

# CHANGE REQUEST COVER SHEET

**Change Request Number:** 10-08

**Date Received:** 11/14/2009

**Title:** Clarification of UNICOR Process

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**Policy OR Guidance:** Guidance

**Section/Text Location Affected:** AMS Procurement Guidance T3.8.4

**Summary of Change:** Clarification of the process and terminology used in T3.8.4 detailing how FAA procures items available from Federal Prison Industries (FPI).

**Reason for Change:** To ensure process are clear and compliant with the IA between DOJ and FAA.

**Development, Review, and/or Concurrence:** AGC-500, ARC, AJA-43, AJA-431, AJA-A4

**Target Audience:** FAA Acquisition Personnel

**Potential Links within FAST for the Change:** None

**Briefing Planned:** No

**ASAG Responsibilities:** Review and Comment

**Potential Links within FAST for the Change:** None

**Links for New/Modified Forms (or) Documents (LINK 1)** [null](#)

**Links for New/Modified Forms (or) Documents (LINK 2)** [null](#)

**Links for New/Modified Forms (or) Documents (LINK 3)** [null](#)

Procurement Guidance:

**T3.8.4 Government Sources of Products/Services** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

Procurement Guidance:

*T3.8.4 Government Sources of Products/Services*

*Use of Government Sources*

**Section 3 : Acquisition Procedures for Purchases from Federal Prison Industries** [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

**T3.8.4 Government Sources of Products/Services (Revision 9, July 2008)**

**Old Content:** Procurement Guidance:

**T3.8.4 Government Sources of Products/Services (Revision 9, July 2008) New Content:**  
Procurement Guidance:

**T3.8.4 Government Sources of Products/Services Red Line Content:** Procurement Guidance:

**T3.8.4 Government Sources of Products/Services** ~~(Revision 9, July 2008)~~

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**Section 3 : Acquisition Procedures for Purchases from Federal Prison Industries**

**Old Content:** Procurement Guidance:

*T3.8.4 Government Sources of Products/Services*

*Use of Government Sources*

**Section 3 : Acquisition Procedures for Purchases from Federal Prison Industries**

a. *General.* Federal Prison Industries, Inc. (FPI, also known as UNICOR) is a self supporting, wholly owned Government-owned corporation of the District of Columbia that provides training and employment for prisoners confined in federal penal and correctional institutes through the sale of its products and services to Government agencies. Classes of FPI produced products and services are listed in the FPI schedule which can be accessed at <http://www.unicor.gov> or by submitting a written request to Federal Prison Industries, Inc., Department of Justice, Washington, DC 20534.

b. *Applicability.* The procedures in AMS Procurement Guidance T3.8.4.A.4.c apply to all procurements involving products available from FPI, including procurements from a Qualified Vendors List, unless one or more of the exceptions below apply.

(i) *Exceptions.* The procedures in AMS Procurement Guidance T3.8.4.A.4.c shall not apply if:

- (a) The monetary value of the procurement would not require a competitive procurement process under AMS Procurement Policy 3.2.2.4 (pertaining to procurements that do not exceed \$10,000);
- (b) A market analysis would not be required under AMS Procurement Policy 3.2.2.4 to support a single-source procurement of the product (e.g., emergency procurement);
- (c) Suitable used or excess products are available from the government;
- (d) The products are acquired and used outside the United States;
- (e) Services are being acquired; or
- (f) The FAA has obtained a waiver from FPI with respect to the particular product or class of products at issue in the procurement.

(ii) *FPI Waivers*. If the FAA seeks a waiver from application of FAA AMS Policy and Guidelines normally applicable to acquisitions involving products available from FPI, it will request a waiver with respect to a particular product or class of products by using the waiver procedures on FPI's website (<http://www.unicor.gov>).

c. *FPI Acquisition Procedures*. The FAA shall use the following acquisition process for procurements involving products available from FPI. The three principal stages in this process are announcement, market survey, and, if required, competition.

(i) *Market Survey Stage*. The FAA will conduct a market survey before purchasing a product of the type listed in the FPI Schedule. The market survey will compare the product offered by FPI to the products available from private-sector suppliers that best meet the FAA's needs in terms of price, quality, and time of delivery.

If the FAA Contracting Officer determines that the FPI product is equivalent in terms of price, quality, and time of delivery to those products available from the private sector that best meet the FAA's needs, the Contracting Officer shall determine that the product offered by FPI is the best value to the FAA and acquire that product from FPI without proceeding to the competition stage described below. The "equivalence" determination in the preceding sentence requires that FPI's product be equivalent with respect to each of the three criteria of price, quality, and time of delivery, but does not require that FPI's product be equivalent in a precise mathematical sense if such a comparison is infeasible.

The Contracting Office's procurement determination will be documented and made part of the contract file. This is a unilateral determination made at the discretion of the contracting officer.

(ii) *Competition Stage*. If the Contracting Officer does not determine that the product offered by FPI is the best value to the FAA at the market survey stage, the FAA will

acquire the product using competitive procedures set forth below. Contracting Officers must post an announcement for any acquisition for products available from FPI in accordance with AMS Procurement Policy 3.2.1.3.12. The FAA will solicit offers for the procurement and will include FPI in the solicitation process. A timely offer from FPI will be considered in light of the product description, product specifications, and product evaluation criteria listed in the solicitation.

Award will be made to the source offering the product that the FAA determines will provide the best value to FAA in terms of the product description, product specifications, and product evaluation criteria listed in the solicitation.

(iii) *Procurement from FPI.* If the CO determines that FPI's products offer the best value to the FAA, the FAA will enter into a procurement agreement with FPI. The agreement will be similar to the FAA's agreements with other federal agencies and may require representations and certifications appropriate for the particular procurement.

**New Content: Procurement Guidance:**

*T3.8.4 Government Sources of Products/Services*

*Use of Government Sources*

**Section 3 : Acquisition Procedures for Purchases from Federal Prison Industries**

a. *General.* Federal Prison Industries, Inc. (FPI, also known as UNICOR) is a self supporting, wholly owned Government-owned corporation of the District of Columbia that provides training and employment for prisoners confined in federal penal and correctional institutes through the sale of its products and services to Government agencies. Classes of FPI produced products and services are listed in the FPI schedule which can be accessed at <http://www.unicor.gov> or by submitting a written request to Federal Prison Industries, Inc., Department of Justice, Washington, DC 20534.

b. *Applicability.* The procedures in AMS Procurement Guidance T3.8.4.A.4.c apply to all procurements involving products available from FPI, including procurements from a Qualified Vendors List, unless one or more of the exceptions below apply:

- (1) The monetary value of the procurement would not require a competitive procurement process under AMS Procurement Policy 3.2.2.4 (pertaining to procurements that do not exceed \$10,000);
- (2) A market analysis would not be required under AMS Procurement Policy 3.2.2.4 to support a single-source procurement of the product (e.g., emergency procurement);
- (3) Suitable used or excess products are available from the government;
- (4) The products are acquired and used outside the United States;
- (5) Services are being acquired; or

(6) The FAA has obtained a waiver from FPI. If FAA seeks a waiver from applying AMS Policy and Guidelines normally applicable to acquisitions involving products available from FPI, then it will request a waiver with respect to a particular product or class of products by using the waiver procedures on FPI's website.

c. *FPI Acquisition Procedures.* The FAA must use the following acquisition process for procurements involving products available from FPI. The three principal stages in this process are market analysis, competition (if required), and award.

(1) *Market Analysis Stage.* The FAA will conduct market analysis before purchasing a product of the type listed in the FPI Schedule. The market analysis will compare the product offered by FPI to the products available from private-sector suppliers that best meet FAA's needs in terms of price, quality, and time of delivery.

If the FAA Contracting Officer (CO) determines that the FPI product is equivalent in terms of price, quality, and time of delivery to those products available from the private sector that best meet FAA's needs, the CO will determine that the product offered by FPI is the best value to FAA and acquire that product from FPI without proceeding to the competition stage described below. The "equivalence" determination in the preceding sentence requires that FPI's product be equivalent with respect to each of the three criteria of price, quality, and time of delivery, but does not require that FPI's product be equivalent in a precise mathematical sense if such a comparison is infeasible.

The CO's procurement determination will be documented and made part of the contract file. This is a unilateral determination made at the discretion of the CO. If insufficient information is obtained through market analysis to support a best value determination, the CO will move to the competition stage.

(2) *Competition Stage.* If the CO does not determine that the product offered by FPI is the best value to FAA at the market analysis stage, then FAA will acquire the product using competitive procedures set forth below:

(a) The CO must post a public announcement for any acquisition for products available from FPI in accordance with AMS Procurement Policy 3.2.1.3.12.

(b) The FAA will solicit offers for the procurement and will include FPI in the solicitation process. A timely offer from FPI will be considered in light of the product description, product specifications, and product evaluation criteria listed in the solicitation.

(3) *Award Stage.*

(a) Award will be made to the source offering the product that FAA determines will provide the best value to FAA in terms of the product description, product specifications, and product evaluation criteria listed in the solicitation.

(b) *Procurement from FPI.* If the CO determines that FPI's products offer the best value to FAA, then FAA will enter into a procurement agreement with FPI. The agreement will be similar to FAA's agreements with other Federal agencies and may require representations and certifications appropriate for the particular procurement.

**Red Line Content: Procurement Guidance:**

*T3.8.4 Government Sources of Products/Services*

*Use of Government Sources*

**Section 3 : Acquisition Procedures for Purchases from Federal Prison Industries**

a. *General.* Federal Prison Industries, Inc. (FPI, also known as UNICOR) is a self supporting, wholly owned Government-owned corporation of the District of Columbia that provides training and employment for prisoners confined in federal penal and correctional institutes through the sale of its products and services to Government agencies. Classes of FPI produced products and services are listed in the FPI schedule which can be accessed at <http://www.unicor.gov> or by submitting a written request to Federal Prison Industries, Inc., Department of Justice, Washington, DC 20534.

b. *Applicability.* The procedures in AMS Procurement Guidance T3.8.4.A.4.c apply to all procurements involving products available from FPI, including procurements from a Qualified Vendors List, unless one or more of the exceptions below apply. ~~(i) Exceptions. The procedures in AMS Procurement Guidance T3.8.4.A.4.c shall not apply if:~~

~~(a)~~ <sup>1</sup> The monetary value of the procurement would not require a competitive procurement process under AMS Procurement Policy 3.2.2.4 (pertaining to procurements that do not exceed \$10,000);

~~(b)~~ <sup>2</sup> A market analysis would not be required under AMS Procurement Policy 3.2.2.4 to support a single-source procurement of the product (e.g., emergency procurement);

~~(c)~~ <sup>3</sup> Suitable used or excess products are available from the government;

~~(d)~~ <sup>4</sup> The products are acquired and used outside the United States;

~~(e)~~ <sup>5</sup> Services are being acquired; or

~~(f)~~ <sup>6</sup> The FAA has obtained a waiver from FPI ~~with respect to the particular product or class of products at issue in the procurement.~~ <sup>(ii) FPI Waivers.</sup> If the FAA seeks a waiver from ~~application of FAA~~ <sup>applying</sup> AMS Policy and Guidelines normally applicable to acquisitions involving products available from FPI, ~~then~~ <sup>then</sup> it will request a waiver with respect to a particular product or class of products by using the waiver procedures on FPI's website (<http://www.unicor.gov>).

c. *FPI Acquisition Procedures.* The FAA ~~shall~~ **must** use the following acquisition process for procurements involving products available from FPI. The three principal stages in this process are ~~announcement~~, market ~~survey~~**analysis**, and ~~competition~~ (if required), ~~competition~~ **and award**.

(~~i~~**1**) *Market ~~Survey~~**Analysis** Stage.* The FAA will conduct a market ~~survey~~**analysis** before purchasing a product of the type listed in the FPI Schedule. The market ~~survey~~**analysis** will compare the product offered by FPI to the products available from private-sector suppliers that best meet ~~the~~ FAA's needs in terms of price, quality, and time of delivery.

If the FAA Contracting Officer (~~CO~~) determines that the FPI product is equivalent in terms of price, quality, and time of delivery to those products available from the private sector that best meet ~~the~~ FAA's needs, the ~~Contracting Officer~~**CO** ~~shall~~**will** determine that the product offered by FPI is the best value to ~~the~~ FAA and acquire that product from FPI without proceeding to the competition stage described below. The "equivalence" determination in the preceding sentence requires that FPI's product be equivalent with respect to each of the three criteria of price, quality, and time of delivery, but does not require that FPI's product be equivalent in a precise mathematical sense if such a comparison is infeasible.

The ~~Contracting Office~~**CO**'s procurement determination will be documented and made part of the contract file. This is a unilateral determination made at the discretion of the ~~contracting~~**CO**. **If insufficient information is obtained through market analysis to support a best value determination, the CO will move to the competition** ~~officer~~**stage**.

(~~ii~~**2**) *-Competition Stage.* If the ~~Contracting Officer~~**CO** does not determine that the product offered by FPI is the best value to ~~the~~ FAA at the market ~~survey~~**analysis** stage, ~~the~~**then** FAA will acquire the product using competitive procedures set forth below-~~;~~

(a) ~~Contracting Officers~~**The CO** must post ~~an~~**a public** announcement for any acquisition for products available from FPI in accordance with AMS Procurement Policy 3.2.1.3.12.-

(b) The FAA will solicit offers for the procurement and will include FPI in the solicitation process. A timely offer from FPI will be considered in light of the product description, product specifications, and product evaluation criteria listed in the solicitation.

### **(3) Award Stage.**

(a) Award will be made to the source offering the product that ~~the~~ FAA determines will provide the best value to FAA in terms of the product description, product specifications, and product evaluation criteria listed in the solicitation.

(~~iii~~**b**) *- Procurement from FPI.* If the CO determines that FPI's products offer the best value to ~~the~~ FAA, ~~the~~**then** FAA will enter into a procurement agreement with FPI. The agreement will be similar to ~~the~~ FAA's agreements with other

*fe***ederal***Federal* agencies and may require representations and certifications appropriate for the particular procurement.

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