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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

AUG 31 2010

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, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Guidance Regarding Purchases from Federal Prison Industries

Section 827 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, amended 10 U.S.C. 2410n to require DoD to publish a list of product categories for which the Federal Prison Industries' (FPI) share of the Department of Defense (DoD) market is greater than five percent. As promulgated in my March 19, 2010 memorandum, product categories on the current list must be competed in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) subpart 208.6.

For FPI products not on the list of items to be competed, contracting officers are reminded of the responsibility to conduct market research activities and make comparability determinations as required by section 811 of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, and implemented in the Federal Acquisition Regulation, subpart 8.602. Contracting officers shall use competitive procedures if a determination is made that the FPI product is not comparable to the private sector in terms of price, quality, or time of delivery. In conducting such a competition or a competition resulting from section 827 requirements, contracting officers shall include FPI in the solicitation process and consider a timely offer from FPI. If the FPI product is determined to be comparable, contracting officers shall purchase the FPI product following the ordering procedures at http://www.unicor.gov, unless a waiver is obtained in accordance with FAR subpart 8.604.

The DPAP website includes a specific policy area for FPI procurement policy located at http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html. Questions regarding FPI matters may be directed to my staff point of contact Ms. Susan Pollack at 703-697-8336 or susan.pollack@osd.mil.

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy