

FREDERIC G. ANTOUN, JR.

ATTORNEY AT LAW

14 NORTH MAIN STREET, SUITE 406
CHAMBERSBURG PA 17201-1814

717-261-0998

Fax: 717-263-7328

website: <http://www.printlaw.com>

email: antoun@printlaw.com

January 9, 2002

To: GPO Printers
From: Fred Antoun

Re: Administration Proposal to Make the Government Printing Office (GPO) an Optional Source for Agency Print Procurement

Background.

As all GPO printers know, GPO's volume (such as it is lately) is maintained by a law requiring that agencies go through GPO to procure their printing (44 U.S.C. 501). GPO then publicly posts all of its printing opportunities (with the exception of a very small number of jobs that turn around in less than a few hours) so that private sector printers have an opportunity to submit a quote or bid. Although GPO does do some of the agency printing in-house (most notably, the daily Federal Register, passports, and the Budget) it contracts out about 75% of all agency printing to the private sector. Printers who do government work have come to rely on the GPO's system of open competition to fill idle press time, and in some cases, to keep the plant doors open. The Federal Government also gains from this symbiotic relationship: it receives what are unarguable the lowest prices in the industry for all types of printed products.

Agencies have long had a love-hate relationship with GPO. Most agencies do not have the funding to hire print procurement personnel, and the GPO neatly fills that need. However, agencies do all of their other buying on "best value," which takes into account not only price, but also quality, service, and past performance. This latitude allows the agencies to make a judgment call, choosing a vendor that charges a few dollars more for better quality/service.

GPO, on the other hand, after the vendor meets the *minimum* requirements with regard to quality, capability, and on time delivery, he is judged responsible, and the competition boils down to lowest-price-wins.

Many GPO printers have joined with the agencies over the past few years arguing that GPO should adopt the "best value" procurement methodology in order to reward those printers that do more than the minimum required to get by. However, GPO has steadfastly maintained its low-price-wins procurement methodology, with one notable exception - the Simplified Purchase Agreements (SPA). Under the SPA, GPO issues a

blanket purchase order to a number of vendors to produce a wide variety of projects for a particular agency or group of agencies. The agencies then place the order with the printer they choose, based upon their determination of best value, after reviewing price, quality, service, and past performance. In other words, they do not have to send their work to a mediocre vendor who bids \$500 when they can send it to an excellent vendor who bids \$501. All of the agencies that use SPAs have given them high praise. Likewise, most printers on SPAs, whether or not they are receiving the bulk of the work, recognize that SPAs will include a lot of the agency work that Government printers simply did not see before, as it was being done in-house, or not going through the GPO.

A New Threat to GPO.

One of the first new programs announced by President Bush was the “Freedom to Manage” initiative, under which legislative proposals giving government agencies to make cost saving or time saving changes would be fast-tracked through Congress.

We believe that the proposal originally came from the Office of Management and Budget (OMB), the Executive Branch management agency that responds to and functions directly under the White House. If giving agencies more authority to make cost saving changes and streamline operations sounds familiar, it is because that was the theme of the Clinton Administration’s “Reinventing Government” initiative spearheaded by former Vice-President Al Gore. The Reinventing Government initiative was, to a great extent, a success, as far as a number of federal agencies are concerned. However, many of its goals failed, including its desire to make the GPO an optional source for agency print procurement. The Clinton Administration efforts to make GPO optional failed in great part due to vocal challenges by GPO printers, the Library community, and public interest groups that were fearful that the agencies would not provide the Superintendent of Documents with government publications if they were not produced through GPO.

Now, under the Bush Administration, although the philosophy is slightly different, “Freedom to Manage” is strikingly similar to “Reinventing Government” in its stated goals. In fact, the House of Representative’s website traces this new OMB initiative directly back to the reinventing government initiative of which OMB was such a critical part.

Two Senate Bills are thus far involved in the Freedom to Manage initiative. The first, **S. 1612** sets up a procedure for fast tracking what are perceived to be desirable changes in Executive Branch agency management procedures. The second, **S. 1613** sets forth specific initiatives. Although neither Bill specifically mentions GPO, *an OMB representative testifying on November 13, 2001 before the House Rules Committee on “Freedom to Manage” and S. 1613 specifically stated that agencies should not be forced to go to GPO to procure their printing.* Clearly, OMB has resurrected the plan to make

GPO an optional source for agency print procurement, and intends to do so under the “Freedom to Manage” initiative.

Government printer’s reaction to this proposal is mixed: some prefer the GPO system they have come to know over many years; others do not care who buys the printing – as long as they have notice of the jobs and an opportunity to bid. But that is the rub. Under the Federal Acquisition Regulations (FAR) which would govern agency print procurement, there is no requirement to publicly post all jobs and give printers an opportunity to bid. For Small Purchases, all most agencies need to do is get several competitive quotes. When you keep in mind small purchases are for the most part procurements under \$100,000, you can see why the GPO’s system of open competition has been so well received by government printers. Without such a system, government printers tell me they would have to hire a huge sales force to scour federal offices throughout the country just to “dig up” printing opportunities to quote.

Even government printers like the idea that awards of printing contracts would be based on “best value,” are very concerned that they will miss a substantial number of opportunities if the GPO’s system of open posting goes away. These printers know that the “bids services” they currently use may not have access to agency jobs the way they have access to publicly posted GPO jobs.

PIA Position. This same dilemma came up during the Reinventing Government push in 93-94, and Printing Industries of America (PIA) took the position that Congress should review all the facts and decide whether or not GPO should be optional – but, that any system of print procurement to be adopted would have a requirement that all jobs over \$500 in value be publicly posted on the internet on a website managed by GPO, to allow private sector printers free access to contract opportunities. Much to the surprise of printers supporting the effort, PIA succeeded in obtaining OMB’s agreement to public posting of printing opportunities, even if agencies were buying their own printing. Agencies were more than ready to accept the posting obligation if they received the right to buy some (or all) of their own printing based on best value, as opposed to lowest price wins.

Clearly, many government printers will want the same guarantee of public posting in any new “Freedom to Manage” legislation and Executive Branch initiatives affecting GPO. The critical factor here is not that these printing companies want to tell the government how to run its business, but rather, that they want to be guaranteed the right to at least know about jobs so they can place a bid or quote if they desire.

Your Opinion?

Since any “restructuring” of the way in which the government buys printing can seriously affect GPO printers, I would like to know your opinion about this possible change. Do

you support a change making the GPO optional, with no requirement that agencies publicly post their print job opportunities? Would you support a change allowing agencies to buy their own printing using “best value” instead of “lowest-price-wins,” only if they were required to publicly post job opportunities over a certain dollar amount? Are you opposed to any change in the current system, and believe the GPO should continue to be the mandatory source for print procurement by agencies of the federal government?

Please call my office at the above number, and let us know your position as soon as possible.

If you would like a copy of the proposed legislation, send me an email request to antoun@printlaw.com or call DeEtta at 717-261-9595.

© Copyright 2001 Frederic G. Antoun Jr. Re-distribution permitted only in this form.