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General Services Administration
FAR Secretariat (MVA)
1800 F Street, N.W., Room 4035
ATTN: Laurie Duarte
Washington, DC 20405

RE: Comments on FAR Case 2002-001

For the past 15 years I have been actively engaged in providing advice and assistance to hundreds of printers, a printing trade association, government contractors, and federal departments and agencies. I have also attempted to provide information, advice, and assistance to OMB staff as it attempts to modernize and reform the federal print procurement system.

As an attorney, I am keenly aware of the legal dispute regarding the constitutionality and enforceability of 44 U.S.C. 501. While that issue may ultimately affect the way in which executive branch agencies meet their printing needs, no comments by my office or anyone else can resolve that dispute. Therefore, my comments address only issues that I believe relate directly to the efficiency and effectiveness of the proposed FAR regulation.

While there are a number of minor issues that could be addressed, including the need for an integrated, virtually centralized electronic procurement system, I have confined my comments to major areas that I believe should be addressed in order to provide an effective and fair print procurement system. Those comments are attached.

My attached revised comments are submitted on my behalf; not on behalf of, for, or with the approval of any present or past legal or consulting client. I believe that the information is both accurate and objective.

Sincerely,



Frederic G. Antoun, Jr.

FGA/mhw

Attachment: Comments on FAR Case 2002-001

Comments on Proposed FAR Regulation [FAR Case 2002-011]

Submitted by:

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1. There is universally strong support for a transition to best value type awards in the purchase of Federal Government print.

Printers want consideration of good quality, service, and on-time delivery. Agencies want the best value for the taxpayer's dollars. Even GPO, admittedly as a result of OMB Memo M-02-07, is working with its agency customers and vendors to develop best value type award criteria that can take advantage of its decades of detailed printer performance data.

2. The proposed rule's requirement that agencies provide the Superintendent of Documents with government publications is a historic change that will benefit the libraries and the public.

In order to provide improved access to government information to library and information community, Congress, and the public, the proposed FAR provides, for the first time in an executive branch regulation, that all government agencies must furnish a copy of all government publications to the Superintendent of Documents (SuDocs). The SuDocs then handles distribution to the 1300 depository libraries throughout the country, and to GPO bookstores, and mounts the publication/information on the GPO's public access website. This new rule should dramatically reduce the current high number of "fugitive" government documents (those that are not sent to the SuDocs) and significantly enhance public access.

The proposal also provides a mechanism for SuDocs to "ride" agency print orders by adding its order for depository library and distribution copies of government publications to agency print contracts with private sector printers.

3. The proposed regulations should clearly distinguish between agency's use of GPO as a private sector print procurement agent and GPO's role as a printer that actually produces printed products.

GPO has, by statute, historically filled two separate and very different roles:

a. GPO, the "Government Printer," operates a large printing plant in Washington, D.C., whereat it produces not only work for the U.S. Congress, but also Executive Branch agencies;

b. GPO acts as a buying agent for Executive Branch agencies, contracting out their printing needs to the private sector.

Over the last two decades, GPO's role as a private sector buying agent for Executive Branch agencies has increased. Today, GPO buys between 75% and 80% of Executive Branch printing directly from the private sector, after publication of all job opportunities, and opened competition.

These two roles are separate and distinct, but they seem to be treated together in the FAR regulation.

My understanding of the intent of the FAR regulation, based on Director Daniels and OMB staff statements, is to allow GPO to continue to serve Executive Branch agencies as a buying agent that purchases printing for agencies from the private sector, so long as the agency determines that GPO is offering it the best combination of price, quality, and service for that service. Thus, use of GPO would become optional (as opposed to mandatory).

On the other hand, I understand that the intent of the FAR regulation with regard to actual print production by GPO is that, after January 2004, GPO will have to compete on a job-by-job basis with the private sector for printing GPO wishes to produce in its plant.

By blurring the distinction between these two services, the FAR regulation sets up an impossible situation for both private sector print contractors and Agencies. If GPO has to compete each job it wants to buy for the agencies as a broker, will the private sector printer have to submit two bids: one to GPO; and one directly to the agency? This is not only confusing, but also wasteful. If agencies determine that GPO offers them a better value in print procurement services from the private sector than they can obtain by duplicating those services in-house, will they be prevented from using GPO as their buying agent? Would such a system not be as restrictive and void of choice as the one it replaces?

Agencies should be given the latitude to use GPO as their print-buying agent if the agency determines that doing so provides the best procurement service, considering price, quality and service. Nothing should prevent the agency from establishing award requirements that its agent will apply on its behalf (best value type criteria and formulas, objective criteria, etc.).

On the other hand, if GPO wishes to produce the work in-house (not buy it from the private sector as a purchasing agent) then it should have to compete on each job beginning in 2004.

4. The posting period established for FedBizOpps is too long to adequately meet agencies' needs for printed products.

Over the years, the "turn around time" (the time between the issuance of the solicitation and shipping or delivery of the printed product) for printing jobs produced by the private sector for government agencies, whether through GPO or directly, has continuously shortened.

Typical turn around times run between 3 and 10 days for jobs between \$10,000 and \$25,000; jobs under \$10,000 routinely have turn around times between 2 days and 5 days. Jobs under \$2,500 (80% of the number of jobs purchased from the private sector for agencies through the GPO) often require a quote to be submitted within 1 or 2 days. Statistics maintained by the leading government printing bid service, ABC Advisor's, Inc., show that 58% of the agency print jobs required quotes to be submitted within less than 2 business days of posting.

This shortening of not only the time to submit a quote, but also the time to obtain the product has been facilitated by two factors: 1) significant advances in printing technology; and 2) the proliferation over a number of decades of small, conveniently located printing businesses that are able to meet customer needs on what often seems like an impossibly short schedule.

Now that agency customers have become used to being able to obtain their printing almost on demand (hence the term, "print-on-demand"), there is no way to go back to the old days of leisurely bid or quote preparation and lengthy production/delivery cycles.

While the proposed regulation reduces the FedBizOpps publication level from \$25,000 to \$2,500, it does not shorten the 15 day time period provided by the FAR for posting of these job opportunities.

Unless this time period is reduced, the proposed system will not meet federal agencies' needs in today's fast moving environment.

From a logical view point, it seems only reasonable that since the job amount required to be posted for printing jobs is dramatically reduced by the new FAR in order to help small businesses, that the time a job is required to be posted for these printing jobs should likewise be dramatically reduced in order to meet the agencies' needs, and take advantages of the services that the small businesses have to offer.

The normal time between posting and "opening" of jobs under \$25,000 should be reduced to a minimum of 1 day. The normal time between posting and "opening" of jobs over \$25,000 should be reduced to 3 days. These time periods reflect the typical time periods agencies have become used to over the past decade.

5. A method for publicizing printing contract opportunities under \$2,500 should be established, in order to give small businesses access to this work.

For several decades, jobs under \$2,500 have made up over 75% of GPO's volume of orders from federal agencies. Last year, for example, the 117,785 orders procured from the private sector by GPO for federal agencies costing under \$2,500 constituted 80% of GPO's outsourced orders.

Typically, large national and multi-national companies do not produce these low-dollar-volume, quick-turn-around jobs. Rather, they are produced by small printing shops located around the country.

In the last year, 77% of all GPO's outsourced print orders went to small businesses. This volume is very significant to small printers in the private sector.

One of the advantages of the GPO system for these small printing companies is that they can learn of the job opportunities through a private sector bid service that obtains the solicitations from GPO, sorts them according to the printer's capabilities, and provides the printer access via the web.

While the proposed FAR breaks new ground in lowering the dollar value threshold for publication on FedBizOpps to \$2,500 (from \$25,000), it does not address the small business need to easily access the many print job opportunities under \$2,500, in order to submit a quote.

Because of the small dollar value of these jobs and very short quote and production cycles, classic sales efforts and "opportunity discovery" efforts cannot be cost justified for small businesses. Rather, they need a system that will provide these opportunities to them – which has been provided by private sector bid services for more than 25 years. Under the GPO system, the private sector bid services obtain copies of solicitations from the GPO, then sort them and instantly deliver them to small businesses around the country. There is currently no similar system in place under the FAR proposal.

This problem could be addressed in several ways:

- a. The FAR could require that agencies that buy printing without going through GPO make copies of their solicitation available for sale (at cost) to private sector companies to distribute them to small printers, like the current solicitation subscription service operated by GPO; and/or
- b. The FAR could require that agencies that buy their own printing distribute the solicitation (not just a synopsis) on a private sector web-based portal, allowing small businesses approved by the buyer to access these job opportunities; or
- c. Send the job to GPO for open, competitive procurement.

Failure to address this problem will harm small businesses. It will also increase cost: the price on these 117,785 jobs under \$2,500 will increase substantially due to lack of competition. A recent study of government printing jobs shows a significant price increase without competition. http://www.printlaw.com/print_study.pdf

6. Any applicable small business set-asides for orders between \$2,501 and \$100,000 should be waived for printing.

The vast majority of printing companies in the United States qualify as small businesses under current standards. Currently, 77% of government print orders going to the private sector are awarded to small businesses—even though the GPO has no small business set-aside. The small business disadvantage present in other industries is absent in the government printing market.

In the printing industry, orders between \$50,000 and \$100,000 are not considered small jobs. Since jobs in this dollar range can require complex and/or unique production capabilities, excluding large companies adversely affects the agencies' ability to obtain the best value. Given small business' obvious success at capturing the lion's share of this market, allowing large businesses to compete on an equal basis (as has been done for many years under the current system) will not harm small businesses.

7. Print-specific quality standards would significantly increase the new system's efficiency.

I have received many calls from printers who contract to produce work for federal agencies through the GPO (the current system) inquiring as to whether there will be universal standards under the new OMB-proposed agency print procurement system. Printers are concerned, as are some of their agency customers, that the longstanding quality system established in GPO's *Quality Assurance Through Attributes Program* will not be in effect under decentralized agency procurement, and that neither printers nor customers will know what quality or standards are expected on any given job.

Given the 130-year old GPO mandatory system, agencies have never had a need to adopt standards for print production or print products. Even buyers uneducated in print production standards could safely specify a job at one of the GPO's predefined quality levels (Level 4-utility through Level 1-best) to incorporate job quality and performance standards which would protect the agency, and let the printer know exactly what was expected.

I strongly encourage a review of GPO's Supplemental Specifications in *Contract Terms* and the *Quality Assurance Through Attributes Program*, to determine if, after revised as necessary, such standards could be incorporated into the FAR. Alternatively, OMB either through the FAR or through another management vehicle could encourage agencies to reference GPO's QATAP Standards (Level 4 through Level 1) when ordering print.

Of course, agencies could supplement or override standard quality requirements when they deem appropriate.