

# UNLOCKING OPPORTUNITIES: RECIDIVISM VERSUS FAIR COMPETITION IN FEDERAL CONTRACTING

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## HEARING

BEFORE THE

SUBCOMMITTEE ON CONTRACTING AND  
WORKFORCE

OF THE

COMMITTEE ON SMALL BUSINESS  
UNITED STATES

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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# UNLOCKING OPPORTUNITIES: RECIDIVISM VERSUS FAIR COMPETITION IN FEDERAL CONTRACTING

THURSDAY, JUNE 28, 2012

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 10 a.m., in room 2360, Rayburn House Office Building. Hon. Mick Mulvaney (chairman of the subcommittee) presiding.

Present: Representatives Mulvaney, and Chu.

Also present: Representative Flores.

Chairman MULVANEY. I call this meeting to order and thank everybody for coming.

Instead of the ordinary introduction, I am going to tell you what is going to happen here because it is going to be an unusual day as you can probably imagine. I think both Republican and Democrat conferences have emergency meetings at 10:30 to discuss what is happening across the street and what is getting ready to happen across the street. So what we are going to try and do is get through the opening statements and the testimony from the first witness, Mr. Sibal, and then we are going to adjourn until 2:30 this afternoon. And as inconvenient as that is, and I know that it is and I apologize to everybody. There is simply nothing we can do about the Supreme Court schedule. It was actually easier on everybody to that then it was to cancel this hearing once again and reschedule it. So we are going to do our best to sort of slog through it in two pieces today.

So very briefly, I will read my opening statement and then turn it over to Ms. Chu. We call this Committee to order on Unlocking Opportunities: Recidivism versus Fair Competition in Federal Contracting.

The existence of Prison Labor Industries has been a contentious issue in the United States for over a hundred years, particular due to the effect on the private sector. In today's tough economy, tension surrounding this issue has intensified as Federal Prison Industries (FPI), or UNICOR, contracts with the government in industries that face declining growth and small businesses' fight to survive in this tough economy.

While the Federal Bureau of Prisons highlights UNICOR's benefits to society by reducing recidivism rates, small firms attest to the difficulties in competing on contracts with an organization that

does not need to account for healthcare, taxes, and minimum wage upon submitting a bid. Further, despite previous efforts to move UNICOR from being strictly a mandatory source to an entity that competes for contracts, small businesses are still concerned that UNICOR is allowed to compete for set aside contracts. These include contracts set aside for small businesses, as well as contracts set aside for socially and economically disadvantaged firms, service-disabled veterans, women, and HUBZones. Additionally, remaining mandatory source provisions requiring that the government contract with UNICOR reduces opportunities for small businesses and growth.

In light of this, it is no surprise that over the past 20 years, Congress has been active in enacting legislation to reduce unfair competition and mitigate the effects of UNICOR on small business. Today, this trend is continuing in Congress with bipartisan support and we are fortunate to have later today Representative Bill Huizenga from Michigan testifying on our second panel about H.R. 3634, the Federal Prison Industries Competition in Contracting Act of 2011.

In addition to Representative Huizenga's testimony, we will also examine several other small business concerns with the UNICOR program. The first panel will feature Mr. Phil Sibal, the deputy assistant director of UNICORN, excuse me, UNICOR, and the third panel will include small business owners and representatives from associations affected by Federal Prison Industries. We are fortunate today to have Representative Bill Flores later on from Texas, who will join us to introduce Ms. Boenigk, who hails from his district.

I would like to thank all of our witnesses for being here and for making the special accommodation given the schedule.

As small firms struggle to overcome the tough economy, this Subcommittee has been active in ensuring small business contractors receive equitable contracting opportunities. It is imperative that the government does not unfairly compete at the expense of small businesses. While reducing recidivism is certainly a worthy goal, it must be achieved without negatively affecting small business. And it is my hope that today's examination will provide insight into this particular topic.

With that, I will yield to Ms. Chu for her opening statement.

Ms. CHU. Thank you, Chairman Mulvaney. Thank you for calling the hearing today on Federal Prison Industries. And I thank our witnesses for making the time to join us.

As a buyer of a half trillion dollars worth of goods and services annually, the Federal government is a substantial economic engine for the country. As we have seen in this Committee time and time again, Federal government contracting has been a vital source of business for small firms, often allowing them to grow and thrive. Since 1934, Federal government contracting has also been a vehicle for one of the Federal Bureau of Prisons' most successful and important programs aimed at reducing inmate recidivism, the Federal Prison Industries or UNICOR.

All able-bodied inmates in our federal prison system are required to work, which helps maintain prison security by reducing inmate idleness. However, FPI's model is unique and highly affected. It is

a federal chartered corporation whose mandate is to employ and provide job skill training to the greatest number of inmates in a self-sustaining manner. And FPI accomplishes this by producing market-priced quality goods and services that it is authorized to sell to federal government agencies.

The goal of FPI is not to be a business; it is to rehabilitate and train inmates for greater success on their re-entry to the civilian workforce. This mandate has many positive social benefits in addition to reducing recidivism rates. Since it does not receive appropriations, it does not cost taxpayers any money and actually helps save taxpayer dollars by reducing future criminal justice costs. In fact, every dollar spent on correctional industry programs saves \$6.70.

FPI also increases the safety of our nation's correctional workers and almost 80 percent of FPI's revenues go back into the program toward purchases of raw materials from the private sector, providing opportunities to work with small businesses through prime contractors, subcontracts, and innovative public-private partnerships. I have heard from small businesses for which this has been a critical lifeline.

However, another part of FPI's mandate is to minimize its negative impact on private business and labor. Therefore, it is important to make sure that as economic conditions change, FPI is still fulfilling all parts of its mandate. That is why we are here today. We must ensure the right balance between the positive contributions of FPI with the concerns of parts of the small business community so that both are able to continue their operations and continue to benefit America.

Given its mission, FPI has some unique advantages over the private sector. Mandatory sourcing gives FPI first rights to sell its products to agencies. At the same time, FPI is an important role in supporting the private sector and spurring the development and growth of small businesses. In fact, in 2011, it purchased more than \$640 million in raw materials, supplies, equipment, and services with 40 percent of its purchases made from small businesses.

However, unlike small firms, there is no limit to the amount of a contracts that FPI can subcontract to other entities. This means that FPI is often a catalyst for business development.

Balancing the larger social mission of FPI against the needs of small businesses is no easy task. Over the last decade, several measures have been put in place to help mitigate FPI's negative impact on the private sector.

I look forward to hearing from our witnesses in exploring what more we can do to work constructively on this issue. Thank you, and I yield back the balance of my time.

Chairman MULVANEY. Thank you, Ms. Chu.

Our first witness today is Mr. Philip Sibal, the senior deputy assistant director for the Industries, Education, and Vocational Training Division of the Federal Bureau of Prisons, and in this capacity, responsible for each of the seven business groups within Federal Prison Industries, as well as overseeing the corporate quality and information system branches.

Now, ordinarily, for those of you familiar with this Committee, we let the small businesses go first so they have the opportunity

to ask questions of the administration witnesses that typically go second. Mr. Sibal has some important time constraints today so we have agreed in this circumstance to let him go first. But he has also agreed afterwards that if a question is raised by the private business panels, he will answer those questions in writing after the hearing.

So Mr. Sibal, thank you for making that accommodation. If you would please go ahead and present your testimony.

**STATEMENT OF PHILIP SIBAL, SENIOR DEPUTY ASSISTANT  
DIRECTOR, UNICOR, FEDERAL PRISON INDUSTRIES**

Mr. SIBAL. Good morning, Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee. I appreciate the opportunity to appear before you today. I serve as the Senior Deputy Assistant Director of Federal Prison Industries, also known as FPI or UNICOR, a government corporation and a component of the Department of Justice, Federal Bureau of Prisons.

Today there are over 200,000 inmates in federal prisons, housed in 117 institutions and privately-operated facilities under contract with the Bureau. The mission of the Bureau is to protect society by confining offenders in facilities that are safe, secure, and cost efficient, and to provide opportunities to inmates for self-improvement necessary for a successful re-entry into society. FPI is one of the Bureau's most important correctional programs. While it operates like a business, the real output is inmates who are trained in marketable job skills so they can return to the community as productive members of society upon release.

FPI was established by statute and executive order to provide training and work experience to federal inmates without the need for Congressional appropriations. The statute also recognized this training should not place an undue burden on any specific industry. The year was 1934, when unemployment in this country was at 22 percent. Nevertheless, Congress recognized the importance of creating a real-world environment in which inmates would learn the valuable skills needed to become productive members of society. The enabling statute created a procurement preference for FPI, known as the "mandatory source" to ensure sufficient work opportunities would exist for the inmate population. More than 75 years later, FPI continues to operate without any Congressional appropriation, although it has become increasingly difficult in recent years.

The Bureau of Prisons releases approximately 45,000 inmates per year back to communities around the country. FPI is critical to the Bureau's efforts to prepare these inmates to successfully re-enter society. Inmates who work in FPI are 24 percent less likely to reoffend and 14 percent more likely to be employed upon release than their nonparticipating peers. FPI provides the greatest benefit to minorities, inmates who are often at a greater risk for recidivism. FPI is also critical to the Bureau's efforts to manage safe and orderly prisons. Inmates who work in FPI are substantially less likely to violate prison rules as compared to nonparticipating inmates. This is particularly important in high and medium security institutions as these institutions are extremely crowded, on aver-



age holding more than 150 percent of the offenders they were designed to house.

Inmates who work in FPI are required to use half of their wages to satisfy financial obligations, including assessments, fines, and restitutions to directly and positively impact crime victims, the courts, and inmate family members. In fiscal year 2011, inmates who worked in FPI contributed more than \$1.6 million of their earnings towards these financial obligations.

The overwhelming majority of FPI's expenses, approximately 78 percent, go to purchases from private vendors with more than a half a billion dollars spent on raw materials, equipment, and services from private sector businesses. Year-to-date in fiscal year 2012, approximately 54 percent of these purchases are from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. But the economic downturn and changes to procurement laws and policies have significantly challenged FPI's ability to continue to operate as a self-sustaining inmate program in recent years. We are actively pursuing new business opportunities consistent with new legislative authorities regarding products made outside the United States. Today the FPI program serves less than 13,000 inmates; 7 percent of the inmate population in Bureau institutions, down from more than 23,000 inmates just five years ago. Over the same time period, the federal inmate population has increased by more than 25,000 offenders. The loss of work opportunities within FPI translates into more than 15,000 inmates who are released back to our communities without having the benefit of the skills, training, and work experience that has proven to be effective in reducing recidivism.

Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee, I thank you for the opportunity to testify today about Federal Prison Industries, one of the Bureau's most important re-entry and recidivism programs, and certainly, a critical piece of the Bureau's public safety mission. This concludes my remarks. I would be pleased to answer any questions you or members of the Subcommittee may have.

Chairman MULVANEY. Thank you, Mr. Sibal.

I recognize Ms. Chu for such time as she may consume.

Ms. CHU. Mr. Sibal, can you explain what would happen to FPI if it could not get the federal contracts that allows FPI to sustain itself? Do you have any other avenue besides federal contracts in order to keep this program whole?

Mr. SIBAL. Until December of 2011, FPI was restricted to selling its products to the federal government. In 2011, in December, we received authority to bring work back from overseas by repatriating products for the—selling products to the commercial market that are currently or would otherwise be made offshore. We are actively pursuing opportunities to take advantage of that new authority. Within weeks after receiving it, we had several pilots approved by our Board of Directors.

However, it is important to recognize that we see that as an opportunity to replace some of the 10,000 jobs that we have lost in the last five years, rather than as a replacement for the 13,000 jobs we have remaining. The reason for that is we rely on the existing work we have to cover the fixed expenses of our operations. The

challenges with repatriated work is the wage rates offshore are so low, substantially lower even than prison wages, that unless we have that foundation of work for the federal government to cover our fixed costs, like building depreciation, staff salaries, et cetera, and can treat the repatriated work as just incremental work to where the only costs we have to apply to it are the raw materials and what we call the variable overhead specifically for that product. That is the only way economically those projects we believe are going to be viable.

We also faced some significant challenges with those projects in other avenues. We have had several projects already where we were going full speed ahead and ran into issues with corporate policy and corporate perception. There are cases where corporate executives simply do not want to be associated with prison industries, and there are cases where corporate policies specifically prohibit companies from buying from any vendor that uses prison labor.

So this is not a panacea. We are certainly excited about the opportunity, grateful to Congress for providing it. We think it does absolutely provide us the opportunity to increase work, but it is not without obstacles.

Ms. CHU. We have heard about FPI's benefits to the inmates and the issue of recidivism, in fact, that it combats against it. But can you describe FPI's benefits to the taxpayers?

Mr. SIBAL. Certainly. You mentioned one of the important benefits, and that is the fact that more than any other program in the prison system, Federal Prison Industries has a return of \$6.70 per dollar spent on Prison Industries. So that is a significant benefit to the taxpayers. Because of the reduced recidivism, costs for the entire justice system from law enforcement through prosecution, through incarceration, through and including the cost to the victims of crime are greatly reduced by a ratio of \$6.70 to 1.

Another important impact that Prison Industries has is the financial responsibility program, the money that is turned back from the inmate wages to victims of crime, to the special assessments, to child care obligations, et cetera. And again, that was \$1.6 million last year. A significant part of the benefit in addition to providing the inmates with skills that they need to get a job when they get out is the impact on operating the prison. I spent most of my career managing prison industries' operations inside federal institutions. The jobs that the inmates have in those institutions are very critical in their adapting to the prison environment and inmates that work in Prison Industries are known to be much less involved in violence, in disruptive behavior inside the prison. So it is a very important tool inside the prison for helping to manage the population.

Ms. CHU. FPI was created in 1934, during the Great Depression, when the U.S. was suffering its highest level of unemployment and economic stagnation. And it grew to be a successful program that has long enjoyed bipartisan support. What kind of economic impact do you believe FPI can have during this recession?

Mr. SIBAL. I think our support of small business is a very strong impact that we can have. As I mentioned in my opening remarks, 54 percent of the dollars that we have spent year-to-date on suppliers, services, raw materials, are going to small business. We

work as a partner with small business and open our doors to them, the opportunities to work with us either as a supplier or as a partner where the private sector company may have expertise in one area. We have expertise in another. Working together we can be competitive sometimes even with offshore. So I think the partnership and the synergism we can have with businesses, large and small, can really help the economy.

Ms. CHU. I would like to ask about your relationship with the private sector and this mandate to mitigate the negative impact on them. What steps has FPI taken to accomplish this requirement and to ensure that the private sector, especially small businesses, are not hurt by FPI's operations?

Mr. SIBAL. We are certainly very sensitive to our impact on private industry, small business and large. We have a very stringent new guidelines—new product guidelines process that requires for every new product that we come out with or even a significant expansion of existing product. It has to go through a rigorous process of public vetting where we announce to the public our interest in entering into a new product area or expanding an existing product. Companies that are concerned then have the opportunity to either write to our Board of Directors or visit the Board in person and express their concerns. The Board of Directors then has the ultimate decision as to whether or not we are going to enter into a new product area.

We also have other restrictions imposed by our Board of Directors on our market share and recent rules restricting our market share with contracts for the Department of Defense.

Ms. CHU. And there have been some alternatives proposed such as increasing the set-asides for small businesses in the industrial areas in which FPI operates. What are your views on those alternatives?

Mr. SIBAL. I think there is a misperception that FPI—that it is an either-or. Either Federal Prison Industries or small business, when in fact we have been working hand-in-hand with small business and peacefully coexisting since we were first created. And I think as I mentioned, the opportunities for subcontracting and for partnering present a lot of opportunities for small business to grow.

We are a relatively small part of private industry, and including our impact on small business. I believe one of the most sensitive areas seems to be the military apparel business whereby the statistics directly from the Department of Defense—these are not FPI statistics—we represent on average just five to seven percent of the pie of the apparel work that Defense Logistics Agency Troop Support in Philadelphia buys from the federal government. Small business represents a 45 percent piece of that pie. And again, I would emphasize that that is the piece of the federal pie to which FPI is restricted with the exception of the new authority that we are beginning to explore whereas the private sector companies have access to commercial markets, global markets, and we are only allowed to sell to the federal government.

I think there is room for us to coexist. We have shared these markets ever since we came into being. What is different now is that these contracts, where before we achieved our balance with small business through the mandatory source, now we are bidding

on those contracts. So I think that is something that has changed in recent years.

Ms. CHU. In fact, talking about the mandatory source, you have the ability to grant waivers to it, to its "mandatory source" clause in order to mitigate the negative impact on businesses. I have heard from businesses that say that the waivers are too rare. Under what circumstances and how often are these waivers requested by agencies and granted by FPI?

Mr. SIBAL. In fiscal year 2011, we received requests for \$165 million in waivers. We granted \$156 million in waivers. On average, we have been averaging 95+ percent of the waivers requested that we grant.

Ms. CHU. And how have the waivers affected FPI's ability to operate, employ, and train inmates, as well as fulfill your mandate?

Mr. SIBAL. Business waived is inmate jobs that we do not have. But it speaks to our commitment to business that we are going to minimize the impact on small business and try to reach a balance, both with the customers and with private business to coexist and to allow businesses to participate where the customer wants a specific product that we do not make or they want a specific feature that perhaps we do not provide. I think it just speaks to the balance we have been trying to strike since we were born.

Ms. CHU. Okay.

Chairman MULVANEY. Thank you, Ms. Chu.

I want to talk about that balance because I struggle with this as a small businessperson. I see clearly both sides of it. I have seen small businesses benefit from this because they buy from you all. I have seen small business suffer from it because they compete with you all. And it strikes me that the one thing that is sort of, if anything justifies the program, it is the recidivism. It is that social cost entailed in teaching folks jobs; they can get out of jail and stay out of jail.

So let us talk about that for a second. Does it work? And tell me how you all measure it.

Mr. SIBAL. Absolutely.

Chairman MULVANEY. Give me some information on why you think it is successful in that particular mission.

Mr. SIBAL. Certainly. There was a study called a PREP study which is the Post-Release Employment Project that evaluated inmates over a number of years, a very rigorous study. And that study concluded that inmates working in prison industries were 24 percent less likely to come back to prison; 14 percent more likely to get a job upon release. That study has been rigorously analyzed by other institutions. One in particular, the Washington State Institute for Public Policy, who uses only the most rigorous research, actually used that PREP study as a basis for their subsequent studies looking at the cost benefits of the Prison Industries' program.

Chairman MULVANEY. Right. But getting a job upon discharge from prison is not recidivism. Recidivism is not going or going back to prison. So tell me specifically about that. I understand that now they have a skill. They are more likely to be employed than folks who do not learn a skill in prison. I understand that. But tell me about the rate at which they go back to jail.

Mr. SIBAL. And that is the recidivism figure that I used at 24 percent. That is not an employment figure; that is the rate, the lower of the rate at which they come back to prison. And we define recidivism as being reincarcerated in the BOP within three years after release.

Chairman MULVANEY. So you are 24 percent less likely to go back to jail within three years if you go through this program?

Mr. SIBAL. That is correct. And right now every inmate costs us taxpayers \$30,000 a year to house. So that is a significant savings.

Chairman MULVANEY. Now, there are other programs designed to reduce recidivism rates outside of job training and prison labor. How does this program compare to those?

Mr. SIBAL. In the Washington State Institute for Public Policy Study, Prison Industries was the most valuable in terms of the dollar ratio of savings to the program. The Bureau of Prisons offers a variety of really valuable programs to give inmates the opportunity to take advantage of their time in prison. Adult basic education, vocational training, drug abuse treatment, for example. The one program that was shown to have a higher impact on reducing recidivism was vocational training. So it is frequently asked, well, why do we not put inmates through vocational training which does not impact small business.

The problem with vocational training alone is two-fold. One, it costs taxpayer dollars. Vocational training is not cheap. The second issue is one of timing. Would it really make sense, for example, to have someone go through automotive training and get his certification as a certified auto mechanic 10 years before he is going to be released? Vocational training is really only effective within 18 months to two years of release. Imagine an inmate that receives training as an auto mechanic 10, 12 years ago and now he is released into a society where what is a hybrid and electric car, et cetera, et cetera. So there is an issue of the skills staying current, because once an inmate has completed a vocational training program, he does not get to hang around and continue to hone those skills. He has completed the program. So those skills would get very rusty.

Chairman MULVANEY. Could not the same thing be said about Prison Industries though? I mean, why would you put somebody in the business of making boxes if they are not going to be out for 15 or 20 years?

Mr. SIBAL. That is a question we often hear, and that speaks to the question of what we call the soft skills versus the technical skills. There was a study by the National Association of Manufacturers back in 2005, I believe, in which private sector manufacturers were asked about the problems with retaining and hiring their workforce. The problems they had with hiring and retaining production workers was not that they did not know how to run Microsoft Excel. Not that they did not know how to run a computer-controlled machine. They lacked the soft skills as we call them. Show up for work on time. Do what the boss says. Wear your safety shoes. Get along with the other guys in the shop. Those are the skills that we teach the federal inmates, and that is first and foremost what we are shooting for. By design, we are designed by the—we are by mandate required to be very labor-intensive. Obvi-

ously, we could employ a lot of robots and unemploy a lot of inmates by doing that, and thereby, expose them to more marketable skills. But we focus on teaching them the soft skills. We certainly have examples where inmates are learning very valuable and very current skills, whether it be in computer-aided drafting, working in a call center. We use a system called SAP as far as our production financial system. That is the global market share leader in those types of systems. Inmates are on that system every day. So they are learning valuable skills.

Chairman MULVANEY. Can you quantify for me, Mr. Sibal, if you believe that Prison Industries were more effective in preventing recidivism, then vocational training, can you quantify that for me?

Mr. SIBAL. The statistic I would cite, and again, vocational training program is proven to be more effective in reducing recidivism but the drawbacks to that are the facts that it requires appropriations and we have the issues of the timing of that program versus the timing of the inmate's sentence.

Chairman MULVANEY. And I appreciate that. I think at the end of the day it will cost all taxpayers money one way or the other. Whether or not we do an actual appropriation or we compete with business and take business away from small business and they pay less taxes, sooner or later we have got to pay for it one way or the other but that is a bigger story for another day.

I want to talk about where you all work. Because one of the things in doing the research for this hearing, one of the things I was excited to see was the previous law change from several years ago that allowed you, encouraged you to go into the businesses that did not compete with domestic producers, that had you focus on things that were no longer made here, have never been made here and go into that industry and compete with folks who are overseas.

Tell me more about that program. You mentioned a little bit in your answer to Ms. Chu. Tell me what you are doing with that. Tell me about the growth rates in there and how you are focusing on that. And then I want to have some follow-ups as to why I like that program so much.

Mr. SIBAL. Certainly. We are very excited about that program as well, and again, we are grateful to Congress for granting that authority. We just received it in December of 2011.

We had a Board Meeting in January, the following month, and by that time we already had four pilots that we asked for approval by the Board of Directors. Some of them were apparel, solar panels, tents, baseball caps, the textile bags that you take to the grocery store. And energy efficient lighting was another one. So we are aggressively pursuing those. But as I mentioned earlier, we have encountered a lot of obstacles in trying to actually make that happen. We are actually producing some LED lighting at one of our factories in New Jersey. The other programs we are still trying to work through the contract negotiations.

Chairman MULVANEY. And these are all items that are not made here?

Mr. SIBAL. Yes. These are all items that are not made here. Now, they may be made here to some extent, but one of the things that we have to evaluate in the information we have to provide to our Board is what we refer to as the import penetration ratio. There

is probably nothing that is 100 percent made somewhere else in this country. But what we have to look at is what would—again, what would our impact be on those businesses that do remain?

Chairman MULVANEY. Mr. Sibal, our time is running short and I am not going to get a chance to ask my line of questions about specific industries but I want to make a comment for the record, which is that you mentioned specifically apparel, military apparel. I am from a textile area, and it is one of those places where we have more labor now than we have demand for that labor. And it strikes me as somewhat against the purposes to be—having prison labor competing in areas where folks are having difficulty finding jobs in the private sector, and to encourage you I am going to ask some follow-up questions in writing on whether or not your program can instead focus on areas where there is a shortage of labor. And I am speaking specifically in my district of agriculture. They cannot find people to do these jobs. And it strikes me that that might be an area where you all can grow your base without going into direct competition with the private sector because we need that labor. We are not able to get that labor. Immigration is preventing us from getting particular folks to work that. Domestic workers do not want to do the job so we have ended up losing entire industries in my state because they cannot find the people. And maybe that should be something the federal prison programs can focus on that would still allow you to accomplish what you want to accomplish without competing with folks who are out there trying to make shirts and pants for the military.

But again, I am going to be respectful of everybody's time. My phone is blowing up. I do not if anybody else's is. I have got 15 different answers on what happened across the street. We are not really sure what the deal is yet so we are going to go find out. What we will do now is we will adjourn until 2:30. I thank Mr. Sibal, I thank everybody else for the accommodation, understanding that it is a very special day. We are going to adjourn now until 2:30.

[Recess.]

Chairman MULVANEY. On that cheerful note we will call the meeting back to order. And again, I thank everybody for the special accommodations today. I cannot apologize enough. I know how difficult it is to work these things into your schedule to begin with, but there was really obviously no way around it today. So thank you for coming back.

Panel number two is Mr. Huizenga, who is going to talk to us about a bill that he is working on. Where is my introduction? Good. And I am pleased to welcome you, Mr. Huizenga. And I have a nice little phonetic spelling of your last name which is cool.

He represents the Second District of Michigan. He is a small business owner himself and he understands the issues that this Committee seeks to address, and his introduction of H.R. 3634, the Federal Prison Industries Competition and Contracting Act of 2011 is especially relevant to what we are doing today.

So with that, welcome to Mr. Huizenga and I will give you as much time as you need, Bill.

**STATEMENT OF THE HONORABLE BILL HUIZENGA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. HUIZENGA. Mr. Chairman, I appreciate the opportunity to be in front of you, and Ranking Member Chu, thank you for your time and your attention. This is something that is very important and on a very, very busy day I am glad we could get together and have this conversation because competition with the private sector by Federal Prison Industries is an issue that is important not only to those of us on the West Side of Michigan or in Michigan in particular, but really across the nation.

When I was district director for Congressman Pete Hoekstra, my predecessor, we had an interesting experience when the Social Security Administration opened up a brand new office building in town. And when they did so, they were—obviously needed to put new furniture into it. Unfortunately, the hometown that I am from, two of the world's largest of the three largest office furniture makers in the world are located in the Holland area. The third one, Steel Case, is about 20–25 miles away. They were actually not even allowed to compete for that contract. And what happened is the opening of the office was delayed because the office furniture was not actually delivered on time and the irony was we were literally a rifle shot away from one of those office furniture makers who could have had that there in literally, if not the same day, by the next day, and we could have had that office opened. And it was not because of the mandatory sourcing that UNICOR has and that the Federal Prison Industries put forward on this.

So the impact of it hits communities all over. Our colleague, Carolyn Maloney, has been a long-time supporter of this initiative and worked with Congressman Hoekstra at the time. I want to make sure I get the name right. It was the Glamour Glove Company on Long Island that had its existence threatened by FPI. Many of Ms. Maloney's constituents were employees of the company, and they lost 80 percent of its glove business before a compromise was negotiated with FPI.

Ace Electronics of Bel Air, Maryland, and Troy, Michigan, manufacturers wiring and cable assemblies, fiber optics, connectors, and other products. Ace will likely lose out to FPI on a \$300 million contract because of the rule that allows FPI to capture up to five percent of the market share in a particular area.

General Linen Service of New Hampshire was forced to compete for a contract against the prison system that they had previously serviced without incident. The Textile Rental Services Association member was informed that their service contract was being terminated and awarded to the prison system without any reasons given. While the company eventually won the contract back, the cost of having to recomplete and restructure the contract was a significant burden on the business.

UNICOR has been sort of argued in some hands and some quarters as not really being a significant operation. That is not the case at all. They occupy more than four million square feet of manufacturing and service space. FPI is far from a small business. This bureaucratically-run corporation competes with private business job creators in over 300 individual products and services. It is com-



prised of seven divisions including clothing and textiles, electronics, fleet management, office furniture, industrial products, recycling, and services, including call centers and data and document conversion as well.

Revenues range from \$745 to \$885 million annually. FPI is the 36th largest federal contractor when measured by gross sales to federal agencies. Prisoners working in UNICOR factories are paid somewhere between 23 cents to \$1.15 per hour. Can you imagine the uproar in the public or in Congress if we were importing goods manufactured from China and using prison labor there? It is no wonder American-grown companies cannot even compete with a Goliath like that that is paying literally pennies on the dollar where our companies are forced to pay obviously at least minimum wage.

In addition to low wages, FPI does not have to pay employees Social Security, nor the employer's share. It does not pay unemployment compensation, workers' compensation insurance, Federal, State, and local income taxes, gross receipts taxes, excise taxes, and sales taxes. It is not subject to Federal Trade Commission oversight, Securities and Exchange Commission oversight, or Department of Justice review. It even has a special statutory allowance for a line of credit through the Department of Treasury for up to \$20 million at zero percent interest.

On a very bipartisan basis, I introduced H.R. 3634, the Federal Prison Industries Competition and Contracting Act. It was a wide range of support, including lead Democratic sponsors Barney Frank of Massachusetts and Carolyn Maloney of New York, as well as former Judiciary Committee Chairman Jim Sensenbrenner of Wisconsin and former Small Business Committee Chairman Don Manzullo of Illinois. The bill is nearly identical to previous versions that had passed the House by votes of 350 to 65. That was in 2003. And then again in 2006, when a bill passed 362-57.

We must pass, I believe, my bill, and work with our Senate colleagues to pass it in the other body as well. That had been where the holdup had been previous years. I am pleased to report that in the coming days, Senator John Thune of South Dakota and others will be introducing a bipartisan FPI reform bill there.

My narrowly written bill would establish market-based, government-wide procurement policies for purchases that are based on competitive procedures. It establishes competition as the standard for the Federal agencies when they do their purchasing.

Currently FPI, not the buying agency, determines if the product FPI offers and the delivery schedule that it offers meets the needs. That is pretty much backwards from any other procurement that happens. Our bill puts the purchasing decisions in the hands of the buying agencies requiring them to research which products are available on the market, not just to flip through an FPI catalogue and know that they have to take what is being offered. Specifically, our bill requires FPI to compete for business opportunities by removing the mandatory source status that UNICOR enjoys. It requires FPI to complete a probability impact study on private industry before entering into a brand new market. So at this point they are able to just basically say, hey, that sounds like a good idea. We will start expanding into this new area or that other area, and this

would require them to do an impact study. It forces UNICOR to gradually pay competitive hourly wages for prisoners performing the work and makes OSHA standards mandatory at prison factories. And it also prevents UNICOR from selling products in commercial settings and from entering new interstate or foreign commerce contracts.

So H.R. 3634 is mindful of idleness of prisoners as well. I do not think anybody wants to see these guys or these women sitting around not learning a skill or not being kept active, and it does actually address recidivism. It creates new opportunities for prison workers that do not result in unfair competition with private business, particularly small business, and the employees in companies that lose out to FPI, but it allows prisoners within FPI to work for a tax-exempt charity, religious organization, or even local units of government. And I know in Michigan, when I served in the state legislature there, we had kind of a similar situation where there was a bit of a state version of this. And we went in, changed the law, and I was aware of it because having prior—immediately prior to being in the state legislature I had worked as the district director for Congressman Hoekstra, and so I was aware, very much aware of our efforts on the federal level with FPI, so I went into the state legislature looking at if we did anything like that and discovered that we were. So one of the things that we did is we said, okay. We worked with Habitat for Humanity and we now have state prisoners building modules and components of homes for Habitat for Humanity. And then as those would then get shipped off to those building sites it was saving a tremendous amount of time and cost while we were giving prisoners skills that hopefully they will be able to use on the outside, but it also authorizes private businesses to participate in work training and apprenticeship programs for prisoners as well.

It establishes an Enhanced In-Prison Educational and Vocational Assessment and Training Program to help people with release readiness preparation. The Bureau of Prisons' own studies have shown that vocational training programs have historically been the most successful in decreasing recidivism. By giving prisoners the training they need to find and maintain a job once released, we are providing them, their families, and our communities, with the greatest of services, I believe. Taking jobs away from honest, hard-working Americans in the process though, is not how we accomplish this goal.

So again, I thank you very much for the invitation and the opportunity to be with you this afternoon. And we are looking for all the support that we can get for H.R. 3634, and would love to have your participation as we move forward on that. Thank you, Mr. Chairman.

Chairman MULVANEY. Thank you, Mr. Huizenga.

Ms. Chu, I recognize you for as much time as you would consume.

I have just a couple, Bill. Thanks very much.

Oh, I want to recognize Mr. Flores who is here. I will tell you what, as I was getting ready for this hearing I was not really aware of the scope of the Federal prison program. I knew it existed, and I had folks who had used it and competed with it, both back

home, but that number you threw out today, that stuns me that it is, you know, \$750, \$800 million a year. That is a big, big company. Are you telling me, by the way, that story about Michigan, that we actually bought the furniture for the Social Security Administration building in your district from Prison Industries?

Mr. HUIZENGA. Correct. Yeah. We all make it locally. Yeah. And all the Aeron chairs that people sit in are literally made in my district. And I am not saying we necessarily want to have Social Security Administration flooded with Aeron chairs, but that is the scope of it. I mean, all of the system's furniture is centered—the biggest three but also probably out of the top 10 office furniture makers, seven of them are located within the West Michigan area.

Chairman MULVANEY. I had no idea. As you go forward on the bill, something came up in the first panel today I would encourage you to consider, which is—and I think you have in this impact study that you are requiring them to make as they go into new industries, you know, I have got industries in my district that cannot get people. They cannot find labor, specifically agriculture. And it would make sense, it would seem to encourage the Prison Industries to go where there is a shortage of labor, not where there is a surplus of labor, like in textiles or in your circumstance, furniture. So if that is contemplated in your bill, I commend you on that. If not, I would encourage you to consider adding something like that. The competitive wages, by the way, I thought was interesting as well.

What is the pushback on the bill? Have you heard anything yet or not?

Mr. HUIZENGA. Well, other than UNICOR, they are obviously not real interested in moving in that direction. They would like to have as much flexibility and freedom as they possibly can. I can tell you that when we explain it, especially for a number of the freshmen that are coming in who have not dealt with this in the past, you kind of get that same reaction where it is like, really? I mean, we have got three-quarters of a billion dollar industry that is getting run through our Federal prisons.

Chairman MULVANEY. At \$1.15 an hour or something like that.

Mr. HUIZENGA. Yeah. Yeah, 23 cents to \$1.15 an hour. And we ought to maybe take a closer look. So we have gotten very positive feedback on that. And obviously, by those votes, it is rare to see 350+ votes for anything, but you know, this was a culmination of many, many years of work. That 2003 vote, Congressman Hoekstra had started working on this back in the mid-90s, about '97, '96. And where it came from frankly, you know, the office furniture industry is a multi-billion dollar entity. And the dotcoms were going on. When you had a good idea but it was all based on Internet, what did you do? You went and rented some of the most cool office space and bought the most expensive furniture you could find. Right? And so the office furniture industry was just going nuts. And when that dot bomb happened, the dotcom bubble burst, suddenly they were looking for business. They had ramped up to a tremendous amount of output, and they were looking for new areas where they could go.

Well, at that point, UNICOR was doing about \$100 to \$125 million a year in office furniture. Not insignificant, but when you are

a multi-billion dollar industry, it was kind of like, okay, we knew it was sort of happening over here and they were playing some games. They would import parts from certain manufacturers and then they would assemble them in the prisons and they would, you know, they would call it Prison Industries or they would try to come up with some of these partnerships. But when they started looking around for new areas and new avenues to expand their business, a \$100 million target was significant. So that was really what prompted Congressman Hoekstra and Congressman Frank and Ms. Maloney and others to sort of get engaged. And my understanding, I believe it was also textile-related when Mr. Frank and Mr. Hoekstra came together on this. They were sort of coming at it from different industries but with the same outcome, which was seeing private sector jobs disappearing because of mandatory sourcing through UNICOR.

Chairman MULVANEY. I have to ask you one last question I did not get a chance to ask the previous gentleman who was here on our first panel, would your bill ban UNICOR from receiving future stimulus money?

Mr. HUIZENGA. From future stimulus money? That is one of the questions that we have, is whether it has or not. And I need to go back because I am not sure I can answer that accurately. So if I can double-check on that for you and we will get back to you, Mr. Chairman.

Chairman MULVANEY. Thanks, Mr. Huizenga. Unless there are further questions, thank you very much for your testimony today. And we will go ahead and panel the third group. Thanks.

Mr. HUIZENGA. Thank you. I appreciate it.

Chairman MULVANEY. All right. Thanks to the final panel that is making its way up.

In this third group we are going to have Michael Mansh, president of Pennsylvania Apparel, LLC, a small business based in Fort Washington, Pennsylvania with factories in Olive Hill, Kentucky; Macon, Georgia; and Buckhannon, West Virginia. He is also the chairman of the American Apparel and Footwear Association's Government Contractors Committee.

Mr. Mansh, are you here, sir?

Mr. MANSH. Yes, sir.

Chairman MULVANEY. Come on up, please.

I would also like to welcome John Palatiello. John is the president of the Business Coalition for Fair Competition, an organization comprised of trade associations, businesses, and organizations dedicated to free enterprise, relief from unfair government-sponsored competition, and maximum government reliance on the private sector. They are also the organizer of the Federal Prison Industries Competition in Contracting Act Coalition, a group of firms and associations seeking a full and open competitive procurement market with a level playing field between the private sector, especially small business and Prison Industries.

And our third witness is going to be introduced by my good friend from Texas, Mr. Flores.

Mr. FLORES. Thank you, Chairman Mulvaney. I would like to thank you for the opportunity to join your committee today. And I would like to take the opportunity to introduce one of my con-

stituents from College Station, Texas. Rebecca Boenigk serves as the chairman and CEO of Neutral Posture, Inc. She has over 23 years of experience in research development, design, and the manufacturing of ergonomic seating. Ms. Boenigk has grown Neutral Posture to an international company with numerous award-winning patented products. Together, Rebecca and her mother have led Neutral Posture, Inc., from the startup to becoming a publicly held company of nine years. In 1997, Neutral Posture, Inc. completed an initial public offering, becoming the first certified women-owned business to be traded on the NASDAQ. In 2006, Rebecca was appointed to serve on the National Women's Business Council, which serves as advisors to the president, to Congress, and to the U.S. Small Business Association. Rebecca is the immediate past president of the Business and Institutional Furniture Manufacturers Association. She is a past member of the Board of Directors for the Women's Business Enterprise National Council. She is a national founding partner for the Women Impacting Public Policy, and she served on the Board of Directors of the Institute for Economic Empowerment of Women. And I have known Rebecca personally for a long time, and I know she will add value and insight to this conversation today. Thank you, Mr. Chairman.

Chairman MULVANEY. Mr. Flores, thank you for your time. We will start with Mr. Mansh.

**STATEMENTS OF MICHAEL MANSH, PRESIDENT, PENNSYLVANIA APPAREL, LLC, TESTIFYING ON BEHALF OF THE AMERICAN APPAREL AND FOOTWEAR ASSOCIATION; JOHN M. PALATIELLO, PRESIDENT, BUSINESS COALITION FOR FAIR COMPETITION; REBECCA ELIZABETH BOENIGK, CEO, NEUTRAL POSTURE, TESTIFYING ON BEHALF OF WOMEN IMPACTING PUBLIC POLICY**

**STATEMENT OF MICHAEL MANSH**

Mr. MANSH. Thank you. Thank you, Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee for affording me this opportunity to speak today on the adverse impact that Federal Prison Industries has had and continues to have on our business and our industry.

I am Michael Mansh, president of Pennsylvania Apparel, LLC, a company based in Fort Washington, Pennsylvania, with factories operating in Olive Hill, Kentucky; Macon, Georgia; and Buckhannon, West Virginia. I am also a member of the American Apparel and Footwear Association, where I serve as chairman of its Government Contracts Committee, which represents the domestic manufacturing base of clothing, footwear, and textile producers for the U.S. Military.

In November 2002, I appeared before the House Small Business Committee and explained the deleterious impact of Federal Prison Industries on my company and the industry at large. In the last 10 years, I can tell you that things have only gotten worse.

Pennsylvania Apparel has been both a prime contractor and a subcontractor for the Department of Defense for the last 50 years. My company's survival against the unfair and unjust competition from FPI would not have been made possible if it were not for the

efforts of Senators McConnell and Paul and the effective representation of our industry by the American Apparel and Footwear Association.

We are in support of two pieces of legislation that seek to reform the program—H.R. 3634, the Federal Prison Industries Competition and Contracting Act introduced by Congressman Huizenga and H.R. 2312, the DOD Textile and Apparel Procurement Fairness Act introduced by Congressman Walter Jones. One of the most important features of both pieces of legislation is the restriction that they place on FPI from being able to take any contract specifically reserved for small businesses.

When I last appeared, I testified that my company's main product was the Utility Jacket for the U.S. Navy, which was made in Olive Hill from 1987 through 1997. Olive Hill is a small town of 1,600 people located in a HUBZone with high unemployment where my factory alone employs more than 10 percent of the eligible workforce. FPI took that product and I had no ability to fight the decision.

I was able to keep my Olive Hill plant open by securing a contract for the Air Force Lightweight Windbreaker, an item worn by each member of the U.S. Air Force. This item is well-known to many Americans as it is worn by the President of the United States on Air Force One, as well as the Air Force One flight crew. My company and its workers have been successfully and proudly making this jacket for the last 15 years.

In December 2011, I learned that FPI was planning to steal this jacket away from my company when the contract expires at the end of 2012. The law does not require FPI to give me any formal notice of this action or allow me to submit any protest to FPI's legalized theft of this product from my company and its workers. Fortunately, my appearance on FOX and Friends television program allowed me to publicly explain the real and direct impact the FPI program has on American manufacturing jobs, which put pressure on FPI to exercise a waiver of its mandatory source preference the very next day.

While this version of the same story I told 10 years ago ended positively for my company and its employees this time, there are Olive Hill, Kentuckys all across this country who face the threat of FPI every day. Unlike other products procured by DoD, our industry is predominantly one fueled by small business interests. These companies are women-owned, veteran-owned, minority-owned, operate in areas of high unemployment like Olive Hill, and even employ blind and disabled workers under the AbilityOne program. None are immune from FPI's preference.

While we understand the goals of the FPI program, we do not understand the logic behind a federal policy that requires the government to take jobs away from law abiding, taxpaying American citizens as the only way to accomplish the goals of the FPI program. In 2011, FPI reported \$745 million in total sales of which \$238 million was in their clothing and textiles business segment, accounting for 32 percent of their total corporate sales. Moreover, these numbers show that FPI is not following its statutorily mandated responsibility to diversify its business among its seven segments. If that were so, FPI's sales in clothing textiles should have

only been approximately \$100 million in FY11. Can you imagine how many jobs \$138 million could create in the time when unemployment is in excess of eight percent?

In 2002, I stated in my testimony and I quote, "The time for FPI reform is now." In 2012, I submit that the time for FPI reform is long overdue.

In closing, I urge this Committee and this Congress to work with your colleagues in the House Judiciary Committee and the Senate to undertake and pass reform legislation to correct the imbalance that FPI has caused as soon as possible.

I thank you for your invitation to appear before you today and look forward to answering any questions.

Chairman MULVANEY. Thank you, Mr. Mansh. Mr. Palatiello.

#### **STATEMENT OF JOHN M. PALATIELLO**

Mr. PALATIELLO. Good afternoon. Thank you, Mr. Chairman. I appreciate the opportunity before you. Ms. Chu, Mr. Flores.

I am John Palatiello, president of the Business Coalition for Fair Competition. I also have the privilege of being the executive director of maps, a trade association of private mapping and geographic information or systems or GIS firms.

Mr. Chairman, you said you have become much more familiar with FPI. What you probably do not realize is yes, the prisoners are even in the mapping and GIS business. BCFC standards behind what we call the Yellow Pages test, and that is if the government is doing something that you can find private businesses in the Yellow Pages are doing the same thing, we really ought to examine whether the government should be doing that in the first place. This is a classic example of where the Yellow Pages test is being violated.

Mr. Chairman, let me expand upon some of the comments that Congressman Huizenga made and put it this way. If Congress were considering a new procurement system today, does anyone believe it would approve a system where the provider can preempt all other competition in providing products? Or it can be a sole source preferred provider of services, even if services are not even mentioned in their authorizing statute.

Where the provider and not the procuring agencies gets the grant waivers to these preferences, where the customer must buy from the provider, even if the product is inferior in quality, does not meet the buyer's requirements, is higher priced, and cannot deliver on time. Would Congress create an entity to sell services in the commercial market in direct competition with small business? Would Congress permit a contractor to the government to pay significantly less than the minimum wage, let alone the prevailing wage which all other government contractors must pay? Would Congress permit this organization to not pay the employee benefits, like Social Security, unemployment or workers' compensation insurance? Would Congress exempt this entity from federal and state income taxes, gross receipt taxes, excise taxes, and state and local sales taxes? Pay little or nothing for their space, the original construction of their space or have subsidized utilities? Have a special statutory line of credit from the Treasury Department at zero percent interest? Would you exempt them from standards, inspections,

or fines from various federal, state, and local agencies, such as OSHA? Would you exempt them from the Federal Trade Commission or anti-trust laws? Be able to pre-empt local zoning laws? Force contractors to use the entity's products or service or evaluate one federal contractor's qualifications based on their experience in specifying this entity's products and services, such as the way government agencies now require architects and engineers working for the government to specify FPI furniture or to evaluate an architect engineer based on their experience in specifying these products and services?

I do not think Congress would create such a system today, but that is exactly the system that we have in place. So I join with my colleague and say that it is time for reform.

Every year FPI continues to expand in the line of products and services that they provide. Their growth through noncompetitive contracts is formidable. As Mr. Huizenga mentioned, their revenues in recent years have ranged between \$745 and \$885 million. Their annual sales have grown by over \$100 million in the past decade alone.

When Federal and State prisons naively fail to recognize that when their work goes to a prison rather than to a profit-making, taxpaying company, Federal, State, and local government loses tax revenue, there is an increase in unemployment, and the market is reduced. FPI's expansion and encroachment on the private sector, particularly small businesses, forces a reduction in production lines, lays off employees, and some firms even have to close for good.

We believe that H.R. 3634 is a balanced and reasonable solution. We commend you for this hearing and we respectfully recommend that Congress promptly enact FPI reforms.

Thank you for the opportunity.

Chairman MULVANEY. Thank you, sir.

Ms. Boenigk.

#### **STATEMENT OF REBECCA ELIZABETH BOENIGK**

Ms. BOENIGK. Good afternoon, Mr. Chairman, members of the Committee. Thank you for having me. Congressman Flores, thank you for the very kind introduction. My mother and I started our company in 1989. We are located in Texas. We have 85 employees in Bryan, Texas, and six more in Cambridge, Ontario, just outside of Toronto.

I am here today on behalf of Women Impacting Public Policy. WIPP is a national nonpartisan public policy organization that is advocating on behalf of nearly one million women business owners and representing 61 different business organizations.

Women-owned businesses represent one of the fastest growing contributors to our national economy with an impact of \$1.2 trillion annually, a number that would be much higher without the impediments like competing with Federal Prison Industries, also known as UNICOR. I commend the Subcommittee for bringing light to this issue and looking at what is really happening with FPI. And the fact that they are allowed to compete for small business set asides, the Committee has often said that small businesses getting



awards is actually a triple win. For government, the economy, and the taxpayer.

Approximately 25 percent of my business actually comes from federal contracting. We have had a GSA contract for 21 years, and we manufacture ergonomic and multipurpose chairs, which if you were sitting in them you would be much more comfortable than what you are sitting in now.

About 50 percent of our income comes from the Neutral Posture Series, which is the series that was actually our main line when we first started the company, and that is our highest end, most task-intensive chairs, provide the most adjustability. UNICOR's best product is called the "Freedom Chair," and it does not even come close to competing with our chair. The UNICOR price on a Freedom chair is \$729. Our price to the GSA government offices is \$690. And that is one of my most expensive chairs. So when you compare our products to the UNICOR products, almost all of our products come in substantially less from a dollar standpoint, better quality, more features, more benefits, and the fact they cost less and we deliver on time. Our company has to follow all of the issues that have already been said with the OSHA workers' comp, all the things that we have to pay for that UNICOR does not have to pay for.

Mandatory preferences for Federal Prison Industries is not only limited to federal agencies but it is also applicable in some of the states. By using our chairs, the state of Washington actually reduced their injury rate by 60 percent and their workers' compensation costs by 90 percent. Those are pretty significant numbers when you look at what the bottom-line would be to different agencies by using a better, more ergonomic chair.

There are a lot of really senseless regulations out there, and what happened to us with the state of Washington is that the state of Washington decided that they were only going to buy through the prisons but they wanted us to still have the contract. So we were required to sell our chairs to the prisons instead of Washington so that they could then put them together, mark them up substantially, and sell them to the state so the state is getting the exact same product but they are paying about a 25 percent markup for it so that they can run it through the prisons. And that is just complete inefficiency and a waste of money to me.

We are eligible for the women-owned small business program. We were one of the first companies certified through the WSB program. We worked on that for about 11 years to get it in place. If you are familiar with the women-owned small business program, it was actually signed into law under President Clinton. It went into effect last February.

So it is something we have worked on a long time and the fact that now there can be a woman-owned set aside and Federal Prison Industries can actually swoop in and take that away and it does not have to go Small Business. It does not have to go woman-owned. It does not have to go HUBZone or minority-owned.

Also, some of the chairs that are on UNICOR's price list are not even manufactured there. Just like what we do with the state of Washington, those chairs are actually made in large manufacturing companies and then they ship them to UNICOR. They put in a cou-

ple of screws and bolts, put the casters in, and then they say that that is their product. So there is not a lot of manufacturing that is going on in these facilities.

Another issue that we have just learned recently is that there are chairs that cannot get on the GSA schedule because they are made in China. And because they are made in China, they are not allowed to be on schedule. So the work around for that is now they ship those chairs in a box from China to the prison. The prison puts the chair together, and now all of a sudden it does not have to pass the same rule that I have to do. I cannot bring that chair in, assemble it in my facility, and sell it to the government. But the prisons are allowed to do that.

If the agency wants to buy from us, sometimes they have to get a waiver. I heard earlier that FPI says that they grant a lot of waivers. The biggest issue that we have is that most of the time the agencies do not even know that they can get a waiver. They just understand that UNICOR is first and that is who they have to go to. And if UNICOR does not have it they can look somewhere else, but they get the preference.

Now UNICOR is also trying to compete in the commercial market. So this is their new brochure that they put out under the name of Office Furniture Group. So they are not telling people that these are made in prisons. They are out there, in my biggest trade show last month with a 30 x 30 booth that they probably paid over \$100,000 for, competing for commercial business. So now not only am I competing with them for government business; I am now competing with them in the commercial market.

We estimate in the last 10 years we have lost about \$10 million to FPI. That \$10 million would be about—when you think about what we could have done with that reinvesting in our company, reinvesting in jobs. We just lost an order last month, a \$250,000 order, that went to UNICOR. I understand that they say they are trying to train these people to go out and get jobs but there are not going to be any small furniture manufacturers left if they continue to grow the way that they are growing right now.

I understand the Committee has put together and successfully passed a series of procurement reform bills which can best be described as small contracting wish lists. WIPP really applauds your efforts and increase in facilitating government partnerships with small firms. This is one area that really needs to be reformed.

On behalf of the Women Impacting Public Policy, Neutral Posture, and all the small businesses that are impeded by FPI, I want to thank you for the opportunity to appear today, and I am happy to take any questions that you may have.

Chairman MULVANEY. Thank you, Ms. Boenigk.

For questions we will start with Ms. Chu.

Ms. CHU. This is for anybody on the panel. One of the FPI reforms that was implemented by Congress was a private program to allow private businesses to use prison workers to make products that could be for sale on the open market. What do you think about this program? Is this also a problem or is there a way to improve those types of partnerships?

Mr. PALATIELLO. I will go first, Ms. Chu. I think there are two problems with that. First of all, I think commercial market ven-

turing is a slippery slope. I mean, once you open that door you have seen what they have done in the federal market and the way they have been able to grow. You allow them into the commercial market and I think all bets are off.

Secondly, I think from a management standpoint this may look like a very attractive solution, but from a labor, from an employee standpoint, you are still displacing workers. And particularly in a time of high unemployment, I do not think that is a route we should be going today. We should be putting law abiding, tax-paying, hard-working Americans back to work before we start creating further work programs through commercial market entry.

Mr. MANSH. I guess the only comment I could make is as a small domestic manufacturer in the apparel industry, the core of the DoD marketplace, people like myself that manufacture clothing and textile products, primarily depend on DoD for their work. We do not have commercial businesses. Most of us do not compete in the commercial world. If FPI were allowed to do that, that would be in my view okay, and I understand John's concerns. What I do hear though, and I heard them say this this morning, FPI commented this morning, that their employee levels have decreased. So any commercial business they have, their intention is to only grow their sales back to what it was, not to give the work back to us. So I really do not see an advantage in what is being offered with that concept, how it is somehow going to benefit small manufacturers like myself and the nice lady down at the end of the table that makes furniture.

Ms. CHU. Well, how about the idea of bringing back manufacturing jobs for the types of products that have been lost to overseas competitors? Would that be a better route to go? What is your opinion on that?

Mr. MANSH. The same for a commercial manufacturing company like me. I think the goal that I have had certainly for the last 10 years and the AAFA, American Apparel and Footwear Association has had all this time is to get the work that we have all focused on away from FPI and not have them be my competitor. If they have other ways to keep their workforce occupied, that would be good. As Congressman Mulvaney said, I think it is a great idea that they work in agricultural jobs where the jobs are wanting, rather than take jobs in an industry that is already in decline and impacted by foreign competition, particularly from China in terms of apparel manufacturing.

Mr. PALATIELLO. Ms. Chu, I have given that question a lot of thought over the years and I am not terribly comfortable with it for this reason. As I outlined and my colleagues have outlined, the process today is that FPI gets to be basically judge, jury, and prosecutor in deciding what lines of business they enter into. If you allow them to determine what is offshore and is to be repatriated and they get to make that decision, my concern is it is going to further exacerbate problems here in the United States. If we were to enter any kind of repatriation program, I would want to see some independent certification by SBA, by the Commerce Department, by the Labor Department that indeed no U.S. worker or firm would be adversely affected. But if you give FPI the carte blanche author-

ity to repatriate, I think their track record is that they are not going to be very sympathetic to the impact on U.S. business.

Finally, I do not see the logic to look at Mr. Mulvaney's district, for example. We have lost so much of our domestic textile capability so now we are going to say we are going to give textile work to prisoners instead of trying to rebuild that industry in South Carolina? I do not think that makes a lot of sense either. So the repatriation sounds good. I have great difficulty on how it would actually work.

Ms. BOENIGK. On the part with the products coming in from China, I mean, this is already happening. So when you say that you are trying to repatriate the jobs, you are actually putting more jobs in Asia. The particular chairs that I am talking about, I mean, I was in the factory in China in March. I watched them go in a box. I watched them get shipped out the door. They went supposedly to a Canadian company who then shipped them to the prisons, which means those dollars did not touch a U.S. job anywhere. They went from Prison Industries to a Canadian company that was the pass-through, straight to China. So this is just going to make it worse that now we are allowing them to bring in China product. It is going to be even harder for American companies to compete.

Ms. CHU. You heard this morning about the positive aspects of the program which is that it prevents recidivism. At what kind of industries do you think the FPI program could go into then?

Ms. BOENIGK. You know, when you look at the jobs that cannot get outsourced, the jobs that cannot get outsourced are jobs like being a plumber or learning how to do HVAC. I understand that those jobs cost a little bit more to train them how to do these things, how to work a lathe, how to learn Microsoft Office so that when you leave you understand how to go and work a computer. Those are much better ways to train these people. They are not getting real skills by inserting some casters and some screws into a chair.

Mr. PALATIELLO. Ms. Chu, I would remind you of what was discussed this morning, and I want to commend the Committee staff for the memo that they prepared for the members on this hearing. And look at the chart in that memo. This is from FPI's own study, the prep study. What it showed is there are programs that have a much better record with reducing recidivism than FPI. That is where we ought to be focusing our attention because number one, they are more successful; and number two, they do not adversely impact the private sector.

So if we have a program that works and has a minimum adverse impact, that is where we ought to be going. That is addressed in Mr. Huizenga's bill. Mr. Huizenga's bill is not just about small business and procurement; it is balanced in that it does provide other opportunities for training, rehabilitation, and education of the inmates. So I think it is cognizant of the societal issues that we have to address but I think there are better ways to do it than FPI.

Ms. CHU. Thank you. I yield back.

Chairman MULVANEY. Thank you. I now recognize Mr. Flores from Texas for five minutes.

Mr. FLORES. Thank you, Mr. Chairman. And thank each of you for appearing today. And as Mr. Mulvaney said earlier, this is something new to me. I am learning more about it and I do not like what I hear. So.

I have questions for each of you and I will try to get through it fairly quickly. Each of you, Mr. Palatiello, you are part of an organization and Ms. Boenigk, you are actually here representing an organization. Mr. Mansh, you are here to represent your company. Is that right?

Mr. MANSH. As well as the American Apparel and Footwear—

Mr. FLORES. Okay. I am sorry. I missed that earlier. On behalf of each of your associations I want to ask you, can you tell me what each of your associations has come up with as far as the overall potential revenue damage that has happened to each of your industries or the impact on jobs because of FPI's growth into each of your business spaces? I can start with whoever wants to go first.

Mr. MANSH. In my testimony I believe I commented, and I think it was \$238 million in sales that UNICOR had in 2011. 2010. 2011, \$238 million. So from our perspective, as the apparel industry goes, that is \$238 million in lost opportunities.

Clothing and textiles for DoD, at least the part that we can measure, and again, the core business that we all do is bought out of DLA, Defense Logistics Agency Troop Support's location in Philadelphia. They are approximately a \$2 billion a year business. So if they did \$238 million, they represented somewhere in the range of 10 percent of the work. From a job standpoint, thousands would be what I would say. Thousands.

Mr. FLORES. Mr. Palatiello.

Mr. PALATIELLO. Mr. Flores, I would love to be able to answer your question with some specific data but unfortunately, we cannot. And the reason why is Federal Prison Industries, unlike all other government contracts, their sales by contract is not reported through the Federal Procurement Data System. So if I want to go in and say, for example, how much mapping work has FPI done for the federal government, what agencies, what kinds of services have they done, I cannot get that information. It is not public information.

I will give you another example to follow up on a question.

Mr. FLORES. Let me interrupt for just a minute. And remember your example but what I was thinking about, if you come at it from the other side, do your members have a feel for what they have lost versus what FPI is doing? Do you have a feel for that?

Mr. PALATIELLO. I think they are one in the same.

Mr. FLORES. Well, sometimes they are. I mean, anyway, keep going. You have another example.

Mr. PALATIELLO. Well, another example of the lack of transparency. There was a national public radio story a couple of years ago about, you know, a lot of the big signs that you saw that said this project was funded by the ARA Stimulus Bill. NPR did a story about a Corps of Engineers project. That sign was made by Prison Industries. So Congress passed the bill to put Americans back to work to stimulate the economy. That work, we know of some work that went to Prison Industries. We tried to find out how much. My staff did an inquiry with the recovery transparency board. What

they said was because that is an agency-to-agency transfer, they did not capture that data. Mr. Huizenga's staff tried to get that information. They could not get it either. So those are lost opportunities where the intent of the money was to put Americans back to work. We know of some examples where it went to the prisons.

The testimony this morning was that FPI discussed how many waivers they granted. I need to check. I am on shaky ground here. I do not believe the waiver process is actually spelled out in the federal acquisition regulations. I think your counsel probably knows that better than I. So when Mr. Mansh mentioned that or Ms. Boenigk mentioned that the agencies that are buying are not aware of the waiver process, FPI does not really inform them that they can grant that waiver.

So what we would like to know is, for example, during the time that the stimulus money was being spent, when an agency was placing an order with FPI, did FPI stop and say to the agency, is this contract being funded with stimulus money? Because if it is, we will grant a waiver because what Congress really intended for that money to go to the private sector, to reduce unemployment, and put Americans back to work. I would venture to say that that disclaimer was not extended and those waivers were not granted.

Mr. FLORES. Ms. Boenigk, on behalf of WIPP, do you have a feel for what your association's revenue and job loss are?

Ms. BOENIGK. I do not, and I just asked and we do not have that information today. I can tell you that for our industry, from a furniture standpoint, the last numbers I got, and again, they are a little bit difficult to get, but put FPI at about \$250 million in their furniture division. So they are ten times bigger than my company, so I would say that is roughly 1,000 jobs that we do not have in the furniture industry because those products are being made by prisoners.

Mr. FLORES. Okay. What stimulated this is that you said you felt like the value of lost business to you over the last 10 years was roughly \$10 million if I heard correctly. And so I was just trying to get a macro feel for what this has done.

Another question or another comment that was raised had to do with the sourcing of products overseas, bringing them to here, re-packaging them as an FPI product. Is that happening in the services industry or just in the harder industries as far as you know?

Mr. PALATIELLO. Well, to the best of my knowledge that is on the product side and not so much on the service end.

Mr. FLORES. I just wanted to make sure they were not finding a way to do it on the service side. It is bad enough that it is happening on the product side.

Mr. MANS. Mr. Flores, let me just, if I may.

Mr. FLORES. Sure.

Mr. MANS. Because I learned something from my colleagues here today. When Mr. Hoekstra was in Congress, I remember he and I were together at a meeting of the board of FPI and this probably goes back 8 or 10 years now. Their board passed a policy saying that they would no longer do pass-through work. And so to hear today that it is still going on, then FPI is violating its own Board of Directors' policy.

Mr. FLORES. Which brings me to my next question. Mr. Mansh. Do you have a feel for what—let me ask it this way. Is some of your business—let me rephrase that. Is some of RPI's product line coming from foreign sources in your line of business as far as you are aware?

Mr. MANSH. That I am aware, because everything I sell goes to the Department of Defense.

Mr. FLORES. Okay. All right. And Ms. Boenigk, what percentage of FPI's furniture-related products do you think are coming from foreign sources?

Ms. BOENIGK. This one chair in particular or one company that we know for sure is doing this, we figured last year just by looking on the usspending.gov website, saw around \$11. And that was one company. So I think it is probably pretty high.

Mr. FLORES. Okay. All right. Thanks. Ms. Boenigk, in your experience, how difficult is it for an agency to get a waiver?

Ms. BOENIGK. The few times that agencies have told me that they tried to get a waiver they were denied. It is something that I do not have a lot of experience with. Most of the time when we go in we are just told, oh, FPI won because they had a mandatory source. We cannot go around that. But the fact that recently we have seen them come in and take away the small business set asides, that is what really got me going for this trip.

Mr. FLORES. Okay. In terms of how often it occurs, is it fairly frequently it sounds like?

Ms. ANDERSON. It is frequent in that we just lose because FPI just takes the award. Even if we have a specified product, they can come in and take it away. They go in and convince the agency that they do not have a choice; that they have to buy from them.

Mr. FLORES. Okay. And the one last question for each of you. I think each of you talked about this or at least implied it in your testimony. You have to comply with sets of federal and state regulations that FPI does not have to. How does that affect your bottom line? I mean, you have a cost to comply with these regulations; FPI does not have to. So you are already at a competitive disadvantage. You are paying market wages but on the regulatory side, do you have a feel for how badly that hurts you vis-à-vis where you would be if you were on the same playing field with FPI? Again, exclude labor, just talk about regulations.

Ms. BOENIGK. All right. Some of the things that they did not talk about earlier is health care. I mean, we pay a tremendous amount for health care. And after today, I am assuming I am going to pay a tremendous amount more.

Mr. FLORES. Not if I can help it.

Ms. BOENIGK. So, I mean, that is one of the issues. Also, all of their printed materials, they have a federal printing shop that prints all of their marketing materials for them. So every aspect of how they run their company, industry, is they get it for pennies on the dollar from what we have to pay. We have to pay for product liability insurance. They do not pay any liability insurance. So there is a lot more than just what was mentioned earlier.

Mr. FLORES. Well, I appreciate each of your testimony and I am going to yield back.

Chairman MULVANEY. And I appreciate, Ms. Chu, for allowing Mr. Flores to be here. He is always welcome, members, folks on the Committee. Thanks, Bill.

I have got questions all over the place because this has been a tremendous learning experience for me so I will go in no particular order. Mr. Mansh, I do not want to ask you questions and Ms. Boenigk that are too personal and private to your company because I assume they are privately held. Right? Both of them are?

Mr. MANSH. Private.

Ms. BOENIGK. Yes. We are all private. We are private now.

Chairman MULVANEY. Ballpark, profit margins? Bottom line.

Mr. MANSH. Gross or net?

Chairman MULVANEY. Gross. Before pre-tax.

Mr. MANSH. I think everybody tries to start at seven to eight percent.

Chairman MULVANEY. Ms. Boenigk.

Ms. BOENIGK. That is a pretty good average.

Chairman MULVANEY. I am sitting here looking—

Ms. BOENIGK. We are an S-Corp so all of the profits come through, you know, flow through to the shareholders. Basically, me and my mom.

Chairman MULVANEY. You would be surprised how many folks in Congress do not understand how that works. But we actually do understand it.

I am looking at UNICOR's from last year and it was roughly eight or nine percent on a pre-tax basis, which I assume is the only basis they have because they do not actually pay any taxes.

Ms. Boenigk, as sort of a back of the envelop analysis in response to Mr. Flores's question, I will ask you the same question regarding the impact on jobs. In UNICOR's participation in the apparel market, how big is your company in terms of revenue, Mr. Mansh?

Mr. MANSH. Revenue. Currently? \$10 million, \$11 million.

Chairman MULVANEY. And you employ how many people?

Mr. MANSH. Approximately 250 right this minute.

Chairman MULVANEY. So again, the same type of the back of the envelope analysis that led Ms. Boenigk to sort of calculate that maybe in her industry it is costing a thousand jobs. I do not know if I do the math on that. If you are doing \$200 million worth of revenue within the apparel business and that is 20 times the size of your company, that is 5,000 jobs, I think.

Mr. MANSH. Five thousand.

Chairman MULVANEY. In Apparel.

Mr. MANSH. That is not a bad estimate.

Chairman MULVANEY. A couple different things. Oh, by the way, Mr. Palatiello, you mentioned something that staff was able to help me on about the waiver process, that it is not set out indeed as you mentioned in the FAR. You actually have to go to the UNICOR website to find out the process on how to get the waiver.

And again, I do not want to beat up on UNICOR when they are not here. I want to make one thing perfectly clear that we ordinarily do this in the opposite order for exactly this reason. I do not like to beat up on people when they are not here, so usually let the private sector go first and then let the agency come up and defend themselves. I think that is a helpful back and forth and get some



balance in the thing. So I do not want to be perceived as beating up on somebody who is not present.

It stunned me, the size of this company. The \$750 million worth of revenue, \$62 million in earnings, someplace between 10,000 and 13,000 employees. I am wondering what they are doing competing with you all. They should be competing with General Dynamics and Boeing. They should not be competing with Ms. Boenigk and Mr. Mansh. They are in the GPS business now, Mr. Palatiello? Tell me about that.

Mr. PALATIELLO. Both federal and a number of state prisons are actually doing geographic information systems. They are doing scanning. They are doing digitizing. They are doing data conversion, data entry, making maps, building geographic information systems.

Chairman MULVANEY. Now, you mentioned that it was difficult, if not impossible, to get a feel for the size within that particular industry. Why is that? Why is that information not made public?

Mr. PALATIELLO. If I have a contract with the Department of Defense, when that contract is awarded, the contracting officer fills out a standard form and it goes into a database, into something called the Federal Procurement Data System. So that when you and your staff want to look at or I want to look at a market and say what is going on in federal procurement in this area, the data is there. That same process does not occur in a transaction between the Department of Defense and Federal Prison Industries. It is not reported as a procurement transaction. So if I want to do market research to find out what share of the market in mapping or data services FPI has, that is not publicly available information.

Chairman MULVANEY. You mentioned something, Mr. Palatiello about commercial market entries. Am I correct in assuming—and again, I am early in the learning curve on this process—that FPI UNICOR is not permitted to sell into the private sector right now? It is only to government contracting or is that not the case?

Mr. PALATIELLO. When FPI was created in the '30s, there was a specific provision in federal law that says that prison-made products may not go into the commercial market. Now, think about this. What kind of economy did we have in the 1930s? We did not have a service-based economy. So during the Clinton administration, the Justice Department issued an opinion that said since Congress did not specifically say products and services, then that means that provision-provided services can go in the commercial market. This is not a partisan issue. This opinion was continued during the Bush administration. FPI did go through a public notice on their intent to enter the commercial market for services. They got a very adverse public comment reaction to that. And so they have backed off of that. But there is a valid Justice Department memorandum in the record that gives them the authority to enter the commercial market in services if they should wish to participate.

Chairman MULVANEY. Ms. Boenigk, you had something you wanted to add to that.

Ms. BOENIGK. Yes. They are doing it on the product side, too. If you go onto UNICOR's website, actually, it asks you if you are eligible to buy from them. And of course, all government agencies are

eligible to buy from them, federal, state, local. But now they have a new thing. If you are a government contractor and you are going to use the product in the government contract—so in my case, if you are going to employ people for that contract that need chairs to sit in, you can buy those chairs from UNICOR.

Chairman MULVANEY. Okay.

Ms. BOENIGK. So they are able to sell it to the commercial market now.

Chairman MULVANEY. That is what struck a chord with me because my limited experience exposure to this is actually in the private sector. I know folks in the private sector buying things from the prisons. And my guess is that is probably through that loophole.

Is it possible, by the way, that the state prisons allow a different program? That state prisons allow sales into the private sector?

Mr. PALATIELLO. Yes. There are state prisons that actually have retail stores where you can buy prison-made products from a state-run retail store. So yes, it is a different body of law. But again, with Ms. Boenigk's example, there is a nexus still to government contracts. But again, you talk about a slippery slope. Between what they are doing in services and what they are doing now in extending themselves to a government contractor, it is sort of a camel's nose under the tent—pardon me for mixing my metaphors—but that is commercial market entry.

Chairman MULVANEY. And I hate to keep jumping around. Ms. Boenigk, you mentioned the story about the China chair story, that somehow because the product came from China, through Canada, through Prison Industries, it was allowed to be sold, but if you had done the same thing you would not have been allowed to sell that to the government. Why is that?

Ms. BOENIGK. Because the Made in America Act, I am not allowed to sell any product to the government that is made in China. And if I had bought it from Taiwan or somewhere else, but if you buy it from Taiwan, it is better quality. If you buy it from China, the quality is not as good. So I cannot bring in that product and sell it, but somehow or another they are getting away with this. There is lighting that is coming in, and because these companies cannot get their lighting on GSA because it is made in China, they just make a deal with UNICOR so they can bring it in and sell it through UNICOR.

Chairman MULVANEY. Is UNICOR explicitly, Mr. Palatiello, if you know, are they explicitly exempt from those Made in America rules or are they just doing it in violation of that particular—or allegedly doing it in violation of that provision?

Mr. PALATIELLO. I honestly do not know. I would not want to hazard a guess.

Chairman MULVANEY. You mentioned about the Board of Directors not enforcing their own rules. Who is the Board of this company?

Mr. PALATIELLO. There are officials from the Justice Department and then there are individuals from the private sector that are appointed by the president to serve on the board.

Chairman MULVANEY. I am fighting every urge not to make a reference to the Justice Department not enforcing the Justice rules

but I will leave that for another day. Yeah, I am not going to insert that.

Mr. Mansh, very quickly—

Mr. PALATIELLO. I forgot to mention the attorney general or health care.

Chairman MULVANEY. That is exactly right because I am trying to wrap up here because I see that Ms. Pelosi is speaking, which means we are getting close to voting.

You mentioned 3634. Mr. Huizenga was very nice to come in and tell us about that. You also mentioned 2312. Briefly, can you tell me what that does and why you like it?

Mr. MANS. My staff member is back here and he has more detail than I do, the specifics of the bill.

Chairman MULVANEY. If you would want to give it to us after the record, for the record, that would be great.

Also, Ms. Boenigk, you brought something that I would like to have for the record, which is the printout of the UNICOR, I guess, brochure.

Ms. BOENIGK. Right.

Chairman MULVANEY. And you are telling us that is done on a government printing program? That the government gives them that?

Ms. BOENIGK. That is my understanding. This is one you can actually print off their website. So I printed this off their website. But we did take pictures at NANCOM, which is our biggest tradeshow. They were there. And if you went into their booth, at no point did they tell you that they were Federal Prison Industries.

Mr. HUIZENGA. Mr. Chairman, FPI has their own printing capability. That is one of the services that they provide to federal agencies, so I would imagine it is FPI that is printing their brochures and their marketing materials.

Chairman MULVANEY. Finally, Mr. Palatiello, you were kind enough to mention the story that I had heard about as well, one of the few things I had been exposed to before this hearing was the story about the transportation signs being built by Prison Industries as opposed to being purchased from private sector as part of the Stimulus Program. Are you familiar also, sir, with the Motech Industries circumstance with the solar cells that are being purchased from Prison Industries?

Mr. PALATIELLO. I am not as deeply versed in that but I understand similarly that there have been difficulties where, again, stimulus money, green technologies that we seem to have a national interest in developing and the issue is this. Whether you are talking about mapping or you are talking about solar, I have to give FPI credit. They have a very good ear to the ground on what is going on in the economy. Not to avoid your question but I will answer it with something I am very familiar with. The mapping and geospatial profession has been identified by the Labor Department as one of the 12 or 13 highest growth areas of our economy. As you know, Mr. Chairman, because we have had other conversations, the mapping profession suffers from overall government competition, whether it is NOAA or the Forest Service or Bureau of Land Management, there are agencies that do their own mapping. My association has worked hard to try to get that work contracted to the

private sector. When FPI entered the mapping and GIS business, the gentleman, Mr. Sibal said, well, we are more than willing to receive public comments, meet with people. We did that. And we met with the FPI staff and said you are getting into the mapping business. We are concerned about that. And their answer was, well, we want to congratulate your association. We see where you have been able to get a lot more federal work outsourced. We are going after that market since you guys have opened it up.

So I give them credit. They are very aggressive marketers. They do a lot of market research. So whether it is solar or GIS or furniture or textiles, they are looking at market opportunities. And I think in a very predatory manner, they jump in to compete with the private sector.

Chairman MULVANEY. Thank you, everybody, for coming today. I very much appreciate it. It strikes me that this is something that we will be doing more on, not less. I want to commend Mr. Huizenga for, especially for proceeding in as bipartisan a fashion as possible. It is nice to be able to find—one of the nice things about this Committee is that we do have the ability to put together some bipartisan initiatives and reforms and it seems like this might be an area that screams out for that type of attention.

Again, no offense intended to the first witness today, but I had no idea some of this was going on, and I can assure you that with the permission of the chairman and the ranking member of the overall committee this will not be the last hearing that we do on this.

With that, unless anybody has anything else, I will ask unanimous consent that we have five legislative days to submit the statements and supporting materials for the record. We may actually have some follow-up questions for you, and we also may go ahead and make available to you the written responses to our questions that we did not get to ask the first gentleman from UNICOR or from the Department earlier today.

So with that, if nothing further, we are adjourned. And thank you everybody for coming.

[Whereupon, at 3:39 p.m., the Subcommittee was adjourned.]



# Department of Justice

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STATEMENT OF

PHILIP J. SIBAL  
SENIOR DEPUTY ASSISTANT DIRECTOR  
FEDERAL PRISON INDUSTRIES, EDUCATION,  
AND VOCATIONAL TRAINING DIVISION  
FEDERAL BUREAU OF PRISONS

BEFORE THE

SUBCOMMITTEE ON CONTRACTING AND WORKFORCE  
COMMITTEE ON SMALL BUSINESS  
U.S. HOUSE OF REPRESENTATIVES

ENTITLED

"UNLOCKING OPPORTUNITIES: RECIDIVISM VERSUS FAIR COMPETITION IN  
FEDERAL CONTRACTING"

JUNE 28, 2012

**Philip J. Sibal**  
**Senior Deputy Assistant Director**  
**Federal Prison Industries, Education, and Vocational Training Division**  
**Federal Bureau of Prisons**

**Subcommittee on Contracting and Workforce**  
**Committee on Small Business**  
**U.S. House of Representatives**

**“Unlocking Opportunities: Recidivism Versus Fair Competition in Federal Contracting”**  
**June 28, 2012**

Good Morning, Chairman Mulvaney, Ranking Member Chu, and Members of the Subcommittee. I appreciate the opportunity to appear before you today. My name is Philip Sibal, and I serve as the Senior Deputy Assistant Director of Federal Prison Industries (FPI or trade name UNICOR), a government corporation and a component of the Department of Justice. FPI is a part of the Bureau of Prisons (Bureau), in the Industries, Education and Vocational Training Division.

Today there are almost 218,000 federal inmates housed in 117 federal prisons and privately operated facilities under contract with the Bureau. The mission of the Bureau is to protect society by confining offenders in facilities that are safe, secure, and cost efficient, and to provide opportunities to inmates for self-improvement necessary for a successful re-entry to society. FPI is the Bureau’s most important correctional program—it supports reentry and reduces recidivism, and contributes significantly to safety and good order in federal prisons. While it operates as a business, the real output is inmates who are trained in marketable job skills so that they can return to the community as productive members of society.

FPI was established by statute and executive order to provide opportunities for training and work experience for federal inmates without need for Congressional appropriations. The year was 1934, when unemployment in this country was at 22%. Nevertheless, Congress recognized the importance of creating a real-world environment in which inmates would learn the valuable skills needed to become productive members of society. This program produces goods sold to federal agencies, absorbing a small share of the federal market. The enabling statute created a procurement preference (deemed "mandatory source") for FPI, requiring federal agencies to purchase products on FPI's "Schedule of Products." The mandatory source was necessary to ensure sufficient work opportunities would exist for the inmate population without the need for the corporation to expend resources marketing their goods to federal agencies. Congress wanted to ensure that this important government program would be financially self-sufficient. More than 75 years later, FPI continues to operate without any congressional appropriation. Moreover, consistent with its statutory mandate, FPI seeks to diversify its product lines to preclude an undue burden on any single industry. FPI is aggressively pursuing business opportunities consistent with the new legislative authorities regarding products made outside the U.S.

FPI is, first and foremost, one of the federal government's leading evidence-based programs to reduce recidivism and promote the successful re-entry of offenders back into our communities. The Bureau releases approximately 45,000 inmates per year back to communities around the country. FPI is critical to the Bureau's efforts to prepare these inmates to successfully reenter society: inmates who work in FPI are 24% less likely to reoffend and 14% more likely to be employed upon release when compared to similar inmates who did not work in

FPI. FPI provides the greatest benefit to inmates who are at the greatest risk of recidivism. Finally, FPI is also critical to the Bureau's efforts to manage safe and orderly prisons. Inmates who work in FPI are substantially less likely to violate prison rules as compared to similar non-participating inmates. This is particularly important in high and medium security institutions, as these institutions are extremely crowded.

Part of FPI's revenue is paid to inmates as wages for the time they spend working in the program. Inmates are required to use half of their wages to satisfy financial obligations, including assessments, fines, and restitution; the remainder can be used to provide support to their families or make purchases from the commissary. Thus, FPI inmate wages – wages that are not paid with appropriated funds or taxpayer dollars – directly and positively impact crime victims, the courts, and inmate family members. Indeed, in FY 2011 inmates who worked in FPI contributed more than \$1.6 million of their earnings toward meeting their financial obligations (e.g., court-ordered fines, child support, and/or restitution).

Additionally, the overwhelming majority of FPI's expenditures - approximately 78% - go to purchases from private vendors, with more than half a billion dollars spent on raw materials, equipment, and services from private sector businesses. Approximately 40% of these purchases are from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. In recent years, FPI has faced formidable challenges to its ability to continue to operate as a self-sustaining inmate program. The economic downturn in the country, coupled with the constrained budgets of many of FPI's federal agency customers and changes to procurement laws and policies, have resulted in a significant decline in inmate jobs. As a result,



FPI has had to close or downsize 43 factories. Today the FPI program serves less than 13,000 inmates, 7% of the inmate population in Bureau institutions, down from 23,000 inmates just 5 years ago. Over the same time period the federal inmate population has *increased* by more than 25,000 offenders. The loss of work opportunities within FPI translates into more than 15,000 inmates who have been released back to our communities without having the benefit of the skills training and work experience that is proven to be effective in reducing recidivism.

The federal inmate population continues to increase each year, with an average sentence length of more than nine years. Effective inmate programs are critical to our ability to operate safe and secure prisons and to reduce recidivism. Such programs are critical to reducing recidivism and protecting the public.

Chairman Mulvaney, Ranking Member Chu, and Members of the Subcommittee, I thank you for the opportunity to testify today about Federal Prison Industries – one of the Bureau’s most important reentry and recidivism-reduction programs – and a critical piece of the Bureau’s public safety mission. This concludes my remarks. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

**STATEMENT OF REPRESENTATIVE BILL HUIZENGA  
Before the House Committee on Small Business  
Subcommittee on Contracting and Workforce**

**Unlocking Opportunities: Recidivism versus Fair Competition in Federal Contracting**

**June 28, 2012**

Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee, thank you for the invitation and opportunity to be with you this morning.

Competition with the private sector by Federal Prison Industries is an issue that is important to the nation, and near and dear to the 2<sup>nd</sup> District of Michigan.

As some of you may know, my predecessor in Congress, Pete Hoekstra, was a leader on the issue of Federal Prison Industry Reform.

When I was District Director for Representative Hoekstra, a new Social Security Administration office opened in Holland, Michigan. The new office was literally a stone's throw away from one of west Michigan's many office furniture manufactures. Despite this, the Social Security office was forced to purchase chairs and furniture manufactured by FPI, a government owned corporation, instead of our local manufacturers. In fact, the private companies in the district never even had a chance to bid on, or compete for, the contract to supply the furniture.

The impact from FPI hits communities all over America. Our colleague Carolyn Maloney has been a long-time supporter of this initiative since the Glamour Glove Company on Long Island had its existence threatened by FPI. Many of Ms. Maloney's constituents were employees of the company. Glamour Glove Company lost 80 percent of its glove business before a compromise was negotiated with FPI.

Ace Electronics of Bel Air, Maryland, and Troy, Michigan, manufactures wiring and cable assemblies, fiber optics, connectors, and other products. Ace employs designers, engineers, and manufacturers. Ace will likely lose out to FPI on a \$300 million contract because of the rule that allows FPI to capture up to 5% of market share.

General Linen Service of New Hampshire was forced to compete for a contract against the prison system that they had previously serviced without incident. This Textile Rental Services Association member was informed that their service contract was being terminated and awarded to the prison system without any reason given. The company insisted on being allowed to compete with the prison system for the previously held contract, and eventually won the contract back. However, the costs of having to re-compete and restructure a previously existing contract, as well as making any changes to the contract in order to keep the business, caused a considerable impact on this business.

Federal Prison Industries, or UNICOR, is not an insignificant operation. They occupy more than 4 million square feet of manufacturing and service space. FPI is far from a small business. This bureaucratically run corporation competes with private sector job creators in over 300 individual products and services. It is comprised of seven divisions including: clothing and textiles, electronics, fleet management, office furniture, industrial products, recycling, and services, including call centers and data and document conversion.

FPI has revenues that have ranged from \$745 million to more than \$885 million annually in recent years! When you put FPI up against all other Federal contractors, they are the 36<sup>th</sup> largest entity by rank, when measured by gross sales to Federal agencies.

In fact, within a few hours drive of this committee hearing at the Capitol, UNICOR is producing awards and plaques, and even clothing for our members of the Armed Services, with labor being paid only 23 cents to \$1.15 per hour! Can you imagine the uproar from the public if we were importing goods manufactured by prison labor in someplace like China? It's no wonder our American grown companies have difficulty competing against this goliath, government-owned corporation.

Concerning the abnormally low wages paid to laborers, FPI is not even paying the standard minimum wage \$7.25. Additionally, the private sector is required to pay the prevailing wage rate under Davis-Bacon or the Service Contract Act.

In addition to the low wages, FPI does not have to pay employees Social Security, nor does it pay the employer's share. It doesn't pay unemployment compensation or workers' compensation insurance. FPI is exempt from all Federal, State, and local income taxes, gross receipts taxes, excise taxes, and sales tax. It is not subject to Federal Trade Commission oversight, Securities and Exchange Commission oversight, or Department of Justice oversight. FPI does not pay fair market value, or in some cases, pay for utilities. It even has a special statutory allowance of a line of credit from the U.S. Treasury for up to \$20 million at zero percent interest.

UNICOR is exempt from all standards, inspections, and fines of various local, State, and Federal enforcement agencies, such as OSHA. FPI does not have to comply with local zoning, and because it enjoys sovereign immunity, it is not required to pay taxes. FPI does not carry health insurance costs, nor does it have to comply with family and medical leave. I don't know of any small businesses that have this kind of advantage.

While congress has attempted to create an even playing field on several occasions, this goliath company called UNICOR, continues to maintain unfair access to federal contracts.

On a very bipartisan basis, I introduced H.R. 3634, the Federal Prison Industries Competition in Contracting Act. It has a wide range of support, including lead Democratic cosponsors Barney Frank of Massachusetts and Carolyn Maloney of New

York, as well as former Judiciary Committee Chairman Jim Sensenbrenner of Wisconsin and former Small Business Committee Chairman Don Manzullo of Illinois. The bill is nearly identical to previous versions that passed the House by a vote of 350-65 in 2003 and 362-57 in 2006.

Unfortunately in both cases, the bill was not taken up by the full Senate, although a companion bill was approved by the Senate Homeland Security and Governmental Affairs Committee in 2004. We must pass my bill and work with our Senate colleagues to pass it in the other body. I am pleased to report that in the coming days, Senator John Thune of South Dakota and others will introduce a bipartisan FPI reform bill.

Piecemeal reforms have been enacted in recent years on Appropriations and Defense Authorization bills, but in order for small businesses back home in our districts to compete on a level playing field, comprehensive prison industry reform must be enacted. Small businesses simply cannot go toe to toe against this large, government owned corporation.

My narrowly written bill amends the laws relating to FPI by establishing market-based, government-wide procurement policies for purchases that are based on competitive procedures. It establishes competition as the standard for Federal agency purchases. It only authorizes non-competitive contracts in FPI's favor if the Attorney General determines that FPI cannot reasonably expect fair consideration to receive a contract award on a competitive basis, and if the contract award is necessary to maintain prisoner work opportunities.

Currently, FPI, not the buying agency, determines if the product FPI offers and the delivery schedule it promises meet the need of the buying agency. In other words, the seller, not the customer is determining if the price and terms are reasonable. That is not how small businesses operate. The bill requires FPI to compete for business opportunities by removing the "mandatory source" status.

Our bill puts the purchasing decision in the hands of the buying agencies. If FPI has the lowest price, the best value, or is determined to be the most qualified, it gets the contract. In other words, it requires agencies to research which products are available on the market, not just flip through the FPI catalog. In our current economic climate, this is the prudent thing to do for taxpayers, and it just makes common sense.

H.R. 3634 also requires FPI to complete a probability impact study on private industry before entering into a brand new market. The study then becomes public information.

Our bill also forces UNICOR to start to pay competitive hourly wages for prisoners performing work, just like the hard working men and women back home in our districts. It forces FPI to operate its prison factories under OSHA standards, currently they are only voluntary.

In addition, our bill prevents UNICOR from selling products in commercial settings and from entering interstate or foreign commerce, except for existing contracts.

H.R. 3634 is mindful of idleness in prisons. It addresses recidivism. It creates new opportunities for prison workers that do not result in unfair competition with private business - particularly small business - and the employees in companies that lose out to FPI. Suffice it to say that "fairness" should be modeled by the Correctional System... or nothing is being corrected.

Our bill allows prisoners within FPI to work for a tax-exempt charity or entity, religious organization, local government unit, or school district that forms an agreement with FPI. It also authorizes private businesses to participate in work training and apprenticeship programs for prisoners.

Our bill also establishes an Enhanced In-Prison Educational and Vocational Assessment and Training Program to help people with release readiness preparation. The Bureau of Prisons' own studies have shown that vocational training programs have historically been the most successful in decreasing recidivism. By giving prisoners the training they need to find and maintain a job once released, we are providing them, their families, and our communities, with the greatest service. Taking jobs away from honest, hardworking Americans in the process though, is not how we accomplish this goal.

H.R. 3634 also requires federal agencies to report purchases from FPI to the Federal Procurement Data System. Last year, my office inquired with the Recovery Accountability and Transparency Board because a news article had reported that stimulus money (American Recovery and Reinvestment Act of 2009) had purchased products from FPI. The Board told me that this was an unusual situation and since FPI is defined as a federal agency, it is not required to report on Recovery Act progress.

Thank you again for the invitation and opportunity to be with you this morning. I applaud the Subcommittee for taking an interest in this critical issue and encourage all of you to cosponsor H.R. 3634, the Federal Prison Industries Competition in Contracting Act.

**Testimony of Michael Mansh, President**  
Pennsylvania Apparel LLC

*Before the House Small Business Committee  
Subcommittee on Contracting and Workforce*

*June 28, 2012*

Thank you, Chairman Mulvaney, Ranking Member Chu and members of the Subcommittee for affording me this opportunity to speak today on the adverse impact that Federal Prison Industries has had and continues to have on our business and the industry.

I am Michael Mansh, President of Pennsylvania Apparel LLC, a company based in Ft. Washington, PA with factories operating in Olive Hill, KY, Macon, GA and Buckhanon, WV. I also am a member of the American Apparel & Footwear Association (AAFA) where I serve as Chairman of its Government Contracts Committee, which represents the domestic manufacturing base of clothing, footwear and textile producers for the U.S. military.

In November 2002, I appeared before the House Small Business Committee and explained the deleterious impact of Federal Prison Industries (FPI) on my company and the industry at large. In the last ten years, I can tell you that things have only gotten worse.

Pennsylvania Apparel has been both a prime contractor and subcontractor for the Department of Defense for the last 50 years. My company's survival against the unfair and unjust competition from FPI would not have been made possible if it were not for the efforts of Senators McConnell and Paul and the effective representation of our industry by AAFA.

When I last appeared, I testified that my company's main product was the Utility Jacket for the Navy, which was made in Olive Hill from 1987 through 1997. Olive Hill is a small town of 1,600 people, located in a HUBZone with high unemployment, where my factory alone employs more than 10% of the eligible workforce. In February of 1995, we were informed that FPI had exercised its mandatory source preference and had taken 100 percent of the requirement for the Utility Jackets. In 1997, FPI was awarded a long-term contract for the Utility Jackets, which effectively prevented me and everyone else in the industry from being able to bid, compete and produce this jacket.

Shortly thereafter, I was able to keep my Olive Hill plant open by securing a contract for the Air Force Lightweight Windbreaker, an item made and procured for each member of the U.S. Air Force. This item is one well known to many Americans as it is worn by the President of the United States and the Air Force One flight crew. My company and its workers have been successfully and proudly making this jacket for the last fifteen years.

In December of 2011, I learned that FPI was planning to steal this jacket away from my company when the contract expires at the end of 2012. The law does not require FPI to give me any formal notice of this action or allow me to submit any protest to FPI's legalized theft of this product from my company and its workers.

Fortunately, I was afforded an opportunity to appear on the Fox & Friends television program and share the real and direct impact the FPI program has on American manufacturing jobs. Senators McConnell and Paul also stood up for our workers and the great work they do. In light of the strong showing of support, FPI exercised a "waiver" of its mandatory source preference and opted to not take the contract. While this version of the same story I told ten years ago ended positively for my company and its employees this time, there are Olive Hill, Kentuckies all across this country who face the threat of FPI every day.

FPI's activities come at the expense of a strong and crucial manufacturing base that the Department of Defense desperately needs to provide for its military clothing needs and to ensure surge capabilities for emergency mobilization. Such quick action was needed in the aftermath of September 11<sup>th</sup> that necessitated our military to quickly ramp up production for the campaigns in Iraq and Afghanistan that led to the capture of Saddam Hussein and Osama bin Laden. However, the continuing increase in FPI's market share in Clothing & Textiles will continue to reduce the industrial base's capabilities to innovate new products and get our troops the equipment they need when they need it.

Unlike other products procured by DOD, our industry is not one controlled by several large corporations with a few small businesses going after the scraps. By contrast, our industry is predominantly one fueled by small business interests. These small companies are Women-owned, Veteran-owned, Minority-owned, operate in areas of high unemployment like Olive Hill and even employ blind and disabled workers under the AbilityOne program and none of these entities are immune from FPI's preference.

As an industry, I can tell you that we not only understand the goals of the FPI program, but wholeheartedly support its good intentions. However, we cannot in good conscience understand the logic behind a federal policy that requires the federal government to take jobs away from law-abiding, tax-paying American citizens as the only way to accomplish the goals of the FPI program.

Currently, we are in support of two pieces of legislation that seek to reform the program, HR 3634, the Federal Prison Industries Competition in Contracting Act introduced by Congressman Huizenga and HR 2312, the DOD Textile and Apparel Procurement Fairness Act introduced by Congressman Walter Jones. One of the most important features of both pieces of legislation is the restriction they place on FPI from being able to take any contract specifically reserved for small businesses. In FY2011, FPI reported \$745 million in total sales, of which \$238 million was in their Clothing & Textiles business segment accounting for 32% of their total sales. These numbers are not the work of a small business. In fact, by their sales numbers, FPI is among the top fifty largest government contractors in the United States. Moreover, these numbers show that FPI is not following its statutorily mandated responsibility to diversify its business among its seven segments. If that were so, FPI sales in Clothing & Sales should have only been approximately \$100 million in FY11. Can you imagine how many jobs \$138 million could create in a time when unemployment is in excess of 8%?

Critics of these bills have claimed that we are working to end the FPI program. That is blatantly untrue. We believe that as industry we can compete against FPI if given the opportunity to do so. Despite the fact that starting wage for an inmate is 23 cents per hour, the industry is looking for equity in the form of opportunities for industry to win contracts, hire employees and keep the domestic manufacturing base of textiles and apparel strong and vibrant so that we are prepared when the next crisis arises.

In 2002, I stated in my testimony, and I quote, "The time for FPI reform is now." In 2012, I submit that the time for FPI reform is long overdue.

In closing, I urge this Committee and this Congress to work with your colleagues in the House Judiciary Committee and the Senate to undertake and pass reform legislation – to correct the imbalance that FPI has caused – as soon as possible. I thank you for your invitation to appear before you today and look forward to taking any questions.





Testimony of John M. Palatiello  
Subcommittee on Contracting and Workforce  
House Committee on Small Business  
“Unlocking Opportunities: Recidivism Versus Fair Competition in Federal Contracting”  
June 28, 2012

Mr. Chairman and Members of the Subcommittee, I am John Palatiello, President of the Business Coalition for Fair Competition, a coalition of businesses, associations, think tanks and taxpayer groups united in the proposition that government at all levels should utilize the private sector to the maximum extent possible and that government or government-sponsored entities should not duplicate or unfairly compete with private enterprise, particularly small business.

I am also Executive Director of MAPPS, a national association of firms in the mapping, spatial data and geographic information systems (GIS) field.

We commend the Subcommittee for their interest in holding this hearing. We strongly support H.R. 3634, a bill that seeks to infuse competition in the federal procurement process with regard to purchases from Federal Prison Industries (FPI), while providing work, training and rehabilitation opportunities for prisoners in a manner that does not penalize small businesses and their law abiding employees. We would especially like to thank Representatives Huizenga, Frank, Maloney, Sensenbrenner, former Small Business Committee chairman Manzullo, committee members Bartlett and Coffman, and so many others, for their bipartisan leadership and dedication to reforming the unfair competitive practices of FPI.

Since 1934, the Federal prisons have operated industrial facilities to keep idle inmates occupied and provide training in occupations designed to provide prisoners marketable skills that will make them productive, responsible citizens when their incarceration is complete. Historically, UNICOR, the Federal Prison Industries, has focused on a limited number of product areas, particularly those in which the goods produced in the prison can be consumed in the prison, such as furniture and paper products. In recent years, they have expanded dramatically, shifting to a wide array of products, and recently, to the services sector.

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**[www.governmentcompetition.org](http://www.governmentcompetition.org)**

Almost every year, FPI expands to produce even more goods and services. FPI's sales growth, all through non-competitive contracts, has been formidable. It has revenues that have ranged from \$745 million to more than \$885 million annually in recent years. Annual sales have grown by over \$100 million in the past decade alone. When you put FPI up against all other Federal contractors, they are the 36<sup>th</sup> ranked entity, when measured by gross sales to Federal agencies.

This makes FPI a formidable competitor even for a large private sector enterprise, much less a small business. Evidence indicates that FPI will continue its expansionist behavior, by exploiting its mandatory source status and increasingly encroaching on private sector industries, forcing businesses to halt production lines, lay off employees and even close their doors for good.

Ensuring a level playing field for the private sector in the federal procurement process by ending FPI's unfair advantage is a major priority for BCFC. We endorse the policy that the government should not perform the production of goods and services for itself or others if acceptable privately owned and operated services, firms found in the Yellow Pages of the phone book, are or can be made available for such purposes – which we call the Yellow Pages test. The private sector should be allowed to compete fairly with FPI for federal contracts – plain and simple – by eliminating the mandatory source requirement that government agencies purchase products and services from FPI.

Reform of FPI starts with the realization that FPI has exceeded its statutory authority. They are free to set any price they want within the range of market prices with no incentive to charge the lowest price. Until the recent enactment of reform measures, FPI, rather than federal agencies, determined whether FPI's products and services and delivery schedule meets the agency's needs. While these reform measures have provided some relief, permanent comprehensive reform is needed to reign in this organization. By granting FPI a monopoly, issues of price, quality and efficiency fall by the wayside at the expense of U.S. taxpayers. The General Accounting Office (GAO) reported in 1998 that FPI is neither a quality supplier to Federal agencies nor a provider of timely, quality products at low prices to meet their client-agency needs. No study has been conducted since that time to document improvement in FPI's performance. Moreover, a study for the Bureau of Prisons found “inmates who worked in prison industries were 24 percent less likely to recidivate throughout the observation period while those who participated in either vocational or apprenticeship training were 33 percent less likely to recidivate throughout the observation period.” (Post-Release Employment Project (PREP), Training Inmates through Industrial Work Participation, and Vocational and Apprenticeship Instruction, 1996).

FPI is also limited to no more than a “reasonable share” of the government market for any product, but in over 100 military apparel items, they have determined that 100% of the market is reasonable.

Recent expansion by FPI into the services arena has caused great concern in the business community. Even though FPI's authorizing statute does not specifically mention services, FPI has interpreted that it is a “preferential source” for services and used this to enter into sole source contracts with Federal agencies for services. They are quickly expanding their services portfolio, which includes printing, environmental testing, recycling, mapping and imaging, distribution and mailing, laundry services, data conversion, and call center and help desk support.

This expansion is alarming not only because it adversely impacts the private sector but also because it is wholly inappropriate to allow inmates access to classified or infrastructure information used in mapping projects or the personal or financial information of private citizens used in call center operations. We should be extremely cautious with the information we arm our federal inmates with in preparation for life beyond bars.

Not only is the mapping community confronted with prison competition at the Federal level, but state prison systems have entered the field as well.

The Texas Department of Criminal Justice has established a map scanning and digitizing service at their Ferguson Unit in Midway, Texas. Authorized by the Prison Made Goods Act of 1963, the prison company has a slick brochure claiming that under their program "Everybody Wins" since inmates are trained in a skill that is marketable upon their release, use of the prison agency provides a "quality product at a reduced price", and a "double savings" for the taxpayer. This unit has taken work for the Texas Department of Transportation, Texas counties and other clients that would otherwise have gone to the private sector.

Unigroup is the Oregon Department of Corrections' prison industry. It boasted that its "innovative CAD/CAM industry was conceived in early 1992 as a way to provide quality, inexpensive services to state and other governmental agencies. Private businesses are also welcome to use our services." Unigroup functioned as a conversion house, converting hard copy documents to digital files. The unit became productive in March, 1993 providing data in an Arc/Info format. It had a price list, brochure and standard cartography services agreement. This organization not only did work for Oregon State agencies and Oregon counties, but for Federal agencies and private firms. MAPPS member firms had to shut down their efforts to market these services to State and county government, as they were unable to compete with the below market prices and labor rates charged by the prisons. Unigroup closed its GIS capability, as it had production difficulties and challenges maintaining a civilian management staff.

PRIDE Enterprises, the Florida prison industry, is engaged in a variety of digital geographic information services, including converting hard copy maps to electronic files; plotting maps at various scales; creating databases with information on homeowners, property appraisal and tax assessment; digitizing, and other CADD and GIS services. While PRIDE works as a subcontractor to private firms, their direct contracting authority is unfair competition and again, diverts work for tax-paying, law-abiding citizens.

What the Federal prisons and these States naively fail to recognize is that when work goes to a prison rather than a profit-making, taxpaying company, the Federal and State government loses considerable corporate and individual tax revenues, and displaces law-abiding workers. Moreover, the pervasiveness of prison activity limits the private sector market, thus reducing the number of available jobs awaiting inmates upon release. Nobody wins when prison industries decimate the private sector and release inmates into a field where the only job market is in the prisons!

FPI's desire to expand into the commercial marketplace is an alarming development that is seen as a call to arms by industry. We oppose FPI's move into the commercial marketplace. The decision to expand into the commercial marketplace is in conflict with the clear language of FPI's enabling legislation and beyond the discretion of the Board. It is a reversal of more than nearly eighty years of public policy. This is authority that FPI has claimed for itself without any specific legislative authority from Congress. Finally, the creation of a state run enterprise, competing with its own citizens, is a policy so at odds with the role of government in a free society that it is a decision best left to Congress.

Title 18 U.S.C. section 4122(a) specifically states: "Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments or agencies of the United States, but not for sale to the public in competition with private enterprise."

Now, however, despite this seemingly clear prohibition on entering the commercial market found in the statute, recent evidence shows that FPI has engaged in expansionist practices. Nearly eighty years of public policy should not be overturned, especially without public debate. The United States should not be selling commercial services in competition with law-abiding taxpaying businesses, using prison labor that is paid no more than \$1.25 an hour. FPI's expansion in the commercial market is a dramatic shift in policy, and in conflict with the clear language of 18 U.S. C. 4122(a). We urge that no proposal to inject Federal inmate provided services in the commercial marketplace be entertained by Congress.

Mr. Chairman, rehabilitation and retraining are commendable goals for prison programs, but at what price? "Penal" institution and "penitentiary" get their name from the Latin "poenalis", meaning pertaining to punishment. Who is being punished here, the inmates who have committed a crime against society, or the employees of private firms who play by the rules?

While we are sympathetic to FPI's goal to employ federal inmates to reduce recidivism by providing vocational and remedial opportunities while incarcerated, it should not be done at the expense of law-abiding, taxpaying businesses. It is unfortunate that in today's society we are faced with an increasing inmate population. However, we believe other sources of work opportunity, training, education and rehabilitation for inmates should be explored that do not infringe upon the private sector's opportunities to compete for government contracts, threaten the general safety of our citizens, and provide for expansion in the commercial market.

The original purpose of FPI was to reduce idleness in the prisons. Today, FPI is contributing to idleness in the private sector, especially small business, by taking jobs away and contributing to our unemployment.

H.R. 3634, is nearly identical to legislation that that passed the House in 2003 by a 350-65 margin, and in 2006 by a 362-57 vote. Unfortunately, in both cases, the bill was not taken up by the full Senate, although a companion bill was approved by the Senate Homeland Security and Governmental Affairs Committee in 2004.

Piecemeal reforms have been enacted in recent years on Appropriations bills and on Defense Authorization bills. Recent language enacted in the FY02 and FY03 Defense Authorization bills, the FY04 Consolidated Appropriations Act, and the FY05 Omnibus Appropriations Act provided interim and selective relief from FPI's monopoly by allowing federal agencies to decide how to best meet their procurement needs by examining existing marketplace opportunities and purchasing products on a competitive basis.

But there is still a need for comprehensive Prison Industry reform.

For many years, the broad-based FPI Competition in Contracting Act Coalition, comprised of the business, labor and federal manager communities have advocated comprehensive, fundamental reform of FPI.

H.R. 3634 provides for fundamental reform while maintaining a process in which FPI can still sell to federal agencies but on a competitive, rather than a preferential sole-source basis. It requires federal agencies to use competitive procedures for the purchase of products. H.R. 3634 makes permanent the language included in the FY02 and FY03 Defense Authorization bill and the FY04 Consolidated Appropriations bill and FY05 Omnibus Appropriations bill. H.R. 3634 would require FPI to be a more responsible supplier to Federal agencies and the taxpayer, and would allow the private sector to compete fairly with FPI for federal contracts by eliminating the requirement that government agencies purchase products from FPI. Agency contract officers, not FPI, would determine if FPI's offered product best meets buying agencies' needs in terms of quality and time of delivery. Most importantly, H.R. 3634 provides new authorities for FPI that do not infringe on the private sector and its law abiding employees.

Even with reform, FPI would still have an enormous competitive advantage over the private sector. FPI pays its inmates significantly less than the minimum wage, let alone the prevailing wage, a requirement of private sector Federal contractors. It is not required to provide any employee benefits like Social Security, unemployment compensation or insurance. In addition, as a Government-owned corporation, FPI is exempt from Federal and state income taxes, gross receipts taxes, excise tax and state and local sales taxes on purchases. FPI does not have to pay for utilities or equipment and has a special statutory line-of-credit from the U.S. Treasury for \$20 million at 0% interest. FPI is also exempt from standards, inspections or fines by various Federal, state or local enforcement agencies, such as OSHA, that regulate all private sector suppliers to the Federal Government.

H.R. 3634 includes language that would prohibit inmates from having access to classified data, critical infrastructure data, and personal or financial data under any Federal contracts. The American people would be outraged to know that prisoners can be given access to their credit card numbers, the address and value and tax assessments of homes, as well as location information on our underground gas pipelines and other critical infrastructure that, if in the wrong hands, threatens our security. Simply adequately stated, sensitive information of this nature should not be in the hands of convicted criminals.

H.R. 3634 also protects Federal prime contractors and subcontractors at any tier from being forced to use products or services furnished by FPI. FPI would no longer be able to force

contractors to use FPI as a mandatory source for products or to be specified as a mandatory source on contracts. We have seen this new, expansive authority, which was not enacted by Congress through legislation, but claimed by FPI through interpretation, used, for example, to force architects and engineers to include FPI products in their design specifications, even if those products are not the most efficient, cost effective or appropriate solution.

To assure the safety of the prison guards and the inmates themselves, H.R. 3634 would allow the Attorney General to award a contract to Federal Prison Industries if he/she believes that the loss of such prison work would endanger the safe and effective administration of a prison facility. While this is a valid concern, it is important to note only a small percentage - roughly 17% - of inmates actually work in the FPI program. The remaining able bodied inmates are engaged in various tasks relating to the operation and maintenance of the correctional facility. These tasks reduce the operating costs of the facility and keep inmates occupied in daily work activities.

Many concessions have been made on behalf of FPI reform supporters over the years and H.R. 3634 provides additional safeguards in addition to a level playing field on which FPI and the private sector can compete. FPI asserts that comprehensive reform will cause inmate employment to decline, factories to be shut down, and sales to decrease. We argue that for decades businesses have suffered from declining employment rates and decreases in sales, and have been forced to shut down factories and production lines because of FPI's unfair competitive advantage and practices. Therefore, the time is now for balanced comprehensive reform.

Thank you for the opportunity to appear before you today to seek an efficient, fair competitive process in providing the federal government with goods and services to maintain and grow small businesses. We appreciate the Subcommittee's examination of FPI's impact on small business and urge prompt consideration of H.R. 3634 by Congress. I'd be happy to answer any questions you might have. Thank you.



**STATEMENT OF REBECCA BOENIGK, CEO AND CHAIRMAN OF THE BOARD,  
NEUTRAL POSTURE, INC., BRYAN, TX**

**On Behalf of Women Impacting Public Policy**

**Before the U.S. House of Representatives**

**Committee on Small Business**

**Subcommittee on Contracting and the Workforce**

**Unlocking Opportunities: Recidivism versus Fair Competition  
in Federal Contracting**

**June 28, 2012**

Good afternoon, Mr. Chairman and Members of the Committee. My name is Rebecca Boenigk and I am the Chairman of the Board and CEO of Neutral Posture, located in the great state of Texas. My mother and I founded the company in 1989. We have 85 employees at our Texas facility, and we have another six employees at our facility just outside of Toronto in Cambridge.

I am here today on behalf of Women Impacting Public Policy. WIPP is a national nonpartisan public policy organization, advocating on behalf of nearly one million women-owned businesses and representing 61 business organizations.

Women owned businesses represent one of the fastest growing contributors to our national economy, with an impact of \$1.2 trillion annually, a number that would be much larger without impediments like the competing Federal Prison Industries (FPI) system, also known as UNICOR.

I want to commend the Subcommittee for shining a light on this very serious, and often overlooked issue. It is imperative that there be reform in the FPI system; not only are we forced to compete with them for small business set asides but UNICOR basically has a monopoly on many contracts because they are automatically given top priority.

Approximately 25% of my business comes from federal contracting. We have had a GSA schedule contract for over 21 years. We manufacture ergonomic and multi-purpose chairs, much more comfortable than the ones you are all sitting in right now.

Fifty percent of our income comes from the Neutral Posture Series, which is the high end, task intensive ergonomic seating line. The chairs have contoured seats, which help reduce seated pressure. We have an inflatable air lumbar in the back rest. Our chairs have been proven to reduce injuries and to reduce workers' compensation costs. UNICOR does not produce any chair that can even come close to competing with our line of seating.

Yet because of the FPI requirements the government is forced to solicit inferior products at a higher cost while encouraging comparatively insignificant job creation. For example UNICOR's "best" chair is called the Freedom chair. It sells to government agencies at around \$729.00; the chair we offer has five more adjustments and sells for \$690.00. A chair with similar features to the Freedom is our Right Chair and the GSA price is \$522.90. Not only do we deliver a superior product for a better price, but because we are a nimble small business we can have our superior products available in much less time, usually five days. This committee has often said that small business contracting is a triple win- for the government, the economy and the tax payer.

Our company has to follow federal and state labor laws, environmental laws, and comply with all aspects of federal contracting regulations – burdens that do not apply to UNICOR. Therefore, the fact that the private sector can still produce better products at a lower price is remarkable.

Mandatory preference for prison industry contracts is not only limited to federal agencies, but is also applicable to states. By using our chairs, the State of Washington reduced their injury rate by 60% and their workers' compensation costs by 90%. Clearly those are significant numbers, yet those savings cannot be passed on to many government agencies because they are required to buy from UNICOR.



While I do not have to tell you that there are many senseless regulations and requirements that are a part of any large government, this one is directly affecting small businesses in a very negative way. We are eligible for the Women Owned Small Business (WOSB) procurement program, for which we fought 11 long years, only to have UNICOR swoop in and compete with us. The government is effectively competing with the private sector here, and there seem to be more losers than winners in this competition.

Furthermore the Subcommittee should know that in some cases UNICOR's chairs are not manufactured in the prisons at all. Some of them are manufactured in my larger competitor's facilities and some overseas, many in China. They send the chairs to the prisons, have a screw put in here or there, slap their label on them, and sell them with preference over my products. The chairs that come in a box from China do not qualify for the GSA schedule due to the Trade Agreements Act. By simply supplying them to the prisons these noncompliant chairs are being sold to the government. A Canadian company called Nightingale supplied UNICOR with \$58 million in Chinese chairs last year. These dollars were taken away from American small businesses.

As I mentioned earlier the State of Washington has benefited from my products in the past. We held a contract with the state for over eight years when we were told that we would lose that contract unless we worked with the state prisons. In order to sell to the State of Washington, we have to make the chairs in Texas, put them in boxes and send them to the state prison. The prison then puts them together, marks them up and sells them back to the state. This is government inefficiency at its worst.

Although government agencies would like to buy from us, they are told that they cannot. They are told that they have to go to UNICOR for products like ours. Even though we have better price, better quality and a lot of research to back up our product, we still do not have the opportunity to compete.

If an agency that wants to buy from us, they have to get a waiver. Because the waiver comes from FPI, they are few and far between. I have been given the unenviable option to either work with the prison system or lose the business all together.

We have estimated that over the last 10 years we have lost approximately \$10 million in sales because of FPI preference. Ten million dollars, which we would have loved to use to reinvest and grow our company, but which instead has been used to subsidize government competition with the private sector. This is certainly no deal for the taxpayer. UNICOR's statute requires that it provide inmates with skills "in trades and occupations which will provide them with a means of earning a livelihood upon release." If these practices continue, there will be no small chair manufacturers left to hire them.

I understand the Committee has put together and successfully passed a series of procurement reform bills, which can be best described as a small business contracting wish list. WIPP applauds your efforts to increase and facilitate government partnerships with small firms. Yet this is one more area of small business contracting that must be reformed.

On behalf of Women Impacting Public Policy, Neutral Posture and all of the small businesses who are impeded by the FPI program preference, I want to thank you for the opportunity to appear before you. I am happy to take any questions you may have.

Statement of Andrew S. Linder  
President and Owner  
POWER CONNECTOR INC

Mr. Chairman and Members of the Subcommittee. My name is Andy Linder. I'm the President and owner of Power Connector, a small electronics business based on Long Island, NY.

Power Connector went into business on April 1, 1987 – over 25 years ago.

When we first put the key in the door, it was just a two-man company, me and a strong associate.

Just two people with a vision and a lot of hope.

In 25 years, we've grown a lot. Now there are 53 employees, not just two.

We've built what I think is a solid reputation producing high-quality, reliable electronic connectors and cable hardware for the United States military. Mostly, we supply components to the Department of Defense, Federal Prison Industries and to our nation's primary defense contractors.

Our products are relied on every day by American forces all over the globe, including our men and women in Afghanistan and Iraq. My employees and I are still especially proud that some of the electronic components that we supplied to Unicorn, FPI went into the transmitter that helped save the life of Air Force Captain Scott O'Grady after his plane was shot down in Bosnia in the summer of 1995. More recently, we supplied the connectors that were used on the radios that the Navy Seals used during the raid on Osama Ben Laden's compound. Additionally, we supply the cable assemblies that are being deployed in the joint American and Israeli defense program "Iron Dome" in the Gaza area.

The story of Power Connector is very much the story of Federal Prison Industries.

It's a story that's typical of thousands of other private sector small businesses in every State, who've been helped by Federal Prison Industries over its nearly 78 years of existence.

It's a story that'll come as a surprise to those who believe Federal Prison Industries poses some kind of "threat" to the private sector.

And it's a story that needs to be told as you hold this hearing on HR.3634, legislation that I believe would suffocate Federal Prison Industries, and the vitally important work it does.

That's because Federal Prison Industries isn't just about inmates. It's about thousands of small businesses, just like mine -- many of them woman and minority-owned. These thousands of small businesses, my own included, partner with Federal Prison Industries for contracts valued at over seven hundred million dollars in gross revenues in 2011 alone.

We've capitalized and hired employees on the strength of those contracts. Our employees and their families count on these contracts. In fact, for every dollar purchased by Federal Prison Industries, 78 cents goes directly back to small businesses just like mine. We're the ones who supply the raw materials, the component parts and the services that make FPI's work with inmates possible.

Each of us -- each of our businesses, our employees, our suppliers -- are directly in the path of efforts by some in this Congress to turn back 78 years of success with Federal Prison Industries and force it, instead, into an impossible competition with the private sector.

Mr. Chairman, Members of this Subcommittee, I submit to you today that Power Connector would never be in business today without Federal Prison Industries. That's because it's awfully hard for any company -- much less a two-man company -- to even *submit bids* to the federal government, much less to deliver a product up to specs. Further, to this, American businesses like mine now have to compete with India and Mexico who have been deemed "approved sources" for US military connectors making competition for these contracts even tougher for small businesses like Power Connector.

But Federal Prison Industries isn't like much of the federal government: they recognize the gains to be made when dealing with small businesses like ours, and they make doing so a priority. They broke down their Army contracts and asked small businesses -- ours included -- to bid on proto-types. FPI developed a unique partnership with small business whereby they invested in the costs for testing and research and development that would have been cost prohibitive for almost any small business to undertake. They mandated small business participation in the competitive bidding process. And they acquired the components for the finished cable assemblies which allowed companies like mine to participate.

By taking on the financial burden for the testing of proto-types, Federal Prison Industries eliminated the single biggest financial barrier that stands in the way of small companies like ours. That expense is the major

reason, in my mind, why other government contracts of this type seldom are awarded to small companies like mine, and why, instead, they wind up going to big companies with more capital and human resources.

As a result of FPI's efforts to work with the small business community our products were approved. FPI provided the intensive labor required, we provided the component parts. We had to competitively bid in order to partner with FPI on these contracts, and I am proud to say my company won the bids for the component parts.

Unlike other federal agencies, Federal Prison Industries gave us the one thing we ever asked for, then or ever since -- *a chance*.

They were hard taskmasters when it came to quality, but we delivered -- on time and under budget.

We've *kept on* delivering to Federal Prison Industries, too -- for 25 years now, products now worth \$2.4 million a year.

Federal Prison Industries doesn't concern itself with how *big* you are, but with whether you can deliver on time and up to specs. If we could meet military standards and perform, being a small, start-up business was not a liability.

That's part of FPI's mission -- to partner with small businesses to help us get the kinds of contracts for which we could otherwise never compete.

During Power Connectors first few years, we had no customers *other* than Federal Prison Industries. Every dollar of our business, every individual employee, every dime of taxes we paid, was directly the result of Federal Prison Industries. Our company would never have survived without them.

Even today, 11 out of our 53 employees -- roughly one-fifth of our workers, owe their jobs to Federal Prison Industries. That's also a testament to FPI's efforts to reach out to small businesses.

Power Connector today has more than 27 employees who work every day fulfilling contracts with other government agencies and military defense contractors -- contracts that don't involve FPI. None of those contracts -- not one -- would have happened had we not been able to build a credible performance track record with FPI.

By giving us the opportunity to prove ourselves at a time when most agencies or defense contractors wouldn't have given us a second look, FPI gave us the chance we were looking for 25 years ago.

And Power Connector isn't the only company involved. In addition to our own success, the subcontracts we have outsourced over the past 25 years to over 62 other small businesses have created jobs for 186 full-time employees outside our doors.

But Federal Prison Industries isn't just about creating private sector jobs:

Starting in 2001 we implemented an active program to employ Federal inmates as they were being released from prison with the requirement that they had worked successfully in the Unicor/FPI electronics program. In the past ten years we hired ten (10) former inmates of which three (3) are still employed by us. I am pleased to report that the other seven (7) former inmates utilized their employment experience at Power Connector Inc. to improve their own personal employment opportunities.

Mr. Chairman, Members of the Subcommittee, neither I or any of the above mentioned men would be able to tell this success story if it weren't for Federal Prison Industries.

But there are thousands of others, who couldn't be here today: business owners like me, employees and our contractors and suppliers. Countless thousands of inmates who, over 78 years, have received job skills training because of Federal Prison Industries. Thousands, too, of corrections officers whose lives have been made easier because Federal Prison Industries has been so helpful in keeping the institutions safe. And thousands more, who likely would have been victims of crime were it not for FPI's 78-year track record in fighting crime through meaningful rehabilitation.

It's my firm belief, moreover, that only the electronics division of Federal Prison Industries has the capability of satisfactorily supplying the government's cable, harness and mechanical assembly requirements during times of war or extended periods of military conflict. Federal Prison Industries has the experienced manual labor and the supervision necessary to perform this work. During the period from the mid nineties up to 9/11/2001, there was a steady decline in the number of private military contractors who could perform this type of work as the defense budget for military products was reduced. These assemblies are used in the military's tactical communications systems. The sheer volume and scope of the military's needs for these products would overwhelm the capacity of any domestic private business. The fact is that in many instances, Federal Prison Industries routinely has in place long-term requirement contracts with qualified defense product manufacturers, most of whom

are small businesses. That's why Federal Prison Industries can obtain materials so quickly and efficiently. The proven track record of these premier Federal Prison Industries electronics facilities to deliver quality product, competitively priced, under surge requirement conditions, with increased volume to their military customers, clearly proves how critical Federal Prison Industries is to our nation's defense preparedness and strength levels. Specifically, during 2007 and 2008 there was a tremendous surge in demand for military communication systems that was creating potential vulnerabilities for our military forces. FPI successfully responded to these demands based on the model I have described above and partnering in total with small businesses such as mine to and definitively turn around a crisis situation for our military men and women in conflict. The previous record of Federal Prison Industries in Operation Desert Storm and its current outstanding performance during the Afghanistan and Iraqi conflicts obviates the fact that our nation's defense capability cannot and must not be significantly compromised by impairing the work of Federal Prison Industries.

I respectfully request that you very carefully consider any further attempts to curtail or diminish the status of Federal Prison Industries through legislation such as H.R. 3634. I strongly oppose this legislation, as it would hurt small business, it would cost jobs, it would diminish the opportunities for former and current inmates, it would jeopardize the safety of our penal institutions and, in my opinion, risk our nation's military preparedness.

Thank you for your time and consideration.

Andrew S. Linder, President

June 25, 2012

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

April 17, 2012

The Honorable Howard P. "Buck" McKeon  
Chairman  
House Armed Services Committee  
2120 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman McKeon,

We write to express our concern with the inclusion of language in the FY 13 NDAA that would have a significant, detrimental impact on the Federal Prison Industries (FPI) program.

The Federal Bureau of Prisons (BOP) considers FPI its most important correctional tool for the safe management of prisons across the country. FPI plays a critical role in reducing inmate recidivism and idleness, and increases their opportunities for post-release success. Further, the total impact of FPI on federal government procurement is less than ¼ of 1%, the same as it was at the end of its first year of operation in 1935. However, over recent years, the FPI program has experienced a precipitous decline in the number of inmate jobs as a result of limitations imposed through appropriations riders on FPI's mandatory source authority relating to federal agencies' purchases from FPI. These legislative efforts have created serious impediments to FPI's ability to carry out its important mission of employing inmates in meaningful work by further restricting the Department of Defense, one of FPI's biggest customers, and the civilian agencies from purchasing products and services from FPI.

Dozens of FPI factories have closed, resulting in the elimination of thousands of inmate work opportunities over the last decade – the latest being announced as recently as September 13, 2011. The overall result has been a crippling erosion in the beneficial impact of the FPI program, which has fallen from BOP's recommended target of 25% of the work-eligible inmate population to its current disappointing level of 8% of work-eligible inmates participating in this proven correctional program. Correctional worker representatives cite this decline as a significant contributor to the increase in inmate on correctional officer assaults the BOP has experienced in recent years. Moreover, the Congressional Budget Office has cited the reduction in FPI jobs as a major contributor to increased BOP operations costs, due to the need for more officers to oversee a larger number of idle inmates.<sup>1</sup>

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<sup>1</sup> See, e.g., House Report 108-286 to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.



The Honorable Howard P. "Buck" McKeon  
April 17, 2012  
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FPI currently employs 13,466 inmates working in 88 factories at 66 locations nationwide. This is a reduction of nearly 10,000 inmates since 2008. Research demonstrates that inmates who work in FPI are 24 percent less likely to re-offend upon release from prison than non-FPI inmates and 14 percent more likely to be gainfully employed post-incarceration. In FY 2011, inmates who worked in FPI factories contributed more than \$1.6 million of their earnings toward meeting their financial obligations, including court-ordered fines, child support, or restitution.

During FY 2011, 78 percent of FPI expenditures were for the purchase of raw materials, supplies, equipment, and services from private sector businesses. More than 40 percent of FPI's purchases were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged.


Although data from the Department of Defense appears to show that FPI's clothing and textile earnings have increased from \$24.3 million to \$34.04 million between FY 2007 and FY 2011, FPI's overall earnings have plummeted. In FY 2010, net FPI sales were \$777 million, a net loss of \$56 million for that fiscal year. In FY 2011, net sales were down to \$745 million.


Current law requires FPI to fully compete in a particular market if its market share exceeds 5 percent. If FPI's market share is less than 5 percent, FPI's products are given a preference but only if they are deemed comparable to other market products. FPI administers its authority responsibly with respect to its impact on businesses by withdrawing from competition for a contract if there is evidence that an FPI winning bid would have a direct adverse impact on a private business, even though it is a contract for which FPI could lawfully compete under the existing restrictions.

The proposed language would allow the Secretary to prohibit the FPI from competing in the market if its market share exceeds 5% despite the fact that they are already required to compete once their market share exceeds this threshold. The effect of this language would be devastating to the positive impact FPI currently provides for the BOP, the inmate population, and the businesses that currently partner with FPI to provide raw materials and supplies.

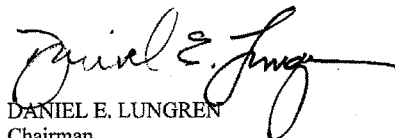
For these reasons, we strongly oppose the proposed language and respectfully request that it not be included in the FY 2013 NDAA.

Sincerely,

  
LAMAR SMITH  
Chairman  
House Judiciary Committee

  
JOHN CONYERS, JR.  
Ranking Member  
House Judiciary Committee

The Honorable Howard P. "Buck" McKeon  
April 17, 2012  
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DANIEL E. LUNGREN  
Chairman  
Committee on House Administration



ROBERT C. "BOBBY" SCOTT  
Ranking Member  
Crime, Terrorism and Homeland Security  
Subcommittee  
House Judiciary Committee



FRANK R. WOLF  
Chairman  
Commerce Justice, Science, and Related  
Agencies Subcommittee  
House Committee on Appropriations



BOB GOODLATTE  
Member  
House Judiciary Committee



STEVE CHABOT  
Member  
House Judiciary Committee



June 22, 2012

The Honorable Mick Mulvaney, Chairman  
Subcommittee on Contracting and Workforce  
House Small Business Committee  
2361 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Judy Chu  
Ranking Minority Member  
Subcommittee on Contracting and Workforce Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Mulvaney and Ranking Minority Member Chu:

Woolrich Inc., established in 1830, has a long history of providing jobs to residents of Pennsylvania. In an effort to maintain employment and provide additional employment opportunities, we have developed a successful Government Contracting Division whose vision is to secure government contracts and provide textile products to our troops. While this not only provides us with an opportunity to support the men and women who serve our country, it also provides employment opportunities for Pennsylvania residents.

In 2005 Woolrich, Inc. entered into a business relationship with Federal Prison Industries (FPI), enabling us to not only retain employees at that time, but to create additional job opportunities. At the time we started this division our cutting department was on the verge of shutdown. To date, we have been able to retain our cutting facility and provide additional employment opportunities within our division.

FPI has not eroded our apparel business or our opportunities to do business with the government. They have been a benefit to us in securing government business and providing employment opportunities to the people of Pennsylvania, as well as, additional business to our vendors, many of which are small businesses.

As a small business, Woolrich Inc. does not view FPI as a threat to our growth and development, but rather as a valuable resource to the small business community.

Best regards,



William R. Lilley,  
Vice President Government Contracting  
Woolrich, Inc.

Cc: Mary M. Mitchell, Chief Operating Officer, FPI  
James E. Griggs, President Non-branded Assets, Woolrich, Inc.



**PREPARED STATEMENT OF**

**DALE DESHOTEL**

**PRESIDENT**

**COUNCIL OF PRISON LOCALS**

**FEDERAL BUREAU OF PRISONS**

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO**

**BEFORE THE**

**HOUSE SMALL BUSINESS COMMITTEE**

**SUBCOMMITTEE ON CONTRACTING AND WORKFORCE**

**ON**

**“UNLOCKING OPPORTUNITIES: RECIDIVISM VERSUS FAIR  
COMPETITION IN FEDERAL CONTRACTING”**

**JUNE 28, 2012**

Mr. Chairman, Ms. Ranking Member, and Members of the Subcommittee -

My name is Dale Deshotel. I am the President of the Council of Prison Locals, American Federation of Government Employees (AFGE), AFL-CIO. On behalf of the more than 37,000 federal correctional workers at the U.S. Department of Justice's Bureau of Prisons' (BOP) correctional institutions, I want to thank you for the opportunity to submit our prepared statement for the hearing record on the important issue of "Unlocking Opportunities: Recidivism versus Fair Competition in Federal Contracting."

### **Summary**

The AFGE Council of Prisons Locals has serious concerns regarding the Federal Prison Industries (FPI) Competition in Contracting Act of 2011 (H.R. 3634), a bill introduced by Rep. Bill Huizenga (R-MI) on December 12, 2011. In particular, we believe that the bill's virtually complete elimination of FPI's "mandatory source preference" from the Department of Defense (DoD) and civilian agency procurement activities would have a detrimental impact on the FPI prison inmate work program.

The debate over FPI reform has always involved two antinomic public policies: (1) correctional policy that fosters prison safety and prisoner rehabilitation and (2) government-wide procurement policy that fosters competition. The debate also has involved two antinomic groups interests: (1) federal correctional workers and prison inmates and (2) private sector companies and non-inmate workers. Any legislative reform of FPI should create a balance between these necessary and reasonable – but opposing – public policies and group interests.

Unfortunately, congressional reforms of FPI in the 2003-2008 period were strikingly imbalanced, resulting in the FPI prison inmate work program experiencing a significant decline in FPI sales revenues, a significant increase in FPI factory closings and downsizings, and a significant decline in the number of BOP prison inmates employed by the FPI program. We believe H.R. 3634, if enacted, would make a bad situation even worse.

AFGE has the following concerns:

#### **A. Existing FPI Prison Inmate Work Program**

1. The Huizenga bill and the accompanying material on the congressman's website ignore the extent to which current law requires DoD and civilian agencies – when they are considering buying a FPI product – to: (a) use competitive procedures and (b) determine if the FPI product is comparable to products available from the private sector that best meet their needs in terms of price, quality, and time of delivery.

2. The Huizenga bill proponents – as evidenced by H.R. 3634 and the accompanying material on the congressman's website – downplay the fact that the FPI prison inmate work program is an important management tool used by understaffed BOP correctional workers to help deal with the exploding prison inmate population. The

proponents also downplay the fact that the FPI prison inmate work program is an important rehabilitation tool that provides BOP inmates an opportunity to develop job skills and values that will allow them to reenter – and remain in – our communities as productive, law-abiding citizens.

3. Huizenga bill proponents – again as evidenced by H.R. 3634 and the accompanying material on the congressman's website - ignore the fact that the FPI prison inmate work program has experienced a significant decline in FPI sales revenues, a significant increase in FPI factory closings and downsizings, and a significant decline in the number of BOP prison inmates employed by the FPI program. This deterioration of the FPI program is the result of various limitations imposed by Congress on the program, particularly Section 827 of the National Defense Authorization Act for FY 2008 (P.L. 110-181).

4. The Huizenga bill's virtually complete elimination of the FPI mandatory source preference would make a bad situation even worse. The AFGE Council of Prison Locals does not believe that the mandatory source preference should be eliminated until a new alternative prison inmate work program is designed, implemented, tested and funded. Such an alternative prison inmate program would help replace the prison inmate jobs that will be lost if the FPI mandatory source preference is eliminated by the Huizenga bill.

#### **B. Rebuttals to those Arguments Opposing the Existing FPI Prison Inmate Work Program**

1. FPI is not a federal procurement behemoth as its total product sales, even in office furniture, are relatively small.

2. FPI is not the cause of the U.S. private companies' sales losses and non-inmate workers' jobs, particularly in the office furniture and textile/apparel industries. Instead, these sales and job losses are the result of foreign competition.

3. The complete legislative elimination of the FPI mandatory source preference will not significantly help private companies and non-inmate workers, even in the office furniture and textile/apparel industries. But it will have a significantly adverse impact on the many private companies and non-inmate workers that supply FPI with raw materials, equipment and other services.

#### **Discussion**

##### **A Existing FPI Prison Inmate Work Program**

1. **The Huizenga bill and the accompanying material on the congressman's website ignore the extent to which current law requires DoD and civilian agencies – when they are considering buying a FPI product – to: (a) use competitive procedures and (b) determine that the FPI product is comparable to products**

**available from the private sector that best meet their needs in terms of price, quality, and time of delivery.**

Section 2 of the Huizenga bill provides that when procuring an FPI product, the head of an executive agency "shall....[use] competitive procedures in accordance with the applicable evaluation factors..." According to the bill's purpose, "[the bill shall] require Federal Prison Industries to compete for its contracts minimizing its unfair competition [mandatory source preference] with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars." Finally, Rep. Huizenga states in his February 16, 2012, press release that his bill "requires the government agencies to at least open these contracts to the private sector as well for bidding or requires them to shop around for the best value for the taxpayers' dollar."

However, it would appear the Huizenga bill proponents are ignoring the many congressional reforms of the FPI product procurement process that occurred in the 2003-2008 period. These FPI reforms mandate that both DoD and civilian agencies (a) use competitive procedures and (b) determine that the FPI product is comparable to products available from the private sector that best meet their needs in terms of price, quality, and time of delivery.

#### DoD Procedures for Purchasing from FPI

DoD purchasing activities vis-a-vis FPI are subject to 10 U.S.C. 2410n, Subpart 208.6 of the Defense Federal Acquisition Regulation Supplement (DFARS), and Subpart 8.6 of the Federal Acquisition Regulation (FAR).

These statutory and regulatory provisions provide the following:

(a) *Products for Which Federal Prison Industries Has Significant DoD Market Share.* DoD may purchase a product listed in the latest edition of the FPI catalog for which FPI has a "significant DoD market share" – that is, a market share greater than 5% of the DoD market – only if DoD uses competitive procedures for the procurement of the FPI product. In conducting such a competition, DoD shall consider a timely offer from FPI.

(b) *Products for Which Federal Prison Industries Does Not Have Significant DoD Market Share.* Before purchasing a product listed in the latest edition of the FPI catalog for which FPI does not have a "significant DoD market share" – that is, a market share 5% or less – DoD shall conduct market research to determine whether the FPI product is comparable to products available from the private sector that best meet the needs of DoD in terms of price, quality, and time of delivery.

- If DoD determines that a FPI product is NOT comparable in price, quality, and time of delivery to products of the private sector that best meets the needs of DoD in terms of price, quality, and time of delivery, DoD shall use competitive procedures for the procurement of the product. In conducting such a competition, DoD shall consider a timely offer from FPI.

- If DoD determines that a FPI product IS comparable in price, quality, and time of delivery to products of the private sector that best meets the needs of DoD in terms of price, quality, and time of delivery, DoD must purchase the FPI product under the mandatory source preference – or request a FPI waiver to purchase it from a private sector company. (Emphasis added)

[Attached at the end of this written testimony is a decision path flow chart that clarifies DoD procedures for purchasing from FPI.]

#### Civilian Procedures for Purchasing from FPI

Civilian purchasing activities vis-à-vis FPI are subject to Section 637 of the Consolidated Appropriations Act, 2005 (P.L. 108-447) and Subpart 8.6 of the FAR.

These legislative and regulatory provisions provide the following:

##### (a) *Market Research*

- Before purchasing a product listed in the latest edition of the FPI catalog, a civilian agency is required to conduct market research to determine whether the FPI product is comparable to products available from the private sector that best meets the needs of the civilian agency in terms of price, quality, and time of delivery.
- Determining comparability is a unilateral determination made at the discretion of the civilian agency's contracting officer.
- The civilian agency must prepare a written determination that includes supporting rationale explaining the assessment of price, quality, and time of delivery, based on the results of market research comparing the FPI product to products available from the private sector.

##### (b) *Competitive Procedures or Mandatory Source*

- If the civilian agency determines that the FPI product is NOT comparable to private sector products in one or more categories of price, quality, and time of delivery, the agency shall use competitive procedures for the procurement of the product. In conducting such a competition, the civilian agency shall consider a timely offer from FPI.
- If the civilian agency determines that the FPI product IS comparable to private sector products in all three categories of price, quality, and time of delivery, the agency must purchase the product from FPI under the mandatory source preference – or request a FPI waiver to purchase it from a private sector company. (Emphasis added)

[Attached at the end of this written testimony is a decision path flow chart that clarifies civilian agency procedures for purchasing from FPI.]



**2. Huizenga bill proponents downplay the fact that the FPI prison inmate work program is a significantly important BOP management and rehabilitation tool.**

The Huizenga draft releases on December 13 and February 16 strongly emphasize H.R. 3624's goal to allow fair competition for U.S. manufacturers, thereby restoring economic security for America and preserving private sector jobs.

Huizenga bill proponents, however, are downplaying the following:

(a) The FPI prison inmate work program is an important management tool used by understaffed BOP correctional workers to help deal with the exploding prison inmate population.

Hundreds of serious inmate-on-worker assaults have occurred in the past several years at the 117 BOP institutions, as the men and women who work at those institutions struggle to keep pace with an exploding prison inmate population.

- More than 217,000 prison inmates are incarcerated in BOP correctional institutions today, up from 25,000 in FY 1980, 58,000 in FY 1990, and 145,000 in FY 2000. About 81% - or 176,540 – of the inmate population are confined in BOP-operated institutions while 19% - or 40,612 – are managed in private prisons and residential reentry centers. By the end of FY 2013, it is expected there will be 229,268 prison inmates confined in BOP institutions.
- However, the number of correctional workers who work in BOP-operated prisons, is failing to keep pace with this tremendous growth in the prison inmate population. As of December 31, 2011, the BOP-operated institutions were staffed at an 88% level, as contrasted with the 95% staffing levels in the mid-1990s. This 88% staffing level is *below* the 90% staffing level that BOP believes to be the minimum level for maintaining the safety and security of BOP institutions.
- In addition, the current inmate-to-staff ratio at BOP-operated prisons is 4.94 inmates to 1 staff member, as contrasted with the 1997 inmate-to-staff ratio of 3.57 to 1. BOP believes this substantial increase in the inmate-to-staff ratio causes negative impacts on its ability to effectively supervise prison inmates. Indeed, rigorous research by BOP's Office of Research and Evaluation has confirmed that the greater the inmate-to-staff ratio the higher the levels of serious assaults by prison inmates. (*The Effects of Changing Crowding on Inmate Violence and Administrative Remedies Granted, 2010*)
- Prison inmate overcrowding also is an increasing problem at BOP institutions despite the activation of new prisons over the past few years. BOP-operated institutions at the end of FY 2011 were overcrowded by 39%, with 55% overcrowding at high security prisons and 51% at medium security prisons. By the end of FY 2013, it is expected the BOP system will be overcrowded by 43%.

This is why AFGE and its Council of Prison Locals, which represent the BOP correctional workers, strongly supports the FPI prison inmate work program. The FPI program is an important management tool used by understaffed BOP correctional workers to deal with the exploding prison inmate population. It helps keep thousands of inmates productively occupied in labor-intensive activities, thereby reducing inmate idleness and the violence associated with that idleness. It also provides strong incentives to encourage good inmate behavior, as those who want to work in FPI factories must maintain a record of good behavior and must complete high school or be working toward a General Education Degree (GED).

(b) The FPI prison inmate work program is an important rehabilitation tool that provides BOP inmates an opportunity to develop job skills and values that will allow them to reenter – and remain in – our communities as productive, law-abiding citizens.

The Post-Release Employment Project (PREP), a multi-year study of the FPI prison inmate work program carried out and reported upon in 1996 by William Saylor and Gerald Gaes of the BOP Office of Research and Evaluation, found that the FPI prison inmate work program had a strongly positive effect on post-release employment and recidivism. Specifically, the study results demonstrated that:

In the short run (i.e., one year after release from a BOP institution), federal prison inmates who had participated in the FPI work program (and related vocational training programs) were: (1) 35% less likely to recidivate than those who had not participated, and (2) 14% more likely to be employed than those who had not participated.

In the long run (i.e., up to 12 years after release from a BOP institution), federal prison inmates who had participated in the FPI work program were 24% less likely to recidivate than those who had not participated in the FPI work program. (*PREP: Training Inmates Through Industrial Work Participation, and Vocational and Apprenticeship Instruction*, by William Saylor and Gerald Gaes, Office of Research and Evaluation, Federal Bureau of Prisons, September 24, 1996.)

Later in 1999, Saylor and Gaes published a follow-up paper to report further analyses of the PREP data which focused on the differential effect of the FPI prison inmate work program on the post-release recidivism of four groups: (1) non-Hispanic whites, (2) non-Hispanic blacks, (3) Hispanic whites, and (4) Hispanic blacks. Their analyses revealed that the FPI prison inmate work program provides even greater benefit to the three minority groups that are at the greatest risk for recidivism (non-Hispanic blacks, Hispanic whites, and Hispanic blacks) than it does for the non-Hispanic white group. In general, the recidivism improvement rates for minority inmates who participated in the FPI work program compared to those minority inmates who did not participate were between 37% and 147% higher than the recidivism improvement rates for non-Hispanic white inmates who participated in the FPI work program compared to those non-Hispanic white inmates who did not participate. As Saylor and Gaes concluded:

“Regardless of whether a minority was defined on the basis of

race or ethnicity, and despite their being at a higher risk of recidivism, minority groups benefited more from [FPI work program] participation than their lower risk non-minority counterparts. While the absolute differences may not appear that large, the relative improvements [in recidivism rates] indicate a much larger program effect for minority program participants who are otherwise more likely to be recommitted to prison." (*The Differential Effect of Industries Vocational Training on Post-Release Outcome for Ethnic and Racial Groups*, William Saylor and Gerald Gaes, Office of Research and Evaluation, Federal Bureau of Prisons, September 6, 1999.)

**3. Huizenga bill proponents ignore the fact that the FPI prison inmate work program has experienced a significant decline in sales revenues, a significant increase in factory closings and downsizings, and a significant decline in the number of prison inmates employed by the FPI program. This deterioration of the FPI program is the result of various limitations imposed by Congress on the program, particularly Section 827 of the National Defense Authorization Act for FY 2008 (P.L. 110-181).**

Over the past several years, the FPI prison inmate work program has experienced a significant decline in its ability to remain financially self-sustaining while providing "employment for the greatest number of inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible." (18 U.S.C. 4122) For example, FPI has experienced a:

- **Significant decline in FPI sales revenues:** While FPI in FY 2009 had sales revenues of \$889,355,000 in FY 2009, it only had revenues of \$745,423,000 in FY 2011 – a decline of \$143,932,000 or 16% over three years.
- **Significant closing and downsizing of FPI factories:** On July 15, 2009, FPI closed factory operations at 14 BOP prisons and downsized operations at four other BOP prisons. The next year on July 13, 2010, FPI closed 12 more factories and downsized three. And on September 7, 2011, FPI announced that it would close and downsize 12 additional factories at 10 different BOP prisons. According to then-FPI Chief Operating Office Paul Laird, these closings and downsizings were cost control actions taken to bring production capacity and expenses in line with FPI's level of business.
- **Significant decline in the number of prison inmates employed by FPI:** While the FPI program employed 18,972 inmates in FY 2009, it employed only 14,200 at the end of FY 2011 and 13,466 in April 2012.

These significant declines are the result of the various limitations imposed by Congress and the FPI Board of Directors on FPI's mandatory source authority relating to DoD's and federal civilian agencies' purchases from FPI. But of the many imposed limitations, Section 827 in the National Defense Authorization Act for FY 2008 (P.L. 110-

181) – which is statutorily 10 U.S.C. 2410n - is probably the most significant impediment to the FPI prison inmate program.

The FPI Board of Directors in 2003 administratively ended the application of mandatory source authority for those FPI-made products where FPI had a share of the Federal market that was greater than 20%. But Section 827 took a much more stringent approach, ending the application of the mandatory source authority with regard to DoD purchases of FPI-made products where FPI's share of the DoD market for those products was greater than 5%. Initial analyses of the effect of this reduction of the "significant market share" from 20% to 5% projected an eventual loss of up to \$241 million in FPI sales revenues and 6,500 FPI prison inmate jobs.

**4. The Huizenga bill's elimination of the FPI mandatory source preference would make a bad situation even worse. AFGE and its Council of Prison Locals do not believe that the mandatory source preference should be eliminated until a new alternative prison inmate work program is designed, implemented, tested and funded. Such an alternative prison inmate program would help replace the prison inmate jobs that will be lost if the FPI mandatory source preference is eliminated by the Huizenga bill.**

As can be seen above in #3, FPI is in desperate need of new inmate work program authorities if it is to remain financially self-sustaining while providing "employment for the greatest number of inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible." (18 U.S.C. 4122) This desperate need would only increase if the Huzienga bill's elimination of the mandatory source preference were enacted.

AFGE was pleased when Congress included Section 221 in the FY 2011 Commerce-Justice-Science Appropriations bill (P.L. 112-55). This section extended – for the first time - the Prison Industry Enhancement (PIE) inmate employment program to the federal BOP system. The PIE program was created by Congress in 1979 to encourage state prison systems to establish employment opportunities for inmates that approximate private-sector work opportunities. The program is designed to place inmates in a realistic work environment, pay them the prevailing local wage for similar work, and enable them to acquire marketable skills to increase their potential for successful rehabilitation and meaningful employment upon release.

AFGE also was pleased that Section 221 authorized FPI to carry out pilot "off-shore repatriation" projects to produce items not currently produced in the United States. It is believed that FPI, if allowed to enter into partnerships with private businesses, could bring lost production back into the United States while providing BOP prison inmates with opportunities to learn skills that will be marketable after their release.

However, these two exciting prison inmate programs are only in their incipient phase. Any future consideration of eliminating the FPI mandatory source preference should only occur after they are deemed successful in helping to provide "employment for the

greatest number of inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible." (18 U.S.C. 4122).

**B Rebuttals to those Arguments Opposing the Existing FPI Prison Inmate Work Program**

Opponents of the FPI prison inmate work program often argue that the FPI mandatory source preference must be eliminated because: (1) FPI is a federal procurement behemoth, (2) this FPI federal procurement behemoth is adversely impacting private companies' sales and non-inmate workers' jobs, particularly in the office furniture and textile/apparel industries, and (3) therefore, eliminating the FPI mandatory source will significantly help private companies and non-inmate workers.

However, the existing evidence would seem to support the opposite arguments:

**1. FPI is not a federal procurement behemoth because its total product sales, even its office furniture sales, are relatively small.**

FPI opponents of FPI often contend that FPI is a federal procurement behemoth. For example, Rep. Howard Coble (R-NC), then-chairman of the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, stated at his Subcommittee's July 1, 2005 hearing on H.R. 2965, an anti-FPI bill, that he was "proud to be a cosponsor of this legislation" because "[among other things] FPI is a large and growing Government-owned corporation. In 1998, FPI had total sales in excess of \$534 million and employed 20,200 inmates. In 2004, [FPI] employed 19,337 inmates with total sales of \$802 million."

But while Rep. Coble and others seek to portray FPI as this "large and growing" behemoth, the fact is that FPI's total sales represent only a very small percentage of the total federal procurement market.

- FPI's total sales in FY 2004 - \$802,720,000 – were less than one quarter of 1% (.2350934% to be exact) of the total federal agency procurement market - \$341,447,181,612. FPI's total sales in FY 2007 - \$852,724,000 – were less than one fifth of 1% (.1926680%) of the total federal agency procurement market - \$442,587,106,986. (Source: "Federal Contract Actions and Dollars by Executive Department and Agency, FY 2004 and FY 2007", Federal Procurement Data System website.)
- FPI's total sales in FY 2011 - \$745,423,000 – were even less – 0.1393314% of the total federal agency procurement market - \$535 billion. (Source: "Contracting Smarter, Savings More," by Danny Werfel, OMB Controller of the Office of Federal Financial Management, and <http://www.usaspending.gov>.)

Similarly, FPI opponents who support the office furniture industry argue that the FPI office furniture business segment is an increasingly "large and growing" portion of the

total U.S. office furniture market. For example, then-Rep. Pete Hoekstra (R-MI), the primary sponsor of H.R. 2965, the anti-FPI bill, who represented a Michigan congressional district heavily involved with the office furniture industry, testified at the July 1, 2005 House Crime Subcommittee hearing on H.R. 2965 that:

"It [the FPI office furniture business segment] is not a minuscule part [of the U.S. furniture industry]. The furniture industry is about – probably somewhere in the neighborhood of a \$12 to \$14 billion industry, depending on exactly what year you're taking a look at. Office furniture in FPI was a \$250 million business within the last couple of years. It was a fast growing industry. It was the fastest growing office furniture company in America as the office furniture industry was going through its tough times.

However, contrary to then-Rep. Hoekstra's testimony, the fact was - and is - that the FPI office furniture business segment is only a very small part of the total U.S. office furniture market. As the table shows below, FPI office furniture sales in FY 2005 (when Rep. Hoekstra testified) - \$139,773,000 – were only 1.39% of the total U.S. office furniture market - \$10,070,000,000. In addition, the FPI office furniture sales decreased in absolute terms - dropping from \$217,852,000 in FY 2002 to \$115,993,000 in FY 2007 – and as a relative percentage of the total U.S. office furniture market – decreasing from 2.45% in FY 2002 to 1.02% in FY 2007. Even with the beginning of the serious recessionary downturn in 2008, FPI furniture sales as a percentage of the U.S. office furniture market still remained at a very low 1.16%

**FPI Office Furniture Sales and U.S. Office Furniture Market (2002-2008)**

Fiscal Year	FPI Office Furniture Sales	U.S. Office Furniture Market	FPI Office Furniture Sales as % of U.S. Furniture Market
2002	\$217,852,000	\$8,890,000,000	2.45%
2003	\$151,996,000	\$8,505,000,000	1.79%
2004	\$140,935,000	\$8,935,000,000	1.58%
2005	\$139,773,000	\$10,070,000,000	1.39%
2006	\$118,179,000	\$10,820,000,000	1.09%
2007	\$115,993,000	\$11,420,000,000	1.02%
2008	\$129,100,000	\$11,160,000,000	1.16%

Sources: "The U.S. Office Furniture Market, Statistics," compiled by The Business and Institutional Furniture Manufacturer's Association; FPI Annual Report, seven annual FPI reports for FY 2002-2008.

**(2) FPI is not the cause of the U.S. private companies' sales losses and non-inmate workers' job losses in the office furniture and textile/apparel industries. Instead these sales and job losses are being caused by foreign competition.**

FPI's opponents argue the FPI mandatory source preference should be eliminated because the FPI prison inmate work program is adversely impacting private sector

companies and non-inmate workers, particularly in the office furniture and textile/apparel industries. But FPI's opponents have failed to present hard evidence to substantiate their assertion that the FPI program is systemically causing such company sales losses and non-inmate worker job losses.

An example of this inability occurred at the July 1, 2005 House Crime Subcommittee hearing on H.R. 2965. Then-Subcommittee Chairman Coble asked the following two questions of Mr. Paul Miller, Director of Government Affairs, Independent Office Products & Furniture Association: "A, has any member of your association experienced detrimental effects as a result of FPI programs? And B, have you had any small businesses that have been forced out of business as a direct consequence of competing with FPI?" In response, Mr. Miller said the following:

**"Let me answer the second question first. To our knowledge, no, there has not been. We cannot point to a direct relationship of any business going out of business because of FPI. But we do see our industry – the economy has struggled the last few years and our industry has struggled a great deal. We lost 30,000 jobs, our companies were losing business. So we do see a correlation that had they been able to compete with that Government business they may have been able to do a little bit better. They may not have had to lay employees off, or they may not have had to close down for work periods at a time, weeks at a time. So, we have been harmed, but I can't say that we've closed our doors directly because of FPI. It doesn't help."** (Emphasis added)

Later at the same hearing, Rep. Dan Lundgren (R-CA) asked this question of Mr. Miller:

**"Mr. Miller, with all due respect, you've got to come and show me that this [FPI prison inmate work program] is really hurting the industry. I mean, to come here and say, well, I can't show you any loss of jobs anywhere and I can't show you any particular business going out of business but we know it hurts us, frankly is insufficient to convince me that we've got to do something. Now, if you've got some real hard data to show how this [FPI] program is really hurting your industry in a substantial way, I'd like to hear it."** (Emphasis added)

In response, Mr. Miller failed to present any "real hard data" to show how FPI is adversely impacting office furniture companies and non-inmate workers "in a substantial way." Instead, he said his office furniture association has no problem with FPI "legitimately" making office furniture with prison inmate labor but is opposed to FPI's alleged use of the business practice referred to as "pass-through" in which the FPI program would purchase finished products from its private sector partners for resale to its federal agency customers if circumstances prevented FPI from fulfilling an order. But contrary to Mr. Miller's statement, the "pass-through" issue was resolved

administratively in 2002, and there is no evidence that FPI has employed the "pass-through" practice since that time.

The reason why Mr. Miller and other FPI opponents have failed to present hard data to show that the FPI program is systematically causing losses of business sales and non-inmate worker jobs is simple. *The FPI prison inmate work program is not causing these losses.* These sales and job losses, particularly in the office furniture and textile/apparel industries, are being caused by foreign trade competition and the outsourcing of American jobs to other countries.

The very real adverse impact of foreign competition on the office furniture and textile/apparel industries has been documented again and again in federal government and trade association analyses, the office furniture and textile/apparel companies own stock reports to the Securities and Exchange Commission, and in the business media. For example, the U.S. Department of Commerce's comprehensive analysis of the health and competitiveness of the U.S. textile and apparel industries demonstrated how rising textile and apparel imports have caused substantial reductions in U.S. textile and apparel production as measured by the value of industry shipments, job losses and reductions in the number of textile and apparel establishments. (*"The U.S. Textile and Apparel Industries: An Industrial Base Assessment,"* conducted by the U.S. Department of Commerce's Bureau of Industry and Security, as requested by the Joint Statement of Managers accompanying the Conference Report on the Consolidated Appropriations Resolution, 2003 (H.Rpt. 108-10).)

An example of both the adverse impact of foreign trade and the outsourcing of American jobs to other countries is a [Business Week](#) article on Haworth Furniture, a \$1.4 billion Holland, MI-based maker of office furniture, and its increasing success in China. In addition to discussing how successful Haworth has been in moving a significant part of its manufacturing capacity to Shanghai, the August 22, 2005 article points out the adverse impact of Chinese imports on U.S. office furniture companies.

*"What's particularly impressive is that Haworth is beating many Chinese manufacturers at their own game – and doing it on the locals' turf. For the past five years, U.S. furniture manufacturers have been under siege from Chinese imports. Hundreds of U.S. furniture factories have shut, unable to compete with high-quality Chinese-made furniture costing 30% to 40% less. Few U.S. furniture makers have even contemplated taking the fight to China by manufacturing there and selling to the domestic market.*

*[But] the family-owned company has seen its Middle Kingdom sales grow 50% annually for the past three years. From its 250,000-square-foot factory in Shanghai, Haworth is selling more than 100,000 chairs a month, priced at \$250 to \$2,000 apiece, and around 100,000 office work stations, which go for up to \$2,500*



*apiece.*" ("Sitting Pretty in Shanghai," *Business Week*, August 22, 2005)

So why the anti-FPI animus? U.S. office furniture and textile/apparel companies and labor unions, who have suffered tremendous sales and job losses, and the legislators who represent the congressional districts in which these companies reside, are attempting to mitigate these losses somewhat by gaining better access to federal procurement contracts and the relatively few jobs that FPI prison inmates perform. Mr. Miller explained this in his response to Chairman Coble when he said "We lost 30,000 jobs, our companies were losing business. So...had [we] been able to compete with [FPI, we] may have been able to do a little bit better. [We] may not have had to lay employees off..."

But it would seem to be wrong-headed, policy-wise, to legislate the elimination of the FPI mandatory source - thereby endangering a successful correctional work program that is both an essential prison management tool and an important prisoner rehabilitation tool - simply to gain a few federal contracts and jobs. It would be better public policy - and more helpful to those living in North Carolina and Michigan - to directly deal with the root causes for the tremendous losses in sales and jobs in the office furniture and textile/apparel industries - foreign trade competition and outsourcing of American jobs.

To be fair, there have occurred isolated instances over the past two decades in which the FPI prison inmate work program adversely impacted an individual business whose primary customer is the federal government. One example often presented is the Glamour Glove Company problem a decade ago, in which Glamour Glove's production of gloves for the Department of Defense was being adversely impacted by FPI's increased glove production. Glamour Glove and FPI, of course, were able to negotiate a reasonable compromise to ensure that FPI no longer threatened the company's military glove production.

But again it would seem to be wrong-headed, policy-wise, to legislate the elimination of the FPI mandatory source - thereby endangering a successful correctional work program that is both an essential prison management tool and an important prisoner rehabilitation tool - when the isolated instances where the FPI program is adversely impacting individual businesses can be resolved administratively.

**3. The legislative elimination of the FPI mandatory source preference will not significantly help private companies and non-inmate workers, even in the office furniture and textile/apparel industries. But it will have a significantly adverse impact on the many private companies and non-inmate workers that supply FPI with raw materials, equipment, and other services.**

FPI's opponents argue that eliminating the FPI mandatory source preference will significantly help those private companies and non-inmate workers, particularly in the office furniture and textile/apparel industries, who have suffered tremendous sales and

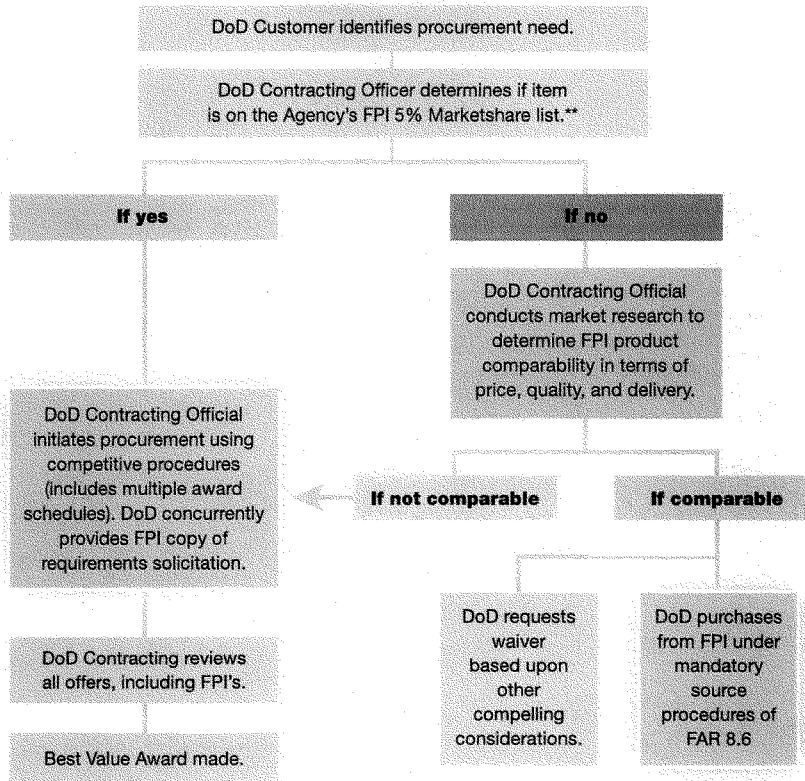
job losses. But, since the FPI inmate work program is not a federal procurement behemoth, and the FPI program is not systemically causing the losses in U.S. business sales and non-inmate worker jobs, the elimination of the FPI mandatory source preference will *not* provide significant help to those companies and workers.

Ironically, most of the impact of the legislative elimination of the FPI mandatory source preference will be adverse and will fall on those private companies (and their non-inmate workers) that provide the materials and equipment FPI factories need to produce their products. In FY 2009, FPI spent \$705.6 million, or 79.7% of its net sales revenue of \$885.3 million, on purchases of raw materials, supplies, equipment, and services from these private sector companies. About 63.7% of those purchases – or \$449 million – were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. In addition, FPI estimates that these contractual relationships have generated about 5,000 U.S. non-inmate worker jobs, many of which are unionized.

Each of these private companies has played by the rules, competing fair and square for the FPI contracts. They responded to solicitations issued by FPI and were awarded contracts through competitive procedures. In order to fulfill their contractual obligations, these companies often have hired law-abiding citizens as workers, added equipment, and some have opened entire new plants. These private companies and their non-inmate workers do not deserve to be on the receiving end of a wrong-headed, policy-wise, animus toward the FPI prison inmate work program.

This concludes my written statement. I thank you for including it in the hearing record.

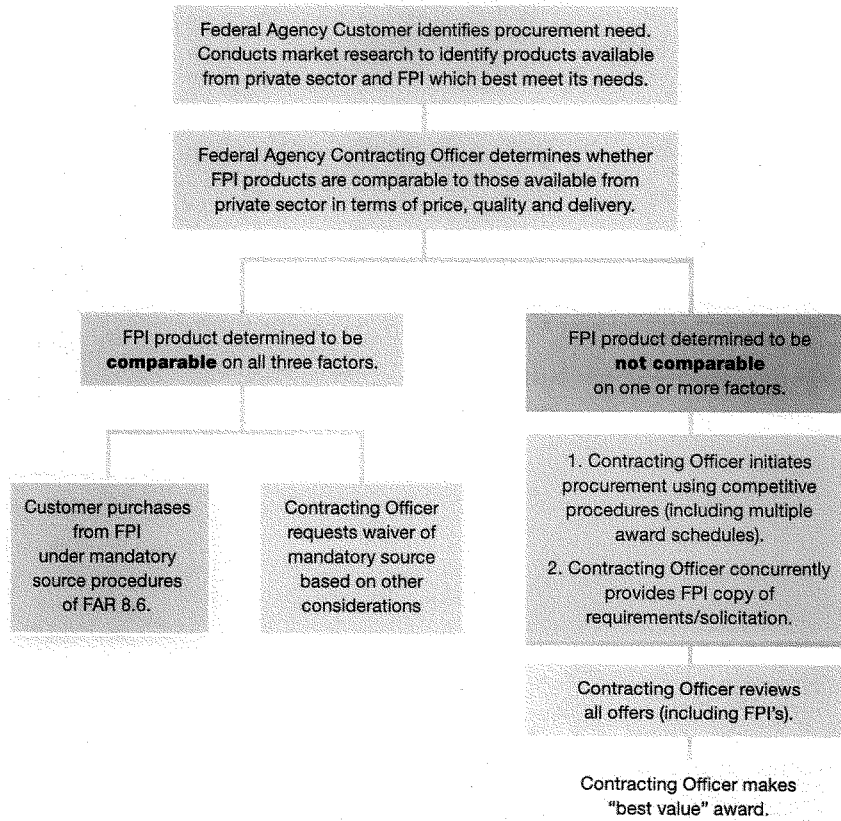
## Decision Path of DoD Procedures for Purchasing from FPI\*



\* Derived from:  
 • Sections 827 of the National Defense Authorization Act for Fiscal Year 2008; Public Law 110-181 (effective 3/31/08)  
 \*\* See the most recent Marketshare List at [www.unicor.gov](http://www.unicor.gov) (click on "Purchase/Waiver Procedures and Policy")



## Decision Path of Civilian Agency Procedures for Purchasing from FPI\*



\* Derived from:

• Sections 811/819 of the DoD Authorization Acts of FY 2002 and FY 2003, the implementing regulation for DoD at 68 Federal Register 64559 (11/14/03); affecting 48 CFR Parts 208, 210, 219, and 252.

• Section 637 of the Consolidated Appropriations Act, 2005, modifying FAR 8.6 (1/3/06).



# New Task Seating

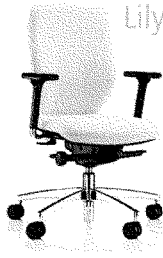


*Working together to make a difference.*



Lily Mesh Seating

Mesh Task Chair with Arms  
UL7000MBLK



Lily Seating

Task Chair with Arms  
LL7000UCRM



Aspire  
Chair

Task Chair with Arms  
ASP5000C1M



Rezzo  
Seating

Poly Mesh Task Chair  
AE302MBLK



Moneypenny  
Seating

Task Chair with Arms  
MONY1001



WXO  
Chair

Mesh Task Chair  
WX05800MBLK



Mars Seating

4-Leg Guest Chair with Arms  
MARS200MACHR

Contact  
Your Sales  
Representative  
for More  
Information  
About  
Availability.

# Lily Mesh Seating



Mesh Task Chair with Arms  
LL700M01LK

**OFG** UNICOR  
OFFICE  
FURNITURE  
GROUP

*Working together to make a difference*



Mesh Cashier Stool  
LL700SMCRM



Mesh Visitor Chair  
LL703MCRM

The Lily Mesh line features an innovative mesh back that incorporates the latest design and materials technology to deliver a chair with a robust steel rod frame and polyester tufted back.

# Lily Mesh Seating

Combining maximum support and ergonomic excellence...



- Mesh features a twin-tension knit to ensure lumbar support; available in black, grey or white
- Synchronized mechanism with graphics
- Visitor chairs stack 4 high; cantilever frame available in chrome or painted steel finish
- Black nylon or chrome 5 star base
- Black or chrome riser
- Accredited to BS EN 1335; 2000, Part 1. BS 5459-2:2000

## Dimensions:



### Lily Mesh Task Chair with Arms

DESCRIPTION	Task
OVERALL HEIGHT:	38" - 43"
OVERALL WIDTH:	25"
OVERALL DEPTH:	27"
SEAT HEIGHT:	17.5" - 23"
SEAT SIZE:	19" w x 19" d
BACK SIZE:	18" w x 21" h
ARM HEIGHT ADJ:	3.9"
ARM WIDTH ADJ:	1.4"
WEIGHT (lbs):	35.3



### Lily Mesh Cashier Stool with Arms

DESCRIPTION	Cashier Stool
OVERALL HEIGHT:	44.5" - 54.5"
OVERALL WIDTH:	19"
OVERALL DEPTH:	20.5"
SEAT HEIGHT:	26" - 38.5"
SEAT SIZE:	19" w x 19" d
BACK SIZE:	16.5" w x 16" h
ARM HEIGHT ADJ:	3.9"
ARM WIDTH ADJ:	1.4"
WEIGHT (lbs):	31



### Lily Mesh Visitor Chair with Arms

DESCRIPTION	Guest
OVERALL HEIGHT:	35.5"
OVERALL WIDTH:	21.5"
OVERALL DEPTH:	22.5"
SEAT HEIGHT:	26"
SEAT SIZE:	18.5" w x 18.5" d
BACK SIZE:	16" w x 16.5" h
WEIGHT (lbs):	24.25



# Lily Seating



Task Chair with Arms  
UL7000UCRM



Working together to make a difference!



Poly Back Task Chair  
LIL7000PBLK



Cashier Stool with Arms  
LIL7000UCRM



Visitor Chair with Arms  
LIL7003CRM

Combining maximum support and ergonomic excellence to deliver an aesthetically satisfying chair that provides a superior level of comfort. Lily sets new standards in task seating.



# Lily Seating

An intuitive line of seating that can be adjusted easily..



- Fully upholstered back features twin-stitched finish
- Synchronized mechanism with graphics
- Visitor chairs stack 5 high; cantilever frame available in chrome or painted steel finish
- Black nylon or chrome 5-star base
- Black or chrome riser
- Accredited to BS EN 1335; 2000, Part 1, BS 5459-2:2000, BS EN ISO 9241; Part 5.
- ANSI/BIFMA M7.1-2007

## Dimensions:

### Lily Task Chair with Arms



DESCRIPTION	Uph. Task	OPBLK Poly Back Task
OVERALL HEIGHT:	39.5" - 44.5"	39.5" - 44.5"
OVERALL WIDTH:	25"	25"
OVERALL DEPTH:	27"	27"
SEAT HEIGHT:	17" - 23"	16" - 23"
SEAT SIZE:	19" w x 19" d	19" w x 19" d
BACK SIZE:	17" w x 22.5" h	17.5" w x 22.5" h
ARM HEIGHT ADJ:	3.9"	3.0"
ARM WIDTH ADJ:	1.4"	1.4"
WEIGHT (lbs):	37.5	37.5

### Lily Cashier Stool with Arms



DESCRIPTION	Cashier Stool
OVERALL HEIGHT:	44.5" - 54.5"
OVERALL WIDTH:	19"
OVERALL DEPTH:	20.5"
SEAT HEIGHT:	26" - 38.5"
SEAT SIZE:	17" w x 19" d
BACK SIZE:	17" w x 16" h
ARM HEIGHT ADJ:	3.9"
ARM WIDTH ADJ:	1.4"
WEIGHT (lbs):	35

### Lily Visitor Chair with Arms



DESCRIPTION	Guest
OVERALL HEIGHT:	34"
OVERALL WIDTH:	22"
OVERALL DEPTH:	23"
SEAT HEIGHT:	26"
SEAT SIZE:	19" w x 17" d
BACK SIZE:	16.5" w x 16.5" h
WEIGHT (lbs):	176



# Aspire Chair



Task Chair with Arms  
ASPS00CRM

**UNICOR**  
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Armless Task Chair  
ASPS001BLK

Mid-back, fully upholstered task chair is equipped with a standard mechanism. It's an ideal solution for offices with a broad cross-section of users.

# Aspire Chair

An attractive profile with flexibility..



## Dimensions:



### Aspire Task Chair with Arms

DESCRIPTION	Task
OVERALL HEIGHT	39" - 45"
OVERALL WIDTH	25"
OVERALL DEPTH	25"
SEAT HEIGHT	18" - 22"
SEAT SIZE	19" w x 19" d
BACK SIZE	20" w x 16" h
WEIGHT (lbs)	48

- Fully upholstered mid-back height
- Waterfall edge
- Hardwood floor casters in black only
- Memory foam seat
- Black nylon or chrome 5-star base
- Black or chrome riser
- Meets or exceeds ANSI/BIFMA performance standards
- Meets California 117 Fire Standards



# Rezzo Seating



Poly Mesh Task Chair  
AE302MSLK



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Upholstered Task Chair  
AE302BLK



Upholstered Task Chair  
with Headrest  
AE302HBLK



Poly Mesh Task Chair  
with Headrest  
AE302HMSLK

The Rezzo Chair offers a full variety of ergonomic functions and adjustments with a high style design aesthetic and breathable back.

# Rezzo Seating

Ingenuity and innovation in a chair that will enhance your environment...



## Dimensions:



### Rezzo Poly Mesh Task Chair

DESCRIPTION	Task
OVERALL HEIGHT:	38.75" - 41.75"
OVERALL WIDTH:	25.5"
OVERALL DEPTH:	26.5"
SEAT HEIGHT:	18" - 21"
SEAT SIZE:	20" w x 19.25" d
BACK SIZE:	19.5" w x 23" h
ARM HEIGHT ADJ:	3.25"
WEIGHT (lbs):	37



### Rezzo Upholstered Task Chair

DESCRIPTION	Upholstered Task
OVERALL HEIGHT:	38.75" - 41.75"
OVERALL WIDTH:	25.5"
OVERALL DEPTH:	26.5"
SEAT HEIGHT:	18" - 21"
SEAT SIZE:	20" w x 19.25" d
BACK SIZE:	19.5" w x 23" h
ARM HEIGHT ADJ:	3.25"
WEIGHT (lbs):	39

- Optional upholstered back can be removed to expose the standard breathable poly mesh back
- Unique lumbar adjusts vertically as well as horizontally for personalized fit
- Optional adjustable headrest available
- Adjustable t-arms with pivot/ extending arm caps
- Synchronized mechanism
- Equipped with seat height, seat depth, 4-position back lock, 3-position tilt angle and tilt tension adjustments
- 5-star black nylon caster base
- Meets or exceeds ANSI/ BIFMA performance standards
- California 117 Fire Safety



# Moneyppenny Seating



Task Chair with Arms  
MONY1001

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Task Chair No Arms  
MONY2000



Task Chair with Headrest  
MONY1003

Moneyppenny has been ergonomically engineered to provide the widest range of adjustment controls, allowing it to be optimized to the needs of every individual.

# Money Penny Seating

Modern looks combine seamlessly with ergonomic enhancements...



## Dimensions:



### Money Penny Task Chair

MODEL:	MONY2001
DESCRIPTION:	Task Chair
OVERALL HEIGHT:	42" - 47"
OVERALL WIDTH:	26.6"
OVERALL DEPTH:	26"
SEAT HEIGHT:	18.5" - 23"
SEAT SIZE:	19" w x 19" d
BACK SIZE:	19" w x 24" h
WEIGHT (lbs):	46

- Optional headrest available
- Base available in polished aluminum or standard black
- Specify with or without arms
- Equipped with seat slider function
- Black mesh back has built-in lumbar support
- Accredited to BS EN 1335; 2000, Part 1. BS 5459-2:2000



# WXO Chair



Mesh Task Chair  
WXO5E0MRLK



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Task Chair  
WXO5B00BLK

The patterned weave mesh back provides generous lumbar and thoracic support while promoting dynamic back movement. Seat is available in a mesh version or a padded upholstered version.



# WXO Chair

A refined, sleek profile with distinctive comfort and support...



## Dimensions:



### WXO Chair

MODEL:	WX05800BLK
DESCRIPTION:	Task
OVERALL HEIGHT:	36.5" - 40"
OVERALL WIDTH:	26" - 28"
OVERALL DEPTH:	25"
SEAT HEIGHT:	16" - 20.5"
SEAT SIZE:	20" w x 19.5" d
BACK SIZE:	20" w x 19.5" h
WEIGHT (lbs):	44



### WXO Mesh Chair

MODEL:	WX05800MBLK
DESCRIPTION:	Task
OVERALL HEIGHT:	36.5" - 40"
OVERALL WIDTH:	26" - 28"
OVERALL DEPTH:	25"
SEAT HEIGHT:	16" - 20.5"
SEAT SIZE:	20" w x 19.5" d
BACK SIZE:	20" w x 19.5" h
WEIGHT (lbs):	40

- Seat foam conforms to your body and disperses weight ergonomically
- Waterfall edge reduces fatigue and promotes healthy posture
- Synchronous balanced recline mechanism
- Single position tilt lock adjustment and pneumatic height adjustment
- Height adjustable arms with pivoting arm pads
- Black nylon base with 2" carpet casters
- Meets or exceeds ANSI/BIFMA performance standards



# Mars Seating



4-Leg Guest Chair with Arms  
MARS200M4CHR



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Cantilever Chair with Arms  
MARS200MCHR



Cantilever Chair No Arms  
MARS100MCHR



4-Leg Chair No Arms  
MARS100M4CHR



4-Leg Arm Chair Casters  
MARS200M4CCHR

Mars is a light and versatile family of meeting, visitor and conference seating whose slim and refined appearance belies a sturdy and exceptionally comfortable chair.

# Mars Seating

A modern yet reassuringly practical and generously proportioned chair...

## Dimensions:



CLICK  
Order OR Info  
HERE

- 4-Leg base can be ordered with optional casters
- Cantilever option
- Chrome linking mechanism available
- Perforated glass-filled polypropylene back available in black or white; upholstered back pad optional
- Chairs stack 4 high; stack up to 10 on a dolly
- Specify with or without arms
- Available with black frame (standard), or in chrome (optional)



### Mars 4-Leg Chair

MODEL:	MARS200M4WCHR
DESCRIPTION:	Guest Chair
OVERALL HEIGHT:	31.5"
OVERALL WIDTH:	22.8"
OVERALL DEPTH:	21.6"
SEAT HEIGHT:	17.7"
SEAT SIZE:	18" w x 17.7" d
BACK SIZE:	18" w x 13.8" h
WEIGHT (lbs):	18



### Mars 4-Leg Chair with Casters

MODEL:	MARS200M4CCHR
DESCRIPTION:	Guest Chair
OVERALL HEIGHT:	32.75"
OVERALL WIDTH:	22.8"
OVERALL DEPTH:	21.6"
SEAT HEIGHT:	17.7"
SEAT SIZE:	18" w x 17.7" d
BACK SIZE:	18" w x 13.8" h
WEIGHT (lbs):	18



### Mars Cantilever Chair

MODEL:	MARS201UPCHR
DESCRIPTION:	Guest Chair
OVERALL HEIGHT:	31.5"
OVERALL WIDTH:	22.8"
OVERALL DEPTH:	21.6"
SEAT HEIGHT:	17.7"
SEAT SIZE:	18" w x 17.7" d
BACK SIZE:	18" w x 13.8" h
WEIGHT (lbs):	20



### Mars Chrome Linking Mechanism

MODEL:	MARSLINK
DESCRIPTION:	Chair Ganger