FREDERIC G. ANTOUN, JR.
ATTORNEY AT LAW
247 LINCOLN WAY EAST
CHAMBERSBURG PA 17201-2295

717-261-0998
Fax: 717-263-7328
website: http://www.printlaw.com email: antoun@printlaw.com

To: GPO Printers
From: Fred Antoun
Re: Geographic Area Restrictions on Production of GPO Jobs
Date: September 7, 2000

Printers who have done business with the GPO for many years will remember a time when geographic or "mileage" restrictions on jobs were common. Those geographic restrictions all but ended because of successful challenges by government contractors. These contractor complaints resulted in the adoption of a rule that since geographic restrictions served to limit competition, they should not be used unless they were necessary. With this rule in place, the number of jobs with geographic production restriction areas was severely limited.

However, the pendulum is swinging back, and more and more agencies are asking GPO to include production area geographic restrictions in their specs. The rule of "necessity" to impose geographic or mileage restrictions is still in place, but it seems that factors that constitute such a "necessity" are being expanded.

One of the primary reasons that agencies have used successfully to justify restricted production areas is that they do not have funds in their travel budgets for the desired press sheet inspections.[1] This argument has been successful, because an agency's travel budget is separate from its printing budget. As a result, an agency may have$1 million available in its printing budget, but only $1,000 available in its travel budget, and thus cannot afford to travel from Washington to Chicago for a press sheet inspection. Whether or not agencies are really requesting a mileage restriction because of limited travel budget, or because they would rather deal with a local printer, the result has been the same: GPO is receiving more and more requests for geographic area restrictions from agencies. Although GPO does not favor geographical area restrictions, it often is forced to accept the demands of its agency customers, and we are seeing more and more GPO jobs with geographical area restrictions.

[1] Another argument that agencies have used successfully is that, due to limited staff, they simply cannot afford to have personnel out of the office for press sheet inspections. However, although this argument may seem logical, it cannot support a mileage limitation of 200, or 100, or even 60 miles. The reason for this is that, given traffic in and around Washington, DC, travel to a location 60 miles away can easily take an hour and a half to two hours. That same time would allow agency personnel to take a quick cab or a Metro to National Airport, and be at a location in the Southeast or Midwest. Therefore, the argument that the area needs to be restricted to limit time out of the office often has no merit. What it boils down to is the cost of flying and per diem expenses, and these costs can be included as a factor in the basis of award in order to equalize the total price bid by a local printer and a printer several hundred miles away.

The result of geographical area restrictions could be a substantial overpayment of taxpayers' money for particular printing jobs. For example, assume that the lowest bid from printers within a 60 mile restricted radius of Washington, DC on a particular job is $100,000. Printers in Kentucky or Illinois bid $80,000 to produce the same work, but their bid is non-responsive because they are outside of the 60-mile production area. Assume travel expenses and "per diem" expenses for agency and/or GPO Central Office personnel traveling to Kentucky or Illinois for a press sheet inspection total $3,500. With the mileage restriction in place, the result is that the agency spends $16,500 more for the same job. One would think that this type of loss would prevent the agencies from requesting such restrictions. However, it has not.

Obviously, GPO printers with plants outside of the usual geographic restriction areas around Washington, DC, where most of the larger jobs are issued, are becoming very concerned. GPO too is concerned, and has issued Circular Letter 464 requesting that agencies not impose geographic restrictions unless they are truly necessary and supported by a written justification for that particular contract.

In Circular Letter 464, GPO's Customer Service Director, Jim Bradley, gives agencies a number of alternatives to imposing geographic restrictions. One of those suggestions is that agencies include the cost of press/bindery inspections as a factor in determining the low bid. Using this method, award is based on the lowest actual cost to the government (similar to the way the GPO computes low cost when it uses GBLs). This methodology has been available for many years, but it is simply not used by many agencies. **GPO has also developed a new service that addresses the problem of limited travel funds.** In Circular Letter 464 GPO announced that where travel budget funds were limited, thus restricting the agency's ability to go from Washington to the Midwest or West Coast for a press sheet inspection, even if it would result in a lower total price, GPO will pay for agency travel, and then charge those costs to the agency's printing and binding account. This neatly resolves the agency's problem of limited travel budget, and should make mileage restrictions due to limited travel funds unnecessary, and therefore unsupportable.

Unfortunately, Circular Letter 464 and its new methods of handling problems which previously resulted in geographic area restricted specifications has been out for almost 4 months, and geographic restrictions have not substantially diminished

GPO's problem is that with attacks from some in Congress and some agencies on its need to exist, it apparently does not feel it is in a position to "demand" that agencies adopt the methods in Circular Letter 64 to avoid geographic area bid restrictions. Instead, it lists those methods as "suggestions".

GPO printers are not being so polite. Mileage area restrictions not only waste their tax dollars in many instances, but also deprive them of the opportunity to compete on a job that they can produce in compliance with all specifications and quality requirements, and deliver on time.

This office has already been contacted by several GPO printers who wish to establish a rule (not a suggestion) through GPO or the General Accounting Office that prevents the use of mileage restrictions on GPO contracts unless they are truly necessary. (An example would be contracts for copying or demand printing that require daily pickup and delivery with same-day turnaround).

If you are interested in receiving more information, a copy of Circular Letter 464, or joining the group of printers concerned with geographic area bid restrictions, contact my administrative assistant, Meg Wissinger.