



October 23, 2008

Mr. Michael Benavides  
OUSD (AT&L) DPAP (DARS), IMD 3D139  
3062 Defense Pentagon  
Washington, DC 20301-3062.

Dear Mr. Benavides:

On behalf of the members of the Government Contracts Committee (GCC) of the American Apparel & Footwear Association (AAFA), I would like to submit these comments in response to the directive concerning the changes to Federal Prison Industry's (FPI) competition requirements mandated by Section 827 of the 2008 National Defense Authorization (PL 110-181).

Specifically, I object to the failure to list textiles and clothing as items for which purchases by Federal Prison Industries (FPI) exceeds a 5 percent market share. FPI's own 2007 Annual Report states that its Clothing and Textiles Business Group's "sales" increased to \$175,271 million in FY 2007 from \$152,728 million in FY 2006. Since DOD is a predominant buyer of such items, FPI's market share of such items no doubt exceeds 5 percent.

As you may know, AAFA's GCC member companies comprise America's military clothing and footwear manufacturing base. They produce our soldiers' uniforms, combat boots, parachutes, tents and other textile-based items – all 100% U.S.-made from the ground up. The importance of maintaining this innovative, flexible manufacturing base for our military must be one of the country's highest national security priorities. Since the mid-1930's, U.S. law – the Berry Amendment – has ensured the domestic supply of military clothing.

In contrast, FPI is a government corporation that employs federal prison inmates to produce goods and services in prison factories for sale to the federal government. As a result, FPI enjoys a mandatory source preference in the federal market, which means that federal agencies are required to purchase from FPI any product that FPI offers for sale or wishes to produce.

Last year, Congress clarified its desire to force FPI to compete fairly by enacting Section 827 of the 2008 DOD Authorization bill. While this protection is important, it fails to have any effect if the items are not listed as meeting the 5 percent threshold. GCC members believe that, in the world of clothing and textiles, FPI has been able to skirt this threshold by utilizing a generalized categorization of products (pants, shirts, jackets) to show that it does not meet the standard. However, our members have seen FPI far exceed the 5% standard when items are grouped more specifically (e.g. army service uniform (ASU) shirts, ASU pants, temperate weather combat boots, etc). For example, we are aware that FPI has 100% of the requirement for the Men's Air Force 1550 Short-Sleeve Shirt.

It is urgent that we rectify this situation soon. A few years ago, more than 22,000 workers supplied the U.S. military's apparel needs. Today, that number is less than 13,000. As foreign producers are legally prohibited from competing for military contracts, it is competition from mandatory sources such as prison labor that continues to take the jobs of law-abiding U.S. citizens. Ensuring full implementation of Section 827 will help ensure that FPI does not enjoy an unfair advantage when it has a significant market share and allow legitimate manufacturers an equal opportunity for the same business.

I thank you again for taking the time to hear these concerns and further appreciate accepting our late submission for comments, as new information continues to come in from our members. Please feel free to contact Kurt Courtney for any other additional information at (703) 797-9039.

Sincerely,

A handwritten signature in cursive script that reads "Kevin M. Burke". The signature is written in black ink and is positioned to the left of the typed name and title.

Kevin M. Burke  
President and CEO