



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

JAN 19 2011

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION & LOGISTICS MANAGEMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Purchases From Federal Prison Industries; Updated List of Federal Supply
Classification (FSC) Codes to be Competed

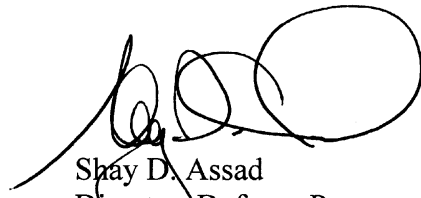
Section 827 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, amended 10 U.S.C. 2410n to require the Department of Defense (DoD) to publish a list of product categories for which the Federal Prison Industries' (FPI) share of the DoD market is greater than five percent. We issued the initial list on March 28, 2008, and subsequent updates on June 3, 2009 and March 19, 2010.

Attached is an updated list of product categories for which FPI's share of the DoD market is greater than five percent based on Fiscal Year 2010 data from the Federal Procurement Data System. Product categories on the list, and the products within each identified product category, must be procured using competitive (or fair opportunity) procedures in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 208.602-70. In conducting such a competition, contracting officers shall consider a timely offer from FPI for any of these product categories on the list. FPI must be included in the process even if the procurement opportunity otherwise would have been set aside in accordance with the Federal Acquisition Regulation (FAR) Part 19. In addition, an award must be made in accordance with the policy at FAR 8.602(a)(4)(ii) through (v). When the FPI item is determined to provide the best value to the Government as a result of FPI's response to a competitive solicitation, follow the ordering procedures at <http://www.unicor.gov>.

The attached updated list supersedes the list effective April 18, 2010. The attached list shall apply to new solicitations (and resultant contracts/orders) issued 30 days after the date of this memorandum or later. The revised list will be posted on the DPAP website at: http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html#federal_prison.

The updated list identifies four product categories for which FPI no longer has a significant market share and are removed from the list. For these items as well as for other products where FPI does not have a significant market, contracting officers should follow the current process outlined in the FAR Subpart 8.6. Specifically, FAR 8.602 requires agencies to conduct market research and make a written comparability determination. Such determinations are made at the discretion of the contracting officer. Competitive (or fair opportunity) procedures are appropriate if the FPI product is not comparable in terms of price, quality, or time of delivery. In conducting such a competition, contracting officers shall include FPI in the solicitation process and consider a timely offer from FPI. Likewise, if the procurement is made using a multiple award schedule, the FAR 8.602(a)(4)(iii) requires contracting officers to communicate the item description or specifications and evaluation criteria directly to FPI, "so that an offer from FPI can be evaluated on the same basis as the contract or schedule holder." A timely offer from FPI must be considered.

My staff point of contact for FPI procurement policy is Ms. Susan Pollack, 703-697-8336 or susan.pollack@osd.mil.

A handwritten signature in black ink, appearing to read 'Shay D. Assad', is written over the printed name and title.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

**Products for which Federal Prison Industries has a Significant Market Share:
Current Federal Supply Classification (FSC) Codes***

Effective Date: February 18, 2011

| FSC | FSC Description |
|------------------------------|--|
| FSCs to be Competed | |
| 6532 | Hospital and Surgical Clothing |
| 7230 | Draperies, Awnings, and Shades |
| 8420 | Underwear and Nightwear, Men's |
| 8470 | Armor, Personal |
| FSCs Deleted from the List** | |
| 5995 | Cable, cord, wire assemblies; comm equipment |
| 8415 | Clothing, Special Purpose |
| 8410 | Outwear, Women's |
| P100 | Disposal of Surplus Property |

*Based on Fiscal Year 2010 data from the Federal Procurement Data System.

**Items that were on the previous list of FSCs to be competed as identified in the DPAP Memorandum dated March 19, 2010. These items must now be acquired in accordance with FAR Subpart 8.6.