**DEPARTMENT OF THE ARMY**
**U.S. ARMY CORPS OF ENGINEERS**
**WASHINGTON, D.C. 20314-1000**

REPLY TO
ATTENTION OF:

CEPR-P (715)

9 August 2003

MEMORANDUM FOR ALL USACE COMMANDS (DIRECTORS/CHIEFS OF CONTRACTING)

SUBJECT: PARC Instruction Letter (PIL) 2003-15, Federal Prison Industries, Inc. – INFORMATION RELEASE

1. Reference enclosed Email dated 23 July 2003 from Emily Clarke, Director, Procurement and Industrial Base Policy, HQ, Department of the Army with attached information update paper from The Office of the Director, Defense Procurement and Acquisition Policy, SAB.

2. This PARC Instruction Letter (PIL) 2003-15 is issued to provide the widest possible electronic distribution throughout USACE to Commanders, Directors, and Chiefs of Contracting concerning information on the recent changes to the regulations with respect to procedures for purchasing items typically reserved for Federal Prison Industries, Inc. (FPI).

3. The POC for this PIL is Ms. Sylvia J. Moody, CEPR-P, 202-761-4700, e-mail: sylvia.j.moody@usace.army.mil.

FOR THE COMMANDER:

Encl

BUNNATINE H. GREENHOUSE
Principal Assistant Responsible
for Contracting

**Morton, Gail R HQ02**

**From:** Clarke, Emily Ms SAALT [emily.clarke@us.army.mil]
**Sent:** Wednesday, July 23, 2003 5:53 PM
**To:** PARC; POLICY CHIEFS/PARC Offices
**Cc:** Ballard, Tina Ms SAALT; Wood, Kel LTC SAALT; Hoburg, Paul D Mr OGC; Lind, Scott E Mr OGC; Fowlkes, Linda D SAALT; Kley, Bill; Lake, Steve; Linke, Steve; Pieper, Joseph; Wisniewski, Sharon
**Subject:** FW: Information Release - Federal Prison Industries, Inc.

PARCs/ Policy Chiefs -

Forwarding for your information ~

*Emily Clarke*
Director, Procurement and
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-----Original Message-----
**From:** Balven, Lyndi, Col, OSD-ATL [mailto:Lyndi.Balven@osd.mil]
**Sent:** Wednesday, July 23, 2003 2:24 PM
**Subject:** Information Release - Federal Prison Industries, Inc.

**Senior Procurement Execs et al --**

**There have been many recent changes to the regulations with respect to procedures for purchasing items typically reserved for Federal Prison Industries, Inc. (FPI). We have put together a paper highlighting those Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) changes that allow increased competition and provide additional small business opportunities when purchasing items typically reserved for FPI. The paper highlighting those changes is attached for your use. Please ensure this Information Release receives wide distribution and is posted on your webpages. Our POC is Ms. Susie Schneider at (703) 602-0326.**

**v/r Col Lyndi Balven**
**Director, Operations**
**Defense Procurement and Acquisition Policy**

# Federal Prison Industries (FPI), Inc., Update

**Purpose:** To update contracting officers on recent Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) changes that allow increased competition and provide additional small business opportunities when purchasing items typically reserved for Federal Prison Industries, Inc. (FPI).

**Latest Changes:** In the last 2 years procedures at FAR 8.6 and DFARS 208.6 for purchasing from FPI have changed. Highlights include the following—

1. **Comparability.** In April, 2002, the DFARS was changed to require contracting officers to conduct market research to determine if an FPI product is comparable to products available from the private sector. Contracting officers can now consider what product best meets the Government's needs in terms of price, quality, and time of delivery and must document the results of market research. Comparable products must be acquired from FPI. Noncomparable products must be acquired using competitive procedures. The contracting officer's determination is unilateral.

2. **Competitive Procedures.** When making purchases on the open market (above $2,500), contracting officers can use all available procedures including small business set-asides and multiple award contracts under Federal Supply Schedules. However, based on current law, FPI may still participate in these procurements and contracting officers should make requirements and/or solicitation information available to FPI and must fairly evaluate an offer from FPI. This policy is clarified in a proposed DFARS change published for comment in May, 2003. The Defense Acquisition Regulation (DAR) Council expects to finalize clarifications before September 2003.

3. **FPI Waiver Threshold.** In May, 2003, the FAR was changed to increase the blanket waiver threshold from $25 to $2,500. Contracting Officers are no longer required to purchase products on FPI's Schedule that are at or below $2,500 and instead purchase on the open market without following the FPI comparability and competitive procedures.

4. **FPI Performance Evaluation.** In May, 2003, the FAR was changed to require the Government to evaluate FPI contract performance. It is important that contracting officers record FPI performance on delivery, price, and quality and seek out this information to make future comparability determinations.

**Summary:** Please be aware that there are numerous regulatory changes that impact DoD's FPI procedures. Provide any comments to the current DFARS clarifications by accessing the Web Site below. Refer questions to either Ms. Susan Schneider at susan.schneider@osd.mil or Mr. Philip Degen at Philip.degen@osd.mil in the office of the Director of Defense Procurement and Acquisition Policy. See **http://www.acq.osd.mil/dpap/policy/dfarspubliccomments.htm**

Prepared by: The Office of the Director, Defense Procurement and Acquisition Policy
June 3, 2003