

**DEPARTMENT OF DEFENSE****Defense Acquisition Regulations System****Acquisition of Items for Which Federal Prison Industries Has a Significant Market Share****AGENCY:** Department of Defense (DoD).**ACTION:** Notice.

**SUMMARY:** DoD is publishing the annual list of product categories for which the Federal Prison Industries' share of the DoD Market is greater than five percent.

**DATES:** *Effective Date:* April 5, 2013.**FOR FURTHER INFORMATION CONTACT:** Sheila Harris, telephone 703-614-1254.**SUPPLEMENTARY INFORMATION:****Background**

On November 19, 2009, a final rule was published at 74 FR 59914 which amended the Defense Federal Acquisition Regulation Supplement (DFARS) 208.6, to implement Section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008, Public Law 110-181. Section 827 changed DoD competition requirements for purchases from Federal Prison Industries, Inc. (FPI) by requiring DoD to publish an annual list of product categories for which FPI's share of the DoD market was greater than five percent, based on the most recent fiscal year data available. Product categories on the current list, and the products within each identified product category, must be procured using competitive or fair opportunity procedures in accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 208.602-70.

This notification provides an updated list of FPI product categories exceeding five percent of the DoD market, based on Fiscal Year 2012 data obtained from the Federal Procurement Data System. An identical list is also found in the Director, Defense Procurement and Acquisition Policy (DPAP) memorandum dated March 7, 2013. (The DPAP memorandum with the current list of product categories for which FPI has a significant market share is posted at: <http://www.acq.osd.mil/dpap/policy/policyvault/USA007579-12-DPAP.pdf>).

Accordingly, the updated product categories to be competed effective April 5, 2013, are:

- 5220 (Inspection Gages and Precision Layout Tools)
- 5335 (Metal Screening)
- 7210 (Household Furnishings)
- 7230 Draperies, Awnings, and Shades
- 8405 (Outerwear, Men's)

- 8415 (Clothing, Special Purpose)
- 8465 (Individual Equipment)
- 9905 (Signs, Advertising Displays and Identification Plates)

The statute, as implemented also requires DoD to:

(1) Include FPI in the solicitation process for items for which FPI's share of the DoD market is greater than five percent; a timely offer from FPI must be considered; and award procedures must be followed in accordance with existing policy at Federal Acquisition Regulation (FAR) 8.602(a)(4)(ii) through (v).

(2) Continue to be make acquisitions, in accordance with FAR Subpart 8.6., for items from product categories for which FPI does not have a significant market share. FAR 8.602 requires agencies to conduct market research and make a written comparability determination, at the discretion of the contracting officer. Competitive or fair opportunity procedures are appropriate if the FPI product is not comparable in terms of price, quality, or time of delivery.

(3) Section 827 allows modification of the published list if DoD subsequently determines that new data requires adding or omitting a product category from the list.

**Manuel Quinones,***Editor, Defense Acquisition Regulations System.*

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**BILLING CODE 5001-06-P****DEPARTMENT OF DEFENSE****Department of the Army; Corps of Engineers****Revised Notice of Intent To Prepare a joint Environmental Impact Statement/ Environmental Impact Report for the Southport Sacramento River Early Implementation Project, West Sacramento, CA****AGENCY:** Department of the Army, U.S. Army Corps of Engineers; DoD.**ACTION:** Notice of Intent.

**SUMMARY:** This notice is a revision of the Notice of Intent published August 26, 2011 (76 FR 53423). Pursuant to the National Environmental Policy Act of 1969, as amended, and the California Environmental Quality Act (CEQA), the U.S. Army Corps of Engineers (USACE) is preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408), and Section 404 of the Clean Water Act (33 U.S.C. 1344), for the proposed Southport Sacramento

River Early Implementation Project (EIP), sponsored by the West Sacramento Area Flood Control Agency (WSAFCA). Figures of the project area can be viewed at <http://www.cityofwestsacramento.org/city/flood>. WSAFCA is planning the Southport Sacramento River EIP to implement flood-risk management measures along the Sacramento River South Levee in the City of West Sacramento, Yolo County, CA. Since publication of the 2011 Notice of Intent, WSAFCA has expanded the study area to include additional potential soil borrow sites. Material from these borrow sites may be used as part of project construction. The potential construction area extends along the right (west) bank of the Sacramento River south of the Barge Canal downstream approximately 6 miles to the South Cross Levee, adjacent to the Southport community of West Sacramento. The potential soil borrow sites are located to the east and west of southern Jefferson Blvd.; adjacent to the construction area; immediately west of the Sacramento Deep Water Ship Channel; and south of the South Cross Levee. In order to implement the project, the sponsor must receive permission from USACE to alter the Federal project under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408 or, Section 408). USACE also has authority under Section 404 of the Clean Water Act (33 U.S.C. 1344) over activities involving the discharge of dredged or fill material to waters of the United States, which are known to be in the project area. The project would bring the levee up to current Federal and state levee design standards, and provide some opportunities for ecosystem restoration and public recreation. USACE, acting as the federal lead agency under NEPA, and WSAFCA, acting as the state lead agency under the CEQA in coordination with the Central Valley Flood Protection Board, have determined that an EIS/EIR should be prepared to describe alternatives, potential environmental effects, and mitigation measures.

**DATES:** Written comments regarding the scope of the environmental analysis should be received by April 8, 2013.

**ADDRESSES:** Written comments concerning this study and requests to be included on the Southport Sacramento River Early Implementation Project mailing list should be submitted to Ms. Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK-PD-R), 1325 J Street, Sacramento, CA 95814.

**FOR FURTHER INFORMATION CONTACT:** Ms. Tanis Toland via telephone at (916)

557-6717, email: [Tanis.J.Toland@usace.army.mil](mailto:Tanis.J.Toland@usace.army.mil) or regular mail at (see **ADDRESSES**).

#### **SUPPLEMENTARY INFORMATION:**

1. *Proposed Action.* WSAFCA is proposing a project along the Sacramento River west levee under the California Department of Water Resources' Early Implementation Program to expeditiously complete flood-risk reduction measures. Known as the Southport Sacramento River EIP, the project proposes implementation of flood-risk reduction measures along a 6-mile long reach between the Barge Canal downstream to the South Cross Levee. Improvements to the levee would address through-seepage, under-seepage, and embankment instability (e.g., overly steepened slopes). As part of the project, an EIS/EIR is being prepared. USACE has authority under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408), over alterations to federal flood control project levees and any such alterations as proposed by WSAFCA are subject to approval by USACE. USACE also has authority under Section 404 of the Clean Water Act (33 U.S.C. 1344) over activities involving the discharge of dredged or fill material to waters of the United States, which are known to be in the project area. Under Section 10 of the Rivers and Harbors Act, the District Engineer may permit activities which do not affect navigable waters. Due to these authorities, USACE is the lead agency for the EIS pursuant to NEPA. WSAFCA is the lead agency for the EIR according to CEQA as the public agency that has the principal responsibility for carrying out and approving the project.

2. *Alternatives.* The EIS/EIR will consider several alternatives for reducing flood damage. Each alternative analyzed during the investigation will consist of a combination of several measures to reduce the risk of flooding. These measures include, but are not limited to, installing slurry cutoff walls, constructing seepage or stability berms, relief wells, rock slope protection, slope flattening, and potential new levee alignments (setback or adjacent levees).

#### 3. *Scoping Process.*

a. Public scoping meetings were held on September 15, 2011, to present information to the public and receive comments from the public on the project. An additional public scoping meeting will be held to present an overview of changes to the scope of the EIS/EIR since publication of the 2011 Notice of Intent, and to afford all interested parties with an opportunity to provide comments regarding the scope of analysis and potential alternatives. A

public scoping meeting will be held on March 28, 2013, at 5:30 p.m. at the City of West Sacramento City Hall Galleria Room, 1110 W. Capitol Ave., West Sacramento, CA 95691. The presentation will begin at 6:00 p.m. Scoping comments previously submitted following publication of the original August 26, 2011, Notice of Intent are still valid and need not be resubmitted.

b. Potentially significant issues to be analyzed in depth in the EIS/EIR include effects on hydraulics, wetlands and other waters of the U.S., vegetation and wildlife resources, special-status species, aesthetics, cultural resources, recreation, land use, fisheries, agricultural resources, water quality, air quality, transportation, and socioeconomic; and cumulative effects of related projects in the study area.

c. USACE is consulting with the State Historic Preservation Officer to comply with the National Historic Preservation Act, and with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act. USACE is also coordinating with the U.S. Fish and Wildlife Service to comply with the Fish and Wildlife Coordination Act.

d. A 45-day public review period will be provided for all interested parties, individuals, and agencies to review and comment on the draft EIS/EIR. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the draft EIS/EIR circulation.

4. *Availability.* The draft EIS/EIR is currently scheduled to be available for public review and comment in Summer 2013.

Dated: March 7, 2013.

**William J. Leady,**

*Colonel, U.S. Army, District Commander.*

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**BILLING CODE 3720-58-P**

## **DEPARTMENT OF EDUCATION**

### **List of Correspondence From July 1, 2012, Through September 30, 2012**

**AGENCY:** Office of Special Education and Rehabilitative Services; Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is publishing the following list of correspondence from the U.S. Department of Education (Department) to individuals during the previous quarter. The correspondence describes the Department's interpretations of the Individuals with

Disabilities Education Act (IDEA) or the regulations that implement the IDEA. This list and the letters or other documents described in this list, with personally identifiable information redacted, as appropriate, can be found at: <http://www2.ed.gov/policy/speced/guid/idea/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Jill Harris or Mary Louise Dirrigl. Telephone: (202) 245-7372.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you can call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of this list and the letters or other documents described in this list in an accessible format (e.g., braille, large print, audiotope, or compact disc) by contacting Jill Harris or Mary Louise Dirrigl at (202) 245-7372.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from July 1, 2012, through September 30, 2012.

Under section 607(f) of the IDEA, the Secretary is required to publish this list quarterly in the **Federal Register**. The list includes those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, and it may also include letters and other documents that the Department believes will assist the public in understanding the requirements of the law. The list identifies the date and topic of each letter, and it provides summary information, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been redacted, as appropriate.

### **Part B—Assistance for Education of All Children With Disabilities**

#### *Section 612—State Eligibility*

Topic Addressed: Children in Private Schools

- Letter dated August 8, 2012, to Missoula County Public Schools Superintendent Alex P. Apostle, regarding how a local educational agency (LEA) can meet equitable services requirements for parentally-placed private school children with disabilities if student enrollment changes during the school year.

#### *Section 613—Local Educational Agency Eligibility*

Topic Addressed: Maintenance of Effort

- Letter dated August 20, 2012, to Beth Swedeen, Lynn Breedlove, and Maureen Ryan, co-chairs of the Survival