir. I have been on the board for six or seven years, Mr. Chairman.

Chairman MANZULLO. You are not aware of the study going into a brand new area?

Mr. ARAGON. The board of FPI, Mr. Chairman, tasks our staff to look at all areas where we can possibly have business opportunities that do not hurt small business, but I would have to know the specifics of that particular case.

Chairman MANZULLO. Well, she just said it. My question is were you aware of this document that she just showed to the congressional Committee?

Mr. ARAGON. The staff of FPI, Mr. Chairman——

Chairman MANZULLO. I do not care about the staff. As a board member, were you aware of this?

Mr. ARAGON. Of this particular study?

Chairman MANZULLO. That is correct.

Mr. ARAGON. I answered your question, Mr. Chairman.

Chairman MANZULLO. The answer is no?

Mr. ARAGON. No. The answer is I would have to familiarize myself with the specifics on that.

Chairman MANZULLO. How many are on the board?

Mr. ARAGON. There are five members of the board, Mr. Chairman.

Chairman MANZULLO. Mrs. Green, when was this document issued?

Ms. GREEN. This was over 1998.

Chairman MANZULLO. And you were a member of the board at the time?

Mr. ARAGON. Yes, I was, Mr. Chairman.

Chairman MANZULLO. Are these studies given to the board by the staff to review and look at?

Mr. ARAGON. Yes, they are.

Chairman MANZULLO. And how many of these studies would be done each year? Do you have any idea?

Mr. ARAGON. Impact studies for new businesses and expansions? Oh, I would say 20 or so.

Chairman MANZULLO. Okay. All right.

Ms. GREEN. Mr. Chairman, I would like to emphasize that FPI has not done an impact study. This is their marketing material.

Chairman MANZULLO. Okay. My question is has FPI done an impact study on her industry? You do not do them on service expansions?

Mr. ARAGON. Well, we do not have mandatory source in the services, Mr. Chairman.

Chairman MANZULLO. So when you told us that before you go into an area, before you compete with the private sector, that you

do an impact study that that impact study you do for services? Is that correct?

Mr. ARAGON. Mr. Chairman, we are not a mandatory source in the services area. The only——

Chairman MANZULLO. Can you give me a yes or no on that? Either you are mandated by law to do it or you are not. I am trying to get to the bottom of this.

The answer is no, you are not mandated by law to do that?

Mr. ARAGON. To do an impact study on services?

Chairman MANZULLO. Right.

Mr. ARAGON. No, because that is not a mandatory source in the services area.

Chairman MANZULLO. Therefore, your statement that you are concerned about the impact on the private sector is meaningless when you do not have to do an impact study to go into new areas?

Mr. ARAGON. That is inaccurate, Mr. Chairman.

Chairman MANZULLO. Well, how would you know if you do not have to do an impact study?

Mr. ARAGON. The only work we do in the services sector, Mr. Chairman, is work that is brought to us by the customer because they request us to——

Chairman MANZULLO. I understand that they want a cheaper price. What I am trying to get at is the fact here, and, Mr. Votteler, just bear with me; is the fact that you testified that you had to do an impact statement as to each area that you go into, and I am not sure if you said just manufactured product or services, although now we are at the point in the age of technology where perhaps furnishing data is more manufactured materials than services.

We are in a situation right here before everybody, before the reporter, before Members of Congress, where now we have somebody telling us that this document was put out, that FPI went into a brand new area. There was no impact study made. Is that correct?

Mr. ARAGON. Mr. Chairman, that is not accurate as I understand it. I would need to know the specifics in that case, but I can tell you——

Chairman MANZULLO. Do you know if there was an impact study made in this area? If you do not know, I can understand that. I will not be hard on you.

Mr. ARAGON. Well, no, Mr. Chairman. I think if the testifier would offer more information about the circumstance.

Are you saying, ma'am, that FPI actually has work now in that area? I know we do not——

Ms. GREEN. Absolutely. Yes. Yes. Yes. Yes.

Chairman MANZULLO. Is there anybody here from FPI that can answer my question with you, Mr. Aragon?

Mr. ARAGON. Certainly there is. The chief operating officer of FPI is here, Mr. Chairman.

Chairman MANZULLO. Why do you not have him sit next to you at the table? That way he can help you in some of these questions.

Let me get on to Mr. Votteler, and then he can assist you because there are technical questions that if you need help with I would like to have your person there with you.

Mr. ARAGON. Thank you.

Chairman MANZULLO. You bet.
Mr. Votteler?

STATEMENT OF CARL C. VOTTELER, PRESIDENT, FEDERAL MANAGERS ASSOCIATION

Mr. VOTTELER. Chairman Manzullo, Ranking Member Velazquez and Members of the Committee, my name is Carl C. Votteler, and I am president of Chapter 144 of the Federal Managers Association.

On behalf of the 200,000 executives, managers and supervisors in the federal government whose interests are represented by FMA, I would like to thank you for inviting us to present our views before the Committee on Small Business regarding the requirement for federal agencies to purchase certain products from the Federal Prison Industries, FPI.

I work for the Public Buildings Service, General Services Administration. I am a buildings management specialist in our Washington headquarters. I have worked as a manager for GSA for the past 28 years. The views expressed in my testimony are my own in my capacity as a member of FMA and not intended to represent the official views of GSA.

Mr. Chairman, the main message that FMA wants to convey to you and Members of the Committee today is that federal managers and supervisors and the civil servants we lead try extremely hard to be good stewards of the tax dollars and entrusted to us. We dedicate ourselves daily to delivering to the American people the most value for their hard earned dollars. Routinely, we are called upon to do it better, faster and cheaper. Doing more with less is the norm, not the exception.

In our view, the FPI mandatory source requirement ties the hands of federal managers when it comes to making smart purchasing decisions. While combating inmate idleness and providing 20 percent of the inmate work opportunities for federal prisoners are important public policy objectives, the cost of the FPI program should not be transferable to the tight budgets of other agencies with their own missions in service to the American people from national defense to providing other agencies the workspace, products, services, technology and policy they need to accomplish their mission. That is why FMA supports passage of H.R. 1577, which would eliminate this mandatory source requirement burdening federal agencies.

You have heard about waivers of FPI grants permitting federal agency managers to make purchases from the private sector. I would ask you to consider some fundamental questions about the waiver process and how it works. To begin, why should federal managers be required to seek FPI's permission before being able to spend the money of American taxpayers in the best possible manner?

Under the waiver process, FPI, rather than the buying agency, determines whether FPI's offered product, delivery schedule and reasonableness of FPI's offered price meet the needs of the agency. A 1998 GAO study of 20 FPI products found that FPI generally did not offer federal agencies the lowest prices for products that they had purchased. Therefore, if it were not for FPI's mandatory source

status customer agencies might have decided to purchase comparable products at less cost. This assessment is consistent with the anecdotal experiences of our members.

FMA members are also concerned that it frequently takes longer to receive products from FPI than from other commercial vendors. Another GAO report regarding the timeliness of FPI deliveries showed similar results. In more than 50 percent of the cases reviewed, the actual delivery date was later than the buying agency had originally requested. Again, this is congruent with the experiences of our members.

Small business in the private sector, on the other hand, strives to keep costs low, quality good and delivery services efficient. Otherwise they would find themselves out of business. Consumers benefit from their efforts. These benefits do not exist when a business holds its customers hostage as is the case with FPI and federal agencies.

As a taxpayer first and civil servant second, FMA members want to see their tax dollars used in the most productive manner possible. A couple of important factors contribute to our current heightened concern about making the best use of scarce agency resources: agency downsizing and public/private competition for federal functions.

In closing, Mr. Chairman, federal managers and supervisors are currently receiving two conflicting messages from Washington, D.C. On the one hand, we are being asked to do more with less. From Congress, we frequently hear about the bureaucracy and how they should act more like the private sector. In contrast, the law requires us to purchase over half a billion dollars worth of supplies from a non-competitive source that frequently overcharges more than commercial vendors.

The lament from managers and supervisors in the field is that this Catch–22 is all too typical of the way the federal government operates. Congress and the White House want us to compete with the private sector, but they will not permit us to act like the private sector when it comes to purchasing supplies.

FMA appreciates the efforts made by Congressman Hoekstra and the more than 70 current co-sponsors of H.R. 1577 to help us be better stewards of the taxpayers' hard earned dollars by untying our hands when it comes to making smart purchasing decisions. We urge Congress to pass this legislation to eliminate the FPI mandatory source requirement.

Thank you again for inviting FMA to present our views, and we look forward to working with you on this important issue.

This concludes my prepared remarks. I would be happy to answer any questions anyone may have.

[Mr. Votteler's statement may be found in appendix.]

Chairman MANZULLO. I appreciate your testimony very much.

Mr. Aragon, your counsel is? What is your name again? Could you please state your name for the record, please?

Mr. SCHWALB. Mr. Chairman, my name is Steve Schwalb. I am the——

Chairman MANZULLO. Do you want to spell the last name for the record?

Mr. SCHWALB. S-C-H-W-A-L-B. I am the chief operating officer of Federal Prison Industries.

Chairman MANZULLO. Okay. Thank you.

I want to follow up and first of all thank all of you for your testimony. I want to follow up on this issue of the impact statements. I am reading out of the Code of Federal Regulations, subpart 8.6, Acquisition from Federal Prison Industries, Inc., where it says in paragraph (c), "FPI diversifies its supplies and services to prevent private industry from experiencing unfair competition from prison workshop or activities."

Now, I am reading that. As I read this, this indicates to me that there has to be some type of an impact study done before you go into a new area of supply or services. Mr. Aragon or Mr. Schwalb?

Mr. SCHWALB. Mr. Chairman, what Mr. Aragon's testimony is referring to is the FPI statute, which is related to this——

Chairman MANZULLO. Okay.

Mr. SCHWALB [continuing]. Regulation that you just read. The statute requires that whenever the corporation is going to propose an expansion in products, because that is where the mandatory source supplies and that is where the statute is written to cover a mandatory expansion, that they have the hearings and the impact studies that the Chairman referred to.

Chairman MANZULLO. So that is only on products?

Mr. SCHWALB. It only applies to products. In services we do not do that impact study per se, but we have meetings with the board four times a year and advise them of the additional business plans.

To address the specific question of the mapping services, the majority of our work there is done really as a subcontractor. There are private companies in the business who have the technology, and they need the labor to do the scanning or the data work. We partner with them, and they usually make the presentation to the federal customer for the proposal.

Chairman MANZULLO. So the subcontractor then would be at a competitive advantage over Mrs. Green and members of her association. Would you agree with that?

Mr. SCHWALB. It depends on the individual job, Mr. Chairman, but our approach in services, as our marketing document indicates, is to market the opportunity for any company that wants to utilize our inmate labor as a part of a proposal to be able to do that.

Chairman MANZULLO. But I think we agree at this point there has been no competitive impact study done on mapping services before FPI went into this industry?

Mr. SCHWALB. Not as referred to in the statute under products. That is true. Yes.

Chairman MANZULLO. All right. Mr. Aragon was in the private sector himself. I mean, prisons could go into the restaurant business. They could open up—I am serious. They might have mashed potatoes and roast beef all the time, but there is nothing to stop them from opening up on the outside of the prison and saying on Sunday afternoon we are going to have fried chicken, a complete meal for $2, as opposed to somebody else.

Is there not some type of a moral responsibility here to make sure that you are not impacting or hurting somebody else before you go into a new service area?

Mr. ARAGON. Mr. Chairman, absolutely there is a responsibility to look at how whatever work we do affects small businesses.

Perhaps to clarify, I am not a former businessman. I am a businessman, a small businessman, and my board activity is as the other non-paid board members who have real world jobs as they say, so I appreciate your letting Mr. Schwalb be here for technical questions, but I can certainly respond to questions about the board's responsibilities and how we make our decisions.

The service work that we look for, Mr. Chairman, and I should not even say look for. The service work that we provide is typically brought to us by customers who would like us to work.

Chairman MANZULLO. Yes, but what does that mean? They want a cheaper price?

Mr. ARAGON. Sometimes it means, Mr. Chairman, that they want a better job done by our inmates than they get from the private sector.

Chairman MANZULLO. I mean, when you say people come to you for services, I mean, how does that make it any different? I mean, are they saying the services they are now getting are not competent?

Mr. ARAGON. Mr. Chairman, an example would be on military bases where the customer, the Air Force, and we have prisons on military bases, prison camps as they are referred to.

The customer, the Air Force, comes to Prison Industries and says will you do the laundry for the base for us, thereby saving the federal government tremendous amounts of money for work that they would have to contract out for and may not even be able to provide.

Chairman MANZULLO. Do you know what has happened in my district? The VA hospital has gone to the commercial laundry business, and they are knocking out a business employing 100 people, most of whom are minorities.

I mean, the impact of this is just not in this room here, but it is an attitude that an arm of the government could be in direct competition with people in the private sector, and yet nobody seems to be concerned about it.

I mean, would you agree that it would be best if you had to do an impact statement for the privates before you go into services?

Mr. ARAGON. Mr. Chairman, one of the proposals that we have as the board is that we be allowed to have authority to operate in that sector so that we would——

Chairman MANZULLO. That is all we need. I mean, it is a non-government sector. To offer services into the non-government sector.

Mr. ARAGON. The commercial market, Mr. Chairman, is not—the only work we do in the commercial market is brought to us by agencies, as I said.

Typically we partner with small businesses as in the case of this data mapping. We are a partner with them. We provide labor. It is not a competitive advantage to the companies that we work with because every company has the opportunity to utilize our labor source in similar kinds of circumstances.

Chairman MANZULLO. Mrs. Green, did you have a rejoinder to that?

Ms. GREEN. I would like to point out that most of the time when it is offered or when it is offered it is at a much lower cost, dollar cost, from the Federal Prison Industries than the private sector or certainly small businesses could offer because of the differential. All we are asking for is the ability to fairly compete.

Chairman MANZULLO. What I am concerned about is the fact that at present FPI has no obligation to do a competitive impact study on products that it sells to the government. I am sorry. On services that it sells to the government. That is correct?

Mr. ARAGON. That is correct, Mr. Chairman.

Chairman MANZULLO. Now you want to go out into the commercial area to sell to non-government purchasers. Is that correct?

Mr. ARAGON. What we want to do, Mr. Chairman, is to find a way to avoid impacting small businesses or minority owned businesses as much as possible.

Chairman MANZULLO. Wait a second. You are doing that now, and now you want to expand your market.

Mr. ARAGON. No. No.

Chairman MANZULLO. Am I missing something here?

Mr. ARAGON. Mr. Chairman, what we want to do is the reason we would like to have authority for commercial services or services in the commercial market is so that we can lessen the kind of pressure on Federal Prison Industries to sell to the federal government.

Chairman MANZULLO. That does not make sense. You are already expanding your sales within the federal government, and now you are saying to lessen the expansion in the federal government you want to go into the commercial market.

Mr. ARAGON. No. It makes perfect sense, Mr. Chairman, actually, because the issue is the impact. As inmates continue to go to prison, and there are 200,000 inmates in prison, it is our statutory responsibility to create jobs for them.

Our limit is the federal government, the federal marketplace, and so what the board is trying to do is to keep away from these kinds of circumstances where small businesses or other businesses are impacted by opening up our ability to create jobs.

One of those proposals is work that has gone offshore that has been offshore for a long time. Those jobs are never going to be provided by American citizens. One of our offers or one of our requests as a board is to say bring back the work that has gone offshore and let us do that.

Chairman MANZULLO. What would be an example of that?

Mr. ARAGON. Much of the textile business, Mr. Chairman. I have heard testimony about the textiles here and in the past, and the fact of the matter with the textile arena is so much of that work has gone offshore it will never come back.

What we have said is let us provide some of the textile work that will not ever be performed here, and that will help support the remaining textile businesses in business now.

Chairman MANZULLO. I have to move on. You are doing that with gloves now.

Mrs. Velázquez?

Mrs. VELÁZQUEZ. Thank you, Mr. Chairman.

Chairman MANZULLO. Thank you.

Mrs. VELÁZQUEZ. Mr. Aragon, the Committee received your testimony this morning. Were you aware of that; that you sent your testimony to us this morning?

Mr. ARAGON. No, I was not aware of that, Ms. Velazquez. I know that it was sitting at various agencies who have to approve testimony.

Mrs. VELÁZQUEZ. But you were supposed to send it to us two days ago. How do you think we could prepare for this hearing if we only have one hour to read your testimony?

Mr. VOTTELER. Ms. Velázquez, on behalf of the chairman I apologize for that. He is located in Denver. We had his statement prepared. We approved it, and he is a government employee as an appointee of the board.

Mrs. VELÁZQUEZ. I thought that there was a top secret that you were dealing with in your testimony.

Mr. VOTTELER. I wish it was that exciting.

Mrs. VELÁZQUEZ. Okay.

Mr. VOTTELER. It is a matter of just getting clearance from everybody in the Administration for his statement. It did not occur until 11:00 last night. I am sorry.

Mrs. VELÁZQUEZ. For the next hearing, because there will be other hearings on this topic, please make sure that like every other witness that his testimony gets here two days in advance.

Mr. VOTTELER. We are as disappointed as you are.

Mrs. VELÁZQUEZ. Thank you.

Mr. ARAGON, how many contracts was FPI awarded in fiscal year 2000?

Mr. ARAGON. I have no idea. I do not know that information, Ms. Velazquez.

Mrs. VELÁZQUEZ. Sir, you come here today, and you know the scope of this hearing. You are not prepared to answer those questions?

Mr. ARAGON. Ms. Velázquez, any $550 million business that sells chairs for $112, for example, I can tell you that nobody would be able to sit here and tell you how many of those purchase orders are processed or contracts were allowed. I think it is a perfectly correct answer.

Mrs. VELÁZQUEZ. Well, I hope that you, and I request, Mr. Chairman, that he submit to us in a written answer the number of contracts that were awarded by FPI in fiscal year 2000.

Chairman MANZULLO. What we will do is we will give Members of this Committee ten days within which to submit questions to both of our counsel, and then we can send one letter on a joint letterhead and request whatever we want on it.

Ms. Velázquez, we have a vote. What do you suggest now? Should we go vote and then come back?

Mrs. VELÁZQUEZ. That we go vote and come back.

Chairman MANZULLO. And come right back?

Mrs. VELÁZQUEZ. Yes.

[Pause.]

Chairman MANZULLO. What we are going to do is we are going to break for votes now because I do not want to interrupt her train of thought and keep her questions into one solid block and not split it up. We are going to vote and then come back.

[Recess.]

Chairman MANZULLO. We are going to reconvene the meeting. The votes are over. If the witnesses would have a seat along with Mr. Schwalb? Two of you can share a mike there.

Mrs. Velázquez, I called a break back then because I did not want to have to much of a break in your questions.

Mrs. VELÁZQUEZ. Yes.

Chairman MANZULLO. Please.

Mrs. VELÁZQUEZ. Mr. Aragon, as I said before, I want you to submit to us the number of federal contracts that were awarded in fiscal year 2000, and I also want to know how many inmates worked on each contract on the average.

Mr. ARAGON. Yes, Congresswoman. I have some preliminary information to share if I could give that to you on the number of contracts.

Mrs. VELÁZQUEZ. Yes?

Mr. ARAGON. Just in a big picture kind of scenario, FPI received somewhere between 78,000 and 82,000 orders during last fiscal year, the full fiscal year. Approximately a third of those are large, multi-year contracts, and the rest are purchases using government credit cards and those sorts of things. We will provide the additional information.

Mrs. VELÁZQUEZ. How many inmates?

Mr. ARAGON. Yes.

Mrs. VELÁZQUEZ. Okay.

Mr. ARAGON. We employ approximately 22,000 inmates.

Mrs. VELÁZQUEZ. Twenty-one thousand, six hundred and eight-eight?

Mr. ARAGON. Yes, ma'am.

Mrs. VELÁZQUEZ. Yes. Of the 126,000 individuals currently incarcerated. I want you to tell me, Mr. Aragon, if one inmate works on five separate contracts is that work counted five times or one time?

Mr. ARAGON. One time. The worker is—that is the population, Congresswoman, so regardless of how many contracts they work on it is the same inmate working on all those contracts.

Mrs. VELÁZQUEZ. Can you tell me what is the FPI definition for the term prison mate?

Mr. ARAGON. Yes. I can paraphrase, I believe. I cannot tell you the exact definition, but we typically want to do as much work as possible in the prison with our inmates. We are very different from the private sector inasmuch as we want to be labor intensive. We do not care what we are doing, but the more inmates we can——

Mrs. VELÁZQUEZ. Okay.

Mr. ARAGON [continuing]. Have working the better, but——

Mrs. VELÁZQUEZ. Okay. Let me ask you another question related to the same question. Is there any requirement in the definition of prison mate that FPI use a certain percentage of incarcerated individuals in the manufacture of an item?

Mr. ARAGON. No, there is no written policy to that effect.

Mrs. VELÁZQUEZ. So there is no requirement?

Mr. ARAGON. Well, we again try and use as much inmate labor as possible. Different products we manufacture have a different amount of labor, inmate labor involved.

Mrs. VELÁZQUEZ. Can you help me understand then what was the statutory mandate of the FPI corporation when it was created? It was created to help rehabilitate inmates through training and work placement——

Mr. ARAGON. Yes.

Mrs. VELÁZQUEZ [continuing]. And then yet when we go to the definition of prison mate there is no requirement that inmates are used in the manufacture of an item.

Mr. ARAGON. Not that I know of that it is there, but we want to use as many inmates as possible in manufacturing our goods at all times.

Mrs. VELÁZQUEZ. So let me ask you another question. The statutory mandate for the FPI is that this corporation helps rehabilitate through training and work placement or work the inmate population, and yet we found that only 17,000 out of the entire population is employed by FPI.

Mr. ARAGON. Well, 22,000 are employed by FPI.

Mrs. VELÁZQUEZ. Okay. Okay.

Mr. ARAGON. There are many inmates that are ineligible for FPI jobs. At minimum security camps we do not have industries or all the metropolitan detention centers like the one in your district, Congresswoman, because of the nature of that facility with people in and out all the time. All of those inmates are not eligible for FPI jobs because it is not practical.

Mrs. VELÁZQUEZ. Can you tell me what type of action plan do you have so that you provide more training to more than just 22,000?

Mr. ARAGON. Well, that is a tough question. We again would want to make as many jobs as possible and provide that training. On a practical matter, though, that is the concern that we are speaking of about here.

We also want to have the least impact as possible on the private sector, so the number of jobs for inmates that we have is the number of inmates in the institutions who are available for our work, and we employ as many of those as possible. We could employ more inmates in industries, but we do not just to try and minimize our impact to the outside community.

Mrs. VELÁZQUEZ. But yet your margin of profit is increasing every day and every year.

Mr. ARAGON. I would not say that is accurate, Congresswoman.

Mrs. VELÁZQUEZ. No?

Mr. ARAGON. No.

Mrs. VELÁZQUEZ. You told me that you were awarded 78,000 to 82,000 orders.

Mr. ARAGON. We received orders——

Mrs. VELÁZQUEZ. Federal contracts.

Mr. ARAGON. Yes.

Mrs. VELÁZQUEZ. And yet only 21,000 inmates were employed. That works out to less than one inmate per contract. Can you please explain that math?

Mr. ARAGON. Well, the vast majority of those orders, the 78,000 to 82,000, are orders that are less than $25,000 made on a government purchase order contract. What do you call it? Credit card.

That may be just one chair or one specific item, so the factory where we make chairs may process in a given month several hundred orders for individual chairs, but they are made by the same inmates who would work on one as another. They just manufacture chairs at that particular prison.

Mrs. VELÁZQUEZ. Mr. DeGroft, do you have any documentation as to how many inmates are employed by FPI on office furniture contracts that are awarded to them?

Mr. DEGROFT. I do not have any information about that. We do not get any information.

Mrs. VELÁZQUEZ. Mr. Aragon, can you provide that information to you?

Mr. ARAGON. The number of inmates that are employed with office furniture?

Mrs. VELÁZQUEZ. Employed with office furniture contracts.

Mr. ARAGON. Well, it represents approximately 40 percent of our business.

Steve, do you have the exact number?

Mr. SCHWALB. I do not have the number. I could get it for you, though.

Mr. DEGROFT. Congresswoman, if I am right, 44 percent of the total business that you do is in office furniture, but in terms of how many people that involved doing it, never asked.

Mrs. VELÁZQUEZ. Never?

Mr. ARAGON. I would imagine that it follows roughly the number of sales, Congresswoman, but we will get you the exact number.

Mrs. VELÁZQUEZ. Thank you.

Ms. Gentile?

Ms. GENTILE. Yes?

Mrs. VELÁZQUEZ. In some cases your prices have been nearly half of what FPI's prices have been, and yet you have no real recourse to challenge FPI's expansion into connectors. A lawsuit would obviously be drawn out and cost prohibitive.

How many of your suppliers would be affected by the Defense Supply Center in Columbus contracting for connectors in FPI?

Ms. GENTILE. Of my personal suppliers there would be four. In the National Association of Manufacturers and Representatives we have probably I would say 30 percent of them in contracts, and they represent massive amounts of companies.

This would impact not just our companies, but where you have manufacturers, you have representatives, you have distributors, and you have brokers that all bid to the federal government on these connectors.

Mrs. VELÁZQUEZ. Mr. Aragon, regarding this specific contract how many or what is the percentage of that contract that is going to be performed by inmates?

Mr. ARAGON. On this specific contract you are speaking of, Congresswoman?

Mrs. VELÁZQUEZ. Yes.

Mr. ARAGON. I do not know. I do not know the details.

Mrs. VELÁZQUEZ. Can I get a commitment from you that 100 percent of the work that will be performed will be performed by inmates?

Mr. ARAGON. It would be my commitment to do that with all products if at all possible, Congresswoman, yes.

Mrs. VELÁZQUEZ. And then you are going to supply to us what is the percentage of each of the contracts that have been awarded to you what is the percentage of inmates that have been participating in performing the job of each one of them?

Mr. ARAGON. Each one of these particular products?

Mrs. VELÁZQUEZ. Of all the contracts. Federal contract.

Mr. ARAGON. Yes. We will get you——

Mrs. VELÁZQUEZ. I just want to see what type of programmatic plan do you have in place in order to help inmates rehabilitate themselves through training and work.

I want to see that you are serious when you tell us that yes, you deserve all the benefits that businesses are not getting because you are performing a social mission as an institution, and the only way to do that is by seeing how many or what percentage in each contract, what percentage of that work is being performed by inmates.

Mr. ARAGON. We will give you whatever information we can, Congresswoman. I will say that as it relates to the preference, the mandatory source that Unicor has, Mr. Montalco, Congressman Hoekstra's counsel, I appreciated him pointing out that we are only one of seven preferences. There is a preference for blind and disabled people. There is a preference for minorities, small business, small business owners under the 8(a) program.

We are one of seven areas where Congress has seen fit to say there needs to be sort of a different playing field to address the social needs of these constituencies.

Mrs. VELÁZQUEZ. Mr. Aragon, I understand that FPI does a lot of work with Kroeger International. Would you briefly explain that relationship?

Mr. ARAGON. It is actually Creager, and that relationship is a similar relationship that we have with other businesses and small businesses, and that is that we provide some stage of the manufacturing process labor where, for example, with that particular company——

Mrs. VELÁZQUEZ. Okay. Can you answer to me is Creager a small business company?

Mr. ARAGON. No, it is not.

Mrs. VELÁZQUEZ. No?

Mr. ARAGON. As far as I know.

Mrs. VELÁZQUEZ. Can you tell me how much of the office furniture currently made by FPI comes fully assembled from Creager or any other manufacturer FPI uses?

Mr. ARAGON. Very little comes fully manufactured. As I started to say earlier, Congresswoman, what our job is is somewhere in the manufacturing process we may get for a desk, for example——

Mrs. VELÁZQUEZ. What is very little?

Mr. ARAGON. Less than one percent a year.

Mrs. VELÁZQUEZ. And on that type of contract, what are inmates actually doing?

Mr. ARAGON. Well, again let us take a desk, for example. Our inmates may fit in the process at any stage.

For example, we may get fully—for a desk we may get drawers manufactured by a company, a small business company or some

other company, and what we do is take various components, the nuts and bolts that we buy from another business, et cetera, and our inmates would do the final assembly and then do the quality control, the finishing and painting, et cetera.

Mrs. VELÁZQUEZ. Do you know how many inmates once they are released go to work for Creager?

Mr. ARAGON. We cannot say specifically with that company, but I can tell you that we do employ inmates in the businesses where they work in Unicor when they are released to the community.

Mrs. VELÁZQUEZ. Give me the data. How many of the inmates?

Mr. ARAGON. Well, the problem with that, Congresswoman, is this. We would love to be able to provide you data, but once an inmate leaves one of our prisons——

Mrs. VELÁZQUEZ. You do not have any more responsibility with him?

Mr. ARAGON. No. They do not want to have anything else to do with us.

Mrs. VELÁZQUEZ. I know, but let me ask you. Let me ask you. I am not trying to be funny here because this is serious business.

Mr. ARAGON. No.

Mrs. VELÁZQUEZ. Let me ask you this. How could you measure success if you do not know how many of the inmates once they are released get a full-time job?

Mr. ARAGON. Because we can measure it. We have measured it empirically, as I have testified to earlier, with studies. Additionally, most of the information we have——

Mrs. VELÁZQUEZ. Do you know what? I understand why inmates would not want to have any relationship with you any more once they are released.

Mr. ARAGON. Any prison, Congresswoman.

Mrs. VELÁZQUEZ. Right. Sure.

Mr. ARAGON. Any prison. I apologize. I did not mean to be humorous.

We would love that information to be able to demonstrate how effective our training is, but when an inmate leaves they want to close that chapter in their life, plus we cannot mandate them providing us information because there are privacy laws, and 95 percent of the inmates in prison, regardless of where it is at, go back into the community. We want them to have good jobs and be able to resume a normal life.

Mrs. VELÁZQUEZ. So there is no way for you to gather that information?

Mr. ARAGON. We have——

Mrs. VELÁZQUEZ. What about if you work with the parole officers?

Mr. ARAGON. Well, the Congress did away with parole many years ago, Congresswoman. There is no parole in the federal system.

Mrs. VELÁZQUEZ. There is no parole?

Mr. ARAGON. There is no parole.

Mrs. VELÁZQUEZ. I am finished with my questions.

Chairman MANZULLO. Mr. Issa?

Mr. ISSA. Thank you, Mr. Chairman.

Mr. Aragon, Mr. Schwalb, relax. I am not going to be your friend. I am not going to be kind to you, but you might at least appreciate that I have sat in your chair. I was on the prison industry board in California. None of these arguments are new.

I would like to maybe use this opportunity to point out the flaws that exist in a system that you have inherited as chairman. By the way, were you appointed to this?

Mr. ARAGON. Yes, I was, Congressman.

Mr. ISSA. Is it a Presidential appointment?

Mr. ARAGON. Yes, it is, sir.

Mr. ISSA. I would write a letter. I did one to Pete Wilson saying thanks, buddy.

Mr. ARAGON. Thank you, sir.

Mr. ISSA. He still thinks he is a friend after he appointed me to that.

Let me just give you a hypothetical. We will assume for a moment that the slightly smaller program that California operates, actually by magnitude a little less than half the size, but still a substantial program, has some similarities.

Let us see. You get a mixed message, if I understand correctly. You are supposed to supply a lot of jobs, but you are also supposed to not lose money providing them. You are supposed to do training, but, in fact, training funds are minimal, and training costs you. You tend to use lifers because they are a reliable workforce, but, of course, lifers never leave so the training, per se, is wasted on them.

You are expected to make a high quality product, but, at the same time, you have this high turnover. You have no significant control over rotations on inmates, at which are the will of the system based on a lot of needs. You cannot control lock down.

Have I hit some of the high points of what you deal with every day?

Mr. ARAGON. Keep going, sir. You are doing just great.

Mr. ISSA. So wanting to be your friend, I also have to be your Dutch uncle here today.

You come before a Committee that is upset because you are taking jobs from private America. You have a reputation for making less than the best quality, but do not feel bad. Every prison industry suffers from the reality that being competitive with a workforce that is constantly turning over can be very difficult.

Is it not time that your organization, in light of this kind of continued oversight and some of the things you've heard today, come before the Congress with a significant change in how we do business in prison industries, a single mission to rehabilitate prisoners, and it will be a hypothetical, and you tell me if you agree.

Should you not really take your character prisoner only three or four years before release so that in fact taking a prisoner with ten years left on his sentence is irrelevant because if it only takes a year to train him then you want to catch him with the minimum time so you can have the maximum number of people trained. Would that not be a change that you would like to have?

Mr. ARAGON. That would certainly be something that we would want to pursue. Yes, sir.

Mr. ISSA. Right. Mr. Schwalb, would that not cost you a lot of money because you now would be doing a training program, and you would not be able to be as competitive?

Mr. SCHWALB. Sir, you are correct that the shorter term an inmate you take obviously the higher turnover, so it does enhance the training program, but it is a disruptive manufacturing strategy. I agree with that.

Mr. ISSA. But your goal, as I understand it, is to supply a trained workforce to the private sector, one that has skills and a work ethic. Is that correct?

Mr. ARAGON. That is absolutely correct.

Mr. ISSA. And so if your mission is the same as California's, it is confused because you are using a lot of lifers, and you are getting people for as long as you can keep them, as stable as you can keep them, because you also have this pressure to turn out this $500 million and not lose money doing it. Is that roughly correct?

Mr. ARAGON. That is, Congressman.

Mr. ISSA. If you leave with nothing else here today and if my colleagues leave with nothing else, you have a proactive responsibility. Whether or not your preferential position remains or is taken away, you need to come to us and say we are training 20,000. We should be training 80,000. We are training people and keeping them for long periods of time. We should not be.

We have very few joint ventures, and those joint ventures are sometimes very opportunistic. You need to say you need to have a joint venture that includes government incentives and credits so that they are not opportunistic and do offer jobs in the aftermarket.

I think the Chairman, Mrs. Velázquez, and others are telling you your program is in serious trouble and you are trying to defend a program that has a bad reputation.

In your follow up, I would strongly suggest that you give this Committee whatever you have or can generate in the way of the reforms that would justify the Congress—not just this Committee, but the entire Congress—in having faith in the job that I do not think you now have tasked before you as your prime task for which if you experience the same thing as a volunteer board man and small businessman that I experienced, you wish that was your only job; to get people with a work ethic who have a will to go into private sector.

If you are given that and the funding to do it, because obviously you are not going to be profitable doing that, these folks here who are so mad might in fact be more supportive, especially if you had a positive joint venture program as part of it.

I know I did not ask you a lot of questions, but hopefully we are pointing out a direction that you can follow up in writing for this group and after hopefully educating the entire Congress.

Thank you, Mr. Chairman.

Chairman MANZULLO. Thank you.

Mrs. Napolitano?

Mrs. NAPOLITANO. Thank you, Mr. Chairman. I was not able to sit here through all, so forgive me if I am repetitive in some of the questions.

I have three concerned areas. One, of course, is the waiver because that was discussed, but I did not catch all of it. I will get

into that. The second one, of course, is the education and training, which has just been covered; not totally, though. The third one is your advertisements.

I will start off with waiver issues. Who oversees the waivers that are given?

Mr. ARAGON. There is a person on staff with Federal Prison Industries who is our ombudsman who has program responsibility for the waiver process. Of course, the board listens. That person makes a presentation at every single board meeting that we have. It is one of the few officials that talks to us about waivers.

Mrs. NAPOLITANO. How many waivers would you say that the board listens to at any one given time?

Mr. ARAGON. We get a complete report on waivers in process being worked at every board meeting. Waivers is a very important area to us. I can tell you that 90 percent of the waivers that are requested are approved, given to those folks, and then in the electrical connectors specifically because I look at that at the break, Congresswoman, we have in my memory and in Mr. Schwalb's as well—I have seven years; he has much longer. We have never denied a waiver in the electrical connector area.

If a contracting officer wants to buy a product from this company and it is something that we make and we would have mandatory source, if they were to ask us for a waiver they would be given a waiver for that to be able to buy from that company.

Am I correct, Steve, that we have never——

Mrs. NAPOLITANO. So in other words, the board does oversee the ombudsman, the waiver, the individual who handles them?

Mr. ARAGON. Yes, ma'am.

Mrs. NAPOLITANO. Is all the FPI contract work done in the prisons?

Mr. ARAGON. I am not certain I understand. All the factories are in prisons. The work on various components of products may be done outside with one of our partners, and then we would fit in someplace in the manufacturing process.

Mrs. NAPOLITANO. So some of them may come to you already premade or——

Mr. ARAGON. Partially.

Mrs. NAPOLITANO [continuing]. Partially assembled?

Mr. ARAGON. Yes. We may get items, Congresswoman, from a dozen different suppliers, small businesses, et cetera, just as any other company would do if they are manufacturing a desk. We would get all those pieces and then basically put it together and finish it and then ship it.

Mrs. NAPOLITANO. In the waiver process, and my mind is racing because as you are answering I am thinking. Is there any small business input into the process of the waivers so that you have some checks and balances?

Mr. ARAGON. Small business input in——

Mrs. NAPOLITANO. In the ones that were participants in some of the areas. Not necessarily the ones that are doing contracting with you, but in order to be able to see if it is fair that these waivers are appropriate or not?

Mr. ARAGON. We consider each of the waivers on a stand alone individual basis. While I cannot tell you with direct knowledge that

small business status is one of the checkmarks for somebody that we can consult, I can tell you that the board has given very clear direction to the person who oversees the labor program——

Mrs. NAPOLITANO. Do you have any kind of report that indicates that to the board?

Mr. ARAGON. The number of small businesses that are affected? That we have consulted with small business? I am not certain I understand your question, Congresswoman.

Mrs. NAPOLITANO. I am trying to figure out if these waivers have any kind of checks and balances so that small business, and you all know that most federal agencies have to meet a certain cap. In other words, they are a percentage of meebe-weebe-deebies. Am I correct?

Mr. ARAGON. You are correct.

Mrs. NAPOLITANO. Some of this is not happening supposedly, and I am just wondering how you can help make sure and ensure, if you will, that some of these areas are being looked at and not ignored.

Mr. ARAGON. I can tell you that the board is very vigorous in paying attention to that.

Mrs. NAPOLITANO. Is there something in writing that tells what their achievements have been so that we can understand that they have at least attempted to do that?

Mr. ARAGON. As it relates to the waivers, I can——

Mrs. NAPOLITANO. As it relates to not only the waivers, but any of the business that the board does approve.

Mr. ARAGON. I can tell you that I received some contract information for fiscal year 2000, the last complete fiscal year, that of the 1,818 procurement actions over $25,000 that we had, 1,068 of those purchases were with small businesses and minority owned businesses.

Yes, we very carefully track that information, but I can give you further details, Congresswoman.

Mrs. NAPOLITANO. I would prefer, Mr. Manzullo, Mr. Chair, if some of that information were given to the rest of the Members of this Committee so that we can all be aware that they are in effect complying.

Chairman MANZULLO. If you would yield? If you could get us the exact questions——

Mrs. NAPOLITANO. I will.

Chairman MANZULLO [continuing]. That you want answered, then we will put those into one big letter and send it out.

Mrs. NAPOLITANO. Okay. The other one is, and I will go into the advertisement. My understanding is I really do not know how much money Unicor spends on advertisement and marketing in say, for instance, last year.

Mr. ARAGON. I would like to get that technical answer from Mr. Schwalb if I could.

Mr. SCHWALB. I would have to hazard a guess, and I would prefer to give you an exact answer in writing. I do not know.

Mrs. NAPOLITANO. Okay. I would like to see that and make sure that we all have that. I will include that in one of my questions.

Chairman MANZULLO. If you would yield?

Mrs. NAPOLITANO. Certainly.

Chairman MANZULLO. You know, one of the reasons that we asked FPI here is to have some balance and get some answers, but, you know, the CEO of any company has at least a percentage estimate as to what they are spending on advertising. You have no idea?

Mr. SCHWALB. If you want a wild guess or a ball park idea, I would be happy to provide that. My estimate——

Chairman MANZULLO. It is Ms. Napolitano's question. It is just that we are at the point now where everything that we need we have to send in a letter.

It is your question. I would——

Mrs. NAPOLITANO. No. Go ahead. You are doing fine.

Chairman MANZULLO. Please.

Mr. SCHWALB. It depends on how broadly we are going to define the term. I would prefer to define it as broadly as possible to be as responsive——

Chairman MANZULLO. Sure.

Mr. SCHWALB [continuing]. To your question. That includes our staff, for instance, who go out and interact with customers and do sales work. It would include contracts we have with companies that do representation and sales and installation for us. It would include marketing brochures, website maintenance. I mean, there is quite a category if you define it as marketing very broadly.

Chairman MANZULLO. Sure.

Mr. SCHWALB. All together, I am going to estimate that that number is probably $25 million or $30 million a year.

Chairman MANZULLO. Okay.

Mrs. NAPOLITANO. Great. You kind of alluded to some of the marketing materials you utilize. Do any of these consist of items given to federal employees, such as notepads and pens and the like?

Mr. ARAGON. Yes. That is correct. We print calendars, notepads that we distribute to employees.

Mrs. NAPOLITANO. Then that kind of begs the next question of why does Unicor spend taxpayer dollars advertising when it is a mandatory source? I mean, it is a monopoly, a source the federal agencies are required by law to use. It seems like it is just an incredible taxpayer waste.

Mr. ARAGON. Well, from our perspective our advertising, our marketing, is simply a method to educate our customers about what products we have and——

Mrs. NAPOLITANO. But they have no choice. You are the only game in town.

Mr. ARAGON. Actually, Congresswoman, there are choices. As I said, we granted over 90 percent generally in a broad manner of waiver requests that were given to us. One of the——

Mrs. NAPOLITANO. Would you tell me how this would educate somebody about what you do, this notepad?

Mr. ARAGON. Actually, what we do in a circumstance like that is again creating jobs to not impact the private sector. We need pads to write and figure, you know, as any business does. If we print them ourselves, then it is not a product that we are going to have to, you know, procure from the outside. We are saving money.

Mrs. NAPOLITANO. I just feel that this is not really what our taxpayers' dollars should be going to to provide somebody else with

the name of U.S. Department of Justice Unicor and a calendar when like we use one plain piece of paper if this is what we need to advertise on.

Mr. ARAGON. Congresswoman, actually what we are doing is we are saving taxpayer dollars by printing those ourselves. You know, frankly, the way I see it is that if we have a calendar on the piece of paper that we are writing on we do not need to print the calendar as well.

Mrs. NAPOLITANO. But that is a waste of space, sir. Every day the use of this is totally a waste of space. I will be submitting questions on that area.

Now, the next topic would be, of course, one of my favorites, education and training. You answered some of the questions that Mr. Issa had left in regard to what you are or are not doing.

I have long been a proponent that somehow when we incarcerate we are being punitive. We are not being restorative. Although I agree there should be maybe some funding from Education or Labor or other agencies to be able to promote the education of the incarcerated since most of them do not have a high school diploma at best is that we, and I agree with the joint venture idea that we need to begin to be a little more proactive in ensuring that some of the folks that we turn lose have at least the ability to go out and seek a job if not from Unicor, from other agencies that they may be able to be successful in doing so.

Now, I am not sure whether anybody has looked at it, whether your board has considered it, whether there has been any dialogue, but it is very seriously an idea that I think we need to begin to look at is making sure that while these people are incarcerated they are a captive audience that we need to make sure that somehow we get education to them available to them and even maybe mandating so that these folks, when they leave, are able to sustain their families and themselves.

Now, would you answer?

Mr. ARAGON. Yes, Congresswoman. Actually, I appreciate you saying that because that is where Unicor really believes that we do probably the most public good in everything, all the work we do, is that typically inmates who come in the federal system have very, very low educational skills, so Unicor, as the most preferred job in the institution, we require inmates to get a GED or GED equivalent before we even will hire them.

There is a huge motivation for an inmate to at least get to that educational level to even be eligible for a Unicor job. That is something that the board has been very focused on doing.

As Congressman Issa was speaking of before he left, one of the other important pieces of what Unicor does is the long-term inmates that, yes, we do employ in our factories, inmates who come to our institutions typically do not have work skills. They do not know how to get up in the morning and go to work and perform a good, honest day's work.

If they do not get up and come to work or they get in trouble in the institution, they lose their Unicor job, so there is a huge incentive for the inmate to continue their education.

Mrs. NAPOLITANO. I am glad to hear that. I am very happy to hear that, but that does not really answer my question of how

many people you are working with to be sure that you are allowing them or helping them get the GED and even beyond that because we should not stop there.

Mr. ARAGON. No. Unicor—in fact, the nature of the organization is Mr. Schwalb is not only the chief operating officer for Unicor, but he is also the person with program responsibility in the federal prison system over education and training because we believe there is a very close correlation between training opportunities and education.

Mr. Schwalb, can you——

Mrs. NAPOLITANO. As you go through that, you also made reference that Unicor does employ some of the people leaving prison, but you do not have any kind of hands-on of how many you employ or where they are coming from. That kind of leaves it quite open.

Do you provide those employees any other assistance for education?

Mr. ARAGON. Actually, perhaps I mis-spoke earlier to the Congresswoman's question. We do not employ inmates once they leave.

What that discussion involved was that our inmates are employed when they leave federal prison with people who are manufacturers of the same product they do internally. Once an inmate is released, we do not track them to know.

Mrs. NAPOLITANO. Can you give us some figures of what businesses employ them or names of the businesses?

Mr. ARAGON. Absolutely. I can tell you that I am one of them. I have employed Unicor people in my business who are federal inmates who were released.

Mrs. VELÁZQUEZ. Would the gentlelady yield?

Mrs. NAPOLITANO. I would yield.

Mrs. VELÁZQUEZ. You said that in terms of work ethics. I want to know what type of incentive would you provide for this inmate to get up and go to work?

Mr. ARAGON. What do we provide?

Mrs. VELÁZQUEZ. At Unicor, yes.

Mr. ARAGON. Well, the incentive is that if they do not get up and come to work at Unicor, they lose their Unicor job. That means that——

Mrs. VELÁZQUEZ. How much do you pay? What is the average wage?

Mr. ARAGON. Well, the average wage goes from—I do not know what the average wage is, but it goes from 25 cents an hour to $1.18 an hour.

Mrs. VELÁZQUEZ. That is a great incentive.

Mr. ARAGON. Congresswoman, they send much of that money that the inmates earn. Half of that money goes to victim restitution, which is a huge contribution to society. The rest of that money they use. They send home to their families, you know, families who are now without a father or a mother, so it is a substantial amount of money.

Mrs. VELÁZQUEZ. Yes, sure. It is a lot of money that the victims are getting from those inmates.

Mr. ARAGON. How much is it, Mr. Schwalb?

Mr. SCHWALB. Last year it was about $2.5 million for the victims.

Chairman MANZULLO. Is there any withholding done?

Mr. ARAGON. No, there is not.

Chairman MANZULLO. Nothing? I guess why have social security if you are a lifer. You know, that really would not make sense. Well, you could have children.

Mr. ARAGON. Ninety-five percent of inmates who are in institutions return to the community at some point, Mr. Congressman, so, you know, the term lifer. Yes, we have a lot of people doing a lot of time, but that is the point about Unicor is that ultimately a lot of those people come back into the community.

Chairman MANZULLO. The goal then is to have people who worked in a certain area at Unicor once they leave prison go out and perhaps become employed or set up a business whose skills were learned in prison. Is that correct?

Mr. ARAGON. That is correct. And work habits and those sorts of things.

Chairman MANZULLO. Now, my understanding, and you can correct me if I am wrong, is that several small businesses were started by ex inmates in the process of furniture installation, office furniture, or they worked for small businesses that did installation.

Mr. ARAGON. I would say that is accurate. Earlier Congressman Hoekstra referred to the person, Chuck Colson, who was one of our inmates, who founded Federal Prison Industries.

By the way, they do not support H.R. 1577 because they believe it will be detrimental to helping ex offenders in society.

Chairman MANZULLO. Well, the prison guards do. If this is your goal to have people who do that same type of work, learn that type of work in prison, get on the outside and then set up their own businesses or go to work for people that do that same type of work, then why did FPI bundle all of your installation work and give one prime contract to GMG? You put a lot of ex prisoners whose skills had been learned in prison out of work.

Mr. ARAGON. I would disagree with the latter part of your statement. I would not say that we put ex inmates out of work. I would actually——

Chairman MANZULLO. That will be the next hearing because the next hearing will be on contract bundling. You will be there, and right next to you will be a prisoner who learned a skill in prison. Then he got out, and because of contract bundling with FPI the job that he learned in prison during which time he displaced people like these, once he.

Why not, Mr. Aragon?

Mr. ARAGON. There certainly is a way for dealers to interact. We have dealers interact with us all the time, Mr. Chairman.

Chairman MANZULLO. Do you answer their letters?

Mr. ARAGON. Oh, absolutely. Absolutely.

Chairman MANZULLO. Mr. DeGroft?

Mr. DEGROFT. The way we work with our customers when we talk about these waiver forms and so forth, we are——

Chairman MANZULLO. Could you explain what that waiver form is? Who is waiving what?

Mr. DEGROFT. We are put in a position, if I can tell you a little bit of the whole story——

Chairman MANZULLO. Go ahead. Explain that.

Mr. DEGROFT. We are put in a position where——

Chairman MANZULLO. Mr. Votteler, if you want to jump into this because you talked about the waivers also.

Mr. DEGROFT. As a salesperson, a customer comes to us and asks for information. A federal customer comes to us and wants us to do something. We are put in a position of having to explain our competition to our customer.

Mr. Customer, do you know that you probably cannot buy anything from me? When it comes time to place a purchase order, sooner or later these guys, Unicor, are going to step in and take the order.

Then the customer comes back. In this case, let us say it is the Air Force because that is who we work with in New Mexico a lot. The customer comes back and says do not sweat it. We can handle that. We want to buy your merchandise. We can get the waiver.

We go through all the selling process of design specification, pricing, and so do probably two or three other people in our town do the same thing. That then gets submitted, and somewhere along the line the customer, our customer, the federal agency that is buying, has to submit a waiver form to this group.

Chairman MANZULLO. To FPI?

Mr. DEGROFT. Yes.

Chairman MANZULLO. And FPI has to sign off——

Mr. DEGROFT. On the waiver form——

Chairman MANZULLO [continuing]. To allow the federal government to buy from you?

Mr. DEGROFT. Right. On the waiver form it says——

Chairman MANZULLO. So they control the whole flow of sales?

Mr. DEGROFT. On the waiver form it says price, availability, suitability of product or delivery are not good excuses for asking for a waiver.

Mr. ARAGON. Mr. Chairman, we approved $450 million in waivers last year, 90 percent of the requests. As I——

Mr. DEGROFT. It must have been somewhere else.

Chairman MANZULLO. That is 90 percent of your business was waivers.

Mr. ARAGON. I am sorry?

Chairman MANZULLO. I have it here.

Mr. ARAGON. No. $450 million of business we could have had, but we waived because the customer, the Air Force or whoever it happened to be, requested it.

As I said earlier, in the area of the electronic connectors we have never denied a waiver. If the customer says we want to buy from this company, we have never denied that opportunity.

Chairman MANZULLO. Ms. Gentile or whoever, go ahead.

Ms. GENTILE. Yes.

Mr. DEGROFT. If you will let me finish?

Chairman MANZULLO. I am sorry.

Mr. DEGROFT. When that waiver is sent in, it is sent in by the buying agency, the request for a waiver. It sometimes comes back very quickly. Sometimes it comes back in a month, you know, but we are out of that loop.

As the dealer, they are not asking us any questions about our stuff, and so it will come back either refused or in the case of the Air Force, the last one, I was refused on.

Chairman MANZULLO. Then who signs the waiver, FPI?

Mr. DEGROFT. No. The waiver is either approved or denied by FPI.

Chairman MANZULLO. By FPI.

Mr. DEGROFT. Solely by FPI.

Chairman MANZULLO. Is there any review of that process?

Mr. ARAGON. Yes, there is, Mr. Chairman. The waivers initially go to product managers in that particular field, so it is the furniture people. If it is a furniture issue, it goes to the manager of that particular area.

Chairman MANZULLO. This is an internal review?

Mr. ARAGON. Then if that person does not waive it, and, as I say, 90 percent of the time we waive the right for them, the government, to buy from anybody, but then if in fact we deny the waiver for whatever reason then it goes to our ombudsman, who is a person with ultimate responsibility for making the decision on whether the appeal is supported or denied.

Mrs. VELÁZQUEZ. Mr. Chairman, who appoints the ombudsman?

Mr. ARAGON. It is appointed by the chief executive officer, so it is a staff member. It is not——

Mrs. VELÁZQUEZ. It is one of you guys?

Mr. ARAGON. Congresswoman, I had not finished the last response.

Then if in fact that person denies the waiver again, the customer has the opportunity to go to the next level, which is outside our agency. It is something that this board, under my direction, created, and that is a review panel of three experts in the business of government contracting, somebody from GSA, somebody from Department of Defense and somebody from Justice Department. Those are independent people who——

Chairman MANZULLO. But they are all government employees.

Mr. ARAGON. Well, sir, government employees in this organization do a tremendous job. They are very professional.

Chairman MANZULLO. I am not saying that.

Mr. ARAGON. Those people, though, review that waiver process independent of our control, and they have the final authority. Of the three times—well, I do not want to give you——

Chairman MANZULLO. Is the SBA represented?

Mr. ARAGON. The SBA is not on that committee.

Chairman MANZULLO. Well, they should be.

Mrs. VELÁZQUEZ. The Small Business Administration is not?

Mr. ARAGON. Well, we certainly can entertain that, Congressman.

Chairman MANZULLO. Mr. DeGroft?

Mr. DEGROFT. I just have to respond to that. I do not know where the 90 percent of the waivers that are granted are granted because they are not granted in New Mexico.

Chairman MANZULLO. What has been your experience?

Mr. DEGROFT. Well, when I——

Chairman MANZULLO. Give us a real life experience.

Mr. DEGROFT. A real life experience is——

Chairman MANZULLO. A real life contract that you had and you lost.

Mr. DEGROFT [continuing]. With the Air Force a $20,000 quote for computer furniture for Kirtland Air Force Base comes back, and I get three chairs. The rest of it is taken by Prison Industries.

Now, on paper this sounds wonderful that there is this appeal process and everything, but the customer is cowed by the process——

Chairman MANZULLO. How long do they wait?

Mr. DEGROFT [continuing]. Once he finds out that there is this waiver process. You know, these customers are not buying furniture a year from now. They are probably buying furniture they need next month.

All of a sudden all this process starts going, you know, of you have to do this and you have to do that and you have to see the ombudsman and all that stuff. They do not love me. I mean, they are not my brother that is doing this, so they just cave in.

Chairman MANZULLO. Ms. Gentile, you wanted to interject something?

Ms. GENTILE. Yes. I would like to challenge the waiver process. If you take the 235 part numbers that are going to equal $5 million over a five year period, we have never been solicited on the contract because they have a price list from Federal Prison Industries.

I would like to have my company have the opportunity to quote those and then have a waiver granted by FPI on 235 parts that are directly going to impact three small businesses that are listed on a QPL that only has five.

Federal Prison Industries teamed with a large business manufacturer. I have several examples right here on that exact thing. Two hundred and thirty five pieces. I bid $11. Federal Prison Industries bid $19. Federal Prison Industries was awarded that product. Did you waive that product? I have been told by DLA that for every case they have to have a waiver.

Chairman MANZULLO. Well, DLA is their friend after you see what happened with that last mess that we had with this four and a half hour hearing. I think somebody retired as a result of that hearing. Two people retired in fact.

Do you know what happened as a result of that last hearing we had with the berets?

Ms. GENTILE. Yes.

Chairman MANZULLO. Do you know that foreign procurement of clothing has come to an end? That is 23 percent of $40 billion. That is not bad for a day's work, is it Mrs. Velazquez?

Mrs. VELÁZQUEZ. Yes.

Chairman MANZULLO. You were never solicited for orders on that?

Ms. GENTILE. Mr. Chairman, on this it is a mandatory set aside for Federal Prison Industries. These 235 parts—we have never been solicited in a bundle of the 235 parts.

Chairman MANZULLO. That would be Congress' fault because of the set aside, and they are using that to fulfill their statutory——

Ms. GENTILE. Absolutely, but that will definitely displace us.

Chairman MANZULLO. Okay. We cannot blame that one on Mr. Aragon. He is getting enough grief.

Mr. ARAGON. Congressman?

Chairman MANZULLO. Yes, please?

Mr. ARAGON. With what I just heard with that price example, had a waiver request been processed that is a valid reason for granting a waiver. I can tell you also——

Chairman MANZULLO. Because FPI would be higher?

Mr. ARAGON. There is a variety of considerations, but also I heard earlier in the testimony about how burdensome the waiver process is. Four days. Four days the customer has their response yes or no on an average with a waiver request. It is very important that we process them immediately so that we are not leaving people waiting.

Mrs. VELÁZQUEZ. Mr. Aragon, you mentioned before that 90 percent of the waivers had been granted.

Mr. ARAGON. Requests requested are granted.

Mrs. VELÁZQUEZ. Of that, how many waivers were granted in the furniture industry?

Mr. ARAGON. I could not tell you that statistic off the top of my head, but I can certainly get it for you. I will also say that it probably tracked the amount of business that we do in that area. It is about 40 percent of our business. We get a lot of waiver requests in the furniture area.

The way it typically happens, Congresswoman, and some of the gamesmanship that occurs in this process is the customer, as was testified to earlier, the customer, the Air Force, says I want to buy these chairs. The dealer, the person who wants to sell the chairs, will say okay. You have to ask for this kind of chair because if it is that kind of chair Unicor gets it. We have to figure out how we can specify a chair that Unicor does not carry so they can get around the ordering process.

Then that generates typically a waiver request. They say we will send in a waiver request. Even then, even under those circumstances, 90 percent, $450 million in business last year, we waived. Never have we not issued a waiver on electrical connectors. I suspect these parts that were just testified to, they could have sold those parts if the process had been followed.

Mrs. VELÁZQUEZ. Mr. Votteler, how does 90 percent sound to you?

Mr. VOTTELER. I do not know. It sounds a little high to me. I was not aware of the three person panel that the decision on the waivers could be taken to if the ombudsman—basically FMA's position has been that the ombudsman thing did not work because the ombudsman is an employee and a senior person with FPI, so they are not very likely——

Mrs. VELÁZQUEZ. Mr. Aragon, would you please——

Mr. VOTTELER [continuing]. To be unbiased, but my own personal experience has been that there are a lot of waivers processed and granted, but it is also a time consuming process, and why would we have to go through the waiver process.

Managers do not like having to add in time and then not knowing. Basically it is unilateral, at least it has been in the past. What I am hearing is it is no longer that way.

Chairman MANZULLO. Could you yield?

Mrs. VELÁZQUEZ. Sure.

Chairman MANZULLO. My understanding is the Air Force wants to buy this office furniture. The people that have the first shot at

furnishing it are FPI, and then FPI has to sign off on it. Okay. Is there a set aside? You have a preference, not a set aside. Is that correct?

Mr. ARAGON. That is correct, Congressman.

Chairman MANZULLO. So it is a mandatory preference regardless.

Mr. ARAGON. Yes, and the contracting officer for the Air Force should not be speaking to those folks if we manufacture the product. They should be saying okay, Unicor, I have this order. This is what it is. We would say okay within four days, you know, get it someplace else.

Chairman MANZULLO. So you control the gate on all the sales? On all federal sales, you are the gatekeeper?

Mr. ARAGON. No. No, that is not accurate, Congressman. Not on all federal sales. For sales in areas where Unicor has mandatory source, the preference, and products that we manufacture.

Chairman MANZULLO. What would those areas be, Mr. Aragon?

Mr. ARAGON. Well, the products we manufacture.

Chairman MANZULLO. Whatever you manufacture, a federal agency must buy that from you unless you waive and tell them to go somewhere else?

Mr. ARAGON. Unless we tell them they can, yes. In fact, one of the things that Unicor does as a public service and one of the reasons we are so valuable to many of our federal customers is that there are a lot of products like products that a manufacturer on the private sector does not manufacture like battle helmets. You know, they cannot keep a business operating to manufacture helmets for the Army and sell them, you know, and have a viable, ongoing business.

We maintain capacity at Unicor so when the Army needs helmets we make helmets. We have that capacity in numerous products.

Mrs. VELÁZQUEZ. This is my time so, Mr. Aragon, let us talk about the products that you manufacture, but also other small businesses manufacture as well.

Mr. Votteler, what has been your experience? Have you had any direct experiences with lesser quality products coming from and provided by FPI?

Mr. VOTTELER. My own personal experience is the one product in the past, and they are no longer in the business of making shoes, but it was footwear. We used to be required to purchase safety shoes from Federal Prison Industries.

Employees would continuously complain of the feet and have foot problems as a result and eventually—they are no longer made. As far as I know, I do not think FPI is in the footwear business. That has been some time ago.

There have been complaints. The main complaint was in delivery time, I guess, from managers that have talked with me on getting delivery.

Mrs. VELÁZQUEZ. Mr. DeGroft, will you please tell us more about what happened in New Mexico? What was the situation like before the law was changed, and how do things work now since the law has changed?

Mr. DEGROFT. Well, about ten to 12 years ago the New Mexico state legislature passed a law requiring that all state, city, county, schools and universities in New Mexico must buy from New Mexico

Corrections. You may or may not be aware that many states have their own programs such as modeled after an FPI type standard.

For us, the dealers in New Mexico, this was an instantaneous stop to a tremendous amount of business. Myself and three other dealers hired a lobbyist—we spent $14,000 of our own money to do this—and went up to the legislature to try to get a change.

The biggest thing that we tried to do is we removed the mandatory status on the bill and said that they may buy prison industry furniture or prison industry product if they chose to. They may, but they do not have to.

The secondary item was that we wanted to have whatever they made at least 50 percent really manufactured by inmate labor. When we talk about manufacturing, I think we have a little problem here with the definition of what is manufacturing. Bolting an ergonomic chair together that comes out of the box in three pieces is not manufacturing. That is what they do. That is what New Mexico was doing as well in some categories of products. We said we cannot have you just be assemblers.

So we did that, and then the third part was it is funny how this whole thing is tracking because New Mexico Prison Industries began getting space at the state fair to show their products, and then they leased space in downtown Albuquerque beginning to open a retail operation to sell furniture. That is when we were able to get it stopped.

Now, we had all of the same arguments there that we do here about what are we going to do about prisoners? Everybody is going to go broke, and there is not going to be anything for the prisoners to do.

I am very happy to report there are 400 inmates right now working in New Mexico making furniture and other types of products. We get along extremely well. We do not necessarily run into each other very much at all. The system works.

They have had to, by virtue of being forced to, be a free enterprise agent, they are being forced to make better products and respond more timely to their customers and so forth. It has been a very workable situation.

Mrs. VELÁZQUEZ. Mr. Aragon, does Unicor manufacture or assemble?

Mr. ARAGON. We are manufacturers, and some of the work we do is assembling, much as the work done by Americans across the country.

Mrs. VELÁZQUEZ. Tell me how much is manufacturing, and how much is assembling?

Mr. ARAGON. As I said earlier——

Mrs. VELÁZQUEZ. You do not know?

Mr. ARAGON. As I said earlier, less than one percent of the products we made last year you could characterize as pass through kind of work.

In those cases, typically in those very rare cases where that occurs it is because we are trying to provide a service to a customer. The agency wants a product. We do not happen to have the capacity to get that product, but they need it immediately. They utilize our source to get it, and they are getting it from people who manu-

facture it who are small businesses and women owned businesses, et cetera.

Mrs. VELÁZQUEZ. Mr. Chairman, I have a problem here, and that is that he could come before us and tell us about one percent and a 90 percent waiver and so on. You know, how can we have a vehicle in place where——

Chairman MANZULLO. To find out?

Mrs. VELÁZQUEZ. Yes.

Chairman MANZULLO. We could take his deposition under oath.

Mrs. VELÁZQUEZ. Mr. Votteler and Mr. DeGroft and Ms. Gentile, do you agree that it is just one percent based on your own experience?

Mr. ARAGON. Do you know what they are speaking of? One percent of products that we do not manufacture the product in prison, the assembled product. That is the one percent.

Mr. DEGROFT. Of the $550 million worth of product, one percent is not manufactured by you?

Chairman MANZULLO. Do you mean it is pass through or drive by manufacturing? Is that what you are saying?

Mr. ARAGON. That is the question that was on the table earlier where the one percent came in in the furniture area. Yes, sir.

Chairman MANZULLO. How do you define manufacturing versus assembling?

Mr. ARAGON. Well——

Chairman MANZULLO. I mean, when it comes to a chair, you got three chairs?

Mr. DEGROFT. Three chairs out of a $20,000 quotation.

Chairman MANZULLO. All right. FPI got the rest?

Mr. DEGROFT. They got the rest.

Chairman MANZULLO. How do you manufacture an office chair? What do you do?

Mr. ARAGON. Well, I can tell you because the board goes to factories. Every other board meeting we are physically in the factories watching them. A chair——

Chairman MANZULLO. At the prison?

Mr. ARAGON. At the prison. Absolutely.

Chairman MANZULLO. Okay.

Mr. ARAGON. We manufacture a chair just as I guess everybody else manufactures it.

Chairman MANZULLO. Do you stamp the metal?

Mr. ARAGON. We stamp the metal. We do the molds. We cut the material. We manufacture a chair exactly the same way as another chair manufacturer except we use a lot more inmates doing it.

Chairman MANZULLO. Do you import any raw materials?

Mr. ARAGON. I do not believe we do.

Mr. SCHWALB. Mr. Chairman, the only example I am aware of is a postal bag we make for the post office, which has a specification that is only provided from India. It is a raw material. That is the only one I can think of off the top of my head. Typically we are——

Chairman MANZULLO. What about steel? Where are your sources of steel? Do you use American steel or imported steel?

Mr. SCHWALB. We use American.

Chairman MANZULLO. Is that part of the FPI mandate that you use American products in it?

Mr. SCHWALB. We are a federal agency in that respect. We follow the same procurement guidance as any other agency would.

Chairman MANZULLO. I understand. I have no further questions.

Do you have questions?

Mrs. VELAZQUEZ. Thank you.

I just want for the record to reflect that the other witnesses do not agree with the one percent that was stated before by Mr. Aragon, and I guess we need to reconcile this type of information.

Let me just say to the small business people that are here I know that you are frustrated with this hearing today, but I just want for you to keep hope alive. I promise you that we are going to be dealing with this issue.

We all are aware that small businesses are hit by the federal government when it comes to federal contracting opportunities. They do not achieve the goal, the statutory goals. We are going to be dealing with contract bundling. We are going to be holding hearings on contract bundling. Not only are you affecting and impacting small businesses by going into areas and expanding those areas that affect small business people in our country, but also you are into the practice of contract bundling.

The problem that we have with you is that apparently there is not oversight, you know. You have a panel review, a review process to either accept or deny a waiver, but you are policing yourselves. You have your own people telling you yes, you should do this. What do you think they are going to do? They are going to go with you. They are not going to go with a small business.

Mr. Chairman, we have to work together in drafting legislation that will bring some fairness and equity into this whole dynamic of the FPI and small businesses in our nation.

Thank you.

Chairman MANZULLO. I appreciate those statements.

Let me thank the witnesses, those of you who came a great distance.

Mr. Aragon, I want to thank you for your candor. You have been put in a tough position, and you have told us what you know. What you do not know you told us you did not know, and I appreciate the fact that you have been totally up front with this Committee.

Any lack of information that you have is a matter of the institution with which you work and not a matter of lack of credibility or sincerity on your part. I want to thank you——

Mr. ARAGON. Thank you, Mr. Chairman.

Chairman MANZULLO [continuing]. For standing up very well under a lot of excitement.

We are very zealous when it comes to representing small businesses. We are both products of small businesses. That is where our hearts are. We deal with a tremendous number of small businesses around the country that have been hit very, very hard, and if there is any way that we offended you by our zeal to do our job, I would ask your forgiveness for that right now.

I also want to take you up on your offer to be able to have a transparent relationship, to sit down in areas of concern. One of the things that I would encourage the members of the panel and any people here in this room is I think it is a shame that you

would have to go through Freedom of Information requests to get information from a government agency.

We have I think six lawyers on staff on our Small Business Committee. We also have the Office of Advocacy within the Small Business Administration. It was that Office of Advocacy acting on behalf of Mrs. Velázquez and me that stopped the Air Force from ordering 104,000 baseball hats from a Chinese firm. That is when the Air Force decided to get together with the Government Printing Office to do their procurement. Evidently the Air Force thought that hats were printed and not manufactured.

We have an in-house law firm with the SBA. We would be willing to work with you on that. I do not want to see any witnesses coming in here again and having to testify that they had to use Freedom of Information. If you cannot get the information that you want, you come to us. We will get it from Prison Industries. If it is not forthcoming, I have no hesitancy to issue a subpoena.

Again, we want to thank you for coming. I appreciate it very much.

This Committee is adjourned.

[Whereupon, at 1:25 p.m. the Committee was adjourned.]

DONALD A. MANZULLO, ILLINOIS
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States
House of Representatives
107th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

OPENING STATEMENT
HON. DONALD A. MANZULLO
CHAIRMAN
COMMITTEE ON SMALL BUSINESS

HEARING

"FEDERAL PRISON INDUSTRIES:
THE NEED FOR REFORM"

JUNE 6, 2001
10 AM

Good morning and thank you for coming, and especially, thank you to those of you who have traveled to testify, we appreciate your efforts to be here.

Today the committee will be examining the role Federal Prison Industries plays in government procurement, the effect it has on small business, and the provisions of H.R. 1577, the ***Federal Prison Industries Competition in Contracting Act.***

At the outset, let me say that I believe prisoners need training and education in real-life skills. I believe in the goal of prison work, and Federal Prison Industries. I think it is important that prisoners are not idle and that they contribute in some way to restitution for their victims. However, I believe that these goals can not overshadow the increasing impact that Federal Prison Industries has on private sector businesses, particularly small businesses seeking to sell to the federal government.

For instance, in the Congressional district I am proud to represent, there is a blinds and drapery manufacturer - John Miceli, Sr. of Marengo ,Illinois. He would have been here today but a recent heart attack prevented his testifying. If he were he would tell us that he is completely shut out of federal contracting for blinds and draperies, and has been for several years. This is because Federal Prison Industries has seized all opportunities in that field. He doesn't even get to bid, and the same thing occurs to other small businesses in various industries all across the country. I have his testimony here and without objection I'll enter it in the record.

There are laws that prohibit the importation of goods produced by prison labor into this country, yet U.S. companies face competition from homegrown prison labor at slave labor wages, and that competition is growing. How are people who are law abiding, pay taxes and follow burdensome regulations supposed to compete against a government subsidized tax-exempt, regulation-exempt behemoth?

Worst of all, they meet in secret - no Federal Prison Industry Board meeting is open to the public. They can come and testify, if they submit their testimony two weeks in advance, but when the decisions are made the doors are closed. How can this be in an arm of the government?

FPI is constantly seeking to expand into new products and now plans to move into the service sector of federal procurement, all the while combating changes to the many advantages that they enjoy - direct borrowing from the Treasury, low cost labor, subsidies from the Bureau of Prisons, and preferential treatment in federal contracting.

Our first panel will be Representatives Peter Hoekstra, and Carolyn Maloney the co-sponsors of H.R. 1577, a legislative proposal to reduce some of these competitive advantages and allow businesses to compete with Federal Prison Industries.

On our second panel we will hear first hand about the competitive disadvantage facing small businesses from three small businesspeople.

We will also hear from Mr. Joseph Aragon, the Chairman of the Board of Federal Prison Industries. I want to thank him for coming because I believe we need to have all sides fully explored.

Finally, we will hear from Mr. Carl Votteler from the Federal Managers Association, an organization which represents federal procurement officials and civil servants.

Let me reiterate before we start. No one wants idle prisoners. No one wants prison riots. We all want to do our part to make sure that prisoners obtain real-life skills so that they do not return to a life of crime. However, I want to make sure that small businesses, and their employees do not bear a disproportionate burden of the cost of Federal Prison Industries. FPI is taking more and more of their business away from them.

There has to be a balance. I believe that the Hoekstra bill is one small step towards restoring some of the balance, and I look forward to hearing more in this debate.

I'll now turn to my colleague, Ms. Velazquez, the distinguished Ranking Member, for her opening statements; and, if there is no objection, all other Members' statements will entered in the record.

DONALD A. MANZULLO, ILLINOIS
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States
House of Representatives
107th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515–6315

Congresswoman Nydia M. Velázquez
Statement before the House Committee on Small Business
Federal Prison Industries

One of the most important roles this committee plays is to serve as a "watch dog" for the interest of small businesses. Too often, even though small businesses remain the driving force in the economy, they must do so on a less than level playing field. In our work, we see a whole host of examples where small businesses are forced to compete without many of the advantages enjoyed by their competitors. Time after time, whether it is health care, pension or worker training, we have one set of rules for small business and one set for corporate America.

This committee has well documented the unfair treatment that small businesses have received in the federal marketplace through such practices as contract bundling --- where we have seen opportunity after opportunity stolen from small businesses, all in the name of streamlining government. Unfortunately, we all know the real story, which is the fact that due to these practices, small businesses are being streamlined right out of business without a single penny of tax payer money saved.

Today, we look at another form of unfair competition for small businesses, that coming from the federal prison industry. The idea behind FPI is to use work as a means of rehabilitation and to teach inmates a skill which can be used to put them back on the right track. Every member of the committee supports this --- if it was only that simple. Unfortunately, somewhere along the way, this honorable goal has gone awry. This laudable goal of giving individuals a means for a second chance has turned into an industry who's sole focus is not rehabilitation, but turning a profit.

In just 5 years, the number of industries FPI's are involved with has nearly doubled, making them the 40th largest federal contractor, just ahead of Motorola. This level of involvement might be justified, but when you realize that while FPI has become a "Mega" contractor, it benefits only 17 percent of the federal prison population --- clearly something is wrong.

FPI have expanded their fiefdom through the use of preferential contracting treatment, exemption from such labor laws as OSHA and minimum wage standards to an endless line of credit from the federal government. FPI has used these benefits to expand its market share. When you look at how the playing field has become so skewed in favor of FPI, it is little wonder any small business can compete.

Compounding these advantages is that FPI are not even held to basic standards of product quality or requirements to meet deadlines. If any one of the small businesses testifying today ran their business the way FPI does, they would quickly find themselves out of business. This is especially concerning because many of the products that come from FPI are used by the troops in our military, and agencies like FAA that ensure safe transportation. These are areas that can not be taken lightly. We have an obligation to ensure that the public is safe guarded.

Today, the committee will examine just how to put the breaks on the runaway train that is Federal Prison Industries. But one thing is clear, the FPI system is robbing small businesses of opportunities with little or no benefits to this nation's inmates, and that must change.

I do believe that we can have the principle of using the federal marketplace as a tool in the rehabilitation process of inmates, but it must be balanced and it must be fair. The current practice is weighted too far in favor of FPI with very little demonstrated benefit, while clearly costing our nation's small businesses jobs and opportunities. I hope that today's hearing will allow us to find solutions to this problem that will benefit everyone.

Congressman Frank A. LoBiondo
Statement
House Small Business Committee
Wednesday, June 6, 2001

Thank you Mr. Chairman. Let me start off by commending the Chairman and Ranking Member of this Committee for holding a hearing on this important issue.

Last October, I testified before the House Education and Workforce Committee Subcommittee on Oversight and Investigations regarding Federal Prison Industries' proposed expansion into the military apparel market. At that hearing, one of my constituents, Mr. Donald DeRossi of DeRossi and Son in Vineland, New Jersey, testified about the difficulties his business experiences in competing with FPI.

I use the word "competing" very loosely, because FPI doesn't really have to compete with anyone. By law, FPI is a "mandatory source," which means that the Federal Government is required to give Prison Industries top priority in procurement. Only after FPI is given all the work it can handle does the government look to the private sector for goods and services.

I understand the role that FPI plays in inmate rehabilitation, but I do

not believe that private sector jobs should be threatened by unfair competition with prison labor. The current federal procurement process locks-out law-abiding citizens from certain federal contracts and instead gives them to convicted felons. If a small-business bids on a federal contract and is locked-out of the bidding process due to the Federal Prison Industries, able-bodied men and women may be out of work. This is wrong, and many of the small manufacturers like DeRossi and Son would have to lay off workers or close completely. This is bad public policy. Jobs and revenue are going to convicted felons instead of law-abiding men and women.

For those reasons, I fully support the introduction of increased competition in the federal procurement process. I am pleased to cosponsor my friend Congressman Pete Hoekstra's legislation, H.R. 1577, which will allow fair and equal access to federal procurement contracts, and I am glad that Congressman Hoekstra is here today to further elaborate on his bill.

Mr. Chairman, in closing I would like to restate my strong opposition to FPI's preferential treatment. The current structure of the Federal Prison Industries is a government-sponsored monopoly in need of reform. We need to pass H.R. 1577 this year. Thousands of workers across New Jersey and America will thank us if we pass this bill.

Statement
of
Pete Hoekstra
United States Representative, Second District of Michigan

Before
Committee on Small Business
U.S. House of Representatives

Hearing
on
Federal Prison Industries:
Impact on Small Business in Federal Procurement

June 6, 2001

Mr. Chairman (Mr. Manzullo), I thank you for scheduling today's hearing on Federal Prison Industries (FPI) and its impact on small business in federal procurement. For many years, this Committee and its counterpart in the Senate provided virtually the only forum for those being harmed by the corrosive manner in which FPI is allowed to operate in the Federal contracting market. During the last two Congresses, I was able to update these prior efforts with a series of five hearings, while chairman of the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce.

These hearings demonstrated that the situation has only grown worse throughout the 1990s. FPI has expanded in its traditional product and service lines to its captive Federal agency "customers". By 1999, FPI had annual sales of $566.2 million, making it the 36th largest Government contractor. It employed almost 21,000 inmate workers at a centrally-managed chain of 100 factories across the country. A formidable competitor for even the largest private sector business, much less a small business.

Beginning in 1998, FPI began a statutorily unauthorized expansion into the commercial market for services. This expansion was based on a very flimsy legal opinion.

As you will hear from one of today's witnesses, businesses of all sizes continue to be denied the opportunity to even bid on Government contracts funded with their tax dollars. Law-abiding workers continue to lose job opportunities, or their very jobs. Federal managers must obtain FPI's permission before they can make purchases that will get the "best value" for the taxpayer dollars entrusted to their care. Even Federal inmates would have a better chance to make a successful return to society if they had more access to modern, "hands-on" vocational training linked to needed remedial education.

The "Federal Prison Industries Competition in Contracting Act of 2001" (H.R. 1577) would fundamental change the way FPI operates. I am again privileged to have Rep. Barney Frank as the principal Democratic co-sponsor, with Rep. Mac Collins and Rep. Carolyn Maloney as lead bipartisan co-sponsors. We are again privileged to have you, Mr. Chairman and numerous Members of this Committee as cosponsors. At the Committee on the Judiciary, our prospects for success are much improved. Chairman Sensenbrenner is again a cosponsor as are several other Judiciary Committee Members on both sides of the aisle.

H.R. 1577 is an improved version of the bill in the 106th Congress (H.R. 2551). These improvements are fully supported by the Federal Prison Industries Competition in Contracting Coalition, both from the business community and by the AFL-CIO on behalf of organized labor.

The core of the bill remains the elimination of FPI's mandatory source status and its many other preferences in the Federal procurement process. The bill now provides a "soft landing" for FPI, a five-year transition period during which it may adjust to the loss of its mandatory source status.

Other provisions enhance opportunities for inmates to obtain modern "hands-on" vocational training linked to remedial education. Individual inmates and their families, as well as society at large, will benefit if we better prepare inmates to make a successful reentry into society.

Other provisions of the bill, such as those related to inmate wages, grew out of suggestions made by Pat Nolan on behalf of Chuck Colson's Prison Fellowship Ministries. They try to recognize the concepts of "restorative justice" by increasing amounts deducted from inmate wages allocated to the payment of victim restitution. They give greater priority to the funds the inmate can allocate to staying in touch with his or her family. They enable the inmate to build a "gate fund," savings that will increase the likelihood of a successful return to society.

Given that the Chairman of FPI's Board of Directors is appearing on the next panel, I would like to highlight several provisions relating to the Board.

Under H.R. 1577, the Board's operations would be fundamentally restructured. The objective is to restore the Board as the protector of non-inmate workers and the firms that employ them. Even after the elimination of mandatory source, businesses, small and large, will be competing in the Government market with an enterprise that is certain to remain large and will retain many advantages. Today, the Board members representing the private sector seem to see their primary role as facilitating FPI expansions.

H.R. 1577 would also expand the public's opportunity to comment on expansions proposed by FPI's staff. It would assure that the Board has access to those public comments. Today, only a proposal to begin production of a new product or substantially expand the production of a currently approved product requires the preparation of full proposal that includes an adverse impact assessment. They are not done for any expansions with regard to services, even expansions into the commercial market. On its own, the Board could apply the public participation process to proposed expansions in services. The Board has been challenged to do so. Chairman Aragon should be again challenged to do so today.

H.R. 1577 will require the Board to deliberate and make its decisions in public, with Board Members having to go on record through votes. That is the way a whole host of oversight bodies, such as the Federal Communications Commission and the Nuclear Regulatory Commission, operate today. It is the way that the Members of this Committee operate. During a presentation to the FPI Board on May 25, 1999, I challenged them to do so. Apparently, they believe that the FPI Board is too important to be held to the same standards.

The Committee will also be hearing from a representative of the Federal Managers Association (FMA). FMA is to be commended because it has given voice to the federal agencies that are also victims of the current system. Under FPI's mandatory source status, FPI's captive federal agency "customers" are required to purchase products offered by FPI, even if the agency can obtain a commercial product that better meets its needs, get it more quickly, and get it at a lower price, even a substantially lower price. A buying agency must actually obtain FPI's permission, a waiver, before being able to get the "best value" for the taxpayers' money.

Recently, the Social Security District Office in Holland, Michigan transferred to new space. Although the office is within miles of the manufacturing facilities of some of the nation's most prominent office furniture manufacturers, that Social Security office had to be furnished with FPI product. FPI was a month late in delivering their product, which delayed the move for a month. The Social Security Administration had to pay $13,500 in rental for the new space as well as rental on the existing space. FPI justified the delay on the basis that its office furniture production was completely shutdown while it converted to a new computerized inventory system. Fortunately for Social Security beneficiaries, the Social Security Administration recognizes that it can't just suspend operations for a month during computer system upgrades. They recognize that there would be consequences. FPI has no such concerns.

Under its Depression-era authorizing statute, FPI, rather than the buying agency, has the power to determine whether FPI's offered product and delivery schedule adequately meet the

buying agency's mission needs. FPI, rather the buying agency, determines the reasonableness of the price that the buying agency will have to pay to FPI. FPI can compel the buying agency to accept its offered price, so long as FPI's offered price is less than the highest price offered to the government, regardless of whether any purchases were actually made at that price.

These preferences allow FPI to perpetuate the myth of being self-sustaining. Under the current system, FPI can help itself to the appropriated funds of its captive federal agency customers. Too frequently, Federal agencies must accept products of lesser quality at a higher price than are competitively available from the commercial market, and receive them late. Dollars appropriated for military readiness or quality of life can be unilaterally diverted by FPI.

The current system even fails the inmates used to justify FPI's excesses. We should do more to prepare inmates for a successful return to society. Many inmates need access to remedial educational opportunities. They need more access to modern, "hands-on" vocational education opportunities that will prepare them for jobs that will pay a living wage. This has repeatedly been suggested by organized labor and the business community. Most prison industry jobs only impart fundamental work skills such as learning to be on time, work as part of a team, and complete an assigned task. The same skills can be learned as part of inmate work details that help maintain and run the prisons. Coupled with appropriate vocational and remedial education programs, helping to run the prison kitchens, the laundries, doing electrical, plumbing and carpentry repairs and alternations are long-term work opportunities that can steadily develop practical skills that are actually marketable upon release.

Why did FPI have 6,149 inmates, nearly one-third of its workforce, engaged in textile manufacturing during 1999, when unemployment among skilled textile workers remains substantially higher than the national average due to foreign imports? The answer does not lie in FPI's desire to impart technical skills to improve job prospects upon release. The answer lies in the fact that a $1 billion military clothing market is there for the taking without any consequences for FPI. Rather, the consequences are suffered by the small group of American suppliers capable of meeting military requirements, and their non-inmate workers, as you shall shortly hear. The consequences are also borne by the Department of Defense which has to watch as successive FPI expansions steadily erode the industrial base that supports military readiness, a base that probably can't be rebuilt.

FPI asserts that if they lose their mandatory source status it will result in massive inmate idleness, endangering prisons. They assert that ny change must be linked to authorizing an FPI expansion into the commercial market. Let's examine those assertions

Only 20 percent of inmate work opportunities are provided through FPI. The vast majority of inmates work at helping maintain and operate the correctional institutions in which they are incarcerated.

FPI's asserts that it will be unable to compete in the Government market. This assertion squarely contradicts the statements annually made in FPI's report to the Congress that FPI only delivers its federal agency customers a high-quality product, on-time, at market prices. From my business experience, that's the description of a successful competitor. Both can't be true.

I also urge you to ask Mr. Aragon, a proponent of letting FPI compete in the commercial market, to explain how FPI can say with a straight face that it will be able to successfully compete in the rough-and-tumble of the commercial market, but it can't compete in the federal market. Generally, the laws prescribing the federal procurement process place great emphasis on according fair treatment to prospective suppliers.

Providing new work opportunities by allowing inmates to help with the public service activities of nonprofit organizations has been accepted in concept by both the business community and organize labor. Given FPI's drive for broad entry into the commercial market, it was not included in the bill, as introduced.

As I mentioned before, H.R. 1577 does not alter many of FPI's other advantages over its private-sector competitors. FPI's highest wage of $1.23 per hour is about one-quarter of today's federal minimum wage. FPI's facilities, its workshops, are constructed with appropriated funds as part of prison construction. FPI can take, at no cost, excess government equipment for use in conducting its industrial operations. FPI has a $20 million line-of-credit at the U.S. Treasury at rates well below rates available to a Fortune 100 firm, much less any small business.

Within the government market, federal agencies would be required to solicit an offer from FPI for any product or service that FPI is authorized to sell by its Board of Directors. Small businesses in your district will tell you that they have to find government contract opportunities, an increasingly daunting task.

H.R. 1577 provides special authority for the award of a contract to FPI on a non-competitive basis when the work is needed to maintain safety. This provision was expressly included for the protection of guards and other prison staff. It is permanent.

So that FPI doesn't abuse this authority, the decision to allow FPI to take the contract must be supported by the warden at the prison where the work is to be performed. FPI asserts

that the authority will not be used. I simply can't believe that any warden would voluntarily endanger any staff member simply to avoid making the determination required to support the sole-source award of the contract to FPI to continue the flow of needed inmate work. More realistic are the fears of the business community: that the "safety value" authority will be abused.

As I mentioned earlier, H.R. 1577 provides a five-year period for FPI to adjust to the loss of its mandatory source status. During this transition period, federal agencies would be able make a non-competitive award to FPI, if the buying agency determines that FPI's offered product and delivery schedule meet its mission needs and that FPI's offered price is fair and reasonable as compared to market prices. Use of this authority would be subject to annually decreasing caps. The caps are quite generous. Ninety (90) percent in the first year. Eighty-five (85) percent in the second year. Seventy (70) percent in the third year. Fifty-five (55) percent in the fourth transition year and 40 percent in the final transition year.

Some, like Mr. Aragon, urge that we must guarantee FPI sufficient business to guarantee work for the 20 percent of the inmates currently employed by FPI and to guarantee expansion of FPI work opportunities to 25 percent of the inmate population.

Are these guarantees to be made at the expense of law-abiding workers and the firms that employ them? Are these jobs to be guaranteed at the expense of federal agencies and the taxpayer dollars entrusted to their care?

Despite the benefits of inmate work opportunities in combatting idleness and helping to prepare inmates for a successful return to society, guaranteeing government contract work or commercial contracts to FPI, at any price, is simply too much for most in the business community and in the labor community. It certainly doesn't ring true to me.

Mr. Chairman and Members of the Committee, I welcome your support in helping to advance H.R. 1577 early in the First Session of this Congress.

Testimony by
U.S. Representative Carolyn B. Maloney

to the Committee on Small Business
on the Federal Prison Industries and
the Federal Prison Industries Competition in Contracting Act of 2001
(H.R. 1577)

June 6, 2001
10:00 a.m.
2330 RHOB

I appreciate the opportunity to appear before you today.

I am here to testify in support of H.R. 1577, the Federal Prison Industries Competition in Contracting Act of 2001, of which I am a principal cosponsor.

I became involved in this issue when some of my constituents approached me about how the Federal Prison Industries were affecting their business.

I am proud to represent the Glamour Glove Company in New York City and many of its loyal employees who live in Manhattan, Brooklyn, and Queens. My constituents told me that their company was in jeopardy of being closed down -- and that many would lose their jobs -- because of the unfair practices of the Federal Prison Industries.

In 1992, the FPI illegally increased its glove production. The impact on the Glamour Glove Company was devastating -- then in its 44th year, the Glamour Glove Company lost 80 percent of its 400-dozen-pair-a-week glove business.

Fortunately, thanks to the hard work of so many people, the plight of Glamour Glove resulted in a positive outcome when it negotiated a compromise with FPI. However, Glamour Glove is just one example. There are countless stories (many of which we'll hear today) of unfair practices impacting private business which have not been resolved and people are losing their jobs.

I am particularly concerned that FPI, unlike private sector competitors, does not actually have to compete for sales. Under FPI's authorizing statute, all Federal agencies are required to purchase products from the Federal Prisons Industries if it believe its

products meet the agency's needs and if its prices do not exceed the highest price offered to the government.

In short, FPI has the corner on the federal market.

This preferential status is expanded further by the provisions of the Government-wide Federal Acquisition Regulation, which designates FPI's status as a "mandatory source of supply" and by requiring an agency contracting officer to obtain FPI's clearance before purchasing any product on FPI's list of approved products from a commercial source.

As you know, whenever a significant increase in FPI production is planned, FPI is required to prepare a market impact study, request comments from affected and interested parties, and seek formal Board approval. In addition, by statute, no single industry should be forced to bear an undue burden of competition from FPI.

The problem is that FPI does not follow its own rules. FPI has repeatedly increased production WITHOUT approval, and then simply sought authorization for that increase later on.

There are many American industries which have already suffered at the hands of foreign competition. This has been made worse by FPI's expansions within the Government markets, especially the unauthorized five-year expansion for which after-the-fact approval was sought.

Finally, the idea of offering rehabilitative work opportunities to federal prisoners is absolutely worthwhile which is why they will continue under this bill. However, I do not believe that our government should be giving work opportunities to felons by taking the jobs away from hardworking and law-abiding American citizens.

There is broad bi-partisan support for this legislation regarding FPI's unfair status in addition to support from the business sector and most unions.

H.R. 1577 is an important and necessary bill.

It levels the playing field and requires FPI to compete for its contract opportunities.

It provides FPI five years to adjust to competition.

And, it protects prison guards and other staff.

I appreciate the opportunity to testify before this Committee today.
Thank you.

Department of Justice

STATEMENT

OF

JOSEPH M. ARAGON
CHAIRMAN, BOARD OF DIRECTORS
FEDERAL PRISON INDUSTRIES

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING

THE IMPACT OF FEDERAL PRISON INDUSTRIES
ON SMALL BUSINESS IN FEDERAL PROCUREMENT

PRESENTED ON

Mr. Chairman, Ms. Velázquez, Members of the Committee, I appreciate the opportunity to appear before you today to discuss Federal Prison Industries (FPI) and its relationship with small businesses.

It is widely accepted that small businesses are the most prolific producers of jobs in America. As a member of the Small Business Administration's National Advisory Council, I recognize how critical small businesses are to the economic vitality of our country. While that position is similar to my FPI role in that it is non-paid public service, I continue that work so that I may carefully monitor the state of small business in our country.

The hearing today is entitled, "Federal Prison Industries: The Need for Reform." Let me state at the outset that the FPI Board has endorsed for several years reforming the 67 year old statute under which FPI operates. The question before us is not whether we should reform it, but how. With a presumption in favor of change, I would like to provide certain facts and address several premises which need to be taken into consideration as public policy choices are made.

It is well established that FPI is an effective means of teaching inmates valuable job training and work skills, thereby directly impacting their ability to successfully reintegrate into society following release from prison. Inmates who work in FPI are less likely to return to criminal activity. Additionally, FPI provides work assignments for substantial numbers of inmates in medium and high security prisons who would be prone to engage in illicit and violent activities if not productively occupied.

FPI is wholly financially self-sufficient, thereby substantially lowering the cost to the taxpayer of safely managing these inmates and providing training.

According to the Bureau of Prisons, by 2006, the federal inmate population will likely reach as high as 200,000. The Bureau of Prisons has 29 new prisons under development to keep pace with this growth. All of these new prisons will house medium and high security inmates, which are the most difficult inmates to safely manage and are those who most need to positively change their lives by acquiring strong work habits and job skills.

We also know that over 95 percent of all federal inmates will return to our communities upon completion of their sentences. Professional, rigorous research has demonstrated that inmates who participated in vocational training and FPI work are 24 percent less likely to recidivate and are 14 percent more likely to be employed, even as long as 12 years after release. This research has also confirmed that inmates from racial and ethnic minority groups benefit even more from this training and work experience.

With the growth trend in the federal inmate population and the future activation of so many new prisons, it is clear that if the Bureau of Prisons is going to continue to operate safe and secure federal prisons, and reduce recidivism, the number of inmate jobs provided by FPI will need to grow correspondingly. This needed growth has drawn increased attention to the program,

and not all of it positive. Several industry trade associations and organized labor unions have expressed their strong reservations about FPI because of its presumed negative impact on their constituencies. They have, therefore, pursued legislatively, the elimination of FPI's "mandatory source" status for Federal procurement. The Board disagrees with this characterization of FPI's impact and strongly opposes the abolishment of FPI's mandatory source status without providing some type of alternative (such as providing FPI with the authority to offer its products to the commercial market) which would allow FPI to generate the business necessary to occupy its inmate workforce. FPI would also need ample time to transition to such new alternatives. The Board of Directors has discussed various alternative legislative proposals that would provide FPI with markets in which to sell their goods that could replace existing sales to the Federal Government pursuant to the mandatory source. However, the Board is convinced that the best means of creating a legislative proposal that would be most beneficial to all is through an open dialogue involving all parties.

The FPI Board members bring a broad array of perspectives to bear on the manner in which FPI operates. The small, service oriented business I founded in 1984, actually performs some work for the government which FPI also provides. While my company could conceivably perform that work, our employees also recognize and support the need for FPI's role in public service.

Our Vice-Chair, Arthur White, is also an original founder of his firm and has been personally involved in the establishment of several national organizations which focus on literacy and work skills, such as Jobs for the Future and Reading is Fundamental.

Susan Loewenberg is the Producing Director of the Los Angeles Theatre Works and has been involved for years in education and training programs for juveniles and adults. Richard Womack represents organized labor on our Board and has been particularly instrumental in reviewing inmate job proposals with an eye toward protecting workers. Our newest member, Deidre Lee, directs the procurement program for FPI's largest customer, the Department of Defense. Her extensive federal procurement experience has been invaluable in FPI's continuing efforts to expand its business partnerships with the small business community.

There are numerous examples of FPI's support for and avoidance of harm to small businesses. Our procurement program regularly meets or exceeds goals for purchases from small, minority or women owned, and disadvantaged businesses. For six years in a row, FPI has been recognized by the Department of Justice for our support of these businesses. Last year, 63 percent of all our purchases, nearly $260 million, were awarded to these firms.

Our statute requires that whenever we are considering a new product or the expanded production of an existing product, we prepare a detailed written analysis of the probable impact on the

private sector. This analysis must specifically address the proportion of the Federal Government market currently served by small businesses. We also solicit and fully consider the views of the Small Business Administration. Taking into account these and other considerations, on several occasions, the Board denied or reduced proposals to produce certain products because of the potential impact on small businesses; in one instance, we reduced production below current levels; in another, we required that FPI partner with a small business in order to provide mutual benefit. We have also strongly supported FPI's partnerships with the typically small community rehabilitation programs which employ workers who are blind or severely disabled.

In summary, it is our goal that inmate employment be viewed as a legitimate means of fostering positive economic development and supporting private sector job growth. This is possible if the parties do not view their interests as mutually exclusive and conflicting. FPI must be just as committed as the private sector to economic growth and to protecting companies and their workers. Private sector employers and their employees must be just as committed as FPI to the civic and economic advantages of providing inmate employment. In this spirit of good faith collaboration and consensus building, the FPI Board looks forward to working with Members of the Small Business Committee to achieve a mutually beneficial resolution.

Mr. Chairman, that concludes my remarks. I would be happy to answer any questions you or other Members may have.

Statement of

Bobbie Gentile

Q-Mark, Inc.

Subject: **Federal Prison Industries**

Before: **House Small Business Committee**

Date: **June 6, 2001**

Good Morning Mr. Chairman and members of the Committee. I would like to thank you for holding this hearing and allowing me to testify on Federal Prison Industries (FPI).

My name is Bobbie Gentile, president and owner of Q-Mark, Inc., a small woman-owned business in Dayton, Ohio. I am a member of the National Federation of Independent Business (NFIB) and the president of the National Association of Manufacturers and Representatives (NAMR).

In 1990 I made a decision to pursue one of my goals and opened Q-Mark, Inc. Q-Mark is a manufacturers' representative firm. Presently we have five employees, three of whom are the sole providers of their household. Q-Mark represents fifteen manufacturing firms. Of these fifteen firms, twelve are small business, and four of the twelve are electronic connector manufacturers.

I am here today because my small business and the small businesses I represent cannot compete against Federal Prison Industries' unfair monopoly over federal contracts. Since the 1970's, FPI has continued to penetrate the electronic connector market, enjoying mandatory source status. This means that the federal government agencies must purchase these products from FPI. As a result of these set-asides, many small businesses are not permitted to compete fairly in the government market place, even if they can produce lower pricing, on-time delivery and better quality. FPI must issue a waiver in order to have our quotes even considered. **Keep in mind that these items are used in critical applications for the defense of our country, which includes anything that flies, floats, rolls or shoots.**

I represent J-Tech, Inc., a small business connector manufacturer in Tustin, CA. J-Tech founded their business in 1987 and has rapidly grown since then. The initial product in which they invested was the same product that FPI is now restricting. The time, effort and money that it took J-Tech to become a mil-qualified manufacturer was a huge investment for a new small business. To this day, to maintain their qualification, costly tests must be completed on a yearly basis. It is estimated that in the last twelve years J-Tech has spent over 5 million dollars on the qualification of Mil-C-5015. The series of parts that Federal Prison Industries is now supplying is the lifeblood of J-Tech and Q-Mark. The loss of this revenue would cause us both to rethink our employment and growth strategy.

Last April, FPI became a value-added distributor on a large portion of Mil-C-5015G, which is a Military Connector Specification. (meaning that all they add to the product is the assembly of the connectors). FPI teamed with Amphenol/Bendix, one of the largest electronic connector manufacturers in the world. I think it is important that you know that not one small business I represent was solicited by FPI even though they are mil-qualified sources and have been supplying these same parts to the government for years. Once this partnership was complete, FPI then declared the right to the mandatory set-aside.

Based on the volume of business that my company and the companies I represent stood to lose to FPI, I requested a copy of the impact study performed by FPI. By law, this study must show that such a federal monopoly would not adversely affect small business. This request was made to Tony Griffin, Director of Small Business and Disadvantaged Utilization at DSCC. Tony is also the FPI liaison at DSCC. I made this request on several occasions and was told that FPI had not supplied this impact study to DSCC. To date I still have not received a copy.

With regard to the impact studies, FPI performs the impact study and also reviews the impact study. This is never reviewed by an impartial source. No one seems to know the basis of this study. If they use the whole connector industry or even look at the major players, the study is flawed. FPI needed to look at the manufacturers on the qualified products list (QPL), three of which are small businesses that will be devastated by the loss of this business. With impact studies conducted the way FPI seems to conduct them, is this not like the fox watching the hen house? Who is protecting industry from FPI?

Last week I was advised by Defense Supply Center in Columbus, OH that they are in the process of reviewing for possible award to FPI 235 part numbers which fall under the exact connector specification of which I just spoke. The estimated value of this five year order is one million dollars per year for a total value of 5 million dollars. This five year order would cover FPI should Representative Hoekstra's bill, H.R. 1577 pass. To make this situation even worse, I was told that the Military Specification had between 2,000 and 3,000 parts listed and this was just the first order.

The situation with FPI is becoming worse as time progresses. FPI has the right to demand that the government set aside any connector series FPI chooses. They now successfully dominate the circular connector market. I brought with me today examples of quotes that I sent to the government. In all cases, my price was lower than the price offered by FPI. FPI received the awards. Once again the government had no option but to award to them. I find their pricing an example of price gouging when their labor rate is so low.

In conclusion, I would like thank you again for inviting me to testify and urge you to support Representative Hoekstra's Bill H.R.

1577 which will help end the unfair competition, as well as the unfair hold that FPI has on government procurement.

301 North Fairfax Street
Alexandria, VA 22314-2696
Tel: (703) 549-9040
Fax: (703) 683-7552
www.iopfda.org

Statement of

Bob DeGroft, Sr.

Owner of Source One Office Furnishings

And

Chairman of the Independent Office Products
& Furniture Dealers Association

On Behalf of the

Independent Office Products & Furniture Dealers Association

House Small Business Committee

Wednesday, June 6, 2001

Mr. Chairman and members of the Committee, I appreciate the opportunity to testify before your committee today to address the issue of Federal Prison Industries Reform and in support of H.R. 1577, the Federal Prison Industries Competition in Contracting Act.

My name is Bob DeGroft, Sr. and I am the owner of Source One Office Furnishings located in Albuquerque, New Mexico and am the current chairman of the Independent Office Products & Furniture Dealers Association (IOPFDA). The IOPFDA is the trade association for independent dealers of office products and office furniture. The association is comprised of two membership divisions: NOPA, the National Office Products Alliance, representing office products dealers and their trading partners; and the OFDA, the Office Furniture Dealers Alliance, representing office furniture dealers and their trading partners.

Formerly The Business Products Industry Association (BPIA), the Independent Office Products and Furniture Dealers Association is dedicated to serving independent dealers and working with their trading partners to develop programs and opportunities that help strengthen the dealer position in the marketplace.

Source One Office Furnishings is a family-owned and operated company founded by my wife Karla and I in 1977. For years it was just Karla and I running the business. Although I am still very involved in the business, day-to-day operations have been turned over to my son Bob DeGroft, Jr. We are a small company by anyone's standards employing just seven employees and doing roughly a couple million dollars a year in business.

Source One does about 25 percent of its business with the government and having to compete against FPI on the federal level is not easy. I am here today in hopes that you will hear the plea of the business and labor communities and change the system under which FPI currently operates on the federal level. Later in my testimony you will hear real life stories from dealers who are impacted everyday by FPI's unfair competitive practices, but first I'd like to share with you the problems with FPI's current mission. In addition, I'd like to share with you my story and history with FPI and what we were able to do on the state level in New Mexico.

As an independent furniture dealer this hearing is important because it will shed light on the unfair monopolistic practices of Federal Prison Industries (FPI). As a small businessman I don't have a problem with open and fair competition. What I and other dealers around the country have a problem with, is the fact that FPI is not competing with anyone, but instead guaranteed by statute all the government business it wants. For instance, if a government agency needs to buy office furniture, it must first look to purchase these items through FPI, regardless of price, quality of product, or service. If FPI can provide it, the government must buy the product from them, even if the agency can get a better product for less money from a small business like mine. If this isn't hard enough to fathom, FPI

has begun looking to broaden its interpretation of the current statute governing the way it operates in a way that would allow them to enter and sell their products in the commercial marketplace. If this were allowed to happen FPI would not only continue to have a monopoly over federal contracts, but would now be in a position to expand their scope and compete in the open market against honest hard-working small business owners like myself.

I find it ironic that we have laws in this country that prohibit the United States from importing products that are made by prisoners in other countries, but here at home, our own government in many cases is solely dependent on prison labor for its goods. I agree with those who believe prisoners should learn skills and trades while incarcerated that they can then use outside prison walls to earn a living, but it should not come at the expense of honest hard-working small business men and women.

FPI was created in 1934 with the mission of providing inmates with real skills that they could use once released back into society. This is nice in principle, but in reality, FPI is not living up to that mission. What you have today is a 1930's philosophy that doesn't fit today's FPI and its mission. If you look closely at FPI, its mission appears to be more about making a profit than it is inmate rehabilitation. A perfect example is in the area of office furniture. What you see is what I like to call "drive by manufacturing". Having inmates simply assembling furniture or in worse cases, just unloading fully assembled product from trucks and putting the FPI label on it, is not teaching inmate's "real" skills they can expect to use to support themselves and their families once released back into their community. Help us get FPI back on track by supporting real reform in the form of H.R. 1577.

Reform is desperately needed to help level the playing field for small businesses, in particular small office products & furniture dealers like me, who are the hardest hit by the unfair and monopolistic advantage FPI has over us. The Federal Prison Industries Competition in Contracting Act of 2001 changes the way Federal Prison Industries (FPI) is able to operate and forces them to compete openly and fairly for contracts they are currently guaranteed by statute. The foundation this country was built on.

As you may or may not be aware, this legislation received broad bi-partisan support in the 106th Congress (H.R. 2551). With support from Republicans, Democrats, business and labor, it is my hope that this piece of legislation is one Congress passes this year. With your help and support small business can achieve a level playing field.

This reform is necessary because the numbers and problems are staggering. During FY'99 FPI generated roughly $550 million in sales, of which, 40% or $220 million came at the expense of the office products & furniture industry. Should FPI branch out into the commercial market this move would be a blatant

disregard for current law and could force many in the office products & furniture industry to close their doors permanently.

As the owner of a small furniture dealership in New Mexico, I can tell you that having to deal with FPI has not been easy and one that has come at a high price. Take my state of New Mexico for example. Ten years ago New Mexico had a law in place that gave state prisons in Los Lunas and Las Cruces mandatory source status for building office furniture and panel systems, without any possibility of appeal by the business community. The prisons had a major share of the city, county, state and educational institutions markets. With this law having serious impacts on my business and others in the community, four other New Mexico office furniture dealers and I banded together for the purpose of trying to change the way FPI operated in our state. Our goal was to get the state legislature to pass legislation that would "level the playing field" for businesses in New Mexico trying to compete with FPI, by opening up the prison business to outside competition.

After what seemed like an eternity, we prevailed and changed the system in New Mexico. Changing the system came at an expensive price for me. My colleagues and I were forced to spend $14,000 out of our own pockets to save our businesses. A decision I am glad I made, but this is not an option available to every dealer out there. I was lucky. How many other owners in my position were not? I should not have had to spend this kind of money to compete for business with convicted felons for government business.

Today I am happy to report; the New Mexico state prison industries program is still alive and well, employing over 400 New Mexico inmates in furniture, telemarketing, garment, dairy, and print shop industries.

Our efforts being undertaken on the federal level are the same as they were in New Mexico. We are not looking to put FPI out of business. Frankly, that effort doesn't benefit anyone. We are simply looking for a level playing field like we were able to achieve in New Mexico. We believe H.R. 1577 is a step in that direction.

I can tell you all about the hardships FPI has presented our industry, but I thought it was more important if you heard real life stories from constituents in your districts whom have been directly affected by FPI in some way. The stories are real and the financial losses suffered should not be overlooked. This is lost revenue from small businesses in this country that follow the rules and therefore should not be penalized for doing so.

Stories:

Dear Mr. Chairman:

My name is Patricia Holland-Branch. I am the owner, President and CEO of HB/PZH Commercial Environments, Inc. in El Paso, Texas. My business is listed as a Texas Historically Underutilized Business (HUB) and also registered with Minority Development Council in Dallas/Ft. Worth. I employee 27 people and have been in business for over 15 years.

Over the past 10 years, my business has lost significant business to Federal Prison Industries. We are a preferred Haworth office furniture full-service dealer in this region. We have lost systems furniture, case goods, filing and seating projects in addition to design and installation services to FPI at Ft. Bliss, the new FBI facility, and the newly constructed Texas State Building. Federal Prison Industries has encouraged even local governments and universities to choose prison products over those manufactured and sold by private industry. Our direct losses over the past ten years can easily be measured in millions of dollars in sales revenue.

Our lost opportunities have forced us to reduce staff. We went from 35 to 27 employees. We are considering completely eliminating the products part of our business, as we see more infiltration of prison products into all levels of federal, state and community organizations. This will be a travesty, as it will lead to further layoffs from dealerships such as ours in a city already experiencing double-digit unemployment. It is a real crime that our nation's tax-payers are suffering because prison products are the preferred source and government entities are not required to bid their projects between private industries and FPI. I am confident that our products and services are far superior, more competitively priced and with shorter lead times then products manufactured by prisoners.

Sincerely,

Patricia Holland-Branch
HB/PZH Commercial Environments, Inc.
El Paso, Texas

Dear Mr. Chairman:

My name is Reed Lampley the owner of Coastal Offices Systems & Supply Co. in Chesapeake, Virginia. Over the past 10 years since the inception of my business, I have probably lost a total of 1 million + in sales due to the restrictions placed upon government agencies in the tidewater area to buy strictly from FPI. The thing that bothers me about this is: Repeatedly I proved I could deliver

quicker (usually 2 to 3 days compared to 2 to 3 months) the same quality furniture at less cost to the government than FPI.

How many prisoners do you think go into the furniture business after release from prison compared to the small business owner struggling to make ends meet? That is the question that should be answered.

Thank you for allowing me the opportunity address your committee today on this very critical issue and tell you how FPI's current practices hurt my business.

Sincerely,

Reed Lampley
Coastal Office Systems
Chesapeake, VA

Dear Mr. Chairman:

I can recall most vividly one order we lost to UNICOR. The Social Security Administration in Baltimore put out for bid 2000 foot rests. I took them a sample of a new product, which exceeded their specifications and was cheaper than they had anticipated. However, when time came to actually go through with the deal, I was informed that while I had a better product, a better delivery date, and a lower price, they were required by statute to buy the product from UNICOR even if it was not the best product. I for one have stopped soliciting bids from the Federal agencies because it's become a waste of time. Time and again we are told that by agencies that they are required to purchase their office products from FPI.

At one time, we did a nice business with the federal government, but now we do less than $20,000.00 a year. We also have reduced our staffing from 9 employees to 2 full time and 1 part time. Your help is critical to the survival of small dealerships like mine.

Sincerely,

William H Shaprow
Regester Office Supply
Baltimore, MD

Dear Mr. Chairman:

My name is Leigh Hoetfelker and I am President of Fremont Office Equipment Co. in Fremont, Nebraska. I am a small dealer employing 60 people.

Plain and simple, Federal Prison Industries has taken all of our furniture business that we bid to the State of Nebraska offices. Until a couple years ago, dealers in the state had the opportunity to bid on the States furniture requirements. That is no longer the case. Because of the requirements to buy from FPI, we are constantly told that agencies must buy from FPI regardless of price, quality or timely delivery. I don't run my business that way and often wonder why the government chooses to run its business that way. We saw our yearly sales to the State of approximately $100,000.00 in furniture alone disappear completely. All this because the state is required to buy from FPI. I say this in jest, but it seems like if I wanted to do business with the state or Federal government, I should become a convicted felon – I might have a competitive advantage that way.

Sincerely,

Leigh Hoetfelker
Fremont Office Equipment Co.
Fremont, NE

Dear Mr. Chairman:

In the fall of 2000, The University of Northern Iowa was completing the Lang Hall building renovation. Matt Parrott and Sons holds the contract for HON/Allsteel with the University of Northern Iowa. We received an order for some storage, lateral files, task seating, and soft seating, but were denied an order for all the drawer pedestals. The drawer pedestals amounted to approximately $35,000.00 in sales, but because of the obligation to fulfill commitments to FPI, the University elected to purchase the drawer pedestals from FPI. I was told, although I haven't confirmed, the University spent a third more money to purchase and fulfill this commitment to FPI.

I was involved in a meeting with George Pavelonis, Facilities Planner and Carol Christopher, Assistant Facilities Planner, prior to this decision. They talked about how they haven't done very much business with FPI, so they probably would need to send the drawer pedestal order to them. I asked about the drawer pedestal quality and pricing. At that point, they both conceded to the fact the Allsteel pedestals were better quality and less money. They also said the lead-times were a lot longer.

Sincerely,

Lori Knaack
Matt Parrott & Sons
Waterloo, IA.

Dear Mr. Chairman:

My name is Billy Carroll; I am an outside sales representative with C & C Office Supply Co. in Biloxi Mississippi. Our company has been in business over 20 years and we employ 20 people.

During the course of our 20-year history we have done considerable business with numerous governmental agencies and military installations. Some of them being Naval Construction Batallion in Gulfport, Mississippi Air National Guard in Gulfport, Keesler Air Force Base in Biloxi, Naval Station in Pascagoula, and NASA in Stennis Space Center.

As a result of FPI's unfair monopolistic practices, we have seen sales from these governmental agencies go from $100,000.00 a month too less than $5,000.00 a month.

There are numerous horror stories we hear from our customers who deal with UNICOR. The most recent one being that a customer had to wait 5 months to get their furniture. When the furniture finally arrived, it wasn't even what they had ordered. This is something that would have been averted had they been able to use our company or another dealer.

I could go on about how we could have sold the product much cheaper, which would have saved taxpayers money, faster delivery, which would have increased employee productivity, and finally better service, but I won't. You get the picture.

Sincerely,

Billy Carroll
C&C Office Supply Company
Biloxi, MS

Dear Mr. Chairman:

I personally worked with the staff who had just moved into a new ward at Walter Reed Army Medical Center. We had two meetings during which I took measurements and went over in great detail the furniture items they needed for the report room, reception area, patient education room, two offices and some

miscellaneous shelving. The total I quoted to Walter Reed was approximately $13,000 and met their needs exactly. This was in April of 2000. Our delivery would have been completed within a month.

Because Walter Reed couldn't get a UNICOR waiver (just to determine this fact takes at least 6 weeks) the order was placed with UNICOR and took eight months to be delivered (it just showed up last week) and much of it was not what officials at Walter Reed even ordered. FPI tells their customers what the customer can have rather than meeting the needs of the customer. As an example, we had designed a workstation for the report room to accommodate four computers. UNICOR sent an expensive, massive cherry workstation for an executive office that had to be put in someone's office (who didn't need new furniture) because it was unusable where it was supposed to go. UNICOR charged an additional $1,500.00 to assemble this (and didn't have proper tools to finish the assembly). Our price for the proper item including all set up was less than they charged for set-up alone.

You know, it's not just the impact FPI has on our businesses, it's the waste of everybody's tax dollars when furniture costs more and doesn't even do the job.

Sincerely,

Diane Lake
Economy Office Products, Inc.
Fairfax, VA
(A small, woman-owned business employing approx.19, in business since 1968)

Dear Mr. Chairman:

My name is Gregory Wickizer and I own Tippecanoe Press Inc. in Shelbyville, IN and employ 20 employees. I recently lost a $300,000.00 to $400,000.00 bid because of a must buy in the State of Indiana.

To a business like mine, this is real money lost. I guess my question is why should my company lose out on business just because the government has to buy it from prisoners. I thought the philosophy in this country was that competition is healthy and the best offer should win out. That does not appear to be the case and it hurts companies like mine who are trying to survive.

Sincerely,

Gregory Wickizer
Tippecanoe Press Inc
Shelbyville,IN

Dear Mr. Chairman:

My name is Joe Kiefer, I work for Shaheen Office Supply in Warner Robins, GA. Our company has lost many opportunities in the name of UNICOR, the most recent being last year. We are a Haworth Dealer, and serve the Middle Georgia community, Robins AFB being our largest customer.

The most visible loss to UNICOR was with the 116TH Bomb Wing at Robins AFB. We were able to secure some business at their new facility, about $200,000, but I know UNICOR received over $800,000 of furniture business there. For the projects we did receive, I saved this customer 20-30% over the UNICOR proposals, and provided them with better quality furniture.

Sincerely,

Joe Kiefer
Shaheen Office Supply
Warner Robin, GA

Dear Mr. Chairman:

I'm no longer at the company I was at (Marvel Group) when this story happened to me, but I thought it should be shared with you.

Last summer I began working with Air Force Recruiting to provide them with furnishing for their new recruiting offices nation-wide. I was working with the individual offices throughout the country and received orders for $80,000 from the Air Force Recruiting Squadron (344th) at Scott AFB. They liked my services so much that they recommended me to the other offices with the same needs nationwide. My furniture was less costly than FPI and had significantly better lead times (about 2 weeks) and was of overall better quality.

I spent several weeks traveling to different sights and doing quotes only to be stopped by a Colonel at AF Recruiting HQ in Texas. The Colonel believed that since FPI was a required source that there was no reason to use me even though their budget would have allowed them to furnish far more offices with my product than with FPI. My estimates are that this decision cost my company $500,000 - $700,000 in sales and probably cost the Air Force several hundred thousand dollars. I have since left government sales do to a lack of sales - mostly contributed to denied waivers by FPI.

Sincerely,

Gary Stephens

Workspace L.L.C

Dear Mr. Chairman:

I am concerned in the way tax payer's money is being wasted. A few years ago I had proposed over $100,000.00 in chairs to the VA Medical Center. They were excited about the chair I was proposing on contract. The chair was less expensive than the chair proposed by FPI. The customer also recognized that the chair I was proposing was better in quality and had more ergonomic features, which would assist in some of their health issues. Another comment made by the VA was the problem with the FPI chairs breaking easily. Parts were near impossible to get, so they would throw the FPI chair in the garbage.

In this situation FPI denied the VA waiver. Regretfully they had to buy FPI chairs. I can not believe this happens in America.

Sincerely,

Rick Buchholz
Christianson's Business Furniture

Dear Mr. Chairman:

I am delighted to have the opportunity to tell you about challenges that I have encountered with the Ohio Penal Institute (OPI) and State of Ohio Agencies. I focus on selling to State of Ohio Agencies and most are required to buy from OPI.

Last year I worked on a state library project. They currently had all Haworth furniture that they had purchased over the past 13 years, so they had a few different vintages. My proposal planned on re-using about 25% of that existing product, but I also got special pricing from Haworth that was much deeper than normal state contract pricing. State Purchasing required the Library to get a waiver from OPI for which OPI rejected my proposal. Not only does my product come with a Lifetime Warranty and is a Grade A product with a 4-week lead-time, but my pricing came in at over $100,000 LESS than the Ohio Penal Institutes proposal. It is very frustrating as we put a significant amount of time into this proposal and felt that we were providing this client with the best product at the best price.

Example 2: Rehabilitation Services in Columbus. They have all OPI chairs that are very uncomfortable and not ergonomically designed. I brought some Haworth chairs to their office to pass around for a 3-week trial period. My chairs were unquestionably selected as the chair they wanted to purchase going

forward. Not only are my chairs some of the most ergonomic in the industry, but I was saving Rehab Services almost $100 per chair. OPI rejected their request to purchase Haworth chairs.

Ohio's Governor has put a hold on any extraneous spending at this time...and it is indefinite as to when he will raise this request. Every year thousands of dollars are spent on OPI's products, which do not come with any warranties and cost generally 30% higher than the best products on the market. Our taxpayers are paying for this.

Thanks for the chance to share just a few examples with you.

Sincerely,

Chris Kelser
King Business Interiors

Dear Mr. Chairman:

My name is Jeff McKenzie and I work for Landis Office Center, which has 26 employees. We have a federal prison in our area and a division called UNICOR. When the prison was first established we sold over $60,000.00 to them in the first year. After this, UNICOR stepped in and started supplying most items to this facility. Even if we were called and did measurements and suggested furniture, of course spending multiple hours doing this, we were informed that furniture would be secured from FPI. Why should we as citizens pay at least $40,000.00 per year to house convicted prisoners and then we allow them to produce goods that are sold against companies that must pay taxes, pay at least minimum wage, plus all the other red tape that comes with operating a business. It is very unfair that the government allows this to happen, much less, entertain the argument that Federal Prisons should be able to expand their markets. It is time to put a stop to this before you put more small businesses out of business.

Sincerely,

Jeff McKenzie
Landis Office Center

Dear Mr. Chairman:

My name is Joseph A. Nordman III and I am with PS Group/Cincinnati, Inc. Federal Prison Industries has taken multiple projects from my company, PS Group/Cincinnati, Inc. and has cost us hundreds of thousands of dollars.

PS Group has worked with the Cincinnati office of ATF since 1995, supplying product and labor to enhance the existing Haworth product. PS Group even went to Dallas, Texas to allow the ATF to work that existing product into the existing Cincinnati product in order to save money. After spending all of this money, time and energy, Federal Prison Industries claimed the project – at a premium price well above the Haworth price. As a result, all of the existing Haworth product has had to go into storage (An additional cost not anticipated by the local ATF office).

The total Waste:

- Existing Cincinnati station, 40 plus
- Additional 21 stations from Dallas
- Dallas inventory to be used against new product
- Possible buy back of all existing, should ATF want to purchase all new
- FPI product not compatible, so all-258 stations were new, with no credit for buy back, at a cost significantly higher than the Haworth.
- The Government paid to inventory and ship 21 plus stations to Cincinnati, put those stations into storage and then scrap all 61 plus stations.
- The ATF constantly tells PS Group that they can't get service for the Prison Industries Product
- More product to be ordered

Sincerely,

Joseph A. Nordman III
PS Group/Cincinnati, Inc.

Dear Mr. Chairman:

My name is Janet Ockerhausen with Business Interiors of Texas, Inc. in Corpus Christi, Texas.

In 1999 Naval Air Station in Kingsville, Texas contacted me for furniture in an Air Training wing for VT-21 and VT-22. They needed a drawing and prices for approximately 12 rooms as soon as possible. My company worked over the weekend to get these to them, the total was $150,000.00 worth of furniture. When UNICOR saw the amount, they refused the waiver. The end user gave my

drawings and specs to UNICOR, which they copied down for every room layout, and even the color. So, at my own time and expense, I received nothing for this work and UNICOR received $150,000.00 with no time involved because they had copied my designs.

I make my sole living and income by selling to federal government agencies and UNICOR takes this business away from me.

Sincerely,

Janet Ockerhausen
Business Interiors
Kingsville, TX

Dear Mr. Chairman:

We are located in the Dayton, OH area, home to Wright Patterson AFB. We are up against UNICOR on a daily basis. Some of the more recent projects include:

Sensor's Directorate. This project is 200 workstations plus seating, files, and private office furniture. They are required to use crescendo, even though they have over 400 workstations of existing Haworth product in the facility. The mockup for this project took 16 weeks to arrive, yet they are promising to meet a June 1 shipping deadline. $1,000,000 worth of UNICOR product is proposed.

Building 20052, Area B. All seating, freestanding casegoods and workstations are UNICOR Classic XXI, approximately 75 workstations, 15 private offices and seating for offices/workstations/conference rooms. Approximate value $450,000.

Sincerely,

Kim Duncan
Elements IV Interiors

Dear Mr. Chairman:

During the past 5 years I have had representatives from UNICOR tell my customers that they had to turn over my proprietary designs to UNICOR, without payment to the dealership. They have told my customers that if they do not buy UNICOR, they will be "reported to congress" and that there is no place else to go for government furniture. They frighten young department of defense officials with words like "illegal" when they ask about waivers.

The UNICOR reps routinely refuse waivers on the first approach. The answer is a standard "UNICOR has products which will meet your needs." No explanation. They refuse to answer waiver requests in a timely fashion. I have had $110,000 order for the Arizona Air National Guard in Tucson literally taken away by UNICOR. The representative demanded the designs and said that UNICOR would fill the request. There would be no waiver and no discussion. And she was right. Despite the fact that all of the programming phase had been completed by my designers, at no cost to the federal government, this rep insisted that she knew what was best for this customer. Of course, the products arrived late, in poor condition, was much more expensive than the budgeted GSA furniture--and the reps have not been heard from. The answer is "a 10% discount" or a "free chair."

In Texas, my representative worked for 4 months with a customer, completing designs and meeting all relevant criteria. She proposed only products on GSA contract. UNICOR unilaterally refused to waive the chairs, approximately $50,000 worth, because their factories were not at capacity. The fact that the UNICOR chairs do not meet the price point, that UNICOR spent no time with the customers determining function, color or other requirements has no meaning. The seating portion of the order is lost. The remaining portion would have been lost, as well, if the customer had not spent approximately 30 days going from one appeal process to the other attempting to get waivers. Very few customers will take the time to do this. Of course, when the project finally arrives, it will be late and missions will be compromised.

Interestingly, my husband's father was murdered several years ago. The same prisoner that killed this fine man is now in an Alabama prison--taking away my livelihood. Please, please get this legislation in front of someone who cares about small business.

Sincerely,

Ruthanne S Pitts
Simmons Contract Furnishings
Tucson, Arizona

Conclusion:

Mr. Chairman, members of the committee, I think you will see from reading over these stories that they are real and have a major impact on our industry. I hope you will seriously consider our pleas for help and support real FPI reform today. We cannot go another year playing with a set of rules that is clearly outdated and unfair.

On behalf of the entire dealer community, and myself, I want to thank you for this opportunity today. I would be happy to answer any follow up questions should you or any members of the committee feel that is necessary. I can be reached through the association at 301 N. Fairfax Street, Suite 200, Alexandria, VA 22314, Attn: Paul Miller/Bob DeGroft, Sr.

Management Association
for Private
Photogrammetric Surveyors

Testimony of

Kass Green

Pacific Meridian Resources
Emeryville, California

President,
Management Association for Private Photogrammetric Surveyors (MAPPS)

Before the
Committee on Small Business
U.S. House of Representatives
Federal Prison Industries: The Need for Reform
June 6, 2001

Mr. Chairman, the Management Association for Private Photogrammetric Surveyors (MAPPS) is a national trade association of more than 160 private firms engaged in professional mapping and related geographic information services.

We hear a lot of talk about government being run more like a business. However, Mr. Chairman, Federal Prison Industries (FPI) has taken that idea too far. MAPPS is deeply concerned that Federal and State prisons have discovered the exploding market for geographic data conversion services. Convict labor is encroaching into the data conversation market, displacing hard working, law-abiding, tax-paying citizens with criminals employed by a new form of government-sponsored, unfair, tax-exempt, below-market, non-profit competition. It is a systematic and predatory strategy that is hardly in line with the way any of us in the private sector are permitted to operate.

Specifically, FPI has developed a capability to provide scanning and digitizing services to other Federal agencies. According to FPI documents, it is "broadening its prime contractor role ... in the areas of ... digitization of maps for GIS applications, digitization of engineering and facilities management drawings (am/fm), scanning and digitizing, CALS conversions."

John M. Palatiello, Executive Director
1760 Reston Parkway, Suite 515, Reston, Virginia 20190
P (703) 787-6996 F (703) 787-7550 E info@mapps.org www.mapps.org

Under Federal law, FPI must diversify so far as practicable so that no single private industry carries an undue burden of competition. Prior to entering an industry, the FPI board is required to make a report. One can hardly understand how FPI would not realize that entering the mapping field would not adversely affect the private sector. Numerous studies, including those by the Office of Management and Budget, recognize that the Federal government is in competition with the private sector in mapping, and Congress has been targeting mapping activities in Federal agencies for increased contracting out. However, FPI has created a loophole for itself in the law. It has determined, administratively, that the requirement for an industry involvement procedure prior to introducing a new product or embarking upon an expansion does NOT apply to services. Thus, FPI was judge, jury and prosecutor when it came to deciding to compete with private firms for mapping services.

While FPI is not a mandatory sources in services, as it is in the product area, it does enjoy the status as a preferential source. Services may be purchases by Federal agencies from FPI without going through competitive procurement procedures. This seriously impairs the ability or private firms, particularly small business, to compete.

Recently, FPI announced proposed regulations providing a huge expansion of its activities, ***without*** any legislative authority from Congress (SEE Federal Register, Jan. 7, 1999). Specifically, FPI proposed to provide ***services***, such as the mapping services described above, not just to other government agencies, but to the ***private, commercial*** market as well. The Justice Department has astonishingly ruled that a current provision in law (18 USC 1761) which prohibits the interstate commerce of prison-made products, does ***not*** apply to ***services***. While FPI withdrew its regulations, it is still proceeding with offering services in the commercial market.

First, FPI retained Plangraphics, Inc. a GIS consulting firm to provide assistance on defining the potential GIS market and advising the prison industry on entry into GIS services. Then, FPI retained another firm, Harvard Design and Mapping, Inc. to provide GIS system acquisition management. The firms assisted in FPI's acquisition and installation of GIS/CADD systems, including a needs analysis with hardware and software specification recommendations, integration and installation of such systems, and training of inmates in GIS/CADD digitizing and imaging skills. FPI is now productive in this area, providing mapping, data conversion, data entry, optical scanning and digitizing services for agencies of the Departments of Defense, Commerce, Interior, GSA, HHS, the Selective Service and the Department of Transportation..

MAPPS believes this is an inappropriate area for prison industry activity. The services FPI and the State prisons are providing, while technical in nature, support professional architect-engineer (A/E) services. In recognition of the importance of using the highest quality contractors to perform such services, Congress in 1972 enacted a qualifications based selection law (PL92-582) and later amended it to clarify that it applies to mapping services (40 U.S.C. 541 et. seq.) This law requires Federal agencies to award A/E contracts (including those for surveying or mapping services) to firms based on their "demonstrated competence and qualification" subject to negotiation of a fee "fair and reasonable to the government", rather than awarding such contracts to the lowest bidder. The vast majority of States have also adopted this process in their codes and it is recommended by the American Bar Association in its Model Procurement Code for State and Local Government.

Public health, welfare and safety is dependent on the quality of work performed by professionals in the fields of architecture, engineering, surveying and mapping. To add to these highly technical and professional services drawings, maps and images processed by prison inmates is not only an affront to the professionals in this field, but questionable to the public interest.

Just as a poorly designed dam can burst, subjecting the government to huge claims, so too can a poor map unleash a flood of problems, creating an impediment to the expeditious completion of a government project, causing substantial loss of time and money, and jeopardizing the public safety. Like a well made dam, a high quality map will stand the test of time and will ensure that the government can proceed with its design, construction or resource planning project based on complete and precise groundwork.

Second, permitting prisoners access to data that becomes important to national security is unwise. Third, we question the wisdom of giving prisoners access to important information about the precise location of underground utilities - water, electrical, and fiber optic lines, as well as pipelines. Fourth, it is questionable from a civil liberties and personal privacy standpoint to provide convicted felons working in prison industries in geographic information services access to homeowner data, property appraisal and tax assessment records and other information. Most citizens would be horrified and outraged to know such data is in the hands of convicts. Fifth, my friends in the Federal agencies tell me prison industries is an unworkable alternative in mapping. This work requires constant interaction between the client and contractor. The inability of Federal agency officials to make frequent and timely visits to a prison industry to inspect work, consult with the contractor and resolve questions is a major barrier to economy and efficiency. Finally, and most alarming, we are at a loss as to why prison industries are training inmates in scanning, imaging and digitizing skills that with little embellishment or imagination can be used for such nefarious purposes as counterfeiting.

Based on the sanction of the Justice Department's ruling that the current Federal law prohibition on the interstate commerce of prison products does not apply to services, not only is FPI engaged in such commercial transactions, but now State prison industries are coming after our market as well. While FPI on one hand withdrew its proposed rule on commercial services, it issued a Commerce Business Daily notice that it is entering the commercial market for "complete vectorization of maps and engineering drawings". In layman's terms, that is a scanning and digitizing process to convert paper maps and engineering drawings into electronic or digital formats and computer aided design (CAD).

In that same CBD notice, FPI stated it is "concentrating its efforts on performing commercial services work that is currently being performed outside the United States." FPI has erroneously come to the conclusion that mapping services fall within this category. While conversion work may be sent overseas on an isolated and incidental basis, it is the exception rather than the normal practice. In fact, we recently contacted several Federal agencies to determine the extent of Federal contracting activity in the services FPI claims is being done outside the United States. We can document 40 firms under contract to four major Federal agencies (NIMA, USGS, Corps of Engineers and Fish and Wildlife Service) that have these services in their scope of work. A number of these agencies have conducted visits, tours and site inspections to verify that the services are being performed in the United States.

For a U.S. Government contractor to send work off-shore is a dangerous and illegal process. Federal mapping contracts are subject to the prevailing wage requirements of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.). The only reason a firm would send work off-shore

would be to take advantage of lower labor costs. If a firm were to send Federal contract work off-shore, take advantage of the lower labor costs, fail to pay the prevailing wage required by the contract, and pocket the difference, they would be in violation of Federal law.

If FPI knows of this practice, they should be reporting these firms to the Department of Labor and the enforcement office of the Justice Department. If they are unaware of this practice occurring, then how can they claim the work is going off shore?

We do not believe that FPI should be authorized to determine for itself whether a service is going off-shore. There is currently no requirement for a market study, no consultation with the private sector, no findings and determination procedure and no certification by the Labor Department or any other third party.

Based on the sanction of the Justice Department's ruling that the current Federal law prohibition on the interstate commerce of prison products does not apply to services, State prisons are already engaged in such commercial transactions. In Oregon, firms have gone out of business and others have closed entire divisions, because the market for their services in the State has evaporated. Unigroup is the Oregon Department of Corrections' prison industry. It brags that its "innovative CAD/CAM industry was conceived in early 1992 as a way to provide quality, inexpensive services to state and other governmental agencies. Private businesses are also welcome to use our services." Unigroup functions as a conversion house, converting hard copy documents to digital files. This organization not only does work for Oregon State agencies and Oregon counties, but for Federal agencies and private firms. In fact, we are told that through private firms, the Oregon prison industry mapping section has done work in New York and other States. The Oregon prison industry has become so pervasive that two MAPPS member firms have shut down their efforts to market these services to State and county government, as they are unable to compete with the below market prices and labor rates charged by the prisons. Unigroup has also crossed State lines to solicit work for private entities in other States. Their solicitation marketing letter was NOT sent to Oregon firms; we suspect that because the State prison industry did not want to let Oregon firms know how blatantly they were competing with the private sector.

Another State prison program, the Prison Industries Enhancement (PIE) program, has entered the mapping field is in Florida. PRIDE Enterprises, the Florida prison industry, is engaged in a variety of digital geographic information services, including converting hard copy maps to electronic files; plotting maps at various scales; creating databases with information on homeowners, property appraisal and tax assessment; digitizing, and other CADD and GIS services. While PRIDE works as a subcontractor to private firms, their direct contracting authority is unfair competition and again, diverts work for tax-paying, law-abiding citizens.

It is our understanding the Attorney General of the State of Florida issued an opinion that the Federal prohibition on prison made goods does not apply to services. However, with specific regard to whether the activities of the Florida prison program fall within the jurisdiction of the Department of Business & Professional Regulation and its Board of Professional Surveyors & Mappers, no such ruling has been obtained. The Florida Board's regulations, pursuant to Florida Statutes, sec. 472.008 and 472.027, define "surveying and mapping" as "a process of direct measurement and analysis specifically designed to document the existence, the identity, the location, and the dimension or size of natural or artificial features on land or the air, space or water for the purpose of producing accurate and reliable maps, suitable for visualization if needed, of such documentation." Moreover, Florida law requires individuals who qualify for a professional license to be "of good moral character", and states, "good moral character means a

personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation." While the Florida law specifically excludes work as a "digitizer, scriber" as qualifying under the "responsible charge" requirements for prior experience in order to be licensed, the fact that these services are mentioned in the law and fall within the plain meaning of "surveying and mapping" makes prison activity in the area a dangerous and questionable proposition.

The Texas Department of Criminal Justice has established a map scanning and digitizing service at their Ferguson Unit in Midway, Texas. Authorized by the Prison Made Goods Act of 1963, the prison company has a slick brochure claiming that under their program "Everybody Wins" since inmates are trained in a skill that is marketable upon their release, use of the prison agency provides a "quality product at a reduced price", and a "double savings" for the taxpayer. This unit has taken work for the Texas Department of Transportation, Texas counties and other clients that would otherwise have gone to the private sector.

These are just a few of the several state prison systems that are adding mapping and GIS-related services to their catalog. As mentioned earlier, mapping firms are subjected to unfair competition from Federal government agencies. There is also in-house mapping that occurs in competition with the private sector in State agencies and universities. To add prisons to the list of publicly supported entities with which we must compete is more than private mapping firms, particularly small businesses, can handle.

When Federal government work goes to a prison rather than a profit-making, taxpaying company, the Federal and State government loses considerable corporate and individual tax revenues, and displaces law-abiding workers. When a Federal or State prison enters the commercial services market, this problem is compounded. How can the private sector expect to be competitive when faced with entities that pay not taxes, do not comply with the Fair Labor Standards Act, OSHA regulations, have subsidized overhead, and have preferential borrowing authority. In the commercial service market, how are prison industries going to deal with tort liability? Are they going to carry professional liability insurance? What recourse is there for substandard work or failure to perform? Do prisons have to comply with FTC rules, local zoning laws and other the other regulatory burdens imposed on small business?

Mr. Chairman, we are not unmindful of the difficult challenge prison administrators face. It is unfortunate that in our society today, prison populations are increasing. It is obvious that something must be done to keep inmates occupied, to train and rehabilitate them, and to pay their debt to their victims and to society at large. However, in that process, another law should not be violated – the law of unintended consequences. We should not be creating another set of victims – those business owners and their employees and their families who are displaced because the work that would have kept them employed has gone to prison industries through grossly unfair competition.

MAPPS strongly supports the Hoekstra-Frank-Maloney-Collins-Sensenbrenner reform bill, H.R. 1577. We urge prompt action on this overdue legislation early in this Congress.

Curriculum Vitae

KASS GREEN **Pacific Meridian Resources**

President and Co-founder

Years of Experience: 25

Education:
Ph.D.-Candidate/ABD Wildland Resource Science, 1983, University of California, Berkeley
M.S. Resource Policy and Management, 1981, University of Michigan, Ann Arbor
B.S. Forestry and Resource Management, 1974, University of California, Berkeley

Active Registrations: American Society for Photogrammetry and Remote Sensing;
Society of American Foresters

Expert Testimony:
U.S. Tax Court, Portland, Oregon
U.S. District Court, San Francisco, California
U.S. House of Representatives
U.S. Senate

Security Clearance:
Secret

Background:
Ms. Green is a nationally recognized natural resources and remote sensing consultant, with over 25 years of experience in natural resource policy, economics and GIS analysis. She has pioneered the use of GIS and remote sensing in natural resource management and policy analysis. As the President of Pacific Meridian, Ms. Green guides the firm's strategic planning, research and development, commercial software development, corporate operations and marketing activities. Ms. Green's expertise includes:

Course development and training Pacific Meridian Resources offers several courses in the use of GIS and remote sensing in natural resource management. Courses range from one day seminars, to week long hands-on computer training, to long term technology transfer. Ms. Green oversees the development of Pacific Meridian's course curricula and participates in many of the training offerings. These courses are offered in conjunction with several national conferences and symposia, and range in topic from change detection to the practical aspects of accuracy assessment.

Research project design and management. Over the last ten years Pacific Meridian Resources has created vegetation type maps and GIS coverages for over 500 million acres of land throughout the United States and abroad. The firm has developed innovative methods for image processing, GIS analysis, change detection and accuracy assessment in a variety of applications including wetlands, forestry, urban and agriculture. Additionally, the firm has designed automated software tools for utilizing remote sensing and GIS technologies.

Ms. Green directs the design of the company's software products and development of new research methods and production procedures. Additionally, she is an accomplished author with numerous publications including:

Green, Kass, In Press: The Spatial Domain. In GIS Solutions in Natural Resource Management. *OnWorld Press*.

Congalton, Russell G., and Kass Green. In Press: *Assessing the Accuracy of Remotely Sensed Data: Principles and Practices.* Lewis Publishers

Congalton, G., Miliken, J., Balogh, M., Ottman, R., Green, K., and Bell, C., In Press: Mapping and Monitoring Agricultural Crops and Other Land Cover in the Lower Colorado River Basin. *Photogrammetric Engineering & Remote Sensing.*

Green, Kass, 1996. Panacea or Pandora's Box? How the New Satellites will affect our view of the world. *Geo Info Systems*, Vol. 6, No. 6, supplement.

Green, Kass, and Cosentino, Brian, 1996. Using Satellite Imagery to Detect and monitor Forest Change. *Geo Info Systems*, Vol. 6, No., pp. 22-30.

Green, Kass, M. Finney, J. Campbell, D. Weinstein, and V. Landrum, 1995. FIRE! Using GIS to Predict Fire Behavior. *Journal of Forestry*, Vol. 93, No. 5, pp. 21-25.

Green, Kass, Dick Kempka, and Lisa Lackey, 1994. Using Remote Sensing to Detect and Monitor Land-Cover and Land-Use Change. *Photogrammetric Engineering & Remote Sensing*, Vol. 60, No.3, pp. 331-337.

Green, Kass. 1994. The Potential and Limitations of Remote Sensing and GIS in Providing Ecological Information. In Remote Sensing and GIS in Ecosystem Management, pp. 327-336, Island Press.

Congalton, Russell G., Kass Green, and John Teply, 1993. Mapping Old Growth Forests on National Forest and Park Lands in the Pacific Northwest from Remotely Sensed Data. *Photogrammetric Engineering & Remote Sensing*, Vol. 59, No. 4, pp. 529-535.

Congalton, Russell G., and Kass Green, 1993. A Practical Look at the Sources of Confusion in Error Matrix Generation. *Photogrammetric Engineering & Remote Sensing*, Vol. 59, No. 5, pp.641-644.

Green, Kass, S. Bernath, L. Lackey, M. Brunengo, and S. Smith, 1993. Analyzing the Cumulative Effects of Forest Practices: Where Do We Start? *Geo Info Systems*, February 1993.

Green, Kass 1992. Spatial Imagery and GIS. *Journal of Forestry*, Vol. 90, No. 11, pp. 32-36.

Weinstein, David, Kass Green, and Ruth Askevold, 1992. Predicting Pacific Yew Habitat. *In Press in Proceedings: International Pacific Yew Conference, 1992.*

Congalton, Russell G., and Kass Green, 1992. The ABC's of GIS. *Journal of Forestry*, Vol. 90, No. 11, pp 13-20.

Teply, John and Kass Green, 1991 . Old Growth Forest: How Much Remains? *Geo Info Systems*, April 1991.

Doak, Sam, Kass Green, Sally Fairfax, and Sharon Johnson,1990.
The Legal Environment for Hardwood Lands in California. *USDA Forest Service Gen. Tech. Report, 1991.*

Advisory Boards and Committees. Ms. Green serves on several advisory boards and committees at various levels throughout academia, Government, and private sector organizations. Currently, Ms. Green serves on the following boards and committees:

- NASA Technology Commercialization Advisory Committee
- NASA Mission to Planet Earth Biennial Review
- USGS EROS Data Center Archive Committee
- Management Association for Private Photogrammetric Surveyors (MAPPS), President
- Pacific Forest Trust Board of Directors
- University of California, College of Natural Resources Advisory Board
- NASA Applications Advisory Board
- Technical Program Chair, Pecora / Land Satellite Remote Sensing Conference
- NASA EOS Post-2002 Committee

Federal Contracts (past two years)

Pacific Meridian Resources

NASA $ 30,000
National Imagery and Mapping Agency $ 203,468
US Army Corps of Engineers $ 739,347
National Park Service $ 24,420
Fish and Wildlife Service $ 36,600
US Geological Survey $ 19,340
Bureau of Land Management $ 10,000
Energy $ 21,000
Forest Service $ 3,548,000

MAPPS

US Geological Survey $7,500

FMA

Federal Managers Association

Testimony
Before the Committee on Small Business
United States House of Representatives

For Release on Delivery
Expected at
10:00 A.M. EST
Wednesday
June 6, 2001

Competitive Advantage of Federal Prison Industries

Statement of
Mr. Carl C. Votteler
Federal Managers Association

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

INTRODUCTION

Chairman Manzullo, Ranking Member Velasquez, and Members of the Committee:

My name is Carl C. Votteler and I am the president of Chapter 144 of the Federal Managers Association (FMA). On behalf of the 200,000 executives, managers, and supervisors in the Federal Government whose interests are represented by FMA, I would like to thank you for inviting us to present our views before the Committee on Small Business on the requirement for Federal agencies to purchase certain products from the Federal Prison Industries, Inc., (FPI).

I work for the Public Buildings Service, General Services Administration. I am a Buildings Management Specialist in the Office of Business Performance in our Washington, DC headquarters. I have worked for GSA in various capacities for the past 28 years. The views expressed in my testimony are my own in my capacity as a member of FMA and are not intended to represent the official views of GSA.

Established in 1913, FMA is the largest and oldest Association of managers and supervisors in the Federal Government. FMA has representation in more than 25 Federal departments and agencies. We are a non-profit advocacy organization dedicated to promoting excellence in government.

FEDERAL MANAGERS CARE ABOUT HOW TAXPAYER DOLLARS ARE SPENT

Mr. Chairman, the main message that FMA wants to convey to you and the Members of the Committee today is that Federal managers and supervisors – and the civil servants we lead – try extremely hard to be good stewards of the tax dollars entrusted to us. We dedicate ourselves daily to delivering to the American people the most value for their hard-earned dollars. Routinely, we are called upon to do it "better," "faster," and "cheaper." "Doing more with less" is the norm, not the exception.

In our view, the FPI mandatory-source requirement ties the hands of Federal managers when it comes to making smart purchasing decisions. While combating inmate idleness and providing 20 percent of the inmate work opportunities for Federal prisoners are important public policy objectives, the cost of the FPI program should not be transferable to the tight budgets of other agencies with their own missions in service to the American people, from National Defense to providing other Federal agencies the workspace, products, services, technology, and policy they need to accomplish their missions, as GSA does.

That is why FMA supports passage of H.R. 1577, the Hoekstra-Frank-Collins-Maloney Federal Prison Industries Competition in Contracting Act of 2001, which would eliminate this mandatory-source requirement burdening Federal agencies.

No doubt that you will hear from the Chairman of FPI's Board of Directors about how many waivers FPI grants, permitting Federal agency managers to make purchases from the private sector. The statistics may sound impressive, but I would ask you to consider some fundamental questions about the waiver process and how it works.

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

To begin, why should Federal managers be required to seek FPI's permission before being able to spend the money of American taxpayers in the best possible manner? Under the waiver process, FPI – rather than the buying agency – determines whether FPI's offered product, delivery schedule, and reasonableness of FPI's offered price meet the needs of the agency. Waivers are not granted on the basis of price unless FPI's offered price exceeds the statutory standard of "current market price." Current market price is not the same thing as a "fair market price" and is substantially different from the "best value" standard that applies to competitive procurements. Rather, the buying agency can be required to pay FPI's offered price provided that FPI's offered price does not exceed the highest price offered to the government for a comparable product. Therefore, no actual sales need to be made for the standard to be met.

A 1998 General Accounting Office study (GAO/GGD-98-151) of 20 FPI products found that "FPI generally did not offer Federal agencies the lowest prices for products that they purchased. Therefore, if it were not for FPI's mandatory source status, customer agencies might have decided to purchase comparable products at less cost." This assessment is consistent with the anecdotal experiences of our members.

FMA members are also concerned that it frequently takes longer to receive products from FPI than from other commercial vendors. Another GAO report (GAO/GGD-98-118) regarding the timeliness of FPI deliveries showed similar results. In more than 50 percent of the cases reviewed the actual delivery date was later than the buying agency had originally requested. Again, this is congruent with the experiences of our members.

Small businesses in the private sector, on the other hand, strive hard to keep costs low, quality good, and delivery services efficient. Otherwise, they would find themselves out of business. Consumers benefit from their efforts. These benefits do not exist when a business holds its customers hostage, as is the case with FPI and Federal agencies.

Aside from the questionable policy of placing the burden on a Federal manager to have to request and justify a waiver request, the waiver process itself raises substantial issues. The initial consideration of the request is undertaken by the FPI sales division, which will take the contract if the waiver is not granted. More recently, FPI has begun to utilize contract sales representatives, paid on a commission basis, to augment its own marketing staff. Thus, it seems reasonable to FMA to presume that neither FPI's own marketing force nor its contract sales force have much incentive to initially grant a waiver.

A Federal manager willing to invest yet more time and effort can take an appeal to a waiver denial to FPI's Ombudsman, a member of FPI's senior management team. Federal managers feel that the decision to grant a waiver – either initially or on appeal – is a unilateral decision made by FPI without the benefit of any standards upon which to independently assess FPI's actions.

Like the underlying mandatory-source status it is designed to buttress, FPI's waiver process presents the Federal manager with a "stacked deck" that may not be worth pursuing, unless accepting FPI's product or delivery schedule would substantially impede the attainment of the buying agency's mission, or FPI's price constitutes an egregious waste of the buying agency's limited operating budget.

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

Some have sought to cast the ongoing debate regarding FPI reform as a simple economic clash over government business between FPI and the business community. I am here to tell you that the current system also places an unacceptable burden on Federal managers in terms of both mission accomplishment and the quality of work life. If FPI were to deliver a quality product, on time, and at a reasonable price, then FPI will be able to compete, Federal agencies would give the American taxpayer more "bang for their buck," and inmates would be given an opportunity to truly learn the skills they will need in the outside job market. If FPI's product does not represent the "best value" for the tax dollars expended, FPI's captive Federal agency customers are then being forced to use their scarce resources to subsidize FPI's program to create inmate work opportunities. In turn, Federal workers are being forced to make do with products of lesser quality and suffer the consequences of delayed deliveries – consequences that can adversely affect their ability to perform their jobs as well as the quality of their services.

SCARCE RESOURCES GREATLY HEIGHTENS COST CONSCIOUSNESS

As taxpayers first and civil servants second FMA members want to see their tax dollars used in the most productive manner possible. A couple of important factors contribute to our current heightened concern about making the best use of scarce agency resources: agency downsizing and public-private competition for Federal functions.

FEDERAL DOWNSIZING

Since 1993, the non-postal executive branch civilian workforce has been reduced by some 400,000 positions. Agencies are being asked to do more with less, compete Federal functions with the private sector, streamline procurement processes, and at the same time deliver higher-quality service to the American public.

Federal managers and supervisors want our government to work the best it can for the American people. However, as the number of civilian employees continues to shrink, this task is becoming increasingly difficult.

In fact, earlier this year GAO for the first time added workforce management to its list of the Federal Government's "high-risk" areas. Strategic human capital management across government was the only area added to the "high-risk" list this year. "Human capital shortfalls are eroding the ability of many agencies—and threaten the ability of others—to economically, efficiently, and effectively perform their missions," said Comptroller General **David Walker** in the report. "Initial rounds of the downsizing were set in motion without sufficient planning relating to the longer term effects on agencies' performance capacity," he further stated. "A number of individual agencies drastically reduced or froze their hiring efforts for extended periods. This helped reduce the size of agencies' workforces, but it also reduced the influx of new people with new skills, new knowledge, new energy, and new ideas—the reservoir of future agency leaders and managers."

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

PUBLIC-PRIVATE COMPETITION

Federal functions performed by civil servants are being subjected to unprecedented competition with the private sector. The Office of Management and Budget's (OMB) January 15 memorandum to agency and department heads (OMB M-01-15) called on agencies to expand OMB Circular A-76 competitions in addition to submitting position inventories in accordance with the 1998 Federal Activities Inventory Reform (FAIR) Act. Under the FAIR Act agencies are required to submit to OMB lists of positions that are considered commercial activities under OMB Circular A-76. Supporters of increased privatization believe that publication of these inventories will increase pressure on agencies to allow the private sector to compete for the functions associated with the positions on the lists.

Also, for FY 2002, agencies have been directed to complete public-private or direct conversion competitions on a minimum of 5 percent of the Full-Time Equivalents (FTEs) listed on their FAIR Act inventories. Furthermore, agencies are to submit, with their FAIR Act inventories, a separate report that lists the agency's inherently governmental functions and associated civil service positions.

These initiatives fall in line with the President's commitment to open to competition with the private sector at least one-half of the Federal positions listed on the FAIR Act inventory of commercial functions. Yet as we move towards increased competition of services between the public and private sectors, Federal managers continue to be bound by a 1934 statute requiring them to purchase any product offered by FPI. In contrast, Federal contractors are free to make "best value" purchases that best meet their needs.

In our view FPI's mandatory-source status represents a significant and growing disadvantage for the Federal sector as we move into high gear to compete with the private sector. Federal operations that have to purchase $520 desks from FPI are going to have a tough time competing against contractors who can purchase the same desk for less than $400.

LIFTING MANDATORY SOURCE WOULD ENABLE AGENCIES TO GET BETTER DEALS

The Federal Government spends approximately $200 billion a year on goods and services. Between $110 and $120 billion of this amount is spent on contracting-out for services. The remainder is spent on products. Current law requires us to purchase over half a billion dollars' worth of supplies from FPI. Half a billion dollars in this context is significant.

CONCLUSION

In closing, Mr. Chairman, Federal managers and supervisors are currently receiving two conflicting messages from Washington, DC. On the one hand, we are being asked to "do more with less." From Congress we frequently hear that the bureaucracy should act more like the private sector. In contrast, the

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

law requires us to purchase over half a billion dollars' worth of supplies from a non-competitive source that frequently charges more than other commercial vendors.

The lament from managers and supervisors in the field is that this "catch-22" is all too typical of the way the Federal Government operates. Congress and the White House want us to compete with the private sector, but they will not permit us to act like the private sector when it comes to purchasing supplies.

FMA appreciates the efforts being made by Congressman Hoekstra and the more than 70 current cosponsors of H.R. 1577 to help us be better stewards of the taxpayers' hard earned dollar by untying our hands when it comes to making smart purchasing decisions. We urge Congress to pass this legislation to eliminate the FPI mandatory-source requirement.

Thank you again for inviting FMA to present our views and we look forward to working with you on this important issue. This concludes my prepared remarks. I would be happy to answer any questions you may have.

***

1641 Prince Street • Alexandria, VA 22314 • (703) 683-8700 • FAX: (703) 683-8707 • info@fedmanagers.org • www.fedmanagers.org

STATEMENT FOR THE RECORD OF
LAWRENCE F. SKIBBIE, PRESIDENT
NATIONAL DEFENSE INDUSTRIAL ASSOCIATION
BEFORE THE HOUSE SMALL BUSINESS COMMITTEE
HEARING ON THE IMPACT OF FEDERAL PRISON INDUSTRIES

JUNE 6, 2001

On behalf of the members of the National Defense Industrial Association, I would like to express our appreciation for affording us the opportunity to submit a statement for the House Committee on Small Business's hearing on the impact of Federal Prison Industries (FPI). We are grateful for the efforts of the committee to ensure a viable small business community.

As the largest defense-related association, representing approximately 24,000 individual members and nearly 900 companies (a majority of which are small businesses), we are committed to advocating the interests and views of the defense industrial and technology base. The issue at hand poses serious concerns for the viability of the industrial base, especially small businesses, which face the brunt of FPI's expansion. We are also concerned with proposal that would allow FPI access to commercial markets. As FPI assumes an increasing share of many markets, America's defense industrial base continues to shrink, thus losing its ability to respond.

The defense community is highly dependent upon small businesses to provide services and products to our nation's military, federal agencies and other members of industry. Often it is these same small businesses that are called upon in a time of crisis, to increase production in defense of our national security. Ultimately, a threat to the viability of small businesses is a threat to the viability of the defense community as a whole.

In 1996, a small business member company of NDIA was forced out of business because of aggressive and wanton expansion of FPI into the missile shipping container business. This industry, consisting mainly of small businesses, each with a handful of federal contracts, had already begun constricting as a result of reductions in force structure and a decrease in military facilities abroad. Entry into this market by FPI at this time could only result in a significant impact and unreasonable market share; two principles that FPI is charged with preventing.

After a protracted legal case and costs exceeding $100,000, the small business was successful in requiring FPI to fulfill its statutory requirements, which it had not done upon entering the missile shipping container market. Unfortunately, the temporary loss of contracts due to FPI's mandatory source status and the lengthy court case and costs forced the company out of business, resulting in the loss of jobs for 150 employees.

This is one example of how FPI's actions negatively impact small business. The same story is true across other industry sectors, whenever the federal government is a customer. Our

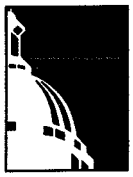
counterparts in the apparel and furniture industries have equally horrific tales of small businesses forced to close their doors because of FPI's expansion, all of which stem from the manner in which FPI operates.

The current business model FPI uses in determining its product catalog, the price to charge and the volume to produce is fatally flawed. These flaws result in unfair advantages for FPI and severely limit private industry's ability to compete in the federal market place. The methodology currently employed by FPI to make these decisions is outdated, imprecise and based on incorrect assumptions about markets and its competitors. Before addressing potential expansion into the commercial marketplace, reforms need to be implemented that will correct the potential conflicts of interest within FPI's operations. Only after such reforms are initiated will private industry be on equal footing so that FPI and the commercial sector can fairly compete.

Our strenuous opposition to FPI's current mode of operations stems from the fact that it operates under a business model that inflicts undue harm generally on law abiding tax payers and small to medium size businesses in particular. Expansion of FPI into the commercial marketplace, under current conditions, would only serve to exacerbate present day problems apparent in FPI's daily operations. Furthermore, it would expose America's businesses, irrespective of the industry sector involved, to unfair competition without affording them any recourse.

There are clear and well-defined problems with FPI that must be addressed to ensure a strong defense technology and industrial base as well as the continued existence of the Prison Industries. NDIA supports the principles with which FPI has been charged and recognizes its contributions to society. However, the current system's negative impacts greatly outweigh the benefits. For these reasons, NDIA has supported and will continue to support legislation that addresses the need for reform. We believe the Hoekstra-Frank-Collins-Maloney *Federal Prison Industries Competition in Contracting Act* is a viable and pragmatic first step in reforming an agency that has escaped real reform efforts for more than 60 years.

As *The Voice of the Industrial Base*, NDIA seeks to promote solutions that will ensure the continued existence of an industrial base capable of meeting our national security requirements. To this end, we are willing to participate in any dialogue that would bring reform to the problems we have cited today.



Statement
By
The Small Business Legislative Council
On
The Federal Prison Industries
For The
House Small Business Committee
June 06, 2001

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly eighty trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views.

In 1934, the Federal Prison Industries (FPI) was created by an act of Congress. FPI is a wholly owned government corporation managed by the Department of Justice's Bureau of Prisons. The intended purpose of FPI is to serve as a means for managing, training, and rehabilitating inmates. The theory behind the program is that it provides prisoners with work-place experience to use in society upon release from prison. In turn, it is thought that the job skills learned in prison will lead to lower recidivism rates.

Under the trade name UNICOR, FPI markets about 150 types of products and services to federal agencies. The products produced by FPI include furniture, textiles, and electronic components. Some of the services FPI performs include data entry, engine repair, and furniture refinishing.

FPI is a significant source of unfair and unjustified competition for small businesses. FPI remains one of the major barriers that keep small businesses from competing in the Federal Government market. FPI's unfair advantages include: (1) "mandatory source status," which requires Federal agencies to purchase products directly from FPI, even if the product can be purchased in the private sector at a cheaper price or better quality; (2) FPI has a constant source of cheap labor — prisoners are paid wages only a fraction of what would be found in the private market; (3) FPI does not have to provide the same type of benefits offered to employees commonly found in private sector companies; and (4) FPI does not have to adhere to the same OSHA health and safety regulations required by all private sector firms.

1010 Massachusetts Avenue, NW, Suite 400 • Washington, DC 20001
(202) 639-8500 / Fax: (202) 296-5333 • Email: email@sblc.org

Since FPI does not compete for their contracts, their sales are remarkable. In 1960, FPI had sales of $29 million. By 1980, the number of FPI sales jumped to $117 million. Today, however, FPI has turned into one of the largest federal contractors. In fiscal years 1996, 1997, and 1998 FPI had net sales of about $496 million, $513 million, and $534 million, respectively, in products and services. In 1999, FPI's sales soared to $566.2 million; this ranked them 36th among the top-100 Federal contractors. FPI's size and scope also continues to increase, FPI currently has 21,000 inmate workers in 100 prison factories.

In order to correct this injustice and give small businesses the right to fairly compete, Congress should pass H.R. 1577, the Hoekstra-Frank-Collins-Maloney "Federal Prison Industries Competition In Contracting Act of 2001." This bill will make FPI less predatory by eliminating its "mandatory source status." If enacted, FPI will become a more accountable player in the Federal Government market by requiring FPI to compete for its contracts. The Small Business Legislative Council strongly supports H.R. 1577.

NDIA Member Company Threatened by Federal Prison Industries

Global Investment Recovery, Inc. is a small business specializing in the recycling of scrap electronic equipment, precious metal refining and the sale of parts and components for reuse. Global employs approximately 80 people, the majority of whom are minorities including women, African Americans, Hispanics and Native Americans. Global pays wages averaging $10 per hour, provides paid vacations and holidays, medical insurance and tuition and book assistance.

Global is considered an 8A small business success story, having initiated their business with Small Business Administration (SBA) loans. Global also participates in international recycling programs via SBA programs.

Global operates 4 facilities-3 in Tampa, Florida, 1 in North, South Carolina. 2 of these facilities are dedicated to the recycling and destruction of scrap electronics from the Department of Defense including sensitive materials. Global is one of two contractors in the United States providing this service through contracts with the Defense Reutilization and Marketing Services (DRMS), an agency within the Defense Logistics Agency (DLA).

DRMS has entered into a Memorandum of Understanding (MOU) with Federal Prison Industries (FPI) that would allow FPI to acquire a portion of Global's contracted work. No agreement has been reached on the volume of scrap material for which FPI will be responsible. As a result, Global has been unable to perform any work for the past 4 months under their contract, forcing the lay off of 25 percent of their workforce and the effective closure of 2 facilities. In early August Global resumed receiving shipments of material under their DRMS contract. It remains too early to tell if the volume of material being shipped will return Global to its pre-interruptions employment level.

Global is required to follow strict security, disposal, recycling and reporting requirements stipulated in their contract. It is appropriate to point out the MOU between DRMS and FPI does not set forth the same requirements. Compared to FPI's MOU with DRMS, Global's contract stipulates higher standards and an end product fully recycled, destroyed or de-sensitized. These standards carry with them higher costs, as they require additional equipment and highly trained employees.

FPI, under the auspices of its MOU with DRMS, is held to different standards, criteria and security requirements. If Global was to perform work under its DRMS contract to the level as FPI, Global would be found in breach of its contract and in violation of its security requirements.

The FPI-DRMS MOU is a 9-month agreement executed in June 8, 2001. The MOU is at no cost to DRMS and was entered into for the purpose of determining if FPI could serve as an additional vendor to DRMS.

Statement by David Ritter,
President, Global Investment Recovery, Inc.
For the House Small Business Committee
Hearing on Federal Prison Industries and its
Effects on Small Business

August 14, 2001

Background on Global and their relationship with DRMS

Global Investment Recovery, Inc., formed in 1992, is a small business engaged in the recycling of scrap electronic equipment, precious metal refining, and the sale of electronic parts and components for reuse. As the President of Global, I have over twenty-four years of experience in the refining and recycling industries. Global is considered a success story of the Small Business Administration (SBA), having utilized several SBA programs to maintain positive growth and sustain a competitive advantage.

Our mission at Global is to hire local minorities, provide above average compensation, training, and maintain an environment for personal development. Eighty-five percent of our work force is comprised of African Americans, Women, Hispanics, and Native Americans. Equal Opportunity at Global is not a phrase – it is a commitment. The benefits we provide our employees are unique in our industry. Global provides excellent wages, paid vacation and holidays, medical insurance, and tuition refund for college classes and books. The proudest day in our corporate history will be when our first employee completes a college degree funded by Global. The most difficult day in recent history was when we were forced to lay off twenty-five percent of our work force due to the June 2001 Memorandum of Understanding (MOU) between the Federal Prison Industries (FPI)-Unicor and Defense Reutilization and Marketing Services (DRMS) (see attached). The MOU executed between DRMS and FPI for the "destruction and recycling of surplus DOD computers and other electronic property" has effectively caused a work stoppage at two of Global's four facilities.

Global has been providing services for the DRMS under contract number SP4410-00-D-3006 for the recycling of scrap electronics. There are presently only two companies in the United States holding primary contracts with DRMS to perform these services. Both companies are qualified as small businesses by the DRMS and have properly processed thousands of tons of scrap electronic equipment generated from various military installations throughout the Western U.S. region.

It is important to note that the two companies currently under contract with DRMS have successfully handled all of the material generated in the entire United States. Thousands of tons of material has been loaded, transported, processed, disposed of and documented in strict compliance with DRMS requirements. Numerous inspections and audits have been conducted to guarantee the proper handling and disposition of sensitive components and hazardous materials.

FPI-Unicor, DRMS and Global's Interrelationship

The FPI-DRMS MOU is in direct competition with Global's contract with DRMS and will therefore directly impact our relationship with DRMS. The authority that FPI-Unicor cites to enter into this MOU is based on the Federal Management Regulation (FMR) Chapter 102, CFR 41, and Part 102 through 136 (inclusive). These and other regulations cited by FPI-Unicor deal with "Donation in lieu of abandonment or destruction of surplus DOD property". However, FMR 102-26.70 states "FPI is prohibited from receiving excess personal property for de-manufacturing programs or direct sale". I will establish subsequently that the terms of the MOU are in direct contradiction with FPI-Unicor's governing statutes. From Global's perspective, FPI is abusing its rights as established by federal regulations, in an effort to expand their electronic component recycling activities at the expense of private contractors. To date, it is unclear what role DRMS has had in facilitating FPI-Unicor's actions under the MOU. We have not determined if the DRMS is sitting idly by or playing and active role against or for FPI.

Global has done business with FPI-Unicor over the past four years, and has been involved in the purchase, transportation, processing, and disposition of electronic scrap material generated by Unicor locations in Florida and Ohio. Global has purchased both non-demilitarization (non-demil) and demilitarization (demil) material from Unicor. Material categorized as demil is heavily regulated by the federal government and requires varying degrees of destruction. However FPI-Unicor has sold demil and non-demil material was together in an uncontrolled environment, and was never designated as demil or non-demil by Unicor. This relationship gives Global a unique insight into the process and products generated from the recycling activities at Unicor.

Over the course of this relationship, Global has seen numerous examples of material received from FPI-Unicor that should have been destroyed per demil requirements. If Global had handled demil material in the same manner as FPI-Unicor, there would have been serious repercussions, including potential loss of contract or incarceration. We have provided photos of material received at our Tampa facility during

May 2001 (see attached). If Global had received this material under our current DRMS contract we would have been required to destroy and mutilate this equipment. As a stipulation of our DRMS contract, Global must provide detailed documentation on the ultimate disposition of any material received. It is important to note that no such stipulation is contained in the MOU between DRMS and FPI-Unicor. It can be deduced, from FPI-Unicor's past behavior that should they continue activity in this market, they will create an environment where sensitive material could be managed in an irresponsible manner.

Effect on Global

As of August 1, 2001 there are in excess of four million pounds of scrap electronics sitting idle in military installations throughout the Western U.S. Under normal work conditions continued under Global's contract with DRMS, such scrap electronics could be providing gainful employment for existing workers. Even though our current contract does not guarantee specific quantities, it is clear that thousands of tons of material remain idle at various military installations. The delay in the disposition of this material has forced Global to lay off twenty-five percent of its work force. Each of these individuals will find it difficult if not impossible to find comparable work as it is highly specialized and there are few competitors near our facilities. In addition to lay offs, Global has idle facilities that would normally be full of DRMS material. Nearly four months have passed since any material has been released under our current contract. Global has paid the fixed costs for our exclusive-use DRMS facilities during this time period. FPI-Unicor's activity in our industry has negatively impacted Global as well as the other contract vendor by effectively halting the flow of material to our respective facilities.

The DRMS Electronic Recycling contract imposes numerous technical, process, and documentation requirements on the contractor. Global has invested hundreds of thousands of dollars in equipment, facilities, and training to meet or exceed the requirements of our DRMS contract. The original intent of DRMS' contract with Global was to employ reputable companies that had the facilities and experience to recycle scrap electronic equipment. The DRMS has experienced a litany of problems associated with environmental clean up and remediation originating from the improper handling and disposition of hazardous materials. Additional issues regarding the disposition of sensitive technology have resulted in federal prosecution and incarceration of several individuals. Export buyers have been prosecuted, convicted, and incarcerated for improperly shipping trade-controlled materials that are included in our DRMS Contract.

DRMS has always been concerned with the security of their material and has prosecuted its own employees for failing to follow regulations associated with the disposition of demil scrap material. Global does not take title to DRMS equipment, but acts as a processor and sales agent in strict compliance with contractual requirements. Accordingly, Global has installed digital surveillance systems at both DRMS processing facilities. These demil facilities have twenty-four hour manned security as well as alarm systems and motion detectors.

Questions Arising from FPI-Unicor Activity

The scrap material that Global receives from Unicor is shipped 'as is' with no value-added whatsoever. Global does not purchase reused items from FPI-Unicor. After learning of the MOU, Global reviewed FPI-Unicor's web site listing inventory available for purchase (see attached). It is important to note the DRMS, the U.S. Trade Security, and the U.S. Secretary of Defense regulate many of the items listed on their web site. During a routine inspection at the Global-Tampa facility of electronic components received from military installations, representatives of the U.S. Trade Security Organization determined that shipments of 'demil A' material contained other sensitive components. By definition, demil A is any electronic component that is non-classified and contains non-sensitive material. Under DRMS regulations, sensitive material must be separated for additional processing.

FPI-Unicor, under other contract arrangements, is currently engaged in the sale of components and parts for reuse as well as scrap material. Because DRMS ships large volumes of such material to FPI-Unicor-and such shipments would increase under the terms of the recent MOU-it is imperative that sensitive components not be shipped in error to FPI-Unicor. The language of the MOU provides FPI-Unicor with ownership (i.e. title) of the material for reuse and thus relieves DRMS of any liability. Under the terms of Global's contract with DRMS, DRMS retains all ownership and liability of the material. The ultimate responsibility for the disposition of sensitive technology, hazardous materials, and items that are critical to national security, resides with DRMS. Consequently, Global is required to follow stringent contractual regulations to ensure the security and proper destruction of all material.

In the case of electronic recycling, the only demil A item having any value with regard to metal recovery or reuse is the personal computer central processing unit (PC-CPU). The remaining electrical equipment is of low grade, and costly to recycle. Under our current contract with DRMS, failure to receive PC-CPUs would increase the processing costs to prohibitive levels for the DRMS. Should this statement

become reality, the DRMS agreement with FPI-Unicor would exacerbate the costs to process the remaining material. The final result will be significantly greater overall costs to the DRMS.

The Bureau of Prisons has indicated that, due to the changing composition of federal inmates, a majority of the new prisons to be constructed over the next 15 years will be medium to high security facilities. A requirement of medium to high security prisons is direct supervision of inmates. FPI-Unicor has indicated that its program needs to expand to respond to the growing prison population. As a result many of the prisons being constructed will also include prison factories for FPI-Unicor. Under these circumstances, it will be virtually impossible to monitor the dismantling and salvage of each and every computer to ensure that no sensitive or personal data are stolen. We at Global understand and concur with the DRMS concerns for security and question the decision to send computers to felons for dismantling and sale of used components.

Identity and data theft is the fastest growing sector of white-collar crime in the United States. In excess of 500,000 Americans have their identities stolen each year. The proliferation of personal data via the Internet enables the criminal element in our society to obtain access to the information required to commit theft by fraud. Placing used computers in the hands of felons is not advisable. There is no way to know what type of data is stored on used hard drives, CD-ROMS, and diskettes. Under DRMS' MOU with FPI-Unicor, DRMS retains no liability for material shipped to FPI-Unicor and provides them with ownership certificates. Under this scenario, it is unclear who will guarantee the security of the data. Furthermore, it does not delineate what recourse, if any, individuals would have in the event that crimes are committed using information stolen by federal inmates.

Advantages Enjoyed by FPI-Unicor

If FPI-Unicor is allowed to 'cherry pick' CPUs out of DRMS material, the cost to other processors (such as Global) to process the remaining electronic material will increase dramatically. FPI, through its MOU with DRMS, is intentionally or unintentionally having a negative impact on the small businesses in this industry. As a result of the stoppage in DRMS material processing at Global, law-abiding, tax-paying citizens are losing their jobs while incarcerated felons receive their work. By DRMS' determination that FPI-Unicor can participate in this market, it follows that as a federally subsidized agency that pays hourly wages below $1.25, that does not operate on a for-profit basis, with a mission to use labor intensive techniques, FPI-Unicor is best suited to handle low-profit margin, labor intensive, non-sensitive recyclable materials.

In contrast, the mission at Global is to hire local minorities, provide compensation, training, and maintain an environment for personal development. The electronic components FPI-Unicor would obtain from the MOU are already listed as products for sale on FPI-Unicor's web site. This would suggest that FPI-Unicor intends to recycle suitable items for commercial marketing. In Global's opinion, this is a commercial relationship with product sales. It is not a service contract as stipulated in the MOU. However, even if it were a service contract there is substantial question as to FPI-Unicor's authority to provide such service. At present FPI-Unicor cites an internal Department of Justice memorandum as the basis for its authority. There is no statutory basis for FPI-Unicor's actions.

When Global or any other private contractor receives material scheduled under demil categories for destruction the company is responsible for complete destruction of the item. Secondly, the standards by which material must be destroyed and documented are much higher and detailed than any required of FPI-Unicor under the MOU. For example, upon receipt of material from DRMS, any item Global desires to sell for reuse must be documented and notification sent to the federal government. The federal government is responsible for determining if the item can be resold. If the item meets the demilitarized requirements for reuse Global may request bids on the item. All bids must be sent to the federal government for approval, at which time the government, not Global, determines which bid will receive the material. Under the FPI-Unicor DRMS MOU, FPI-Unicor is not required to notify the federal government and can sell the item to the bidder it feels is appropriate.

Inconsistency in FPI-Unicor/DRMS Positions

Recently, DRMS has made a commitment to reduce staff levels. Under the MOU between DRMS and FPI-Unicor, DRMS would be required to provide representatives (COTR – Contracting Officer's Technical Representative) who would insure compliance with the agreement at every FPI facility that handles DRMS material. DRMS would also be compelled to hire additional staff to sort and segregate the valuable material from the low-grade items at military installations as well as separate items impacting our national security. Under the current contract, material is shipped mixed and unsorted. Global segregates and processes the material once it is received at our facilities. Additional questions raised by the MOU include who will sort, package, prepare, and load the material for FPI-Unicor? Clearly this situation runs contrary to many DRMS initiatives.

In a statement before the House Small Business Committee, Joseph Aragon, Chairman, Federal Prison Industries, stated he is working to "monitor the state of small businesses in our country." In our case, Mr. Aragon has certainly missed FPI-Unicor's negative impact on our small business that employs almost exclusively minorities.

FPI-Unicor has stated that its governing statutes require a detailed written analysis of the probable impact of FPI-Unicor activity on the private sector to include small business. Global was not questioned regarding the potential impact of FPI-Unicor's action. This study would have been simple to conduct due to the fact that, as stated previously, only two companies are under contract with DRMS to process electronic scrap. Given FPI-Unicor's past actions and statements, we believe it is probable, under these circumstances, that FPI-Unicor would respond by saying the MOU represents a service, not the sale of a product. FPI-Unicor's mandate does not state that impact statements are required for service contracts. It is obvious that the sale of recyclable electronic components is a commercial venture and not a service as suggested by the MOU. Using FPI-Unicor's logic, the production of any item could be designated as a 'service'.

Summary and Suggested Solution

Global is concerned that FPI-Unicor is not being held to the same security standards as the private sector. If FPI-Unicor is not capable of demilitarization to the same level as the private sector, this raises questions about using FPI-Unicor as a demilitarization vendor for DRMS. It is also evident by virtue of FPI-Unicor entering into the marketplace, Global has experienced a significant delay in receiving contracted material, forcing the lay off of 25 percent of their workforce. As previously noted, the majority of Global's workforce consists of minorities who receive above market compensation packages.

In early August Global resumed receiving shipments of material under their DRMS contract. It remains too early to tell if the volume of material being shipped will return Global to its pre-interruption employment level. Global has learned that while its facilities remained idle, FPI prison factories were receiving shipments of PC-CPUs from DRMS. DRMS employees present at FPI facilities witnessed federal inmates performing work on PC-CPU's. No other material from DRMS was seen at the facilities. Under the terms of the FPI-Unicor and DRMS MOU, federal inmates are allowed to dismantle PC-CPUs and destroy them using sledgehammers. It is important to note that FPI-Unicor does not have the capability to fully destroy any material it has received from DRMS under the MOU. All material

received from DRMS can be sold for reuse or as scrap for further recycling. This is true regardless of the demil category of the material

Global contends that it is the entrepreneurial expansion of small businesses that provides job growth to fuel our economy. Due to past success and our new contract with DRMS, Global was prepared to double our facility capacity and number of employees. The uncertainty associated with the entry of FPI-Unicor into our market sector has forced us to put any plans for expansion on hold. We do not pretend that we can compete with a large, tax-exempt, non-profit organization. Global has the capacity to compete with any company in our industry today-given that the competition is fair and equitable. Global considers our people to be our greatest asset. We are proud of each member of our staff, and hope that we are not forced to lay off additional employees. Global will remain a small, aggressive and professional corporation.

Global would be pleased to operate under the same contract stipulations as FPI-Unicor and is prepared to offer the exact same terms as those of the MOU between FPI-Unicor and DRMS. This would enable our small business to provide livelihood for law-abiding, hard working Americans. We assume that our federal government is not deliberately creating work for incarcerated felons while honest Americans, including minorities, lose their jobs. Global is prepared to participate in any state or federal program to provide jobs as a part of the rehabilitation process for inmates on parole or probation. This would create real jobs, real wages, and real benefits instead of cheap prison labor provided by FPI. It is our hope that the key decision-makers will weigh all of the issues before FPI is allowed to further endanger our small business.

MEMORANDUM OF UNDERSTANDING
BETWEEN
DEFENSE REUTILIZATION AND MARKETING SERVICE
AND
FEDERAL PRISON INDUSTRIES

PURPOSE: To establish an agreement between the Defense Reutilization and Marketing Service, (DRMS) and the Federal Prison Industries (FPI) for the destruction/recycling of surplus DoD computers and other electronic property.

AUTHORITY: Donation in lieu of abandonment or destruction of surplus DoD property will be accomplished in accordance with the Federal Management Regulation (FMR), Chapter 102, 41 CFR Part 102-36, the Defense Materiel Disposition Manual, DoD 4160.21-M, DODI 4000.19, August 9, 1995, SUBJECT: Interservice and Intragovernmental Support and a October 18, 2000 General Services Administration (GSA) government wide policy letter to "Property Management Officer." Authority to execute this agreement on behalf of the DRMS and the FPI is vested in the respective heads of both activities, or their designated representatives.

REFERENCES:

- Deputy Secretary of Defense letter dated January 8, 2001 subject: Destruction of DoD Computer Hard Drives Prior to Disposal. This letter provides specific guidance on the management of computer hard drives, rigid magnetic storage media and optical storage media as issued by the Secretary of Defense (attached).
  - FPI will manage all computer hard drives as directed by this letter and any subsequent amendments.
- FMR 102-36.305 through 330. These sections allow donation of excess personal property that has been determined appropriate for abandonment and destruction (A&D) to a public body without public notification if abandonment or destruction is required for various reasons to include health, safety, or security concerns.

- GSA October 18, 2000 memo. This memo states that:

  a. FPI is prohibited from receiving excess personal property for demanufacturing programs or direct sale, in accordance with FMR 102-36.70.

  b. FPI is authorized to be used as an acceptable recycling activity of A&D determined property.

DEFINITIONS:

a. Ammunition, Explosives, and Dangerous Articles: Any substance that, by its composition and chemical characteristics, alone or when combined with other substance(s), is or becomes an explosive or a propellant, or is hazardous or dangerous to personnel, animal or plant life, structures, equipment, or the environment as a result of blast, fire, fragmentation, radiological, or toxic effects. This property is not authorized for release to the FPI.

b. Accountability: The obligation imposed by law, lawful order, or regulation, accepted by a person for keeping accurate records to ensure control of property, documents or funds, with or without possession of the property. The person who is accountable is concerned with control, while the person who has possession is responsible for custody, care and safekeeping.

c. Clean Air Act (CAA): A law enacted by Congress authorizing the regulation of chemicals, Ozone Depleting Substances and other air pollutants.

d. Classified Material: Computer components, to include hard drives, CD ROMs, and disks containing labels that read 'CONFIDENTIAL, SECRET, or TOP SECRET.'

e. Property requiring Destruction: Includes rigid magnetic storage media such as removable disk packs: (e.g., single and multiple platter disk packs); sealed disk drives, hard disk assemblies (HDAs); magnetic Bernoulli cartridges; optical storage media such as optical disks (DVD), magneto-optic disks (MO); optical tape, optical Bernoulli cartridges, including compact disks (CD, CDE, CDR, CDROM).

f. Property not requiring Destruction: Monitors, keyboards, printers, and components other than the above.

g. Radioactive material: any material or combination of materials which spontaneously emits ionizing radiation.

h. Resource Conservation and Recovery Act (RCRA): The law that provides for solid waste management of both household and municipal type wastes. Establishes a system for controlling Hazardous Waste from the time it is generated until its ultimate disposal (cradle to grave), as implemented in 40 CFR 260-262.

i. Responsibility for Property: The obligation of an individual for the proper management, custody, care, and safeguarding of property entrusted to his or her possession or under his or her supervision.

j. Scrap Property. Material that has no value except for its basic material content.

k. State Regulated Wastes: If a waste is neither listed, nor exhibits a characteristic (40 CFR 261), an individual state may still regulate it as a hazardous waste. The EPA has provided for states that have a program equivalent to Federal RCRA standards to receive RCRA Authorization. This authorization allows the State to manage the hazardous waste program.

l. Toxic Substances Control Act (TSCA): 40 CFR 761 provides EPA with the authority to establish a program for testing of chemical substances, both new and old, entering the environment and to regulate them if necessary.

m. Usable Property: Property determined to have value (normally by type of property and classification/condition) for donation, redistribution or sale.

PROVISIONS:

All computers or other electronic property issued to the Federal Prison Industries under this agreement are Demilitarization Code A property and surplus to the needs of the DoD and will be eligible for donation to FPI, in lieu of abandonment and destruction, under authority of the FMR/41 CFR 102-36.320. All DoD property will have a written determination, made by DRMS and provided to FPI at the time of donation that the following criteria has been met.

- A statement that confirms the property has no commercial value, or that the cost of continued care and handling of the property would exceed the expected sales proceeds.
- A description of the property, condition and acquisition cost of the property is provided.
- Confirmation that this equipment is not appropriate for direct transfer to schools under E.O. 12999.
- Statements that required screening and precious metals break down considerations have been completed.
- Documents approving donation in lieu of abandonment and destruction documents are signed by the appropriate agency official and reviewing official.

Property requiring destruction must be physically destroyed in accordance with the Deputy Secretary of Defense January 8, 2001 memorandum, paragraph 3b (Attachment 1). The DoD maintains control until Verification of Destruction Certificates are signed by a DoD representative and provided to the FPI.

DoD surplus computers and electronic property will be managed in an environmentally compliant way, to include the protection of the environment and the health and safety of those involved in the agreed upon recycling process. Environmental, health and safety compliance is paramount to the success of the agreement.

Hazardous substances, materials and wastes, found and removed from computers as components or constituents of the item being recycled, are to be managed and disposed of, as part of the recycling process by FPI (UNICOR) under this agreement. However, this agreement does not include recycling of electronic equipment which cannot be processed through the normal procedures because (1) the entire item would require disposal as a hazardous waste, as defined in 40 CFR 261, or (2) the item would be a PCB waste as defined in 40 CFR 761. In this event, the FPI shall evaluate and assess the item(s), and shall determine and provide proof that the entire item has no recoverable value because the item, if discarded as a whole piece of equipment, would meet the definition of a RCRA or PCB waste. The FPI shall notify the issuing DRMO immediately after the assessment is made, indicating the issue documents under which the hazardous property was received. If it is determined that the item was shipped in error, DRMS will arrange for removal and proper disposal of the item.

FPI shall comply with all applicable federal, state and local laws and regulations relating to the duties, obligations and performance under this agreement and shall obtain all

licenses and pay all fees and other charges required. This includes, but is not limited to, all applicable environmental (RCRA, TSCA, CAA, CWA or State regulations), Department of Transportation and Occupational Safety and Healthy (OSHA) laws and regulations.

FPI is solely responsible for any and all spills or leaks during the performance of duties covered by this agreement, which occur as a result of or are contributed to by the actions of its agents, workers, or subcontractors. FPI agrees to clean up such spills or leaks in a manner that complies with applicable Federal, State and local laws and regulations. This clean up is at no cost to the DoD.

FPI will compliantly manage and dispose of all hazardous substances, materials and wastes removed from electronic equipment and components during the destruction/recycling process.

FPI will meet the requirement for safety and health management including the implementation of required training programs.

FPI will manage all solid waste to be recycled or disposed of in an environmentally compliant manner.

Recycling and processing will take place at FPI facilities. Each shipment will be picked up at the DoD installation named on an issue document (DD form 1348-1A). Property will generally be shrink-wrapped on pallets, in tri-walls or Gaylord boxes.

DRMS will provide active, on-site oversight of the destruction process. Additionally, DLA/DRMS has the right to audit/inspect any shipment or records relating to receipt and processing of DoD electronics by FPI.

This MOU neither authorizes nor requires FPI to handle classified materials. Should FPI employees come into actual or suspected possession of classified materials, they shall immediately notify the on-site DoD representative, who will be responsible for safeguarding it from loss or compromise. FPI shall take the action stipulated in the attachment on classified property.

Performance of this contract does not require FPI to handle radioactive material. FPI shall have a method of determining the radioactivity of an item. Some items marked as radioactive have had the components removed that made the item radioactive.

Therefore, FPI must be able to check the level of radioactive emission before contacting the Government. Should radioactive material be found, FPI will take appropriate steps to protect personnel and property. FPI will notify the Program Manager immediately and the Government will arrange to have the material moved. See attachment 2.

This MOU covers only Demilitarization Code A property, that is, property that is commercially available. This MOU neither authorizes nor requires FPI to handle property Coded Demilitarization B or Q. This type property is subject to Department of State International Traffic In Arms, Department of Commerce Export Administration Regulations and DoD Trade Security Controls. Should the FPI receive property that is suspect, they shall notify the on-sight DoD representative and provide a report as identified in Attachment 3.

In the event the direction from the Office of Secretary of Defense changes, DRMS will notify the FPI. Amendments to this MOU may be made based on the mutual consent of both parties with concurrence from DLA.

RESPONIBILITIES:

The DRMS will:

- Notify FPI with the following information when surplus electronic equipment is available for issue.
  - Location(s) of the material, point of contact (POC), phone and FAX numbers.
  - An estimated weight and description of the material
  - Specific instructions for processing the material, if required.
- Use the donation in lieu of abandonment and destruction transaction to release surplus computers to the FPI.
- Provide all necessary information and documents to enable FPI to carry out this agreement.
- Provide a complete inventory list of all surplus computers being issued at time of delivery/pickup, including a noun description. If property is issued by weight property will be described by type and weight, for example 15,000 lbs of computer monitors.
- Ensure that the quantity equals a minimum of 20,000 lbs. net weight, and is located at not more than 2 pick up sites.
- Work directly with FPI to simplify the scheduling and removal process. Adjustments to the scheduling and pickups will be made when it is in the interest of both parties.

- Stage and tailgate load the property.
- Seal trailer with Government seal.
- Release the material to FPI.
- Ensure a representative who is a DoD employee and knowledgeable of property destruction processes is on-site at the FPI during all destruction operations to provide oversight over the destruction process.
- For property subject to the Deputy Secretary of Defense letter dated January 8, 2001 subject: Destruction of DoD Computer Hard Drives Prior to Disposal:
  - Verify that shipment was received with the seal intact. Break the seals and verify the material presented for shipment against the documentation provided matches by weight or count.
  - Note any discrepancies.
  - Witness the destruction process.
  - Verify the destruction of computer hard drives as required by the above reference.
  - Provide signed DoD Certificates of Destruction.
  - Take responsibility for properly safeguarding any classified material discovered during FPI destruction operations and returning such material to proper DoD control.

FPI will:

- Manage all computer hard drives as directed by the attached Secretary of Defense Letter or subsequent amendments.
- Provide security to prevent loss, theft or damage of equipment during transport.
- Assure that transporters (commercial or FPI) have all required permits and licenses.
- Provide all necessary blocking and bracing to prevent load from shifting during transport.
- Verify the material presented for shipment against the documentation provided matches by weight or count.
- Sign the documentation assuming physical custody of surplus computer equipment.
- Ensure that any DoD markings or markings of any DoD installation or generator facility are obliterated from the electronics provided.
- Provide transportation from any DoD installation within the continental United States (CONUS). (DRMS may ship from locations where stated minimum delivery quantities can not be accumulated.)

- Provide all materials, personnel and facilities to properly manage DoD electronic equipment, provided by DoD.
- Ensure all personnel conducting destruction operations are trained to recognize classified material markings and procedures for reporting discoveries of classified material to the on-site DoD representative.
- Assure that DoD surplus computers are managed in accordance with all applicable federal, state and local environmental, health and safety regulations.
- Ensure that DoD computer hard drives that require destruction are totally destroyed according to the instructions provided by Secretary of Defense January 8, 2001 Memorandum (Attachment 1, paragraph 3b).
- Develop a database which tracks the computers from receipt through disposition of all items, parts, precious and valuable metals, non-metals, hazardous materials, wastes and dunnage by commodity group and weight.
- The database will also reflect the net return or cost associated with the disposition of the material. This data will be used to determine the framework of future agreements with FPI after the initial agreement is concluded.
- Provide DRMS with a monthly summary report of the equipment processed.
- Provide DRMS with the name: email address, phone and FAX number of a project officer (POC) for this agreement.
- Within 3 days of receipt of a notification, FPI will contact the POC at the location listed and arrange for pickup.
- Complete removals within 15 days of issuance of a task order.

LIABILITY PROVISIONS: Once the donation in lieu of abandonment and destruction determination document is signed, FPI assumes physical responsibility for the property and any future liability that the items may cause. For items other than those designated as scrap, FPI becomes responsible for any confirmed lost or damaged items.

OWNERSHIP:

Title to the property covered by the Deputy Secretary of Defense letter dated January 8, 2001 subject: Destruction of DoD Computer Hard Drives Prior to Disposal, shall remain with the DoD until the completion of the donation in lieu of abandonment and destruction transaction and the Verification of Destruction Certificates have been signed by the DoD representative. Title to the property passes to the FPI upon receipt of the signed certificates.

Title to the property not subject to the provisions of the above letter passes to the FPI upon completion of the donation in lieu of abandonment and destruction transaction and release of the property from DoD control.

OPERATING PROCEDURES: DRMS will prepare, in conjunction with FPI, on a site-specific basis, a set of Operating Procedures that address implementation of this agreement, such as: how notice will be provided when material is available for transportation, points of contact at specific DRMOs/FPI, performance standards for property requiring destruction, and packaging and shipping information. These Operating Procedures may be tailored to fit the capacity or other capabilities of any FPI/DRMO sites. The Operating Procedures shall be mutually agreed upon by UNICOR and DRMS prior to beginning work at any site. Minor changes or adjustments in Operating Procedures can also be readily made by agreement of the two parties.

RESOLUTION PROCESS: Using a team approach, any issues requiring resolution will be attempted at the FPI/DRMO level. Disputes that cannot be resolved within a one-week time frame at that level will be elevated to the next corresponding level at DRMS/FPI. If more than one week is required, a notification of same will be provided to the next corresponding level at DRMS/FPI. If higher level authority is necessary, issues will be elevated as appropriate. If necessary, an alternative dispute resolution (ADR) will be used for especially troublesome disputes.

TERMINATION:

This agreement will be for a nine (9) month period beginning on the date of issuance of the first task order. Either party may terminate this agreement with a 30-calendar days written notification to the other party, reason for the termination will be included in the notification. A quarterly in-process review will be conducted to evaluate performance and assure that the procedures, outlined in this agreement, are accomplishing the desired outcome. During the 9-month time frame, this agreement is a "no cost" agreement to both DRMS and FPI. Data gathered during the initial nine month test period will be evaluated to determine the financial structure (cost, no cost, shared proceeds) of any follow-on agreements.

NANCY RHYNE
Executive Director

JUN 0 8 2001

LAWRENCE N. NOVICKY
Federal Prison Industries

6-8-01

DEPUTY SECRETARY OF DEFENSE

1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JAN 0 8 2001

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Destruction of DoD Computer Hard Drives Prior to Disposal

Historically, the Department's policies regarding sanitization and destruction of computer hard drives have been applied only to equipment that processed classified information. More recently, the proliferation of networked unclassified desktop computers, with their ability to retain vast amounts of information, and the resultant possibility of increased sensitivity of the aggregated data, dictated that we properly sanitize unclassified computer equipment before it is turned in for disposal or reutilization. Notwithstanding these precautions, preliminary results of a recent Inspector General audit have revealed instances of sensitive information remaining on computer hard drives that had been certified as having been "wiped" clean (i.e., they contain no sensitive information) prior to disposal or reutilization outside DoD.

Accordingly, I direct that you take immediate steps to ensure that all hard drives of unclassified computer equipment being disposed of outside DoD are removed and destroyed. Guidance for destruction may be found at *http://www.c3i.osd.mil/sanitizeHardDisp/*.

The Assistant Secretary of Defense (C3I) will assess this implementation and determine, within 12 months, if further adjustments are warranted. Questions concerning this memorandum may be directed to Mr. Donald Jones, OASD(C3I)/IA, at 703-614-6640.

Rudy de Leon

Rudy de Leon

U16448 /00

Guidance for Destruction of DoD Computer Hard Drives (Unclassified) Prior to Disposal

1. Deputy Secretary of Defense memorandum, Subject: "Destruction of DoD Computer Hard Drives Prior to Disposal," dated January 8, 2001 (Enclosure 1) directs all DoD Components to "take immediate steps to ensure that all hard drives of **unclassified**... computer equipment being disposed of outside DoD are removed and destroyed." The intent of this memorandum is to prevent DoD Sensitive information, as defined in National Security Telecommunications and Information Systems Security Instruction (NSTISSI) No. 4009, from being obtained from computers being disposed of by DoD.

2. The term "hard drive" as used in the memorandum includes:

a) Rigid magnetic storage media such as removable disk packs; (e.g., single and multiple platter disk packs); sealed disk drives, hard disk assemblies (HDAs); and magnetic Bernoulli cartridges.

b) Optical storage media such as optical disks, optical tape, and optical Bernoulli cartridges.

3. Acceptable means to destroy rigid magnetic media are described below. Further, system administrators are highly encouraged to perform overwrite or 'wipe disk' procedures on functioning disk drives before CPUs are turned in for disposal by using a pseudo-random overwrite utility that is available with such products as Norton Utilities and similar products. This will decrease accessibility to the data until such time as the formal destruction procedures are implemented.

a) Sanitization by bulk degaussing: Remove the hard drive from the chassis or cabinet. Remove any steel shielding materials or mounting brackets, which may interfere with the magnetic fields. Place the hard disk drive in an approved NSA/CSS approved degausser (National Security Agency Degausser Products List) and erase at the required field setting. The bulk erasure of sealed disk packs or hard drives will cause damage (i.e., loss of timing tracks and damage to disk drive motor) which will prohibit its continued use. However, if there is any doubt that the degaussing was not successful, further physical disabling in paragraph b) below should be conducted. Specific questions regarding NSA approved products/procedures should be directed to NSA's INFOSEC Service Center at 1-800-688-6115 or DSN 238-4399.
(Note: Degaussing should only be conducted by personnel with technical knowledge about the equipment who routinely conduct these procedures for the degaussing of **classified** disks.)

b) Physical destruction/impairment beyond reasonable use: Remove the hard drive from the chassis or cabinet. Remove any steel shielding materials, mounting brackets, and cut any electrical connection to the hard drive unit. The hard drive should then be subjected, in a suitable facility with individuals wearing appropriate safety equipment, to physical force or extreme temperatures (e.g., pounding with a sledge

hammer; incinerator) that will disfigure, bend, mangle, or otherwise mutilate the hard drive so that it cannot be re-inserted into a functioning computer. Sufficient force should be used directly on top of the hard drive unit to cause shock/damage to the disk surfaces. In addition, any connectors that interface into the computer must be mangled, bent, or otherwise damaged to the point that the hard drive could not be re-connected without significant rework.

4. Optical mass storage media, including compact disks (CD, CDR, CDR, CDROM), optical disks (DVD), and magneto-optic disks (MO) must be destroyed by burning, pulverizing, or grinding the information bearing surface. When material is pulverized or ground, all residue must be reduced to pieces sized 0.25 millimeter or smaller. Burning shall be performed only in a facility certified for the destruction of classified materials.

5. As a reminder, paragraph 6-701 of DoD Regulation 5200.1-R, "DoD Information Security Program," dated January 1997, directs Components to obtain guidance on appropriate methods for destroying classified electronic media and equipment from NSA. The instructions regarding destroying unclassified media provided above are largely based on NSA procedures for the sanitization or destruction of classified media.

ATTACHMENT 2

RADIOACTIVE MATERIALS:

Performance of this contract does not require FPI to handle radioactive material. A radioactive material is any material or combination of materials which spontaneously emits ionizing radiation.

FPI shall have a method of determining the radioactivity of an item. Some items marked as radioactive have had the components removed that made the item radioactive. Therefore, FPI must be able to check the level of radioactive emission before contacting the Government.

Should radioactive material be found, FPI will take appropriate steps to protect personnel and property. FPI will notify the point of contact immediately and the Government will arrange to have the material moved.

FPI will provide a report to the appropriate DRMO within 72 hours of discovery of radioactive material. The report shall contain the following information:

(1) Time and place the material was discovered.
(2) Description of the radioactive markings on the material
(3) Names of any individuals who were involved in the incident.
(4) Where the material originated.
(5) Synopsis of the incident.
(6) What level of radiation appears to be present, using the contractor's "method of evidence."
(7) Names, organization and telephone numbers of government or contract personnel responding to the contractor site.
(8) Method used to return the material to the Government or disposition.
(9) NSN of the material, or any manufacturer name, model number, serial number, MILSPEC or other markings identifying the material, if applicable.

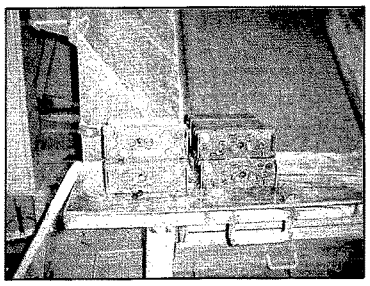
Attachment 3

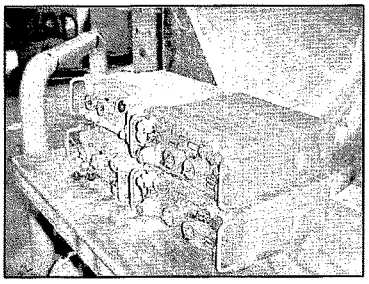
Demilitarization Code B and Q property

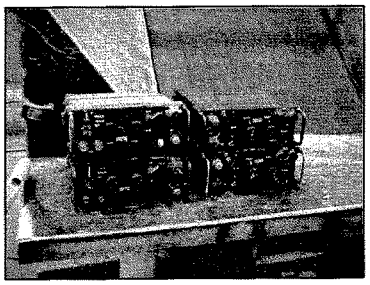
This MOU covers only Demilitarization Code A property, that is, property that is commercially available. This MOU neither authorizes *nor* requires FPI to handle property Coded Demilitarization B or Q. This type property is subject to Department of State international traffic in arms, trade security controls and Department of Commerce Export Administration Regulations. Should the FPI receive property that is suspect, they shall notify the on-sight DoD representative and provide the following report:

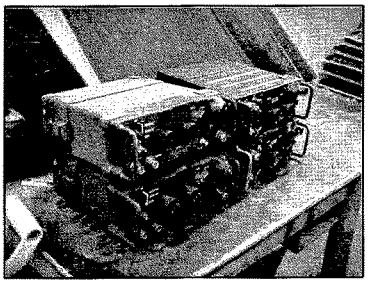
(1) Time and place the material was discovered.
(2) Specific identification of the item(s) found (i.e., CD-ROMs, disks, etc.).
(3) Description of any suspect markings on the material.
(4) Names of any individuals who came in contact with the material.
(5) Where the material originated.
(6) Synopsis of the incident.
(7) Steps taken to prevent further personnel contact with the material.
(8) Method recommended to return the material to the Government

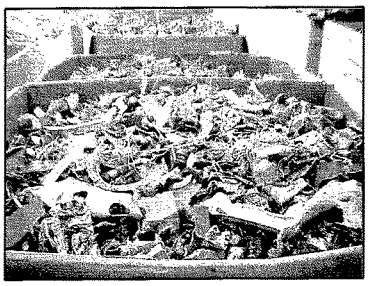
The on-sight representative shall provide this report to the DRMS Program Manager within 24 hours, along with any recommendations as to the handling and disposition of the property.











1

Unicor's

Current

Website

(Note again items for sale on website, which would be subject to Total Destruction and Trade Security Controls.)

Visit the UNICOR Marketplace

Printing
Repair & Refurbishing
Data Services
Distribution & Warehousing
Computer/Electronics Recycling
Testing
Screen Printing
Textile Repair

Computer/Electronics Recycling

Send... us your worn out, obsolete, junk computers
Recycle... your electronic scrap keeping it out of landfills
Buy... our usable equipment and scrap

Electronic waste is de-manufactured and recycled in accordance with the *Land Ban Act of May 1994, 40 CFR, Parts 260-279.*

- Complete Systems
- Hard Drives
- Memory
- CD ROM Drives
- Network Cards
- Video Cards
- Sound Cards
- SCSI Cards
- Tape Drives
- Printers
- Monitors
- *Floppy Drives*
- Motherboards
- Power Supplies
- Scrap Metal
- Scrap Plastic
- Scrap Copper

For information about this program, contact Larry Novicky at (202) 305-3732, email: lnovicky@central.unicor.gov, or call Cynthia Keidel at (202) 305-3768, email: ckeidel@central.unicor.gov.

Contact the location nearest you for more information about how UNICOR can recycle your obsolete computers or to purchase usable parts, equipment, or recycled materials.

Elkton, OH
Aaron Aragon
E-mail: aaragon@central.unicor.gov
Phone: (330) 424-7074
(330) 424-7445 ext. 1313
Fax: (330) 424-7324

Ft. Dix, NJ
Jeff Eobstel
E-mail: jeobstel@central.unicor.gov
Phone: (609) 723-1100 ext. 348
Fax: (609) 723-2815

Marianna, FL
James Bailey
E-mail: unicor@digitalexp.com
Phone: (850) 482-2112
Fax: (850) 482-2257

Top

Who We Are
Required Source Information
Access to Management Staff & Board Members
Partners in Quality
Annual Reports
Sales Reports
New Services
Environmental & Recycling
Inmate Placement Program
Procurement Branch
Privacy & Security Notice

Environmental & Recycling Program

COMPUTER DEMANUFACTURING

UNICOR collects and disassembles computers, mostly from the General Services Administration (GSA) and Defense Reutilization and Marketing Office (DRMO) excess and surplus property, at its facility in Marianna, Florida. When the computers are disassembled, usable circuit boards and other undamaged parts are collected for resale. Remaining component pieces are dismantled and sold for recycling in this closed loop recycling effort.

Since metals are a principal material in computers, this recycling process obviously benefits the preservation of scarce resources.

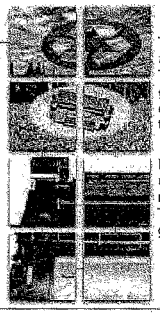
Top

UNICOR

Recycling

Shop On-Line

- Clothing & Textiles
- Electronics
- Fleet Management & Vehicular
- Graphics
- Industrial Products
- Office Furniture
- Recycling
- Services/Product Distribution

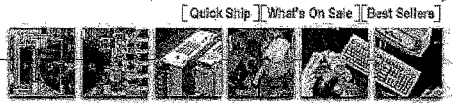


The Recycling business group has entered an emerging market of electronic recycling. This new business group will provide both government and non-government customers an environmentally friendly way to dispose of their electronic equipment.

From cradle to grave, we will collect, sort, recycle and document the process for your records. Don't forget our remanufactured Toner Cartridges which meet EPA guidelines.

[Quick Ship][What's On Sale][Best Sellers]

Custom Items



Required Source Information

Who We Are
Required Source Information
Access to Management Staff & Board Members
Partners in Quality
Annual Reports
Sales Reports
New Services
Environmental & Recycling
Inmate Placement Program
Procurement Branch
Privacy & Security Notice

First come the required sources of supplies and services, then come Micro purchases and the Simplified Acquisition Procedures... Confused About Your Rights... Know The Law

The word is out. The Federal Acquisition Streamlining Act, which covers micro purchasing and the new simplified acquisition procedures, has been signed. Now some people are thinking, "Does that really mean I can use my government purchase card without considering UNICOR, NIB/NISH, stock programs, excess inventory, or Federa Supply Schedules anymore?" The answer is, No A House of Representative's conference report covering the Federal Acquisition Streamlining Act of 1994, states, "The conferees do not intend that the increased threshold alter the current priority among sources of supplies and services under Part 8 and 13 of the Federal Acquisition Regulation." So, remember...before you go to your local supplier you must first consider the listing in FAR 8.001,Priorities for use of Government supply sources, listed below.

(1) S U P P L I E S

- Agency inventories
- Excess from other agencies
- Federal Prison Industries, Inc. (UNICOR)
- Procurement lists of supplies available from the committee for the purchase from the committee for the purchase from people who are blind or severely disabled (NIB/NISH)
- Wholesale supply sources, such as stock program of the General Services Administration, the Defense Logistics Agency, the Department of Veterans Affairs, and military inventory control points
- Mandatory Federal Supply Schedules
- Optional use Federal Supply Schedules, and SF-71 Form
- Commercial sources.

(2) S E R V I C E S

- Procurement lists of services available from the committee for purchase from people, who are blind or severely disabled (NIB/NISH),
- Mandatory Federal Supply Schedules and mandatory GSA term contracts for personal property rehabilitation,
- Optional use Federal Supply Schedules and optional use GSA term contracts for personal property rehabilitation.
- Federal Prison Industries, Inc. (UNICOR) or commercial sources.

Questions?

Contact
Rich Broadwater
Chief of Procurement
Federal Prison Industries Inc
(202) 305-7292

Provides Flexible Ordering

UNICOR can make your procurement process hassle free and provide the freedom that comes with purchasing options that work for you.

Like other government agencies, UNICOR is seeking new ways to forward-thinking. We have invested and expanded our e-commerce technology to support

2111 Wilson Boulevard, Suite 400
Arlington, Virginia 22201-3061
Tel: (703) 522-1820 • Fax: (703) 522-1885
Web page: http://www.ndia.org

The Voice of the Industrial Base

August 15, 2001

Vice Admiral Keith W. Lippert
Director
Defense Logistics Agency
8725 John J. Kingman Road
Suite 1421
Ft. Belvoir, VA 22060-6221

Dear Admiral Lippert:

I would like to bring to your attention a recent development with one of our member companies in Tampa, Florida. Global Investment Recovery, Inc. (Global) is currently under contract with the Defense Reutilization and Marketing Service (DRMS) to recycle and destroy excess and scrap electronic components from Department of Defense facilities in the Western United States. Under Global's current contract, SP441000-D-3006, Global agreed to provide these services to DRMS under strict contractual, statutory and regulatory oversight.

In June 2001, DRMS entered into a Memorandum of Understanding (MOU) with Federal Prison Industries (FPI), Unicor, to provide for the "destruction and recycling of surplus DOD computers and other electronic property". The FPI-DRMS MOU is in direct competition with DRMS' current contract with Global. As a result of this MOU, all work under the aforementioned contract was effectively suspended for over two months with no deliveries made to Global. Due to the work stoppage, an excess of four million pounds of scrap material was sitting idle in DOD facilities throughout the western U.S. Only recently has material been shipped to Global's two fully dedicated facilities. At this time it is not clear whether Global will be able to return to previously established employment levels.

As you will note, this firm has endured significant hardship as a result of the work stoppage. Global has been forced to lay off over 25 percent of its employees. It is important to note that 85 percent of Global's work force is comprised of African Americans, Women, Hispanics, and Native Americans and that Global provides its employees with above market wages and compensation packages. Secondly, Global is one of two private contractors approved by DRMS to provide for the destruction and recycling of excess DOD electronic components.

We are concerned that FPI is not being held to the same security and regulatory standards as private vendors. We are also troubled by the potential security implications of employing federal prisoners to destroy classified material such as computers and the additional oversight burdens this may pose for DRMS.

We are confident that the Defense Logistics Agency would not intentionally disrupt the contract schedule of DRMS' contract with Global, forcing the closure of facilities and lay off of well trained workers. We would appreciate your examining and rectifying this situation as soon as possible. In doing so you may wish to consider a solution that would employ both approved private sector vendors and programs such as FPI. While FPI may be a source of inexpensive labor, it is not well suited for complete destruction of material requiring demilitarization. Secondly it is a federally subsidized operation that does not operate on a for-profit basis. Given these circumstances and FPI's mandate to use labor intensive techniques to employ the maximum number of inmates, it follows that FPI should receive and dispose of labor intensive, non-sensitive material. Approved private vendors such as Global could then handle materials governed by strict disposal regulations and that containing classified information.

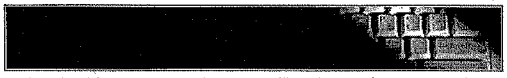
The National Defense Industrial Association is the largest defense related association, with 24,000 individual and 900 corporate members who employ the preponderance of the defense industry and technology base. We look forward to working with the DLA in this matter and want to express our appreciation in advance for your cooperation and timely resolution.

Sincerely,

Lawrence F. Skibbie

Lawrence F. Skibbie
Lieutenant General, USA (Ret.)
President & CEO

St.Petersburg Times ONLINE BUSINESS



Recycling competition causes uproar

Some entrepreneurs are crying foul over Federal Prison Industries, which they say is undercutting their business. Federal Prison Industries officials deny they've drained contracts away from small businesses.

By J. NEALY-BROWN

© St. Petersburg Times, published August 13, 2001

Some entrepreneurs are crying foul over Federal Prison Industries, which they say is undercutting their business. Federal Prison Industries officials deny they've drained contracts away from small businesses.

In 1993, David H. Ritter and a handful of employees started recycling used computers in a tiny warehouse in east Tampa. By last year, his Global Investment Recovery staff grew to 50 employees at three locations. Dismantling PCs and mainframes the size of refrigerators, mostly from military bases west of the Mississippi, boosted the company's revenues to $6.3-million last year.

But the feds stopped shipping their computers to Ritter earlier this year, forcing him to lay off 25 percent of his staff. When Ritter pressed his federal suppliers to explain the lost business, he discovered he now competes with another branch of the government: Federal Prison Industries, a unit of the Department of Justice.

Unlike independent businesses such as Global Investment Recovery, Federal Prison Industries doesn't have to bid on jobs and has the advantage of cheaper inmate labor. "They are coming in the back door," Ritter said.

Other entrepreneurs are crying foul and getting some attention on Capitol Hill, where lawmakers and lobbyists are debating whether the social policy of training inmates to find work after doing time is merely undercutting free enterprise.

Ironically, the battle pits two government agencies against each other, Ritter says. His small company lost work to federal prisons and has been nurtured, like many companies his size, by U.S. Small Business Administration-backed loans.

"It's behavior that has gone unchecked," said Benjamin Stone, government policy analyst for the National Defense Industrial Association, a trade group representing companies that do business with the Department of Defense.

Indeed, there are numerous cases of small companies versus Federal Prison Industries, which also is known by its trade name UNICOR.

An Albuquerque, N.M., office furniture dealer estimates that he forfeited 10 percent to 15 percent in new business when Federal Prison Industries started selling furniture.

A Georgia-based maker of shipping containers blames Federal Prison for its decline. It sued, and eventually closed.

A blinds and drapery manufacturer in Illinois says it has been shut out of federal contracts for goods now made by Federal Prison. Soon after John Miceli got his first government contract in 1995, he began losing to Federal Prison.

Officials at Federal Prison Industries deny they've drained contracts away from small businesses.

They contend the market for recycling computers is big enough for many players. "There's a lot of computers that are obsolete and no longer being utilized," said Larry Novicky, the agency's general manager of recycled electronics products and services group. "You could look in almost anyone's closet and find old computers."

Federal Prison Industries was established by Congress in 1934 to train and put federal inmates, now about 22,000, to work in textile, furniture manufacturing, industrial products, graphics and electronics industries.

The agency also was given the unique position of getting federal contracts without having to bid for them. Its special status often forces government managers to look only to Federal Prison Industries, even if they can get a better deal from the private company.

It relies on sales, not taxpayers' money, to pay for its operations. Last year, Federal Prison Industries earned about $546-million in sales and reported a loss of $11.8-million, down from $566-million in revenue and a net income of $16.6-million in 1999.

Novicky said that the agency's overhead costs tend to be higher than in the private industry. For instance the agency must conduct security searches to keep out contraband and make sure inmates don't keep tools. But customers, mainly the federal government, can still save money because the work is done by inmates.

Although it's a cashless system, the inmates earn money to pay for things such as alimony, restitution, child support and court costs. They also can use their earnings, an average of 98 cents an hour, to buy candy bars and snacks for visitors.

It also helps prepare inmates for jobs after they are released, which makes them less likely to commit other crimes and return to prison, according to a 1997 Bureau of Prisons report. "Not only are we recycling products; we're recycling individuals. We're preparing them to go back into the work force," Novicky said.

But small-business owners say it's unfair competition. Bob DeGroft estimates his furniture company has lost millions of dollars in business in the past 10 years.

"We are simply looking for a level playing field like we were able to achieve in New Mexico," he wrote in a June statement to the House Committee on Small Business. DeGroft said he spent $14,000 to successfully modify New Mexico's laws on the use of prison labor. The state's prisons now have to bid for projects.

Tim Graves' victory was not that sweet. The owner of a Georgia-based missile shipping container company sued to push Federal Prison Industries out of the market because Federal Prison had failed to do an impact

study. He first learned of the competition in 1995 when he was turned down by the Air Force for a contract. Officials said they had to buy from Federal Prison Industries.

According to congressional records, Graves spent $50,000 in the legal fight. Although he won and Federal Prison Industries left the market, he closed General Engineering Service, resulting in 150 jobs lost.

Congressional efforts to change Federal Prison Industries' special status have failed.

In April, Rep. Peter Hoekstra, R-Mich., appeared at a hearing before the House Subcommittee on Crime to talk about the latest bill, which would force Federal Prison Industries to submit bids on projects.

One issue for lawmakers: how to maintain a program that trains prisoners while looking out for small businesses.

The Small Business Administration was established in 1954 to ensure small companies had fair access to markets. The SBA's advocacy office has called for balance between Federal Prison Industries and small businesses.

"Generally, you begin to see more concern with Federal Prison Industries when the market starts getting very tight. When there's enough contract work out there for everyone, then you really don't necessarily feel the pinch. (But) when the work starts drying up, you start looking at your competitors," said Major Clark, the SBA's assistant advocate for procurement policy.

Federal Prison Industries' entry into a market is a reality and a risk that small business owners must face, according to JoAnn M. Laing, president and chief executive of SmallBusinessDepot Inc.

"There's basically nothing a small-business person can do except factor that into their planning and assume that . . . the contract is not a given," said Laing, whose company helps small-business owners identify and win corporate and government contracts.

Inside his Tampa warehouses, Ritter is trying to find more work for his remaining employees. He still gets some government scrap, but he is turning to other sources, such as old telephone equipment. "We're glad to have some material," but Federal Prison Industries is "skimming the best."

- J. Nealy-Brown can be reached at nealy@sptimes.com or at (727) 893-8846.

© Copyright 2001 St. Petersburg Times. All rights reserved

U.S. Department of Justice
UNICOR
Federal Prison Industries, Inc.

Washington, DC 20534

November 7, 2001

The Honorable Donald A. Manzullo
Chairman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The following is in response to a series of questions the House Committee on Small Business posed to Federal Prison Industries, Inc. (FPI) in a letter dated June 27, 2001. I believe that our responses and supporting documentation will be informative and present a factual representation of FPI's mission and operations.

Should you have any additional questions or require further clarification with regard to FPI's responses, please do not hesitate to contact me.

Sincerely,

Joseph M. Aragon
Chairman

Attachments

cc: Congresswoman Nydia M. Velazquez
Ranking Minority Member

GENERAL:

1. How many Federal contracts were awarded to UNICOR in Fiscal Year 2000?

   Response: There is a distinction between the term "contracts" and "orders." For instance, the Department of Defense may enter into a contract with Federal Prison Industries (FPI)for a given product or service; however, it is the individual military bases that will place their respective orders directly with FPI, against the original contract.

   In the interest of providing the maximum information possible, we are reporting the number of orders received even though many of them may have been against the same contract. For Fiscal Year (FY)2000, there were 106,718 orders issued to UNICOR.

2. Approximately how many inmates worked on each contract, on the average?

   Response: FPI does not maintain data on the number of inmates assigned to each contract or order. However, data is collected on the number of inmates employed and the number of orders received. Inmate job assignments are typically by function (e.g., painter, press operator) rather than by contract.

3. UNICOR provides work to 21,688 of the 126,200 individuals currently incarcerated in federal prisons. If one inmate works on five separate contracts, is that worker counted once or five times?

   Response: If one inmate works on five separate contracts, that worker is counted once. The number of inmates working in FPI is the actual count of inmates on the FPI payroll on a particular date. This number is unaffected by the number of contracts an inmate works on.

4. In your written testimony, you state that FPI is "wholly self-sufficient." Does this mean that all FPI factories are financially self-sufficient? Who pays the worker's room and board? Does FPI help subsidize these workers?

   Response: FPI as a whole is financially self-sufficient. Of the 100 individual factories, some of them may not be "profitable" at a particular point in time.

The funds appropriated to the Bureau of Prisons (BOP) pay for the room and board costs of all federal inmates.

FPI does not subsidize its inmate workers. FPI does contribute significantly to the safety and security of federal correctional facilities by keeping a substantial percentage of the inmate population constructively occupied. Empirical research demonstrates that inmates who participate in work programs and vocational training are less likely to engage in institutional misconduct, thereby enhancing the safety of staff and other inmates. In the absence of a prison industries program, additional correctional officers and programming (paid for with appropriated funds) would be necessary to safely manage BOP correctional institutions.

5. You stated in your testimony that prisoners are supporting families back home and also paying victim restitution with some of the wages they earn. You then stated that some workers make between $.25 and $1.18 per hour. How does a worker earning $.25 per hour (which calculates into $2.00 per day) support a family or pay victim restitution on such earnings? Why doesn't FPI pay higher wages? How can FPI claim that these minuscule wages are actually benefitting people? Does FPI support paying its workers the minimum wage?

Response: Although there is no statutory requirement that inmates be paid for work in an industrial assignment, 18 U.S.C. § 4126 authorizes discretionary compensation to be paid at rates determined by the FPI Board of Directors. Current policy provides the basic hourly compensation rate for FPI inmate workers ranges from $.23 to $1.15. However, an inmate's earnings may be increased above these basic rates through various means including: payment of premium pay at a rate of $.20 per hour; payment of piecework rates which vary in amount based on production; payment of overtime compensation at approximately twice the basic hourly (or unit) rate; and payment for longevity of service ranging from $.10 to $.30 per hour.

Bureau policy also requires FPI inmate workers to contribute 50 percent of their earnings to satisfy court-ordered obligations. Although inmate pay rates may appear low, inmate earnings significantly benefit both families and victims. In FY 2000, for example, inmates assigned to FPI contributed approximately $2.5 million toward victim restitution, fines and child support. As much as the quantity of money, it is the act itself that is important.

For an inmate, it represents an opportunity to accept responsibility for his/her actions and in some small way give something back to society. The funds reduce public assistance costs paid to families potentially that would otherwise be borne by the taxpayer. Finally, it is a means of offering restorative justice to the victim.

Inmates also make purchases from the prison commissary; the offerings of which are bought through local vendors, i.e., small businesses.

FPI's statute requires that it be deliberately labor intensive in its manufacturing techniques and that it employ as many inmates as practical. In order to do this and still comply with an additional statutory requirement that FPI's products not exceed the market price, it is not practical to pay inmates minimum wage.

FPI's workforce has lower education levels and limited work experience. Despite high rates of turnover, FPI provides training to instill a sound work ethic and vocational skills while incurring associated operating costs unique to prison settings. Hourly compensation rates authorized for FPI inmate workers are higher than the rates authorized for non-FPI inmate workers, and it is FPI's belief that its current rates of pay are reasonable and cost-effective.

6. Please provide, for the record, a listing of all contracts awarded in fiscal years 1996 through 2000 and how many inmates worked on each contract.

Response: Again, there is a distinction between a "contract" and "orders." It is not uncommon for several "orders" to be placed against an overall federal "contract."

Fiscal Year	Number of Orders	Number of Inmates
1996	72,744	17,379
1997	84,466	18,414
1998	98,693	20,213
1999	112,075	20,966
2000	106,718	21,688

7. What is FPI's definition of the term "prison made"?

Response: According to BOP policy, the term prison made refers to products manufactured and/or assembled in whole or in part by prisoners. (See Supporting Documentation: General Section - Attachment 1)

8. Is there any requirement in the definition of "prison made" that FPI use a certain percentage of incarcerated individuals in the manufacture of an item?

Response: There is no such requirement, however, it has always been FPI's objective to maximize the amount of inmate labor associated with the production of any item. All products produced by FPI are subject to market share and sales level limitations. The sales price of each product counts against the total authorized sales level for that product category, no matter what percentage inmate labor represents. Thus, there is no incentive for FPI to provide products with small amounts of value added by inmate labor.

The percentage of value added by inmate labor varies by product; therefore, it would be difficult to have a fixed percentage for all of FPI's product lines. There are some products wherein the material used represents a high percentage of the cost of the product while in other areas, especially services, the material cost is relatively low. Also, because FPI diversifies its production, it is not cost effective for FPI to make all of its components. In an effort to provide updated, competitive products in a self-sustaining manner, within the market range, FPI often relies on the expertise of private industry partners to assist in developing products and/or ancillary services.

FPI's Board of Directors supports FPI's partnerships with private sector companies. These partnerships often result in a phased-in production approach, whereby FPI broadens its manufacturing knowledge and capability, by incrementally increasing its vertical integration for the item and the corresponding percentage of value-added by its inmates.

9. Would FPI commit to requiring at least 50 percent of the value of all work done on an FPI contract to be completed by inmates?

Response: Once raw materials and/or component parts are purchased from the private sector, under normal circumstances, 100 percent of all direct labor in fulfillment of an FPI contract is performed by inmates. Thus, FPI would not object to 50 percent of the direct labor value being provided by inmates. The only exception would be unusual and exigent circumstances which might occur after an order was taken by FPI, in which the ability of the factory to produce the item was impeded by conditions associated with the prison environment.

10. Please provide a profit and loss statement for FPI for fiscal years 1996 through 2000.

Response: Federal Prison Industries recognized the following profit/loss for Fiscal Years 1996 through 2000 (dollars in millions):

Fiscal Year 1996 - earnings of $12.1 million
Fiscal Year 1997 - earnings of $3.1 million
Fiscal Year 1998 - loss of $2.4 million
Fiscal Year 1999 - earnings of $16.6 million
Fiscal Year 2000 - loss of $11.7 million

FPI's FY 1999 and 2000 Annual Report is also available on the web at www.UNICOR.gov. (See Supporting Documentation: General Section - Attachment 2)

11. Of the 1,600 non-inmate employees of FPI, please provide a salary list for all senior managers. Additionally, please provide the total payroll for the most recent Fiscal Year end. Also, please detail the number of contract sales employees who work on a full or partial commission basis.

Response: All employees of FPI are federal civil service employees and are paid accordingly. At the end of FY 2000, there were a total of 2,029 civil servants employed by FPI. The Chief Operating Officer is in the Senior Executive Service, with a salary of $133,700. The senior managers in headquarters are GS-14 and GS-15's, with salary ranges from $74,697 to $97,108 and $87,864 to $114,224, respectively. The senior managers at the field sites range from GS-13 to GS-15's. The salary range for GS-13 is $61,749 to $86,481.

The total civilian payroll for FY 2000 was $125,031,051.

With regard to the number of contract sales employees who work on a full or partial commission basis, the Office Furniture Business Group component of FPI has a contract with Government Marketing Group which provides 18 sales employees who work on a full or partial commission basis.

FPI also has several partnerships with companies, who, in turn, may have employees who may work on a full or partial commission basis. Blockhouse is a certified small business with approximately 120 full-time employees. It currently employs a total of 12 staff for sales and marketing of UNICOR's Dorm & Quarters products.

The Graphics Business Group has entered into partnerships with the following private sector companies, all of which are small businesses: KOTA (4 sales employees); 2/90 Sign System (14 sales employees); Amerimac (two sales employees); and Correctional Products and Services (CPSI) who has one dedicated sales person. CPSI and 2/90 utilize a total of 22 independent sales representatives, but not all are fully engaged in sales to federal agencies.

12. How much money did UNICOR spend on advertising and marketing in Fiscal Year 2000? Please provide a breakdown of these expenditures, including personnel costs, supplies, outside vendors, etc.

Response: UNICOR spent a total of $6,952,266 on advertising and marketing in Fiscal Year 2000, which represents 1.3 percent of FPI's revenue for that same period. The following is a breakdown of those expenses:

Contract Services	$ 2,972,885
Salaries	$ 1,938,612
Benefits	$ 474,430
Printing Expense	$ 614,117
Computer Equipment	$ 231,455
Supplies	$ 196,885
Travel	$ 177,497
Advertising/Marketing Expenses*	$ 346,385

Note: Advertising and Marketing Expenses includes the following categories:

Design and Layout
Trade Shows
Communications
Vehicle Rentals
Publications & Subscriptions

13. Can you provide a breakdown of where the $560 million FPI generates annually goes? Please give percentages and dollar figures for each separate expense category.

Response: For FY 2000:

Purchases from the private sector for materials and services, equipment, supplies	72 percent	$383 million
Civilian staff salaries and benefits	21 percent	$125 million
Inmate wages	7 percent	$ 38 million
Total	100 percent	$546 million

14. What kind of marketing materials does UNICOR have? To whom are they distributed?

Response: UNICOR issues four color printed catalogs of our product offerings and two color price lists of most of our products and services (See Supporting Documentation: General Section - Attachment 3). A list of these catalogs and price lists can be viewed in the publication, "UNICOR Schedule of Products" for the current year. In addition, UNICOR maintains an electronic catalog at www.unicor.gov.

The printed materials are distributed from a centralized location at the Federal Prison Camp (FPC), Bryan, Texas. Federal purchasers can request catalogs, by telephone, fax and/or e-mail. They can also view the materials on the UNICOR e-commerce website. All website information can be downloaded by the customer directly from www.unicor.gov.

UNICOR distributes product literature and program information to both military and civilian federal agencies. UNICOR is regularly invited to attend agency conferences and trade shows, sponsored by contracting/procurement branches, to share with them information about UNICOR's current offerings.

15. Why does FPI spend money on marketing and advertising, when it already enjoys mandatory status?

Response:

- Federal customers insist that suppliers, including mandatory source providers such as FPI, provide marketing literature to describe the products they offer so the customers can be aware of how these sources can meet their needs.

- UNICOR/FPI has an ongoing requirement and commitment to keep our customer/agencies informed and updated on our current products and pricing.

- Every organization/agency experiences turnover of personnel because of transfers, promotions, retirements, etc. The new staff must be made aware of UNICOR's current products and services, irrespective of the mandatory source status.

- Many of today's federal purchasers have limited procurement training. No longer just procurement officers, but government Impact Card holders are major federal purchasers. Today, all credit card purchases under $2,500 do not require procurement officer oversight. UNICOR's advertising informs these purchasers about FPI's current mandatory status, and the products available.

- Government agencies are now outsourcing many functions. UNICOR marketing and advertising efforts make it possible to inform these non-government specifiers about UNICOR products and services available to their government customers. For example, today Architectural and Engineering (A&E) firms are planning, designing and specifying products and materials that are to be used to furnish Federal Government buildings.

16. Mr. Aragon, you state that your position on the FPI Board of Directors is a voluntary, non-paid position. However, it is our understanding that your company does business with FPI and that you directly benefit from this. Do you feel it is appropriate that as someone doing business with a non-profit government corporation, you are also directing that corporation's policy stances?

    Response: Neither my company nor any company of any other board member does or has done business with FPI. This would clearly present a conflict of interest.

17. FPI's mandatory source preference is outlined in statute. However, there is no comparable statutory authority for services. Why then does FPI assert the right to sole source preference in sales of services to federal agencies?

    Response: FPI does not assert the right to sole source preference or a mandatory source preference in sales of "services" to federal agencies.

18. How much did FPI spend on attendance at the NEOCON World's Trade Fair furniture show in Chicago on June 19-21, 2001? Please break down the cost of travel and registration expenses for FPI employees, shipping costs for FPI display items, cost of exhibit space, cost for promotional items and literature, etc. Also, please explain why FPI needed to attend a trade show that caters specifically to the private sector rather than government purchasers?

Response: NEOCON is the country's largest commercial office furniture industry show. It attracts and hosts industry professionals from both the Federal Government and commercial sector who have a major interest in specifying interior furnishings. The Federal Government is one of the largest users and specifiers of interior furnishings, as evidenced by the reported volume of products specified through the GSA Schedules.

- Many of the major furniture manufacturers represented on the GSA schedule have temporary or permanent space at the Merchandise Mart, where NEOCON is held each year. During the show, many GSA vendors often display signage to identify products that are "government contract." This directs both federal designers and contractors to consider the identified products and manufacturers in their selection process.

- During this year's NEOCON, the Army Corps of Engineers and the United States Air Force held their annual design conference in conjunction with the show. This allowed respective design professionals to meet with potential vendors to review and identify products for current or future projects. Several commercial and government professionals currently planning projects met with UNICOR to review our current product offerings. This saved both time and money for the specifying agencies and enabled them to compare UNICOR's offerings with those available from the private sector.

- Attendance of the Federal Government designers at NEOCON has grown in the past several years because of the number who take advantage of the wide variety of accredited educational programs. This enables them to maintain their certification as design professionals. FPI's presence also allows them to take advantage of seeing and touching products first-hand without separately visiting UNICOR's showrooms.

It was the federal design community, with whom UNICOR has been working to develop more user-friendly, aesthetically appealing furniture products, who urged us to have a presence at NEOCON. They believed, and UNICOR eventually agreed, that there was no better way to convince federal specifiers and potential customers that our products meet their expectations in terms of quality, design appeal and functionality, when compared to those manufactured commercially.

The FPI expenses for the 2001 NEOCON trade show were as follows:

•	Travel and lodging expenses for UNICOR staff	$12,435
•	Registration fees are included in the exhibit space fee. (No cost)	
•	Shipping and delivery costs	$18,300
•	Exhibit space	$21,148
•	Literature	$1,200
•	Handouts and promotional items	$940
•	Drayage and labor costs	$8,400
	Total	$62,423

The costs identified above, in reality, are but a fraction of those spent by FPI's commercial competitors. The attendance of specifiers for government projects, from both the government and the commercial sector, including federal designers, government contracting officials and end-users, warrants FPI's presence at this trade show if UNICOR is to be seriously considered for entire federal projects or portions, thereof, being planned by attendees.

SUBCONTRACTING:

1. During the hearing Mr. Aragon, you testified that less than one percent of FPI's contracts are pass throughs in which FPI inmates add no value to the items manufactured, but rather the items are provided completely manufactured from other companies. Provide the number of contracts passed-through for Fiscal Years 1996 through 2000. Also, provide information on what specific industries were affected by these pass through contracts.

   Response: The "pass through" sales to which I referred involve situations where FPI has taken a customer order intending to provide the product with the use of inmate labor, but thereafter a situation develops which prevents

FPI from being able to meet the delivery requirements, and in order to satisfy the customer's expectations, FPI purchases the finished product from one of its vendor partners who ships the product directly to the customer without the normal inmate labor value added.

FPI does not maintain segregated data concerning pass through sales for each respective fiscal year. Recently, however, in the context of litigation, an extensive search of records requiring approximately 1,600 hours of staff time, was undertaken to compile such data for office furniture pass through sales for FY 1998. The results of that search confirm that the dollar value for office furniture pass through sales totaled approximately $1,158,000, representing less than 1 percent of FPI's total office furniture sales for FY 1998. Attached are documents that provide factory specific instances during FY 1998 in which pass through sales occurred. (See Supporting Documentation: Subcontracting Section - Attachment 1) Although FPI has not compiled similar data regarding pass through sales for prior or subsequent fiscal years, such occurrences are likely to be similarly infrequent and represent a very small percentage of FPI's overall furniture sales.

It should also be noted that office furniture is virtually the only product line where this pass through practice has been utilized.

2. Please provide a list of FPI's 50 largest subcontractors by volume of contracts with FPI. Additionally, provide a listing of what industries these subcontractors are involved with.

   Response: By using the term "subcontractors," I am assuming that the Committee is referring to FPI's vendors. (See Supporting Documentation: Subcontracting Section - Attachment 2)

3. Has FPI ever taken a contract, then subcontracted part of the contract back out to a private contractor because FPI could not fulfill the terms of the contract? If so can you provide us with the FY 2000 figures?

   Response: Yes, at times FPI has utilized a contractor to fulfill customer requirements through contractual provisions which authorize FPI vendor partners to serve as an alternate source of supply. FPI does not maintain segregated data

concerning such sales for each respective fiscal year. The primary reason FPI has such provisions in place is to ensure customer needs are met in a timely and responsive manner. Circumstances where FPI may have utilized vendor partners to supply products include interruptions in production at factories due to fires, lock downs, work stoppages, adverse weather, and tooling problems, or other similar circumstances which would preclude FPI from filling an order, on time, using inmate labor.

Vendor partners authorized to serve as an alternate supply source include: American Player, Amerimac, Blockhouse, Correctional Products and Services, Humanscale, Kota, Krueger International, Lodi, Nightingale, Republic Storage, and 2-90 Sign Systems. Although authorized, not all of these vendors have been utilized as a supply source in the past. Of these 11 vendors, 10 of them are small businesses.

Generally, FPI infrequently utilizes vendor partners to directly supply its customers. In FY 1998, for example, sales filled by vendor partners involving office furniture products totaled approximately $1,158,000 and comprised less than one percent of FPI's office furniture sales for that fiscal year. (See response to question number one under SUBCONTRACTING.) Data compiled during the course of litigation regarding certain office furniture sales filled by vendor partners between May and November 2000, reveals that such sales totaled approximately 5.6 million dollars. However, these sales were atypical because they involved unique situations attributable to problems associated with FPI's conversion to a new enterprise resource planning system. As part of that conversion process, it was necessary to undergo extensive, widespread modifications which interfered with factory operations. That unique situation is now resolved.

4. How do you define manufacturing as it pertains to office furniture? How do you define assembly as it pertains to office furniture?

Response: Based upon BOP policy FPI defines manufacturing as the process of fabricating products from raw or prepared materials. Manufacturing results in new forms, qualities, properties, and combinations.

Assembly refers to the process of uniting or combining items or components. Assembly results in added value and a change in form or utility. Assembly, as defined by the Department

of Commerce, Bureau of Census industry codes, is normally associated with manufacturing processes which result in a product. In office furniture, FPI uses both manufacturing and assembly processes in its three product lines, systems, case goods and seating.

Examples of FPI's manufacturing and assembly processes for systems furniture include the following:

- Welding and assembly of acoustical panel cores
- Fabrication of filing cabinets and overhead storage units from raw sheet and coil steel through forming, welding, painting and final assembly
- Upholstery and final assembly of acoustical panels including the assembly of electrical wire ways
- Fabrication of work surfaces from raw particle board through machining, lamination, and edge banding
- Fabrication of various metal components such as brackets, raceway covers, and shelves from sheet and coil steel through forming, welding and painting

In the case goods line of products, FPI's processes include:

- Fabrication of laminated components from raw particle board including machining, lamination and edge banding
- Final assembly and packaging of a variety of desks, credenzas and storage units including the installation of drawer slides, locking mechanisms and other hardware
- Fabrication of hardwood panels and components for executive furniture including drilling, sawing, and CNC milling operations
- Finishing operations for executive furniture including sanding, staining, and clear coating

In the seating line, FPI's processes include:

- Forming of seat pans from raw plywood including drilling and insertion of fastening devices
- Upholstery of seats and backs using fabric and leather
- Final assembly and packaging including the installation of all ergonomic mechanisms
- Machining of components for executive seating including drilling, lathe operations, and CNC milling
- Finishing of components for executive seating including sanding, staining and clear coating.

5. In the area of office furniture, what percentage of the finished product is actually manufactured by an inmate?

What percentage do inmates assemble? Where does the rest of the finished product come from?

Response: Refer to question four. Once raw materials and/or component parts are purchased from the private sector, under normal circumstances, 100 percent of all direct labor in fulfillment of an FPI contract is performed by inmates.

A generally accepted definition of value added is the difference between the selling price and the cost of raw material expressed as a percentage of the selling price. Using that definition as a basis, the value added for UNICOR in office furniture is 49 percent versus 51 percent for comparable private sector companies.

On larger projects, it is not uncommon for the requirements to include a small quantity of special products not currently manufactured by UNICOR. In those cases where it is not economically feasible to produce those special items, they would typically be procured from one of our furniture partners.

6. How much of the office furniture currently sold by FPI comes fully assembled and/or fully manufactured from Krueger International (KI) or any other manufacturer with whom FPI contracts? Please break your numbers out separately for manufactured and assembled.

   Response: See responses to questions number seven and eight.

7. On these types of contracts, what are inmates actually doing?

   Response: Refer to the response to question four above for descriptions of typical manufacturing and assembly processes performed by inmates in FPI factories. (See Supporting Documentation: Subcontracting Section - Attachment 3)

8. Provide a list of all the manufacturers or suppliers of office furniture to FPI.

   Response: (See Supporting Documentation: Subcontracting Section - Attachment 4)

9. How much business does FPI contract out annually to KI? How much is for parts? How much is for fully manufactured

furniture? How much is for furniture that requires assembly?

Response: The following data is estimated for the period from June 2000 through June 2001.

FPI Purchases from KI ($60,192,019)
Component Parts ($52,085,761)

The remaining $8,106,258 consists of subassemblies, kits requiring assembly by inmates, and fully manufactured products. The data is aggregated and does not allow us to further differentiate the dollar value for these categories.

(See Supporting Documentation: Subcontracting Section - Attachment 5)

10. Can you define what you mean by already made/manufactured furniture that comes from KI or any other manufacturer? And if you receive furniture from KI or any other manufacturer, what percentage just needs to be assembled?

    Response: Refer to question four.

11. Provide us with the top five office furniture vendors FPI contracted with over the past two years? Please indicate how much was spent with each and provide a list of what was purchased.

    Response: FPI can only provide information from June 2000 through June 2001 since we cannot access the legacy system at all office furniture plants. (See Supporting Documentation: Subcontracting Section - Attachment 6)

12. Please provide the Committee with all the impact studies done for office furniture.

    Response: The impact studies for office seating, office case goods and systems furniture are attached. We have also attached copies of the comments received, along with FPI's responses and the decisions of FPI's Board of Directors. (See Supporting Documentation: Subcontracting Section - Attachment 7)

13. Pertaining to question number seven, can you list what these contracts were for? Please be specific as to type of furniture or part. Please include part or model number for each where possible.

Response: (See Supporting Documentation: Subcontracting Section - Attachment 8)

14. How much material was purchased by UNICOR from foreign sources over the past three years? Please segregate this information by country of origin, product code and supplier.

Response: Under the FAR requirements pertaining to NAFTA, FPI is required to consider NAFTA vendors as equal to domestic sources. Under these provisions, FPI purchases seating components from Nightingale and filing cabinet components from a subsidiary of Krueger. Both of these operations are located in Canada. Purchases from Nightengale and the Canadian subsidiary of Krueger (from June 2000 to June 2001) were $6.5 million and $11.9 million, respectively.

FPI also purchases canvas from C.R. Daniels based in Maryland for Postal Insert Baskets. C.R. Daniels procures the material from India because no source in the United States produces this material. The United States Postal Service does not stipulate that the material must be from a domestic source.

(See Supporting Documentation: Subcontracting Section - Attachment 9)

INMATES:

1. Do you have any statistics on how many inmates go to work for Krueger or any other subcontractors once they are released?

Response: Approximately 40,000 federal prisoners are released annually. The Inmate Placement Branch does not maintain a database on ex-offender employment information or the specific names of employers who hire them. However, Inmate Placement Program staff have begun tracking mock job fair "graduates" six and 18 months after release, in accordance with a three year follow-up agreement with the Federal Probation Service. (See Supporting Documentation: Inmate Section - Attachment 1 for more information on the Bureau of Prisons release preparation program, Inmate Placement Program and mock job fairs)

The initial surveys were distributed May 15, 2000, the results of which were reported in a one year interim report

issued June 1, 2001.

The following information was excerpted from the June 2001 report:

Total surveys distributed: 178
Total responses: 126
Inmates with jobs: 88
Job information unknown: 26
Ex-inmates returned to prison: 9
Average monthly income: $1,305
Highest monthly income: $5,000(Art Dealer)
Lowest monthly income: $472 (Bowling Alley)

The original survey form did not request the name of the employer. A subsequent version, however, does include a request for that information.

One factor that makes it difficult to track inmates after release is their desire, understandably, to want to put their period of incarceration behind them and move forward, breaking any connection to the corrections community.

With regard to Krueger, company representatives have participated, as recruiters, in several mock job fairs sponsored by the Federal Bureau of Prisons. The company has also had Bureau of Prisons staff post job openings on inmate bulletin boards throughout its correctional facilities. We are not aware, however, of any inmates that have been hired by Krueger or its affiliates.

Representatives of Leggett & Platt, a former furniture subcontractor, have likewise participated in mock job fairs.

2. How many inmates go to work in the apparel industry once they are released?

   Response: FPI staff do not have information responsive to this question.

3. Provide information on what percentage of inmates work in the office furniture segment of the FPI program. Please break these numbers down by those that will be released in less than 5 yrs., 10 yrs., 25 yrs., and what percentage of those in the program are in for life and life without the possibility of ever being released.

   Response: Approximately, 23 percent of the inmates working

in UNICOR work in the office furniture segment of the FPI program.

Available information on inmates working in the office furniture program indicates the following data on releases:

51 percent should be released in less than five years
28 percent should be released in 5 - 9 years
18 percent should be released in 10 - 24 years
1 percent are serving 25 or more years
2 percent are serving a life sentence

It is not possible to distinguish inmates serving life sentences who are eligible for parole from those who were not.

4. What percentage (and actual number of inmates) that make up the current prison population participate in the FPI program? And what criteria if any does FPI use to pick inmates for the program? Can anyone in prison work for FPI?

Response: As of May 2001, approximately 16 percent (21,045) of inmates in BOP facilities (130,292) work for FPI . Excluding minimum security, medically excluded and pre-trial detainees, the "work eligible" population is 92,474. FPI employs 23 percent of the work eligible inmate population.

Inmates who work for FPI are recruited through the admission and orientation program when they first enter an institution. Inmates voluntarily apply to work for FPI. If there are more applicants than positions, inmate names are placed on a waiting list in the order of the receipt of their application. If a special skill is needed, inmates may be recruited to fill the special skills need; however, this option is rarely exercised.

Any inmate in an institution with an FPI factory can work for FPI except a pretrial inmate or one who is currently under an order of deportation, exclusion, or removal.

5. As to question number four, please break these numbers down by those that will be released in less than 5 yrs., 10 yrs., 25 yrs., and what percentage of those in the FPI program are in for life and life without the possibility of ever being released.

Response: Available information on inmates working in FPI at mid-year (all of UNICOR) indicates the following data on releases:

48 percent should be released in less than five years
27 percent should be released in 5 - 9 years
19 percent should be released in 10 - 24 years
2 percent are serving 25 or more years
4 percent are serving a life sentence

It is not possible to distinguish inmates serving life sentences who are eligible for parole from those who were not.

6. How much money does FPI spend each year in the areas of vocational training, educational learning, and rehabilitation treatment for say, drug addiction?

Response: FPI does not pay for these programs. They are paid out of appropriated funds. For FY 2000, the total amount of appropriated funding obligated for education and vocational training programs was $67.7 million. The total amount of non-appropriated funding (a share of the revenue generated from the operation of inmate commissaries) obligated for education related programs was $3.7 million. FPI inmates can qualify for educational scholarships. For FY 2000, $91,809.06 was spent on scholarships for inmates working in FPI.

Total funding provided for education and VT related programs was approximately $71.5 million. This includes all program costs (staff salaries, contract teachers, equipment, and supplies, etc.)

The total amount of appropriated funding obligated for drug treatment programs by the Bureau of Prisons was $34.4 million.

7. In your written testimony, you state that released inmates who had participated in vocational training and FPI work are "14 percent more likely to be employed" than other inmates. Can you supply the study or statistics on which this claim is based? What are the statistics regarding inmates that only receive vocational training, or just work for FPI? What is the employment rate for the population as a whole?

Response: A rigorous 16 year study of federal inmates (the Post-Release Employment Project, also referred to as the

PREP study) has demonstrated convincingly that participation in prison industries/vocational training programs has a positive effect on post-release employment and recidivism. Specifically, the study revealed that inmates who worked in prison industries or completed vocational apprenticeship programs were 24 percent less likely to recidivate than non-program participants and 14 percent more likely to be employed. The data also revealed that these programs provide even greater benefit to minority groups that are at the greatest risk for recidivism.

Attached are two papers written on this study along with a copy of the original study. The first is entitled, "Research Forum - PREP Study Links UNICOR Work Experience With Successful Post-Release Outcome." The second paper is entitled, "Training Inmates through Industrial Work Participation and Vocation and Apprenticeship Instruction." Statistics regarding inmates that only receive vocational training, or just work for FPI can be found on Table 3 of the second paper. (See Supporting Documentation: Inmates Section - Attachment 2)

The Waiver Process:

1. Provide copies for the Committee of all waiver requests by Federal agencies that were not approved by FPI.

   Response: In that no specific time frame is mentioned, copies of denied waiver requests are provided for the most recently completed fiscal year; FY 2000 (in CD format for ease of review). (See Supporting Documentation: The Waiver Process Section - Attachment 1)

   To review the data on the CD, using a mouse, left click on the waiver number of interest. This will provide a link to the documentation associated with that waiver. In some cases, there is no documentation beyond the decision letter. These represent waivers requested via the Internet (without supporting documentation), as well as waivers processed directly by UNICOR technical staff and sales representatives, (rather than entered into the waiver database by UNICOR's Customer Service Center processors).

2. Of the waivers processed in Fiscal Years 1996 through the present, how many took 1 month to process? How many took 3 months to process, 6 months to process? How many took more than 6 months to process?

Response: UNICOR has established an internal five business day turnaround goal for processing waivers. In reality, the average turnaround over the past several years has been three days. To directly respond to this question, however, the chart below is offered.

Processing Time	***FY 1996***	***FY 1997***	***FY 1998***	***FY 1999***
<15 Days	9,699	10,264	11,929	13,868
15 Days - 1 Month	1,235	1,595	2,247	2,265
1 - 3 Months	45	23	25	6
3 - 6 Months	3	8	2	3
>6 Months	6	5	2	2

Processing Time	***FY 2000***	***FY 2001 (thru 5/01)***
<15 Days	17,271	9,376
15 Days - 1 Month	2,170	2,268
1 - 3 Months	15	7
3 - 6 Months	7	1
>6 Months	1	0

Supporting Documentation: The Waiver Process Section - Attachment 2)

3. How many waivers from Federal agencies were requested and approved by FPI in the furniture industry?

Response: FPI tracks waiver activities based upon estimated dollars, rather than the actual number of requests approved/denied, since dollar figures provide a more meaningful understanding of the levels of business both relinquished to the private sector (in the form of waiver approvals) and "reserved" for UNICOR (in the form of waiver denials). FPI tallies the total number of requests processed, **but not by product group**, since requests often include multiple product categories of items.

No specific time frame was specified in conjunction with

this question. Therefore, statistical information for the most recent, full fiscal year is provided; FY 2000.

> Total number of FY 2000 waiver requests processed: 19,464 (includes all waivers; not just office furniture, as explained above).

For a further breakdown related to furniture, please refer to the response under question five.

4. Describe the waiver process.

Response: UNICOR's web site at www.unicor.gov is the most expeditious way for federal customers to request waiver consideration. The web site also offers a detailed explanation of UNICOR's waiver policy and lists all critical pieces of information required for UNICOR to properly evaluate the customer's request and render an educated decision. If a customer does not have access to the Internet, waiver requests may be faxed or mailed to the UNICOR Customer Service Center (CSC) in Lexington, Kentucky, for processing.

Upon receipt of a waiver request, the CSC enters it into the UNICOR clearance database and assigns a special tracking identification number. The waiver is then transmitted to the federal customer's local UNICOR sales representative or other authorized UNICOR staff (i.e. technical/specialty product experts) for review and disposition. Provided all pertinent details have been included in the waiver request, UNICOR makes every effort to render a decision within five business days. Currently, the average turnaround time is three business days, but processing times will vary during seasonal/end-of-fiscal year purchasing periods when volumes increase. Likewise, project-level waivers, due to their technical nature and breadth, require additional time to research. Customers who request waivers via UNICOR's web site are immediately issued a waiver identification number which enables them to check the status of their requests on-line.

Waiver decisions are issued in writing to the federal customer. Office furniture-related waiver approvals are typically issued by UNICOR's private sector service dealership partner, Government Marketing Group (GMG), whereas waiver denials are only authorized by designated UNICOR staff (to eliminate any misconception of a conflict of interest, in that the GMG sales staff are compensated,

in part, on the basis of sales generated).

In the event any portion of a waiver request is denied, the federal agency's contracting office can appeal UNICOR's decision through FPI's Ombudsman, within 30 days of receiving the denial. The Ombudsman position was created by UNICOR's Board of Directors so that federal customers, private industry, and special interest groups would have a means to resolve issues objectively and equitably among all parties. Appeals can be initiated via UNICOR's web site (detailed instructions provided there); by fax, via e-mail and by letter.

Should the Ombudsman uphold UNICOR's waiver decision, the customer may further challenge the denial through the statutorily provided Waiver Review Panel, for a final, binding decision. This three member independent panel includes representatives of the Attorney General, the Administrator of the General Services Administration, and the President.

5. What is the percentage of waivers granted by FPI each year versus the number requested in the area of office furniture? And in general for all other product categories? Can you tell us what dollar values these were for? Can you tell us specifically in the area of office furniture, how many of these waivers were for the entire project and how many were for certain parts or portions of the project or contract?

Response: As was previously explained, apart from recording the total number of waiver requests received, FPI tracks waiver activities in terms of their estimated dollar values. Although we are unable to provide the total number of Office Furniture waiver requests received, the grand total of requests is noted in Answer #3. Since no time frame was specified, responses to the remainder of this question are provided for the most recent, full fiscal year; FY 2000.

- Percentage of Office Furniture-related waivers granted in FY 2000: 79 percent

- FY 2000 Office Furniture waiver $ approved: $340,376,279

- FY 2000 Office Furniture waiver $ denied: $ 89,023,069

- FPI does not track the number of waivers approved/denied "in part" versus those approved/denied "in full."

FPI does not differentiate between projects, contracts or general purchase orders when statistically tracking waiver activity. Generally speaking, however, when project-level waivers are reviewed, they are often negotiated with the customer, the appropriate UNICOR product manager(s) and the Ombudsman to reach a mutually agreeable decision, which often results in some part of the project, but not necessarily a major portion, being reserved for UNICOR.

FY 2000 Waiver Approvals and Denials; All Major Groups:

	SYSTEMS FURNITURE	CASE GOODS
Approved:	$178,916,794 (82%)	$ 93,728,285 (76%)
Denied:	39,288,307 (18%)	29,375,290 (24%)
	SEATING	ELECTRONICS
Approved:	$ 46,558,978 (71%)	$ 22,206,441 (100%)
Denied:	18,905,824 (29%)	
	DORM & QUARTERS FURNITURE*	MODULAR FURNITURE
Approved:	$ 21,421,825 (100%)	$ 21,172,222 (94%)
Denied:		1,453,648 (06%)
	TEXTILES PRODUCTS	METALS PRODUCTS
Approved:	$ 8,691,283 (87%)	$ 8,551,890 (89%)
Denied:	1,283,684 (13%)	1,050,098 (11%)
	GRAPHICS PRODUCTS	OPTICS
Approved:	$ 3,423,435 (78%)	$ 339,262 (99.6%)
Denied:	948,379 (22%)	1,448 (.4%)

* The number referenced under the approved category pertains to waiver requests during the first three months of FY 2000; October-December. Effective January 1, 2000, a five year pilot was initiated, relinquishing FPI's mandatory source status for dorm and quarters furniture.

(Waiver requests were received for miscellaneous and non-UNICOR items totaling approximately $15.4 million, 95 percent of which were approved. Customers found other UNICOR products to address their needs for the remaining five percent. Thus, these situations were not true "denials" but were recorded as such for lack of a better tracking mechanism at the time).

Total FY 2000 Waiver Dollars: $513,475,597
o Total FY 2000 Waiver Dollars Approved: $420,310,417 (82%)*
o Total FY 2000 Waiver Dollars Denied: $ 93,159,180 (18%)

** NOTE: This figure does not reflect appeal activity which further increased the overall approval rate (see answer to Question 6).*

6. FPI claims that it grants 90 percent of the waiver requests it receives. Can you break it down and tell the Committee how many were for office furniture? How many were complete waivers for the entire project or contract? How many were for partial waivers? And what were the dollar values of each of the waivers granted over the past two years?

Response: This question was primarily addressed in the preceding answer (Question 5).

However, a breakdown of how FPI calculated its approval rate, along with other statistical information, is provided for the past two complete fiscal years; FY 1999 and 2000.

FY 1999		
o Total Waiver Requests Received:	16,144	
o Total Waiver Dollars Approved:	$280,200,000	(76%)
o Total Waiver Dollars Denied:	$ 86,200,000	(24%)

	$366,400,000	
o Total Appeal Requests Received:	286	
o Total Denied Waivers Overturned:	$ 14,500,000	(51%)
o Total Denied Waivers Upheld:	$ 14,000,000	(49%)

	$ 28,500,000	
o Total Waiver Dollars Approved:	$280,200,000	
o Plus Total Appeals Overturned:	$ 14,500,000	
	---	
o Adjusted Total Dollars Approved:	$294,700,000	
o Adjusted FY 1999 Waiver Approval:		80%

FY 2000		
o Total Waiver Requests Received:	19,464	
o Total Waiver Dollars Approved:	$420,310,417	(82%)
o Total Waiver Dollars Denied:	$ 93,159,180	(18%)

	$513,469,597	

o Total Appeal Requests Received:	238	
o Total Denied Waivers Overturned:	$ 35,959,965	(79%)
o Total Denied Waivers Upheld:	$ 9,769,322	(21%)
	$ 45,729,287	
o Total Waiver Dollars Approved:	$420,310,417	
o Plus Total Appeals Overturned:	$ 35,959,965	
o Adjusted Total Dollars Approved:	$456,270,382	
o Adjusted FY 2000 Waiver Approval %		89%

7. In FPI's definition of granting a waiver, does FPI count it as granting a waiver for instance, FPI contracted three chairs to a furniture dealer, but kept the rest of the project or contract for itself? Please detail for us what FPI constitutes a waiver that counts toward the 90 percent figure.

   Response: Using your example, FPI would record this waiver as follows:

   a. It would be counted as one waiver request;
   b. $1,050 in seating would be recorded as "approved" (assumed 3 chairs @ $350 each = $1,050);
   c. The remaining items included in the project (or contract or purchase order), along with their corresponding dollar values, would be recorded as "denied."
   d. $1,050 in seating would be factored into the 90 percent waiver approval rate.

8. What criteria is used by FPI when determining whether or not to grant a waiver?

   Response: FPI's enabling statute is the foundation upon which waiver decisions are based:

   ~ 18 U.S.C. 4124 provides that Government institutions are to purchase products from Federal Prison Industries as are available to meet their requirements.

   ~ Federal Acquisition Regulation (FAR) 8.605(a)is based upon this statute and further clarifies that decisions concerning waivers are made at the sole discretion of Federal Prison Industries, including determinations that a product does or does not exceed current market

price, or that the product does or does not otherwise comply with a customer's request.

~ FAR 8.603; 48 C.F.R. 8.605(b) further states that Clearance to buy from a source other than UNICOR will not normally be granted solely because goods are available elsewhere at lower cost.

The rationale upon which FPI bases all waiver decisions must be defensible. Likewise, the Federal customer must provide sufficient details about the item(s) submitted for waiver consideration so that an educated decision can be issued.

Generally, an agency's waiver request is submitted based upon a preference or need to meet price, delivery, as well as product-specific/performance/compatibility requirements.

Price: Price, in itself, is not reason enough to grant a waiver, as the FAR 8.605(a) provides. UNICOR may not be the least expensive source, but, according to its statute, FPI's prices may not exceed the current market price. If the requestor's budget is such that UNICOR's price would preclude the agency from obtaining the required item(s), then "price" would become a reasonable basis for granting the waiver request. Likewise, a substantial price disparity between the outside vendor's price for the product and UNICOR's most comparable product would be a reasonable basis upon which to extend waiver approval.

Delivery: Consideration is given based upon acceptable industry/GSA Schedule vendor "standards" for the item(s); generally 30-60-90 days, depending upon the product. If the waiver is being requested to fill an emergent need, the outside supplier's quick ship or express delivery program is compared to that which UNICOR can offer, and an appropriate decision made.

Product-Specific: The Federal customer may need to satisfy certain technical requirements, or procure products having special features/unique properties, not otherwise believed available from UNICOR. UNICOR must perform an assessment to determine whether it can meet all reasonable requirements using its products.

Aesthetics is not a valid justification for waiver approval, but is often cited by the customer. Such decisions are made at UNICOR's discretion. Some items are so generic in nature that mixing multiple vendors' products will not compromise,

but rather complement the professional look desired. In other situations, attempting to combine unlike products unique to each manufacturer could undermine the structural integrity of a furniture configuration. Under these circumstances, UNICOR is sensitive to the customer's concerns.

UNICOR makes every effort to consider the special needs of its Federal customers and, at times, grants "goodwill" approvals. For example, an emergency need may arise for furniture to accommodate unforseen staff moves. Rather than expect the customer to wait until UNICOR can deliver the items through its quick ship program or other expedited means, a "goodwill" waiver may be granted at UNICOR's discretion, so as not to cause the agency undue hardship.

When evaluating waiver requests the issue is not whether UNICOR is in a position to mimic the product being offered by an outside provider, but rather, whether UNICOR can effectively meet the customer's requirements with UNICOR products. Federal agencies must obtain waiver approval for all items listed in UNICOR's Schedule of Products, with some exceptions:

FPI clearances are not required when:

(a) Public exigency requires immediate delivery or performance;

(b) Suitable used or excess supplies are available;

(C) Purchases are made from GSA of less than-carload lots of common-use items stocked by GSA;

(d) The supplies are acquired and used outside the United States; or

(e) Orders are for listed items totaling $25 or less that require delivery within 10 days.

In addition:

- Where limited, conditional waivers have been granted;
- Where special pilot programs have been initiated (i.e., dorm and quarters furniture pilot);
- Where memorandums of understanding have been negotiated with agencies.

Generally, waivers are issued for the following reasons:

a) Because UNICOR does not offer the product;
b) Because reasonable delivery requirements cannot be met;
c) Because performance characteristics/technical requirements/unique specifications cannot otherwise be met;
d) Because significant price disparities appear to exist;
e) Because of product compatibility issues.

9. Based on the 90 percent waivers that FPI grants, what percentage is for electronic connectors?

Response: FPI does not track waivers to this finite product level. During FY 2000, however, all electronics-related waivers represented four percent ($22,206,441) of the total waiver request dollars received for consideration, and all were approved.

Market Share:

1. What standards are used to determine FPI's market share? Who sets those standards? What opportunities for public participation are there in setting those standards?

Response: FPI's governing statute, Title 18, Section 4122(b), requires that it produce no more than a reasonable share of the market in any specific product. The rules, in the form of Independent Industry Guidelines, that were promulgated to implement the statutory language were developed with input from industry and labor representatives, and were published for public comment in the Commerce Business Daily.

The statute provides that the Board of Directors is responsible for determining what share is "reasonable." FPI's specific market share in any given Federal Supply Classification (FSC) code may vary, depending upon the particular product and size of the market. This is based on a number of factors outlined in the statute:

(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

(ii) the proportion of the Federal Government market for the product currently served by small business, small

disadvantaged business, or businesses operating in labor surplus areas;

(iii) the size of the Federal Government and non-Federal Government markets for the product;

(iv) the projected growth in the Federal Government demand for the product; and

(V) The projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

For the production of a new product or for the significant expansion of an existing product under FPI's mandatory source, FPI identifies the proposed market share in impact studies it prepares in accordance with the aforementioned Industry Involvement Guidelines. As part of the industry involvement process, FPI then announces its intent to produce a new product or significantly expand production of a product in the Commerce Business Daily (CBD)and solicits comments from the private sector. FPI sends a preliminary letter to potentially affected companies and interested trade associations and labor unions notifying them of FPI's intent to develop an impact study and requesting any relevant market information available at that time. Once the study is developed, FPI distributes it to interested parties and announces availability of the study in the CBD. There is then a 45 day waiting period, after which FPI gathers all comments, responds, and/or adjusts its plans accordingly. FPI's final package, including its proposal, response to comments received, and final recommendations to the Board goes out to all parties that have expressed an interest. The private sector retains the last opportunity to respond to this package within 15 days of a designated Board hearing date. The Board then hears oral comments from all parties desiring to address the Board. Theses comments, as well as the entire package of written materials submitted to the Board prior to the hearing constitute the full record from which the Board renders its decision.

FPI prepares an annual market share report that estimates FPI's share of federal procurements within each Federal Supply Classification (FSC) code in which FPI has sales. The report provides the following information: (1) FPI's sales by FSC code; (2) federal purchases by FSC code; and (3) FPI's market share within each FSC code. The report is made available to interested parties through a notice in the

CBD. A copy of the FY 1999 market share report is attached. The FY 2000 report will be available in the fall. (See Supporting Documentation: Market Share Section - Attachment 1)

The Federal Government does not maintain complete data on its purchases. As a result, FPI must estimate the total value of federal buys within each FSC code. At the Board's request, FPI's methodology for estimating federal purchases was examined by an independent methodology review panel. A group of independent federal procurement experts, the panel found FPI's methodology for calculating federal purchases to be thorough and reasonable.

The general process FPI uses to calculate the dollar value of a product's federal market is as follows:

(a) Start with federal procurement data collected by the Federal Procurement Data Center (FPDC);

> The FPDC collects procurement information on purchases valued over $25,000 from most federal departments and agencies. However, some federal agencies do not submit procurement data to the FPDC. Agencies reporting their procurements often fail to include purchases from FPI. To account for these purchases not reflected in the FPDC data, FPI makes several adjustments.

(b) Add purchases from agencies not reporting to the FPDC;

(c) Add purchases from orders with values less than $25,000;

(d) Add unreported purchases from FPI; and

(e) Certain other adjustments are necessary for some products.

To insure accuracy, FPI has incorporated other factors into the final procurement estimate. These include purchases made with non-appropriated funds, and procurements for certain product areas which are incorporated into larger projects. (Some procurements are not broken out and separated by commodity code. Instead, these different procurements are included within a single commodity group.)

In adjusting for purchases valued less than $25,000, FPI

bases the level of such purchases on its own sales, using its sales as a barometer of the Federal Government's buying pattern.

2. Are there any individual items or specific products in which FPI has greater than a 25 percent share of the federal market?

Response: FPI determines market share by its defined product categories (FSC code), not by a specific item. In FY 1999, the latest year for which federal procurement data is available, there were seven product categories and six service categories for which FPI had a federal market share greater than 25 percent (FPI's mandatory source does not apply to services). A copy of FPI's 1999 Federal Market Share Report is attached.

These products and services were:

FSC code 5965 - Headsets/Microphones/Speakers
FSC code 6230 - Electric Portable Lighting Equipment
FSC code 6532 - Hospital/Surgical Clothing
FSC code 7210 - Household Furnishings
FSC code 7240 - Household/Commercial Utility Containers
FSC code 8020 - Paint and Artist's Brushes
FSC code 8105 - Bags and Sacks
FSC code J025 - Vehicular Component Repair Services
FSC code J029 - Engine Accessories Repair Services
FSC code J051 - Kit Assembly Services
FSC code J081 - Bag Repair Services
FSC code J084 - Equipment Assembly Services
FSC code J085 - Toiletry Kitting Services

3. FPI asserts that its programs help train inmates for post imprisonment work. What studies or activities has FPI done to assist in outplacement or monitor post imprisonment work to determine if this program is effective?

Response: The Inmate Placement Program Branch (IPPB) was established on October 1, 1996. It was given the mission to strengthen existing Bureau programs and to establish new ones designed to enhance the post release employment of federal prisoners. To accomplish its mission the IPPB has focused on holding job fairs with private sector companies, posting private sector job openings on bulletin boards in the federal prisons and ensuring that prisoners about to be released prepare employment folders that include a social security card, resume, education transcript and achievement

certificates and other documents critical for post release employment. The branch has also focused on the establishment of employment resource centers in federal prisons, strengthening employment assistance services in Bureau-funded community correctional centers, and training staff who have inmate employment program responsibilities. All these efforts stress the importance of beginning to prepare inmates for transition to employment, to their families and to their communities at least 18 months before their expected release dates.

Over the past four years, the IPPB has assisted in conducting of over 160 job fairs in over 79 federal prisons. Approximately 6,300 inmates and 2,500 representatives from private sector companies, educational institutions and other community service agencies have participated. In addition, IPPB staff, on request, have assisted state prisons, regional jails and Federal Probation Services to hold job fairs.

Approximately 1,000 copies of the IPPB Job Fair Handbook have been distributed to corrections staff across the United States and Canada, and it has been translated into French by a Canadian corrections colleague. In addition, two video tapes have been made of job fairs at the Federal Correctional Institutions at Terminal Island, California, and Yazoo City, Mississippi. These have been shown at both national and international conferences, and are available from the IPPB.

The IPPB has an agreement with the Administrative Office of United States Courts to follow up with federal prisoners who participated in job fairs during their incarceration. This study began on May 15, 2000, and will continue for three years. It seeks to measure the post release employment experience of those involved.

Of the information gathered to date, the average monthly income of the sample group of employed ex-offenders is $1,305.

4. Provide the criteria used to conduct impact studies? Further, who (by name and title) at FPI conducts the studies and who (by name and title) reviews the studies?

Response: FPI's statute, Title 18, Section 4122(b), provides the criteria used to conduct the impact studies. It states, "The corporation shall prepare a detailed written

analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider:

(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

(ii) the proportion of the Federal Government market for the product currently served by small business, small disadvantaged businesses, or businesses operating in labor surplus areas;

(iii) the size of the Federal government and non-Federal Government markets for the product;

(iv) the projected growth in the Federal Government demand for the product; and

(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

A copy of the statute is attached. (See Supporting Documentation: Market Share Section - Attachment 2)

The Industrial Specialists assigned to the Research, Activation, and Corporate Support Branch of UNICOR who conduct the impact studies are as follows: Todd Baldau, Kenneth Gould, Yvette Hairston-Mercer, and Andrea Williams.

The Impact studies are reviewed by Diane Liburd-Williams, Deputy Manager, Research, Activation, and Corporate Support, Robert Grieser, Chief Administrative Officer, Research, Activation, and Corporate Support as well as Phil Sibal and Ginny Van Buren, Deputy Assistant Directors, Marianne Cantwell, General Counsel, and Steve Schwalb, Chief Operating Officer.

5. Supply a copy of the impact study conducted on the Mil-C-5015G series of electronic connectors. This study should not reflect the entire connector industry, but just this particular connector series.

Response: FPI conducts impact studies on products (e.g. Connectors) not specific items (e.g. specific connectors). As such, an impact study has not been prepared for this

specific item. FPI has also never prepared an impact study on connectors because its production levels have never triggered the guidelines, i.e., connectors were not a new product and there was never a significant expansion of production. FPI was manufacturing connectors prior to 1989, which was when the corporation began recording sales by product. A copy of the Industry Involvement Guidelines are attached. (See Supporting Documentation: Market Share Section - Attachment 3).

6. Regarding the connector industry, FPI has chosen to team with Deutsch and Amphenol/Bendix. Provide an explanation as to why FPI did not solicit small businesses that are on the Qualified Products List.

Response: In accordance with the Federal Acquisition Regulation, both contracts referenced were advertised in the Commerce Business Daily (CBD) where all businesses, regardless of category, had the opportunity to request a data package and prepare a bid. No businesses, small or large, were specifically solicited to prepare a bid.

The Deutsch order was published on August 8, 1996, (See Supporting Documentation: Market Share Section - Attachment 4) as solicitation #1PI-R-0563-96. The number of firms responding to this advertisement requesting a data package numbered 52, of which 47 were classified as small businesses. Of the 52 firms receiving data packages, only one firm (Deutsch)actually submitted a bid to FPI.

The Amphenol order was published in the CBD on September 28, 1998, (See Supporting Documentation: Market Share Section - Attachment 4) as solicitation #1PI-R-1185-98. The number of firms responding to this advertisement requesting a data package numbered nine, of which seven were classified as small businesses. Of the seven firms receiving data packages, three firms actually submitted bids to FPI. Aero Electric, one of the three firms submitting bids, was classified as a small business.

FPI chose to make awards to Deutsch and Amphenol/Bendix because they provided the best overall value to the government in specific product areas.

7. Provide a list of the connector manufacturers with whom FPI has long-term contracts. Please provide copies of the part numbers listed on these contracts. Please use industries parts numbers and not FPI's internal numbers.

Response: Attached is a list of connector long term contracts. (See Supporting Documentation: Market Share Section - Attachment 5) There are 30 different companies of which 24 are small business firms. Since most companies have proprietary rights clauses we are providing copies of their contracts (section B, description of items purchased) which are public information documents.

8. On an annual basis, how much total business (by dollar and percentage of total dollars) is FPI awarded in the connector industry?

Response: The annual government market for connectors is estimated to be $81.5 million, of which FPI sells $5 million (6.1 percent). The total domestic connector industry is estimated to exceed $5 billion per year.

9. On an annual basis, how much total business (by dollar and percentage of total dollars) is FPI awarded in the cable assembly business?

Response: The annual government market for cable assembly is estimated to be $160 million, of which FPI sells $52 million (24.5 percent). The total domestic cable assembly industry is estimated to exceed $8 billion per year.

10. What percentage and actual number of inmates, when released, are employed by industry assembling or manufacturing electronic connectors?

Response: FPI does not track inmate employment after release. Our mission is to prepare inmates for release by providing formal training and on-the-job work experience. At the Federal Correctional Institution (FCI) in Phoenix, Arizona, our connector manufacturing facility, we have an extensive formal inmate training program that is registered with the U. S. Department of Labor, Bureau of Apprenticeship and Training. Currently we have 90 inmates enrolled in the following four programs:

a. Quality Control Technician; Directory of Occupational Titles (DOT) Code: 012.261-014, Apprenticeship Management Systems (AMS) Code: 0462.

This is a 2000 hour course that teaches subjects such as Applied Mathematics and Statistics, Blueprint Reading and Schematics, use of test equipment, etc. A copy of the course outline is attached; 15 inmates enrolled.

b. Electronics Utility Worker; DOT Code 726.364-018, AMS Code 0967.

This is a 6000 hour course that teaches subjects such as Basic Electronics, Manufacturing Processes, and Soldering Principles, etc. A copy of the course outline is attached; 57 inmates enrolled.

c. Electrician, Maintenance; DOT Code 829.261-018, AMS Code 0643.

This is a 8000 hour course that teaches subjects such as Computer Cable Installations, Electrical Power Systems Circuit Installations, and Motors and Motor Control Systems, etc. A copy of the course outline is attached; 11 inmates enrolled.

d. Electronics Tester; DOT Code: 726.281-014, AMS Code: 0570.

This is a 6000 hour course that teaches subjects such as Wiring Diagrams, Testing Equipment and Set-Up, and Troubleshooting Principles and Procedures, etc. A copy of the course outline is attached; 7 inmates enrolled. (See Supporting Documentation: Market Share Section - Attachment 6)

11. Provide the name of the top 3 connectors manufacturers that FPI contracted with over the past two years. Also, please list the dollar value by year for each manufacturer.

Response:

a. CDI (Small Business); Order # 1PIC4008; $1,650,000 estimated maximum for a 3 year period of performance.

b. Amphenol (Large Business); total $14,431,038 for five contracts; #46-260 - $2,271,900 - estimated maximum for 2 years, #1PIC4501 - $832,560 - estimated maximum for 4 years, #1PIC4297 - $10,481,140 - estimated maximum over 5 years, #1PIC4407 - $259,028 - estimated maximum over 5 years, #1PIC4476 - $586,410 - estimated maximum over 2 years.

c. Denelex (Small Business); total $1,389,240 for two contracts; #46-311 - $1,223,440 - estimated maximum over 4 years, #1PIC4286 - $165,800 - estimated maximum over 5 years.

12. Supply a copy of other impact studies done on any other electronic connectors or cable assemblies.

    Response: FPI has not prepared any impact studies on electronic connectors or cable assemblies because the guidelines were never triggered.

13. With respect to electronic connectors, what is the actual amount of inmate labor added to the product versus the cost of the parts purchased from the vendor?

    Response: Miliary specification connectors vary greatly in terms of complexity and the amount of inmate labor involved. Depending upon the type of connector, the value of the inmate labor added is 16 percent to 44 percent. Again, 100 percent of the direct labor is provided by inmates.

14. With respect to electronic connectors, what percentage of the finished product is actually manufactured by FPI versus just assembled?

    Response: The assembly of connectors is a very precise process that is controlled and requires certification by the Defense Logistics Agency in Columbus, Ohio. Processes include cleaning, gluing, baking, stripping, marking, and assembling. Items are inspected and tested to assure they meet the requirements of the military specifications that control their manufacture. Successful completion of the certification process leads to a listing as on the Qualified Product List (QPL). FPI Phoenix holds certifications as both an assembler and a manufacturer. FPI assembles approximately 60 percent and manufactures approximately 40 percent of all connectors supplied.

15. One of the mandates governing FPI is that it diversify, so as not to negatively impact any one industry. Yet, you stated during your testimony that furniture makes up 40 percent of your business, and it is my understanding that another 35 or so percent is made up in apparel and textiles. And, you further stated that you want to grow. Do you intend to take more of the Federal furniture and apparel market?

    Response: In FY 2000, furniture comprised approximately 40 percent and clothing and textiles comprised approximately 24 percent of FPI's sales.

    It is FPI's goal to expand its work opportunities without

further significant expansions in either furniture or apparel. FPI has been and will continue to focus on services and repatriation, and anticipates that an increasing percentage of its work will come from services, however, FPI will still need to continue to have a mix of manufacturing work to continue to be self-sustaining, maintain diversification, and provide sufficient work opportunities for inmates.

16. Mr. Aragon, you stated that FPI intends to grow as a result of a growing prison population. Not only does the current growth hurt the private manufacturer, but it is my understanding that you also have a mandatory source preference over the Blind and the Handicapped. Have you conducted any studies on how FPI's growth will impact private small businesses, the Blind and the Handicapped?

Response: FPI has not conducted any specific studies on how FPI's general growth will impact small businesses, the Blind, and the Severely Disabled; however, each market impact study discusses and analyzes any potential impact on these businesses or workers. When conducting impact studies, FPI also actively solicits and fully considers the Small Business Administration's (SBA) comments concerning the impact of FPI's proposals on small businesses. FPI values its longstanding relationship with SBA officials, particularly in SBA's Office of Government Contracting, and FPI will maintain its policy of taking into consideration any impact its production might have on small businesses in similar lines of work.

Federal procurement regulations mandate that FPI is a mandatory source only for products and that the industries for the blind and the severely disabled are a mandatory source for products and services. FPI and (NIB) National Industries for the Blind (NIB) and NISH(which provides jobs for the severely disabled), have a good working relationship in which we review and discuss any potential impact.

FPI is always open to partnerships with disadvantaged groups such as NIB and NISH. For example, FPI has contracted with Blind Industries Services of Maryland (BISM), an NIB workshop, to work in partnership with us on manufacturing clothing items. This contract is valued at over $13 million.

In addition, FPI has a positive impact on small businesses through its purchases of products and services to support

FPI's mission. FPI has a strong commitment to purchasing from small, women/minority owned, and disadvantaged businesses. In the past, FPI has been recognized by the Department of Justice for its purchases from such firms. During Fiscal Year 2000, 63 percent of FPI's purchases (over $258 million) were made from these firms.

Summary of Attachments

The following is a summary of the attachments that will accompany FPI's response to the House Committee on Small Business' request for information.

General:

Attachment 1 - Bureau of Prisons Program Statement on the definition of prison-made products and services.

Attachment 2 - Profit and Loss Statements for fiscal years 1996, 1997, 1998, 1999, and 2000.

Attachment 3 - Schedule of Products 2000.

Subcontracting:

Attachment 1 - Identifies specific factories with pass through sales during FY 1998.

Attachment 2 - List of FPI's 50 largest subcontractors.

Attachment 3 - Typical unit cost estimate examples for the following: seating, case goods and systems.

Attachment 4 - List of all suppliers of office furniture to FPI.

Attachment 5 - List of purchases from Krueger International (excluding services) for the period June 2000 through June 2001.

Attachment 6 - List of top five office furniture vendors.

Attachment 7 - Impact studies for office seating, office case goods and systems furniture.

Attachment 8 - List of purchases from Krueger International.

Attachment 9 - List of purchases by UNICOR from foreign sources (FY 98-01).

Inmates:

Attachment 1 - Description of Inmate Release Preparation Opportunities.

Attachment 2 - Post-Release Employment Project (PREP)study.

The Waiver Process:

Attachment 1 - Copies of denied waiver requests in CD format.

Attachment 2 - Waiver processing support documentation.

Market Share:

Attachment 1 - FPI's FY 1999 Market Share Report.

Attachment 2 - Copy of FPI's governing statute, Title 18, Section 4122(b).

Attachment 3 - Copy of the Industry Involvement Guidelines.

Attachment 4 - Copy of solicitations.

Attachment 5 - List of connector long term contracts.

Attachment 6 - Course outlines for the following inmate training programs: (a) Quality Control Technician; (b) Electronics Utility Worker; (c) Electrician, Maintenance; and (d) Electronics tester.