JUN 26 2003

GSA Office of Governmentwide Policy

MEMORANDUM FOR RONALD POUSSARD
DIRECTOR
DEFENSE ACQUISITION REGULATIONS COUNCIL

FROM: RODNEY P. LANTIER, DIRECTOR Rodney P. Lantier
REGULATORY AND FEDERAL ASSISTANCE
PUBLICATIONS DIVISION

SUBJECT: FAR Case 2003-001, Increased Federal Prison Industries, Inc. Waiver Threshold

Attached are comments received on the subject FAR case published at 68 FR 28094; May 22, 2003. The comment closing date was June 23, 2003.

Response Number	Date Received	Comment Date	Commenter
2003-001-1	05/28/03	05/28/03	Evelyn Morse
2003-001-2	06/11/03	06/11/03	Diane Glasscoe
2003-001-3	06/23/03	06/23/03	Charles F. Gaul

Attachments

U.S. General Services Administration
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2003-001-1

"Evelyn Morse" <edmorse@bellsouth.net>

05/28/2003 05:37 PM

To: farcase.2003-001@gsa.gov
cc:
Subject: FAR Case 2003-001

Regarding subject case - an interim rule to increase Federal Prison Industries, Inc.'s (FPI) clearance exception threshold at 8.606(e) from $25 to $2,500 is a step in the right direction! Speaking as a former Contracting Officer and instructor in Federal acquisitions for 13 years, I can attest to the fact that FPI has been a thorn in the side of purchasing agents and contracting officers since its inception. I have taught many different agencies all over the country and the story is always the same - "wait longer and pay more for an inferior product". Granted, there has been some improvement over the past few years. If there is a sincere effort to "reinvent" government, FPI should have to compete with the open market. This would not only be advantageous to small business and other private enterprises that are now cut out of so much of the Government's business, but in these days of budget cuts, agencies would also be paying less.

The final rule of FAR Case 2001-035 is commendable. If it meets its purpose of improving customer satisfaction in delivery, price and quality, it will be a giant step in the right direction.

Thank you for allowing me to comment.

Sincerely,

EVELYN MORSE, President
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*a small, woman-owned business that specializes in Federal acquisition course development and instruction

2003-001-2

"Glasscoe, Diane L (DSCC)" <Diane.Glasscoe@dla.mil>

06/11/2003 11:12 AM

To: "'farcase.2003-001@gsa.gov'" <farcase.2003-001@gsa.gov>
cc: "Miceli, Jack A (DSCC)" <Jack.Miceli@dla.mil>, "Endicott, Teresa D (DSCC)" <Teresa.Endicott@dla.mil>, "Jura, Carl A (DSCC)" <Carl.Jura@dla.mil>, "Cunningham, Kathleen M (DSCC)" <Kathleen.Cunningham@dla.mil>
Subject: Comments - FAR Case 2003-001

FAR Case 2003-001 increased the blanket waiver threshold to $2,500. By doing so, federal agencies are not required to make purchases from FPI that are at or below $2,500. However, the FAR does not explicitly say so; besides FAR 8.606 (e), the rest of the FAR has remained the same. If a change is made to the exception for waiver, it should be ensured that there are no other conflicts with existing wording of the FAR (e.g., FAR 8.603 Purchase Priorities remains the same, listing FPI as first priority for supplies and second for services.) The FAR should state that FAR 8.603 does not pertain to purchases at or below $2,500 if this is the intent. In addition, the DFARS still states that the determination of comparability needs to be made (regardless of dollar value). It needs to state that it does not apply to purchases at or below $2,500.

2003-001-3

FAR Secretariat
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Knoll, Inc., submits the following in response to the opportunity to comment on the subject change:

Taken at *face value*, there would appear to be no reason for any private sector vendor to comment on the *raising* of the dollar threshold below which a UNICOR, Federal Prison Industries waiver is not required. The change to $2,500 clearly gives Federal agencies considerably more flexibility than the old $25.00 limit.

However, language should be included to make it clear that Defense Department activities are now governed by the changes legislated in PL 107-107, Section 811; and PL 107-772, Section 819, the National Defense Authorization Acts for FY 2002 and 2003, respectively.

Under these new procedures, the UNICOR waiver process has been effectively eliminated for DoD activities. If a DoD Contracting Officer determines that UNICOR products are not comparable in terms of quality, price *and* delivery time, the activity is not required to seek a UNICOR waiver – regardless of the dollar amount of the acquisition.

Knoll's concern is that DoD Contracting Officers and UNICOR private-sector commissioned sales representatives may interpret the subject change to mean that DoD must request a UNICOR waiver when the acquisition is over $2,500. To prevent such a misunderstanding, It is vital that reference to the above Public Laws and/or the ensuing DFAR regulations be included in the language that announces this change to the waiver limit of FAR 8.606 (e).

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Rcvd
6/23/03