

M.L.G., a resident of Florida; he prescribed propoxyphene and acetaminophen, a schedule IV controlled substance, to M.S.E., a resident of Colorado; and on two occasions, he prescribed alprazolam, a schedule IV controlled substance to B.P., a resident of Florida.

Third, Respondent violated the MOA's prohibition against his prescribing to a member of his immediate family. More specifically, on September 24, 2007, Respondent prescribed 160 tablets of phenobarbital, a schedule IV controlled substance, to his wife. Moreover, when questioned by the DIs regarding the prescription, Respondent denied having called in the prescription and asserted that he had only called in a refill of an earlier prescription which had been written by another physician. Respondent's statement was false because the other physician had authorized refills for only sixteen tablets, and it was materially false because the MOA prohibited him from prescribing to a family member and was thus capable of influencing the decision of the Agency as to whether to seek the revocation of his registration. *See David A. Hoxie, M.D.*, 69 FR 51477, 51479 (2004) (considering false statements to investigators under factor five).

Fourth, Respondent violated the MOA's requirement that he maintain a log of all controlled-substance prescriptions he issued. More specifically, Respondent failed to document fourteen controlled-substance prescriptions in the log.

Finally, Respondent violated the MOA's requirement that he notify DEA, in writing, within twenty days, of "the initiation of any action by a state entity to \* \* \* suspend, revoke, or otherwise limit [his] authority to handle controlled substances." Notwithstanding that the State filed an Administrative Complaint against him, which sought to impose sanctions on his medical license and his authority to handle controlled substances, *see Mich. Comp. Laws § 333.7311(6)*, Respondent failed to notify DEA that the proceeding had been brought.

DEA has long held that a registrant's failure to comply with the terms of an MOA can constitute acts which render his registration inconsistent with the public interest. *See Fredal Pharmacy*, 55 FR 53592, 53593 (1990) (holding that pharmacy which violated MOA "ha[d] engaged in conduct which threatens the public health and safety"). This is so even if the violation of the MOA does not establish a violation of the CSA or its implementing regulations. Moreover, Respondent's various violations of the

MOA, as well as his having made a false statement to the Investigators, show that he cannot be trusted to faithfully comply with the obligations of a registrant. I therefore conclude that Respondent's registration should be revoked and his pending application should be denied.

#### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a)(4), as well as by 28 CFR 0.100(b) & 0.104, I order that DEA Certificate of Registration, AF9086415, issued to Erwin E. Feldman, D.O., be, and it hereby is, revoked. I further order that any application of Erwin E. Feldman, D.O., to renew or modify such registration, be, and it hereby is, denied. This Order is effective April 25, 2011.

Dated: March 10, 2011.

**Michele M. Leonhart**,  
Administrator.

[FR Doc. 2011-7047 Filed 3-24-11; 8:45 am]

BILLING CODE 4410-09-P

## DEPARTMENT OF JUSTICE

### Federal Bureau of Prisons

**Finding of No Significant Impact; Notice of Availability of the Finding of No Significant Impact (FONSI) Concerning a Proposal To Award a Contract for New Low Security Beds to One Private Contractor To House Approximately 1,000 Federal, Low-Security, Adult Male, Non-US Citizen, Criminal Aliens at a Contractor-Owned, Contractor-Operated Correctional Facility**

**AGENCY:** U.S. Department of Justice, Federal Bureau of Prisons.

**ACTION:** Finding of No Significant Impact.

**SUMMARY:** The U.S. Department of Justice, Federal Bureau of Prisons (BOP) announces the availability of the Finding of No Significant Impact (FONSI) concerning the Environmental Assessment (EA) for the proposal to award one or more contracts to house approximately, 1,000 federal, low-security, adult males, criminal aliens within one existing contractor owned, contractor operated facility.

#### Background Information

Growth of the federal inmate population has been substantial over the last two decades. Currently, the increased federal inmate population exceeds the combined rated capacities of the 116 BOP facilities. It is projected that this growth will continue as a result

of actions and programs implemented by the U.S. Department of Justice and the U.S. Department of Homeland Security regarding sentenced and unsentenced criminal aliens.

In response, the BOP is seeking flexibility in managing its current shortage of beds by contracting for those services with non-federal facilities to house federal inmates. This approach provides the BOP with flexibility to meet population capacity needs in a timely fashion, conform to federal law, and maintain fiscal responsibility, while successfully attaining the mission of the BOP.

The BOP proposed action is to award one contract to house approximately 1,000 federal low-security, adult male, non-U.S. citizen, criminal aliens at an existing privately owned and privately operated correctional facility. Under the Proposed Action, the selected contractor would be required to operate the facility in a manner consistent with the mission and requirements of the BOP. All inmate services would be developed in a manner that complies with the BOP's contract requirements, as well as applicable federal, state, and local laws and regulations. The contract also requires that no new construction or expansion of the existing facility occur. In addition, the facility will be within proximity, and have access to, ambulatory, fire and police protection services. The federal inmates assigned to this facility would consist primarily of inmates with sentences of 90 months or less remaining to be served. As described previously these inmates are anticipated to be low-security, adult male, non-U.S. citizen, criminal aliens, however the BOP may designate any inmate within its custody to serve their sentence in this facility. The contract awarded for this action would have one four-year base period and three, two-year option periods, for a maximum term of ten years.

Five existing privately owned and operated correctional facilities in Kentucky, Louisiana, and Texas have been offered in response to the BOP's nationwide solicitation from which the BOP will award one contract to one of the five facilities offered. Each of the following existing facilities has been evaluated in this EA. In addition, the No Action Alternative is evaluated, to determine baseline conditions and comply with the provisions of NEPA.

- Lee Adjustment Center. Located on an approximately 90 acre parcel in Beattyville, Kentucky.
- Limestone County Detention Center. Located on a 293 acre parcel in Groesbeck, Texas.

- Jackson Parish Correctional Center. Located on approximately 20 acres in Jonesboro, Louisiana.

- Pine Prairie Correctional Center. Located on an approximately 15 acre parcel in Pine Prairie, Louisiana.

- Jack Harwell Detention Center. Located on an approximately 20 acre parcel in Waco, Texas.

No other facilities are under consideration by the BOP

### Project Information

Pursuant to Section 102, 42 U.S.C. 4332, of the National Environmental Policy Act (NEPA) of 1969, as amended and the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the BOP published an EA concerning a proposal to award one contract to house approximately 1,000 low-security, adult male, criminal aliens within one existing contractor-owned and contractor-operated correctional facility.

Under the current solicitation, the BOP required that, prior to contract award, offerors provide information regarding past environmental activities and the environmental condition of the proposed sites and institutions. The EA, which is incorporated by reference describes the potential environmental impacts associated with the Action Alternatives, as well as the No Action Alternative. The stated purpose and need was the provision of approximately 1,000 beds although the overall system need is far greater. The document describes baseline environmental conditions, including the natural and human environments, addresses potential environmental impacts of the No Action Alternative and Action Alternatives, and includes appropriate mitigation measures.

Further, as required by the solicitation, the BOP has taken several steps regarding offerors environmental documentation. First, the BOP has independently evaluated and verified the accuracy of the offerors environmental documentation. Second, the BOP has given greater consideration to the proposal which represents the preferred alternative. Third, the BOP reserved the right to eliminate proposals based on the adequacy of the documentation provided by the offeror(s) or the potential impact to the quality of the human environment. Last, the BOP reserved the right to disclose or make public any environmental documentation or other environmental information.

An impact analysis of the alternatives was prepared as part of the EA. The analysis evaluated natural, cultural, and socioeconomic impacts of the Proposed

Action for each of the Action Alternatives. The analysis included the environmental information provided by the offerors, as well as site visits. The BOP published the EA on January 28, 2011 and published a Notice of Availability (NOA) in the **Federal Register** and in local newspapers associated with each of the five proposed alternative locations. The NOA provided a 30-day public comment period which began on January 28, 2011 and ended on February 28, 2011. The BOP also distributed copies of the EA to federal, state and local officials, resource agencies, and other interested parties. No comments were received regarding the EA during the 30-day comment period. However, the BOP did receive a letter from an individual after the end of the comment period containing several comments related to the Lee Adjustment Center alternative in Beattyville, Kentucky. Although this comment letter was received after the comment period ended, the BOP reviewed and considered comments on the Lee Adjustment Center alternative in the NEPA process.

The Limestone County Detention Center in Groesbeck, Texas is the selected alternative that best meets BOP's needs and has no significant impact on the human, natural or cultural environment. Mitigation for the project is not required due to the lack of impacts to natural, cultural, and socioeconomic resources. Implementation of the proposed action at the Limestone County Detention Center in conjunction with past, present, or reasonably foreseeable future actions, is not anticipated to result in major adverse cumulative impacts to natural, cultural or socioeconomic resources in the area.

### Availability of Finding of No Significant Impact

Pursuant to the requirements of the NEPA and subsequent guidelines for preparing environmental documents, including 40 CFR 1506.5(b), the BOP has conducted its own evaluation of the environmental issues and takes responsibility for the scope and content of the EA prepared for New Low Security Beds, January 2011. The BOP has determined that the selected action does not significantly impact the quality of the human environment.

The FONSI and other information regarding the proposed action are available upon request by contacting: Richard A. Cohn, Chief, or Issac J. Gaston, Site Specialist Capacity Planning and Site Selection, Federal Bureau of Prisons, 320 First Street, NW.,

Washington, DC 20534 *Tel:* 202–514–6470, *Fax:* 202–616–6024/*E-mail:* [racohn@bop.gov](mailto:racohn@bop.gov) [origaston@bop.gov](mailto:origaston@bop.gov)

**FOR FURTHER INFORMATION CONTACT:** Richard A. Cohn, or Issac J. Gaston, Federal Bureau of Prisons.

Dated: March 16, 2011.

**Richard A. Cohn,**

*Chief, Capacity Planning and Site Selection Branch.*

[FR Doc. 2011–6819 Filed 3–24–11; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Petition for Classifying Labor Surplus Areas

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) hereby announces the submission of the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, “Petition for Classifying Labor Surplus Areas,” to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

**DATES:** Submit comments on or before April 25, 2011.

**ADDRESSES:** A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor, Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–6929/*Fax:* 202–395–6881 (these are not toll-free numbers), e-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).