

STATEMENT OF REPRESENTATIVE BILL HUIZENGA
Before the House Committee on Small Business
Subcommittee on Contracting and Workforce

Unlocking Opportunities: Recidivism versus Fair Competition in Federal Contracting

June 28, 2012

Chairman Mulvaney, Ranking Member Chu, and members of the Subcommittee, thank you for the invitation and opportunity to be with you this morning.

Competition with the private sector by Federal Prison Industries is an issue that is important to the nation, and near and dear to the 2nd District of Michigan.

As some of you may know, my predecessor in Congress, Pete Hoekstra, was a leader on the issue of Federal Prison Industry Reform.

When I was District Director for Representative Hoekstra, a new Social Security Administration office opened in Holland, Michigan. The new office was literally a stone's throw away from one of west Michigan's many office furniture manufactures. Despite this, the Social Security office was forced to purchase chairs and furniture manufactured by FPI, a government owned corporation, instead of our local manufacturers. In fact, the private companies in the district never even had a chance to bid on, or compete for, the contract to supply the furniture.

The impact from FPI hits communities all over America. Our colleague Carolyn Maloney has been a long-time supporter of this initiative since the Glamour Glove Company on Long Island had its existence threatened by FPI. Many of Ms. Maloney's constituents were employees of the company. Glamour Glove Company lost 80 percent of its glove business before a compromise was negotiated with FPI.

Ace Electronics of Bel Air, Maryland, and Troy, Michigan, manufactures wiring and cable assemblies, fiber optics, connectors, and other products. Ace employs designers, engineers, and manufacturers. Ace will likely lose out to FPI on a \$300 million contract because of the rule that allows FPI to capture up to 5% of market share.

General Linen Service of New Hampshire was forced to compete for a contract against the prison system that they had previously serviced without incident. This Textile Rental Services Association member was informed that their service contract was being terminated and awarded to the prison system without any reason given. The company insisted on being allowed to compete with the prison system for the previously held contract, and eventually won the contract back. However, the costs of having to re-compete and restructure a previously existing contract, as well as making any changes to the contract in order to keep the business, caused a considerable impact on this business.

Federal Prison Industries, or UNICOR, is not an insignificant operation. They occupy more than 4 million square feet of manufacturing and service space. FPI is far from a small business. This bureaucratically run corporation competes with private sector job creators in over 300 individual products and services. It is comprised of seven divisions including: clothing and textiles, electronics, fleet management, office furniture, industrial products, recycling, and services, including call centers and data and document conversion.

FPI has revenues that have ranged from \$745 million to more than \$885 million annually in recent years! When you put FPI up against all other Federal contractors, they are the 36th largest entity by rank, when measured by gross sales to Federal agencies.

In fact, within a few hours drive of this committee hearing at the Capitol, UNICOR is producing awards and plaques, and even clothing for our members of the Armed Services, with labor being paid only 23 cents to \$1.15 per hour! Can you imagine the uproar from the public if we were importing goods manufactured by prison labor in someplace like China? It's no wonder our American grown companies have difficulty competing against this goliath, government-owned corporation.

Concerning the abnormally low wages paid to laborers, FPI is not even paying the standard minimum wage \$7.25. Additionally, the private sector is required to pay the prevailing wage rate under Davis-Bacon or the Service Contract Act.

In addition to the low wages, FPI does not have to pay employees Social Security, nor does it pay the employer's share. It doesn't pay unemployment compensation or workers' compensation insurance. FPI is exempt from all Federal, State, and local income taxes, gross receipts taxes, excise taxes, and sales tax. It is not subject to Federal Trade Commission oversight, Securities and Exchange Commission oversight, or Department of Justice oversight. FPI does not pay fair market value, or in some cases, pay for utilities. It even has a special statutory allowance of a line of credit from the U.S. Treasury for up to \$20 million at zero percent interest.

UNICOR is exempt from all standards, inspections, and fines of various local, State, and Federal enforcement agencies, such as OSHA. FPI does not have to comply with local zoning, and because it enjoys sovereign immunity, it is not required to pay taxes. FPI does not carry health insurance costs, nor does it have to comply with family and medical leave. I don't know of any small businesses that have this kind of advantage.

While congress has attempted to create an even playing field on several occasions, this goliath company called UNICOR, continues to maintain unfair access to federal contracts.

On a very bipartisan basis, I introduced H.R. 3634, the Federal Prison Industries Competition in Contracting Act. It has a wide range of support, including lead Democratic cosponsors Barney Frank of Massachusetts and Carolyn Maloney of New

York, as well as former Judiciary Committee Chairman Jim Sensenbrenner of Wisconsin and former Small Business Committee Chairman Don Manzullo of Illinois. The bill is nearly identical to previous versions that passed the House by a vote of 350-65 in 2003 and 362-57 in 2006.

Unfortunately in both cases, the bill was not taken up by the full Senate, although a companion bill was approved by the Senate Homeland Security and Governmental Affairs Committee in 2004. We must pass my bill and work with our Senate colleagues to pass it in the other body. I am pleased to report that in the coming days, Senator John Thune of South Dakota and others will introduce a bipartisan FPI reform bill.

Piecemeal reforms have been enacted in recent years on Appropriations and Defense Authorization bills, but in order for small businesses back home in our districts to compete on a level playing field, comprehensive prison industry reform must be enacted. Small businesses simply cannot go toe to toe against this large, government owned corporation.

My narrowly written bill amends the laws relating to FPI by establishing market-based, government-wide procurement policies for purchases that are based on competitive procedures. It establishes competition as the standard for Federal agency purchases. It only authorizes non-competitive contracts in FPI's favor if the Attorney General determines that FPI cannot reasonably expect fair consideration to receive a contract award on a competitive basis, and if the contract award is necessary to maintain prisoner work opportunities.

Currently, FPI, not the buying agency, determines if the product FPI offers and the delivery schedule it promises meet the need of the buying agency. In other words, the seller, not the customer is determining if the price and terms are reasonable. That is not how small businesses operate. The bill requires FPI to compete for business opportunities by removing the "mandatory source" status.

Our bill puts the purchasing decision in the hands of the buying agencies. If FPI has the lowest price, the best value, or is determined to be the most qualified, it gets the contract. In other words, it requires agencies to research which products are available on the market, not just flip through the FPI catalog. In our current economic climate, this is the prudent thing to do for taxpayers, and it just makes common sense.

H.R. 3634 also requires FPI to complete a probability impact study on private industry before entering into a brand new market. The study then becomes public information.

Our bill also forces UNICOR to start to pay competitive hourly wages for prisoners performing work, just like the hard working men and women back home in our districts. It forces FPI to operate its prison factories under OSHA standards, currently they are only voluntary.

In addition, our bill prevents UNICOR from selling products in commercial settings and from entering interstate or foreign commerce, except for existing contracts.

H.R. 3634 is mindful of idleness in prisons. It addresses recidivism. It creates new opportunities for prison workers that do not result in unfair competition with private business - particularly small business - and the employees in companies that lose out to FPI. Suffice it to say that “fairness” should be modeled by the Correctional System... or nothing is being corrected.

Our bill allows prisoners within FPI to work for a tax-exempt charity or entity, religious organization, local government unit, or school district that forms an agreement with FPI. It also authorizes private businesses to participate in work training and apprenticeship programs for prisoners.

Our bill also establishes an Enhanced In-Prison Educational and Vocational Assessment and Training Program to help people with release readiness preparation. The Bureau of Prisons' own studies have shown that vocational training programs have historically been the most successful in decreasing recidivism. By giving prisoners the training they need to find and maintain a job once released, we are providing them, their families, and our communities, with the greatest service. Taking jobs away from honest, hardworking Americans in the process though, is not how we accomplish this goal.

H.R. 3634 also requires federal agencies to report purchases from FPI to the Federal Procurement Data System. Last year, my office inquired with the Recovery Accountability and Transparency Board because a news article had reported that stimulus money (American Recovery and Reinvestment Act of 2009) had purchased products from FPI. The Board told me that this was an unusual situation and since FPI is defined as a federal agency, it is not required to report on Recovery Act progress.

Thank you again for the invitation and opportunity to be with you this morning. I applaud the Subcommittee for taking an interest in this critical issue and encourage all of you to cosponsor H.R. 3634, the Federal Prison Industries Competition in Contracting Act.