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Federal Managers Association
AAFA • ACSM • ASID • BIFMA • Coalition on Government Procurement
Contract Services Association • IOP/FDA • COFPAES
International Sign Association • MAPPS • Textile Rental Services Association

November 8, 2007

Honorable Ike Skelton
Chairman
Committee on Armed Services
2206 Rayburn House Office Building
Washington, DC. 20515-2504

Honorable Duncan Hunter
Ranking Republican Member
Committee on Armed Services
2265 Rayburn House Office Building
Washington, DC 20515-0552

Dear Chairman Skelton and Rep. Hunter:

The undersigned organizations, participating in the Federal Prison Industries Competition in Contracting Coalition, express our strong support for Section 824 (Modification of Competition Requirements for Purchases from Federal Prison Industries) of the Senate amendment to H.R. 1585, the National Defense Authorization Act for Fiscal Year 2008. We urge you to include this provision in the Conference Report and to support any amendment that would give the provision Government-wide application.

We, and others in the FPI Competition in Contracting Coalition, have worked long and hard to enact legislation that would fundamentally and comprehensively reform Federal Prison Industries (FPI) to eliminate the unfair competition with non-inmate workers and the firms that employ them. Such legislation passed the House in the 109th Congress (H.R. 2965) by a vote of 362-57 and in the 108th Congress (H.R. 1829) by a vote of 350-65. We support any effort to amend the Conference Report to H.R. 1585 that would include the text of the House-passed bill from the 109th Congress.

We would like to share our common reasons for supporting Section 824 and assuring its Government-wide application. Many of us have communicated to all Members of the House multiple times over many Congresses expressing our strong support for the bill to bring fundamental and comprehensive reform to FPI.

Section 824 would make very constructive modifications to Section 2410n of title 10, United States Code, which was first added by the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107). The National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314) amended Section 2410n to eliminate ambiguities that impeded effective implementation.

Section 2410n gives Federal managers and their contracting officers reasonable tools in dealing with FPI, despite FPI's continued preferential status as a mandatory source of supply to which Federal agencies must look initially. Section 2410n empowers Federal buyers to conduct market research to determine whether products available from private sector suppliers are comparable to what is being offered by FPI in terms of quality, price, and time of delivery. If a contracting officer determines that a better value can be obtained from the private sector then the purchase must be made using competitive contracting procedures. An offer must be solicited from FPI.

Prior to Section 2410n, contracting officers were precluded from taking these common-sense steps in expending the taxpayers dollars. Section 2410n also provides private sector firms and their non-inmate workers with modest relief from FPI's mandatory source status. On a limited basis, it provides them with the opportunity to bid on Federal business opportunities made possible by their tax dollars.

Since FY 2004, the prudent business practices specified by Section 2410n have been available to all Federal agencies through the Government-wide Federal Acquisition Regulation (FAR). The Conference Report to H.R. 1585 should leave no doubt that Section 2410n, as improved by Section 824 of the Senate amendment, is to be given Government-wide application through the FAR.

Staff of the Federal Bureau of Prisons and FPI are again making predictions of catastrophic reductions in inmate work opportunities. This did not happen when Section 2410n was implemented within DOD or subsequently when its procedures were given Government-wide application. On the contrary, the number of inmates participating in the FPI program actually increased to 21,205 in FY 2006 from 19,720 in FY 2005, according to FPI's own annual reports.

Similarly, the protestations of the firms, large and small, that are the major suppliers to FPI are overblown. These firms will still be free to supply FPI, but they will also be free to sell directly to the Federal agencies or to sell indirectly as a subcontractor or supplier to another private-sector firm. These firms will not, however, have a lock on a portion of the Federal market through FPI.

Again we urge you to retain Section 824 of the Senate amendment, give it Government-wide application, and to support any House amendment that would use the Conference Report to H.R. 1585 to enact fundamental, comprehensive, and balanced FPI reform such as that which passed the House in the 109th Congress with overwhelming bipartisan support.

Sincerely,

Dan Danner
Executive Vice President
Federal Public Policy and Political
National Federation of Independent Business (NFIB)

R. Thomas Buffenbarger
International President
International Association of Machinists
and Aerospace Workers (IAM)

R. Bruce Josten
Executive Vice President, Government Affairs
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Jay Timmons
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National Association of Manufacturers (NAM)

John S. Satagaj
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**Darryl A. Perkinson
National President
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cc:

Conferees on the part of the Senate