

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 500.05

EFFECTIVE DATE: 01 April 2022

**SUBJECT: PRISON INDUSTRY
ENHANCEMENT (PIE)
PROGRAM**

POLICY DIRECTIVE

PURPOSE:

To direct the operation and administration of the Prison Industry Enhancement (PIE) Program and work projects certified under the federal Prison Industry Enhancement Certification Program (PIECP).

REFERENCE:

WV Code §§25-7-4, 25-7-13, 25-7-14, 25-7-15, and 25-7-16; and 18 U.S.C. §1761(c).

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DOC Policy Directive 500.05, dated 15 March 2010.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

DEFINITIONS:

Gross Wages: For the purposes of this Policy, all money earned for the total number of hours worked by an inmate who has been employed at any time during the pay period.

Locality: For the purposes of this Policy, the geographic area impacted by the presence of a Prison Industry Enhancement (PIE) Program work project.

Prevailing Wage: A wage rate that is not less than that paid for work of a similar nature in the locality in which the work is to be performed.

Prison Industry Enhancement Certification Program (PIECP): A program authorized under 18 U.S.C. §1761(c) and administered by the WV Division of Corrections and Rehabilitation (DCR) that requires certification by the United States Department of Justice, Bureau of Justice Assistance, of an inmate work program before goods produced through that program can be shipped in interstate commerce.

Prison Industry Enhancement Program (PIE Program): A WV Division of Corrections and Rehabilitation (DCR) inmate work program that is certified under the Prison Industry Enhancement Certification Program and meets the requirements of WV State Code.

Standard Occupational Classification: The system used by federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. All workers are classified into one of over 820 occupations according to their occupational definition.

POLICY:

- I. The Commissioner may establish programs for the employment of inmates by a private person or entity for the manufacture of articles and products as part of a program authorized pursuant to 18 U.S.C. §1761(c), the Prison Industry Enhancement (PIE) Certification Program.
- II. The Commissioner shall designate a Correctional Industries Program Manager to have administrative oversight of the Prison Industry Enhancement Certification Program, Prison Industry Enhancement Program work projects, and other prison industry programs and activities.
- III. Except the inmates noted below, this policy and procedure applies only to inmates working on PIE Program work projects when the goods manufactured will be transported in interstate commerce.
 - A. Inmates involved in the production of agricultural commodities on DCR owned/leased property or parts for the repair of farm machinery;
 - B. Inmates involved in the production of commodities intended for use by the federal government, the District of Columbia, any state or political sub-divisions thereof, or not-for-profit organizations; and
 - C. Inmates who produce goods solely for intrastate transport, and inmates on parole, supervised release, or probation.
 - D. In addition, this policy does not apply to service work contracts with private entities (e.g., repairs, replacement of original manufactured items, packaging, sorting,

recycling, labeling or similar work that is not original equipment manufacturing) as provided for in WV Code §25-7-4.

- IV. Inmates participating in a PIE Program shall be paid compensation as determined by the Commissioner.
- A. In accordance with 18 U.S.C. §1761, inmates participating in a PIE Program work project shall be paid compensation for actual work performed that is not less than the amount paid for work of a similar nature in the locality in which the work is to be performed.
 - B. In no case shall compensation paid be less than federal minimum wage.
 - C. Inmates who work more than forty (40) hours per workweek shall be paid compensation for additional hours worked at a rate equal to one and a half (1½) times their base hourly compensation rate.
 - D. If the Commissioner or his/her designee determines that the DCR shall pay inmates piece work compensation for their participation in a particular PIE Program work project, the piece work compensation rate shall be determined and established by converting the piece work compensation to an hourly compensation equivalent. Piece work compensation shall not result in the inmate drawing less than the equivalent to federal minimum wage for each hour worked regardless of the inmate's level of production nor less than one and a half (1½) times the equivalent to federal minimum wage for each hour worked in excess of a forty (40) hour workweek regardless of the inmate's level of production.
 - E. Prior to implementation of a PIE Program work project and the setting of the compensation rate, the Correctional Industries Program Manager shall request from the West Virginia Division of Labor (WVDOL), or other appropriate agency, data regarding compensation paid for work of a similar nature to the PIE Program work project in the locality in which the work is to be performed.
 - F. The DCR through Correctional Industries shall develop a full job description detailing the duties to be performed for each inmate position being considered.
 - 1. Job descriptions shall be submitted to the WVDOL for a determination of prevailing wage in the locality for that specific type of employment using standard occupational classifications as a guide (e.g., farm laborer, warehouseman, machine operator, shipping and receiving clerk, etc.).
 - 2. The DCR shall request the WVDOL to establish a wage plan that begins at federal or state (whichever is higher) minimum wage as a training wage and progressively move upwards to the tenth (10th) percentile level wage and higher, as the worker gains job skills and productivity. The DCR and WVDOL will agree upon a reasonable time frame for training based upon the complexity of the job tasks.

3. The DOC shall work with the private entity to establish a wage plan, using data obtained from the WVDOL for that occupational specialty. Should an inmate continue work and improve job ability inmate pay will continue to increase subject to the limits described above.
 4. The Commissioner may rely upon this data and on other available information to determine and establish compensation for inmates participating in a PIE Program work project.
 5. The Correctional Industries Program Manager shall, on an annual basis, request the WVDOL, or other appropriate agency, to review and provide updated compensation data to the DCR. In the absence of available, relevant rate information, the Commissioner may establish compensation at the federal minimum wage rate or its piece work compensation equivalent.
- V. Prior to implementation of a new PIE Program work project, the Correctional Industries Program Manager shall submit a request to the WVDOL, or other appropriate agency, to provide a written analysis of the potential impact the proposed project may have on private labor in the locality in which the project will be performed.
- A. The Correctional Industries Program Manager shall not implement a new PIE Program work project that would result in significant displacement of employed workers, utilize skills or trades in which there is a surplus of available gainful labor in the locality or impair existing private sector contacts for services.
 - B. Recommendations for the establishment of a new PIE Program work project and the supporting documentation shall be reviewed by the Commissioner or his/her designee prior to implementation.
- VI. Prior to implementing a new PIE Program work project, the Correctional Industries Program Manager shall consult with representatives of local businesses and local union central bodies or similar labor organizations that would potentially be directly affected by the project, if such organizations exist in the locality or at the state level. The Correctional Industries Program Manager shall:
- A. Provide a notice of intent to the local Chamber of Commerce, appropriate trade organizations, and appropriate local labor union central bodies or similar labor organizations requesting comments, concerns, recommendations, and names of private businesses and local labor organizations that would potentially be affected by the project.
 - B. Include a general description of the PIE Program work project, a description of the project location, list the type and quantity of goods to be produced, the number of inmates expected to be employed, the potential market for the goods, the project initiation date, and an explanation that federal law requires this consultation.

- C. Maintain a file of all replies and DCR responses, if applicable, and submit them to the Commissioner, or any other appropriate agency, for their consideration prior to final approval of the new PIE Program work project.
- VII. Prior to acceptance for participation in a PIE Program work project, all inmate applicants shall sign a DCR Voluntary Work Agreement (**Attachment #1**) indicating the inmate's intent to voluntarily participate in the work project and acknowledging the inmate's consent to DCR's PIE Program requirements, including the compensation disposition procedure set forth in this Policy.
- VIII. The earnings of an inmate participating in a PIE Program work project shall be deposited in the inmate's trustee account. The earnings shall be paid to the inmate after withholding of state, federal and local taxes; victims programs, room and board, family support and mandatory savings.
- A. In addition to any court-order victim restitution, an additional deduction from an inmate's earnings of not less than five percent (5%) nor more than twenty percent (20%), to be paid into the Crime Victims Compensation Fund shall be deducted. The amount to be deducted shall be established by the Commissioner or his/her designee according to the wage paid and anticipated deductions.
- B. Reimbursement to the state for room and board (inmate rent) shall be paid in accordance with DCR Policy Directive 117.01.
- C. Spousal support or child support shall be deducted from an inmate's earnings as directed by the inmate or by court order. If the inmate's dependents are receiving Temporary Assistance for Needy Families (TANF), the disbursements shall be made to the Bureau for Child Support Enforcement or any other state's public assistance agency.
- D. Mandatory savings to be paid to the inmates at the time of his/her release shall be deducted in accordance with DCR Policy Directive 117.03.
- E. Total deductions shall not exceed eighty percent (80%) of the inmate's gross earnings.
- F. Inmate earnings subject to the deductions herein shall not be subject to further deductions under DCR Policy Directive 111.06.
- IX. Only inmates participating in a PIE Program work project who are injured on the job in a work-related incident may receive benefits under the Workers Compensation program for non-state provided medical expenses in accordance with applicable guidelines. Workers compensation insurance or equivalent coverage will be provided by the private person or entity either through the provision of a policy of insurance under an employer model or by reimbursing correctional industries for the cost of the same under a customer model.
- A. Inmates who have continuing work related disabilities may be eligible for disability benefits following release from incarceration only.

- B. No inmate terminated from the PIE Program for any reason including release from prison or other discharge from the program shall be eligible to receive unemployment compensation.
- X. The Correctional Industries Program Manager shall:
- A. Ensure that the reporting requirements of the PIECP are met as required by applicable federal and state law and this Policy;
 - B. Establish a schedule for the payment of all deductions from gross wages in accordance with this Policy;
 - C. Determine the reporting format and frequency of report to inmates regarding pay information. On a monthly basis inmates will receive a summary of the previous month's payroll information;
 - D. Determine the method of handling the savings account and reconciliation of all detailed inmate savings balances to the savings accounts totals.
 - E. Ensure that all reporting requirements regarding PIECP are made to the Department of Justice and the Bureau of Justice Assistance.
 - F. Determine the method of accounting and maintenance of all records regarding PIECP and PIE Program work projects. These records shall be made available for review or audit by state and federal entities.
- XI. Prior to implementation of any Cost Accounting Center (CAC), the agency will comply with the National Environmental Policy Act (NEPA) for compliance and review.
- XII. As provided for in WV Code §§25-7-15 and 25-7-16, programs for the employment of juvenile residents of the DCR by a private person or entity for the manufacture of articles and products as part of a program authorized pursuant to 17 U.S.C. §1761(c) may be established; however, proper certification through the Federal Prison Industry Enhancement Certification Program will have to be acquired.
- XIII. The Commissioner reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

ATTACHMENT(S):

#1 DCR Voluntary Work Agreement (2 pages)

APPROVED SIGNATURE: _____


Betsy C. Jividen, Commissioner

3-18-22
Date

WV DIVISION OF CORRECTIONS AND REHABILITATION

Correctional Industries

Prison Industry Enhancement (PIE) Program

Inmate Voluntary Work Agreement

I, _____, OID# _____, agree to the terms and conditions regarding the disposition of wages I may receive in the Private Sector/PIE Program, and I understand that my participation in this program is completely voluntary.

As a voluntary participant, I understand the Commissioner will specify the deductions from my wages received under the Private Sector/PIE Program in accordance with West Virginia Code §25-7-14, in the following priority:

1. State, federal and local income taxes;
2. Social Security deductions;
3. _____% contribution to:
 - a. Count ordered victim restitution;
 - b. Crime Victims Compensation Fund;
4. _____% for spousal or child support;
5. _____% for room and board (inmate rent);
6. Ten percent (10%) to mandatory savings;
7. Remainder to Inmate _____.

In accordance with the PIE guidelines, deductions shall not exceed 80%.

I understand that I will be required to work up to an eight (8) hour day as required by Correctional Industries and will be paid only for those hours worked. I further understand that I may be required to work various shifts and a reasonable amount of overtime, when required. As an inmate of the WV Division of Corrections and Rehabilitation, I am not considered an employee of the State of West Virginia and I am not eligible for State offered benefits, currently or upon release from prison. I further understand that I will not receive unemployment compensation in the event of my termination from participating in this program for any reason whether voluntary or involuntary.

I agree that my assignment to Correctional Industries is at the will and pleasure of the Director of Correctional Industries, and that I may be terminated from this program for any reason or no reason.

I further understand that should I be transferred out of the Private Sector/PIE Program, my pay will revert to the regular inmate wage scale. I also understand that facility work assignments, not related to this program, are not voluntary, but rather mandatory, and I will be expected to work a job within the facility. Furthermore, I understand that I am not guaranteed the same job held prior to entering the Private Sector/PIE Program.

I understand and agree that I am not an employee of the Private Sector Industry _____, to which my labor is being provided as part of this program. I understand and agree that I am not entitled to any benefits of this Private Sector Company, currently or upon release from prison. I further agree that should I have any grievance or complaint relating to my participation with or termination from the PIE Program that I will address my complaint through the procedures set forth in DCR Policy Directive 335.00, NOT with the Private Sector Industry.

I understand that Correctional Industries and DCR makes all final determinations regarding selection and termination of Private Sector/PIE Program participants.

I agree that in order to work in the Private Sector/PIE Program, I must provide proof of obtaining a high school diploma or high school equivalency, or I must be actively attending classes working toward a high school equivalency. If for any reason I am dismissed from the high school equivalency program, I will be terminated from my job.

I agree that I have not been found guilty or admitted being guilty of a Class II or higher violation in the last six (6) months. If during my employment I am found guilty of a Class II or greater violation, I will be terminated from my job.

In witness thereof, I have voluntarily signed this agreement in the presence of an agency representative.

Inmate Signature

Date

Correctional Industries Representative

Date