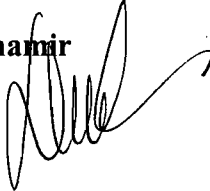


**Office of the Administrator
for
Federal Procurement Policy
Office of Management and Budget**

DATE: June 21, 1999

TO: Ruby Shamir

FROM: Dee Lee

A handwritten signature in black ink, appearing to read 'Dee Lee', is written over the 'FROM:' line and extends slightly into the space below it.

Attached per our conversation.

9.000 Scope of part.

This part prescribes policies, standards, and procedures pertaining to prospective contractors' responsibility; debarment, suspension, and ineligibility; qualified products; first article testing and approval; contractor team arrangements; defense production pools and research and development pools; and organizational conflicts of interest.

Subpart 9.1—Responsible Prospective Contractors

9.100 Scope of subpart.

This subpart prescribes policies, standards, and procedures for determining whether prospective contractors and subcontractors are responsible.

9.101 Definitions.

"Preaward survey" means an evaluation by a surveying activity of a prospective contractor's capability to perform a proposed contract.

"Responsible prospective contractor" means a contractor that meets the standards in 9.104.

"Surveying activity" means the cognizant contract administration office or, if there is no such office, another organization designated by the agency to conduct preaward surveys.

9.102 Applicability.

(a) This subpart applies to all proposed contracts with any prospective contractor that is located—

(1) In the United States, its possessions, or Puerto Rico; or

(2) Elsewhere, unless application of the subpart would be inconsistent with the laws or customs where the contractor is located.

(b) This subpart does not apply to proposed contracts with—

(1) Foreign, State, or local governments;

(2) Other U.S. Government agencies or their instrumentalities; or

(3) Agencies for the blind or other severely handicapped (see Subpart 8.7).

9.103 Policy.

(a) Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only.

(b) No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility. In the absence of information clearly indicating that the prospective contractor is responsible, the contracting officer shall make a determination of nonresponsibility. If the prospective contractor is a small business concern, the contracting officer shall comply with Subpart

19.6, Certificates of Competency and Determinations of Responsibility. (If Section 8(a) of the Small Business Act (15 U.S.C. 637) applies, see Subpart 19.8.)

(c) The award of a contract to a supplier based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries, or other unsatisfactory performance resulting in additional contractual or administrative costs. While it is important that Government purchases be made at the lowest price, this does not require an award to a supplier solely because that supplier submits the lowest offer. A prospective contractor must affirmatively demonstrate its responsibility, including, when necessary, the responsibility of its proposed subcontractors.

9.104 Standards.**9.104-1 General standards.**

To be determined responsible, a prospective contractor must—

(a) Have adequate financial resources to perform the contract, or the ability to obtain them (see 9.104-3(a));

(b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;

(c) Have a satisfactory performance record (see 9.104-3(b) and Subpart 42.15). A prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history, except as provided in 9.104-2;

(d) Have a satisfactory record of integrity and business ethics;

(e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors). (See 9.104-3(a).)

(f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them (see 9.104-3(a)); and

(g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

9.104-2 Special standards.

(a) When it is necessary for a particular acquisition or class of acquisitions, the contracting officer shall develop, with the assistance of appropriate specialists, special standards of responsibility. Special standards may be particularly desirable when experience has demonstrated that unusual expertise or specialized facilities are needed for adequate contract performance. The special standards shall



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

May 28, 1999

Mrs. Eleanor R. Spector
Director, Defense Procurement
The Pentagon, Room 3E144
Washington, DC 20301

Ms. Ida M. Ustad
Deputy Associate Administrator
for Acquisition Policy
General Services Administration
18th and F Streets, NW
Room 4040
Washington, DC 20405

Mr. Thomas S. Luedtke
Acting Associate Administrator for Procurement
National Aeronautics and Space Administration
300 E Street, SW
Room 4L13
Washington, DC 20546

Dear Mrs. Spector, Ms. Ustad and Mr. Luedtke:

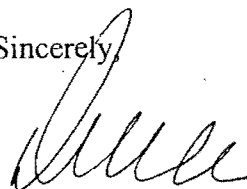
On behalf of the Administration, I am requesting Federal Acquisition Regulatory Council action on the enclosed draft proposed rule.

The draft would add examples to the responsibility criteria found in Federal Acquisition Regulation (FAR) Part 9. In addition, the draft would amend FAR Part 31 to make unallowable the cost of attempting to influence employee decisions with respect to unionization, as well as those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government where a contractor was found to have violated a law or regulation, or where the proceeding was settled by consent or compromise.

It is requested that the FAR issuing agencies review this language for technical sufficiency and propose the respective changes to the FAR in the Federal Register. Given the expected interest that this proposal will generate, I request that the comment deadline period be set at 120 days following date of publication in the Federal Register.

Your attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deidre A. Lee".

Deidre A. Lee
Administrator

Enclosure

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 31

Federal Acquisition Regulation; Contractor
Responsibility; Labor Relations Costs and Costs
Relating to Legal and Other Proceedings

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Acquisition Regulatory Council proposes to amend FAR Parts 9 and 31 to clarify coverage and give examples of suitable contractor responsibility considerations; as well as to make unallowable the costs of 1) attempting to influence employee decisions respecting unionization, and 2) make unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or where the proceeding is settled by consent or compromise.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before [insert date 120 days after Federal Register publication date] to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to:

General Services Administration
FAR Secretariat (MVRS)
18th and F Streets, NW, Room 4035
Attn: Ms. Beverly Fayson
Washington, DC 20405

Please cite FAR case 99-____, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: _____ at _____

in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAR case 99-____.

SUPPLEMENTARY INFORMATION:

A. Background

FAR Responsibility Criteria

The Federal Acquisition Regulatory Council is proposing to amend FAR Part 9 to clarify coverage concerning contractor responsibility considerations, by adding examples of what falls within the existing definition of an "unsatisfactory record of integrity and business ethics." The proposed amendment will provide Contracting Officers with guidance concerning general standards of contractor compliance with applicable laws when making pre-award responsibility determinations. Accordingly, language has been proposed for addition to FAR Subsection 9.104-1(d) and (e).

A prospective contractor's record of compliance with laws and regulations promulgated by the Federal Government are a relevant and important part of the overall responsibility determination. This proposed FAR amendment clarifies the existing rule by providing several examples of what constitutes an unsatisfactory record of compliance with laws and regulations. These examples are premised on the existing principle that the Federal Government should not enter into contracts with law breakers. For example, some Contracting Officers have inquired as to whether a prospective contractor's failure to comply with applicable tax laws may be considered in making a responsibility determination. The proposed rule clarifies that such a circumstance may be considered by the Contracting Officer. Similarly, inquiries have been made concerning contractors with a record of employment discrimination, and whether this circumstance should factor into the overall responsibility determination. Again, the proposed rule attempts to clarify the fact that an established record of employment discrimination would be a relevant part of the Contracting Officer's determination because such a record or pattern is a strong indication of a contractor's overall willingness or capability to comply with applicable laws.

Inquiry has also been made as to whether responsibility determinations must rest upon a final adjudication. Normally, adverse responsibility determinations involving violations of law

or regulation should be based upon a final adjudication by a competent authority concerning the underlying charge. However, in some circumstances, it may be appropriate for the Contracting Officer to base an adverse responsibility determination upon persuasive evidence of substantial non-compliance with a law or regulation, (i.e., not isolated or trivial, but repeated and substantial violations establishing a pattern or practice by a prospective contractor. The facts and circumstances in each such case will require close scrutiny and examination).

An efficient, economical and well-functioning procurement system requires the award of contracts to organizations that meet high standards of integrity and business ethics and have the necessary workplace practices to assure a skilled, stable and productive workforce. This proposal seeks to further the Government's use of best commercial practices by ensuring the Government does business only with high-performing and successful companies that work to maintain a good record of compliance with applicable laws.

Cost Principle Changes

The Council is also proposing to amend the cost principle at FAR 31.205-21 to make unallowable those costs relating to attempts to influence employee decisions respecting unionization. This cost principle change is in furtherance of the Government's long-standing policy to remain neutral with respect to employer-

employee labor disputes (see FAR Part 22). It has come to the Council's attention that some contractors are claiming, as an allowable cost, those activities designed to influence employees with respect to unionization decisions. Inasmuch as a number of cost-based Federal programs have long made these types of costs unallowable as a matter of public policy (e.g., see 29 U.S.C. 1553(c)(1), 42 U.S.C. 1395x(v)(1)(N), 42 U.S.C. 9839(e), and 42 U.S.C. 12634(b)(1)), equity dictates that this same principle be extended to Government contracts, as well.

Finally, the Council is proposing to amend FAR 31.205-47 to make clear that costs relating to legal and other proceedings are unallowable where the outcome is a finding that a contractor has violated a law or regulation, or where the proceeding was settled by consent or compromise (except that such costs may be made allowable to the extent specifically provided as a part of a settlement agreement). At present, the relevant cost principle generally makes unallowable legal and other proceeding costs where, for example, in a criminal proceeding, there is a conviction; or where, for example, in a civil proceeding, there is a monetary penalty imposed. It has been brought to the Council's attention that there are a number of civil proceedings brought by the Federal Government each year that do not result in imposition of a monetary penalty (e.g., NLRB or EEOC proceedings), but which do involve a finding or adjudication that a contractor has violated a law or regulation, and where appropriate remedies are then ordered.

Under the proposed rule, the allowability of legal and other proceedings costs would depend on whether or not a contractor is found to have violated a law or regulation rather than on the nature of the remedy imposed. Taxpayers should not have to pay the legal defense costs associated with adverse decisions against contractors, especially where the proceeding is brought by an agency of the Federal Government.

Additional Considerations

In order to give greater effect to the FAR responsibility clarifications being proposed, the Council would appreciate receiving comments and suggestions concerning whether the provision appearing at FAR 52.209-5 -- "Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters," should be amended to provide for enhanced responsibility disclosure relative to this proposal.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because most contracts awarded to small entities do not involve use of formal responsibility surveys. In addition, most contracts awarded to small entities use simplified acquisition

procedures or are awarded on a competitive fixed-price basis and do not require the submission of cost or pricing data or information other than cost or pricing data, and thus do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small business and other interested parties. Comments from small entities concerning the affected FAR parts also will be considered in accordance with 5 U.S.C. 601. Such comments must be submitted separately and cite 5 U.S.C. 601, et seq. (FAR case 99-___), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed FAR changes do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 9 and 31:

Government procurement.

Dated:

EDWARD C. LOEB,
Director,
Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 9 and 31 are proposed to be amended as set forth below:

PART 9 - CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR Part 9 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Subsection 9.104-1 is proposed to be amended by revising paragraphs (d) and (e) to read as follows:

9.104-1 General standards.

* * * * *

(d) Have a satisfactory record of integrity and business ethics (examples of an unsatisfactory record would include persuasive evidence of the prospective contractor's lack of compliance with tax laws, or substantial noncompliance with labor and employment laws, environmental laws, anti-trust laws and other consumer protections);

(e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors) (see 9.104-3(a)), and the necessary workplace practices addressing matters such as training, worker retention, and legal compliance to assure a skilled, stable and productive workforce;

* * * * *

PART 31 - CONTRACT COST PRINCIPLES AND PROCEDURES

3. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

4. Subsection 31.205-21 is proposed to be amended by redesignating the current text as paragraph "(a)" and adding a paragraph (b) to read as follows:

31.205-21 Labor relations costs.

(a) Costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable.

(b) Costs incurred for activities related to influencing employees respecting unionization are unallowable.

5. Subsection 31.205-47 is proposed to be amended by adding a new subparagraph (f)(9) to read as follows:

31.205-47 Costs related to legal and other proceedings.

* * * * *

(f) * * *

(9) Defense of judicial or administrative proceedings brought by the Federal Government for violation of, or failure to comply with, law or regulation by the contractor (including its agents or employees), where (i) the contractor was found to have violated a law or regulation or (ii) the proceeding was settled, except that costs not otherwise unallowable may be allowed to the extent specifically provided as part of a settlement agreement

between the contractor and the Federal Government resolving the proceeding by consent or compromise.

Administration

■ GORE'S CONTRACT WITH LABOR

BY ALEXIS SIMENDINGER

Much to the consternation of business interests and some Republicans on Capitol Hill, Vice President Al Gore is on the verge of fulfilling a powerful promise he made to organized labor more than two years ago.

"The Clinton Administration will seek to bar companies with poor labor records from receiving federal contracts," Gore told the AFL-CIO Executive Council in February 1997. A company that wants to do business with the federal government had "better maintain a safe workplace and respect civil, human, and union rights," he said.

By the end of June or perhaps early in July, the Administration will publish its proposal to modify existing federal contracting rules and bar businesses that have a track record of violating federal law or regulations—whether or not such violations have been charged and proven before an appropriate authority.

Championing workers' rights to organize, the proposed rule changes also would expressly prohibit companies that contract with the government from trying to recoup from taxpayers the costs of anything they do to influence employees' unionization decisions. And the new provisions would bar government contractors from recovering the costs of legal proceedings if they are not found innocent of an alleged legal or regulatory violation.

The proposed rule changes, referred to in the business community as the "blacklist regs," would give government contracting officials broad latitude to disqualify companies because of "repeated and substantial violations establishing a pattern or practice" of noncompliance with laws or regulations, including tax, labor, employment, environmental protection, and antitrust measures, and other consumer safeguards, according to a copy of the proposal to be published in the *Federal Register*.

White House and labor officials said the proposed rule changes are sound public policy developed in response to real problems in the contracting world. The business community views the language as nothing more than a well-timed gift from Gore to labor—a constituency the Vice President hopes to mobilize in full force on his behalf in the presidential race next year.

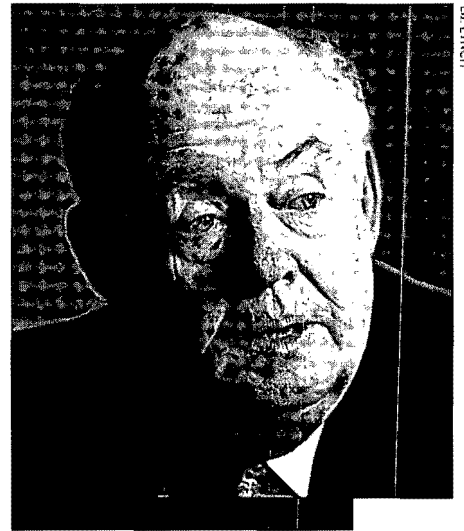
"It's purely a political fix," said a legislative aide to Rep. Charlie Norwood, R-Ga., a House Education and the Workforce Committee member who opposes the White House efforts. "It's a solution in search of a problem."

White House and AFL-CIO officials deny that either the substance or the timing of the proposal has anything to do with political wooing. "I don't consider it a pay-back at all," said AFL-CIO Legislative Director Peggy Taylor. "I guess that's what the business community is saying."

Maybe so, but the opportunity for Gore to tell unions that promises made are promises kept can only help him, at a time when some union presidents within the AFL-CIO are reluctant to endorse Gore, because of differences with the Administration over trade. The Vice President is expected to meet with the holdouts before the AFL-CIO's Executive Council meets in Chicago in August.

"The Vice President has a very long-standing record of supporting labor, especially in the area of the right to organize," said Gore spokesman Christopher S. Lehane. "He has followed [the proposal] and has paid a great deal of attention to it because it will help labor in its efforts to continue organizing."

Companies that do business with the government worry that the effect of the new contracting rules will be to hand unions a powerful tool for influencing some of the \$200 billion spent in federal contracts each year—and for organizing



JOHN J. SWEENEY: His 1997 memo plowed the ground for the rule change soon to be proposed by the Clinton Administration.

the labor force employed by contractors and subcontractors. The discretion that would be handed to federal contracting officers to determine which businesses "meet high standards of integrity and business ethics" has contractors up in arms.

"That's our fear," explained Jeffrey D. Shoaf, executive director for congressional relations with the Associated General Contractors of America. "You end up putting the procurement officer in the position of having to judge the validity of these charges. I'm not saying labor unions or others would make bogus charges, but they may not be fully informed when they make these charges."

The Administration is set to publish its proposed regulatory changes with a request for public comment over a 120-day period that would stretch until October or November, after which the rules could become final. The anticipated controversy over the proposed rule changes, however, means that some congressional Republicans may attempt to punish the White House by using the appropriations process, freezing nominations, or countering with legislation designed to undo the regulatory changes, even if President Clinton's veto is assured, said House Republican sources.

Some observers suggest that the White House, expecting the firestorm, is simply more interested in finally demonstrating its effort to honor a commitment Gore made to the unions than in worrying about whether the proposal clears the hurdles to yield enforceable rules.

Even if the regulatory changes take effect before the Clinton-Gore Administration ends, the business community, which for two years has been organizing to slay the promised rule change, is all but certain to take the issue to court.

Just to get the proposed rule out of the White House took some doing because of disagreements about what constitutes smart politics and what constitutes smart use of the government's regulatory clout. This proposal is "not an analytically good thing to do, with clear benefits to the procurement system that will buy more for the public, or that will have any good-government logic to it," said one Administration official.



AL GORE: "The Clinton Administration will seek to bar companies with poor labor records from receiving federal contracts."

Deidre A. Lee, administrator of the Office of Management and Budget's Office of Federal Procurement Policy, inherited Gore's pledge when she arrived at the White House in 1998, after spending her government career managing procurement for the National Aeronautics and Space Administration and the Defense

FEDERAL CONTRACT DOLLARS			
(in billions)			
FISCAL YEAR	CIVILIAN	DEFENSE	TOTAL
1991	\$54.8	\$134.8	\$189.6
1992	\$57.3	\$120.3	\$177.6
1993	\$57.2	\$121.4	\$178.6
1994	\$56.8	\$117.8	\$174.6
1995	\$62.4	\$118.4	\$180.8
1996	\$55.9	\$122.6	\$178.6
1997	\$57.3	\$115.4	\$172.7
1998	\$64.5	\$116.4	\$180.9

SOURCE: U.S. General Services Administration

Department. She has worked closely with Karen A. Tramontano, a former official with the Service Employees International Union who is now a top aide to White House Chief of Staff John D. Podesta and who was asked by the White House to get the proposal drafted. Lee said the goal of the White House plan is to clarify what existing contracting requirements mean when they say contractors must have "a satisfactory record of integrity and business ethics."

"I have confidence in our contracting officers that they can take this information and make good, sound business decisions," Lee said.

One of the unresolved questions attached to the proposed rule is how procurement officers are supposed to cross-check contractors against records of their labor and employment performance. "We've asked for comments to deal with that," Tramontano said. "We're not developing a blacklist of any type."

White House officials believe there is enough of a problem with lawbreakers who manage to secure lucrative government contracts to warrant a tougher rule, but not enough to justify the business community's anxiety.

There must be a significant pattern of violation, not isolated instances, to bar a contractor from federal work, they insist. The White House is not disclosing any statistics or examples of "bad actors" winning contracts, insisting that the Administration purposely sought to avoid the "black-listing" charge, and therefore focused on the problem in the abstract, rather than on any specific cases.

"We would talk in terms of hypotheticals," one official said. "It may not be a big problem, but there are circumstances, and again, I don't know the specific cases."

AFL-CIO President John J. Sweeney, in an eight-page memo distributed to the national and international union presidents in March 1997, initiated a fact-finding effort to gather the kind of specifics that would justify the rule change that Sweeney sought and that Gore promised. In his memo, Sweeney said the AFL-CIO needed data "to withstand Republican and business community opposition in Congress and the courts." Taylor said she did not remember the AFL-CIO sharing the information with the Administration.

The White House thinks the business community's lather over the contracting proposal and accusations of political pandering are overwrought. "It's important to remember that over two years ago, a series of concerns were raised [and brought] to the Vice President's attention, and we've gone through a process to see if those concerns are real," Tramontano said. "And we concluded that they are. We determined that the current [contracting] regime doesn't deal with those concerns, and we decided that as a matter of public policy, it should."

[The Washington Post]

Style

TUESDAY, MAY 11, 1999

PHOTOCOPY
PRESERVATION

Magazine Reader

Charles Portis, Rambling Back to Arkansas Boyhood

ER CARLSON
Post Staff Writer

s quirky memoir in this month's Atlantic Monthly, Charles Portis rambles and digresses and then digresses and digresses and rambles some it's the kind of sprawling, shapeless ramble that can make an English teacher start muttering and flailing the paper with a red pen. But if you're not an English teacher, it's pure

is the author of several comic books, including "True Grit" and "Norancho," and the delightfully demented "The Great Disruption." He has a cult following and I should stipulate right away that I'm a part of it. Portis's humor is deadpan and frequently comes off as offhand asides. Here's how he describes his memoir of his youth in rural Arkansas:

made my first experiments in swimming underwater at the age of nine. It was something I needed to do in life so as to be ready to give my enemies the slip. At that time there were Nazi spies and Japanese sabo-

spies and saboteurs were, of course, fantasies, there not being a great Axis activity in Arkansas during World War II. But young Portis practiced hiding from them by lying underwater in the river and breathing through a hollow reed which turned out to be more difficult than it was in comic books because the local reeds weren't hollow and his feet wouldn't stay underwater and, as he points out, "when you speak the surface and bob about, you'll catch the eye of the dumbest of

is essay, as in life, Portis doesn't waste much time underwater. Soon, rambling on about his eccentric relatives during the Civil War, Jesse James and the South. Along the way, he reestablishes a relationship between the numbingly normal towns of Arkansas and the churches: "The normal ratio at the time was about two Baptist churches or one Methodist church for every 100 people. It usually took about three gins

to support a Presbyterian church, and a community with, say, four before you found enough tepid idolators to form an Episcopal congregation." He also reveals what Arkansas church elders looked for in a minister in the 1940s: "a wise, saintly, hearty, scholarly, eloquent, thirty-five-year-old Confederate veteran who would be content to live on a small salary."

If that stuff strikes you as funny, you'll love this piece. If not, you'll have to make do with "The Great Disruption," social scientist Francis Fukuyama's dense 18-page study of why crime, illegitimacy and alienation soared in the Western world in the past 40 years—an essay that is fascinating if you like that sort of thing, but considerably less amusing than Portis's piece.

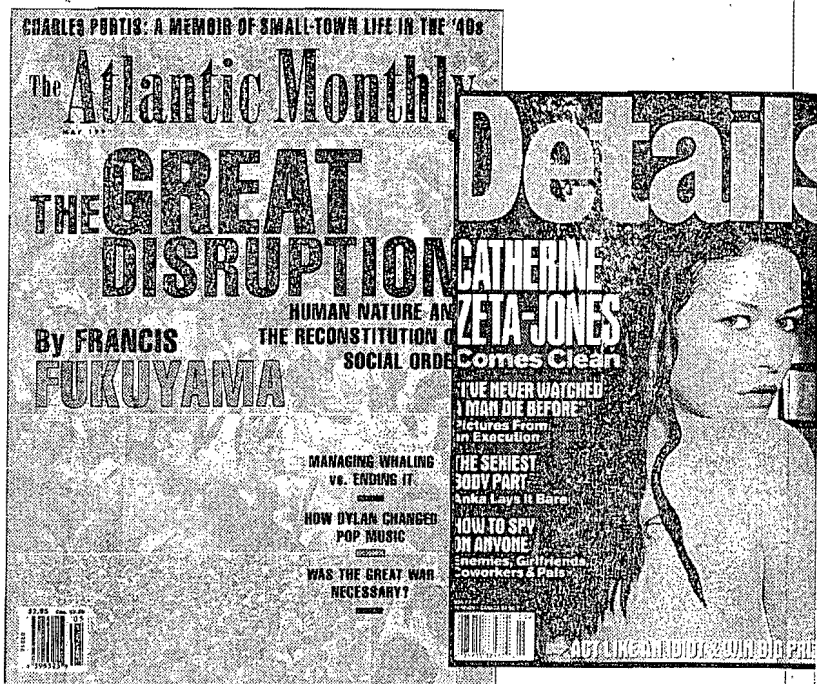
Look for the DOD Label

Back in 1996, when Kathie Lee Gifford's line of Wal-Mart clothes was exposed as the product of underpaid New York sweatshop workers, the Clinton White House launched a campaign to encourage clothing manufacturers to sign a code promising not to exploit workers. Many companies signed up, but the Defense Department—which purchases nearly a billion dollars' worth of uniforms every year—did not.

Now, the May-June issue of Mother Jones magazine reveals that many of our military's uniforms are created in Appalachian factories where women making barely above the minimum wage work in wretched conditions in sweatshops cited for numerous violations of federal workplace safety laws.

In 1997, Vice President Al Gore told AFL-CIO officials that he favored an executive order requiring that companies doing business with the government "maintain a safe workplace and respect civil, human and union rights." But thus far, Gore's boss, Bill Clinton, has not yet issued such an order, so this shameful situation persists.

In the same issue of Mother Jones, there's an interesting piece on Borders bookstores' curious practice of segregating literature. In Borders, you'll find novels by Mark Twain and Nadine Gordimer and other white writers in the



Art is in the Details; at Atlantic, finding the funny amid the social science.

dimer and other white writers in the shelves marked "Literature." But novels by Nobel laureate Toni Morrison and John Edgar Wideman and other black writers are shelved in a separate section called African American literature.

A Borders spokesman explains that "this is what our customers want." But the African American authors quoted in the piece aren't so sure. Wideman calls it "an implicitly destructive practice" that "perpetuates a lot of false ideas about race."

Meanwhile, Barnes & Noble and other book chains have successfully integrated their shelves, according to the article, and books by William Faulkner have thus far managed to get along quite well with books by Ralph Ellison.

Death of a Cartoon Character

Details, a glossy magazine aimed at twentysomething guys, specializes in fluffy stories on sex, style and show biz, but in the May issue there's a weird and fascinating six-page cartoon account of an execution in Virginia.

Cartoonist Kim Deitch covered the October 1998 execution of rapist-murderer Ronald Fitzgerald like a reporter. He interviewed Fitzgerald, his family and the relatives of one of his victims. Then he watched, sketching, while Fitzgerald was strapped to a gurney and killed by a lethal injection.

The result of this reporting is a kind of nonfiction, non-funny comic strip that doesn't moralize but instead captures the humanity of everyone involved. Deitch depicts Fitzgerald's rape and murder spree in vivid detail and then portrays the killer as an affable guy who sports a tattoo that reads "Lethal Injection" and who says, "I'd let 'em revise my execution to let people know you mess up in Virginia, this is what they gonna do to you." This cartoon isn't knee-jerk propaganda. It's a serious—and subtle—work of art.

Cover Line of the Month

Cosmopolitan: "The Star Who Bled Her Cousin . . . and Other Women Who Seem to Have Lost Their Minds"

BOOK WORLD

PHOTOCOPY
PRESERVATION

A Self-Serving Paean to Windows Word

SPEED OF THOUGHT
Windows System

stupidest thing I've ever heard!

that

BE THE
SEE STA

The Magazine Reader

Charles Portis, Rambling Back to Arkansas Boyhood

By PETER CARLSON
Washington Post Staff Writer

In his quirky memoir in this month's *Atlantic Monthly*, Charles Portis rambles and digresses and then digresses from his digressions and rambles some more. It's the kind of sprawling, shapeless essay that can make an English teacher start muttering and flailing away at the paper with a red pen. But if you're not an English teacher, it's pure delight.

Portis is the author of several comic novels, including "True Grit" and "Norwood" and the delightfully demented "Masters of Atlantis." He has a cult following and I should stipulate right away that I am part of it. Portis's humor is droll and deadpan and frequently comes in odd, offhand asides. Here's how he starts this memoir of his youth in rural Arkansas:

"I made my first experiments in breathing underwater at the age of nine, in 1949. It was something I needed to learn in life so as to be ready to give my pursuing enemies the slip. At that time they were Nazi spies and Japanese saboteurs."

The spies and saboteurs were, of course, fantasies, there not being a great deal of Axis activity in Arkansas during the war. But young Portis practiced hiding from them by lying underwater in streams and breathing through a hollow reed, which turned out to be more difficult in real life than it was in comic books because the local reeds weren't hollow, and his feet wouldn't stay underwater and, as he points out, "when toes break the surface and bob about, they will catch the eye of the dullest observer."

In this essay, as in life, Portis doesn't spend much time underwater. Soon, he's rambling on about his eccentric relatives, the Civil War, Jesse James and the New South. Along the way, he reveals the relationship between the number of cotton gins in an Arkansas town and its churches: "The normal ratio at that time and place was about two Baptist churches or one Methodist church per gin. It usually took about three gins

to support a Presbyterian church, and a community with, say, four before you found enough tepid idolators to form an Episcopal congregation." He also reveals what Arkansas church elders looked for in a minister in the 1940s: "a wise, saintly, hearty, scholarly, eloquent, thirty-five-year-old Confederate veteran who would be content to live on a small salary."

If that stuff strikes you as funny, you'll love this piece. If not, you'll have to make do with "The Great Disruption," social scientist Francis Fukuyama's dense 18-page study of why crime, illegitimacy and alienation soared in the Western world in the past 40 years—an essay that is fascinating if you like that sort of thing, but considerably less amusing than Portis's piece.

Look for the DOD Label

Back in 1996, when Kathie Lee Gifford's line of Wal-Mart clothes was exposed as the product of underpaid New York sweatshop workers, the Clinton White House launched a campaign to encourage clothing manufacturers to sign a code promising not to exploit workers. Many companies signed up, but the Defense Department—which purchases nearly a billion dollars' worth of uniforms every year—did not.

Now, the May-June issue of *Mother Jones* magazine reveals that many of our military's uniforms are created in Appalachian factories where women making barely above the minimum wage work in wretched conditions in sweatshops cited for numerous violations of federal workplace safety laws.

In 1997, Vice President Al Gore told AFL-CIO officials that he favored an executive order requiring that companies doing business with the government "maintain a safe workplace and respect civil, human and union rights." But thus far, Gore's boss, Bill Clinton, has not yet issued such an order, so this shameful situation persists.

In the same issue of *Mother Jones*, there's an interesting piece on Borders bookstores' curious practice of segregating literature. In *Borders*, you'll find novels by Mark Twain and Nadine Gordimer and other white writers in the



Art is in the Details; at *Atlantic*, finding the fuzzy amid the social science.

dimer and other white writers in the shelves marked "Literature." But novels by Nobel laureate Toni Morrison and John Edgar Wideman and other black writers are shelved in a separate section called African American literature.

A *Borders* spokesman explains that "this is what our customers want." But the African American authors quoted in the piece aren't so sure. Wideman calls it "an implicitly destructive practice" that "perpetuates a lot of false ideas about race."

Meanwhile, Barnes & Noble and other book chains have successfully integrated their shelves, according to the article, and books by William Faulkner have thus far managed to get along quite well with books by Ralph Ellison.

Death of a Cartoon Character

Details, a glossy magazine aimed at twentysomething guys, specializes in fluffy stories on sex, style and show biz, but in the May issue there's a weird and fascinating six-page cartoon account of an execution in Virginia.

Cartoonist Kim Deitch covered the October 1998 execution of rapist-murderer Ronald Fitzgerald like a reporter. He interviewed Fitzgerald, his family and the relatives of one of his victims. Then he watched, sketching, while Fitzgerald was strapped to a gurney and killed by a lethal injection.

The result of this reporting is a kind of nonfiction, non-funny comic strip that doesn't moralize but instead captures the humanity of everyone involved. Deitch depicts Fitzgerald's rape and murder spree in vivid detail and then portrays the killer as an affable guy who sports a tattoo that reads "Lethal Injection" and who says, "I'd let 'em televise my execution to let people know if you mess up in Virginia, this is what they gonna do to you." This cartoon isn't knee-jerk propaganda. It's a serious—and subtle—work of art.

Cover Line of the Month

Cosmopolitan: "The Star Who Bedded Her Cousin . . . and Other Women Who Seem to Have Lost Their Minds."

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