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FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2005

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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CONTENTS

JULY 1, 2005

OPENING STATEMENT

Page

The Honorable Howard Coble, a Representative in Congress from the State of North Carolina, and Chairman, Subcommittee on Crime, Terrorism, and Homeland Security 1

The Honorable Robert C. Scott, a Representative in Congress from the State of Virginia, and Ranking Member, Subcommittee on Crime, Terrorism, and Homeland Security 2

The Honorable John Conyers, Jr., a Representative in Congress from the State of Michigan, and Ranking Member, Committee on the Judiciary 5

WITNESSES

Mr. Phillip Glover, President of the Council of Prison Locals, American Federation of Government Employees

Oral Testimony 8

Prepared Statement 10

Mr. Paul Miller, Director of Government Affairs, Independent Office Products & Furniture Dealers Association

Oral Testimony 11

Prepared Statement 14

Mr. Reginald Wilkinson, Director, Ohio Department of Rehabilitation and Correction

Oral Testimony 20

Prepared Statement 21

The Honorable Peter Hoekstra, a Representative in Congress from the State of Michigan, and Chairman, Permanent Select Committee on Intelligence

Oral Testimony 24

Prepared Statement 26

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Statement submitted by the U.S. Chamber of Commmerce to the House Judiciary Committee 47

Statement of Roger F. Cocivera, President and CEO, Textile Rental Services Association of America 51

Letter from Dan Danner, Executive Vice President, National Federation of Independent Business (NFIB) 56

Statement submitted by the National Federation of Independent Business (NFIB) 57

Letter from Chris Jahn, President, Contract Services Association (CSA) to the Honorable Howard Coble 59

Letter from Chris Jahn, President, Contract Services Association (CSA) to the Honorable Bobby Scott 60

Statement submitted by the Contract Services Association (CSA) 61

Statement submitted by the Coalition for Government Procurement 64

Statement by Remy International, Inc. 68

Statement submitted by Michael B. Styles, National President, Federal Managers Association(FMA) 71

Page

Letter from Matthew T. Powers, General Manager, Prison Industry Authority (PIA) to the Honorable Howard Coble 74
Supplemental attachments submitted by Philip Glover, President of Coucil of Prison Locals, American Federal of Government Employees 75
Supplemental attachments submitted by Paul A. Miller, Director of Government Affairs, Independent Office Products & Furniture Dealers Association 88
Statement submitted by Kevin M. Burke, President and CEO, American Apparel and Footwear Association (AAFA) 97
Letter from Kevin M. Burke, President and CEO, American Apparel and Footwear Association (AAFA) to the Honorable F. James Sensenbrenner, Jr. 99
Letter submitted by various Dealers 100
Statement submitted by Management Association for Private Photogrammetric Surveyors (MAPPS) 112
Fact Sheet submitted by the Correctional Vendors Association, "FPI Fact or Fiction?" 114
Summary Statement submitted by the National Citizens United for Rehabilitation of Errants (CURE) 115

FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2005

FRIDAY, JULY 1, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in Room 2141, Rayburn House Office Building, the Honorable Howard Coble (Chair of the Subcommittee) presiding.

Mr. COBLE. Good morning, ladies and gentlemen. Today, we will examine the operation of the Federal Prison Industries, popularly known as FPI and its impact on the private sector as well as its benefits to combat inmate idleness and assist inmate rehabilitation.

We expect to receive testimony regarding H.R. 2965, the "Federal Prison Industries Competition in Contracting Act of 2005." I am proud to be a cosponsor of this legislation because it will level the playing field in competition for Federal agency contracts.

Now, ladies and gentlemen, I think the issue before us today clearly portrays and corroborates the old adage that reasonable men and women can differ, and this clearly illustrates that in my opinion.

The Federal Bureau of Prisons is responsible for the custody and care of more than 181,000 Federal offenders. Approximately 85 percent of these inmates are confined in Bureau-operated correctional facilities or detention centers. Prisoners who are physically able to work must labor in some capacity 5 days a week. FPI is a Government corporation that operates the BOP's correctional program and employs inmates from the Federal prison population to manufacture goods for and provide services to Federal agencies.

About 20 percent of the inmates work in Federal Prison Industries, FPI, factories. They generally work in factory operations such as metals, furnitures, electronics, textiles, and graphic arts. FPI work assignments pay from 23 cents to $1.15 per hour.

Federal agencies are required by law under 18 USC, section 4124, to purchase FPI products if a product is available that meets the agency's requirements and does not exceed current market prices. This provision in the law is deemed "mandatory source preference". Because of this law, Prison Industries enjoys a mandatory market for its goods, a facility in which to run them, and what amounts to captive labor to manufacture them.

In the last two Congresses, this Committee brought up legislation to reform FPI. The legislation passed this Committee twice. The text of H.R. 2965, as introduced, is substantially identical to that legislation, including improvements that we, as a Committee, agreed to include.

H.R. 2965 amends title 18 to require FPI to compete for contracts with private sector firms and provides a 5-year period during which FPI adjusts to obtaining inmate work opportunities through other than its mandatory source status.

Additionally, the legislation provides for inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, including authorizing alternative inmate work opportunities in support of nonprofit organizations and other public service programs.

This legislation does not eliminate FPI. It simply requires FPI to deliberately begin to compete in the same way that other businesses do. FPI however still has the advantage over some businesses because they don't have the same overhead costs as the average business, such as paying Union wages, paying for health insurance, and for providing retirement benefits.

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, employed 19,337 inmates with a total sales of 802 million—in excess of 802 million and a profit of 120.4 million dollars.

This legislation will fundamentally alter FPI's relationship with its Government customers. They will no longer be held captive by mandatory source requirements. All Federal Government agencies would have the ability under this legislation to utilize taxpayer dollars in the most efficient manner possible. I believe it is worthwhile legislation. And I look forward to hearing from our witnesses.

And I am now pleased to recognize the distinguished gentleman from Virginia, the Ranking Member. Mr. Scott, may think—he hasn't accused me of this yet—but he may think I am trying to put FPI out of business, which I am not trying to do. Now I will admit, folks, I have been subjectively involved because I represent a district that is heavily involved with furniture and textiles. So having said that, Mr. Scott, glad to hear from you.

Mr. SCOTT. Mr. Chairman, I have never questioned your motives. I just question the impact of the legislation.

I want to thank you for holding the hearing on H.R. 2965, the "Federal Prison Industries Competition in Contracting Act of 2005." I am especially appreciative of your willingness to do so despite the fact that the House is actually in recess for the July district work period.

The Federal Prison Industries, or FPI, provides prisoner made products and services to Federal agencies. In its first year of operation, the percent of agency procurement from FPI represented about one quarter of 1 percent of total Federal agency procurement, a negligible and even a more negligible total of the total industries.

The percentage is the same today. FPI can only sell its products and services to Federal agencies. The program was established in the 1930's in the midst of the Great Depression as a way to teach prisoners real work habits and skills so that when they are re-

leased from prison, they will be able to find and hold jobs to support themselves and their families and be less likely to commit more crimes.

It is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are 14 percent more likely to be employed and 24 percent less likely to commit crimes than prisoners who do not participate in the program. While this certainly benefits offenders and families, that is not the main point from a public policy perspective.

The real benefit to all of us is that as a direct result of this program, there are many fewer victims of crimes. Now we have spent billions of dollars to build Federal prisons and spend 4 billion a year for prisoner upkeep. With FPI, there will be fewer inmates in the future. Now FPI pays for itself 100 percent and reduces crime. All able-bodied inmates in the Federal system are required by law to do some work. Few offenders in a prison have marketable skills and the vast majority do not even have credible work habits, such as showing up for work on time and working cooperatively and productively with others. Such habits are required to maintain an FPI job. These are the same habits required to be productive, desirable workers anywhere, and that is why the FPI experience has been found to be—those with FPI experience have been found to be more employable than those that don't.

And in the past few years, we have eliminated parole, we have eliminated good conduct credits, Pell grants, and other incentives for prisoners to improve themselves. In the Federal prison system now, we have very few incentives for self development. One shining example is FPI.

Non-FPI inmates work on jobs that pay about 12 cents to 13 cents an hour—excuse me, 12 cents to 30 cents per hour, while FPI jobs pay about a dollar and a quarter an hour. Now to hold down an FPI job, an inmate must have completed high school or be making steady progress toward obtaining a GED and maintain a record of good behavior. This is true not only for those on an FPI job, but for those on the waiting list as well as those seeking to establish eligibility to be placed on the waiting list. And that is why FPI is a great managerial tool to help ensure that prisons operate safely for prison employees as well as inmates.

I have never met a prison administrator who does not support the program. In recent years, appropriations and FPI board restriction have caused elimination of thousands of inmate jobs at a time when the Federal inmate population has increased by more than 23,000 inmates. In 2000, for example, the FPI jobs represented 25 percent of prison jobs. Now that figure is down to 19 percent.

Fortunately for the program, the Iraqi war has caused a surge in certain products and services that FPI provides to the military. Hopefully, this level of purchase will be only temporary. And certainly, it has not helped to keep pace with the rising inmate population.

Now, H.R. 2956 would greatly depress the ability of FPI to provide much inmate jobs and greatly erode its percentage of inmate jobs requiring the prison system to further divide the limited work and pay that is already divvying

up between too many inmates.

The bill amends the current requirement in the law for agencies to purchase goods from FPI, establishes a competitive bid process for FPI for agency purchases of goods and services, unless the Attorney General and the director of the Bureau of Prisons and the FPI program and the warden at a particular institution where the goods and services are produced certify that they cannot safely run the prison with that the particular contract award. And they must report the situation to Congress 30 days before obtaining the contract to provide the goods and services. Now let's be serious. We cannot expect any of these officials to publicly admit such a level of incompetence for a single purchase contract.

The bill also provides for a temporary preferential purchase program that allows agencies to purchase goods and services for FPI, quote, only if the contracting officer for the procurement activity determines that they will meet all prequalification and other requirements. Unlike the Attorney General, who has to show specific findings by his subordinates, one purchasing agent can decide.

The bill also authorizes the production of goods and services for charitable organizations through which taxpayers would pay inmates and allows FPI to sell products and services to agencies on a noncompetitive basis, if they are currently only provided offshore.

However, there is no basis for concluding that any of these authorities will replace the impact of the loss of the current statutory mandatory source that we have now, and there is no indication that it will actually appropriate the money for these purchases to be made. As I indicated, FPI pays for itself.

Now, critics say that FPI has resulted in thousands of jobs lost for law abiding citizens. Now, the furniture and apparel industries are two industries in which FPI has traditionally done most of its work. And Mr. Chairman, you indicated that you represent one of those areas.

But when asked, representatives of these industries concede that FPI sales represent an insignificant or negligible portion of their industries. If such industries are having problems, it is not due to FPI. In textiles, for example, we are told that 600,000 jobs were lost over the last 10 years.

There are approximately 7,000 prisoners working in textiles in FPI, and each one divides up a job, so you certainly can't blame a few thousand prisoners for the loss of 600,000 jobs.

The office furniture industry is apparently quite robust. I would like unanimous consent to introduce an article that shows one of the industries showing how good things have been recently.

Mr. COBLE. Without objection it will be submitted as part of the record.

[The information referred to follows in the Appendix]

Mr. SCOTT. And I am first to concede that there are problems with FPI that could be fixed. And I think a lot has been done through the activities of this Congress to make things better. But unfortunately, we have also made things worse, because as a direct result of some of our actions, thousands of jobs have been lost, and that is thousands of prisoners that will commit crimes in the future that will be incarcerated at our expense in the future because we

wouldn't provide them the jobs that they need to prevent those activities.

Now, we need a comprehensive study to show how we can, if we are going to replace the mandatory source, we need a comprehensive study to show how he can we can better address our responsibilities and concerns. I don't believe, however, that we should continue to reduce the number of jobs as this bill will do without replacing them with some other program.

So, Mr. Chairman, I look forward to the testimony of our witnesses and to working with you in such a way that we can provide inmates jobs, and do something about the impact that this bill would have.

Mr. COBLE. I thank you, Mr. Scott. We also have with us today the distinguished gentlemen from Michigan, the Ranking Member of the full House Judiciary Committee, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Coble and Ranking Member Scott.

There are lots of reasons why this is an important hearing. And, I begin by welcoming all of these witnesses that are experts, we look forward to their testimony. And, we are glad that Chairman Hoekstra is able to join us today, as well.

First of all, just stepping back from the immediate issue, we have got a problem with the prison systems in America to begin with. And it is very important that we realize that. We have a lot of work to do.

The second thing I want to get out is that I am working on more reentry programs back in Michigan. It is incredible. The tragic fact in our economy, of course, is that people coming back into the citizenry can't get jobs. Some by law, can't become a barber and many other things. It is a sad tale. And, of course, there are many people that haven't been to prison that don't have jobs, as well. So, I am looking at this on a little bit larger scale.

And we have some very exciting organizations that are working night and day, around the clock, trying to deal with how we welcome people back. The idea for some of us on Judiciary is that a person who has paid his dues, come out, and then can't vote is another slap in the face. It means, yes, you served your time. Yes, you have done probation or parole. But in some places in this country, we are not going to let you vote. Fortunately, that is not the case in Michigan. But it is that stamp you have been in, and you are going to pay for this, some way for the rest of your life.

And so now we get to the question of how we retrain people to enter the system.

And I am very eager to hear this discussion from the four gentlemen that are with us, because they bring a particular background and skill in this that is very important.

Now, and I noticed there are people here in the Judiciary Committee, Charlie Sullivan of CURE, who has been working for at least two decades on this question, and there are others of you here who put in lots of good hard work. So, I think we have got the ability and the experience here to work out and fashion something that is mutually agreeable.

You know, I have noticed, and I have listened to the Chairman and the Ranking Member of the Subcommittee, I don't find much

to disagree with either of them about. Nothing leaps up at me that I would want to lecture them about.

But, of which we have, you know, a great predisposition, but mandatory source, are we going to phase it out and require competition?

Where do we go from here? And I was hoping that somebody might lift up this section 10 of the bill which I thought would get me a little, a few accolades about how a reentry demonstration project, a vocational and educational training program and providing the necessary Federal Prison Industries with the financial resources to do even more and better things.

So it seems to me, in conclusion, Mr. Chairman, that we are really roughly all on the same page. I mean, there is nobody here that wants to blow away the training program for—and Scott is giving me that look—which, I mean really, and if there is, we will find out about it at this hearing.

But it seems to me we all come here concerned about how we deal with this problem. And it is in that spirit that I come here on a day that we are in recess. And I stayed because this is so important. I mean, we have the largest prison population on earth. To me that is a very disgraceful statistic, since we are the most—the wealthiest country on earth at the same time. And it seems like all of these considerations should be taken into consideration as we listen to our witnesses. And I thank the Chairman.

Mr. COBLE. I thank you, Mr. Conyers. Gentlemen, it is the practice of this Subcommittee to swear in all witnesses appearing before it so if you would please stand and raise your right hands.

Mr. SCOTT. Mr. Chairman we are not going to swear in a colleague, are we?

Mr. COBLE. Well, okay, Mr. Conyers says, Mr. Hoekstra you may be seated, Mr. Hoekstra.

[Witnesses sworn.]

Mr. COBLE. Let the record show that the witnesses have been affirmed. Please be seated. And gentlemen, I hate that the implication is that you all are not to be trusted and Mr. Hoekstra is. And that is not the message at all, I assure you.

Mr. CONYERS. Mr. Chairman, let the record show that Congressman Chairman Hoekstra was willing to take the oath.

Mr. COBLE. Well said, Mr. Conyers. Well, as has already been said we are blessed with a very fine panel this morning. First witness is Mr. Phil Glover, the President of the Council of Prison Locals for the American Federation of Government Employees. Mr. Glover was first hired as a correctional officer in September 1990 in Loretta, Pennsylvania, and was promoted as senior officer specialist in 2002.

Mr. Glover served as president of Local Union 3951, and as regional vice-president of the Council of Prison Locals from 1994 to 1997. He was elected council president in 1997 and currently serves in that capacity.

In addition to his service as a correctional officer, Mr. Glover also served in our military in the 82nd airborne division, 505th parachute infantry regiment as a military intelligence analyst, and the 18th Airborne Corps 118 MP Company Airborne as a military policeman.

And Mr. Glover, I assumed you spent some time in Fort Bragg, did you not?

Mr. GLOVER. Seven years.

Mr. COBLE. Which is not my district, but my State. Good to have you with us, Mr. Glover.

Mr. GLOVER. Thank you.

Mr. COBLE. Second witness today is Mr. Paul Miller. Mr. Miller served as director of Government affairs for the Office Furniture Dealers Alliance, which is a National Trade Association serving small family-owned and operated office furniture dealers.

He has served in that capacity for over 5 years. He also has served as administrator of the business labor competition and contracting coalition for the last 2 years. Mr. Miller was graduated from the University of Wisconsin, Whitewater, with a degree in political science.

Now, a very fine colleague from the Buckeye State, Mr. Chabot, has asked permission to introduce our third witness. Mr. Chabot.

Mr. CHABOT. I thank the Chairman for yielding and I have the distinct honor of introducing a good fellow buckeye, Dr. Reginald Wilkinson, who is with us this morning. Dr. Wilkinson has been employed with the State of Ohio Department of Rehabilitation and Corrections since September 1973. He has served in a variety of positions, including superintendent of the Corrections Training Academy, warden of the Dayton Correctional Institution, and Deputy Director of Prisons, south region.

Former governor, now senator, George Voinovich appointed Dr. Wilkinson director in February 1991 and Governor Bob Taft reappointed him director in January 1999.

Director Wilkinson's academic background includes a bachelor's degree in political science and a master's degree in higher education administration, both from the Ohio State University. He was also awarded a doctor of education degree from the University of Cincinnati, in my district, and from where my daughter just graduated a couple of weeks ago.

Dr. Wilkinson is president and executive director of the International Association of Reentry. He is also a past President of both the Association of State Correctional Administrators and the American Correctional Association. He is vice chair for North America of the International Corrections and Prisons Association. Dr. Wilkinson is additionally director of the ICPA Center for Exchanging Correctional Best Practices.

Dr. Wilkinson has authored numerous journal articles on a variety of correctional topics. He is editor of two books, "Correctional Best Practices, Directors Perspective," and "Best Reentry Practices, Directors Perspectives." As ACA President, he commissioned the publication of "Best Practices Excellence in Corrections." Dr. Wilkinson has written chapters in a number of books, a few of which include *Ohio Crime, Ohio Justice, Prison and Jail Administration, Practice and Theory, Frontiers of Justice Volume II,* and a full spectrum of essays on Staff Diversity in Corrections. Director Wilkinson has, moreover, received many awards from a variety of organizations. A few of the associations he has received honors from include the National Governors Association, the American Correctional Association, the Association of State Correctional Ad-

ministrators, the International Community Corrections Association, the National Association of Blacks in Criminal Justice, the Volunteers of America, the Ohio Community Corrections Organization, and the Ohio Correctional and Court Services Association.

He has also been appointed for a 3-year term to the National Institute of Corrections Advisory Board by U.S. Attorney General John Ashcroft. And we welcome you here this morning, Dr. Wilkinson.

Mr. COBLE. Good to have you, Dr. Wilkinson.

Mr. Miller, I don't think I welcomed you as I did Mr. Glover. It is good to have you with us today.

Our final witness today is the Honorable Pete Hoekstra, known to all of us, a Member of the House of Representatives. He represents the second district of Michigan, Representative Hoekstra was originally sworn into Congress in 1993. In August 2004, Pete was named as Chairman of the House Permanent Select Committee on Intelligence. Representative Hoekstra also served as Chairman of the House Committee of Education and the Work Force Subcommittee on Oversight and Investigations in the 104th, 105th, and 106th session of Congress. He is a graduate of a Holland Christian school, holds a bachelor's degree in political science from Hope College in Holland, Michigan, and holds a bachelor's of business administration from the University of Michigan.

Prior to his election in Congress, Pete served for 15 years at Zeeland, Michigan-based office furniture manufacturers, Herman Miller, Inc., where he held the title of vice-president for marketing.

Gentlemen, it is good to have each of you with us. As Mr. Conyers and Mr. Scott have indicated to you previously, this is our first day of the July work period. And I don't want to compromise any of your testimony with my schedule. But your old Chairman has got to be at the airport at 12 o'clock. So if you all could keep that in mind, I would be deeply appreciative.

Gentlemen, as we have previously told you, we operate under the 5-minute rule. And when you see that panel red light up appear into your eye, that does not mean that Mr. Scott and I will come to haul you off to the hoosegow, but it does indicate to you that your 5 minutes have elapsed. So if you could wrap it up about that time, we would be appreciative. And we apply the 5-minute rule to ourselves as well. So if you could keep that in mind in responding to our questions.

As has been pointed out, this is an important hearing. It is good to have all of you with us. Mr. Glover, why don't you kick us off?

TESTIMONY OF PHILLIP GLOVER, PRESIDENT OF THE COUNCIL OF PRISON LOCALS, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. GLOVER. Chairman Coble, Ranking Member Scott, Members of the Subcommittee, my name is Phil Glover, and I'm president of the Council of Prison Locals, American Federation of Government Employees. As the elected representative for over 28,000 bargaining unit employees in the Federal Bureau of Prisons, I want to thank you for the opportunity to express our views to the Subcommittee on the proposed bill today.

I am not here speaking for the Administration, nor am I speaking for BOP. I am speaking here as a line staff member representing the employees who work inside the 105 facilities nationwide.

This bill passed convincingly last Congress, but that doesn't mean the correctional professionals agree with its content. Over the last 4 years, we have had our staffing at each individual institution cut by 15 to 20 percent. Over the last 3 fiscal years, the inmate population has grown by 29,000 net new inmates. Overcrowding is at an all-time high of 41 percent. This fiscal year, it was proposed to eliminate the construction of two new facilities. Four Federal prison camps are now being closed in North Carolina, Florida, and Nevada, which currently work for the military. A tax on staff have increased. The director stated to the Appropriations Committee last year that BOP had a 28 percent increase in assaults over the last 3 years. The union believes it was higher increasing to 34 percent with an increase of 63 percent with weapons. There are attachments to my statement.

Morale in the Federal system is as low as I have seen it in years. People are expected to perform the duties of two, three, sometimes four other staff because of shortages. We are asked to handle violent inmates and terrorists and are investigated by an Inspector General who seems gleeful at attacking us. We are vacating correctional posts left and right to save money. BOP is planning on contracting out our security at outside hospitals and for the contracting out of normal Federal prison operations. While the inmate population is increased by 29,000 new inmates, inmate employment in FPI has actually decreased by 3,000 jobs in the same period.

Now, some point out that FPI made more money this year. We have. We have because of contracts with DOD for war fighting items in electronics and textiles. Other than that, our funds are dropping. Our inmate employment is down. When the war ends, and it will, we will lose large portions of the program. In 2001, there were 22,560 inmates working, or 25 percent of the inmate population. Now since the DOD general treasury changes and changes by our own board of directors, we are providing employment to 19,337 inmates, or only 18 percent of our population.

While the bill discusses vocational training and educational programming, all of this has been cut over the last 4 years. We have less teachers, less vocational staff, instructors, and, frankly less security. Over the last 3 fiscal years, the Administration and the Congress have cut our building and facilities budget by $255 million, from 325 million in 2004 to 70 million in 2006.

Many of these funds were used to upgrade facilities using inmate work crews. Now they sit idle. After this bill passed last year, to my knowledge, no one went to the Appropriations Committee and asked for additional funding for money for these programs.

We would love to build items for the underprivileged; however, we have to pay the staff and for the materials to do so. And of the competition, the furniture industry, which is one of the main elements of all this, they have increased profits without these changes to FPI by large margins. It has also been reported that Steelcase doubled its use of suppliers in lower-cost countries last year. See attached articles in my testimony. It seems to me a win-win would

be to partner with FPI and the items sent out of the country could be brought back to us. We could partner with these companies and help each other. Inmates could learn their business under apprenticeships, and then perhaps get hired in these production facilities here in the United States. We could do that with any business that is struggling against the pressure of outsourcing or outsourcing overseas. This may decrease their shipping costs. It would increase inmate employment and help prison workers.

It is unfortunate we can't seem to get to that point. We believe any part of the bill must include repatriation of services and products into the entire market. If we give up mandatory source, which legislatively we have, you should allow us to bring back production from overseas. We have no problems with oversight of this. A certification from the Department of Commerce, Labor, or whoever you would like, such as a board of labor, business and prisons could verify this and establish parameters.

Members of the Committee, I want to thank you for inviting me today. And I would be more than happy to answer any questions.

[The prepared statement of Mr. Glover follows:]

PREPARED STATEMENT OF PHIL GLOVER

Chairman Coble, Ranking member Scott, and members of the subcommittee, my name is Phil Glover and I am President of the Council of Prison Locals, American Federation of Government Employees. As the elected representative for over 28,000 bargaining unit employees in the Federal Bureau of Prisons (BOP), I want to thank you for the opportunity to express our views to the subcommittee on the proposed bill in front of us today, HR2965.

I first want to clarify, that I am not here speaking for the administration or the BOP. I am speaking as a line staff member, representing line employees who work inside the walls and fences of 105 federal facilities in many of your districts.

As we all know, this bill passed convincingly last Congress. That doesn't mean correctional professionals agree with its content, its conclusions, nor its effect. Let's review what is happening in corrections and FPI in the federal system briefly.

Over the last four years we have had our staffing at each individual institution cut by as much as 15 to 20 percent as compared to the staffing percentages of the late 1990's. A chart is provided in my statement for the record to verify this (attachment 1).

Over the last three fiscal years the inmate population has grown by 29,000 new inmates. Overcrowding is at an all time high of 41 percent. This fiscal year, it was proposed to eliminate the construction of two new facilities. We are taking United States Penitentiary Leavenworth and United States Penitentiary Atlanta offline as High Security Prisons and demoting them to Medium facilities. We didn't receive the funds to keep them updated and operational as United States Penitentiarys. We are cutting four federal prison camps, three of which do work for the military on bases in North Carolina, Florida and Nevada.

Attacks on staff have increased, the Director stated to the appropriations committee last year that BOP had a 28 percent increase in assaults over the last three years. The union believes it was higher increasing 34 percent, with an increase of 63 percent with weapons. Again, a chart is provided from BOP's own statistics.

Moral in the federal system is as low as I have seen it in years. People are expected to perform the duties of two, three, sometimes four other staff because of shortages. We are asked to handle violent inmates and terrorists, and are investigated by an Inspector General who seems gleeful at attacking us. We are vacating correctional posts, left and right, to save money. Overtime funding has been cut dramatically and BOP is planning on contracting out our security at outside hospitals. Our last staff member murdered has not received justice because of eight years of delay to a trial of the inmate. Our assault rates have climbed. The congress has allowed privatization of prisons to creep into the system.

People in FPI have been reorganized over and over, had to retire early, had to leave their FPI positions returning to custody work in the senior days of their careers. It is a lot to handle.

And now comes again, this piece of legislation. As you all are aware, mandatory source as it's called has been eliminated in appropriations bills for DOD and general government for the last three fiscal years. While the inmate population has increased by 29,000 new inmates, inmate employment in FPI has actually decreased by 3,000 jobs in the same period. Now, some point out that FPI has made more money this year. We have. We have because of our contracts with DOD for war fighting items. When the war ends, and it will, we will lose larger portions of the program. Keep in mind, that in 2001 there were 22,560 inmates working or 25 percent of the inmate population. Now, since the DOD, general treasury changes, and changes by our own Board of Directors, we are providing employment to 19,337 inmates or only 18 percent of our population.

While this bill talks about vocational training and education programs the funding for all of this has been cut. We have less teachers, less vocational instructors and less security. Over the last three fiscal years, the Administration and the Congress has cut our Building and Facilities budget by 255 million dollars from 325 million in 2004, to 70 million in 2006. Many of these funds were used to upgrade facilities using inmate work crews, now they sit idle. We have been placed in the category of "a domestic program" and so, when you do an across the board cut in an Omnibus bill we get hit again. We are security for this nation and have been for over 70 years. We have kept the felon of this country locked up, we deserve better.

After this bill passed last year, no one went to the appropriations committee and asked for additional money for these new programs. We would love to build items for the underprivileged, however, we have to pay the staff and purchase the materials. There is no money in the budget for this when we can't even hire correctional officers for security. We would love to work for non-profits, again this isn't practical, because of limited funds and non-profit's limited budgets.

And what of the "competition," the furniture industry, who is one of the main elements of all this. They have increased profits without these changes to FPI by large margins. It has also been reported that Steelcase doubled its use of suppliers in lower-cost countries last year. (see attached article).

It seems to me a "win, win" would be to partner with FPI and the items sent out of the country could be brought back to us. We could partner with these companies and help each other. Inmates could learn their business under apprenticeships and then perhaps could get hired in their production facilities here in the United States. We could do that with any business that is struggling against the pressure to outsource overseas. Textiles could provide us lists of product that is produced only overseas and we could bring back that work. This may decrease their shipping costs, it would increase inmate employment, helping prison workers, increase domestic raw materials purchases and other important economic interests. Wages could be raised for the inmates so they could pay fines off earlier, assist their families, pay taxes and other parts of their debt to society. It is unfortunate, that we can't seem to get to this point.

We believe any part of this bill must include repatriation of services and products into the entire market. We should give up mandatory source (which legislatively we have) and you should allow us to bring back production from overseas. We have no problems with oversight of this. A certification from Department of Commerce, Department of Labor or whoever would do this type of certification would be welcome. Or a board established of labor, business, and prisons who could verify this and establish parameters on what to bring back. We think that is the way to go.

Members of the committee, I want to thank you for inviting me today. I hope I have given you some idea of the issues facing corrections in the federal system and our extreme challenges. I would be more than happy to answer any questions at this time.

Mr. COBLE. Thank you, Mr. Glover.

Mr. Miller.

TESTIMONY OF PAUL MILLER, DIRECTOR OF GOVERNMENT AFFAIRS, INDEPENDENT OFFICE PRODUCTS & FURNITURE DEALERS ASSOCIATION

Mr. MILLER. Mr. Chairman, Ranking Member, and Members of the Subcommittee, I appreciate the opportunity to testify at today's Subcommittee hearing to discuss H.R. 2965, the "Federal Prison Industries Competition in Contracting Act of 2005." My name is Paul Miller, and as you mentioned, I serve as the director of Gov-

ernment Affairs for the Office Furniture Dealers Association. Let me start by saying emphatically that the coalition established 9 years ago representing business and labor supports the original mission of the Federal Prison Industries Program, which was to provide inmates with real job skills they can use upon release back into their communities.

What we don't support is a program that has gone beyond this mission and is more about generating profits at the expense of business, labor, and, most importantly, the inmates this program was supposed to help. Our coalition is often criticized for trying to put FPI out of business. This is just another scare tactic used by FPI and its trading partners to dissuade further action on this important legislation.

It is also said that H.R. 2965 is intended to be harmful to small businesses, prison guards, and inmates. That's pure rhetoric. The goal of this legislation is just the opposite.

I expect we will hear today from opponents that these are our intended goals.

Mr. Chairman, I can assure this Subcommittee that this is furthest from the truth. Our coalition is made up of mostly small businesses. Our coalition supports the prison guards charged with overseeing these inmates in these facilities. I would not, nor would any member of our coalition, support legislation that puts prison guards in harm's way. Our coalition supports rehabilitation of inmates. All this is proof in a legislation Representative Hoekstra has once again introduced. With his leadership, this bill has come a long way from where it was some 12 years ago.

H.R. 2965 looks to help inmates. It also looks to level the playing field for business and labor against the unfair advantage FPI has had for far too long. What is lost in this whole debate is that changes needed in this program are out-of-date in today's society. Those charged with creating FPI didn't intend it to become a huge profit center at the expense of business, labor and inmates. Its mission was to provide rehabilitation to inmates at a time in this country when economic conditions were bleak. Today, some 61 years later, this program does not meet today's needs or demands.

H.R. 2965 corrects this problem by changing FPI to fit today's society and its needs. If opponents to H.R. 2965 really look closely as what this legislation does, they should support it. The only reason not to support this legislation is to support the status quo of a Government monopoly that has for years gone unchecked.

I expect today we will also hear about FPI's need to hold on to mandatory source. We will hear how they have lost revenues. We will hear how they have lost jobs. We will also hear how FPI has cut programs to help level the playing field for business and labor.

I guess whether you believe this or not will be in how you interpret FPI's definition of lost revenue, lost jobs, and cutting programs. Based on their most recent annual report, I'm not sure how FPI can make those assertions. The numbers just don't support the facts. With FPI's current operations, I would like to know exactly how FPI is able to lay off inmates with this kind of growth. I would also like to know how FPI believes it is being harmed by H.R. 2965. As I look at the numbers, I would say FPI owes Congress a

thank you for passing the current reforms. It sure seems like they have benefited from them.

We hear every year how, from FPI passing any legislation, will have a negative impact on their ability to survive and train inmates. Again, I think the annual report proves otherwise. If FPI is laying off inmates today, then the questions have to be why and how? Why are inmates being laid off at a time when FPI's products appear to be in higher demand? Is it that FPI is laying off inmates, or is it simply that FPI is shifting inmates to business segments that are in greater demand than others? Again, it is all on how you define those terms. How can a company like FPI lay off inmates when production appears to have increased? The companies we all represent would like to know the secret of their success.

I think one could come to the conclusion that FPI is defining the term "laid off" to mean any inmate moved from one business sector to another, or it could be that FPI is, in fact, working with more outside companies to provide the products to the customer with little or no inmate work being done, and thus actually laying inmates off. Either way, there is a problem.

I'm sure the question will come today why we believe further reform is still needed. Well, the answer is simple. When you have a Government corporation going out to Government customers still today telling them that the old provisions allowing for competition have expired and contracting officers must once again buy from FPI, there needs to be a more permanent solution. H.R. 2965 is that solution. And if there is even one case of pass-throughs or drive-by manufacturing, then there is a problem, and H.R. 2965 is the answer.

As I said earlier, H.R. 2965 is not a tool to put FPI out of business as claimed by our opponents. This legislation has come a long way from its original version some 12-plus years ago. Numerous provisions have been added to this legislation to deal with such concerns as marketable skills, educational and vocational opportunities, and charitable provisions allowing FPI to team with organizations like Habitat For Humanity to build homes which should prove that we support FPI survival and its original mission. We strongly believe that these provisions will better help inmates once they are released from prison find real long-term opportunities while protecting prison guards and small businesses.

Practices like drive by manufacturing do not provide any of this type of training for inmates or protection for prison guards. H.R. 2965 does. What these types of provisos do produce is large profits.

Let me conclude by sharing with you some comments made by the General Services Administration during a hearing on this very issue before the United States Senate last year. The GSA witness was asked by Senator Craig Thomas whether FPI could sustain itself without mandatory source. The witness' response was that it could. GSA told the story of their having mandatory source years ago. Congress eliminated GSA's mandatory source, and they are thriving. The reason GSA told the Committee is they have created a different business model built on competition. The witness went on to add that GSA learned how to compete in an open market. FPI can too. Thank you for the opportunity today. And I will cut my time short and answer any questions.

Mr. COBLE. Thank you, Mr. Miller.
[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF PAUL A. MILLER

Statement of

The Office Furniture Dealers Alliance

before the

Crime, Terrorism and Homeland Security Subcommittee

of the

House Judiciary Committee

Friday, July 1, 2005

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Mr. Chairman, Ranking Member, and members of the Subcommittee, I appreciate the opportunity to testify at today's subcommittee hearing to discuss H.R. 2965, the Federal Prison Industries Competition in Contracting Act of 2005.

My name is Paul Miller and I serve as the director of government affairs for the Office Furniture Dealers Alliance (OFDA). OFDA is the national trade association for independent dealers of office furniture.

Let me start by saying emphatically that the coalition established nine years ago representing business and labor supports the original mission of the Federal Prison Industries (FPI) program, which was to provide inmates with real job skills they can use upon release back into their communities. What we don't support is a program that has gone beyond this mission and is more about generating profits at the expense of business, labor, and most importantly, the inmates this program was supposed to help.

Our coalition is often criticized for trying to put FPI out of business. This is just another scare tactic used by FPI and its trading partners to dissuade further action on this important legislation. It is also said that H.R. 2965 is intended to be harmful to small businesses, prison guards, and inmates. That is purely rhetoric. The goal of this legislation is just the opposite.

I expect we will hear from opponents today that these are our intended goals. Mr. Chairman, I can assure this subcommittee that this is farthest from the truth. Our coalition is made up of mostly small businesses. Our coalition supports the prison guards charged with overseeing the inmates in these facilities. I would not, nor would any member of our coalition support legislation that puts prison guards in harms way. Our coalition supports the rehabilitation of inmates. All of this is proof of the legislation Representative Hoekstra has once again introduced. With his leadership this bill has come along way from where it was some 12 years ago.

H.R. 2965 looks to help inmates. It also looks to level the playing field for business and labor against the unfair advantage FPI has had for too long. What's lost in this whole debate is that change is needed to a program out of date in today's society. Those charged with creating the FPI program didn't intend it to become a huge profit center at the expense of business, labor and inmates. Its mission was to provide rehabilitation to inmates at a time in this country when economic conditions were bleak. Today, some 61 years later, this program does not meet today's needs or demands. H.R. 2965 corrects this problem by changing FPI to fit today's society and its needs.

If opponents to H.R. 2965 really looked closely at what this legislation does, they should support it. The only reason not to support this legislation is to support the status quo of a government monopoly that has for years gone unchecked.

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I expect that today we will also hear about FPI's need to hold onto mandatory source. We will hear how they have lost revenues. We will hear how they have lost jobs. We will also hear how FPI has cut programs to help level the playing field for business and labor. I guess whether you believe this or not will be in how you interpret FPI's definitions of lost revenue, lost jobs and cutting programs. Based on their most recent annual report, I'm not sure how FPI can make those assertions. The numbers just don't support the facts.

FPI essentially operates in eight business categories: Clothing & Textiles, Electronics, Fleet Management & Vehicular Components, Graphics, Industrial Products, Office Furniture, Recycling Activities, and Services. According to FPI's own 2004 annual report, they have increased sales in all but one business category.

In fact, FPI increased (In Millions) from:

Electronics:	$152,357	FY'2003
	$255,171	FY'2004
Fleet Management:	$123,272	FY'2003
	$129,068	FY'2004
Graphics:	$23,658	FY'2003
	$23,681	FY'2004
Industrial Products:	$36,759	FY'2003
	$45,846	FY'2004
Office Furniture:	$151,996	FY'2003
	$140,935	FY'2004
Recycling Activities:	$8,083	FY'2003
	$10,004	FY'2004
Services:	$12,239	FY'2003
	$13,550	FY'2004
Clothing & Textiles:	$158,399	FY'2003
	$184,465	FY'2004
Totals:	**$666,763**	**FY'2003**
	$802,720	**FY'2004**

If an increase in sales by $136 million between FY'03 and FY'04, gross profits by $56.4 million, and net profits by $61.6 million, are the signs a program is in trouble, then I think all the small businesses part of our coalition would like to be in FPI's position.

With FPI's current operations, I'd like to know exactly how FPI is able to have lay-offs of inmates with this kind of growth. I'd also like to know how FPI believes it is being harmed by H.R. 2965. As I look at the numbers, I'd say FPI owes Congress a thank you for passing the current reforms. It sure seems like they've benefited from them.

We hear every year from FPI how passing any legislation will have negative impacts on their ability to survive and train inmates. Again, I think their annual report proves otherwise. If FPI is laying inmates off today, then the questions have to be why and how? Why are inmates being layed-off at a time when FPI's products appear to be in higher demand? Is it that FPI is laying inmates off or is it simply that FPI is shifting inmates to business segments that are in greater demand than others? Again, it is all in how you define these terms.

And how can a company like FPI lay-off inmates when production appears to have increased? The company's we all represent would like to know the secret of their success. I think one could come to the conclusion that FPI is defining the term layed-off to mean any inmate moved from one business sector to another. Or it could be that FPI is in fact working with more outside company's to provide the product to the customer with little or no inmate work being done and thus actually laying inmates off. Either way, there is a problem.

I'm sure the question will come up today of why we believe that further FPI reform is still needed. Well, the answers simple. When you have a government corporation going out to government customers, still today, telling them that the old provisions allowing for competition have expired and contracting officers must once again buy from FPI, there needs to be a more permanent solution. H.R. 2965 is that solution. And, if there is even one case of pass-throughs or "drive-by" manufacturing, then there is a problem and H.R. 2965 is the answer.

As I said earlier, H.R. 2965 is not a tool to put FPI out of business as claimed by our opponents. This legislation has come a long way from its original version some 12-plus years ago. Numerous provisions have been added to this legislation to deal with such concerns as marketable skills, educational and vocational opportunities, and charitable provisions allowing FPI to team with organizations like Habitat for Humanity to build homes, which should prove that we support FPI's survival and original mission.

The concerns raised by opponents are in fact addressed in this legislation. For instance:

- H.R. 2965 provides additional rehabilitative opportunities for inmates by establishing the Enhanced In-Prison Educational & Vocational Assessment and Training Program. Program provides in-prison assessments of inmates' needs and aptitudes, a full range of

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educational opportunities, vocational training and apprenticeships, and comprehensive release-readiness preparation;

- H.R. 2965 provides inmate work opportunities for not-for-profit entities. Allows inmates to make and donate products like furniture to charitable organizations who might not otherwise be able to afford or purchase such items from the commercial market. An example of such a program would be Habitat for Humanity;

- H.R. 2965 creates a prerelease employment assistance program that affords inmates opportunities to participate in programs and activities designed to help prepare inmates to obtain employment upon release. Program includes: training in the preparation of resumes and job applications, training in job interviewing skills, training and assistance in job search techniques, and conduct job fairs;

- H.R. 2965 provides additional opportunities for post release vocational and remedial educational opportunities;

- H.R. 2965 allows FPI to perform work as a subcontractor.

- H.R. 2965 requires that a study be done by the Comptroller General on the effects of eliminating FPI's mandatory source authority. This study is to be completed and a report issued to Congress no later than January 31, 2006. This provision alone should get the opposition to support it. If their claims are accurate, then why not pass this legislation, which requires this study, to prove that their claims are correct.

- H.R. 2965 does not look to displace hard-working prison guards. It is for this very reason that the following provision has been included, which states:

  "Any correctional officer or other employee of Federal Prison Industries being paid with nonappropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries during any fiscal year specified in section 4(e)(1) shall be--

  (1) eligible for appointment (or reappointment) in the competitive service pursuant to title 5, United States Code;

  (2) registered on a Bureau of Prisons reemployment priority list; and

  (3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

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- H.R. 2965 is also concerned about prison guard safety. It is for this very reason that the following provision has been included:

  "The procurement activity shall negotiate with Federal Prison Industries on a noncompetitive basis for the award of a contract if the Attorney General determines that -- the contract award is necessary to maintain work opportunities otherwise unavailable at the penal or correctional facility at which the contract is to be performed to prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility."

We strongly believe these provisions will better help inmates once they are released from prison find real long-term opportunities while protecting prison guards and small businesses. Practices like "drive-by" manufacturing do not provide any of this type of training for inmates or protection for prison guards - H.R. 2965 does. What these types of abuses do produce is large profits.

Let me conclude by sharing with you comments made by the General Services Administration during a hearing on this issue before the United States Senate last year. The GSA witness was asked by Senator Craig Thomas whether FPI could sustain itself without mandatory source. The witness response was that it could. GSA told the story of their having mandatory source years ago. Congress eliminated GSA's mandatory source and they are thriving. The reason GSA told the committee, is they created a different business model built on competition. The witness went on to add that GSA learned how to compete in an open market – FPI can too.

I want to thank you for the opportunity today and it is our hope that this hearing will help get this legislation to the floor before the August recess. A bill loaded up with poison pill amendments will not do the process or this legislation any good. The only way to ensure that a good bill gets to the floor is that it is clean and without harmful amendments.

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Mr. COBLE. Dr. Wilkinson, you're sort of on the spot. Mr. Glover beat the red light. Mr. Miller permitted the red light to beat him. So we will be watching the buckeye. Good to have you with us, Dr. Wilkinson.

TESTIMONY OF REGINALD WILKINSON, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Mr. WILKINSON. Thank you, Mr. Chairman.

Mr. Chairman, Members of the House Subcommittee, I appreciate the opportunity to provide testimony to you today regarding the impact of resolution 2965 on Federal, State and local correctional industries. I would especially like to thank Congressman Chabot and Congressman Scott for inviting me to speak on behalf of correctional industries and for their ongoing support for the development of quality industry programs in our Nation's prisons and jails. I am now in my 32nd year as a correctional administrator, all in Ohio. A more detailed biography is included in my written testimony.

I would like to provide you with a general overview of the importance of prison industries in Federal and State correctional institutions, as well as a thumbnail sketch of Ohio's approach to prisoner employment before delving into further areas impacted by 2965.

Let me first address the issue of why I believe that it is vital to have effective State and Federal prison industrial programs. In my view, there are at least six primary rationals. First, Federal and State industry jobs are a management tool to keep prisoners busy. When prisoners are idle, tensions and violence increase in correctional institutions. Prison industry programs keep thousands of inmates productively involved in day-to-day structured operations of our nations correctional facilities, thereby increasing the safety of civilians, inmates and the communities surrounding facilities as well as staff persons.

Second, Federal and State correctional industries job training programs reduces crime. Inmates who participate in meaningful job training demonstrate a statistical reduction in recidivism. A Washington State Institute for Public Policy showed that for every dollar spent on correctional industry programs, as much as $6.23 is saved in future criminal justice costs. In Ohio, in 1995, a study conducted by our Department showed that participation in prison industry jobs reduced the rate of return for offenders by at least 20 percent.

Third, meaningful job training contributes to successful reentry of offenders and increases their chances of finding and keeping jobs after release. As one can imagine, former prisoners attempting to find jobs are at a natural disadvantage. At FPI, it is our mission to teach them skills so that they can compete in the job market after they have served their prison sentences.

Fourth, Federal and State prison industries contracts with private sector businesses boost economic development and, in particular, minority-owned small companies. And in an attempt to expand prison industries and create more real world, high-skilled jobs, prison industries have placed an emphasis in recent years on partnering with the private sector. These partnerships benefit from both Federal and State departments of corrections and companies they contract with. In Ohio, we have nine contracts with private

sector entities that employ approximately 500 inmates, including the furniture industry.

Fifth, prison industries offset the cost of incarceration. Like FPI and most other state correctional industry programs, OPI is a self-supporting entity that does not require financial assistance from Ohio's general assembly general revenue fund. According to an independent study commissioned by our agency, again, our prison industries further defrayed taxpayer costs by providing 15.9 million dollar annual benefit to Ohio and creating 62 private sector spin-off jobs for a net gain to the local economy.

At the end of fiscal year 2004, our industries employed over 2100 inmates and generated sales of over 32 million dollars.

Finally, Federal and State prison industries imbue inmates with a work ethic and a sense of self responsibility. Many inmates have never held a job for any length of time nor have they learned to take instruction and feel the satisfaction of a job well done.

Ohio's inmates employment and reentry programs are equally as important. We work very hard to increase the employability of inmates through initiatives such as our offender job linkage program, where we work with local businesses to help employ these persons following release. One of our important employment initiatives in Ohio is our community service program. We have expanded the number of inmates now as devoted to this area of over 75,000 hours in 1991 to 6.9 million hours in 2004.

Finally, it is important to note that offender employment is just one component of a broad systems approach to managing offenders returning to the community. In Ohio and many other jurisdictions, innovative reentry initiatives such as the ones that were mentioned earlier by the congressman from Michigan, are underway that emphasize a continuum of services, programming, support, and offender accountability.

Mr. Chairman, there is much more to say about this, but I will reserve comments for questions.

Mr. COBLE. Thank you, Dr. Wilkinson.

[The prepared statement of Mr. Wilkinson follows:]

PREPARED STATEMENT OF DR. REGINALD A. WILKINSON

INTRODUCTION

Chairman Coble and members of the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security. I appreciate the opportunity to provide testimony before you today regarding the impact of House Resolution 2965 [HR 2965] on federal, state, and local correctional industries. I would especially like to thank Congressmen Chabot and Scott for inviting me to speak on behalf of correctional industries, and for their on-going support for the development of quality industry programs in our nation's prisons and jails.

I am now in my 32nd year as a correctional administrator—all in Ohio. I have served as Director of the Ohio Department of Rehabilitation and Correction for fourteen years. I am a past president of both the American Correctional Association and the Association of State Correctional Administrators: two of the nations leadings corrections trade associations. I was appointed a member of the U.S. Department of Justice, National Institute of Corrections Advisory Board by former U.S. Attorney General John Ashcroft; its members elected me chair of the Board. Moreover, I serve as president and executive director of the newly formed International Association of Reentry.

I would like to provide the subcommittee with a general overview of the importance of prison industries in federal and state correctional facilities, as well as a thumbnail sketch of Ohio's approach to prisoner employment, before delving further into the areas impacted by HR 2965.

IMPORTANCE OF PRISON INDUSTRIES

Let me first address the issue of why I believe that it is vital to have effective state and federal prison industrial programs. In my view, there are at least six primary rationales:

First: Federal and State industry jobs are a management tool to keep prisoners busy. When prisoners are idle, tension and violence increase in correctional facilities. Prison industry programs keep thousands of inmates productively involved in the day-to-day, structured operation of our nation's correctional facilities, thereby increasing the safety of civilians, inmates, and the communities surrounding the facilities. This theory is backed by research data. Criminologist Bert Useem, Ph.D., noted in a 1999 multivariate analysis of prison protests, disturbances and riots that "the percentage of inmates with paid employment was inversely related to the probability of an inmate disturbance." Another criminologist, Beth M. Huebner, stated in her 2003 multilevel analysis of administrative determinants of inmate violence that "prisoners involved in work programs were significantly less likely to assault staff."

Second: Federal and State prison industries' job training reduces crime. Inmates who participate in meaningful job training demonstrate a statistical reduction in recidivism. A Washington State Institute for Public Policy study showed that for every $1 spent on prison industry programs, as much as $6.23 is saved in future criminal justice costs (arrest, conviction, incarceration, post release supervision and crime victimization). In Ohio, a 1995 study conducted by the ODRC showed that Ohio Penal Industries (OPI), our inmate industrial training program, is having a similar positive impact. Participation in OPI jobs reduced the return rate of offenders released from prison by 20 percent. Participation in high-skilled OPI jobs resulted in a 50 percent reduction in recidivism. Similarly, studies also show that Federal Prison Industry (FPI) inmates are 24 percent less likely to recidivate than those inmates in non-FPI jobs. These studies also indicated that certain groups of prisoners benefited differently. For instance, federal and state prison industry participation had the greatest positive impact on African American males.

Third: Meaningful job training contributes to the successful reentry of offenders and increases their chances of finding and keeping jobs after release. As one can imagine, former prisoners attempting to find jobs are at a natural disadvantage. Like FPI, it is our mission to teach them skills so that they can compete in the job market after they have served their prison sentences. Ohio's 105 vocational education programs range from building maintenance to welding, from brick laying to auto mechanics. Ohio's industries programs work with areas in our Department, as well as with other state agencies to enhance the skill-set obtained by offenders. Our most recent enterprise is the opening of our Meat Processing Career Center. It is a multi-functional operation, doing both processing and packaging, which has created 100 offender jobs who will receive vocational training by The Ohio State University. The certification these inmates obtain will assist them in securing jobs in the meat processing industry upon release. Our farm operation provides the animals processed at the plant and the finished products are served in our institutions, driving down the cost to the taxpayers of Ohio.

A solid base of educational, treatment programs, reentry activities, and formalized linkages to the community combined with real work experience and developing work ethic, buttress prison vocational and industry programs. Similar to our experiences in Ohio, studies have demonstrated that federal inmates who participate in FPI jobs are 14 percent more likely to be post release successful than those inmates in non-FPI jobs.

Fourth: Federal and State prison industries contracts with private sector businesses boost economic development and in particular minority owned and small companies. In an attempt to expand prison industries and create more real-world and high-skilled jobs, prison industries have placed an emphasis in recent years on partnering with the private sector. These partnerships benefit both federal and state Departments of Correction and the companies they contract with. In Ohio, we currently have 9 contracts with private sector entities that employ approximately 500 inmates.

Before signing, contracts are reviewed by our Prison Labor Advisory Council (PLAC), a six-member board that advises and assists the Department in its responsibility to create meaningful work for inmates. The Council is comprised of business and community leaders, who help insure that proposed private sector contracts meet the Department's objectives to have no adverse impact on Ohio's labor market. If endorsed by the PLAC, companies agree to sign a statement that they *will not displace Ohio workers* in utilizing inmate labor.

Additionally, many private sector businesses benefit from purchases made by federal and state prison industries. In 2003, Federal Prison Industries (FPI) purchased $502 million in goods, services, and raw materials from the private sector—$1.5 billion from 1997 through 2001—a figure representing 74 percent of gross sale revenues. Nearly two-thirds of these purchase contracts are with small businesses, many of them female and minority-owned or disadvantaged. Estimates indicate that roughly 5,000 jobs in the private sector are the result of goods purchased by FPI.

Fifth: Prison industries offset the cost of incarceration. Like FPI and most other state correctional industry programs, OPI is a self-supporting entity that does not require financial assistance from Ohio's General Revenue Fund. According to an independent study commissioned by ODRC, OPI further defrays taxpayer costs by providing a $15.9 million annual benefit to Ohio and creating 62 private sector "spin-off" jobs for a net gain to the local economy. Customer surveys, moreover, consistently demonstrate that OPI is fulfilling its mission to produce quality products.

At the end of fiscal year 2004, OPI employed over 2,100 inmates and generated sales of over $32 million. These sales enable OPI to cover expenses and operate self-sufficiently. OPI shops and services range from the traditional production of license plates and janitorial supplies, to high-tech services such as, asbestos abatement and computer refurbishing. Some of our current contracts are saving Ohio taxpayers millions of dollars by utilizing inmate workers to convert information digitally and make it available to the general public using Computer Aided Design (CAD) and Geographical Information Systems (GIS) support services. These activities are also preparing inmates for high-tech employment upon release.

Finally, federal and state prison industries imbue inmates with a work ethic and a sense of self-responsibility. Many inmates have never held a job for any length of time, nor have they learned to take instruction, and feel the satisfaction of a job well done. In FPI, Ohio, and other jurisdictions, prison industries work standards mirror the normal work environment as closely as possible so that when offenders are released to the community they are as ready as possible to join the work world and make a productive contribution.

It is also important that former prisoners learn to accept the same employment responsibilities that you and I do. They must support their family, pay rent, and fulfill other obligations. In many cases, they are required to pay restitution, child support, and other legal judgments. I believe it is our duty to instill these traits.

OHIO'S INMATE EMPLOYMENT AND REENTRY EFFORTS

In Ohio, we've worked very hard to increase the employability of ex-inmates through initiatives such as our Offender Job Linkage Program, where we now invite local business leaders to interview skilled inmates close to release at job fairs in our prisons. As a prerequisite to participation in the job fairs, inmates must be within 90 days of release and are required to produce a current resume and participate in classroom training to develop interview skills. To date, close to 10,000 inmates and nearly 500 employers have participated in over 300 job fairs across the state. Inmates participating in these job fairs gain valuable interview experience, and many have been offered employment following their release, or have been encouraged to report after their release for additional interviewing and consideration. Additionally, as a part of this initiative, we are utilizing innovative teleconferencing technology that allows employers in Ohio's urban centers to interview job-ready inmates in prisons via video linkages. Since 1997, 162 monthly videoconference interviews have been conducted with about 350 employers and 42 social service agencies. A total of 2,344 inmate interviews were conducted using this technology, with approximately 38 percent receiving referrals for follow-up interviews.

One of our most important employment initiatives in Ohio is our community service program. We have expanded the numbers of inmates and hours devoted to this area from over 75,000 hours in 1991 to over 6.9 million hours in 2004. Our Department has provided Ohio communities with over 35 million hours of volunteer inmate service since the inception of the program. This initiative has provided much needed assistance to Ohio's schools, government agencies, churches, and many other deserving charitable and non-profit organizations. Just as important, it has provided valuable job skills to offenders and has allowed them to experience the positive rewards of contributing back to society.

Finally, it is important to note that offender employment is just one component of a broad systems approach to managing offenders returning to the community following a period of incarceration. In Ohio, and many other jurisdictions, innovative "reentry initiatives" are underway that emphasize a continuum of services, programming, support, and offender accountability from the time of sentencing to well beyond an offender's release to the community. I recently testified before Congress

in support of landmark legislation entitled the Second Chance Act of 2005 (HR 1704) originally initiated by former Congressman Rob Portman. Passage of this important initiative would further enhance public safety, and ensure that many more offenders return home as tax paying and productive citizens.

COMMENTS ON HOUSE RESOLUTION 2965

I would now like to briefly address some specific points of discussion regarding HR 2965. Ohio and other State Departments of Correction are concerned with provisions contained in section 7 of the bill amending 18 USC 1761 (a) at the state, and local levels to prohibit the interstate sale of services furnished wholly or in part by prisoners. We are also concerned with the provisions in section 7 amending 18 USC 1761 (c) that require the phase-out of existing state and local inmate work programs providing services for the commercial market and their future certification through the federal Bureau of Justice Assistance. This language includes state programs in prohibiting services such as packaging, telemarketing, and data entry. These are the types of services that are being contracted offshore, that states are trying to attract back and return to their prison industries. Additionally, we believe that the language in section 3 of the bill prohibiting access to geographic data would eliminate two of our prison industry shops. These employ 72 inmates working on mapping services, including tax-mapping services for counties; mine reclamation mapping; gas/water well placement; bedrock geology and cadastral imaging; as well as the mapping of utilities.

Furthermore, we are opposed to restrictions contained in the legislation involving FPI. The restrictions on sale of inmate provided services into interstate commerce and the phase-out of the mandatory source preference could result in further loss of inmate jobs and training opportunities, along with the loss of many civilian industry jobs. Additionally, many private companies who supply raw materials and partner with correctional industries would be placed at risk to lose their jobs should HR 2965 pass in its current form. Finally, the states would be in jeopardy of being sued by these companies due to the abrogation of existing contracts, not to mention the related legal and court fees.

21CONCLUSION

As I have stated above, prison industries provide many positive benefits to federal, state, and local correctional agencies by keeping inmates meaningfully engaged and by providing them with marketable job skills that may reduce the likelihood of future recidivism. They also provide positive economic benefits to states by reducing reliance on general revenue fund sources, creating demand for raw products and supplies purchased from the private sector, and by increasing skilled labor. Communities and families benefit by offenders being returned to society with a greater likelihood for employment, a chance to become productive, law-abiding, and drug free citizens.

Based on the concerns that I and other corrections professionals have articulated with HR 2965, I would urge you to delay its passage and work towards legislation that enhances rather than constrains prison industries.

Mr. Chairman and Committee members, thank you for the opportunity to offer my testimony. I would be pleased to address any questions that you may have.

Mr. COBLE. I believe you are clean-up, and we gave you a pass on the oath, but you are not immune from the 5-minute rule. Representative Hoekstra.

TESTIMONY OF THE HONORABLE PETER HOEKSTRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. HOEKSTRA. Thank you, Mr. Chairman. It is good to be here. It is good to be here with my friends from the Education and Workforce Committee where we had a lot of good times together. Mr. Scott, Mr. Conyers, it is good to see you. Mr. Lungren and Mr. Chabot, I thank you for being here. Mr. Chabot, I just remind you that the buckeye sitting next to me, his roots are from the State

of Michigan. He was born and raised in Detroit. I don't know what went wrong in between there. But we can maybe fix that.

Thank you for the opportunity. I just like to submit my statement for the record. Let me make a couple of comments and make sure that I stay within the record.

Mr. Glover, in terms of your statement, I think that we all recognize the dangers and the challenges that the organization that you represent, the guards, face each and every day. I can't imagine a more difficult working environment than some of the statistics that you've outlined. I am sure they are accurate. We really need to be working on getting you the resources that are necessary in the prisons.

Second, you know that we have been working almost a year to craft a work-based inmate training program of the type that you are suggesting. I want a proposal that is acceptable to all elements of the family of labor, that has been the most daunting challenge. I think we can reach an agreement with the business community. We just need to make sure that we can reach an agreement that is fair and is acceptable to the entire family—labor family as well. And we are going to be working on that.

Third, Mr. Frank of Massachusetts and I have a pact. Once this bill is passed and becomes law, we will press equally as hard to obtain the relatively modest funding necessary for these enhanced inmate and educational training programs and the alternative inmate work opportunities that are outlined in the bill. We suspect that others will join us.

One of the unique things about this bill has been the broad bipartisan support and the unique coalition that we have put together. I can tell you that my colleagues, every time they get a "dear colleague" from Barney Frank and Pete Hoekstra, they kind of look at it, and they say, "What in the world will these two folks agree on?" and they have been getting them now for 9 years. And we have kept this coalition together. And I think as we have worked to move this bill forward, we will also work to make sure that we implement all the sections of the bill, which includes the funding for the programs that this bill authorizes.

You know, the solution to the staffing problem that you outlined earlier is not to move the correctional officers to the FPI payroll. We need to fund these directly and address those issues directly.

Finally, on that, on one of your other points is, FPI status of mandatory sourcing is still in place. The other interesting thing is, I don't accept the premise that there is no correlation between FPI sales and inmate employment. There should be a more direct correlation. I think one of the most interesting things is that in the period that has been cited, 2002 to 2004, we have seen significant employment, or excuse me, significant increases in sales. FPI has been one of the most successful corporations in America during that 3-year span. Sales have increased by 18 percent, profits have increased by over 70 percent, but yet, employment has decreased. And six out of the eight segments of the businesses that they are employed in have seen significant increases in sales. But yet, employment has gone down. And I think we need to take a close look at why, as the company is growing, why their employment num-

bers are actually going down. That is not how—or what we would expect to have seen.

Dr. Wilkinson, let me make some observations on some of your statements. We agree, rehabilitation through work and vocational training programs are absolutely essential. That is why we put more of those things in place. To argue that FPI or Government contracting is good for small minority businesses I think is a false assumption.

These businesses can compete for Federal Government contracts. Making FPI the gateway by which these entities get access to the Federal Government isn't necessary. Now, there was just a contract that was awarded, mandatory source, $198 million. Mandatory sourcing is alive and well, and 1 percent of that business went to a vendor, a small company in my district. The rest went to the prisons.

You know, in the real word, the company should have had the opportunity to compete for this business rather than having FPI as the gateway. You know, I am going to make my red light—beat my red light. We have got a great—I am done.

I don't want to get the Chairman mad at me. I am done.

[The prepared statement of Mr. Hoekstra follows:]

PREPARED STATEMENT OF THE HONORABLE PETE HOESKTRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. Chairman (Mr. Coble), I appreciate the opportunity to appear before the Subcommittee as its considers H.R. 2965, the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble Federal Prison Industries Competition in Contracting Act of 2005. I expect that we will have a spirited discussion of what some assert will be the adverse impacts, when the bill is enacted. These opponents of FPI reform will seek to use as "evidence" the a statement made in FPI's Annual Report regarding reductions in inmate work opportunities during fiscal year 2002 through 2004. Hard numbers reflected in that report, and prior FPI Annual Reports since the mid-1980s, would suggest that the assertions about losses of inmate work opportunities are questionable, if not contrived.

H.R. 2965 is substantively identical to H.R. 1829 in the 108th Congress, which was ordered reported on the Committee on July 25, 2003, on a strong bipartisan voice vote. Subsequently, the bill was passed by the House on November 6, 2003, by a vote of 350-65.

H.R. 2965 again enjoys strong bipartisan support within the Committee and within the Congress. I am again fortunate to have as lead cosponsors, Rep. Barney Frank, Rep. Carolyn Maloney, Rep. Jim Sensenbrenner, the Chairman of the full Committee, my colleague from Michigan, Rep. John Conyers, the Committee's Ranking Democratic Member, and you, Mr. Chairman (Mr. Coble). In all, the bill had 77 original cosponsors. An addition, 15 cosponsors were added last night. Chairman Sensenbrenner and Rep. Conyers have agreed to schedule H.R. 2965 for markup shortly after the House returns for the Independence Day District Work Period. Fifteen Member of the Committee are already cosponsors of H.R. 2965. I expect that it will enjoy the same strong bipartisan support that was enjoyed by H.R. 1829.

The background information you have furnished to the Members of the Subcommittee provides an excellent summary of H.R. 2965. I will not repeat it here.

I would emphasize that the bill before you reflects a broad array of improvements that have been made over many, many years. Most of the most important improvements were made during the 107th and 108th Congress during the bill's consideration by this Committee. H.R. 2965 continues to reflect the important changes made by an extensive Conyers-Frank Amendment, during the Committee consideration of H.R. 1577 in the 107th Congress. It ingrained in the bill provisions designed to substantially increase the likelihood of Federal inmates making a successful return to society. The core of the Conyers-Frank Amendment was to increase inmate access to educational opportunities, both remedial education and modern "hands-on" vocational training, especially in skills in which there are jobs available in the economy after release. Such educational programs have been shown to be more effective than

traditional inmate work programs in reducing recidivism. The most recent analysis of the Post Release Employment Project (PREP) data, a multi-year assessment undertaken by the Federal Bureau of Prisons, shows that inmates participating in such educational programs were 33 percent less likely to return to prison. In contrast, those who participate in traditional prison industry programs are 24 percent less likely to return to prison.

Other provisions of the bill come from other diverse sources. The bill provides for deductions from inmate wages to be accumulated in an account in the inmate's name. These funds can be used by the inmate to stay in touch with their family during the term of incarceration. It also will provide a so-called "gate fund," resources to sustain the inmate immediately upon release. The "gate fund" provision was initially suggested by Pat Nolan, President of Justice Fellowship, the public policy arm of Prison Fellowship. During the consideration of H.R. 1829 on the House Floor, an amendment offered by Representative Waters and Rep. Millender-McDonald that would increase the effectiveness of the gate fund provision. It would require that inmates within 24 months of release be paid a wage of $2.50 per hour for work performed for FPI.

Opponents of FPI reform will also argue that it receives no appropriated funds, that it is "self-sustaining." It is accurate to say that FPI does not receive any appropriated funds to sustain its operations. Rather, its mandatory source status enable it to simply take funds appropriated to its captive Federal agency customers for the execution their missions, whether national defense, homeland security, or administration of the Social Security System. In the noncompetitive manner in which the program operates today, it more likely than not that the captive Federal agencies are not getting the best product, in the most timely fashion, at the best price. A steady stream of reports from the GAO and various Inspectors general confirm this.

Those seeking to maintain FPI's mandatory source status will argue that enactment of the legislation will cause mass inmate idleness, endangering the safety of entire institutions, their guards and inmates. This "prison riot argument" simply ignores the fact that the vast majority of Federal inmates in Federal institutions have work assignments helping to run and maintain the institution in which they are incarcerated. They help prepare meals, run laundries, maintain grounds, and help do electrical, plumbing, carpentry repairs and other similar work. These assignments can provide many of the same rehabilitative benefits as traditional prison industry work assignments. Based on FPI employment figures for FY 2004, approximately 85 percent of Federal inmates have institutional work assignments. Only approximately 15 percent of Federal inmates have FPI work assignments. Only these inmates will be affected when H.R. 2965 is enacted, and, I believe, that these inmates and the overall institution will be affected for the better.

The "prison riot argument" also ignores the authorities granted to the Attorney General by the bill. They simply declare that they won't be used. Mr. Glover may have no faith in his management, I believe that Attorney General Gonzales would not deliberately endanger the safety of a Federal correctional institution just to prove a point.

Mr. Chairman, I expect many other issues may be raised by the opponents. I look forward to responding.

Mr. COBLE. I would not be angry with you, Pete. Thank you, Mr. Hoekstra. And we have been joined by the distinguished gentleman from California, Mr. Lungren. Prior to my time starting, I want to take care of a couple of housekeeping matters. Several organizations have asked for the opportunity to submit statements for the record regarding this very important issue. And without objection, the following statements will be included in the record, American Apparel and Footware Association, Contracts Services Association, United States Chamber of Commerce, Citizens United For Rehabilitation of Parents, National Federation of Independent Business, Management Association of Photogrammetric Surveyors and Mappers, and Correctional Vendors Association. Without objection, those statements will be made part of the record.

[The information referred to follows in the Appendix]

Mr. COBLE. And finally, I want the record to reflect that my dealings with the Federal Bureau of Prisons from the director on down, have been favorable. I am very high on BOP. I think they do a good

job. And I just wanted the record to reflect that. Now you start my time.

Mr. Glover, in your testimony, you express concern, and Mr. Hoekstra responded to that, but your staff members have become increasingly prone to violent attacks by inmates.

Have you reviewed, Mr. Glover, the provisions included in 2965 that allows FPI to make sales on a noncompetitive basis if the Attorney General makes findings regarding the deed for the contract to maintain safety of the prison and the community as well as the section of the bill which provides for vocational training and work for nonprofits? What impact, if any, do you believe these provisions would have?

Mr. GLOVER. Well, Mr. Chairman, the first issue, with the—I did review all of the sections. And certainly we have we had some other people review them as well from our national union. The issue here is frankly money.

The way FPI works currently with their sales, they hire their staff. Those are not S&E funded staff. So FPI runs their entire program based on nonappropriated dollars.

Our vocational and educational staff have been cut since 2001, every fiscal year, our appropriations, while it appears to go up, we have increased the number of facilities nationwide. And so what has happened is at current facilities, current prisons, you have actually had a decrease in staffing, in all departments across the board, by 15 to 20 percent. And so where we used to have six teachers before, we may only have four. We might only have one voc. tech. teacher right now on staff because that is the only appropriated money that that warden has.

Mr. GLOVER. Now, regarding the fact that the Attorney General could step in, I just have a real hard time believing—and this is just me personally as a correctional worker from a line staff member—I don't know a warden in the system that would say he is going to lose control of the facility and tell the boss that, tell the regional director and the director and then the Attorney General that he is going to lose control of that prison if he doesn't have a contract from some outside supplier. I don't believe that's going to happen. They will do anything they have to do, you know, reassign staff, move staff around, they'll do whatever they have to do to keep the facility safe, but as far as running clean, organized correctional programming, we are running out of resources. I mean, I'm just trying to be straight.

Mr. COBLE. Mr. Miller, has any member of your association experienced detrimental effects as a result of FPI programs? A. And B, have you had any small businesses that have been forced to go out of business as a direct consequence of competing with FPI?

Mr. MILLER. 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.

Mr. COBLE. Thank you, sir.

Dr. Wilkinson, in your testimony you indicate the studies have shown that prisoners involved in work programs were less likely to cause disturbances or mischief or violence. Did the study discuss whether it makes a difference if these programs are for-profit programs or not-for-profit? And if a prisoner is engaged in educational programs or jobs around the prison area, does that also decrease the likelihood that they will likely cause a disturbance?

Mr. WILKINSON. I don't know. Probably what causes most of our concern regarding disturbances, the more sophisticated the program, the less likely that person might be to engage him or herself in adverse activities.

Prison Industries is a very sophisticated and much-coveted program, and most prisoners who are involved in any Prison Industries program aren't going to do very much to jeopardize that. So you have a very high level, intelligent group of prisoners who are banking on staying out of trouble and trying to use those experiences as ones that they can market once they get out of prison.

Mr. COBLE. I thank you, Doctor. And I see the red light has illuminated in my eye.

Pete, I will have a question for you because I believe time will permit a second round and get me at the airport by 12 o'clock at the same time. So I now recognize Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

And for our colleague from Michigan, I'd like to remind him that, although he has brought bipartisanship in support of the legislation, there is equally broad bipartisan support in opposition. Some of the letters in opposition come from as diverse Members as those in support. It's one of the few areas where partisan political affiliation doesn't predict support or opposition to the legislation.

Mr. HOEKSTRA. If the gentleman will yield? I look forward to the day when you and I will have the opportunity to work together in a bipartisan way and people will say, "What in the world would Hoekstra and Scott have to be working on together?"

Mr. SCOTT. We'll do the best we can.

Mr. Miller, the suggestion has been made that FPI is causing problems with the furniture industry. How many employees are in the furniture industry?

Mr. MILLER. That number I don't have right now; I'd be happy to get that to you. It depends on—I mean, our dealers roughly range anywhere from 3 to 25 employees typically.

Mr. SCOTT. Well, I mean, you had about a couple thousand in the Prison Industries program, and that would be totally dwarfed by whatever is in the industry. And if you eliminated those 7,000, it wouldn't be a blip to the industry. What are the total sales in the furniture industry?

Mr. MILLER. The sales have gone up, but you have to look at it in its entirety. We have gone through a very tremendous downturn in which we are now just starting to see some recovery from that.

Mr. SCOTT. And the total sales in the FPI—if you stated the total amount of sales in furniture and compared that to, if you eliminated FPI, that number wouldn't change, would it?

Mr. MILLER. No. But what it does is allow for us—the opportunity to compete for Government contracts has kept some of these folks in business and helped them continue to keep growing, I guess, now. Without that opportunity, they're not able to do that.

Mr. SCOTT. If you eliminated sales, which represent a miniscule portion of 1 percent of the total sales in furniture, it would not have any measurable impact on the furniture industry, is that not true?

Mr. MILLER. I would disagree with you.

Mr. SCOTT. Well, how much impact would it have if you eliminated? What, it is less than one-quarter of 1 percent?

Mr. MILLER. Any lost opportunity from a small business is going to have a harmful impact, and for our dealers not to be able to compete for those contracts or have a fair playing field, it's going to hurt them.

Mr. SCOTT. Okay. So if you have a million people working in the furniture industry and 5,000 prisoners lose their jobs, I guess that would revive the entire furniture industry; isn't that right?

Mr. MILLER. No. But what it does—I mean, if we're looking at, is FPI laying those employees off or those inmates off, or are they just moving it from one product sector to another? That's really not laying off, it's putting the resources where the opportunity is at this time.

Mr. SCOTT. The point I'm making is that the FPI represents such a minuscule portion of the furniture industry that it's just disingenuous to suggest that whatever FPI does is going to have any measurable effect on the industry.

Mr. HOEKSTRA. Excuse me, Mr. Scott.

Mr. SCOTT. Yes.

Mr. HOEKSTRA. Can I?

Mr. SCOTT. Yes.

Mr. HOEKSTRA. Thank you. It is not a miniscule part. 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 and was probably one of the 10 largest—it would have cracked the top 10 in terms of its size in the office furniture industry. So within the last couple of years——

Mr. SCOTT. Are you talking about a full percent?

Mr. HOEKSTRA. Two and a half percent, at a minimum.

So it would have been the faster growing office furniture company in America and would have been one of the 10 largest office furniture companies in America during that period of time.

Mr. SCOTT. Are we talking about 1 percent, one and a half percent?

Mr. HOEKSTRA. You're probably talking—it's probably at least 2 percent, depending on exactly what year you're going to. If you're going to—I think in 2004 it was about——

Mr. SCOTT. So if you eliminated Industries altogether in that industry, you're talking 2 percent.

Mr. HOEKSTRA. Potentially, yes.

Mr. SCOTT. Okay. Thank you.

Mr. Chairman, if we're going to have a second round, I'll just defer so the——

Mr. COBLE. We will permit a second round.

In order of appearance, the distinguished gentleman from Ohio.

Mr. CHABOT. Thank you, Mr. Chairman.

Before I ask a couple of questions I just want to make a brief statement. All of us have histories before we come here, and prior to coming here I was a 10-year local elected official. I was on city council and the county commission, and in that capacity had the opportunity, at least at the local level, to be quite involved with prisoner activities as far as having them work around the community and other projects within the prison. So it's something that I've been involved in at some times and care a lot about.

And as some of the panel members know, I've been a long time supporter of the Federal Prison Industries. And it's my view that inmates who have shown a willingness to better themselves, those who obtain, for example, a GED and maintain a clean record of good behavior, should be given the opportunity to better themselves.

FPI has for the most part been a quite effective alternative to idleness and has been shown to reduce recidivism rates, as inmates with job skills are more likely to find gainful employment when their debt to society has been paid. Opponents of the FPI argue that the program hurts businesses. I disagree with that. According to the Congressional Budget Office, the CBO, dismantling the FPI would cost taxpayers $50 million a year in added security for idle inmates. And last year alone the FPI purchased over a half billion dollars in goods, services and raw materials from the private sector, a figure representing approximately 74 percent of its gross sales revenue. Most of those dollars go to small businesses.

Before we talk about legislation that could effectively end this important and worthwhile program, I think we should take a step back. Mr. Scott and I are in the process of drafting legislation that would establish a commission to study the FPI industry issue, its impact on prisoners, and its impact on small businesses in this country. I hope the Members of this Committee would consider joining Mr. Scott and myself in taking a closer look at this 69-year-old program before considering legislation which could have such a, I believe, tremendously adverse impact on the Federal Industries.

Let me just, in the time that I have, just ask a couple of questions, and any of the panel members are welcome to answer. And if I could keep your answers relatively brief.

First of all, I think one of the most important reasons for this program is what Mr. Wilkinson said, and that's the recidivism issue. If you have people that are behind bars, and, ultimately, unless they're pretty—you know, they're serial killers or murderers or somebody like that that aren't ever going to get out, these folks are going to get out on the streets, and I think studies have shown that you have a lesser chance of people that have skills are going to commit crimes once they get out. And I would invite any of the

panel members to just comment briefly on that issue if they'd like to.

Mr. Wilkinson, if you want to just start to that.

Mr. WILKINSON. Yeah. And your comments, Congressman, are exactly correct. And it's not just the skills that are important, what Industries does is teach a work ethic that doesn't compare to any other program that we have in our prisons. And we know that getting out—and we treat those prisoners like real workers on the street. They have to be at work at a certain time, they can earn benefits, they can do different things that would resemble what a real live work situation would be. And that's what we want because we know the main thing that keeps the people out of prison, the number one thing that keeps persons from coming back to prison is their opportunity to find meaningful work, not just a job but meaningful work. Industries helps facilitate that.

Mr. CHABOT. Any other panel members? Okay. Let me just shift over to another issue real quickly with the time I have remaining, and that's relative to the security for the guards themselves. Probably, Mr. Glover, you're in the best position to comment on that.

Could you just—as a practical matter, what difference it makes if the inmates have something to do to keep them from being idle and getting into mischief?

Mr. GLOVER. The difference, Congressman, is what historically we've had happen is inmates that work in Industries are on a waiting list. If they get an incident report inside the prison for any infraction, any infraction, they drop to the bottom of the list on the waiting list to work in Industries. And we have waiting lists. This isn't like a—we're not forcing inmates into that system. We have waiting lists of inmates who want to work in that system.

If an inmate is working in FPI and gets an incident report, he is immediately removed from Federal Industries and placed into a lower—frankly, a lower class of jobs, either cleaning floors or something else throughout the prison, and then he has to work his way back up into—he or she—has to work his way back up into the Industries system.

It's a huge tool for us as far as maintaining order with a large group of inmates.

Mr. CHABOT. I see my time has expired, Mr. Chairman.

Mr. COBLE. I thank the gentleman.

The distinguished gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Thank you, Mr. Chairman.

The big problem that we're really grappling with is the determination to eliminate mandatory source. Now, take this issue: We eliminate mandatory source, jobs go down—80 percent of the inmates don't get into this training system anyway—and then crime goes up. And what the bill before us, that's meeting so much opposition, does is try to ameliorate that.

But the problem, Chairman Hoekstra, is that, if we don't get the appropriations coming in, the provision that I've added to the bill, this bleak picture may come true. So what I want to do is just have each of you just briefly comment on it so that we can get some sense of direction from you about this subject.

Phil.

Mr. GLOVER. Department of Defense, as you know, through the last few appropriation years have cut mandatory source out of the Department of Defense, their appropriation bills. And so we have seen a loss of 3,000 inmate jobs. I don't know how you correlate that. I'm not an expert on numbers and how people crunch numbers. All I can say is that since we have these revisions we have lost inmate jobs.

Now, if I could just briefly say this, we've had 13 factories either close or reorganize. Many of those in furniture sales—which that should be very promising for——

Mr. CONYERS. Phil, are you willing to risk eliminating mandatory source?

Mr. GLOVER. I personally don't want to lose mandatory source. I have seen what the Congress has done the last few years, and I'm looking for a solution to help us keep as many inmates employed as possible, and that seems to be the partnering effort that oversees employment.

Mr. CONYERS. Mr. Miller, you're for trying to eliminate mandatory source with the guarantees that are in the bill, is that right?

Mr. MILLER. Correct.

Mr. CONYERS. Okay. Dr. Wilkinson, how do you come out on this?

Mr. WILKINSON. I am not a proponent of eliminating mandatory source. You know, we need to keep it. In Ohio it's called the State Use Law. There have been attempts in our General Assembly to challenge it, and we've been able to keep it.

Mr. CONYERS. Chairman Hoekstra, how do we rationalize this? This, to me, is the heart of the tension on both sides. Do you think that we put together something that can get us through these shoals, or when we come back here in a year, if this bill goes into effect, we could be in big trouble because some of these predictions might come true?

Mr. HOEKSTRA. Well, actually, I don't think that in a year you would be in big trouble. The first thing we really need to take a look at is FPI sales are increasing; I mean, in the last 2 years they've increased 18 percent, and their profits have gone up 71 percent. I think they should be explaining to us why prison employment is going down. I can't explain why prison employment is going down as their sales are going up 18 percent. That would be very good performance for a company in the private sector. And we know from what we're seeing in the State of Michigan, we're not seeing those kinds of results and that kind of performance in the private sector, that kind of growth in either sales or jobs.

The second thing is it is a phaseout of mandatory sourcing. It is not day one. It is, you know, through 2011. It is a phaseout of mandatory sourcing.

And the third thing is, you know, again, with the work that you and Congressman Frank have done, is we have put in a whole range of other options, some of which are used in the State of Ohio which are not-for-profit. There are other work opportunities, there are other training opportunities. And again, you know, as I said, Barney and I have committed to work on this program together, and I think there are—this would probably be a program that all of us here would be united on. And if there was a change in the mandatory sourcing statuses, we would have a bipartisan effort to

put increased funding in for vocational training. Because the other thing that we know, the statistics will show you that the vocational training programs are more effective in recidivism, reducing recidivism than inmate work programs.

So the work that you have done with your colleagues and the amendment that we've put in is putting money in focus and effort on the things that are more effective than work training programs through the vocational training. So the combination of—their business is growing, we've put in the authorization for these kinds of programs that will really be effective tools to reduce recidivism, and it is a 5-6 year phaseout. It is not a drop-dead date that says tomorrow you need to change the scope of your business.

Mr. COBLE. The gentleman's time has expired. Thank you, Mr. Conyers. Thank you, Mr. Hoekstra.

The distinguished gentleman from California.

Mr. LUNGREN. Thank you very much, Mr. Chairman.

My years in Congress before, and now, and as Attorney General, I have always gotten good report cards from the various business groups that are allied in support of this bill and seemingly in support of a major change in the FPI program. And during that time I've been in public life, I've spent most of my time trying to make laws tougher, put more people in prison who need to go there. During my tenure as Attorney General, we dropped the crime rate in California by about 35 percent, the homicide rate by 50 percent, and we put more people in prison, a lot more in prison.

That's only one half of the equation. The other half of the equation is how do we control it and what do we do? We have not been able to attack the terrible problem of sexual assault and rape in our prisons, we are woefully lacking in that, whether it is the Federal or State prisons, and that's a huge mark against our country in my judgment.

We don't do a very good job of rehabilitating our prisoners. And this is like deja vu all over again. When I was here 20 years ago there were attacks on this program. We were told that this program was the death now of various parts of our economy, and unless we got rid of the program those parts of our economy were going to go down.

We talk about the cost. What is the cost of getting somebody out who is not going to commit crime? I mean, what's the cost of keeping somebody in prison when they're not on the street and they're not committing crime? That's an economic benefit to society.

We know that there are certain areas we can't allow prisoners to work in, certain services. You don't want to call up and have a prisoner doing a background check on your credit. I mean, we laugh, but that was done, until we found out that was a big mistake. So there are certain areas of the economy that we can't have them doing.

They can learn to build things in the electronic area, clothing and textiles, and furniture. And I would be loath to look at a major restructuring unless we can prove that it will not diminish the number of people we've got working. In fact, I think we need to have more of them working.

So I just, you know, this is the tension we always have. We've got a lot of people out there, when I ran for office, who were willing

to throw the book at anybody who commits a crime, but they're not willing to put the money into the prison system and they're not willing to put the money into taking care of prisoners and they're not willing to protect prisoners against rape. I don't believe, if I sent someone to prison when I was Attorney General and because of the laws I passed here, that person is sentenced to rape or sexual assault, yet we go blindly out of our way to pretend that that doesn't exist. And then we give lip service to the fact that we want to help them on the way out to the door, and we don't do anything about it.

So while I have been very supportive of business interests across the board, small business, all these sectors, I am one that has to be put down as very skeptical of us making a very major change like this.

Mr. Miller, with all due respect, you've got to come and show me that this is really hurting the industry. I mean, to come here and say, well, I can't show any loss of jobs anywhere and I can't show 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 program is really hurting your industry in a substantial way, I'd like to hear it.

Mr. MILLER. Congressman, we don't disagree with you that there needs to be some work opportunities, and we're with you on that. The problem that we have as an industry, and I think as a coalition, is that when you have a system or a Government corporation that in many cases isn't making furniture—nobody has a problem if they want to make furniture, legitimately make office furniture. No problem, it's a skill that they can utilize. The problem we have is when you hire an outside manufacturer to produce that product where you're going to ship it directly to the buying agency with little or no inmate labor whatsoever. Even one case of pass-through—or drive-by manufacturing we refer to it as—is one case too many.

Mr. LUNGREN. Selling to whom?

Mr. MILLER. To the Government.

Mr. LUNGREN. So we're talking about it's a Government enterprise which is putting people in prison in order to protect society not having an advantage to sell to Government, where taxpayers would say, "Hey, you're supporting one part of our effort here that's costly to us and in part you're partnering up on the other side." See, that's what I don't—I understand that the Federal Government is the largest, I don't know, one of the largest purchasers of goods and services in America, and we're talking about relatively small percentage of what the Federal Government buys going to Industries across the board——

Mr. MILLER. But why shouldn't every other manufacturer or independent reseller have the same opportunity as Krueger International or anybody else who is partnering with FPI to do that? If there is no work, inmate labor, going into that product whatsoever, how is that helping any inmates to get a job once they're released from prison?

Mr. LUNGREN. There is no inmate——No inmate labor whatsoever in the making of the product. How is that helping the inmate once they're released back into the community?

Mr. MILLER. That's a good question.

Mr. COBLE. The gentleman's time has expired. We will have a second round, and we will start it now.

Pete, I didn't get to examine you on my first round, so I will do that now. And I don't mean for this to sound like a rhetorical softball question, which Mr. Scott will probably accuse me of doing, but I want to extend what Mr. Conyers was talking about concerning mandatory source.

Do you believe, Mr. Hoekstra, that the elimination of mandatory source will result in the elimination of FPI, or do you believe that FPI will still be able to compete with private sector business?

Mr. HOEKSTRA. Well, I think this is the real key here. We've been accused of saying that we want to get rid of Federal Industries. We do not want to get rid of Federal Industries. I think this bill is structured in a way that constructively reforms Federal Industries and it's why we've been able to put together the coalition that we've been able to put together.

Federal Industries will argue day in and day out that they can compete with the private sector, that they can provide a quality product at a quality price at the delivery schedule that the customer wants, and that they can compete with the private sector. We're saying give them the opportunity.

We then go through, and we put in place a whole serious of checks and balances to make sure that Federal Industries, if they have trouble competing with the elimination of mandatory sourcing, that there are things that will enable them to keep people working, but more importantly, get them ready to make the transition back to private life. You know, we give them the opportunity for training programs, we give them the opportunity to do work for the not-for-profit sector in new and unique ways—again, new and unique to the Federal Government, but not new and unique to State prisons. State prisons are doing this and it's working very well where they are partnering with not-for-profit organizations.

And Mr. Lungren, you talk about, give me the fact where we have hurt an industry. Take a look at textiles and clothing. Textiles and clothing are the largest supplier to the Department of Defense from FPI. They are larger than the next three companies combined. And if you go into—if you go into Pennsylvania, I've gone to the factory where they have laid off workers because they lost significant contracts to Federal Industries. I'm sure that is exactly the case in Mr. Coble's district, where you would go to textile plants that are either shut down or they have large numbers of unused equipment.

The reason that the Chairman of the Full Committee is passionate about this is—he calls me the Johnny come lately to this issue because in the 1980's he had a small business that went out of business because of losing their business to Federal Industries.

People come on and join this coalition because they have a genuine interest in rehabilitating prisoners, but also because they've had job losses in their district.

Mr. COBLE. Mr. Hoekstra, before my time expires I want to visit Mr. Glover again.

Mr. Glover, in your statement you said you believe that any part of this bill must include repatriation services and products into the

entire market. We should give up mandatory source, you say. I think what you meant to say was "if" we have to give up mandatory source, did you not?

Mr. GLOVER. Yes, sir.

Mr. COBLE. Okay. I wanted to be sure about that.

And let me revisit with you, Mr. Glover, also something that Mr. Hoekstra, I think, mentioned.

In your testimony you indicated that your staff had been reduced, but yet conversely your earnings increased. Comment on that for me.

Mr. GLOVER. Well, Mr. Chairman, certainly I'm not the head of FPI. I'm a senior office specialist in the prison system, so as far as how that happened, I don't know.

Mr. COBLE. I think we can all benefit from learning how that happened.

Mr. GLOVER. Frankly, probably a written question to the agency would probably get you the response.

I do know this; I know that 35—that chart talks from 2002—my understanding is from 2001-4 we lost—we had a 35 percent drop in furniture sales. Last year, I think we sold about $150 million in furniture, not $250. I mean, I'm not trying to get into anything here with the Congressmen. I just want to be—I'm trying to be as accurate as possible.

You know, the assertions keep coming, Mr. Chairman. The Sixth Circuit Court of Appeals—this went to the Sixth Circuit Court of Appeals, if we were abusing our mandatory sourcing privileges, if we were not following the law. And in my statement there is an attachment five, and it has an article in there about the Sixth Circuit Court of Appeals decision. And we keep getting assertions, and this went to court, so they've had their chance to air their differences on the statute, and frankly the court upheld FPI's position, not the other position.

Mr. COBLE. I thank you, Mr. Glover. My time has expired.

The gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Glover, a suggestion was made that some of the work is being done outside the prison and sold. Was that ever done and is it going on now?

Mr. GLOVER. Mr. Scott, the pass-through issue has come up year after year. President Bush appointed a brand new board of directors in 2001. He got rid of all the rest, all the other ones, the old ones, and he appointed a brand new panel. That panel is chaired by Mr. Ken Rocks out of FOP. They have passed resolutions since 2002, I believe, the first year they were officially on board, that there are to be no pass-throughs of any items.

Mr. SCOTT. So to the extent that it ever happened before, it's not happening now.

Mr. GLOVER. It certainly hasn't happened since the new board has taken over. And everybody here has had a chance to go to that board and air their differences with FPI because they've held open hearings.

Mr. SCOTT. Okay. Now, one of the problems we have in this legislation is it's a two-step process. One, you get rid of mandatory source, and two, we hope for some appropriations to replace the

jobs. And this bill would be a little different if the mandatory source were eliminated as the replacements came on. I don't think anybody is kind of stuck on mandatory source, but mandatory source works. And if you're going to get rid of it, you've got to replace it with something. And one suggestion has been vocational education.

Mr. Glover, on vocational—well, maybe Mr. Wilkinson. On vocational education, as I understand it, that's just for the last couple of years that you're in prison. How long—if someone is in for a long time, how long can you do vocational education?

Mr. WILKINSON. Most vocational education programs—they're called career tech programs today—are probably no longer than a 6-month activity because you earn a certification, you go like you're going to a junior college or a tech school. You get a certification in a particular area and then you're done. And what we'd like to do is to take these people who have gotten these skills in career tech and put them in correctional industries so that they can use the skills while they're still in prison.

So although we love and want more vocational programs, they are not the same as Industries.

Mr. SCOTT. Thank you.

And, Mr. Glover, Mr. Miller suggested that the bill does not hurt FPI or correctional workers. Do you want to respond to that?

Mr. GLOVER. Well, I can only say that over the years we've invited anybody that has spoken against FPI to tour our facilities and look at FPI, look at the program, look at what it does for inmates. I have yet to see anyone from that particular coalition, and, certainly, Mr. Miller, I believe, was invited at one time or another to come and take a look, or if he wants to come and take a look he can certainly do that and look at how the program is run and why we run it the way we do.

I believe wholesale changes to the program are going to do what the DoD provision did with the appropriations, which is it's going to drive a market change. The reason mandatory source has been effective is because it gives us steady work. We have steady employment for the inmates. We know how many contracts we have, we know how much work we have and how to schedule it. If you are all the time competing up and down, up and down for contracts, I understand their frustration with the program, however, prison is based on steadiness and not a lot of changes. When you have a lot of changes in prison, you have problems. It's how it works. Inmates are not good at change. Staff, frankly, aren't that good at change either, but inmates are not good at change. And so when you are laying them off, sending them back to housing units because you don't have any contracts, then the next week you have a contract that you have to get out in 2 weeks, so you work three shifts, then you cancel the three shifts and lay them off again, it is a constant problem in the system.

Mr. SCOTT. Thank you.

Mr. MILLER. Congressman, if I could just add one thing? I have been invited to their facility, and I have done so. So——

Mr. SCOTT. Thank you.

Mr. Wilkinson, in your written testimony you had comments about the—specifically about the legislation. Do you want to make those comments now?

Mr. WILKINSON. About this legislation?

Mr. SCOTT. Yes.

Mr. WILKINSON. Well, first of all, before I say that let me acknowledge the proposal that Congressman Chabot and the Ranking Member are discussing about the Commission to look at exactly what the real situation might be. We know that our Industries has a positive impact on industry in general; it does not take away from what's going on in the community. There is research that shows that when we purchase goods and services, when we partner with corporations, that it has a major, major impact on the economy. So what we're doing is adding to it. And when you add to that, bringing back—and I know this is FPI's goal—businesses that are offshore back into the prison that nobody else is going to probably do, then it's going to aid security, it's going to reduce that person's recidivism, it's going to minimize the victimization in the community and just have an overall positive impact. So I think we've got to be real careful about some of the rhetoric that we are now hearing.

Mr. COBLE. I thank the gentleman.

The distinguished gentleman from Ohio.

Mr. CHABOT. I thank the Chairman.

And we've covered an awful lot, so there's only a couple of things that I wanted to focus a little bit of attention on at this point.

Mr. Miller, you made this point about the pass-throughs, and I would agree, if that's been happening, you know, that shouldn't have happened. And that's one of the reasons that Mr. Scott and my suggestion about studying this, and if there are things that need to be changed as opposed to doing something which could gut the whole program, I think should have some serious consideration.

But back to the pass-through issue, Mr. Glover mentioned they have a new board back in 2001; they've changed that so it's not happening anymore. Do you—is that correct?

Mr. MILLER. I mean, you look at the numbers—-

Mr. CHABOT. Because you had mentioned that that's your—you said you agree this is something we ought to do. You don't have any objection to it but pass-through is bad, and now they said they don't do it.

Mr. MILLER. Two points though. One is, you look at the annual report numbers, and I question as to how that could not be happening. With the numbers and the increases in sales and revenues and those type of things and the decreases in the workforce, how do you accomplish that? I guess that's one question. The second question is——

Mr. CHABOT. But you have no facts to indicate that that is what it is——

Mr. MILLER. That's correct, because the only thing I have access to is the annual report.

Mr. CHABOT. So you don't have any evidence that this is continuing to go on then at this point?

Mr. MILLER. No. But I don't have any evidence to say otherwise either.

Mr. CHABOT. Let me ask another question here. It's my understanding that the Bureau of Prison inmates are currently engaged in a number of other type community service projects; for example, like nonprofit, Toys for Tots, that they make this out of scrap wood, that they—even some that have the ability to do transcribing into braille for the blind, they do mowing of grass on military facilities and those types of things, they even cleared trails in some of the national forests. Are there any—Mr. Glover, I don't know if you wanted to comment on any of those activities that are carried out.

Mr. GLOVER. We certainly have those programs, Congressman. A very small number of inmates, you're talking minimum custody to low-end custody, which they would have to be required—they would have to be able to have a gate pass to go out of the secure facility. So it's a fairly low number that works on the outside community projects and the national parks. We have some that work with the VAs, one of the VA hospitals, cleaning up areas and stuff like that.

The Toys for Tots program is handled out of Oregon, I believe, in our Sheridan facility, and there is probably maybe 20 to 30 inmates that actually do that work and build Toys for Tots program out of scrap pieces of material. That was an offshoot of an idea that one of the wardens out there had, and he kind of—it's not really a Prison Industries project, it's more of a community service project that one of the wardens came up with at the time.

Mr. CHABOT. I know we were always very careful—I mentioned that I had been involved in this type of activity previously as a local elected official. We were always very careful about those that went out to the community, that they were your very low-risk individuals. I assume that's the same with us at the Federal level.

Mr. GLOVER. Let's face it, Congressman, if we let an inmate out to work somewhere and something bad happens, we're going to get some serious egg on our faces and that's not something we want.

Mr. CHABOT. Thank you.

And finally, Mr. Wilkinson, let me ask you, relative to the issue of recidivism, as I mentioned before, can you give some typical examples as far as jobs that people have gone into after they've gotten out and been through your program? Do you have any types of examples that you can give us and——

Mr. WILKINSON. Sure. For example, we have computer-aided drawing. And this is a very sophisticated operation, business. Every one of those persons who do that work have gotten a job, every one of them. Our Industries do asbestos abatement. These are some highly skilled, highly trained persons, they all get jobs. So it depends on the nature and the sophistication and the technology that's involved with the job, is directly correlated with their ability to find work.

A common job that might be in Prison Industries is making license plates, where there is no real industry for that on the street, but we do that. But what we teach in those instances are the work ethic that is extremely important, and sometimes the presses that they use can be used for other things.

You know, one of—the conversation came up about why can you have—make more money and have fewer inmates? Well, one of the reasons is technology. You know, the same equipment that we're

using now is not the equipment that we used 30 years ago to make license plates. So we need fewer prisoners to do it. There are industries, such as the ones that make validation stickers in our prison, that are less costly and we need fewer inmates to do it, and we make thousands of them. So the industry has changed as well.

Mr. CHABOT. Thank you. I see that my time has once again expired. Mr. Chairman, thank you for holding this hearing. I think it has been very helpful.

Mr. COBLE. Thank you, Mr. Chabot.

The distinguished gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. I want to go on the Chabot-Scott search for truth in this matter. And I only wish we could hear from Jocelyn McCurdy at ACLU and Charlie Sullivan for CURE and some of the other people who spend huge amounts of time here.

The question—two questions. What more can we add to this bill to make everybody sleep more comfortably in their beds at night about the reduction of employment opportunity that might come if we eliminate mandatory source? And the issue that hangs over this whole Committee is whether mandatory source is, in fact, unfair competition. And I'd like to, once again, go down very quickly. Forgive me if I interrupt you if you spend too much time at the mic.

Phil.

Mr. GLOVER. Well, first I'd like to say that we're not a business. Industries keeps being referred to as a business. We're a prison program developed in the 1930's to put inmates to work, and at that time because wardens were using inmates out in the public as frankly, slave labor. I mean, let's face it, that's what was going on. They were shelling off labor from the prisons out into communities, and so this program was built.

I guess what I would have to say is this, that there should be—if this is the bill I have to operate under—which I'm more opposed to mandatory—to losing it than getting rid of it. I would say that, let us start to expand in the repatriation for a couple of years because I think that Congressman Hoekstra is right, the Chairman is right, you're not going to see an effect in this for a year. A year is not going to give an effect. Give us repatriation for a couple of years. Stay our mandatory source, status quo it so that we see if we can start bringing work back and start to develop factory work that way.

Mr. CONYERS. That's a good idea.

Mr. GLOVER. And then——

Mr. CONYERS. Okay. Let me skip to Dr. Wilkinson for a minute here.

Mr. WILKINSON. I'm not sure, Congressman, that there is a substitute for mandatory source, and I have been pretty vehement about that in my jurisdiction. What we don't want in prison is to have an industry that is doing well and then all of a sudden that industry and that shop carrying out that industry goes idle for 6 months because they don't have any work because they may have been outbid by a sister State agency or a sister Federal agency. So I am not a proponent of saying that there is an alternative to mandatory source or in our case State use.

Mr. CONYERS. Is there anything we can add to the bill that would beef it up if it comes to that, Doctor?

Mr. WILKINSON. Congressman, I think—yes. And one of the things that I would like to see is more voluntary participation by businesses that are unaffiliated with prisons. Now we have made a big effort to work with Continental Office Supplies, for example, and we are working in partnership with them. We've worked in partnership with Thomas Ruff. So I think that to develop these collaboratives, these relationships, these partnerships with organizations that would be willing to help teach the industry, to develop partnerships with the trade industries I think can be a big help.

Mr. CONYERS. Thank you.

Chairman Hoekstra.

Mr. HOEKSTRA. Thank you. Knowing the folks at Continental Office Supply, I can tell you they've been big supporters of reforming Federal Industries.

But, you know, we can do the study, all right, but we ought to do it in the context of making it part of this bill. We have two and a half pages of studies that have been completed since the 1980's on Federal Industries, and we can do it.

We have been taking a look at what we can do with repatriation, and maybe we need to revisit that. But I think we need to move forward. You have to take a look at the impact that this has on the other part of society as well. You know, you and I are from a State that is getting hammered right now, both from the east side and on the west side. You know, mandatory source was great for Federal Industries during the 1990's and 2001 and 2002, but you know what? I think it was wrong that Federal Industries was the fastest and probably the only growing office furniture company in America during that time. As the industry was going through significant lay-offs, Federal Industries was growing by double digits each and every year.

Mr. CONYERS. Thanks, Pete.

Mr. COBLE. I thank the gentleman.

The distinguished gentleman from California, Mr. Lungren.

Mr. LUNGREN. Mr. Glover, do you have any statistics on what the prison population has increased by during this period of time we've just been talking about? I'm not talking about your program, but the prison population.

Mr. GLOVER. No, no. I represent—just to be clear, I represent all of the prison workers in the Federal system, not just Industries. I am here speaking about it——

Mr. LUNGREN. What I'm trying to say is, if we're concerned that the program has increased——

Mr. GLOVER. It's because of the inmate population.

Mr. LUNGREN. Has the inmate population increased?

Mr. GLOVER. Over the last 20 years the inmate population is up 650,000 percent—I mean, 650 percent. We have only increased staffing 250 percent. That was in the Federal Times approximately 6 months ago.

Mr. LUNGREN. You're talking about the Federal system.

Mrs. GLOVER. The Federal prison system has increased inmates 650 percent since 1980.

Mr. LUNGREN. Well, since we've got the Comprehensive Crime Control I passed in 1984, that might be one of the reasons for it. And I'm proud of that, and I happen to think it's something that

has helped bring the crime rate down, but it also means we ought to expand programs of opportunity for prisoners, it seems to me.

Chairman Hoekstra, the pass-through, I think we can all agree that ought to be eliminated. Do you have evidence that it hasn't been eliminated; and what do we need to do if it hasn't been?

Mr. HOEKSTRA. We have worked very, very hard with the board, that when we tried to identify cases where pass-through may have occurred or products where it may have occurred, brought them to the attention. And I can't tell you whether they're going on right now or not. I know that Ken Rocks has been committed to eliminating pass-through. He recognizes that that is wrong, that Federal Industries should not just have a catalogue, sell their stuff and——

Mr. LUNGREN. We can all agree on that.

Mr. HOEKSTRA. And I think the board has been trying to implement that.

Mr. LUNGREN. Was there a serious problem at one time?

Mr. HOEKSTRA. At one time it was a concern, yes. I can't tell you the dollars that would have been involved.

Mr. LUNGREN. So as I take it, pass-through is not your big problem with the program, it's the mandatory source.

Mr. HOEKSTRA. It's not the pass-through, it's the mandatory source. And we are not in favor of eliminating and reducing—I mean, I hope that the way this bill goes through, and again, because the folks that are involved with this are expecting that the opportunities will—and the effective opportunities for prison workers will increase with a revised Federal Industries, not decrease. Federal Industries says they can't compete, we open up not-for-profit, new opportunities there, we open up the vocational and remedial education. That becomes the expanded and effective new model for Federal Industries.

Mr. LUNGREN. Okay. Let me ask you a question, though. Do you disagree with Dr. Wilkinson that vocational education is substantively different than Industries in that it's a short term in order to be certified and it wouldn't allow long-term participation by those who are in prison?

Mr. HOEKSTRA. Yes. We would not see somebody involved in vocational education for 5 years, that is correct.

Mr. LUNGREN. So it's not a one-for-one substitute?

Mr. HOEKSTRA. It is not a one-for-one substitute, that is correct.

Mr. LUNGREN. If, in fact, it proves out that Industries can't compete without mandatory source, would it be your position that we ought to eliminate the program because of its deleterious effects on sectors in the economy, including furniture manufacturing?

Mr. HOEKSTRA. You know, if the State—if they came back and said that they could not compete, or the facts bore out that they could not compete, we would have to take a look at exactly how we would restructure work opportunities for prisoners. I mean, FPI right now says that they can't compete. They say that they do compete, and they compete effectively each and every day. And, you know, the head of the Bureau of Prisons has indicated that they favor less reliance in moving away from mandatory sourcing, but they say they can't compete.

Mr. LUNGREN. Mr. Glover, number one, do you think your program can compete without mandatory source? And secondly, I want

to ask this, one of the conundrums we have in dealing with prisons is the reality of prison gangs. And as I studied prison gangs and youth gangs, their attraction is twofold. One is protection racket. You don't join them, you're going to get harmed. The second is a lot of these people come from backgrounds where they never had authority figures, they never had anyone that gave them anything, there was nothing in their life which gave them an identification outside of themselves, and gangs do that unfortunately.

What is the mechanism that you see—if there is any mechanism—of a Prison Industry to create something outside the gang environment? I'm not saying it is the solution, but does it give an alternative lifestyle, if you will, alternative hopes and aspirations in time?

Mr. GLOVER. I believe that the Industries program, as it's currently built in our system, what it does is it individualizes the inmate. He goes through a screening process, he actually goes through a job interview to get into Industries. The gang parameters don't really fit in there. In order to get hired in the FPI, they certainly look at who the inmates are running with in the system. You don't see, like, 10 people in one gang applying for an FPI job, it doesn't seem to work that way. There may be statistics that say different, but I haven't seen it work that way.

What we see is that this program is a long-term program. If you have someone that's serving at USP Leavenworth, for instance, and they're in for 45 years or 50 years, you know, you can educate them, you can vo-tech them, but to keep them productive and occupied on a daily basis and feel like they have a little bit of worth, this program seems to do that.

That's where, at least as a correctional officer, that's where I come from on this program, is that it gives the inmate a sense of worth every day he goes down and does something productive.

A couple years ago there was a proposal to put together an engine, let it come through a factory line, come back around, break it apart and make it again. You would only get inmates to do that for so long. They're not going to go that direction.

As far as alternatives, like I said, if we could see this held off and repatriation looked at as an alternative, but it would have to open up—I mean, the Federal market is shrinking anyway for us. Now, I realize these statistics. You know, yeah, we've made more money, and we've said when you have to make more Kevlar helmets—you know, we have one factory that does that, we don't have 10. And we don't move factories around that often, moving inmate production lines around, we don't do that. We don't move inmates around to work in different factories so that we can have different product lines. I mean, you have what you have in whatever prison you're in, because if he's a USP inmate, a high security inmate, you don't move him to a low because he used to make one thing and we're making it over here now. We don't move that inmate. So you have to retrain the entire workforce at the low level facility, or vice versa. It's just not that simple.

Mr. COBLE. My airport is calling. I don't want to cut you off.

I want to, first of all, thank the four Members for having—yes, Mr. Scott.

Mr. SCOTT. Can I make a short statement? Because we were talking about the mandatory source, and the problem that we've got is that the bill will eliminate mandatory source and replace it with a hope and a promise that we will get appropriations to replace it, and that's not a realistic hope, as the gentleman from California has indicated. Sometimes we just don't appropriate money for some of these prisoner programs. And nobody is, like I said, married to mandatory source, but, if you're going to get rid of it, jobs are going to go down, crime is going to go up. That's not a good result.

And so what we need to do, Mr. Chairman, is make sure that before we do anything that we protect the number of jobs that we have, and with the increased prison population even have more jobs because this program has been proven to be not only good for prisoners, but good for the taxpayer in reducing recidivism and good for the law-abiding public because you have fewer people out there committing additional crimes. We've done a lot in this Committee trying to reduce crime, and this is one that actually works. Mandatory source works. Now you replace it with something else, it might work, it might not, but we ought to have some confidence that what we do will in fact work before we get rid of something that works.

Mr. COBLE. Well, I think it's been a productive hearing. I want to thank the four Members who delayed their departure on the first day of the district work period. I want to thank the four distinguished witnesses, and for that matter those in the audience who stayed with us the entire hearing.

In order to ensure a full record of adequate consideration of this important issue—and it is, indeed, an important issue—the record will remain open for additional submissions for a 7-day period. Any written question that a Member wants to submit should be submitted within that 7-day framework.

This concludes the legislative hearing on H.R. 2965, the "Federal Industries Competition and Contracting Act of 2005." Thank you for your cooperation. Without objection, the Subcommittee standing adjourned.

[Whereupon, at 11:30 a.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

STATEMENT SUBMITTED BY THE U.S. CHAMBER OF COMMMERCE TO THE HOUSE JUDICIARY COMMITTEE

The U.S. Chamber of Commerce appreciates the opportunity to submit this statement for the record on Federal Prison Industry Contracting Reform and to demonstrate our support for H.R. 2965. The U.S. Chamber is the world's largest federation of business organizations, representing more than three million businesses and professional organizations of every size, sector, and region of the country. Over ninety-six percent of our members are small businesses with fewer than 100 employees. We commend the Subcommittee for their interest in holding this legislative hearing on H.R. 2965, 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 Hoekstra, Frank, Maloney, Sensenbrenner, Conyers and Coble, and so many others, for their leadership and dedication to reforming the unfair competitive practices of FPI.

FPI in the Free Market

Our free market system is essential to achieving and maintaining a vibrant and productive economy and is a necessary foundation of political and social freedom. The United States government is responsible for enforcing laws that promote competition in the marketplace and ensure a level playing field among competitors to benefit American consumers. Monopolies do not belong in a free market economy. When you remove competition from the equation you are left with higher prices, lower quality of service, and lower productivity as a result of lower efficiency. Non-market practices also stifle innovation and reduce the availability of goods and services.

This is exactly the situation with respect to FPI sales in the federal market. The federal government-the consumer in this case-is paying above market prices for lower quality goods and in doing so, is squandering American taxpayer dollars while completely ignoring the very rules it enforces in the commercial market. The federal procurement process should be aimed to deliver on a timely basis the best value product or service to federal agencies while promoting competition and reliance on the private sector for commercial items. Reform of FPI is aligned with the goals of ensuring fair and full competition to ensure the best value for the American taxpayer while removing barriers that prevent businesses, particularly small businesses, from obtaining government contracts.

The Need for Reform

In 1934, President Roosevelt established FPI as a government-owned corporation. FPI was given special "mandatory source" status in the government procurement process, forcing government agencies in need of a product to purchase that product from FPI. No consideration can be given to a private sector competitor unless that agency asks FPI for an exception from its own monopoly. It is ironic that there are laws prohibiting the U.S. from importing goods that are made by prisoners in other countries, yet we have laws that require our own federal government to buy goods and services from prisoners in this country.

Each year, FPI expands to produce even more goods and services. FPI's sales growth, all through non-competitive contracts, has been formidable: $802.7 million in 2004, up from $666.8 million in 2003, $546 million in 2000, $339 million in FY 1990, up from $117 million in 1980, and $29 million in 1960. Today, FPI produces over 300 products and services making it the 49th largest Government contractor.

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 in order to be a profitable enterprise, 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 the Chamber. The Chamber has a long-standing policy that the government should not perform the production of goods and services for itself or others if acceptable privately owned and operated services are or can be made available for such purposes. The private sector should be allowed to compete fairly with FPI for federal contracts-plain and simple-by eliminating the 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 met 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. Contrary to FPI's assertions, the General Accounting Office (GAO) reported in 1998 that FPI cannot back up its frequent claims about being a quality supplier to Federal agencies, furnishing quality products at low prices to meet their needs. Once FPI commandeers a product, it erodes, displaces, or eliminates private sector competition, thus opening the door for it to raise its prices.

Recent aggressive 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.

FPI's desire to expand into the commercial marketplace is an alarming development that is seen as a call to arms by industry. The Chamber opposes FPI's move into the commercial marketplace for four reasons. First, 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. Second, it is a reversal of more than sixty years of public policy. Third, FPI has claimed this authority 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. Sixty-five 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.

While we are empathetic 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 opportunities 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.

Legislative Solutions

Legislative reform addressing these concerns is way overdue and more oversight by the FPI Board and Congress is needed now. Language enacted in the FY02 and FY03 Defense Authorization bills, the FY04 Consolidated Appropriations Act, and the FY05 Omnibus Appropriations Act provided partial interim 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. In the 108th Congress, the House overwhelmingly passed the Hoekstra-Frank-Collins-Maloney-Sensenbrenner-Conyers-Coble Federal Prison Industries Competition in Contracting Act of 2003, H.R. 1829, a comprehensive reform bill that eliminates FPI's preferential status, by a 350–65 margin. A companion Senate bill, S. 346, was reported from the Senate Committee on Governmental Affairs in 2004.

For many years, the Chamber has been a leader in the broad-based Competition in Contracting Act Coalition, comprised of the business, labor and federal manager communities that advocate comprehensive, fundamental reform of FPI. The Chamber and the Coalition strongly support H.R. 2965. This bipartisan legislation would impose overdue and much-needed restraints on the unfair competitive practices of FPI that inflict damage on law-abiding businesses and the workers they employ, while blatantly wasting taxpayer dollars.

H.R. 2965 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. 2965 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. 2965 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 $.23-$1.15 per hour and 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. 2965 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, addresses, and value of their 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 yet adequately stated, sensitive information of this nature should not be in the hands of convicted criminals.

H.R. 2965 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. 2965 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 re-

duce 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. 2965 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.

Conclusion

The U.S. Chamber and the business community appreciate the Subcommittee's examination of FPI's impact on the private sector and urge quick consideration of H.R. 2965 by the full committee. Businesses rely on an efficient, fair competitive process to provide the federal government with goods and services to maintain and grow their businesses.

Thank you for the opportunity to submit this statement for the record.

STATEMENT OF ROGER F. COCIVERA, PRESIDENT AND CEO, TEXTILE RENTAL SERVICES ASSOCIATION OF AMERICA

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ROGER F. COCIVERA
President and CEO

STATEMENT OF ROGER F. COCIVERA

PRESIDENT/CEO

TEXTILE RENTAL SERVICES ASSOCIATION OF AMERICA

ON

"FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2005"

(H.R. 2965)

SUBMITTED TO

CRIME, TERRORISM AND HOMELAND SECURITY SUBCOMMITTEE OF THE HOUSE COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

July 1, 2005

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to submit this Statement as President/CEO of the Textile Rental Service Association of America (TRSA). Since 1913, TRSA members have provided textile maintenance and rental services to commercial, industrial and institutional accounts — over 90 percent of TRSA member companies are small businesses. TRSA members serve hygienically clean textile items to millions of customers in commerce, industry, and other professions. Customers of uniform and linen supply companies and commercial launderers include: automobile service and repair facilities, food processing companies, pharmaceutical manufacturers and other manufacturing facilities; hotels, restaurants, hospitals, nursing homes, doctors' and dentists' offices and clinics; retail stores and supermarkets; and a variety of other industrial and service companies. The combined linen supply and industrial laundering industry generates revenues of approximately $12 billion annually while employing nearly 132,000 workers nationwide.

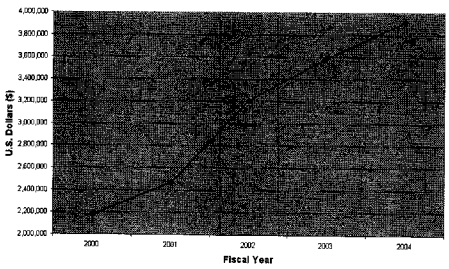
TRSA strongly supports H.R. 2965, the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble "Federal Prison Industries Competition in Contracting Act of 2005" which is designed to protect workers and businesses from unfair competition from the Federal Prison Industries, Inc. (FPI), a Government-owned corporation. Over recent years, Congress has taken significant steps toward addressing the FPI's monopoly on government contracts. Despite this progress, however, the work remains unfinished.

FPI continues to sell services in interstate commerce on an unlimited basis. As Senator Carl Levin articulated during introduction of his companion legislation (S. 749) earlier this year, "We have long taken the position as a nation that prison-made goods should not be sold into commerce, where prison wages of a few cents per hour could too easily undercut private sector competition."

TRSA urges the subcommittee to ensure that H.R. 2965 retains its strong provision regarding services. The textile rental services industry continues to be concerned with FPI's assertion that it possesses the authority to sell services in the commercial market, without limitation. FPI's position is based on a questionable 1998 Department of Justice (DOJ) determination that inmate-furnished services provided by FPI are not explicitly prohibited by the broadly applicable 1934 statutory prohibition on the sale of the results of inmate-labor in interstate commerce. The statute specifically includes a prohibition on the sale of inmate-produced goods/products, but makes no specific mention of services. As such, FPI has aggressively marketed services in the commercial market since 1998, reversing 64 years of prior practice. Without strong and immediate Congressional action, FPI will continue to precede full throttle into these small-business dominated service sectors.

In fact from FY 2000-2004, FPI's annual laundry sales grew nearly 80%.

FPI/UNICOR Annual Laundry Sales (2000-2004)



FPI enjoys significant advantages when it competes for business against small businesses in the private sector. Without specific language to address service industries, this legislation would leave textile rental companies particularly vulnerable to unfair competition from FPI which pays inmates less

than two dollars per hour, far below the minimum wage and a small fraction of the wages paid to private sector workers in our industry. While damaging to all small businesses, the effects of government subsidized competition is particularly harmful to textile rental businesses whose labor costs typically comprise about 50% of total expenses.

The sale of FPI-furnished services should not be treated any differently than the sale of FPI-manufactured products. H.R. 2965 carefully limits the circumstances under which prison services may be sold into the private sector economy.

The Federal Prison Industries/UNICOR along with their state counterparts continue to draw national attention for their encroachment on the private sector. On May 1, the *Pittsburgh Tribune-Review* ran a lengthy article on the scope of these industries in U.S. prisons. The article pointed out many eyebrow-raising issues and statistics. For example, according to the National Correctional Industries Association, prison industries from around the country such as Michigan State Industries totaled more than $1.8 billion in sales in 2003 alone.

Sunshine Linen, Columbia, MO, is well acquainted with the challenges of competing against prison labor via Missouri Vocational Enterprises. Sunshine Linen owner Georgia Ladlie estimates her company has easily lost about $750,000 to mid-Missouri prisons this year alone. Statewide, she estimated that the figure jumps to between $1.2 million and $1.3 million.

The *Pittsburgh Tribune-Review* article also detailed how Big House Products, Pennsylvania's prison industry system, has amassed a $30 million surplus over the past two decades for capital improvements at the state's prison factories. This year, roughly $8 million of those assets are being used to build a new laundry facility at a recently opened state correctional institution.

Representative Hoekstra's almost identical legislation (H.R. 1829) passed overwhelmingly in the 108th Congress 350-65. Additionally, Representative Hoekstra's bill enjoys broad bipartisan support of the Competition in Contracting Coalition, made up of business, labor, and federal managers who are actively seeking a level playing field with FPI and their state counterparts to ensure a fair and efficient federal procurement process. I urge your full support of H.R 2965.

Thank you for your consideration.

LETTER FROM DAN DANNER, EXECUTIVE VICE PRESIDENT, NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)

Dear Chairman Sensenbrenner,

On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I write to express our strong support for H.R. 2965, the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble "Federal Prison Industries Competition in Contracting Act of 2005" and urge swift passage through your committee.

Eighty-nine percent of NFIB members believe that prison inmates should not receive preference for federal contracts. NFIB's members have long fought against unfair government competition with the private sector. Federal Prison Industries (FPI) has become one of the most egregious examples of unfair government competition. FPI, also known by its trade name UNICOR, is a government-owned corporation operated by the Federal Bureau of Prisons.

H.R. 2965 would provide for fundamental change of FPI by making it less predatory to small business and a more responsible supplier to federal agencies and taxpayers. The bill would require FPI to compete with the private sector for federal government contracts and require FPI to perform its contract obligations in a timely manner, the same as all other government contractors. Also, the bill would require FPI products to meet the same design and performance specifications as well as similar workplace health and safety standards that are applied to private sector suppliers.

A "soft landing" provision in the bill would allow FPI to adapt to the competitive marketplace, and many of the concerns expressed by groups representing prison guards and prison life advocates have been addressed. With these protections and other much-needed reforms, H.R. 2965 enjoys a broad base of support from Members on both sides of the aisle. A similar bill, H.R. 1829, passed the House in the 108th Congress by a roll call vote of 350-65.

I want to commend you for your leadership on this issue. I trust that your colleagues will follow your lead by voting in favor of this common sense reform of FPI and by voting against any extraneous or weakening amendments. NFIB looks forward to working with you to pass this much-needed legislation.

Sincerely,
Dan Danner
Executive Vice President
Public Policy and Political

STATEMENT SUBMITTED BY THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)

The National Federation of Independent Business (NFIB) is the nation's largest small business advocacy organization, representing more than 600,000 small-business owners in all 50 states and the District of Columbia. We are pleased to present our perspective on how current practices of the Federal Prison Industries (FPI) adversely impact small businesses and to express our support for the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble Federal Prison Industries Competition in Contracting Act of 2005, H.R. 2965.

We applaud the work of Chairman Sensenbrenner and Mr. Hoekstra on this very important issue for small business. We also applaud the passage of the FY05 omnibus spending bill, which allowed small business to compete for federal contracts by ending FPI's mandatory source status. However many small businesses across the nation still cannot compete fairly against the Federal Prison Industries for federal contracts. H.R. 2965 is a comprehensive reform bill that will fundamentally change the unfair contracting practices of FPI and protect small-business contractors and taxpayers alike.

FPI has numerous advantages over small business in competing for government contracts. Inmate workers are paid hourly rates of $1.23 per hour or less, rather than market-driven wages. FPI's facilities are built as part of a prison and has access to production equipment from other government agencies, at no cost. Congress even gave it direct access to the Treasury with authority to borrow up to $20 million, at rates far below what would be available to the largest commercial enterprise.

These advantages are illustrated by the amount of business FPI conducts with the government. FPI operates a centrally managed chain of over 102 prison factories and ranks 49th among the top 100 contractors with the federal government. Over 300 products and services are produced by federal prisoners, totaling over $800 million in sales to the federal government in 2004. FPI's sales growth through mandatory source status is staggering: $546 million in 2000, $339 million in FY 1990, $117 million in 1980, and $29 million in 1960.

Since the 1980s, NFIB has worked actively to allow small businesses to compete fairly with FPI - we're not asking for special treatment, we're just asking to be allowed to compete for government contracts. NFIB members feel very strongly about this—eighty-nine percent do not believe that prisons should receive preference for federal contracts.

One member from Ohio, Bobbie Gentile, has had several problems trying to deal with FPI. Bobbie is president and owner of Q-Mark, Inc., a small woman-owned business in Dayton, Ohio. Q-Mark is a manufacturers' representative firm that represents fifteen manufacturing firms. Of these fifteen firms, twelve are small businesses, and four of the twelve are electronic connector manufacturers.

In testimony before the House Small Business Committee on June 6, 2001, she stated:

> "The situation with FPI is becoming worse as time progresses. FPI has the right to demand that the government set aside any connector series FPI chooses. They now successfully dominate the circular connector market. I brought with me today examples of quotes that I sent to the government. In all cases, my price was lower than the price offered by FPI. FPI received the awards. Once again the government had no option but to award to them. I find their pricing an example of price gouging when their labor rate is so low."

NFIB supports H.R. 2965, Federal Prison Industries Competition in Contracting Act of 2005 because it seeks to reform FPI to make it more accountable to the public and less predatory to small business. While the FY05 omnibus-spending bill did end FPI's mandatory source status, this bill is needed for further reform of the FPI.

H.R. 2965 requires FPI to compete for government contracts with the private sector to provide services and products, eliminating mandatory contracting with the federal government. It enhances public participation in the process by which the FPI Board of Directors (Board) considers a proposed expansion of products and extends this process to services. It also clearly defines the standards under which the Board can authorize these expansions.

H.R. 2965 also protects prison employees and better prepares inmates for life after incarceration. Under the bill, FPI is provided with a five-year phase-out schedule of the mandatory sourcing with the federal government. This 'soft landing' gives FPI a transition period to adjust to private sector competition. The bill also improves vocational and educational programs to teach inmates skills that are needed

for outside employment as well as provide for employment assistance programs to help inmates find jobs upon release.

Thank you for holding this hearing and for allowing NFIB to submit testimony for the record. NFIB looks forward to working with you to pass H.R. 2965 to further efforts that lessen the harmful impact of FPI on small business and economic growth.

LETTER FROM CHRIS JAHN, PRESIDENT, CONTRACT SERVICES ASSOCIATION (CSA) TO THE HONORABLE HOWARD COBLE

July 1, 2005

The Honorable Howard Coble
Chairman
Subcommittee on Judiciary; Crime, Terrorism and Homeland Security
207 Cannon House Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the Contract Services Association (CSA), I urge you to support the Federal Prison Industries reform bill sponsored by Representatives Peter Hoekstra (R-MI) and Barney Frank (D-MA), which would establish long overdue and much needed restraints to reign in the unfair competitive advantage enjoyed by the Federal Prison Industries (FPI). This bill not only has strong bi-partisan support in the Congress, it has generated broad support from the business community and labor unions.

CSA is the nation's oldest and largest association of service contractors representing over 200 companies that provide a wide array of services to Federal, state, and local governments. CSA members perform over $40 billion in Government contracts and employ nearly 500,000 workers, with two-thirds of CSA companies using private sector union labor. CSA members represent the diversity of the government services industry and include small businesses, 8(a)-certified companies, small disadvantaged businesses, women-owned, HubZone, Native American owned firms and global multi-billion dollar corporations. Unfair competition from FPI increasingly is important to CSA members because FPI sees services as ripe for aggressive expansion, both within the Government contracting and the commercial markets.

As a mandatory source of supply, the FPI has a virtual lock on the Federal market in several broad classes of products, and its growth comes at the expense of employers in every corner of the country and their hardworking, law-abiding employees. Furthermore, the FPI need not comply with the laws and regulations imposed on the private sector such as those governing minimum wage rates, retirement and other fringe benefits, insurance costs and compliance with OSHA regulations. Increasingly, employers and workers are losing their livelihood as FPI looks for new areas in which to expand.

The Hoekstra-Frank bill offers a rational approach, allowing the private sector to compete fairly with FPI for all Federal contracts by eliminating the mandatory source requirement that FPI currently enjoys. It also will provide additional opportunities for vocational and remedial education opportunities to better prepare inmates for a successful return to society.

In conclusion, I again urge you to support H.R. 2965. CSA believes that both industry and the Government benefit from fair competition based on the price and quality of the product in question. Thank you for your consideration.

Sincerely,
Chris Jahn
President

LETTER FROM CHRIS JAHN, PRESIDENT, CONTRACT SERVICES ASSOCIATION (CSA) TO THE HONORABLE BOBBY SCOTT

July 1, 2005

The Honorable Bobby Scott
Ranking Member
Subcommittee on Judiciary; Crime, Terrorism and Homeland Security
207 Cannon House Office Building
Washington, D.C. 20510

Dear Representative Scott:

On behalf of the Contract Services Association (CSA), I urge you to support the Federal Prison Industries reform bill sponsored by Representatives Peter Hoekstra (R-MI) and Barney Frank (D-MA), which would establish long overdue and much needed restraints to reign in the unfair competitive advantage enjoyed by the Federal Prison Industries (FPI). This bill not only has strong bi-partisan support in the Congress, it has generated broad support from the business community and labor unions.

CSA is the nation's oldest and largest association of service contractors representing over 200 companies that provide a wide array of services to Federal, state, and local governments. CSA members perform over $40 billion in Government contracts and employ nearly 500,000 workers, with two-thirds of CSA companies using private sector union labor. CSA members represent the diversity of the government services industry and include small businesses, 8(a)-certified companies, small disadvantaged businesses, women-owned, HubZone, Native American owned firms and global multi-billion dollar corporations. Unfair competition from FPI increasingly is important to CSA members because FPI sees services as ripe for aggressive expansion, both within the Government contracting and the commercial markets.

As a mandatory source of supply, the FPI has a virtual lock on the Federal market in several broad classes of products, and its growth comes at the expense of employers in every corner of the country and their hardworking, law-abiding employees. Furthermore, the FPI need not comply with the laws and regulations imposed on the private sector such as those governing minimum wage rates, retirement and other fringe benefits, insurance costs and compliance with OSHA regulations. Increasingly, employers and workers are losing their livelihood as FPI looks for new areas in which to expand.

The Hoekstra-Frank bill offers a rational approach, allowing the private sector to compete fairly with FPI for all Federal contracts by eliminating the mandatory source requirement that FPI currently enjoys. It also will provide additional opportunities for vocational and remedial education opportunities to better prepare inmates for a successful return to society.

In conclusion, I again urge you to support H.R. 2965. CSA believes that both industry and the Government benefit from fair competition based on the price and quality of the product in question. Thank you for your consideration.

Sincerely,
Chris Jahn
President

STATEMENT SUBMITTED BY THE CONTRACT SERVICES ASSOCIATION (CSA)

Mr. Chairman and Members of the Committee, the Contract Services Association (CSA) requests that this statement be included in the official record for your July 1, 2005, hearing on the "Federal Prison Industries Competition in Contracting Act of 2005" (H.R. 2965).

CSA is the nation's oldest and largest association of service contractors representing over 200 companies that provide a wide array of services to Federal, state, and local governments. CSA members perform over $40 billion in Government contracts and employ nearly 500,000 workers, with two-thirds of CSA companies using private sector union labor. CSA members represent the diversity of the government services industry and include small businesses, 8(a)-certified companies, small disadvantaged businesses, women-owned, HubZone, Native American owned firms and global multi-billion dollar corporations.

CSA would like to register its longstanding concerns over the operations of the Federal Prison Industries (FPI) and its impact on the services industry, in both the Federal government and commercial markets. As a result, we have worked closely with private sector labor unions, the U.S. Chamber of Commerce and other associations and individual companies to develop an equitable resolution to the problems that FPI poses for our Nation's small businesses. While the goals of FPI are laudable - to employ prisoners - the manner in which it has aggressively pushed itself into the Federal marketplace - and many legitimate businesses out of that same market - is not. Such tactics harm law abiding citizens, while not necessarily improving employment prospects for prisoners attempting to re-enter society.

Background

The history of FPI is well known—created in 1934 to employ Federal prisoners to manufacture products exclusively for all Federal agencies. But over the years, as a mandatory source of supply, FPI has had a virtual lock on several aspects of the Federal market - putting the rights of felon's above the need for the Government to get the best value for its procurement needs, and above the rights of law abiding businesses, and their employees, to bid on Government procurements.

How does this mandatory source status work? Current law and regulation obligates a Federal agency to look first to FPI to fulfill its requirements for a product - and to negotiate a contract with FPI on a *sole source* basis. The final determination of the price to be paid for its products is left to FPI - not to the Federal manager. The only way around buying from the prisons is for an agency to request a waiver from FPI itself, which controls both the waiver and appeals process. This ties the hands of Federal managers on FPI designated items. The mandatory source is also contrary to the bi-partisan efforts of the past decade to encourage greater commercial practices in how the Federal government conducts its business. These reform initiatives (*e.g.*, the 1994 Federal Acquisition Streamlining Act, the 1996 Clinger-Cohen Act and the FAR Part 15 rewrite) require Federal agencies to conduct market research, have informal discussions with industry and take similar steps to assist agencies in identifying their needs. Acquisition reform, with its emphasis on best value, also has led to more performance based contracting, the issuance of more refined statements of work, a reduction in procurement lead times, and an improvement in quality control.

Of course, FPI claims it can provide products of equal or better quality than the private sector, make deliveries as promptly as the private sector, and sell some products at a lower price than the private sector thereby saving taxpayer dollars. But these statements are not accurate. That is why FPI fights so hard to keep its "super preference" that allows it to force out the private sector and prevent companies from competing for contracts.

Indeed, contrary to FPI's assertions, General Accountability Office (GAO) reports stated that Federal Prison Industries cannot back-up its frequent claims about being a quality supplier to Federal agencies, furnishing products that meet their needs in terms of quality, price, and timeliness of delivery. Once FPI commandeers a product, it erodes, displaces, or eliminates private sector competition, thus opening the door for it to raise its future prices.

Further, FPI has several additional unfair advantages over the private sector. It need not comply with the laws and regulations imposed on the private sector such as those governing minimum wage rates, retirement and other fringe benefits, insurance costs, and compliance with OSHA requirements. And, according to the General Accountability Office, the cost of prison labor ranges from $0.25 to $1.23 per hour.

Unfair Expansion into Services Contracting

So far, these comments have focused on FPI's mandatory source in the manufacturing arena. So why should Contract Services Association (CSA) and its members care about FPI's impact in the manufacturing world? CSA has entered the debate because FPI sees services as ripe for aggressive expansion. While the authorizing statute is silent with respect to services, FPI already is involved in numerous service-related activities including laundry services, mailing and distribution services, data services, and telephone support services.

While the mandatory source requirement does not strictly apply to services, FPI has implied that it is a "preferential source" for services and used this to enter into sole source contracts with Federal agencies for services. Unfortunately, the approval process and the requirement for an adverse market impact study that affords some coverage for private sector manufacturers are not applied to services. Furthermore, FPI does NOT have to pay any competitive wages to prisoners. As noted earlier, this ensures they have an advantage over service companies that must comply with the Service Contract Act and other labor laws and regulations.

Recent Legislative Actions

Congress has recognized these concerns, and has taken action. Section 811 of the Fiscal Year 2002 Defense Authorization Act requires the Department of Defense (DOD) to conduct market research before purchasing products which are listed in the catalog for the Federal Prison Industries (FPI), to determine whether the FPI product is comparable in price, quality and time of delivery to products available in the private sector. If the FPI product is not comparable, DOD must use competitive procedures to acquire the product - and NO waiver (from FPI) is required should DOD determine FPI is not comparable. The determination of comparability is *"a unilateral decision made solely at the discretion of the department or agency"* (e.g., the Department, Service or defense agency). Furthermore, the comparability determination is based on whether FPI can provide the product on the basis of price, quality AND time of delivery. Additional clarifying language (section 810) was included in the conference report for the Fiscal Year 2003 Defense Authorization Act. An interim rule to implement this provision was published in the Defense Federal Acquisition Regulation Supplement (DFARS) on April 26, 2002.

For DOD, Section 811 ensures that contracting offices have the freedom to explore the market for products to see if FPI's pricing is reasonable, and compares in terms of cost and quality to the private sector, or other agency providers. Thus, Section 811applies the acquisition reform initiatives (including market research) to FPI - and by doing so FPI and the Department of Defense will benefit. In the Fiscal Year 2005 Consolidated Appropriations Act (P.L. 108–447), Section 367 extended this authority permanent government-wide. In April 2005, the FAR Council issued a proposed rule to implement this statue.

Vocational Training

Certainly, CSA does recognize that FPI must balance two legitimate needs currently defined in the law:

1) The need to provide work opportunities to help combat idleness and recurrence of law-breaking through the TRAINING of prisoners for gainful employment so they may become productive members of society upon their release from prison; and

2) The need to minimize the effect of the FPI's work program on the private sector and its non-inmate employees.

However, these goals are not being met. A number of individuals have testified at various hearings that FPI's current operations fail at inmate rehabilitation while hurting businesses and non-inmate workers. The inmate workers of FPI are not receiving the vocational training that will prepare them for viable jobs upon release. Much of the Government contract work that FPI obtains often is not actually performed by the prisoners, but rather outside the prison, and simply stamped with the FPI label; or the prisoners are only minimally involved in the product. For example, screwing legs onto already-made tables (manufactured outside the prison) is not a life-sustaining skill. Furthermore, the equipment used by the prisoners often is out-dated, and not used in any modern facility in which they may hope to work upon release.

CSA believes that vocational skills training is extremely important to a prisoner's future once he/she has returned to the "real world." Yet such training does not ap-

pear to exist. That is why CSA and its members continue to support this commonsense proposal sponsored by Representative Peter Hoekstra (R-MI). Among its many provisions, training and education are primary components of that bill.

In 2004, the House of Representatives overwhelmingly passed the Hoekstra FPI reform bill, the "Federal Prison Industries Competition in Contracting Act" (H.R. 1829), which also would eliminate the mandatory source requirement for the FPI, forcing it to follow the same competitive procedures that are required of all Federal government contractors. In addition, the bill calls for deductions to be made from wages earned by the prisoners to cover such purposes as payment of fines, restitution of victims, support for an inmate's family, and for a fund that will facilitate the inmate's assimilation into society. While this measure did not receive final congressional action in the last Congress, we are hopeful final passage will occur this year.

Conclusion

If FPI is to become a vehicle for reducing idleness and preparing inmates for the private sector, it should prepare those inmates for the reality of the competitive pressures faced by real life employers and employees, and the need to respond to, rather than dictate, customer needs.

As the association that represents the broadest sector of service companies, CSA believes that both industry and the Government benefit from fair competition based on the price and quality of the produce or service in question. CSA looks forward to working with you to promote that goal.

STATEMENT SUBMITTED BY THE COALITION FOR GOVERNMENT PROCUREMENT

25
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Statement to be submitted for the Record of

The Coalition for Government Procurement Before the

US House Judiciary Committee's

Subcommittee on Crime, Terrorism, and Homeland Security

Regarding

Federal Prison Industries Competition in Contracting Act of 2005,

HR. 2965.

July 1, 2005

Mr. Chairman and Members of the Subcommittee:

The Coalition for Government Procurement appreciates this opportunity to comment today in support of HR 2965 and FPI reform. The Coalition has worked closely with Congress and industry through the years, culminating with the passing of the 2005 Defense Authorization Bill, permanently ending FPI's mandatory sole source status, yet FPI continues to mislead customers on the impact of existing law. This is why HR 2965 is necessary, for the government, industry, and the taxpayer.

The Coalition is a 330-member association of companies selling commercial solutions to the federal government. Our members include both large and small businesses, many of them suppliers to DOD. Coalition members account for nearly 75% of all sales made through GSA

Multiple Award Schedule contracts and over half of all commercial solutions purchased annually by the government. We have worked *with* government officials for over 25 years to ensure common sense in government procurement.

The Coalition for Government Procurement has worked on this issue for 15 years. We have engaged FPI in an attempt to work together and have taken legal action to protect our members. Few organizations are as well positioned to speak on FPI's impact on contractors and the federal market.

FPI has proven to be untrustworthy and has fought industry every step of the way. Most recently with the passing of the provision in the 2005 Defense Authorization bill in Congress eliminating FPI's sole source status permanently, FPI continues to fight by ignoring existing law, it has proven once again that it does not respect our system. HR 2965 is strong medicine and FPI today is a patient in need of it.

The Coalition considers HR 2965 to be the representation of an effort to create a fair government procurement process while improving the prison rehabilitation and training program. While federal agencies are considered to be the prime customer of FPI, the process is lacking the benefits of fair market interaction and, in turn, improved value dependent upon the presence of competition. We support Congressmen Hoekstra, Franks, Maloney, Sensenbrenner, Conyers and Coble and others who support this legislation who have sought to improve the quality of product and value of service to the federal customer, while at the same time encouraging continued training and education that is necessary to assure that paroled offenders do not return to lives of crime.

Both industry and the federal government benefit from fair competition based on price, quality, and performance. To be truly reformed, FPI must compete with the private sector. While this would require FPI to improve its quality and customer service, it would greatly improve the value received by the federal government and will ultimately help FPI while providing a procurement policy that is fair for the taxpayer.

Over the past twenty-five years, the Coalition has had significant experience working on issues related to FPI directly as well as through furniture company members, and each instance revealed procedural and methodological problems that are systemic in nature and require fundamental legislative reform such as HR 2965 can produce. In order to thoroughly reform FPI, Congress must reinforce the elimination of the mandatory source status of FPI and require FPI to compete with the private sector.

FPI has proven that losing sole source status will not lead to demise. A few years ago, FPI's dormitory furniture sales were changed from sole-source status to competition, and instead of going under as FPI's leading proponents thought it would, dormitory sales remained strong. FPI can withstand competition when run properly and efficiently.

Opponents of HR 2965 stress the fact that ending FPI's sole source status has the potential of ending inmate training and lowering work rates, yet FPI sells products branded as "Prison made" that never see the inside of a prison. While this may make for profitable business, and is similar to private practices, this policy does nothing to increase inmate employment and should be prohibited. FPI needs to place a limit on the amount of work contracted to non-FPI sources, thereby protecting the work of inmates, even as they compete in the Federal market. Repeatedly, FPI has admitted that it uses "pass-through sales" to fill some of the orders that its takes from its federal customers. Although FPI has stated that such sales are contrary to its mission and not in its best interests, FPI's discretion to fill orders from Federal customers with goods made entirely by non-prison labor is unlimited. The case of those opposing this legislation is founded on the fact that thousands of inmates will be out of work. The Coalition contends that FPI sales could actually be reduced, lessening their private sector input, while increasing inmate employment.

FPI has fought reform every step of the way yet its business continues to grow, even with last year's DOD provision. FPI's consistent inability to thoroughly follow existing law is a growing concern, and further postpones what is fair and just for the agencies, the taxpayer, the prisoner, and the process as a whole.

The Coalition supports the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble Federal Prison Industries Competition in Contracting Act of 2005, HR 2965, and appreciates the opportunity to comment.

4

STATEMENT BY REMY INTERNATIONAL, INC.

We appreciate the opportunity to submit a written statement for the record regarding Remy International's correctional industries program as it pertains to House Bill 2965, *Federal Prison Industries Competition in Contracting Act of 2005.*

Remy International, Inc. (formerly "Delco Remy International") is one of the leading manufacturers and refurbishers of automotive components in the world. Integrating correctional industries along with a variety of lean industrial engineering initiatives has enabled Remy to survive in a highly competitive global marketplace-a marketplace that has not only slashed Remy's sales prices but has resulted in the insolvency of many of Remy's competitors during the past decade.

Remy respectfully submits that Section 7 of H.R. 2965 *(Federal Prison Industries Competition in Contracting Act of 2005)* pertaining to the prohibition of service agreements should be deleted. *If service agreements were prohibited, Remy - which currently has two such agreements in Virginia - would be forced to pay offenders the higher of minimum wage or the prevailing wage for the area in which such jobs are located. This is tantamount to compelling Remy to move these operations abroad.* In today's global economy, there simply is no way in which Remy can competitively price its products without the use of low-cost labor. Many major companies are in the process of moving a portion of their operations abroad; some have moved their entire operations to foreign countries.

Correctional Industries Preserves Civilian Jobs

We live and work in a different world now, and it has forced us to look to countries with lower labor costs, as we are continually pressured by our customer base to reduce costs in the products that we produce and refurbish. *Through the use of correctional services, Remy has been able to preserve 600 civilian jobs in Virginia. (A former Remy subsidiary, Williams Technologies preserved 500 civilian jobs in South Carolina by entering into a Services Agreement with the State of South Carolina)* With a total of nearly 3,000 civilian employees in the United States, Remy continues to maintain a strong presence in this country; correctional industries is one of many initiatives exercised to maintain this presence and to ensure the company survives intense competition from abroad.

As presently composed, *H.R. 2965 will result in the loss of 600 civilian jobs in Virginia.* This is because the operations that employ these workers are dependent upon the refurbishment of automotive components produced in the correctional facilities that would be closed through the passage of this Bill. If these correctional facility operations were to be closed, this work would NOT be placed in the United States. Rather, it would be relocated to existing factories in Xiamen, China and San Luis Potosi, Mexico.

We respectfully urge you to consider deleting Section 7 of H.R. 2965 to preserve not only the 360 offender jobs in Virginia but also the 600 civilian jobs that are supported by our correctional industries operations.

Remy is committed to employing American workers. Using service agreements with correctional institutions helps ensure that Remy can keep both civilian and inmate jobs here in the United States, and provides significant work experience to participating inmates that helps reduce recidivism once they are released from confinement.

Remy's Virginia Correctional Industries Program

Remy's agreement with the Virginia Department of Corrections and Federal Prison Industries has provided 360 jobs for inmates in Virginia (230 offenders with the state and 130 offenders with Federal Prison Industries). The Commonwealth of Virginia receives $1,732,224 annually in Remy payments, and Federal Prison Industries receives $2,471,0040 annually.

Since opening a factory in Leiber Correctional Facility in South Carolina, Remy has opened refurbishment factories in a state correctional facility in Culpeper, Virginia and a federal correctional facility in Petersburg, Virginia. The Petersburg and Culpeper operations are worthy substitutes for our traditional production model of having low-variety, high-volume production capacity in low-labor-cost countries while maintaining high-variety, low volume production in the United States. Again, these operations were initiated with the understanding that civilian workers would not be displaced by such operations. For the Culpeper operation, Remy pays $3.47 per offender hour to Virginia, and Virginia pays either 65 cents or $1.25 (depending on length of service) per hour to the offender workers. For the Petersburg operation, Remy pays $3.60 per offender hour to Federal Prison Industries and Federal Prison Industries pays either 65 cents or $1.25 (depending on length of service) per hour

to the offender workers. (The difference between what we pay and amount the offenders receive is used to help fund a program for victim restitution as well as help pay the cost of operating the correctional institution).

Why A Subminimum Wage?

The services agreement with the Commonwealth of Virginia ensures that we can keep both civilian and offender jobs within the United States. Because of challenges unique to operating a factory in correctional facility (versus a civilian factory), Remy utilizes more offenders for jobs in the correctional facility operations than it would ordinarily require in its civilian factories and, therefore, to ensure financial viability of the program, the offenders are paid a sub-minimum wage. It is not uncommon to have "lockdowns" within the entire correctional facility, causing us to lose productivity for several days at a time. If there is a heavy fog, offenders are not released from their dormitories to work. Offenders are frequently transferred from our correctional facility to other correctional facilities with little or no notice, causing a disruption to our operations. Many of the offenders suffer medical problems that require special accommodation through frequent medical treatment. Moving product in and out of the correctional facility is a very time-consuming procedure with costly delays. Contractors charge us a premium to service our equipment and machinery because of delays to enter and exit the factory within the walls of the correctional institution. With the significant inefficiencies inherent in a correctional industries environment, it is most difficult for a "for-profit" company to develop a business case for operating a factory within a correctional facility. A sub-minimum wage, as afforded by service agreements, enables correctional industries to be competitive with foreign labor and, as such, Remy has repatriated work from China and Malaysia to the United States.

If service agreements were to be prohibited, we would be required to close both correctional facility operations in Virginia, and these jobs would be relocated to existing operations in San Luis Potosi, Mexico and/or Xiamen, China, resulting in the loss of 330 offender jobs in Virginia.

In addition, through our service agreements with the Virginia Department of Corrections and Federal Prison Industries, we currently pay $1,732,224 annually to the Commonwealth of Virginia and $2,471,040 to Federal Prison Industries for offender workers. These revenues would disappear if service agreements were to be prohibited.

Why Remy's Correctional Institutional Programs Work

1. Service agreements with correctional facilities add jobs for American civilian citizens, and prevent the relocation of these jobs to other countries.

As described above, our correctional facility operations actually add jobs, rather than displace American workers. Our contracts with the Commonwealth of Virginia and Federal Prison Industries state that civilian workers shall not be displaced by the activities we place in the correctional facility operations. In addition, when we service products in correctional facilities we tend to source a majority of our component parts from U.S.-based vendors. Since beginning our correctional industries programs, we have added 65 civilian jobs in Virginia. .

Moreover, the location of these jobs in the United States helps ensure that related parts and support services foster activity in both the local and national economy. The competitive realities of today's automotive parts manufacturing and refurbishment world is that this is work that would otherwise be performed, as much of it currently is, in Mexico and Asia. Like our competitors, much of our refurbishment of parts is done so abroad. And when these products are serviced in Mexico and China, a majority of the component parts and materials used in the servicing process are procured from vendors in these countries. Therefore, servicing our products in U.S. correctional facilities is much better for the U.S. economy and the U.S. job market than servicing them in Mexico or China. If H.R. 2965 becomes law without deletion of Section 7, it will most certainly result in the loss of U.S. jobs.

2. Since any of Remy's competitors can enter into service agreements with correctional facilities, these agreements are well within the realm of fair competition.

U.S. companies, including our competitors, are flocking to develop operations in Mexico and Asia. Some of them also have operations in correctional facilities. Both small and large businesses can participate in correctional industries with service

agreements and, in fact, most companies that have operations within correctional facilities are small businesses.

In Virginia, there are over 30,000 offenders incarcerated at any one time and there are over 2,000,000 people incarcerated nationwide. Remy employs a total of 230 offenders in its state correctional operations and 130 offenders in its federal correctional operation, leaving hundreds of thousands of offenders seeking gainful work. Any of our competitors who are not currently using offender labor have the same opportunity to use it as we do. (Recently, one competitor ceased using correctional industries labor because they secured lower costs by relocating to Mexico.)

3. Remy's program of employing offenders provides them with valuable work experience and reduces recidivism.

Since 94% of all those incarcerated will eventually be released into society, work experience assists our correctional institutions in preparing offenders for a stable transition into society. According to some studies, work experience can reduce recidivism by up to 60% (Pride Enterprises of Florida). *Most offenders learn what it means to "get up each morning and go to a job" for the first time in their lives. This would not be possible if service agreements were to be prohibited.*

It is important to note that all of the workers in our correctional facility operations are working because they desire to work. No one is required to work for us and any offender may resign at any time without providing notice to us. Offenders consider Remy jobs very desirable because they provide:

* real-life work experience (the first "real" job for many offenders)
* hand-tool skills amenable to various trade jobs
* compensation that is significantly more than traditional correctional work programs such as floor sweeping, food preparation, and litter collection.

In fact, some offenders have come to work for Remy following their release from incarceration.

Remy provides a safe working environment for all of its offenders, as our correctional industry factories must adhere to the same high standards for safety and cleanliness as our civilian factories. Offenders receive the same mandatory safety education and training programs that are provided to our civilian employees. The environmental regulations in our correctional facility operations are just as strict as in our civilian operations. (Our operation in the Federal institution in Petersburg was delayed by more than six months in obtaining all of the necessary operating permits from the Virginia Department of Environmental Quality.) Moreover, because Remy's staff within the correctional facility must work in an OSHA-compliant environment, the correctional facility factories adhere to OSHA rules and regulations.

We are very proud of our correctional industry programs and we strongly encourage those who are interested to tour these operations. Although Remy is a US-owned company with a 110-year history, there are no government mandates requiring our continued existence. Surviving in the new global economy has been a struggle despite our significant capital investments to procure state-of-the-art equipment and machinery, as well as having introduced the most modern lean refurbishment techniques to all of our factories. These items, in-and-of themselves, have not been sufficient to be competitive. Our continued survival has required us to develop production capacity abroad. Correctional industries have enabled us to slow down, and we hope halt long-term, the exodus of many jobs leaving U.S. soil for Mexico and Asia.

STATEMENT SUBMITTED BY MICHAEL B. STYLES, NATIONAL PRESIDENT, FEDERAL MANAGERS ASSOCIATION(FMA)

Chairman Howard Coble, Ranking Member Bobby Scott and distinguished members of the Subcommittee:

My name is Michael B. Styles and I am the National President of the Federal Managers Association (FMA). On behalf of the nearly 200,000 executives, managers, and supervisors in the Federal Government whose interests are represented by FMA, I would like to thank you for allowing us to submit our views regarding the Federal Prison Industries (FPI) reform measure, H.R. 2965, before your subcommittee.

Established in 1913, FMA is the largest and oldest Association of managers and supervisors in the Federal Government. FMA has representation in nearly 30 different Federal departments and agencies. We are a non-profit advocacy organization dedicated to promoting excellence in government. As those who are responsible for the daily management and supervision of government programs and personnel, our members are keenly aware of the important role they play in ensuring efficient and effective service to the American people.

FEDERAL MANAGERS CARE ABOUT HOW TAXPAYER DOLLARS ARE SPENT

The main message that FMA wants to convey to you and Members of the Subcommittee is that Federal managers and supervisors - and the civil servants we lead - try extremely hard to be good stewards of the tax dollars entrusted to us. We dedicate ourselves daily to delivering to the American people the most value for their hard-earned dollars. Routinely, we are called upon to do it "better," "faster," and "cheaper." "Doing more with less" is the norm, not the exception.

In our view, the FPI mandatory-source requirement ties the hands of Federal managers when it comes to making smart purchasing decisions. While combating inmate idleness and providing 21 percent of the inmate work opportunities for Federal prisoners are important public policy objectives, the cost of the FPI program should not be transferable to the increasingly tight budgets of other agencies with their own missions in service to the American people.

That is why FMA supports passage of H.R. 2965, which would eliminate this mandatory-source requirement burdening Federal agencies.

No doubt that you will hear from the FPI staff about how many waivers FPI grants, permitting Federal agency managers to make purchases from the private sector. The statistics may sound impressive, but I would ask you to consider some fundamental questions about the waiver process and how it works.

To begin, why should Federal managers be required to seek FPI's permission before being able to spend the money of American taxpayers in the best possible manner? Under the waiver process, FPI - rather than the buying agency - determines whether FPI's offered product, delivery schedule, and reasonableness of FPI's offered price meet the needs of the agency. Waivers are not granted on the basis of price unless FPI's offered price exceeds the statutory standard of "current market price." Current market price is not the same thing as a "fair market price" and is substantially different from the "best value" standard that applies to competitive procurements. Rather, the buying agency can be required to pay FPI's offered price provided that FPI's offered price does not exceed the highest price offered to the government for a comparable product. Therefore, no actual sales need to be made for the standard to be met.

A 1998 General Accounting Office study (GAO/GGD-98–151) of 20 FPI products found that "FPI generally did not offer Federal agencies the lowest prices for products that they purchased. Therefore, if it were not for FPI's mandatory source status, customer agencies might have decided to purchase comparable products at less cost." This assessment is consistent with the anecdotal experiences of our members.

FMA members are also concerned that it frequently takes longer to receive products from FPI than from other commercial vendors. Another GAO report (GAO/GGD-98-118) regarding the timeliness of FPI deliveries showed similar results. In more than 50 percent of the cases reviewed the actual delivery date was later than the buying agency had originally requested. Again, this is congruent with the experiences of our members.

Small businesses in the private sector, on the other hand, strive hard to keep costs low, quality good, and delivery services efficient. Otherwise, they would find themselves out of business. Consumers benefit from their efforts. These benefits do not exist when a business holds its customers hostage, as is the case with FPI and Federal agencies.

Aside from the questionable policy of placing the burden on a Federal manager to have to request and justify a waiver request, the waiver process itself raises substantial issues. The initial consideration of the request is undertaken by the FPI sales division, which will take the contract if the waiver is not granted. More recently, FPI has begun to utilize contract sales representatives, paid on a commission basis, to augment its own marketing staff. Thus, it seems reasonable to FMA to presume that neither FPI's own marketing force nor its contract sales force have much incentive to initially grant a waiver.

A Federal manager willing to invest yet more time and effort can take an appeal of a waiver denial to FPI's Ombudsman, a member of FPI's senior management team. Federal managers feel that the decision to grant a waiver - either initially or on appeal - is a unilateral decision made by FPI without the benefit of any standards upon which to independently assess FPI's actions.

Like the underlying mandatory-source status it is designed to buttress, FPI's waiver process presents the Federal manager with a "stacked deck" that may not be worth pursuing, unless accepting FPI's product or delivery schedule would substantially impede the attainment of the buying agency's mission, or FPI's price constitutes an egregious waste of the buying agency's limited operating budget.

Some have sought to cast the ongoing debate regarding FPI reform as a simple economic clash over government business between FPI and the business community. I am here to tell you that the current system also places an unacceptable burden on Federal managers in terms of both mission accomplishment and the quality of work life. If FPI were to deliver a quality product, on time, and at a reasonable price, then FPI will be able to compete, Federal agencies would give the American taxpayer more "bang for their buck," and inmates would be given an opportunity to truly learn the skills they will need in the outside job market.

If FPI's product does not represent the "best value" for the tax dollars expended, FPI's captive Federal agency customers are then being forced to use their scarce resources to subsidize FPI's program to create inmate work opportunities. In turn, Federal workers are being forced to make do with products of lesser quality and suffer the consequences of delayed deliveries - consequences that can adversely affect their ability to perform their jobs as well as the quality of their services.

SCARCE RESOURCES GREATLY HEIGHTENS COST CONSCIOUSNESS

As taxpayers first and civil servants second FMA members want to see their tax dollars used in the most productive manner possible. A factor in our heightened concern about making the best use of scarce agency resources is the mandated increase in public-private competition for Federal functions.

Federal functions performed by civil servants are being subjected to unprecedented competition with the private sector. As part of the President's Management Agenda and in subsequent memoranda from the Office of Management and Budget, Federal agencies have been called on to increase public-private competitions as well as provide more in-depth justification of what constitutes an "inherently governmental" position in adhering to revision to OMB Circular A-76.

The Bush administration has called for up to 850,000 Federal jobs to be put up for competition in the coming years, yet Federal prisoners do not have to compete - they are guaranteed a job. Hardworking Federal employees not only have to worry about their job being put up for public-private competition, but the same government that is mandating the competition is placing Federal workers at a disadvantage by not allowing them to purchase needed goods at a reasonable price.

In this time of increased scrutiny on the use of taxpayer dollars by the government, it is necessary to remove the mandatory-source status held by FPI so that Federal agencies are able to purchase the products they need at the best value possible.

LIFTING MANDATORY SOURCE WOULD ENABLE AGENCIES TO GET BETTER DEALS

The Federal Government spends more than $235 billion a year on goods and services. Between $110 and $120 billion of this amount is spent on contracting-out for services. The remainder is spent on products. Current law requires us to purchase over half a billion dollars' worth of supplies from FPI. The almost $700 million in annual sales for FPI in this context is significant.

Section 811 of the fiscal 2002 National Defense Authorization Act removed FPI's mandatory-source status for the Department of Defense (DOD). The provision allows the Secretary of Defense to conduct market research before being forced to purchase inmate-manufactured goods from FPI. If prisoner-manufactured products are not

comparable to private-sector products in price, quality, and time of delivery, DOD contracting officers can purchase with taxpayer dollars the best and most cost-efficient goods from other private vendors rather than be forced to buy from FPI.

As part of the fiscal 2003 National Defense Authorization Act, Congress passed language (Sec. 819) which strengthened the enforcement of the provision passed in the FY02 Defense Authorization bill. Section 819 will:

* make explicit that DOD contracting officers are empowered to determine if a product offered by FPI is "comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery";
* provide DOD contracting officers the full range of "market research" tools to make the required comparability determination;
* make explicit that the full range of competitive procurement techniques are available to a DOD contracting officer, including making a purchase through a GSA Multiple Award Schedule contract;
* prevent FPI from referring to the FPI Arbitration Review Panel, established by Section 4124(b) of FPI's 1934 authorizing statute, allowing an FPI challenge of a DOD contracting officer's determination regarding the comparability of a product offered by FPI; and,
* empower DOD contracting officers to ensure that FPI "performs its contractual obligations to the same extent as any other contractor for the Department of Defense."

Last year, Congress approved a provision in the Consolidated Appropriations bill for fiscal year 2005 (H.R. 4818), which ended FPI's mandatory-sourcing status for all non-DOD agencies. This is another step in the right direction. The House has also passed similar authorizing legislation in the form of H.R. 1829 on November 6, 2005, but the measure stalled in the Senate. We must see a final end through the codification of this issue into law. As has been done with DOD, H.R. 2965 is the final step in releasing the rest of the Federal government from the captivity of mandatory-sourcing through FPI.

CONCLUSION

In closing, Mr. Chairman, Federal managers and supervisors are currently receiving two conflicting messages from Washington, DC. On the one hand, we are being asked to "do more with less." From Congress, we frequently hear that the bureaucracy should act more like the private sector. In contrast, the law requires us to purchase over half a billion dollars' worth of supplies from a non-competitive source that frequently charges more than other commercial vendors.

We are simply asking that the FPI Board of Directors and the FPI management staff allow us to be better stewards of the taxpayers' hard-earned dollar by untying our hands when it comes to making smart purchasing decisions for the Federal government.

Thank you again for providing FMA an opportunity to present our views and we look forward to working with you on this important issue.

LETTER FROM MATTHEW T. POWERS, GENERAL MANAGER, PRISON INDUSTRY AUTHORITY (PIA) TO THE HONORABLE HOWARD COBLE

July 8, 2005

The Honorable Howard Coble, Chair
Subcommittee on Crime, Terrorism, and Homeland Security
207 Cannon House Office Building
Washington, D. C. 20515

Dear Mr. Coble:

I am writing you today to oppose H.R. 2965, the Federal Prison Industries Competition in Contracting Act of 2005, due to the detrimental impact of this proposal on correctional industries throughout the nation. I would urge you to delay its passage and work towards legislation that enhances rather than constrains prison industries. Prison industries programs provide inmates with productive employment and teach marketable skills, which can be used to transition to meaningful jobs upon parole.

Prison industries are an investment in public safety because employed inmates and parolees mean safer prisons and safer communities. These programs provide inmates with productive marketable skills that can assist them in obtaining meaningful jobs upon parole. Additionally, prison industries help to reduce idleness, thereby decreasing violence and tension in correctional institutions.

Thank you for your assistance in assuring the success of correctional programs. Please contact me at (916) 358–2699, if I can provide you or your staff with additional information.

Sincerely,
Original signed by
MATTHEW T. POWERS
General Manager

SUPPLEMENTAL ATTACHMENTS SUBMITTED BY PHILIP GLOVER, PRESIDENT OF COUCIL OF PRISON LOCALS, AMERICAN FEDERAL OF GOVERNMENT EMPLOYEES

Institution	Staff 1996 On Board	%	Inmates	Staff 2001 On Board	%	Inmates	Staff 2005 On Board	%	Inmates	Staff 1996 2005 O/B	%	Inmate Dif
Alderson	201			175	165	94.29	862	173	150	86.71	201	150	74.62
Ashland	324			317	286	90.85	1424	300	276	92	324	276	85.18
Beckley	373			396	381	96.21	2062	377	339	89.92	373	339	90.88
Big Sandy	Not Open			Not Open				402	349	86.82	Not Open	349	
ButnerFMC	Not Open			634	435	68.61	540				Not Open		
Butnert.SCI	254			255	233	91.37	1270				254		
Buntner	413			335	290	86.57	1170				413		
Cumberland	319			316	300	94.94	1391	309	269	87.06	319	269	84.32
Gilmer	Not Open			Not Open				326	270	82.82	Not Open	270	
Hazelton	Not Open			Not Open				402	207	51.49	Not Open	207	
Lee County	Not Open			414	183	44.2	None	402	347	86.32	Not Open	347	
Lexington	514			494	465	94.13	2093	482	444	92.12	514	444	86.38
Manchester	342			342	312	91.23	1692	318	290	91.19	342	290	84.79
MARO	?			149	128	85.91	0	111	96	86.49	?	96	
McCreary	Not Open			Not Open				365	300	82.19	Not Open	300	
Memphis	376			354	312	88.14	1482	347	296	85.3	376	296	78.72
Morgantown	199			190	179	94.21	1126	180	157	87.22	199	157	78.89
Petersburg FCI Low	333										333		
Petersburg FCI Med													
Seymour Johnson	108			99	89	89.9	528	96	81	84.38	108	81	75

Institution	96 Staff	On Board	%	Inmates	Staff 2001	On Board	%	Inmates	Staff 2005	On Board	%	Inmates	Staff 1996	2005 O/B	%	Inmate Dif
Chicago	250				237	212	89.45	739	233	208	89.27		250	208	83.2	
Duluth	114				105	102	97.14	539	96	91	92.88		114	91	79.82	
Englewood	343				317	285	89.91	1060	304	276	90.79		343	276	80.46	
Florence ADX	373							387					373			
Florence USP	314							882					314			
Florence FCI	370							1832					370			
Greenville	311				306	296	96.73	1448	297	256	86.2		311	256	82.31	
Leavenworth	505				480	458	95.42	2168	469	430	91.68		505	430	85.14	
Marion	380				385	353	91.69	772	431	351	81.44		380	351	92.36	
Milan	432				356	325	91.29	1629	323	295	91.33		432	295	68.28	
NCRO					127	112	88.19	0	116	102	87.93			102	-	
Oxford	331				317	288	90.85	1145	309	271	87.7		331	271	81.87	
Pekin	315				308	287	93.18	1503	299	261	87.29		315	261	82.85	
Rochester	510				492	418	84.96	807	481	426	88.57		510	426	83.52	
Sandstone	251				238	217	91.18	874	237	200	84.39		251	200	79.68	
Springfield	722				722	622	86.15	1218	717	623	86.89		722	623	86.28	
Terre Haute	491				500	452	90.4	1696	695	460	66.16		491	460	93.68	
Waseca	289				237	213	89.87	1086	235	207	88.09		289	207	76.95	
Yankton	116				111	108	97.3	616	111	103	92.79		116	103	88.79	

Institution	96 Staff	On Board	%	Inmates	Staff 2001	On Board	%	Inmates	Staff 2005	On Board	%	Inmates	Staff 1996	2005 O/B	%	Inmate Dif
Allenwood Low	223							1329					223			
Allenwood FCI	289							1355					289			
AllenwoodUSP	374							1138					374			
Allenwood Camp	127							702					127			
Brooklyn	311				601	486	80.87	2359	591	504	85.28		311	504		
Canaan	Not Open				Not Open				250	118	47.2		Not Open	116		
Danbury	315				271	238	87.82	1330	265	227	85.66		315	227	72.06	
Elkton	Not Open				349	331	94.84	2277	344	317	92.15		Not Open	317		
Fairton	353				364	335	92.03	1448	343	299	87.17		353	299	84.7	
FMC Devens	4				554	426	76.89	1234	544	465	85.48		4	465		
Ft. Dix	588				659	608	92.26	4241	650	584	89.85		588	584	99.31	
Lewisburg	549				526	486	92.4	1558	524	481	91.79		549	481	87.61	
Loretto	214				228	215	94.3	1201	230	202	87.83		214	202	94.39	
McKean	316				322	297	92.24	1536	300	270	90		316	270	85.44	
NERO					117	106	90.6	0	101	92	91.09			92		
New York	321				296	265	88.93	865	292	248	84.93		321	248	77.25	
Otisville	343				325	291	89.54	1111	316	275	87.03		343	275	80.17	
Philadelpia FDC	Not Open				296	260	87.84	1050	292	242	82.88		Not Open	242		
Ray Brook	285				286	257	89.86	1191	268	233	86.94		285	233	81.75	
Schuylkill	336				334	312	90.7	528	307	276	89.9		336	276	82.14	

Institution	Staff 1996 On Board	%	Inmates	Staff 2001 On Board	%	Inmates	Staff 2005 On Board	%	Inmates	Staff 1996 2005 O/B	%	Inmate Dif
Bastrop	269			263	248	94.3	1379	258	226	87.6	269	226	84.01
Beaumont USP	Not Open										Not Open		
Beaumont FCI	655										655		
Beaumont Low	Not Open										Not Open		
Big Springs	261			252	228	90.48	954	266	237	89.1	261	237	90.8
Bryan	172			164	151	92.07	763	162	142	87.65	172	142	82.55
Carswell	444			495	442	89.29	1276	492	440	89.43	444	440	99.09
El Reno	431			363	341	93.94	1652	351	296	84.33	431	296	68.67
Forrest City FCI	315			328	295	89.94	2019				315		
Forrest City Low	Not Open			Not Open							Not Open		
Fort Worth	438			438	409	93.38	1627	390	367	94.1	438	367	83.78
Houston	Not Open			274	253	92.34	990	276	243	88.04	Not Open	243	
La Tuna/El Paso	393			377	342	90.72	1604	377	335	88.86	393	335	
Oakdale FDC	279						1079				279		
Oakdale Low	302						1250				302		
Oklahoma City	327			325	304	93.54	1237	323	282	87.31	327	282	86.23
Pollock	Not Open			413	377	91.28	816	412	363	88.11	Not Open	363	
SCRO				189	156	91.72	0	144	136	94.44		136	
Seagoville	313			304	281	92.43	1046	333	291	87.39	313	291	92.97
Texarkana	300			299	389	96.66	1592	291	257	88.32	300	257	85.66
Three Rivers	320			308	289	93.83	1374	301	270	89.7	320	270	84.37

Institution	Staff 1996 On Board	%	Inmates	Staff 2001 On Board	%	Inmates	Staff 2005 On Board	%	Inmates	Staff 1996 2005 O/B	%	Inmate Dif
Atlanta	718			711	649	91.28	2336	688	596	86.92	718	596	83.28
Bennettsville	Not Open							330	132	40	Not Open	132	
Coleman I	Not Open										Not Open		
Coleman USP2	Not Open			Not Open							Not Open		
Coleman FCI	329					2034					329		
Coleman Low	330					2101					330		
Edgefeild	Not Open			419	380	90.69	1971	382	324	84.82	Not Open	324	
Elgin	132			132	126	95.45	893	131	111	84.73	132	111	84.09
Estill	337			325	287	88.31	1418	318	265	83.33	337	265	78.63
Guaynabo	300			302	274	90.73	1261	289	240	83.04	300	240	80
Jesup	333			365	335	91.78	1793	358	319	89.61	333	319	95.79
Marianna	353			348	326	94.22	1495	342	318	92.98	353	318	90.08
Miami FCI	320			313	288	92.01	1434	299	258	86.29	320	258	80.62
Miami FDC	343			340	315	92.65	1580	333	295	88.59	343	295	86
Montgomery	128			124	111	89.52	832	121	105	86.78	128	105	82.03
Pensacola	103			89	85	95.51	516	88	70	79.55	103	70	67.96
SERO				109	96	88.07	0	120	103	85.83		103	
Talladega	348			341	303	88.86	1422	321	271	84.42	348	271	77.87
Tallahassee	351			316	292	92.41	1281	306	280	91.5	351	280	79.77
Williamsburg	Not Open			Not Open				329	155	47.11	Not Open	155	
Yazoo City	315			310	282	90.97	2108	584	296	50.68	315	296	93.96

Institution	Staff 1996	On Board	%	Inmates	Staff 2001	On Board	%	Inmates	Staff 2005	On Board	%	Inmates	Staff 1996	2005 O/B	%	Inmate Dif
Atwater	Not Open				412	243	58.98	52	403	340	84.37		Not Open	340		
Dublin	282				280	240	85.71	1326	272	238	87.5		282	236	84.39	
Herlong	Not Open				Not Open				329	49	14.89		Not Open	49		
Honolulu	Not Open				280	178	63.57	990	239	191	79.92		Not Open	191		
Lompoc USP	489							1713					489			
Lompoc FCI	250							1135					250			
Los Angeles	293				286	268	93.06	822	282	246	87.23		293	246	83.95	
Nellis	77				85	79	92.94	565	89	78	87.64		77	78	101.29	
Phoenix	351				334	302	90.42	1357	325	299	92		351	299	85.18	
Safford	184				175	163	93.14	813	172	152	88.37		184	152	82.6	
San Diego	288				280	262	93.57	696	269	236	87.73		288	236	81.94	
Seattle	Not Open				279	250	89.61	779	270	230	85.19		Not Open	230		
Sheridan	392				379	356	93.93	1885	369	330	89.43		392	330	84.18	
Terminal Island	347				331	296	89.43	1045	320	272	85		347	272	78.38	
Tuscon	242				232	220	94.83	842	233	201	86.27		242	201	83.05	
Victorville USP	Not Open												Not Open			
Victorville FCIMed	Not Open							1873					Not Open			
Victorville FCILow	Not Open												Not Open			
WRO					132	114	86.36	0	106	90	84.91			90		

The assault numbers that are recorded on the agency web site, Key Indicators show an increase of assaults from the period of Feb. 1999 to Jan. 2001 are as follows;

With out a weapon on Staff are: 1879
With a weapon on Staff are: 216

With out a weapon on inmates are: 2037
With a weapon on inmate are: 653

The assault numbers for the period of Feb. 2003 to Jan, 2005 are as follows;

With out a weapon on staff are: 2519
With a weapon on staff are: 354

With out a weapon on inmate are : 2489
With a weapon on inmate are: 658

There is an increase of 34 percent increase on staff without a weapon between these two periods. A 63 percent increase on assaults with a weapon between these two periods. A 23 percent increase of assaults on inmates without a weapon for these two periods. A .07 increase of assaults on inmates with weapon for these two periods.

Month/Yr	With/out Staff	With Weapon Staff	With/out Inmate	With weapon Inmate	Month/Yr	With/Out Staff	With weapon Staff	With/out Inmate	With/Weapon Inmate
Feb./99	75	5	94	27	Feb./03	83	13	95	28
March/99	74	8	92	22	March/03	103	11	129	21
April/99	72	10	75	23	April/03	100	10	100	32
May'99	64	7	73	20	May'03	93	13	110	22
June/99	75	5	69	28	June/03	117	16	80	30
July/99	67	4	68	28	July/03	104	19	97	30
Aug./99	85	14	86	32	Aug./03	97	20	99	29
Sept./99	54	7	96	18	Sept./03	122	11	94	27
Oct./99	63	12	82	29	Oct./03	112	20	93	21
Nov./99	96	8	90	34	Nov./03	95	12	100	29
Dec./99	90	14	80	17	Dec./03	105	16	95	23
Jan./00	79	11	95	23	Jan./04	137	16	110	26
Feb./00	79	7	85	23	Feb./04	99	13	116	29
March/00	97	9	78	24	March/04	105	13	117	26
April/00	68	8	70	24	April/04	119	11	116	25
May/00	77	8	96	39	May/04	106	6	111	38
June/00	80	7	60	24	June/04	106	23	92	30
July/00	94	12	88	32	July/04	108	12	113	41
Aug./00	86	12	110	38	Aug./04	132	29	114	24
Sept./00	72	7	101	29	Sept./04	75	13	116	27
Oct./00	82	6	92	34	Oct./04	106	17	97	20
Nov./00	83	9	63	31	Nov./04	97	9	94	24
Dec./00	76	8	99	36	Dec./04	103	11	109	31
Jan./01	91	18	95	18	Jan./05	95	20	92	25
Total	1879	216	2037	653	Total	2519	354	2489	658

Steelcase urges investors to be upbeat
Friday, June 24, 2005
By Julia Bauer - - The Grand Rapids Press

Grand Rapids -- While Steelcase Inc. executives brainstorm to find creative uses for 5 million square feet of soon-to-be-idled plant space in the city, a sister site in France is undergoing the same painful shrinking process. The company is cutting 70 percent of its manufacturing capacity in Strasbourg, France, and consolidating production at three other sites in the country.

While Steelcase doubled its use of suppliers in lower-cost countries last year, its mix is still less than the world-class standard of 30 percent, Chief Executive Officer Jim Hackett said Thursday. (Emphasis added)

"The nature of manufacturing around the world is undergoing an industrial revolution," Hackett said. He urged investors at Thursday's annual meeting to think positively about the company's shrinking manufacturing capacity.

The company has dropped more than 40 percent of its plant space in recent years. The goal is 60 percent. "It makes us more efficient," Hackett said.

Difficult as they are, the cuts are starting to help the bottom line, officials said this week. At the close of the company's first quarter of fiscal 2006 in May, profits were $6.7 million, or 5 cents per share, compared with a loss of $5.7 million, or 4 cents per share, a year ago.

"The better news is that our profit is across the whole enterprise," Hackett told investors. "That was the news. We got better."

Last week, Mayor George Heartwell met with Steelcase executives to discuss the future of plant space soon to be empty at the main campus between 36th and 44th streets at Eastern Avenue SE. Senior Vice President Nancy Hickey is heading a team to work with the community, to find creative uses for the site.

Hackett has tried to reassure employees shaken by the pace and depth of layoffs during the downturn. "Grand Rapids remains our highest single manufacturing location in North America, and France remains the highest in Europe, even after these changes," Hackett said.

With the return of profits at Steelcase, executives and employees got bonuses this spring. Employees in North America shared a $40 million profit pool in March, averaging 4.4 percent of their wages last year.

For the first time since 2002, the executive suite received incentive boosts as well. Hackett got nearly $894,000 on top of his $760,000 salary. Bonuses for four other top officers ranged from $278,000 to $461,000, larger than their salary in all but one case.

The company's fiscal 2005 sales were $2.6 billion, an 11 percent increase over last year. For the year ended Feb. 25, Steelcase made $12.7 million, or 9 cents a share, compared to a loss of $23.8

million, or 16 cents a share. Its stock closed Thursday at $13.99, down 6 cents, on the New York Stock Exchange.

"Sitting pretty again? Herman Miller, Steelcase results show industry momentum"
Thursday, June 23, 2005
By Julia Bauer - -The Grand Rapids Press

Zeeland -- Pop open the champagne and pull up a brand new chair -- Herman Miller Inc. and the office-furniture industry overall are happily growing again. Herman Miller on Wednesday reported its fiscal 2005 profits topped 60 percent, at $68 million. And sales are up across the board -- better than 13 percent for the year and more than 15 percent for the quarter. That marks the fourth consecutive quarter with double-digit growth for the region's No. 2 furniture manufacturer, and life is looking brighter for other office-furniture makers as well.

This morning, industry leader Steelcase Inc. declared a quarterly dividend of 9 cents per share -- a 50 percent increase. The dividend, Steelcase's highest since 2001, is to be paid July 15. That's on top of profits at Grand Rapids-based Steelcase that have gone from red to black. The company in March said it made $12.7 million in fiscal 2005 -- after losing almost twice that much the previous year. On Monday, the company said first-quarter sales were up 13 percent, with its forecast calling for even better results.

That's good news for a West Michigan-based industry that has been hit hard in recent years, cutting costs and jobs. The impact has rippled across the region. Herman Miller representatives say an industry wide turnaround began in the second half of last year and picked up momentum through fiscal 2005.

"The gains were broad-based across product categories, across business units, and certainly, we had a great performance in our core North American business," spokesman Mark Schurman said. Profits for the quarter ending May 28 were the highest in four years, hitting $21.6 million, or 31 cents per share. Sales were $407.5 million, compared to $353.8 million the same period a year ago.

Momentum continues in the forecast for the current quarter, with sales expected in the range of $420 million to $440 million. At that rate, the first quarter will beat results a year ago by 17 percent to 23 percent. Historical measures that foster a thriving furniture industry are all up -- corporate profits, office construction and especially white-collar job growth, Schurman said.

"Two years ago we significantly restructured our business model, and last year we established the four avenues we will take to grow our business," said Brian Walker, chief executive officer. "This year our focus will be on implementing our growth strategy."
The 2005 annual sales were up 13.2 percent to $1.52 billion. Officials said the 60 percent jump in profits were driven by increased orders and cost savings from restructuring programs in 2004.

Those gains were partially offset by stiff hikes in the price of raw materials. Steel costs alone were $18 million higher than the year before.

Although the 2005 results were rosy, they failed to top the $2.24 billion mark set in May 2001, just before the economy slowed. After the market closed, Herman Miller's stock was trading above $31, up more than 4 percent from its Wednesday close of $29.79.

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 96TH AIR BASE WING (AFMC)
EGLIN AIR FORCE BASE FLORIDA

AUG 16 2004

MEMORANDUM FOR HARLEY G. LAPPIN, DIRECTOR
FEDERAL BUREAU OF PRISONS
RM. 654, HOLC BLDG
320 FIRST STREET, NW.
WASHINGTON, D. C. 20534

FROM: 96 ABW/CC

SUBJECT: Welcome to Eglin Air Force Base

1. As the Installation Commander, it is with great pleasure that I welcome you to Eglin Air Force Base. On behalf of those stationed here at Eglin, it is an honor to have you as part of Team Eglin, which covers 724 square miles of reservation and 97,963 square miles of water ranges in the Gulf of Mexico. You will be on one of the largest Air Force bases in the world, with more than 45 associate units – one of which is the Eglin Federal Prison Camp (FPC).

2. Eglin FPC provides approximately 469 inmates for roads and grounds maintenance to the Air Force Base. The prison camp has been established since 1962, and has proven to be a mission essential component of the base. We estimate the prison camp, through the use of inmate labor, saves the taxpayers/military approximately $11M annually. In addition, the UNICOR laundry provides an invaluable service processing linen for the base hospital and surrounding military community.

3. This operation is a strong working relationship which benefits both the Federal Bureau of Prisons and the United States Air Force. Thank you again for the many contributions your agency provides to the Air Force.

4. Whether you are traveling through or on business, welcome and enjoy your stay.

Edmond B Keith
EDMOND B. KEITH, Colonel, USAF
Commander

Appeals court rules against furniture makers' lawsuit

The Associated Press
4/12/04 2:02 PM

HOLLAND, Mich. (AP) -- A federal appeals court in Cincinnati ruled Monday that furniture makers failed to show they were significantly harmed when federal prison factories increased the amount of furniture they were producing.

The 6th U.S. Circuit Court of Appeals said the group of furniture makers -- which included including Michigan-based Haworth Inc. and Herman Miller Inc. and East Greenville, Pa.-based Knoll Inc. -- failed to prove its claim that it lost $450 million in sales when Federal Prison Industries Inc. expanded its furniture business between 1991 and 1995.

The court said the coalition also failed to show that FPI violated laws determining how much it can expand. The court said the board of directors of FPI, which is also known as Unicor, conducted "lengthy, detailed" evaluations of FPI's requests to expand and, in some cases, offset production increases at some prisons with decreases at others.

"Contrary to assertions by the (furniture) coalition, the board did not passively authorize Unicor's significant expansion requests," the court said. "The Board demonstrated a willingness to authorize lower expansions than that requested when the evidence... required such reductions."

A request for comment was left Monday with the Coalition for Government Procurement, which represented the furniture makers.

FPI serves as the mandatory provider of furniture for most government agencies, which must get waivers from FPI if they want to buy from another supplier. Furniture makers have been fighting that designation for years, and in 2002, Michigan lawmakers succeeded in opening the bidding process for furniture at the Department of Defense.

In this case, furniture makers challenged FPI for selling its furniture to private contractors who were working on government construction sites, saying that practice violates a law forbidding FPI to sell to the general public.

The court ruled that FPI has a right to enforce its status as the mandatory supplier of government furniture, even with private contractors.

"The Court recognizes the potential for abuse with Unicor's practice, although no actual improprieties have been demonstrate," the court said. "The coalition's remedy rests not with the courts, but with the legislature."

On the Net:

6th U.S. Circuit Court of Appeals, http://www.ca6.uscourts.gov

"the number of inmates participating in the FPI program has decreased by more that 3,000 in the last three years"

–FPI's 2004 Annual Report

- **18% Increase in Sales**
  - FY02 - Sales were $678.7 million
  - FY04 - Sales were $802.7 million (increase of $124M)
- **41% Increase in Profits**
  - FY02 - Profits were $71.4M
  - FY04 - Profits were $120.4M (increase of $49M)
- **All but one of FPI's eight Business Groups showed an increase in revenues during the three years cited**
  - Electronics increased 40% ($102.9M) from FY03-FY04
  - Clothing & Textiles increased 14% ($26.1M) FY03-FY04
- **Recent data displays no correlation between FPI sales and inmate employment**
  - FY98, FPI sales of $534.3M with 20,200 inmates
  - FY04, FPI sales of $802.7M with 19,337 inmates

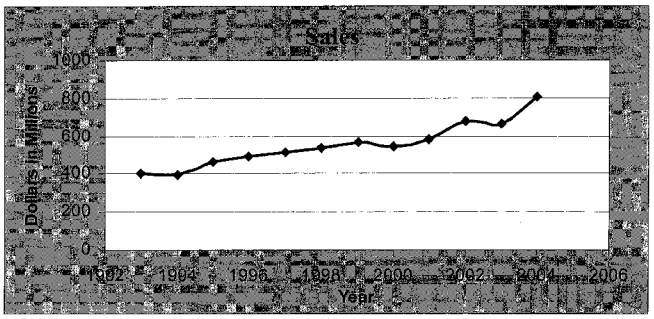
Mandatory Source is Alive and Well

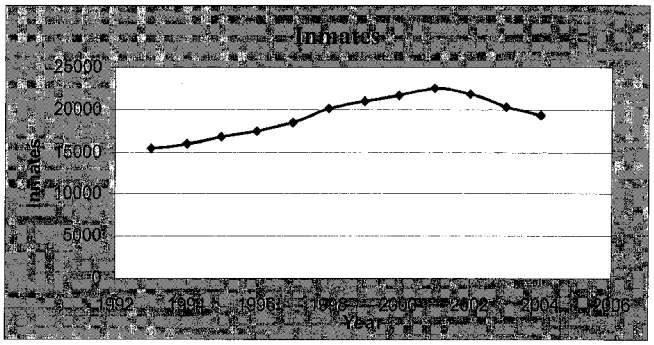
- **$198.6 Million Contract Awarded on June 29, 2005**
  - Army Materiel Command (AMC) made a sole-source award to Federal Prison Industries for approximately 66,000 kits to install various radios, position locators and other electronic equipment
  - One percent of the contract was awarded to a firm in Grand Haven, MI, in my Congressional District

No Plausible Relationship between Sales and Inmate Employment during three years with purported "losses" of inmate work opportunities

	Sales (millions)		Employment	
	FY 02	FY 04	FY 02	FY 04
Clothing & Textiles	$159.7	$185.5	6665	5132
Electronics	$132.6	$255.1	3171	2590
Fleet Mgt & Vehicular Comp	$ 99.1	$129.1	1706	1263
Graphics	$ 26.0	$ 23.0	930	497
Industrial Products	$ 27.8	$ 45.9	1816	1247
Office Furniture	$217.9	$140.9	5304	2900
Electronics Recycling	$3.4	$10.0	833	711
Services	$12.2	$13.6	1020	1281
"Inmates in support positions"				3413

Sales Increase While Inmate Workers Decrease





Harley G. Lappin
Director, Federal Bureau of Prisons
Chief Executive Officer, Federal Prison Industries, Inc.

"We are in favor of relying less on mandatory source, if not elimination,… as long as we can pursue products and services in other areas that allow us to keep inmates productively occupied."

April 7, 2004
Testimony before the Subcommittee on Financial Management, the Budget and International Security, Senate Committee on Government Affairs
Senate Hearing 108-697, Page 24

Administration acknowledges competition maximizes taxpayers dollars

- October 24, 2001 letter from then OMB Director Mitch Daniels –
  - Administration supports the Levin-Warner-Thomas provision in the National Defense Authorization Act for FY02, which created Section 2410n of Title 10, empowering DoD contracting officers in their business dealings with FPI, despite FPI's continuing status as a mandatory source.
  - "The Administration is anxious to work with the Congress to develop FPI reform legislation."
  - Legislation needs to provide "…the Attorney General with the authority to maintain adequate work opportunities at Federal prisons…"

Administration acknowledges competition maximizes taxpayers dollars

- April 17, 2002 letter from former Assistant Attorney General for Legislative Affairs –
  - "Federal agencies should be able to procure quality goods and services at fair prices through competition."
  - DOJ supports "…phasing out the mandatory source requirement …".
  - DOJ is "…anxious to work with Congress to develop comprehensive reform legislation …"

H.R. 2965

Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble

Federal Prison Industries Competition in Contracting Act of 2005

H.R. 2965 Authorizes Community Service Inmate Work Program for FPI

- Recommended by Enterprise Prison Institute, Chaired by former Attorney General Meese
- Based on Community Service Work Program in the Ohio Department of Corrections
- Ohio created more inmate work opportunities than traditional prison industries
- Ohio operated its program at no additional costs
- Benefits to inmate rehabilitation equal to or better than traditional industries programs
- Supported by business and labor, with efforceable protections against abuse

H.R. 2965
Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble
FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2005

Conflicting Assertions from Federal Prison Industries (FPI) -

- FPI only provides its Federal agency customers "quality products", when needed, at "competitive prices."
- FPI will be unable to compete, if its "mandatory source" status is eliminated.

Competitive Advantages

Inmate Wage Rates	Less than Minimum Wage (currently $.23 - $1.15 per hour)
Inmate Worker Benefits	No contributions for Social Security or unemployment compensation No employee benefits paid
Factory Space	Furnished by host prison (During FY 2005, Federal Bureau of Prisons is planning to invest $51.7 Million in appropriated construction funds for the improvement and construction on f FPI facilities.)(FPI Annual Report, FY04)
Equipment	Free access to broad range of equipment that is excess to other Federal agencies, including production equipment turned-in by contractors to DOD and other agencies.
Utilities	Furnished by host prison
Taxes	Exempt from Federal and state income tax, gross receipts tax, excise tax, and state and local sales taxes on purchases, as a Government-owned corporation.
Insurance	Claims for personal injury or property damage are paid by the U.S. Government.
Workplace Health and Safety Requirements	Self-certify compliance with Federal standards, such as OSHA's. Exempt from inspections or fines by various Federal, state or local enforcement agencies that regulate all private sector suppliers to the Federal Government.
Access to Capital	Statutory line-of-credit from U.S. Treasury for $20 million at 0% interest, (5.5% only if the cash balance in FPI's Operating Fund in the Treasury is less than the loan balance), which is partially invested in Federal securities generating interest income to FPI.

17 June 05

STATEMENT SUBMITTED BY KEVIN M. BURKE, PRESIDENT AND CEO, AMERICAN APPAREL AND FOOTWEAR ASSOCIATION (AAFA)

Chairman Coble, Ranking Member Robert C. Scott, and members of the Subcommittee:

The American Apparel & Footwear Association (AAFA) is pleased to submit the following statement in strong support of H.R. 2965, the Federal Prison Industries (FPI) Competition in Contracting of 2005. AAFA is the national trade association representing over 700 apparel, footwear and other sewn products companies, and their suppliers. These companies represent approximately 80% of U.S. wholesale apparel sales and over 100 of these companies supply specialized sewn goods and products to the military. These companies depend on a fair process to compete for the limited number of contracts from the U.S. military. FPI has long been a major producer of military uniforms, further depleting the contracts available to sustain the warm industrial base of apparel and footwear manufacturers. Comprehensive reform of FPI will benefit AAFA members by opening up more of these contracts for fair competition. AAFA members thank you for having this hearing and for your support for this legislation.

I would also like to thank the sponsors of H.R. 2965, Representatives Peter Hoekstra (MI), Barney Frank (MA), Carolyn Maloney (NY), John Conyers (MI), Chairman Jim Sensenbrenner (WI) and former Representative Mac Collins (GA) for their leadership on FPI reform and continued support. The business community owes this team a debt of gratitude for the years of work on this issue and the ongoing commitment to more comprehensive FPI reform.

H.R. 2965 is almost identical to H.R. 1829, which passed overwhelming in the House during the 108th Congress by a vote of 350–65. This legislation will require FPI to compete for federal contracts and allow agencies to make a qualified determination on whether or not FPI provides the best value. It deserves immediate consideration and enactment.

In order to minimize any adverse impact of this reform on the prison community, H.R. 2965 has a five-year phase-in period. Safeguard provisions to protect prison guards, their jobs and the prisons are also included. Additionally, this legislation provides for additional educational and vocational opportunities for inmates to further their development in preparation for their productive contributions to society upon release. This legislation is balanced and will benefit the U.S. government, private industry as well as FPI. All benefit when the market principles of competition are unimpeded.

FPI will likely always retain advantages over private industry, which unlike FPI, is regulated by the Department of Labor, Internal Revenue Service and the Environmental Protection Agency. From a cost perspective, businesses are burdened with meeting minimum wage requirements (compared to pennies on the hour for FPI), providing health benefits, contributing to social security and the most basic costs of plant and equipment. FPI enjoys an tremendous edge and it is clear that a mandatory source is not essential for FPI to compete with the private industry.

H.R. 2965 is needed because recent reforms have had little effect on FPI's reach. FPI continues to grow by leaps and bounds - increasing sales in clothing and textiles from $158,399 million in FY 2003 to $184,465 million in FY 2004 - and increasing total sales by $136 million in the same span. Further, FPI continues to finds ways to cut private industry out of the competitive process. The Federal Prison Industries is well known for their creative interpretations of the law and only clarification and more comprehensive reform will counter such interpretations. For example, earlier this year the Bureau of Prisons issued a solicitation (No. CT1703–05) for the distribution of uniforms rather than the production. It was stated in the solicitation that the uniforms would be provided by FPI, though previously the BOP uniforms were supplied by private industry. FAR regulation 8.607(a) restricts agencies from requiring contractors to use FPI; however, because this is not an actual contract but an "arrangement" that FPI has with BOP their interpretation is that this does not violate FAR 8.6.

There are so many examples of FPI's ingenuity in maneuvering around current reforms to the detriment of private industry. One of the best is their supposed commitment to take not more than a 20% market share of any particular product. Under current law, FPI must "operate . . . [so] that no single private industry shall be forced to bear an undue burden of competition from the products of the prison workshops and to reduce to a minimum competition with private industry or free labor." (18 US Code 4122) This has not kept FPI from taking more than 20% and much more due once again to their creative interpretations. In this instance, it is the definition of a "specific product" that has enabled the manipulation of market share statistics. FPI has stated that, "a specific product . . . may include a number

of different items." Specifically, with regard to AAFA, this interpretation allowed a significant expansion into work clothing. Several Federal Supply Classification ("FSC") codes were combined in order to create larger product concentration under one category. This enabled FPI to mask the actual percentage of the marketplace of a particular product produced by FPI. In this example, "work clothing" included at least four different FSC codes. FPI has stated that it is their intention to use the product classifications used by the Defense Supply Center in Philadelphia; however, we have yet to see any documentation.

In the past year, FPI has also increased their approved sales ceiling and units on uniforms due respectively to the increased cost of material for the army combat uniform and an exigency referencing the crisis of war. AAFA has member companies that are struggling for enough contract work to keep their employees on the payroll and yet FPI continues to come up with ways to infringe upon arguably the last significant source of demand for apparel manufacturing in the U.S. - military contracts. "The vast majority of FPI's clothing/textiles sales were in support of the Department of Defense's war effort." (U.S. Department of Justice, Federal Prison Industries, Inc. FY 2004 Annual Report) These sales to the DoD by FPI are in direct competition with AAFA members and a serious detriment to the industrial base as military contracts continue to be a primary source of income for a majority of the remaining domestic textile and apparel manufacturers. These manufacturers have retained a presence in the United States due primarily to the Berry Amendment, which requires the military to buy their uniforms and sewn products from U.S. companies containing all U.S. inputs. The current level of purchasing from the military has increased due to the war effort, yet that is not enough to sustain the industrial base of apparel and textile suppliers and especially not in competition with FPI. AAFA members will be severely impacted when spending for the war effort decreases and thus will the industrial base. In support of these suppliers, FPI should pursue the government contracts outside of the DoD in order to retain the market for the domestic base of textile and apparel producers supplying the military. This will not happen unless directed by Congress.

The ability of FPI to bid on solicitations for small business set-asides is yet another reason for comprehensive reform. Currently, when an FPI product is found to be non-comparable to a private sector product, FPI is then able to bid on solicitations for those products reserved for competition among small business. Surely this is an unintended loophole that should be rectified by Congress in a more comprehensive reform bill. Small businesses can not be expected to compete with a company whose sales were approximately $803 million in FY 2004.

In conclusion, AAFA supports the mandate of FPI to rehabilitate inmates for their reintroduction into society as productive citizens. However, we are confident that it was not the intent of Congress to create a nongovernmental agency to stymie competition, private industry development and take jobs away taxpaying citizens. H.R. 2965 provides access to educational opportunities that will be even more beneficial to inmates by training and preparing them for more viable vocational opportunities in industries that are more likely to have available jobs, rather than having them learn outdated textile manufacturing processes in an industry that does not have the demand it once had in the U.S. for jobs.

Thank you for the opportunity to submit this statement on behalf of the American Apparel & Footwear Association and the companies we represent and to share our point of view on FPI reform.

Kevin M. Burke
President & CEO

LETTER FROM KEVIN M. BURKE, PRESIDENT AND CEO, AMERICAN APPAREL AND FOOTWEAR ASSOCIATION (AAFA) TO THE HONORABLE F. JAMES SENSENBRENNER, JR.

30 June 2005

The Honorable F. James Sensenbrenner, Jr.
United States House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Sensenbrenner:

I am writing to express my continuing strong support for the comprehensive reform envisioned in H.R. 2965, the Federal Prison Industries Competition in Contracting Act of 2005. The American Apparel & Footwear Association (AAFA) represents over 700 apparel, footwear and other sewn products companies, and their suppliers. Of the companies represented by AAFA, at least 100 supply specialized sewn goods and products to the military. Many of the smaller companies subsist only on the military contracts as the U.S. commercial market for apparel and footwear has greatly diminished. For years these companies were unable to have any opportunity to compete for the military and other contracts held by the Federal Prison Industries (FPI). Some reform has been implemented through the appropriations process to somewhat level the playing field by releasing agencies from the FPI mandatory source and allowing procurement officers to make independent decisions based on the best value to the U.S. government; however, a more permanent alteration of the laws governing FPI is needed.

Chairman Sensenbrenner, thank you for your past efforts as a sponsor of this legislation and for continuing to address this issue in the Judiciary Committee. I would also like to thank Representatives Peter Hoekstra (MI), Barney Frank (MA), Carolyn Maloney (NY), John Conyers (MI) and Howard Coble (NC) who have all been sincere advocates of the business community through their sponsorship and support of this legislation. We owe all members endorsing this issue a debt of gratitude and strongly encourage the ongoing support of the members of the committee as H.R. 2965 is brought up for mark up this week.

AAFA has consistently supported FPI reform. We have also been consistent in our support for FPI's commitment to provide inmates with skills that will increase their chances at being productive citizens upon their release, but not to the detriment of businesses that are already contributing to our society. There is a balance in this effort and H.R. 2965 will help us get there. Thanks again for your support.

Sincerely,

Kevin M. Burke

Kevin M. Burke
President & CEO

CC: The Honorable John Conyers, Jr., Ranking Member
Members of the Committee

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** TOTAL PAGE.02 **

LETTER SUBMITTED BY VARIOUS DEALERS

Dealer Stories

Mr. Chairman:

In October of 2002 I began working with Kevin Travell with Merriman and Assoc. on the furnishings for the new FAA facility at DFW Centerport. They where to move in the end of December and needed to decided on product quickly that could be delivered before the end of the year. We got a lead-time commitment from Knoll that they would be able to deliver the Equity product to meet their deadline. At this time the FAA had applied for their waiver and felt sure they would receive it due to the fact that Unicor could not meet the lead-time. After several committee meetings and plan review sessions Tusa was awarded the entire project. A few days later we were informed that Washington had denied their final request for a waiver and that Unicor had committed to meeting their move in date. The employees of the FAA and the designer were very disappointed that they where not able to order what they had selected. The outcome of this project was that Unicor was not able to deliver as promised and the FAA was not able to move into their new building until Feb. 2003. At that time they ordered a few ancillary items from Tusa Office Solutions, Inc. that they where not able to get from Unicor.

Christy Foster
Tusa Office
Fort Worth, TX

Dear Mr. Chairman:

My name is Patricia Holland-Branch. I am the owner, President and CEO of HB/PZH Commercial Environments, Inc. in El Paso, Texas. My business is listed as a Texas Historically Underutilized Business (HUB) and also registered with Minority Development Council in Dallas/Ft. Worth. I employee 27 people and have been in business for over 15 years.

Over the past 10 years, my business has lost significant business to Federal Prison Industries. We are a preferred Haworth office furniture full-service dealer in this region. We have lost systems furniture, case goods, filing and seating projects in addition to design and installation services to FPI at Ft. Bliss, the new FBI facility, and the newly constructed Texas State Building. Federal Prison Industries has encouraged even local governments and universities to choose prison products over those manufactured and sold by private industry. Our direct losses over the past ten years can easily be measured in millions of dollars in sales revenue.

Our lost opportunities have forced us to reduce staff. We went from 35 to 27 employees. We are considering completely eliminating the products part of our business, as we see more infiltration of prison products into all levels of federal, state and community organizations. This will be a travesty, as it will lead to further layoffs from dealerships such as ours in a city already experiencing double-digit unemployment. It is a real crime that our nation's tax-payers are suffering because prison products are the preferred source and government entities are not required to bid their projects between private industries and FPI. I am confident that our products and services are far superior, more competitively priced and with shorter lead times then products manufactured by prisoners.

Sincerely,

Patricia Holland-Branch
HB/PZH Commercial Environments, Inc.
El Paso, Texas

Dear Mr. Chairman:

My name is Reed Lampley the owner of Coastal Offices Systems & Supply Co. in Chesapeake, Virginia. Over the past 10 years since the inception of my business, I have probably lost a total of 1 million + in sales due to the restrictions placed upon government agencies in the tidewater area to buy strictly from FPI. The thing that bothers me about this is: Repeatedly I proved I could deliver quicker (usually 2 to 3 days compared to 2 to 3 months) the same quality furniture at less cost to the government than FPI.

How many prisoners do you think go into the furniture business after release from prison compared to the small business owner struggling to make ends meet? That is the question that should be answered.

Thank you for allowing me the opportunity address your committee today on this very critical issue and tell you how FPI's current practices hurt my business.

Sincerely,

Reed Lampley
Coastal Office Systems
Chesapeake, VA

Dear Mr. Chairman:

I can recall most vividly one order we lost to UNICOR. The Social Security Administration in Baltimore put out for bid 2000 foot rests. I took them a sample of a new product, which exceeded their specifications and was cheaper than they had anticipated. However, when time came to actually go through with the deal, I was informed that while I had a better product, a better delivery date, and a lower price, they were required by statute to buy the product from UNICOR even if it was not the best product. I for one have stopped soliciting bids from the Federal agencies because it's become a waste of time. Time and again we are told that by agencies that they are required to purchase their office products from FPI.

At one time, we did a nice business with the federal government, but now we do less than $20,000.00 a year. We also have reduced our staffing from 9 employees to 2 full time and 1 part time. Your help is critical to the survival of small dealerships like mine.

Sincerely,

William H Shaprow
Regester Office Supply
Baltimore, MD

Dear Mr. Chairman:

My name is Leigh Hoetfelker and I am President of Fremont Office Equipment Co. in Fremont, Nebraska. I am a small dealer employing 60 people.

Plain and simple, Federal Prison Industries has taken all of our furniture business that we bid to the State of Nebraska offices. Until a couple years ago, dealers in the state had the opportunity to bid on the States furniture requirements. That is no longer the case. Because of the requirements to buy from FPI, we are constantly told that agencies must buy from FPI regardless of price, quality or timely delivery. I don't run my business that way and often wonder why the government chooses to run its business that way. We saw our yearly sales to the State of approximately $100,000.00 in furniture alone disappear completely. All this because the state is required to buy from FPI. I say this in jest, but it seems like if I wanted to do business with the state or Federal government, I should become a convicted felon -- I might have a competitive advantage that way.

Sincerely,

Leigh Hoetfelker
Fremont Office Equipment Co.
Fremont, NE

Dear Mr. Chairman:

In the fall of 2000, The University of Northern Iowa was completing the Lang Hall building renovation. Matt Parrott and Sons holds the contract for HON/Allsteel with the University of Northern Iowa. We received an order for some storage, lateral files, task seating, and soft seating, but were denied an order for all the drawer pedestals. The drawer pedestals amounted to approximately $35,000.00 in sales, but because of the obligation to fulfill commitments to FPI, the University elected to purchase the drawer pedestals from FPI. I was told, although I haven't confirmed, the University spent a third more money to purchase and fulfill this commitment to FPI.

I was involved in a meeting with George Pavelonis, Facilities Planner and Carol Christopher, Assistant Facilities Planner, prior to this decision. They talked about how they haven't done very much business with FPI, so they probably would need to send the drawer pedestal order to them. I asked about the drawer pedestal quality and pricing. At that point, they both conceded to the fact the Allsteel pedestals were better quality and less money. They also said the lead-times were a lot longer.

Sincerely,

Lori Knaack
Matt Parrott & Sons
Waterloo, IA.

Dear Mr. Chairman:

My name is Billy Carroll; I am an outside sales representative with C & C Office Supply Co. in Biloxi Mississippi. Our company has been in business over 20 years and we employ 20 people.

During the course of our 20-year history we have done considerable business with numerous governmental agencies and military installations. Some of them being Naval Construction Batallion in Gulfport, Mississippi Air National Guard in Gulfport, Keesler Air Force Base in Biloxi, Naval Station in Pascagoula, and NASA in Stennis Space Center.

As a result of FPI's unfair monopolistic practices, we have seen sales from these governmental agencies go from $100,000.00 a month too less than $5,000.00 a month.

There are numerous horror stories we hear from our customers who deal with UNICOR. The most recent one being that a customer had to wait 5 months to get their furniture. When the furniture finally arrived, it wasn't even what they had ordered. This is something that would have been averted had they been able to use our company or another dealer.

I could go on about how we could have sold the product much cheaper, which would have saved taxpayers money, faster delivery, which would have increased employee productivity, and finally better service, but I won't. You get the picture.

Sincerely,

Billy Carroll
C&C Office Supply Company
Biloxi, MS

Dear Mr. Chairman:

I personally worked with the staff who had just moved into a new ward at Walter Reed Army Medical Center. We had two meetings during which I took measurements and went over in great detail the furniture items they needed for the report room, reception area, patient education room, two offices and some miscellaneous shelving. The total I quoted to Walter Reed was approximately $13,000 and met their needs exactly. This was in April of 2000. Our delivery would have been completed within a month.

Because Walter Reed couldn't get a UNICOR waiver (just to determine this fact takes at least 6 weeks) the order was placed with UNICOR and took eight months to be delivered (it just showed up last week) and much of it was not what officials at Walter Reed even ordered. FPI tells their customers what the customer can have rather than meeting the needs of the customer. As an example, we had designed a workstation for the report room to accommodate four computers. UNICOR sent an expensive, massive cherry workstation for an executive office that had to be put in someone's office (who didn't need new furniture) because it was unusable where it was supposed to go. UNICOR charged an additional $1,500.00 to assemble this (and didn't have proper tools to finish the assembly). Our price for the proper item including all set up was less than they charged for set-up alone.

You know, it's not just the impact FPI has on our businesses, it's the waste of everybody's tax dollars when furniture costs more and doesn't even do the job.

Sincerely,

Diane Lake
Economy Office Products, Inc.
Fairfax, VA
(A small, woman-owned business employing approx.19, in business since 1968)

Dear Mr. Chairman:

My name is Gregory Wickizer and I own Tippecanoe Press Inc. in Shelbyville, IN and employ 20 employees. I recently lost a $300,000.00 to $400,000.00 bid because of a must buy in the State of Indiana.

To a business like mine, this is real money lost. I guess my question is why should my company lose out on business just because the government has to buy it from prisoners. I thought the philosophy in this country was that competition is healthy and the best offer should win out. That does not appear to be the case and it hurts companies like mine who are trying to survive.

Sincerely,

Gregory Wickizer
Tippecanoe Press Inc
Shelbyville,IN

Dear Mr. Chairman:

My name is Joe Kiefer, I work for Shaheen Office Supply in Warner Robins, GA. Our company has lost many opportunities in the name of UNICOR, the most recent being last year. We are a Haworth Dealer, and serve the Middle Georgia community, Robins AFB being our largest customer.

The most visible loss to UNICOR was with the 116TH Bomb Wing at Robins AFB. We were able to secure some business at their new facility, about $200,000, but I know UNICOR received over $800,000 of furniture business there. For the projects we did receive, I saved this customer 20-30% over the UNICOR proposals, and provided them with better quality furniture.

Sincerely,

Joe Kiefer
Shaheen Office Supply
Warner Robin, GA

Dear Mr. Chairman:

I'm no longer at the company I was at (Marvel Group) when this story happened to me, but I thought it should be shared with you.

Last summer I began working with Air Force Recruiting to provide them with furnishing for their new recruiting offices nation-wide. I was working with the individual offices throughout the country and received orders for $80,000 from the Air Force Recruiting Squadron (344th) at Scott AFB. They liked my services so much that they recommended me to the other offices with the same needs nationwide. My furniture was less costly than FPI and had significantly better lead times (about 2 weeks) and was of overall better quality.

I spent several weeks traveling to different sights and doing quotes only to be stopped by a Colonel at AF Recruiting HQ in Texas. The Colonel believed that since FPI was a required source that there was no reason to use me even though their budget would have allowed them to furnish far more offices with my product than with FPI. My estimates are that this decision cost my company $500,000 - $700,000 in sales and probably cost the Air Force several hundred thousand dollars. I have since left government sales do to a lack of sales - mostly contributed to denied waivers by FPI.

Sincerely,

Gary Stephens
Workspace L.L.C

Dear Mr. Chairman:

I am concerned in the way tax payer's money is being wasted. A few years ago I had proposed over $100,000.00 in chairs to the VA Medical Center. They were excited about the chair I was proposing on contract. The chair was less expensive than the chair proposed by FPI. The customer also recognized that the chair I was proposing was better in quality and had more ergonomic features, which would assist in some of their health issues. Another comment made by the VA was the problem with the FPI chairs breaking easily. Parts were near impossible to get, so they would throw the FPI chair in the garbage.

In this situation FPI denied the VA waiver. Regretfully they had to buy FPI chairs. I can not believe this happens in America.

Sincerely,

Rick Buchholz
Christianson's Business Furniture

Dear Mr. Chairman:

I am delighted to have the opportunity to tell you about challenges that I have encountered with the Ohio Penal Institute (OPI) and State of Ohio Agencies. I focus on selling to State of Ohio Agencies and most are required to buy from OPI.

Last year I worked on a state library project. They currently had all Haworth furniture that they had purchased over the past 13 years, so they had a few different vintages. My proposal planned on re-using about 25% of that existing product, but I also got special pricing from Haworth that was much deeper than normal state contract pricing. State Purchasing required the Library to get a waiver from OPI for which OPI rejected my proposal. Not only does my product come with a Lifetime Warranty and is a Grade A product with a 4-week lead-time, but my pricing came in at over $100,000 LESS than the Ohio Penal Institutes proposal. It is very frustrating as we put a significant amount of time into this proposal and felt that we were providing this client with the best product at the best price.

Example 2: Rehabilitation Services in Columbus. They have all OPI chairs that are very uncomfortable and not ergonomically designed. I brought some Haworth chairs to their office to pass around for a 3-week trial period. My chairs were unquestionably selected as the chair they wanted to purchase going forward. Not only are my chairs some of the most ergonomic in the industry, but I was saving Rehab Services almost $100 per chair. OPI rejected their request to purchase Haworth chairs.

Ohio's Governor has put a hold on any extraneous spending at this time...and it is indefinite as to when he will raise this request. Every year thousands of dollars are spent on OPI's products, which do not come with any warranties and cost generally 30% higher than the best products on the market. Our taxpayers are paying for this.

Thanks for the chance to share just a few examples with you.

Sincerely,

Chris Kelser
King Business Interiors

Dear Mr. Chairman:

My name is Jeff McKenzie and I work for Landis Office Center, which has 26 employees. We have a federal prison in our area and a division called UNICOR. When the prison was first established we sold over $60,000.00 to them in the first year. After this, UNICOR stepped in and started supplying most items to this facility. Even if we were called and did measurements and suggested furniture, of course spending multiple hours doing this, we were informed that furniture would be secured from FPI. Why should we as citizens pay at least $40,000.00 per year to house convicted prisoners and then we allow them to produce goods that are sold against companies that must pay taxes, pay at least minimum wage, plus all the other red tape that comes with operating a business. It is very unfair that the government allows this to happen, much less, entertain the argument that Federal Prisons should be able to expand their markets. It is time to put a stop to this before you put more small businesses out of business.

Sincerely,

Jeff McKenzie
Landis Office Center

Dear Mr. Chairman:

My name is Joseph A. Nordman III and I am with PS Group/Cincinnati, Inc. Federal Prison Industries has taken multiple projects from my company, PS Group/Cincinnati, Inc. and has cost us hundreds of thousands of dollars.

PS Group has worked with the Cincinnati office of ATF since 1995, supplying product and labor to enhance the existing Haworth product. PS Group even went to Dallas, Texas to allow the ATF to work that existing product into the existing Cincinnati product in order to save money. After spending all of this money, time and energy, Federal Prison Industries claimed the project – at a premium price well above the Haworth price. As a result, all of the existing Haworth product has had to go into storage (An additional cost not anticipated by the local ATF office).

The total Waste:

- Existing Cincinnati station, 40 plus
- Additional 21 stations from Dallas
- Dallas inventory to be used against new product

- Possible buy back of all existing, should ATF want to purchase all new
- FPI product not compatible, so all-258 stations were new, with no credit for buy back, at a cost significantly higher than the Haworth.
- The Government paid to inventory and ship 21 plus stations to Cincinnati, put those stations into storage and then scrap all 61 plus stations.
- The ATF constantly tells PS Group that they can't get service for the Prison Industries Product
- More product to be ordered

Sincerely,

Joseph A. Nordman III
PS Group/Cincinnati, Inc.

Dear Mr. Chairman:

My name is Janet Ockerhausen with Business Interiors of Texas, Inc. in Corpus Christi, Texas.

In 1999 Naval Air Station in Kingsville, Texas contacted me for furniture in an Air Training wing for VT-21 and VT-22. They needed a drawing and prices for approximately 12 rooms as soon as possible. My company worked over the weekend to get these to them, the total was $150,000.00 worth of furniture. When UNICOR saw the amount, they refused the waiver. The end user gave my drawings and specs to UNICOR, which they copied down for every room layout, and even the color. So, at my own time and expense, I received nothing for this work and UNICOR received $150,000.00 with no time involved because they had copied my designs.

I make my sole living and income by selling to federal government agencies and UNICOR takes this business away from me.

Sincerely,

Janet Ockerhausen
Business Interiors
Kingsville, TX

Dear Mr. Chairman:

We are located in the Dayton, OH area, home to Wright Patterson AFB. We are up against UNICOR on a daily basis. Some of the more recent projects include:

Sensor's Directorate. This project is 200 workstations plus seating, files, and private office furniture. They are required to use crescendo, even though they have over 400 workstations of existing Haworth product in the facility. The mockup for this project took 16 weeks to arrive, yet they are promising to meet a June 1 shipping deadline. $1,000,000 worth of UNICOR product is proposed.

Building 20052, Area B. All seating, freestanding casegoods and workstations are UNICOR Classic XXI, approximately 75 workstations, 15 private offices and seating for offices/workstations/conference rooms. Approximate value $450,000.

Sincerely,

Kim Duncan
Elements IV Interiors

Dear Mr. Chairman:

During the past 5 years I have had representatives from UNICOR tell my customers that they had to turn over my proprietary designs to UNICOR, without payment to the dealership. They have told my customers that if they do not buy UNICOR, they will be "reported to congress" and that there is no place else to go for government furniture. They frighten young department of defense officials with words like "illegal" when they ask about waivers.

The UNICOR reps routinely refuse waivers on the first approach. The answer is a standard "UNICOR has products which will meet your needs." No explanation. They refuse to answer waiver requests in a timely fashion. I have had $110,000 order for the Arizona Air National Guard in Tucson literally taken away by UNICOR. The representative demanded the designs and said that UNICOR would fill the request. There would be no waiver and no discussion. And she was right. Despite the fact that all of the programming phase had been completed by my designers, at no cost to the federal government, this rep insisted that she knew what was best for this customer. Of course, the products arrived late, in poor condition, was much more expensive than the budgeted GSA furniture--and the reps have not been heard from. The answer is "a 10% discount" or a "free chair."

In Texas, my representative worked for 4 months with a customer, completing designs and meeting all relevant criteria. She proposed only products on GSA contract. UNICOR unilaterally refused to waive the chairs, approximately $50,000 worth, because their factories were not at capacity. The fact that the UNICOR chairs do not meet the price point, that UNICOR spent no time with the

customers determining function, color or other requirements has no meaning. The seating portion of the order is lost. The remaining portion would have been lost, as well, if the customer had not spent approximately 30 days going from one appeal process to the other attempting to get waivers. Very few customers will take the time to do this. Of course, when the project finally arrives, it will be late and missions will be compromised.

Interestingly, my husband's father was murdered several years ago. The same prisoner that killed this fine man is now in an Alabama prison--taking away my livelihood. Please, please get this legislation in front of someone who cares about small business.

Sincerely,

Ruthanne S Pitts
Simmons Contract Furnishings
Tucson, Arizona

STATEMENT SUBMITTED BY MANAGEMENT ASSOCIATION FOR PRIVATE PHOTOGRAMMETRIC SURVEYORS (MAPPS)

Statement of MAPPS
Before the Committee on the Judiciary
Subcommittee on Crime, Terrorism and Homeland Security
Re: Federal Prison Industries
July 1, 2005

Mr. Chairman, members of the Subcommittee. The private mapping community is deeply concerned about the entry of a corporation created by the U.S. Bureau of Prisons (a Federal prison industry "FPI" operating as UNICOR) into mapping-related services, including geographic information systems (GIS) and computer aided design and drafting (CADD) services.

FPI has developed a capability to provide scanning and digitizing services to other Federal agencies. According to FPI's documents, it is "broadening its prime contractor role ... in the areas of ... digitization of maps for GIS applications, digitization of engineering and facilities management drawings (am/fm), scanning and digitizing, CALS conversions."

Under Federal law, FPI must diversify so far as practicable so that no single private industry carries an undue burden of competition. Prior to entering an industry, the FPI board is required to make a report. One can hardly understand how FPI would not realize that entering the mapping field would not adversely affect the private sector. Numerous studies, including those by the Office of Management and Budget, recognize that the Federal government is in competition with the private sector in mapping, and Congress has been targeting mapping activities in Federal agencies for increased contracting out.

FPI proposed regulations providing a huge expansion of its activities, without any legislative authority from Congress (SEE Federal Register, Jan. 7, 1999). Specifically, FPI proposed to provide *services*, such as the mapping services described above, not just to other government agencies, but to the private, commercial market as well. The Justice Department has astonishingly ruled that a current provision in law (18 USC 1761) which prohibits the interstate commerce of prison-made products, does not apply to *services*. While FPI withdrew its regulations, it is still proceeding with offering services in the commercial market.

MAPPS believes this is an inappropriate area for FPI activity. Public health, welfare and safety are dependent on the quality of work performed by mapping professionals. To add to this highly technical and professional field drawings, maps and images processed by prison inmates is not only an affront to the professionals in this field, but questionable to the public interest. Permitting prisoners access to data important to national security, or information about individual citizen's property and assets, is also unwise. MAPPS urges Congress to limit FPI's activity in and unfair competition with the private sector in this field.

John M. Palatiello, Executive Director
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Reston, Virginia 20190
P (703) 787-6996 F (703) 787-7550 E info@mapps.org www.mapps.org

While Congress took a major step toward reform of Federal Prison Industries when it enacted a provision in the 2002 and 2003 Defense authorization bills, and the FY 05 omnibus appropriations bill, more comprehensive legislation is needed to reform FPI activities, including those affecting services.

In the last Congress, legislation to reform FPI passed the House by an overwhelming 350-65 margin (H.R. 1829, November 6, 2003). The Senate bill, S.346, was reported by the Senate Governmental Affairs Committee but did not reach the full Senate. These bills have bipartisan support, with the House bill introduced by Reps. Peter Hoekstra (R-MI), Barney Frank (D-MA), Carolyn Maloney (D-NY), James Sensenbrenner (R-WI) and John Conyers (D-MI), and the Senate bill by Senators Carl Levin (D-MI) and Craig Thomas (R-WY).

MAPPS strongly supports H.R. 2965, the Federal Prison Industries Competition in Contracting Act, that has again been introduced by a bipartisan group of House members in the 109th Congress. We believe this bill will provide FPI the ability to train, rehabilitate and employ inmates through enhanced authorities in a manner that does not adversely affect the private sector, including small business, and their employees.

FACT SHEET SUBMITTED BY THE CORRECTIONAL VENDORS ASSOCIATION, "FPI FACT OR FICTION?"

FPI

FACT or FICTION?

You've heard the stories about Federal Prison Industries.
Now you can separate the FACTS from the FICTION.

For over 70 years, Federal Prison Industries (FPI) has been one of our most effective tools to teach inmates usable work skills and on-the-job discipline so when they're released, they'll be able to find and hold jobs and therefore be less likely to commit crimes. There's a two-year waiting period to get these jobs, and applicants must first obtain a GED and maintain a clean institutional record. Repeated studies, some involving as much as 16 years of follow-up data, have shown that FPI inmates are 14% more likely to be employed and 24% less likely to commit crimes than those who don't take part. Money earned by the inmates is paid back as restitution to victims and to provide support for their families: every year, FPI inmates pay more than $3 million to their victims and their families. Best of all, in over 70 years, FPI hasn't cost taxpayers a single dime, and in fact reduces the cost of incarceration.

Yet for four years now, a handful of office furniture manufacturing giants — resenting what they view as competition from these small-scale inmate job-training operations — have inserted provisions into spending measures that have forced these inmate job-training programs into direct competition with commercial industries. The prison programs, burdened by massive security costs and a job-training mission that makes it impossible for them to compete, have idled 2,074 inmates at 16 facilities as a result.

The giant office furniture manufacturers' FICTION is
that goods produced by federal inmates pose a threat to their industry.

The *FACT* is that even the designated spokesperson for FPI's principal critics admitted before the House Judiciary subcommittee on Crime in 2002 that the impact of prison work-training programs on the $9 billion office furniture industry is "relatively insignificant."

Indeed, FPI accounts for just one quarter of one percent (.25%) of total federal procurement, and in the office furniture sector, ***private commercial manufacturers already control 80% of the government market*** for their products.

The giant office furniture manufacturers' FICTION is
that prison work-training programs cost American furniture workers' jobs.

The FACT is that when politicians say prison work programs are threatening jobs, they're talking about jobs in Guangdong, not in Grand Rapids. According to Thomas Reardon, Executive Director of BIFMA, the trade association representing furniture manufacturers, ***FPI's office furniture sales represent just 2% of office furniture shipments, while Chinese contract furniture imports account for 25%.***

The FACT is
that experiments with prison work-training programs have FAILED,
killing 2,074 inmates at 16 facilities.

The FACT is that ***prison work-training programs are unable to compete with highly-efficient, privately-run private-sector enterprises:*** their security costs are too high and their mission of job-training is at odds with profit-driven efficiencies. Congressional experiments at competition have ***killed 2,074 inmates at 16 different facilities — prisoners who used to spend their time behind bars engaging in productive work, but who now sit idle in their cells.***

The FACT is that there are more than ***2.1 million Americans behind bars,*** and ***almost all of them will be released. Today alone, more than 1,500 inmates will be released*** onto the streets of cities and towns all across America.

The FACT is that for more than 70 years now, Federal Prison Industries has made the difference between whether these released prisoners will return home with the skills and job discipline to begin productive, useful lives, or whether they face lives of hopelessness, unemployment and crime

Paid for by the Correctional Vendors Association, Washington, D.C.

SUMMARY STATEMENT SUBMITTED BY THE NATIONAL CITIZENS UNITED FOR REHABILITATION OF ERRANTS (CURE)

National CURE Opposes HR2965/S749
And Explains Its Position[1]

Summary Statement

National CURE opposes HR2965/S749as flatly unacceptable 21st century economic and social policy. HR2965/S749 deepens problems for future generations. HR2965/S749 hurts the economy, contributes to crime and social division, and is harmful to human rights. HR2965/S749 is a lifeboat for a few powerful interests, ignores the public good, and actively pursues and drowns the poor. Useful solutions to interfirm inequities in Federal Prison Industries are readily available and should be considered instead of HR2965/S749.

National CURE (Citizens United for Rehabilitation of Errants) opposes HR2965/S749, "Federal Prison Industries Competition in Contracting Act of 2005." As a set of internal economic sanctions targeting the poor, HR2965/S749 increases internal domestic trade barriers and slows US economic growth. HR2965/S749 chooses to protect a few producers at the expense of most other producers and to the harm of all consumers. HR2965/S749 does not help the US economy or protect taxpayers, nor does it assist crime victims or corrections staff or children or caregivers. HR2965/S749 doesn't rehabilitate offenders or assist reentry; HR2965/S749 contributes to conditions increasing rather than decreasing crime. And HR2965/S749 is an affront to human rights, rooted in racism. No representative who values civil rights, no representative who serves children, women, minorities, or the poor and disenfranchised, and no representative who works to see a more economically prosperous, vibrant, equitable, or just America should tolerate either such legislation as HR2965/S749 or continue to tolerate the current US prison labor system.

Lawmakers considering prison industries and prison labor have three choices:

1. *Do nothing and continue an obsolete system,* protecting a few producers (including FPI) at the expense of most producers, all consumers, and an array of social concerns;
2. *Enact HR2965/S749, increase protections for a few producers and worsen conditions* for the economy, crime, crime victims, and especially children and the poor;

OR

3. *Enact Positive Change – Begin using corrections constructively for crime reduction and economic prosperity. National CURE finds the best path to be welcoming incarcerated persons to the mainstream legal economy, coupled with financial responsibility to victims, taxpayers, family, and self.*

[1] This represents National CURE's best understanding of inmate labor as of the published date. We welcome input and debate on the issue and intend to revise (and document) this statement as learning requires.

Whatever its historical contributions, the current prison industry structure is obsolete, wastes considerable inmate and staff talent and resources, and unnecessarily pits complementary stakeholders against one another. Complaints by private business, organized labor, and others against Federal Prison Industries are in part legitimate, but are overdrawn, self-serving, and one-sided.

True prison labor reform must first serve the National interest. In sharp contrast to HR2965/S749, fairness in inmate labor must be reciprocal, in which business, organized labor, and others also relinquish rather than expand their unfair advantages for the sake of a level playing field for all parties.

Designs for inmate labor reform should rest on sober analysis addressing priority questions – all of them ignored or inappropriately addressed by HR2965/S749:

1. Does the design help or hurt the economy?
2. Does it increase or decrease employment?
3. Does it increase or reduce crime?
4. Does it help or hurt the Nation's social health?
5. Are the lives of individual Americans, their children and families, their communities, and the overall social fabric being improved or damaged by this legislation?
6. Is the policy fair to key stakeholders, that is, to taxpayers, crime victims, children, and caregivers?
7. Does it improve human rights or America's moral stature in the world?
8. If the answer to any of the above questions is "no," then what more important values are being served by the proposal?

Charles Sullivan
Executive Director
National CURE
(202) 789-2126
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1. The Immediate Issue – Protectionism/Unfair Competition

The core problem in Federal and US prison labor is multilateral protectionism by selected influential interests at the cost of the common good. Prison, business, and labor stakeholders arguing before Congress principally represent their own narrow interests seeking to preserve or expand discriminatory privileges, not in the public interest. Legislation such as HR2965/S749 increasing noncompetitive discriminations in some markets forms the basis for increased unfair competition and discrimination in others, with the National consequence being poorer US economic performance, greater unemployment and economic inequality, and increased crime. The appropriate economic, criminal justice, and social antidote for unfair competition in inmate labor markets is fair competition removing non-competitive privileges from all participants.

National CURE concurs that unfair competition occurs in Federal and other prison industries. FPI privileges in Federal government markets unjustifiably harm some taxpaying private firms – such as in clothing and commercial furniture - and unfairly harm civilian labor that would competitively win on a level playing field. Harm occurs because FPI gets unjustified privileges not accorded other firms, with priority access (Federal preference) to Federal government markets, in subsidies by Federal taxpayers, from tax exemption, by retaining exclusive access to the Federal labor force of incarcerants, via exemption from labor law, and by exemption from payroll obligations – all of which become FPI tools for inefficiency and for unfair competition with private firms and labor.

With respect to inmate work, FPI should be viewed primarily as a monopoly firm with exclusive rights to rehabilitation and training. However, there is little reason and no evidence to indicate that FPI is superior to private firms in delivering rehabilitative services through work, and if actual work experience is the goal, as a government-operated, not especially efficient, peculiarly structured, taxpayer subsidized firm, FPI appears to be a clearly inferior alternative to simply using the very private industries for which experience is to be gained.

However, the essential unaddressed problem with US prison industries – and bringing the worst national consequences – is overall reliance on a whole set of reciprocal discriminations in multiple markets in which Federal prisons exclude private firms from some government markets, while private firms exclude FPI from all civilian markets (unmentioned by HR2965/S749), and also in which incarcerated laborers suffer discrimination in all markets, undermining labor force growth and eroding the economies of families and communities associated with incarcerated subpopulations. The resulting discriminations both set unfair relationships and have the net effect of slowing overall US business, employment, and output growth, and leaving expanding trails of poverty, inequity, crime, and dependency in their wake, plus denial of compensation to priority crime victims.

The appropriate solution to the problem of US prison industries, for FPI and for prison industries in general - and for the prosperity and safety of the United States overall - is to rely on the normal competitive marketplace until experience shows market failure, to end altogether the peculiar "prison labor" structures that primarily reward interests unrelated to either the crime or corrections, and instead simply expose all firms – government and private – and all labor forces – civilian and incarcerated – to the same competitive market rules typifying the familiar US economy. To eliminate unfair competition, prison industries should be subject to all laws and regulations affecting similarly located private firms in the same industries, including for unsubsidized acquisition and holding of land, buildings, and equipment, subject to all forms of regulation and taxation facing private firms, and – in order to eliminate unfair competition against civilian labor - subject to all laws affecting private firms with respect to all workers, including for health and safety, wages and hours, income and payroll taxes, participation rights, and deductions facing private firms and employees. At the same time, Federal and other prison industries, acting as private taxpaying firms, should face no discrimination in any civilian goods or services markets, domestic or foreign. Finally, consumers and private industries should have nondiscriminatory access to the labor services of and goods and services produced by employed incarcerated persons in all markets, so long as public and institutional security and safety are maintained. ***In short, for the advantage of all parties, the United States should eliminate prison labor altogether and instead mainstream both the entire population of incarcerated persons and all firms that employ inmates into the normal, competitive economy.***

When FPI (and by extension all prison industry) faces exactly the same rules faced by other private firms, unfair competition by prison industries will be, by definition, eliminated. Moreover, most of the inefficient, expensive, cumbersome, and difficult regulatory structures characterizing separately maintained markets in prison industries are eliminated. When private firms have exactly the same legal access to employ persons who are incarcerated on the same terms as civilian labor (making incarcerated persons civilians for the purposes of legal employment), neither FPI nor private firms can claim advantage. Finally, when persons who are incarcerated are covered by exactly the same labor laws as civilian labor, unfair competition by inmate labor – but not its legal competitive contribution to the US economy – is eliminated.

In a fairly structured market, the objective of competitive incarcerant participation will be to approximate as closely as possible the exact productive role they should play for US legal prosperity were they not incarcerated in the first place.[2]

[2] CURE recognizes the possibility of dual (legal and illegal) outcomes from employment in some cases. Sanctions and other reasonable deterrents must be in place to prevent crime, and offenders must be separated from occasions likely to accelerate repeat of crimes. .

2. More Fundamental Issues - Economic, Criminal Justice, and Human Rights

The Economics:

From an economic standpoint, the current US inmate labor structure is little more than a whole set of internal domestic trade sanctions, harmful to the economy. *Economics does not support excluding people who are incarcerated from legal employment. By and large, arguments against labor force participation for people who are incarcerated either (a) continue assuming contemporary non-competitive practices, or (b) even if non-competitive practices are removed, continue to repeat arguments commonly rejected by economists and by economic observation as restrictive of trade and harmful to the economy.*

The fundamental economic flaw in current prison labor practice and HR2965/S749 excluding people who are incarcerated from the labor force is the requirement to purposely waste part of a nation's productive labor supply. Policies that deliberately exclude productive subpopulations inevitably reduce the nation's productivity, eliminate rather than create jobs, slow economic growth, and induce widening streams of poverty, inequality, and social disarray (including crime) beginning with the excluded individuals, expanding transgenerationally through their families and communities, eroding business productivity and consumer demand, and increasing welfare and tax burdens. Given that successfully employing people who are incarcerated in the open market would yield economic results similar to employment results were they not incarcerated, clearly the nation's economy would be better off if persons who are incarcerated were productively employed.

It may be helpful to recognize that current inmate exclusion, upon which HR2965/S749 expands, was set during the Great Depression when massive unemployment and demands to preserve jobs (and buoy wage rates) unleashed prejudices against immigrants, minorities, prisoners, and others. While barriers against other groups have been repealed to the overall benefit of the US economy, the walls against employing people who are incarcerated have persisted.

Economic consistency suggests that the same welfare reform arguments compelling unskilled mothers to work would compel fathers into the workforce as well.

Available information suggests the United States losing 1 to 2 percent potential GDP through the mass unemployment of its incarcerated population. Incorporating longer term consequences and adjusting for education, training, and experience deficits, the United States taken together probably forfeits as much as 5 percent of GDP potential by underutilizing the incarcerated workforce; an additional similar percent may be misdirected in the current economy producing "bads" (security, victim services,

insurance) and other outputs that would not be needed – and could be better used for "goods" if crime were reduced[3]

Would inmate employment drive down wage rates and increase civilian unemployment? The net overall effect of increased labor supply (more inmate workers serving some industries) and increased labor demand (demand for more associated workers within the industries, associated industries, and to meet increased consumer demand overall), combined with general economic forces in the economy, suggests that including incarcerated persons in the civilian labor force would likely have either no effect or imperceptible positive or negative effects on US wage rates. At worst, one rough estimate suggests a maximum depressing wage in a few labor markets of no more than 5 cents per hour.

On the supply side, introducing incarcerated workers would lower wages very slightly in those industries and localities in which persons who are incarcerated are most competitive; however, combined with normal US labor supply changes (birth rates, education, retirements, changing participation rates, legal and illegal immigration, and others) economists tend to agree that the supply side wage effects of labor force participation by incarcerants would likely be imperceptible and unable to be separately identified or measured.

Positive labor demand effects would also occur, both for persons who are incarcerated and for civilian labor, as expanding businesses that hire persons who are incarcerated also hire other civilian workers, increase overall civilian employment in firms related to the expanded businesses, and increase civilian employment in civilian business in general from increased incomes and overall economic activity. History suggests that positive demand side effects could not only match but surpass supply side consequences.

As a result, as amply demonstrated repeatedly in American history, the net supply and demand effects of opening labor force participation to persons who are incarcerated as to other additional groups - such as the economic consequences of the Civil Rights Act of 1964, for example - would likely be faster US economic growth and increased civilian employment and wages rather than declines.

Do people who are incarcerated need money? Persons who are incarcerated face the same economic demands as others and more, including for personal items and care in prison, for telephone and other costs of family contact, for restitution to their victims, for child and family support (There are more unsupported minor children of inmates – about 2.1 million – than inmates – about 2.0 million), for their health care and rehabilitation (Addictions, physical, emotional, and mental challenges are common), and for savings for after release (Rather than being released with nothing, having six month's civilian income in savings would tremendously help re-entry transition)..

[3] Any careful calculation of economic consequences of alternative policies would need to incorporate costs of potential illegal employment (crime), with the net economic consequences being gross legal incomes minus the costs of crime.

Any "punishment" components of poverty during incarceration can be adequately enforced by controlling spending monies and purchases inside the institution; the more important consequences of inmate unemployment to be avoided are uncompensated crime victims, unsupported impoverished children and mothers (and grandparents), increased civilian welfare burdens, and poverty, failure, and increased crime and recidivism by impoverished, unbalanced, and desperate released offenders.

Unpaid inmate work: Some argue for unpaid inmate work, either as punishment, as a sort fine paid in-kind, or simply to save money. Whatever the reason, failure to value and pay fails spectacularly in American prisons. Unpaid work is unmeasured work, wasted work, wasted workers, and misuse or fraudulent use of inmate work. One major consequence of unpaid inmate work is that fewer than half (41% in 2000) of the incarcerated population works at all, and only 4 percent work in agriculture or industries. The ultimate consequence of unpaid inmate work is that little or nothing gets produced (little value is added), priority claimants get shortchanged (victims, taxpayers), and important social programs get plundered or starved (welfare, Social Security). Moreover, there is a tremendous incentive to pervert the labor of incarcerated persons to idleness, private uses, or fraud. All parties would be far better served if people who are incarcerated worked and were paid to the full value of their labor, and then legitimate financial claims levied against their incomes.

Criminal Justice:

Superior criminal justice policy does not support HR2965/S749. In National CURE's view, exclusion of persons who are incarcerated from the labor force is not net justifiable on criminal justice grounds ("punishment" being an excuse), but rather reflects diversion of sensible criminal justice objectives for private gain, either by prison industry firms or for the protection of selected powerful interests. In CURE's view, HR2965/S749 is more likely to result in increased future crime, destabilize prisons, and make conditions worse for future generations than improve the nation's safety.

The highest criminal justice priority is the reduction of future crime. *The most serious criminal justice flaw in HR2965/S749 and current practice is that banishment from the means of legal survival and exclusion from legal employment increase rather than deter future crime (illegal employment). Furthermore, prohibition from profitable work perverts the public priority of victim compensation in favor of unrelated noncompetitive protectionism for special interests. American homes and families would be safer and crime would almost certainly be reduced if offenders were successful in the legal labor force, paid restitution to their victims, and strengthened family ties providing meaningful financial support to their own children, families, and communities. Future crime would almost certainly be reduced if persons who are incarcerated were legally successful and financially responsible to themselves, their victims, their children, and their own families and communities.*

Although denial of legal employment undoubtedly has both punishment and deterrence values in some instances, the negative *crime increasing, illegal employment*

consequences of denying offenders access to legal employment - both for the offender and expanding to his or her impoverished children and weakened community – far outweigh any positive effects of legal employment bans. Further, barring persons who are incarcerated from productive legal employment and financial responsibility expresses a social preference for protectionist subsidies to unrelated businesses over the legitimate priority compensation rights of crime victims and communities.

Persons who are incarcerated are ostensibly banned from civilian labor force participation for either of two reasons, (1) forced unemployment is good punishment – presumably retribution for their crimes and for deterrent effects, or (2) their alternative forced labor inside prison repays society for crime.

Repayment: Restitution is a high priority, legitimate correctional objective, both to individual crime victims and to society. However, from National CURE's perspective, one of the greatest tragedies of contemporary inmate labor is the hijacking, by prison industries, business, and organized labor, of legitimate victim and social compensation rights for the sake of protections to selected government and private firms and labor forces. Current correctional policies ensure that no incarcerated persons compensate their victims, paying either nothing or cipherous amounts less than a fraction of even the interest charges on their debts.

If victim and social payback were the real objective of inmate labor, all capable incarcerants would be not only welcomed but propelled into the labor force, employed at the highest possible productivity in the most profitable markets, then their incomes taxed and victims and taxpayers repaid. Traditional low-productivity work in prison industries would disappear in the rush to repay legitimate victims and taxpayers.

Punishment: Forced unemployment punishes and delivers deterrent effects, for some offenders permanently and others at least during incarceration. However, the weight of evidence and public opinion appears to strongly indicate that the *crime increasing effects* of exclusion, including of alienation, frustration, and despair, the lack of the dignity, skills, opportunity, and productivity of successful employment, and above all, the need to survive, induce both crime by the inmate and, possibly more significant, *set the conditions for widening generations of crime perpetrated, including cultures of crime, by the offenders' own offspring and by reinforcing poverty and deprivation as a crime-inducing condition of the broader community.* Therefore whatever the potential benefits, the real costs of inmate unemployment are setting conditions for additional crime, a real cost significantly greater than the likely benefits.

Corrections: By expanding idleness, HR2965/S749 and current practice undermine prison security and increase physical danger to incarcerated persons and staff. Perhaps worse, enforcing human failure erodes corrections, undermines staff health and morale, and harms hiring and retention. Prison safety and the corrections profession would both improve – including qualified staff recruiting, staff retention, and reduced staff burnout - if incarcerants were positively engaged in productive, truly rehabilitative work. *In light*

of improved prison security and staff job satisfaction, few corrections staff will begrudge inmates' successful legal employment.

Other Social Consequences

Current inmate unemployment policies and HR2965/S749 are the economic and social equivalents of shooting into a crowd, primarily harming unintended innocent populations, including crime victims, children, women, and the elderly.

Crime Victims: *The first victim of inmate unemployment is the uncompensated crime victim. Although CURE sees no inherent contradiction, lawmakers need to decide whether their legislative priority is protection of legitimate crime victims or special protections for unrelated producers.* Of the total annual U.S. cost of violent crime, estimated at about $400 billion annually, incarcerated persons pay approximately nothing (less than 1/100 percent) in restitution and compensation to crime victims. Instead, the monetary costs of violent crime are borne primarily by private insurers, businesses (through lost work, sick leave and health premiums, damages), taxpayers, victims and their families, and charitable organizations. Because inmates do not earn, courts are reluctant to even incur the costs of levying restitution orders, in effect excusing offenders from financial restitution for their crimes.

Children: By banishing breadwinners, the primary economic harm of current policy and HR2965/S749 is denial of normal means of support and survival for children. *Because there are more unsupported minor children of people who are incarcerated in the United States – 2.1 million - than inmates – 2 million – banning incarcerated persons from legal employment is in fact, first and foremost, de facto denial of basic legitimate means of survival to at least one million American children* (the portion estimated to be in poverty). Limited information available suggests that – on any given day - about 1 percent of white, 3 percent of Hispanic, and 10 percent of black children have at least one parent incarcerated; said otherwise, because of the exclusion, one of every ten black children is denied legal financial support from at least one parent. Furthermore, although information is scattered, data suggest that about 50 percent of the children of inmates live in or near poverty, primarily in low-income female-headed households. Available evidence suggests that about one of every six children receiving welfare (TANF) has an incarcerated parent. In the poorest urban communities, half the minor children have a parent in the criminal justice system. *In order to meet the higher priorities of overcoming child poverty and crime, including across generations, regardless of whether or not the incarcerated father (or mother) was a responsible provider or will be welcome after release, the best social policy is to propel offenders into recognized, ongoing, enforced financial responsibility for their minor children. Corrections and Child Support Agencies should work cooperatively with parents, legal guardians, and child care givers to open employment opportunities to incarcerated persons and then enforce – under the same requirements as for civilian employees - reasonably proportioned child care deductions.*

Fatherhood: Strengthening fatherhood is a critical National objective, including strengthening constructive participation as spouses and fathers, particularly in poor and minority families. Available evidence indicates that about half the male inmate population are already fathers, and most will father children at some point. *Except where the parent is a danger to the family, the most beneficial National correctional job policies should unequivocally establish and reinforce fatherhood with legal employment and responsible participation in family financial support and decision-making. Correctional employment policies should apply at least equally to incarcerated mothers, who face even greater education and employment challenges along with potential loss of custody of their children.*

Stakeholders and policymakers, most of whom are parents, should be especially sensitive to the importance of building bonds between parents and children. One sometimes wonders how fellow parents could be so persistently blind to the harm occurring to children, fathers (and mothers), and families from current policies.

Mothers, Single Female Householders: Current policy and HR2965/S749 are disasters for American women; all too often the cause of insistent poverty for American women is the non-support of incarcerated men. The major financial burden of supporting unemployed persons who are incarcerated and their children falls squarely on the shoulders of about a million usually low-income single female householders - the partners, wives, mothers, grandmothers, and other significant female others, and the caregivers of both the incarcerants and their minor children. To the tune of hundreds of dollars a month, under the current structure and HR2965/S749, incarcerated persons do not earn money, incarcerated persons *cost* their families money, for clothing, for personal hygiene and medical products, for reading and recreational materials, for telephone calls, and for family visits to usually distant prisons. Mothers and grandmothers inherit or assume the obligations of employment and income support, household preservation, child rearing, and support to the incarcerated family member. And in one of the stranger twists in American economic policy, the Nation increasingly insists that this mother be employed while at the same time barring the incarcerated father from working at all -- both policies argued for the "good" of the economy.

The appropriate economic and social policy for lifting American women from poverty is once again the insistent full employment of incarcerated men coupled with reasonably enforced financial responsibility, including both child and family support. Inmate incomes in legal employment should be maximized, and corrections and child support agencies should enforce meaningful deductions proportionate to incomes, including not only court-ordered child support, but also financial contributions to the household from which the incarcerated person came or to which he or she is likely to return.

Grandparents: Although statistics are difficult to obtain, extensive anecdotal evidence repeatedly shows that a major contributor to rapidly increasing child care burdens by America's elderly is their replacing nonsupporting incarcerated mothers and fathers; worse, retired and other grandparents frequently support grandchildren without benefit of welfare support or legal custody of the children. Furthermore, grandparents – frequently

grandmothers alone – also assume the financial burdens of maintaining contact with incarcerated persons via costly telephone contact and occasional distant visits. Thus once again, while the incarcerated person may be the ostensible target of correctional unemployment policies, the *financial burden* of inmate unemployment is borne by innocent others, this time America's elderly.

Once again, the appropriate economic and social policy for overcoming poverty for American grandparents caring for the children of incarcerants is to maximize the legal earnings and financial contributions of inmates to the inmates' own support and the financial support of their children.

Urban Poverty: The nations' mayors should strongly oppose HR2965/S749 and current inmate unemployment policies. Given that as many as half the minority males in inner cities may be incarcerated at some point, banning incarcerated persons from the labor force is a massive concentrated tax on America's cities, impoverishing children, women, the elderly, and families in those communities, starving business growth, eroding property values, undermining the tax base, rupturing families, and nurturing crime, while at the same time shifting the use of limited incomes to rural prisons, for support of inmates, for travel to correctional institutions, and for significant telephone expenses. And at the same time, constrained urban tax revenues get disproportionately spent on welfare, justice, and social services to ever-declining inner cities. While jobs go to suburban commuters, urban minorities continue to suffer unemployment rates at least double statistical averages, and those who are employed earn markedly less than their suburban counterparts.

Inner city economic recovery is virtually certain to require the successful transition of minority males from outside the legal labor force (or marginal participation) to successful legal employment coupled with financial responsibility. *For recovery, growth, and prosperity for all parts of their communities, the appropriate policies for American cities are (1) reducing incarceration and (2) policies outside and inside prison propelling offenders into legal employment and financial responsibility.*

3. Even Deeper Issues – Racism, Segregation, Genocide, Human Rights

Applications of individual features of racism, segregation, and genocide to incarcerated persons' exclusion are certainly subject to debate. However, *in the absence of explicitly understood compelling rational economic, criminal justice, or other arguments, a reasonable conclusion is that the practice of excluding incarcerated persons from the legal labor force shares the same unacceptable roots as other discriminations with which it is contemporary, and that the most likely sensible economic and social policy would be to end it.*

Inmate Exclusion From the Labor Force – Rooted in Racism. .

National CURE certainly does not accuse anyone of overt or deliberate racism, either in the current structure or in any recent legislative proposal. All of us, no matter what our stripe on this issue, have in common generally accepted the fundamental structure of prison industries. The current structure is all our shared inheritance.

But the important questions are, "Is the prison industry system racist?" and "Is this legislative proposal racist," whether or not anyone traditionally recognizes it.

In the view of National CURE, beneath the patina of economics, criminal justice, and the other rational analysis, the calx of what is left, the stubborn persistent argument that inmates should never compete with civilian labor, looks a lot like racism. And in being so, it bears very careful scrutiny and the presumption of rejection on its face.

In National CURE's view, the argument for incarcerant labor force exclusion, when viewed on its own (independent of economic, criminal justice, and social benefits), shares common underpinnings with racism in at least four ways:

First, the argument for inmate exclusion shares, almost verbatim, the global language of racism. The common economic language of racism is diversion of economic production choices away from *efficiency* (who produces best and best serves consumers) and toward *personal superiority* (even if less efficient); the economic focus of racism is rejection of the product as a way of rejecting the person. While holders of such views regarding persons who are incarcerated may be horrified to discover so, their argument closely mimics the same arguments used to exclude racial minorities and other unfavored populations around the world. The expressions, "They will take our jobs," "No one in [unfavored group] should have a job until every [member of the favored population] has a job," and "If we let them [the unfavored, powerless minority] compete, they'll take jobs away from [the favored, influential population]," typify racist views everywhere.

Second, the National debate on inmate labor shares with racism the historical racial experience of *invisibility, powerlessness, and insignificance* to the empowered majority, such that the current Congressional debate on Federal Prison Industry reform – as argued by all major FPI, business, and labor stakeholders – consistently ignores the importance, impact, and even existence of the subpopulations most heavily affected by the deliberations. Whereas many of the most significant impacts of the current legislative proposals are on children, women, families, and poor and minority communities, no representatives of those groups are invited to hearings on inmate work, they along with the incarcerated population are excluded from oversight boards, and references to them gets only a nod and a fig leaf when useful to the advantage of the empowered stakeholders.

Third, both in the United States and generally in the world, the argument for excluding persons who are incarcerated from the labor force tends to be racist because it disproportionately harms the racial minorities overrepresented in the world's prison

populations. Therefore, not only in the United States (where African Americans constitute 13 percent of the general population but nearly half the incarcerated population) but globally, the argument for excluding persons who are incarcerated is an argument heavily disproportionately targeting racial minorities.

Finally, and most important in the view of National CURE, arguments in favor of excluding incarcerated persons from the labor force share the universal core racist tenet that some lives are absolutely inferior to others, a view so thoroughly incorporated in prison labor thinking that even the slightest possibility of any, even trivial, harm or economic threat of harm to any member of the preferred population – even in the face of tremendous net benefits to the minority population - is sufficiently horrific as to preclude the entire minority subpopulation and its offspring and successor generations from participation. It is this repugnant core view that, in the opinion of National CURE, especially marks inmate exclusion from the labor force as "rooted in racism."

National CURE is explicitly not charging any persons or organizations with conscious racism. But it is important to recognize the roots, common features, and company we keep in arguments and policies we have inherited.

Inmate Exclusion from the legal labor force – Worse Than Segregation. The exclusion of incarcerated persons from the labor force has more severe economic consequences than segregation, primarily because of the enforced completeness of inmate exclusion. Segregation offered a range of legal, albeit almost always inferior, legal employment opportunities, whereas excluding persons who are incarcerated is complete. Under segregation, moreover, minorities could hold almost any legal profession within the minority community; not so in corrections, where people who are incarcerated are expressly forbidden all such legal opportunity. Finally, under segregation, leakages and exceptions abounded. Not so for incarcerant labor force exclusion, which is universally applied against *every* legal occupation in *every market* applied to *every incarcerated persons* and enforced by law, custom, isolation, architecture, and force of arms. With the very limited exception of the state and local Prison Industry Enhancement Certification (PIEC) program, no U.S. jail or prison inmate not on work release holds a legal job.

Inmate Exclusion as Genocide – Primarily Against Children and Women. The exclusion of persons who are incarcerated from the labor force does not in itself constitute genocide – but it comes frightenly close, particularly for women and children of inmates. In addition to outright killing, article 2 of the United Nations Convention on Genocide includes "Deliberately inflicting conditions of life calculated to destroy a group," and then elaborates destruction to include "deliberate deprivation of resources needed for the group's physical survival…Deprivation of the means to sustain life can be imposed by the confiscation of harvests, blockades of foodstuffs, detention in camps, [and] forcible relocation…." Inmate exclusion fails the strict definition of genocide on a number of counts, including the likely lack of deliberate intent and the absence of well-defined ethnic or religious groups. Nevertheless, the United States' denial of access to any form of legal employment for incarcerated persons approaches genocide for children in that *denial of all legal employment opportunity for persons incarcerated in U.S. jails*

and prisons has the de facto effect of denial of basic means of survival for the children of inmates, whose economic survival depends in large part on the productivity and financial support of parents, especially fathers. Statistics and anecdotal evidence consistently indicate that highly disproportionate shares of children of people who are incarcerated are in poverty and are welfare dependent; in the District of Columbia, for example, anecdotal evidence suggests that at least 50 percent of children on welfare have at least one parent in the criminal justice system.[4] Deliberate exclusion of incarcerated persons from the labor force also necessarily means a life of sustained deprivation and economic hardship for an estimated near 1 million U.S. women householders, the mothers and grandmothers of inmates' children, a highly disproportionate share of whom struggle near, at, or below defined poverty thresholds. And denial of rights to participate mean denial of education, experience, and investment in work skills, implying economic deprivation over the entire productive life of the average worker; finally, the deprivation of employment and investment in Social Security, health care, and other retirement and planning options contributes to virtual guarantees that offenders will suffer deprivation separate from and unaccounted in their punishments in the later stages of life.

Exclusion from Legal Employment as a Compromise of Human Rights: There is little doubt that excluding populations from legal employment – and the right to a participatory voice in employment – constitutes a fundamental compromise of human rights, both for the incarcerated offender and extended to his or her spouse and family. Article 23 of the United Nations *Universal Declaration of Human Rights*: "(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment; (2) Everyone, without any discrimination, has the right to equal pay for equal work; (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity…(4) Everyone has the right to form and join trade unions for the protection of his interests. Employment rights also extend to the family, with special protection to be granted for the protection of children. Article 16 states "The family is the natural and fundamental group unit of society and is entitled to protection by society and the state," and article 25, "Motherhood and childhood are entitled to special care and assistance." While most would quickly agree that offenders may be denied rights under due process of law and that some features – such as the requirement for an apparently "living" wage – are vigorously debated, nevertheless, it is clear that the denial of all rights to legal employment cuts close to the bone with respect to basic human rights and should only be compromised for the greatest social benefit, something not begun to be demonstrated by current practice. Furthermore, even casual acquaintance with economic consequences for children and family, indicates that denial of legal employment for people who are incarcerated significantly compromises economic and social prospects for children, women, and families.

[4] That some incarcerated parents failed and did not, would not, or could not support the children even if not imprisoned hardly justifies a social policy requiring nonsupport. Moreover, the extent to which social policy contributes to cultures of nonsupport needs to also be considered.

4. The Main Reason For National CURE Opposition to HR2965/S749 and the Current System of Inmate Unemployment

National CURE opposes HR2965/S749 and the current structure of inmate exclusion from the legal labor force for all the reasons so far described.

However, the primary reason for National CURE's opposition to HR2965/S749 and the current structure of excluding people who are incarcerated from the competitive legal labor force is because of their harm to the incarcerated person him (or her) self. Every person, including every person who errs and is being punished – and rehabilitated - by incarceration, is intrinsically important and valuable for him or her self, separate from any external consequences.

There is something particularly disgusting and especially unacceptable in HR2965/S749 and current inmate unemployment policy, both for human life itself and certainly in light of core American values, to encounter a market in which the primary currency is not justice or efficiency, or even respect for life, but power extracting personal favor for selfish ends over a dependent, powerless group of people. That the American political system would be so thoroughly perverted as to abuse people whose fates are in the hands of the state for special favor is fundamentally repugnant. America just does not treat people this way.

No one, and certainly no American, deserves to be treated the way persons who are incarcerated are treated by exclusion from access to even legal means of survival. And no political system, especially the American political system, should be so venal as to reward special interests at the expense of the intrinsic value of human life.

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