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# Congress of the United States

House of Representatives

107th Congress

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6515

June 13, 2002

Ms. Susan Schneider  
Defense Acquisition Regulations Council  
Office of the Undersecretary of Defense (AT&L)DP(DAR)  
IMD 3C132  
3062 Defense Pentagon  
Washington, D.C. 20301-3062

**Re: DFARS Case 2002-D003**

Dear Ms. Schneider:

This is in response to the above-referenced interim rule, which was issued April 26, 2002. On behalf of the House Committee on Small Business, I appreciate the opportunity to comment on this important issue.

As you know, this interim rule was issued as a result of Section 811 of the Fiscal Year 2002 Defense Authorization Act, which requires the Department of Defense (DoD) to conduct market research before purchasing a product listed in the Federal Prison Industries (FPI) catalog to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector.

The intent of this provision is obviously to open contracts previously held solely by FPI to civilian contractors for the opportunity to bid. However, after reviewing the rule, I have the following observations and recommendations:

1. The Interim Rule does not define what constitutes "comparable price, quality, and time of delivery" with respect to FPI products compared to its private sector competition. Because of the volume of products procured by the DoD, it may not be feasible to produce a single general methodology that applies to every product. However, in the interest of fairness, the rule should require full disclosure of specific guidelines and the methodology used to come to the conclusion that a product is "comparable" in any of these respects;