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Private Sector Correctional Industry Standards	ACA Standards: 2-CO-5A-01, 5-ACI-7A-14		
Scott Crow, Director Oklahoma Department of Corrections		Signature on File	

## Private Sector Correctional Industry Standards

The Oklahoma Department of Corrections (ODOC) recruits within the private sector for establishing industry operations at state-owned or privately-owned correctional facilities. The purpose of such industry operations is to provide skills training and work opportunities for incarcerated inmates. (2-CO-5A-01)

Agency staff members will be consulted and utilized by private sector entities in the establishment of private sector prison industry operations. Prison Industry Enhancement Certification Program (PIECP) guidelines must be followed by any private entity desiring to establish an industry, which utilizes inmate labor for the production of goods. Private sector industries will comply with 18, U.S.C. § 1761.(a), which specifically prohibits production of goods for interstate commerce by inmates in any penal or reformatory institution except for those participating in prison work programs designated by the Bureau of Justice Assistance. Those private sector service industries that do not result in the production of a tangible product are not affected by this prohibition.

### I. Standards for Private Prison Industries

#### A. Recruitment

1. Private sector industries desiring to establish an operation within the confines of a state-owned correctional facility will submit requests through the chain of command as outlined on [Attachment A](#) entitled "Request to Establish an Industry Program State-Operated Facility" (attached).
2. Private sector industries desiring to establish an operation within the confines of a privately-owned correctional facility with which Oklahoma contracts with, will submit requests through the chain of command as outlined on [Attachment B](#) entitled "Request to Establish an Industry Program Privately-Operated Facility" (attached).
3. Private sector correctional industries will adhere to the following:
  - a. Will not compete with, or duplicate the efforts of, qualified non-profit agencies employing severely handicapped persons for the purpose of the production of products or services;
  - b. Will be associated with a reputable firm and will be able to meet the capitalization, market and management requirements to be successful in the community or a correctional environment;

- c. Will maximize the number of inmate jobs within the available space for purposeful work in a realistic work environment;
- d. Will provide inmates with the opportunity to develop skills training and work ethics as a means of improving employability after release; and
- e. Will not engage in operations, which may result in the displacement of employed workers; which may be applied in skills, crafts or trades, in which there is a surplus of available gainful labor in the locality; or significantly impair existing contracts.

B. Partnership Models

There are two approved PIECP partnership models as defined below:

1. The Employer Model

The private sector partner is engaged in the supervision of the inmate's work and production in a prison-based business owned by and operated by a government entity. In this model, inmates are considered employees of the private sector partner and the private sector partner is required to provide workers' compensation coverage.

2. The Customer Model

The private sector partner assumes no major role in the industry operations, does not direct production, and has no control over inmate labor. These functions are performed by ODOC. Private workers' compensation coverage is required.

C. Service Partnership

This is a private partnership model not under the federal PIECP guidelines. No tangible goods are produced. Products involved are only those that have previously been in the marketplace or are recycled, disassembled, cleaned or packaged.

D. Contracting

1. The establishment of private sector correctional industries will not result in a displacement of employed workers in the private sector.

- a. Displacement includes inappropriate transfer of private sector job functions to correctional industry inmates. This information will be obtained and documented through consultation with the Oklahoma State Chamber of Commerce or a local

Chamber of Commerce, Oklahoma State AFL-CIO or a local labor/trade union, and the Oklahoma Employment Security Commission.

- b. Written verification will be required from the Oklahoma Employment Security Commission that the correctional industry project will not result in displacement of non-inmate workers. The private sector partner must provide an agreement in writing, prior to initiation of work, not to displace non-inmate workers.
2. The chief administrator of OCI and/or Agri-Services will review and obtain initial approval from the agency director for all proposed industry projects.
3. Following initial approval, the chief administrator of OCI and/or Agri Services will coordinate program logistics with the affected regional administrator and prepare a contract for establishment of the private sector correctional industry operation(s).
4. The chief administrator of OCI and/or Agri-Services and the general counsel will review and approve all contracts prior to submission to the agency director for authorization. If authorized, the agency director will sign the contract prior to negotiations/signature of the PIECP/Service Partnership vendor.

E. Contract Terms

A contract will be negotiated between ODOC and the PIECP sector industry for each proposed PIECP sector industry operation. The PIECP sector industry will agree to the following contract terms:

1. Provide all raw materials, machinery and equipment to produce its products and/or service unless specifically stated otherwise in the contract. The agency may provide workstations and other furnishings for service industries if deemed in ODOC's best interests.
2. Comply with all federal, state and local laws and regulations.
3. Comply with all applicable policies of ODOC.
4. Adhere to nondiscrimination, affirmative action and "Americans with Disabilities Act" (ADA) guidelines in hiring and firing of inmate workers.
5. The wage rate for inmate workers employed in private sector industries producing tangible goods for interstate commerce will not be less than the federal minimum wage and will be commensurate with wages paid for similar employment in the private sector within

the locality as defined by the Oklahoma Employment Security Commission. (5-ACI-7A-14)

6. The wage rate for inmate workers engaged in the production of goods for intrastate distribution, in the production of agricultural commodities or parts for the repair of farm machinery or in service operations not resulting in the production of tangible goods will be determined by the chief administrator of OCI and/or Agri-Services.
7. Eligible inmate PIECP partnership workers will pay all applicable federal and state taxes.

F. Contract Termination

Should ODOC consider the termination of a private sector prison industry contract, substantiating information will be reviewed and approved by the agency director and the chief administrator of OCI and/or Agri-Services.

1. This information will be forwarded to the general counsel for legal opinion prior to the termination of the contract. The final decision to terminate the contract will be based upon the legal opinion of the general counsel.
2. Following receipt of the required approvals, the chief administrator of OCI and/or Agri-Services or designee will notify the private sector industry of termination of the contract.
3. Termination by the private sector industry partner will be accomplished by notifying the chief of Operations and the affected regional administrator.

G. Operation of Private Sector Prison Industries

1. Construction and operation of private prison industries will be in accordance with all federal and local environmental health and safety rules and regulations applicable to that particular industry, including compliance with provisions of the National Environmental Protection Act (NEPA).
2. The private sector prison industry and its employees will comply with all applicable policies and procedures of ODOC.
3. Inmate participation in private sector prison industries will be voluntary and inmate participants will agree in advance to the established wage deductions. Inmates will complete and sign the "Application for Private Sector Work Private Industry Enhancement Certification Program" ([Attachment C](#), attached) prior to beginning work.

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4. Employer model private sector prison industries will provide on-site supervision at all times for inmates in the private sector industry area, unless specifically stated otherwise in the contract.
5. The facility head and the PIECP coordinator will approve all work schedules for inmate workers in the private sector industry.

#### H. Program Support Fees

1. Program support is required of inmate workers participating in the private sector prison industries.
  - a. Support is limited to not more than 80 percent of the inmate's net wages, which consists of gross pay, less FICA, Medicare and federal and state income taxes.
  - b. Inmates from other states participating in an Oklahoma correctional facility private industry program are subject to the agreement between Oklahoma and the inmate's incarcerating state. Oklahoma may deduct \$1.00 per day from the program support collections from out of state inmates for oversight and administration of the program.
2. Program support fees will be deposited into a special account in the Correctional Industries' revolving fund.
  - a. Five percent of gross pay will be deducted from the program support fees and deposited in the Victims' Compensation Fund.
  - b. The remainder of the program support fees may be used for construction of facilities for use by the private sector industry program and for reimbursement to OCI, Agri-Services or other ODOC entities for expenses incurred in support of the private sector industry program.
3. The agency director, chief financial officer, chief of Operations, and the chief administrator of OCI and/or Agri-Services will be involved in the planning process and have responsibility for the decision to expend these funds.

#### II. Oklahoma Department of Corrections Management

The chief administrator of OCI and/or Agri-Services will coordinate and provide for the overall management of private sector prison industries and will each establish procedures for private sector prison industries within their area.

#### III. References

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Policy Statement P-080100 entitled "Mission and Management of Correctional Industries"

Prison Industry Enhancement Certification Program Guidelines, Federal Register, April 7, 1999, Volume 64, Number 66, pages 17000 - 17014.

57 O.S. § 546 through-550 (546, 547, and 548 were repealed by Laws 1990, c. 4, § 1, emerg. eff. March 29, 1990; 549

18 USC § 1761.(a)

#### IV. Action

The chief administrator of Oklahoma Correctional Industries and/or Agri-Services is responsible for compliance with this procedure and for the annual review and revisions.

Any exception to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: OP-080201 entitled "Private Sector Correctional Industry Standards" dated September 26, 2017

Distribution: Policy and Operations Manual  
Agency Website

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
<a href="#">Attachment A</a>	“Request to Establish an Industry Program State-Operated Facility”	Attached
<a href="#">Attachment B</a>	“Request to Establish an Industry Program Privately-Operated Facility”	Attached
<a href="#">Attachment C</a>	“Application for Private Sector Work Private Industry Enhancement Certification Program”	Attached