

108TH CONGRESS
1ST SESSION

H. R. 1982

To amend title III of the Federal Property and Administrative Services Act of 1949 to provide to contracting officers of the civilian agencies the same authorities available to Department of Defense contracting officers to competitively evaluate products offered by Federal Prison Industries, Inc., to assure that such products represent the best value for the taxpayer dollars being expended, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2003

Mrs. MALONEY (for herself and Mr. SOUDER) introduced the following bill;
which was referred to the Committee on Government Reform

A BILL

To amend title III of the Federal Property and Administrative Services Act of 1949 to provide to contracting officers of the civilian agencies the same authorities available to Department of Defense contracting officers to competitively evaluate products offered by Federal Prison Industries, Inc., to assure that such products represent the best value for the taxpayer dollars being expended, 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,*

1 **SECTION 1. PROCEDURAL REQUIREMENTS FOR CIVILIAN**
2 **AGENCIES RELATING TO PRODUCTS OF FED-**
3 **ERAL PRISON INDUSTRIES.**

4 Title III of the Federal Property and Administrative
5 Services Act of 1949 (41 U.S.C. 251 et seq.) is amended
6 by adding at the end the following new section:

7 **“SEC. 318. PRODUCTS OF FEDERAL PRISON INDUSTRIES:**
8 **PROCEDURAL REQUIREMENTS.**

9 “(a) MARKET RESEARCH.—Before purchasing a
10 product listed in the latest edition of the Federal Prison
11 Industries catalog under section 4124(d) of title 18,
12 United States Code, the head of an executive agency shall
13 conduct market research to determine whether the Federal
14 Prison Industries product is comparable to products avail-
15 able from the private sector that best meet the executive
16 agency’s needs in terms of price, quality, and time of deliv-
17 ery.

18 “(b) COMPETITION REQUIREMENT.—If the head of
19 the executive agency determines that a Federal Prison In-
20 dustries product is not comparable in price, quality, or
21 time of delivery to products available from the private sec-
22 tor that best meet the executive agency’s needs in terms
23 of price, quality, and time of delivery, the agency head
24 shall use competitive procedures for the procurement of
25 the product or shall make an individual purchase under
26 a multiple award contract. In conducting such a competi-

1 tion or making such a purchase, the agency head shall
2 consider a timely offer from Federal Prison Industries.

3 “(c) IMPLEMENTATION BY HEAD OF EXECUTIVE
4 AGENCY.—The head of an executive agency shall ensure
5 that—

6 “(1) the executive agency does not purchase a
7 Federal Prison Industries product or service unless
8 a contracting officer of the agency determines that
9 the product or service is comparable to products or
10 services available from the private sector that best
11 meet the agency’s needs in terms of price, quality,
12 and time of delivery; and

13 “(2) Federal Prison Industries performs its
14 contractual obligations to the same extent as any
15 other contractor for the executive agency.

16 “(d) MARKET RESEARCH DETERMINATION NOT
17 SUBJECT TO REVIEW.—A determination by a contracting
18 officer regarding whether a product or service offered by
19 Federal Prison Industries is comparable to products or
20 services available from the private sector that best meet
21 an executive agency’s needs in terms of price, quality, and
22 time of delivery shall not be subject to review pursuant
23 to section 4124(b) of title 18.

24 “(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A
25 contractor or potential contractor of an executive agency

1 may not be required to use Federal Prison Industries as
2 a subcontractor or supplier of products or provider of serv-
3 ices for the performance of a contract of the executive
4 agency by any means, including means such as—

5 “(A) a contract solicitation provision requiring
6 a contractor to offer to make use of products or
7 services of Federal Prison Industries in the perform-
8 ance of the contract;

9 “(B) a contract specification requiring the con-
10 tractor to use specific products or services (or class-
11 es of products or services) offered by Federal Prison
12 Industries in the performance of the contract; or

13 “(C) any contract modification directing the use
14 of products or services of Federal Prison Industries
15 in the performance of the contract.

16 “(2) In this subsection, the term “contractor”, with
17 respect to a contract, includes a subcontractor at any tier
18 under the contract.

19 “(f) PROTECTION OF CLASSIFIED AND SENSITIVE
20 INFORMATION.—The head of an executive agency may not
21 enter into any contract with Federal Prison Industries
22 under which an inmate worker would have access to—

23 “(1) any data that is classified;

24 “(2) any geographic data regarding the location
25 of—

1 “(A) surface and subsurface infrastructure
2 providing communications or water or electrical
3 power distribution;

4 “(B) pipelines for the distribution of nat-
5 ural gas, bulk petroleum products, or other
6 commodities; or

7 “(C) other utilities; or

8 “(3) any personal or financial information
9 about any individual private citizen, including infor-
10 mation relating to such person’s real property how-
11 ever described, without the prior consent of the indi-
12 vidual.

13 “(g) DEFINITIONS.—In this section:

14 “(1) The term ‘competitive procedures’ has the
15 meaning given such term in section 4(5) of the Of-
16 fice of Federal Procurement Policy Act (41 U.S.C.
17 403(5)).

18 “(2) The term ‘market research’ means obtain-
19 ing specific information about the price, quality, and
20 time of delivery of products available in the private
21 sector through a variety of means, which may in-
22 clude—

23 “(A) contacting knowledgeable individuals
24 in government and industry;

1 “(B) interactive communication among in-
2 dustry, acquisition personnel, and customers;
3 and

4 “(C) interchange meetings or pre-solicita-
5 tion conferences with potential offerors.”.

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