

107TH CONGRESS
1ST SESSION

H. R. 1577

To amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with non-inmate workers and the firms that employ them and increasing the likelihood that Federal agencies get the best value for taxpayers dollars, to require that Federal Prison Industries fully and timely perform its Government contracts by empowering Federal contracting officers with the contract administration tools generally available to assure full and timely performance of other Government contracts, to enhance the opportunities for effective public participation in decisions to expand the activities of Federal Prison Industries, to provide to Federal agencies temporary preferential contract award authority to ease the transition of Federal Prison Industries to obtaining inmate work opportunities through other than its mandatory source status, to provide additional work opportunities for Federal inmates by authorizing Federal Prison Industries to provide inmate workers to nonprofit entities with protections against commercial activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2001

Mr. HOEKSTRA (for himself, Mr. FRANK, Mr. COLLINS, Mrs. MALONEY of New York, Mr. SENSENBRENNER, Mr. COBLE, Mr. HILLEARY, Ms. BALDWIN, Mr. JENKINS, Mr. KLECZKA, Mr. TOM DAVIS of Virginia, Mr. RAHALL, Ms. HART, Mr. MCGOVERN, Mr. BLUNT, Mr. GORDON, Mr. BURR of North Carolina, Mr. SMITH of Washington, Mr. LAHOOD, Mr. NEY, Mr. HILLIARD, Mr. LOBIONDO, Mr. JONES of North Carolina, Mr. ENGLISH, Mr. DOYLE, Mr. MCHUGH, Mr. EHLERS, Ms. CARSON of Indiana, Mr. SESSIONS, Mr. CAMP, Mr. KUCINICH, Mr. ROYCE, Mr. SOUDER, and Mr. TANNER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with non-inmate workers and the firms that employ them and increasing the likelihood that Federal agencies get the best value for taxpayers dollars, to require that Federal Prison Industries fully and timely perform its Government contracts by empowering Federal contracting officers with the contract administration tools generally available to assure full and timely performance of other Government contracts, to enhance the opportunities for effective public participation in decisions to expand the activities of Federal Prison Industries, to provide to Federal agencies temporary preferential contract award authority to ease the transition of Federal Prison Industries to obtaining inmate work opportunities through other than its mandatory source status, to provide additional work opportunities for Federal inmates by authorizing Federal Prison Industries to provide inmate workers to nonprofit entities with protections against commercial activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Prison Indus-

5 tries Competition in Contracting Act of 2001”.

1 **SEC. 2. GOVERNMENTWIDE PROCUREMENT POLICY RELAT-**
2 **ING TO PURCHASES FROM FEDERAL PRISON**
3 **INDUSTRIES.**

4 Section 4124 of title 18, United States Code, is
5 amended to read as follows:

6 **“§ 4124. Governmentwide procurement policy relat-**
7 **ing to purchases from Federal Prison In-**
8 **dustries**

9 “(a) IN GENERAL.—Purchases from Federal Prison
10 Industries, Incorporated, a wholly owned Government cor-
11 poration, as defined in section 9101(3)(E) of title 31, may
12 be made by a Federal department or agency only in ac-
13 cordance with this section.

14 “(b) SOLICITATION AND EVALUATION OF OFFERS
15 AND CONTRACT AWARDS.—(1) When a procurement ac-
16 tivity of a Federal department or agency has a require-
17 ment for a specific product or service that is authorized
18 to be offered for sale by Federal Prison Industries, in ac-
19 cordance with section 4122 of this title, and is listed in
20 the catalog referred to in subsection (g), the procurement
21 activity shall solicit an offer from Federal Prison Indus-
22 tries, if the purchase is expected to be in excess of the
23 micro-purchase threshold (as defined by section 32(f) of
24 the Office of Federal Procurement Policy Act (41 U.S.C.
25 428(f))).

1 “(2) A contract award for such product or service
2 shall be made using competitive procedures in accordance
3 with the specifications and evaluation factors specified in
4 the solicitation (or other request for offers), unless a de-
5 termination is made by the Attorney General pursuant to
6 paragraph (3).

7 “(3) The procurement activity shall negotiate with
8 Federal Prison Industries on a noncompetitive basis for
9 the award of a contract if the Attorney General determines
10 that—

11 “(A) Federal Prison Industries cannot reason-
12 ably expect to receive the contract award on a com-
13 petitive basis; and

14 “(B) the contract award is necessary to main-
15 tain work opportunities otherwise unavailable at the
16 penal or correctional facility at which the contract is
17 to be performed to prevent circumstances that could
18 reasonably be expected to significantly endanger the
19 safe and effective administration of such facility.

20 “(4) A contract award shall be made with Federal
21 Prison Industries if the contracting officer for the procure-
22 ment activity determines that—

23 “(A) the prison-made product or service to be
24 furnished will meet the requirements of the procure-
25 ment activity (including any applicable

1 prequalification requirements and all specified com-
2 mercial or governmental standards pertaining to
3 quality, testing, safety, serviceability, and warran-
4 ties);

5 “(B) timely performance of the contract can be
6 reasonably expected; and

7 “(C) the contract price does not exceed a cur-
8 rent market price.

9 “(5) A determination by the Attorney General pursu-
10 ant to paragraph (3) shall be—

11 “(A) supported by specific findings by the war-
12 den of the penal or correctional institution at which
13 a Federal Prison Industries workshop is scheduled
14 to perform the contract;

15 “(B) supported by specific findings by Federal
16 Prison Industries regarding why it does not expect
17 to win the contract on a competitive basis; and

18 “(C) made and reported in the same manner as
19 a determination made pursuant to section 303(e)(7)
20 of the Federal Property and Administrative Services
21 Act of 1949 (41 U.S.C. 253(e)(7)).

22 “(6) If the Attorney General has not made the deter-
23 mination described in paragraph (3) within 30 days after
24 Federal Prison Industries has been informed of a con-
25 tracting opportunity by a procurement activity, the pro-

1 curement activity shall conduct a procurement for the
2 product in accordance with the procedures generally appli-
3 cable to such procurements by the procurement activity.

4 “(c) COMPETITIVE OFFERS FROM FEDERAL PRISON
5 INDUSTRIES.—A timely offer made by Federal Prison In-
6 dustries shall be considered for award in accordance with
7 the applicable specification and evaluation factors speci-
8 fied in any solicitation (or other request for offers).

9 “(d) PERFORMANCE BY FEDERAL PRISON INDUS-
10 TRIES.—Federal Prison Industries shall perform its con-
11 tractual obligations under a contract awarded by a Fed-
12 eral department or agency to the same extent as any other
13 contractor.

14 “(e) FINALITY OF CONTRACTING OFFICER’S DECI-
15 SION.—(1) A decision by a contracting officer regarding
16 the award of a contract to Federal Prison Industries or
17 relating to the performance of such contract shall be final,
18 unless reversed on appeal pursuant to paragraph (2) or
19 (3).

20 “(2) The Chief Executive Officer of Federal Prison
21 Industries may appeal to the head of a Federal depart-
22 ment or agency a decision by a contracting officer not to
23 award a contract to Federal Prison Industries pursuant
24 to subsection (b)(4). The decision of the head of a Federal
25 department or agency on appeal shall be final.

1 “(3) A dispute between Federal Prison Industries
2 and a procurement activity regarding performance of a
3 contract shall be subject to—

4 “(A) alternative means of dispute resolution
5 pursuant to subchapter IV of chapter 5 of title 5;
6 or

7 “(B) final resolution by the board of contract
8 appeals having jurisdiction over the procurement ac-
9 tivity’s contract performance disputes pursuant to
10 the Contract Disputes Act of 1978 (41 U.S.C. 601
11 et seq.).

12 “(f) REPORTING OF PURCHASES.—Each Federal de-
13 partment or agency shall report purchases from Federal
14 Prison Industries to the Federal Procurement Data Sys-
15 tem (as referred to in section 6(d)(4) of the Office of Fed-
16 eral Procurement Policy Act (41 U.S.C. 405(d)(4))) in the
17 same manner as it reports to such System any acquisition
18 in an amount in excess of the simplified acquisition thresh-
19 old (as defined by section 4(11) of the Office of Federal
20 Procurement Policy Act (41 U.S.C. 403(11))).

21 “(g) CATALOG OF PRODUCTS.—Federal Prison In-
22 dustries shall publish and maintain a catalog of all specific
23 products and services that it is authorized to offer for sale.
24 Such catalog shall be periodically revised as products and

1 services are added or deleted by its board of directors (in
2 accordance with section 4122(b) of this title).

3 “(h) COMPLIANCE WITH STANDARDS.—Federal Pris-
4 on Industries shall comply with Federal occupational,
5 health, and safety standards with respect to the operation
6 of its industrial operations.”.

7 **SEC. 3. PUBLIC PARTICIPATION REGARDING EXPANSION**
8 **PROPOSALS BY FEDERAL PRISON INDUS-**
9 **TRIES.**

10 Section 4122(b) of title 18, United States Code, is
11 amended—

12 (1) by redesignating paragraph (6) as para-
13 graph (11); and

14 (2) by striking paragraphs (4) and (5) and in-
15 serting the following new paragraphs:

16 “(4) A decision to authorize Federal Prison Indus-
17 tries to offer a new specific product or service or to expand
18 the production of an existing product or service shall be
19 made by its board of directors in conformance with the
20 requirements of subsections (b), (c), (d), and (e) of section
21 553 of title 5, and this chapter.

22 “(5)(A) Whenever Federal Prison Industries pro-
23 poses to offer for sale a new specific product or service
24 or to expand production of a currently authorized product
25 or service, the Chief Operating Officer of Federal Prison

1 Industries shall submit an appropriate proposal to the
2 board of directors and obtain the board’s approval before
3 initiating any such expansion. The proposal submitted to
4 the board shall include a detailed analysis of the probable
5 impact of the proposed expansion of inmate-work activities
6 by Federal Prison Industries on private sector firms and
7 their non inmate workers.

8 “(B)(i) The analysis required by subparagraph (A)
9 shall be performed by an interagency team on a reimburs-
10 able basis or by a private contractor paid by Federal Pris-
11 on Industries.

12 “(ii) If the analysis is to be performed by an inter-
13 agency team, such team shall be led by the Federal Pro-
14 curement Data Center with representatives of the Depart-
15 ment of Labor, the Department of Commerce, and the
16 Small Business Administration.

17 “(iii) If the analysis is to be performed by a private
18 contractor, the selection of the contractor and the admin-
19 istration of the contract shall be conducted by one of the
20 entities referenced in clause (ii) as an independent execu-
21 tive agent for the board of directors.

22 “(C) The analysis required by subparagraph (A) shall
23 identify and consider—

1 “(i) the number of vendors that currently meet
2 the requirements of the Federal Government for the
3 specific product or service;

4 “(ii) the proportion of the Federal Government
5 market for the specific product or service currently
6 furnished by small businesses during the previous 3
7 fiscal years;

8 “(iii) the share of the Federal market for the
9 specific product or service projected for Federal
10 Prison Industries for the fiscal year in which pro-
11 duction or performance will commence or expand
12 and the subsequent 3 fiscal years;

13 “(iv) whether the industry producing the spe-
14 cific product or service in the private sector—

15 “(I) has an unemployment rate higher
16 than the national average;

17 “(II) has a rate of employment for workers
18 that has consistently shown an increase during
19 the previous 5 years; or

20 “(III) has an import to domestic produc-
21 tion ratio of 25 percent or greater;

22 “(v) the total volume of domestic production
23 during each of the 5 previous years in the industry
24 producing the specific product or service in the pri-
25 vate sector;

1 “(vi) whether the specific product is an import-
2 sensitive product;

3 “(vii) the requirements of the Federal Govern-
4 ment and the demands of entities other than the
5 Federal Government for the specific product or serv-
6 ice during the previous 3 fiscal years;

7 “(viii) the projected growth or decline in the de-
8 mand of the Federal Government for the specific
9 product or service;

10 “(ix) the capability of the projected demand of
11 the Federal Government for the specific product or
12 service to sustain both Federal Prison Industries
13 and private vendors; and

14 “(x) whether authorizing the production of the
15 new product or performance of a new service will
16 provide inmates with the maximum opportunity to
17 acquire knowledge and skill in trades and occupa-
18 tions that will provide them with a means of earning
19 a livelihood upon release.

20 “(C)(i) The board of directors may not approve a pro-
21 posal to authorize the production and sale of a new spe-
22 cific product or continued sales of a previously authorized
23 product unless—

24 “(I) the product to be furnished is a prison-
25 made product; or

1 “(II) the service to be furnished is to be per-
2 formed by inmate workers.

3 “(ii) The board of directors may not approve a pro-
4 posal to authorize the production and sale of a new prison-
5 made product or to expand production of a currently au-
6 thorized product if the product is—

7 “(I) produced in the private sector by an indus-
8 try which has reflected during the previous year an
9 unemployment rate above the national average; or

10 “(II) an import-sensitive product.

11 “(iii) The board of directors may not approve a pro-
12 posal for inmates to provide a service in which an inmate
13 worker has access to—

14 “(I) personal or financial information about in-
15 dividual private citizens, including information relat-
16 ing to such person’s real property, however de-
17 scribed, without giving prior notice to such persons;
18 or

19 “(II) data that is classified, or that will become
20 classified after being merged with other data.

21 “(iv)(I) Federal Prison Industries is prohibited from
22 furnishing construction services relating to buildings,
23 structures, or other real property.

24 “(II) Geographic data regarding the location of sur-
25 face and subsurface infrastructure providing communica-

1 tions, water and electrical power distribution, pipelines for
2 the distribution of natural gas, bulk petroleum products
3 and other commodities, and other utilities.

4 “(III) For purposes of this clause, the term ‘construc-
5 tion’ has the meaning given such term by section 2.101
6 of the Federal Acquisition Regulation (48 CFR part
7 2.101), as in effect on June 1, 2000, including the repair,
8 alteration, or maintenance of real property in being.

9 “(6) To provide further opportunities for participa-
10 tion by interested parties, the board of directors shall—

11 “(A) give additional notice of a proposal to au-
12 thorize the production and sale of a new product or
13 expand the production of a currently authorized
14 product in a publication designed to most effectively
15 provide notice to private vendors and labor unions
16 representing private sector workers who could rea-
17 sonably be expected to be affected by approval of the
18 proposal, which notice shall offer to furnish copies of
19 the analysis required by paragraph (5) and shall so-
20 licit comment on the analysis;

21 “(B) solicit comments on the analysis required
22 by paragraph (5) from trade associations rep-
23 resenting vendors and labor unions representing pri-
24 vate sector workers who could reasonably be ex-
25 pected to be affected by approval of the proposal to

1 authorize the production and sale of a new product
2 or expand the production of a currently authorized
3 product; and

4 “(C) afford an opportunity, on request, for a
5 representative of an established trade association,
6 labor union, or other representatives of private in-
7 dustry to present comments on the proposal directly
8 to the board of directors.

9 “(7) The board of directors shall be provided copies
10 of all comments received on the expansion proposal.

11 “(8) Based on the comments received on the initial
12 expansion proposal, the Chief Operating Officer of Federal
13 Prison Industries may provide the board of directors a re-
14 vised expansion proposal. If such revised proposal provides
15 for expansion of inmate work opportunities in an industry
16 different from that initially proposed, such revised pro-
17 posal shall be subject to the public comment requirements
18 of paragraph (6).

19 “(9) The board of directors shall consider a proposal
20 to authorize the sale of a new product or service (or to
21 modify the volume of sales for a currently authorized prod-
22 uct or service) and take any action with respect to such
23 proposal, during a meeting that is open to the public, un-
24 less closed pursuant to section 5526 of title 5.

1 “(10) In conformity with the requirements of para-
2 graphs (5) through (9) of this subsection, the board of
3 directors may—

4 “(A) authorize the donation of products pro-
5 duced by Federal industries and available for sale;
6 or

7 “(B) authorize the production of a new specific
8 product for donation.”.

9 **SEC. 4. TRANSITIONAL PREFERENTIAL CONTRACTING AU-**
10 **THORITIES.**

11 (a) PREFERRED SOURCE STATUS.—

12 (1) IN GENERAL.—Subject to the limitations of
13 paragraph (3) and subsection (c), a Federal depart-
14 ment or agency having a requirement for a product
15 or service that is authorized for sale by Federal
16 Prison Industries and is listed in its catalog (re-
17 ferred to in section 4124(g) of title 18, United
18 States Code) shall first solicit an offer from Federal
19 Prison Industries on a noncompetitive basis during
20 the period specified in subsection (d).

21 (2) CONTRACT AWARD AUTHORITY.—A contract
22 award shall be made to Federal Prison Industries if
23 the contracting officer for the procurement activity
24 determines that—

1 (A) the prison-made product or service to
2 be furnished will meet the requirements of the
3 procurement activity (including commercial or
4 governmental standards pertaining to quality,
5 testing, safety, serviceability, and warranties as
6 may be imposed upon a private sector supplier
7 of such product or service);

8 (B) timely performance of the contract can
9 be reasonably expected; and

10 (C) the negotiated contract price does not
11 exceed a fair and reasonable price.

12 (3) LIMITATION ON USE OF AUTHORITY.—As a
13 percentage of the total sales made by Federal Prison
14 Industries during the base period, the total dollar
15 value of contract awards made pursuant to this sec-
16 tion shall not exceed—

17 (A) 90 percent in fiscal year 2002;

18 (B) 85 percent in fiscal year 2003;

19 (C) 70 percent in fiscal year 2004;

20 (D) 55 percent in fiscal year 2005; and

21 (E) 40 percent in fiscal year 2006.

22 (b) ADDITIONAL LIMITATIONS ON USE OF TRANSI-
23 TIONAL PREFERENTIAL CONTRACTING AUTHORITIES.—

24 (1) SALES WITHIN VARIOUS BUSINESS SEC-
25 TORS.—Use of the authority provided by subsection

1 (a) shall not result in contract awards to Federal
2 Prison Industries that are in excess of its total sales
3 during the base year for each of its business sectors.

4 (2) LIMITATIONS RELATING TO SPECIFIC PROD-
5 UCTS AND SERVICES.—Use of the authority provided
6 by subsection (a) shall not result in contract awards
7 to Federal Prison Industries for any specific product
8 or service that are in excess of its total sales during
9 the base period for such product or service.

10 (3) TOTAL SALES DURING EACH COVERED FIS-
11 CAL YEAR.—The preferential contracting authority
12 provided by subsection (a) shall not be available to
13 make additional noncompetitive contract awards
14 whenever the dollar value of sales made by Federal
15 Prison Industries through competitive means exceed
16 the annual percentages specified in subsection
17 (a)(3).

18 (c) DURATION OF AUTHORITY.—The preferential
19 contracting authority authorized by subsection (a) may
20 not be used on or after October 1, 2007, and becomes
21 effective on the effective date of the final regulations
22 issued pursuant to section 16(b).

23 (d) DEFINITIONS.—For the purposes of this
24 section—

1 (1) the term “base period” means the total
2 sales of Federal Prison Industries during the period
3 October 1, 1999 and September 30, 2000 (Fiscal
4 Year 2000).

5 (2) the term “business sectors” means the 5
6 product/service groups identified in the 1999 Fed-
7 eral Prison Industries annual report as Textile Prod-
8 ucts, Furniture Products, Electronic Products,
9 Metal Products, and Graphics/Services.

10 (3) the term “fair and reasonable price” shall
11 be given the same meaning as, and be determined
12 pursuant to, part 15.8 of the Federal Acquisition
13 Regulation (48 C.F.R. 15.8).

14 **SEC. 5. INMATE WAGES AND DEDUCTIONS.**

15 (a) IN GENERAL.—The Director of the Federal Bu-
16 reau of Prisons shall prescribe the rates of hourly wages
17 to be paid inmates performing work for Federal Prison
18 Industries and in other work assignments within the var-
19 ious Federal correctional institutions.

20 (b) PERIODIC ADJUSTMENTS TO WAGE RATES.—The
21 various inmate wage rates shall be reviewed and consid-
22 ered for increase on not less than a biannual basis.

23 (c) PAYMENT OF WAGES AND DEDUCTIONS.—Wages
24 earned by an inmate worker shall be paid in the name
25 of the inmate. Deductions, aggregating to not more than

1 80 percent of gross wages, shall be taken from the wages
2 due for—

3 (1) applicable taxes (Federal, State, and local);

4 (2) payment of fines and restitution pursuant
5 to court order;

6 (3) payment of additional restitution for victims
7 of the inmate's crimes (at a rate not less than 10
8 percent of gross wages);

9 (4) allocations for support of the inmate's fam-
10 ily pursuant to statute, court order, or agreement
11 with the inmate;

12 (5) allocations to a fund in the inmate's name
13 to facilitate such inmate's assimilation back into so-
14 ciety, payable at the conclusion of incarceration; and

15 (6) such other deductions as may be specified
16 by the Director of the Bureau of Prisons.

17 (d) VOLUNTARY PARTICIPATION IN FEDERAL PRIS-
18 ON INDUSTRIES.—Each inmate worker working for Fed-
19 eral Prison Industries shall indicate in writing that such
20 person—

21 (1) is participating voluntarily; and

22 (2) understands and agrees to the wages to be
23 paid and deductions to be taken from such wages.

1 **SEC. 6. CLARIFYING AMENDMENT.**

2 Section 1761 of title 18, United States Code, is
3 amended in subsection (a), by striking “any goods, and
4 wares, or merchandise manufactured, produced, mined”
5 and inserting “products manufactured, services furnished,
6 or minerals mined”.

7 **SEC. 7. CONFORMING AMENDMENT.**

8 Section 4122(a) of title 18, United States Code, is
9 amended by striking “production of commodities” and in-
10 serting “production of products or furnishing of services”.

11 **SEC. 8. AUTHORITY TO PERFORM AS A FEDERAL SUBCON-**
12 **TRACTOR.**

13 (a) IN GENERAL.—Federal Prison Industries is au-
14 thorized to enter into a contract with a Federal contractor
15 (or a subcontractor of such contractor at any tier) to
16 produce products as a subcontractor or supplier in the per-
17 formance of a Federal procurement contract. The use of
18 Federal Prison Industries as a subcontractor or supplier
19 shall be a wholly voluntary business decision by the Fed-
20 eral prime contractor or subcontractor, subject to any
21 prior approval of subcontractors or suppliers by the con-
22 tracting officer which may be imposed by the Federal Ac-
23 quisition Regulation or by the contract.

24 (b) COMMERCIAL SALES PROHIBITED.—The author-
25 ity provided by subsection (a) shall not result, either di-
26 rectly or indirectly, in the sale in the commercial market

1 of a product or service resulting from the labor of Federal
2 inmate workers in violation of section 1762(a) of title 18,
3 United States Code. A Federal contractor (or subcon-
4 tractor at any tier) using Federal Prison Industries as a
5 subcontractor or supplier in furnishing a commercial prod-
6 uct pursuant to a Federal contract shall implement appro-
7 priate management procedures to prevent introducing an
8 inmate-produced product into the commercial market.

9 (c) PROHIBITIONS ON MANDATING SUBCONTRACTING
10 WITH FEDERAL PRISON INDUSTRIES.—The use of Fed-
11 eral Prison Industries as a subcontractor or supplier of
12 products or provider of services shall not be imposed upon
13 prospective or actual Federal prime contractors or a sub-
14 contractors at any tier by means of—

15 (A) a contract solicitation provision requir-
16 ing a contractor to offer to make use of Federal
17 Prison Industries, its products or services;

18 (B) specifications requiring the contractor
19 to use specific products or services (or classes
20 of products or services) offered by Federal Pris-
21 on Industries in the performance of the con-
22 tract;

23 (C) any contract modification directing the
24 use of Federal Prison Industries, its products
25 or services; or

1 (D) any other means.

2 (d) DURATION OF AUTHORITY.—

3 (1) IN GENERAL.—The authority provided by
4 subsection (a) may not be used to enter into a con-
5 tract to perform as a subcontractor or supplier on
6 or after October 1, 2007, and becomes effective on
7 the effective date of the final regulations issued pur-
8 suant to section 16(b).

9 (2) COMPLETION OF EXISTING AGREEMENTS.—

10 Any agreement entered into prior to the expiration
11 date specified in paragraph (1) may continue for the
12 term specified in such agreement.

13 **SEC. 9. PROVIDING ADDITIONAL OPPORTUNITIES FOR VO-**
14 **CATIONAL AND REMEDIAL EDUCATIONAL OP-**
15 **PORTUNITIES FOR INMATES.**

16 (a) AMENDMENT TO THE DEPARTMENT OF JUSTICE
17 ASSETS FORFEITURE FUND.—Section 524(c)(1) of title
18 28, United States Code, is amended—

19 (1) in subparagraph (I), by inserting “and”
20 after the semicolon;

21 (2) by redesignating the second appearance of
22 subparagraph (I) as subparagraph (J); and

23 (3) by amending subparagraph (J) (as redesign-
24 nated by paragraph (2)) to read as follows:

1 **“§ 4121. Federal Prison Industries; Board of Direc-**
2 **tors: executive management**

3 “(a) Federal Prison Industries is a government cor-
4 poration of the District of Columbia organized to carry
5 on such industrial operations in Federal correctional insti-
6 tutions as authorized by its Board of Directors. The man-
7 ner and extent to which such industrial operations are car-
8 ried on in the various Federal correctional institutions
9 shall be determined by the Attorney General.

10 “(b)(1) The corporation shall be governed by a board
11 of 7 directors appointed by the President with the advise
12 and consent of the Senate.

13 “(2) In making appointments to the Board, the
14 President shall assure that 3 members represent the busi-
15 ness community, 3 members represent organized labor,
16 and 1 member shall have special expertise in inmate reha-
17 bilitation techniques. The members of the Board rep-
18 resenting the business community shall include, to the
19 maximum extent practicable, representation of firms fur-
20 nishing services as well as firms producing products, espe-
21 cially from those industry categories from which Federal
22 Prison Industries derives substantial sales. The members
23 of the Board representing organized labor shall, to the
24 maximum practicable, include representation from labor
25 unions whose members are likely to be most affected by
26 the sales of Federal Prison Industries.

1 “(3) Each member shall be appointed for a term of
2 5 years, except that of members first appointed—

3 “(A) 2 members representing the business com-
4 munity shall be appointed for a term of 3 years;

5 “(B) 2 members representing labor shall be ap-
6 pointed for a term of 3 years;

7 “(C) 1 member representing the business com-
8 munity shall be appointed for a term of 4 years;

9 “(D) 1 member representing the business com-
10 munity shall be appointed for a term of 4 years; and

11 “(E) the members having special expertise in
12 inmate rehabilitation techniques shall be appointed
13 for a term of 5 years.

14 “(4) The President shall designate 1 member of the
15 Board as Chairperson. The Chairperson may designate a
16 Vice Chairperson.

17 “(5) Members of the Board may be reappointed.

18 “(6) Any vacancy on the Board shall be filled in the
19 same manner as the original appointment. Any member
20 appointed to fill a vacancy occurring before the expiration
21 of the term for which the member’s predecessor was ap-
22 pointed shall be appointed for the remainder of that term.

23 “(7) The members of the Board shall serve without
24 compensation. The members of the Oversight Board shall
25 be allowed travel expenses, including per diem in lieu of

1 subsistence, at rates authorized for employees of agencies
2 under subchapter I of chapter 57 of title 5, United States
3 Code, to attend meetings of the Board and, with the ad-
4 vance approval of the Chairperson of the Board, while oth-
5 erwise away from their homes or regular places of business
6 for purposes of duties as a member of the Board.

7 “(8)(A) The Chairperson of the Board may appoint
8 and terminate any personnel that may be necessary to en-
9 able the Board to perform its duties.

10 “(B) Upon request of the Chairperson of the Board,
11 a Federal agency may detail a Federal Government em-
12 ployee to the Board without reimbursement. Such detail
13 shall be without interruption or loss of civil service status
14 or privilege.

15 “(9) The Chairperson of the Board may procure tem-
16 porary and intermittent services under section 3109(b) of
17 title 5, United States Code.

18 “(c) The Director of the Bureau of Prisons shall
19 serve as Chief Executive Officer of the Corporation. The
20 Director shall designate a person to serve as Chief Oper-
21 ating Officer of the Corporation.”.

22 **SEC. 12. POST-RELEASE EMPLOYMENT ASSISTANCE.**

23 (a) IN GENERAL.—The Director of the Bureau of
24 Prisons shall, to the maximum extent practicable, afford
25 to inmates opportunities to participate in programs and

1 activities designed to help prepare such inmates to obtain
2 employment upon release.

3 (b) POST-RELEASE EMPLOYMENT PLACEMENT AS-
4 SISTANCE.—Such post-release employment placement as-
5 sistance required by subsection (a) shall include—

6 (1) training in the preparation of resumes and
7 job applications;

8 (2) training in interviewing skills;

9 (3) training and assistance in job search tech-
10 niques;

11 (4) conduct of job fairs; and

12 (5) such other methods deemed appropriate by
13 the Director of the Bureau of Prisons.

14 (c) PRIORITY PARTICIPATION.—Priority in program
15 participation shall be accorded to inmates who are partici-
16 pating in work opportunities afforded by Federal Prison
17 Industries and are within 12 months of release from incar-
18 ceration.

19 **SEC. 13. PROVIDING ADDITIONAL MANAGEMENT FLEXI-**
20 **BILITY TO FEDERAL PRISON INDUSTRY OP-**
21 **ERATIONS.**

22 Section 4122(b)(3) of title 18, United States Code,
23 is amended—

24 (1) by striking “(3)” and inserting “(3)(A)”;

25 and

1 (2) by adding at the end the following new
2 paragraphs:

3 “(B) Federal Prison Industries may locate more than
4 one workshop at a Federal correctional facility.

5 “(C) Federal Prison Industries may operate a work-
6 shop outside of a correctional facility if all of the inmates
7 working in such workshop are classified as minimum secu-
8 rity inmates.”.

9 **SEC. 14. FEDERAL PRISON INDUSTRIES REPORT TO CON-**
10 **GRESS.**

11 Section 4127 of title 18, United States Code, is
12 amended to read as follows:

13 **“§ 4127. Federal Prison Industries report to Congress**

14 “(a) IN GENERAL.—Pursuant to chapter 91 of title
15 31, the board of directors of Federal Prison Industries
16 shall submit an annual report to Congress on the conduct
17 of the business of the corporation during each fiscal year
18 and the condition of its funds during the fiscal year.

19 “(b) CONTENTS OF REPORT.—In addition to the
20 matters required by section 9106 of title 31, and such
21 other matters as the board considers appropriate, a report
22 under subsection (a) shall include—

23 “(1) a statement of the amount of obligations
24 issued under section 4129(a)(1) of this title during
25 the fiscal year;

1 “(2) an estimate of the amount of obligations
2 that will be issued in the following fiscal year;

3 “(3) an analysis of—

4 “(A) the corporation’s total sales for each
5 specific product and type of service sold to the
6 Federal agencies and the commercial market;

7 “(B) the total purchases by each Federal
8 agency of each specific product and type of
9 service;

10 “(C) the corporation’s share of such total
11 Federal Government purchases by specific prod-
12 uct and type of service; and

13 “(D) the number and disposition of dis-
14 putes submitted to the heads of the Federal de-
15 partments and agencies pursuant to section
16 4124(e) of this title;

17 “(4) an analysis of the inmate workforce that
18 includes—

19 “(A) the number of inmates employed;

20 “(B) the number of inmates utilized to
21 produce products or furnish services sold in the
22 commercial market;

23 “(C) the number and percentage of em-
24 ployed inmates by the term of their incarcer-
25 ation; and

1 “(D) the various hourly wages paid to in-
2 mates employed with respect to the production
3 of the various specific products and types of
4 services authorized for production and sale to
5 Federal agencies and in the commercial market;
6 and

7 “(5) data concerning employment obtained by
8 former inmates upon release to determine whether
9 the employment provided by Federal Prison Indus-
10 tries during incarceration provided such inmates
11 with knowledge and skill in a trade or occupation
12 that enabled such former inmate to earn a livelihood
13 upon release.

14 “(c) PUBLIC AVAILABILITY.—Copies of an annual re-
15 port under subsection (a) shall be made available to the
16 public at a price not exceeding the cost of printing the
17 report.”.

18 **SEC. 15. DEFINITIONS.**

19 Chapter 307 of title 18, United States Code, is
20 amended by adding at the end the following new section:

21 **“§ 4130. Definitions**

22 “As used in this chapter—

23 “(1) the term ‘assembly’ means the process of
24 uniting or combining articles or components (includ-
25 ing ancillary finished components or assemblies) so

1 as to produce a significant change in form or utility,
2 without necessarily changing or altering the compo-
3 nent parts;

4 “(2) the term ‘current market price’ means,
5 with respect to a specific product, the fair market
6 price of the product within the meaning of section
7 15(a) of the Small Business Act (15 U.S.C. 644(a)),
8 at the time that the contract is to be awarded,
9 verified through appropriate price analysis or cost
10 analysis, including any costs relating to transpor-
11 tation or the furnishing of any ancillary services;

12 “(3) the term ‘import-sensitive product’ means
13 a product which, according to Department of Com-
14 merce data, has experienced competition from im-
15 ports at an import to domestic production ratio of
16 25 percent or greater;

17 “(4) the term ‘labor-intensive manufacture’
18 means a manufacturing activity in the private sector
19 in which the ratio of the value of direct labor to the
20 value of the product prior to shipment exceeds 20
21 percent;

22 “(5) the term ‘manufacture’ means the process
23 of fabricating from raw or prepared materials, so as
24 to impart to those materials new forms, qualities,
25 properties, and combinations;

1 “(6) the term ‘prison-made products’ means
2 specific products that require labor-intensive manu-
3 facture or assembly employing Federal prison in-
4 mates for not less than 75 percent of the hours of
5 direct labor required for the production of the prod-
6 uct;

7 “(7) the term ‘reasonable share of the market’
8 means a share of the total purchases by the Federal
9 departments and agencies, as reported to the Fed-
10 eral Procurement Data System for—

11 “(A) any specific product during the 3 pre-
12 ceding fiscal years, that does not exceed 20 per-
13 cent of the Federal market for the specific
14 product; and

15 “(B) any specific service during the 3 pre-
16 ceding fiscal years, that does not exceed 5 per-
17 cent of the Federal market for the specific serv-
18 ice;

19 “(8) the term ‘services’ has the meaning given
20 the term ‘service contract’ by section 37.101 of the
21 Federal Acquisition Regulation (48 C.F.R. 36.102),
22 as in effect on July 1, 1997;

23 “(9) the term ‘specific product’ means a prod-
24 uct that is designed and manufactured to meet re-
25 quirements distinct in function and predominant ma-

1 terial of manufacture from another product, as de-
2 scribed by—

3 “(A) the 6-digit classification for the prod-
4 uct in the 1997 North American Industry Clas-
5 sification System (or any revisions to such sys-
6 tem) published by the Office of Management
7 and Budget; and

8 “(B) for purposes of reporting on sales by
9 Federal Prison Industries, the current National
10 Stock Number assigned to such product under
11 the Federal Stock Classification System (includ-
12 ing group, part number and section), as deter-
13 mined by the General Services Administration;
14 and

15 “(10) the term ‘specific service’ means a type of
16 service included within one of the categories of serv-
17 ices used by Federal agencies in reporting to the
18 Federal Procurement Data System, as described in
19 the current edition of the Product and Service Code
20 Manual issued by the Federal Procurement Data
21 Center of the General Services Administration as
22 Executive Agent for the Administrator for Federal
23 Procurement Policy (as referred to in section 6(d)(4)
24 of the Office of Federal Procurement Policy Act (41
25 U.S.C. 405(d)(4))).”.

1 **SEC. 16. IMPLEMENTATION IN THE FEDERAL ACQUISITION**
2 **REGULATION.**

3 (a) **PROPOSED REVISIONS.**—Proposed revisions to
4 the Governmentwide Federal Acquisition Regulation to
5 implement the amendments made by this Act shall be pub-
6 lished not later than 60 days after the date of the enact-
7 ment of this Act and provide not less than 60 days for
8 public comment.

9 (b) **FINAL REGULATIONS.**—Final regulations shall be
10 published not later than 180 days after the date of the
11 enactment of this Act and shall be effective on the date
12 that is 30 days after the date of publication.

13 (c) **PUBLIC PARTICIPATION.**—The proposed regula-
14 tions required by subsection (a) and the final regulations
15 required by subsection (b) shall afford an opportunity for
16 public participation in accordance with section 22 of the
17 Office of Federal Procurement Policy Act (41 U.S.C.
18 418b).

19 **SEC. 17. RULE OF CONSTRUCTION.**

20 Subsection (e) of section 4124 of title 18, United
21 States Code, as amended by section 2, is not intended to
22 alter any rights of any offeror other than Federal Prison
23 Industries to file a bid protest in accordance with other
24 law or regulation in effect on the date of the enactment
25 of this Act.

1 **SEC. 18. EFFECTIVE DATE AND APPLICABILITY.**

2 (a) EFFECTIVE DATE.—Except as provided in sub-
3 section (b), this Act and the amendments made by this
4 Act shall take effect on the date of enactment of this Act.

5 (b) APPLICABILITY.—Section 4124 of title 18, United
6 States Code, as amended by section 2, shall apply to any
7 requirement for a product or service offered by Federal
8 Prison Industries needed by a Federal department or
9 agency after the effective date of the final regulations
10 issued pursuant to section 16(b), or after September 30,
11 2002, whichever is earlier.

12 **SEC. 19. CLERICAL AMENDMENTS.**

13 The table of sections for chapter 307 of title 18,
14 United States Code, is amended—

15 (1) by amending the item relating to section
16 4124 to read as follows:

“4124. Governmentwide procurement policy relating to purchases from Federal
Prison Industries.”;

17 (2) by amending the item relating to section
18 4127 to read as follows:

“4127. Federal Prison Industries report to Congress.”;

19 and

20 (3) by adding at the end the following new
21 item:

“4130. Definitions.”.

○