

Sineath CIV John

From: Sineath CIV John
Sent: Thursday, October 07, 2010 11:43 AM
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Cc: M_HQMC_LB; Romano CIV Mark; Oliver CIV R. Kaye
Subject: APM 11-01 Guidance Regarding Purchases from Federal Prison Industries
Attachments: DPAP memo 20Sep2010 Guidance Regarding Purchases from FPI.pdf
Signed By: john.sineath@usmc.mil

BACKGROUND:

- a. The attached DPAP memorandum of August 31, 2010 reminds the Department of Defense (DoD) acquisition community that Section 827 of the 2008 National Defense Authorization Act directed DoD to publish a list of product categories for which Federal Prison Industries (FPI) share of the DoD market is more than 5 percent.
- b. Product categories on the list must be competed in accordance with DFARS Subpart 208.6. For FPI products not on the list of items to be competed, contracting officers are to conduct market research and make comparability determinations.

POLICY:

- a. 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. Contracting officers are to include FPI in the solicitation process for such competitions, and consider timely FPI offers. If the FPI product is deemed comparable, the FPI product shall be purchased, unless a waiver is obtained in accordance with FAR 8.604.
- b. This policy is effective immediately and remains in effect until rescinded.

PROCEDURES:

- a. For FPI products not on the list of items to be competed, contracting officers are 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.
- b. 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.

c. Further details are provided in the attachment.

Request this APM be distributed to activity contracting personnel.

R/cc

John (Jack) Sineath
HQMC Contracts Division
2 Navy Annex, Rm 2135
Washington, DC 20380-1775
Ofc: 703-695-6590 Ext 2548
Fax: 703-695-6382
john.sineath@usmc.mil



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

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