

<b>GEORGIA DEPARTMENT OF CORRECTIONS</b>		
Standard Operating Procedures		
<b>Functional Area:</b> SUPPORT SERVICES/P.I.E.	<b>Reference Number:</b> 409.05	<b>Revises Previous Effective Date:</b> 1/25/2006
<b>Subject:</b> PRISON INDUSTRIES ENHANCEMENT PROGRAM		
<b>Authority:</b> Oliver	<b>Effective Date:</b> 8/01/07	Page 1 of <b>11</b>

**I. POLICY:**

It is the policy of the Georgia Department of Corrections to provide one or more work programs of voluntary labor by inmates for privately owned employers producing, mining or manufacturing goods for sale to public or private purchasers. These programs shall operate as Prison Industry Enhancement Certification Programs ("PIECP") of the Bureau of Justice Assistance, U.S. Department of Justice, according to Title 18 U.S.C. Section 1761.

**II. APPLICABILITY:**

This procedure is applicable to all State Correctional Institutions and to the inmates committed to those institutions, excluding detainees housed at state facilities. This procedure shall also apply to any private individual, corporation, partnership, or association contracting with the Georgia Department of Corrections for inmate labor as authorized and/or limited by Title 18 U.S.C. Section 1761 and O.C.G.A. § 42-5-120 *et seq.*

**III. RELATED DIRECTIVES:**

- A. Title 18 U.S.C. § 1761, Title 29 U.S.C. § 201 *et seq.*, Title 42 U.S.C. §§ 4321-4347, Title 29 U.S.C. § 207(a).
- B. GDC Rules: 125-3-08-.01, 125-3-08-.02, 125-3-08-.03  
O.C.G.A. § 42-5-120 *et seq.*

**IV. DEFINITIONS:**

- A. **PIECP:** Prison Industries Enhancement Certification Program. Program authorized by U.S. Congress as part of the Justice System Improvement Act of 1984, codified at Title 18 U.S.C. Section 1761 and by Georgia statute

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O.C.G.A. § 42-5-120 *et seq.* Allows PIECP applicants who have been determined by the Director of the Bureau of Justice Assistance to meet statutory and guideline requirements to sell inmate produced, mined or manufactured products in interstate commerce.

- B. **BJA:** Bureau of Justice Assistance. Agency within the Office of Justice Programs, U.S. Department of Justice which is responsible for assuring that all PIECP programs remain within federal guidelines and regulations.
- C. **CAC:** Cost Accounting Center. Term used to identify each PIECP work program as distinct goods production unit that is managed as a separate accounting entity within any certified PIECP.
- D. **The Department:** The Georgia Department of Corrections.
- E. **Commissioner:** Commissioner of the Georgia Department of Corrections.
- F. **GCI:** Georgia Correctional Industries
- G. **Designation:** An exercise of the Department of Corrections' discretionary authority, as Certificate Holder, to bring a CAC within its certified PIECP program. The exercise of this authority results in an extension of PIECP exemption status and an imposition of state and federal statutory PIECP compliance requirements.
- H. **Un-Designation:** Notice that a specific CAC has ceased to operate within Georgia Department of Corrections.
- I. **Certificate Holder:** The Georgia Department of Corrections as authorized by PIECP Certification to administer PIECP work programs and to designate one or more CACs.
- J. **Certification:** Refers to BJA's discretionary authority to designate the Georgia Department of Corrections as Certificate Holder and to designate PIECP work programs pursuant to Title 18 U.S.C. Section 1761(c). BJA certified projects are exempt from certain federal marketability restraints on the transport of inmate-made goods in interstate commerce, as provided in Title 18 U.S.C. Section 1761(a).

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- K. **PIE Coordinator:** Georgia Department of Corrections' and/or Georgia Correctional Industries employee responsible for supervision and management of all PIECP programs.
- L. **Employer Model CAC:** Cost Accounting Center in which inmates work directly for the private company or in a CAC within a private prison. Employer model CACs must provide Workers' Compensation to inmates participating in PIE work programs. Social Security (FICA) coverage must also be provided, unless BJA is provided with written evidence of exemption from the Social Security Administration and/or the Internal Revenue Service.
- M. **Manpower Model CAC:** Cost Accounting Center operated by the Department in which inmate workers are employed by and paid through the Department but supervised by the private company. Private companies are charged by the Department for the inmate labor. Manpower model CACs are not required to offer Social Security coverage to workers.
- N. **Customer Model CAC:** Cost Accounting Center operated by the Department in which inmates work, are supervised by, and are paid through the Department. Inmate produced, or manufactured items and/or goods are sold to private companies. Customer model CACs are not required to offer Social Security coverage to workers.
- O. **NCIA:** National Correctional Industries Association. Organization contracted by BJA to monitor and review all PIECP programs in operation.
- P. **Prevailing Wage Rates:** Payment of inmate wages at a rate not less than that paid for work of a similar nature in the locality in which the work is to be performed.
- Q. **Locality:** Geographic area impacted by the presence of a PIECP CAC operation, as defined by the Georgia Department of Labor.
- R. **Worker Displacement:** Projected determination of potential adverse impact that PIECP work programs shall likely have on the private sector labor workforce, as determined by the Georgia Department of Labor, prior to PIECP work programs being approved and annually thereafter.

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Includes job replacement of non-inmate workers by inmate workers in the locality in which the PIECP work takes place. Private sector jobs may not be transferred to PIECP cost accounting centers.

S. **NEPA:** National Environmental Policy Act, Pub. L. 91-190, 83 Stat. 852 (1970) (codified as amended at 42 U.S.C. §§ 4321-4347; implemented under 40 C.F.R. pt. 1500).

T. **NEPA Categorical Exclusion:** Documentation indicating that a CAC will not affect any sensitive land uses or environmental resources. Such documentation will also reflect that a CAC is qualified as a categorical exclusion and that the program proposal is not a phase or segment of a larger program which, when viewed in its entirety, would not meet requirements of the PIECP categorical exclusion.

V. **ATTACHMENTS:**

Attachment 1 - Voluntary Agreement of Participation and Wage Deduction

VI. **PROCEDURE:**

A. **General PIECP Information:**

1. The Department and/or the G.C.I. shall operate and administer one or more PIECP work programs for voluntary inmate labor to privately owned employers in accordance with Title 18 U.S.C. Section 1761.
2. In operating and administrating PIECP work programs the Department and the G.C.I. shall engage in private sector partnerships involving inmates for the production and/or manufacture of goods that will enter interstate commerce.
3. Goods produced, mined or manufactured by voluntary inmate labor pursuant to PIECP work programs may be sold to public and private purchasers.
4. The Department shall be the PIECP Certificate Holder, responsible for administering and operating PIECP work programs in accordance with Title 18 U.S.C. Section 1761.

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**B. PIECP Program Operation:**

1. All PIECP programs shall follow all applicable Federal and State statutes and regulations prior to commencing operations.
2. All PIECP programs shall comply with NEPA and other related Federal environmental review requirements pursuant to 42 U.S.C. §§ 4321-4347.
3. Private partner companies shall be required to consent to a routine background investigation and security clearance for all on-site employees and/or project supervisors.
4. Prior to placement of an inmate in any PIECP program, due consideration shall be given to the custody and security requirements inherent to that program. The Department shall follow classification policy and procedures when placing inmates in any PIECP program.
5. It shall be the responsibility of the PIE Coordinator to:
  - a. Assure that all departmental, county, State, and federal laws, rules and regulations are adhered to by all CACs.
  - b. Annually assess private sector CAC partners' compliance with all mandatory PIECP work program criteria.
  - c. Maintain all documents and records concerning PIECP work programs in an orderly manner for periodic review.
  - d. Annually update participating inmate wage rates as determined by the Georgia Department of Labor.
  - e. Assure that inmate wage deductions, in aggregate, shall not exceed eighty percent of total gross wages.

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- f. Maintain copies of all NEPA documentation for timely review. Complete a certified PIECP Quarterly Consolidated Statistical Report and mailing a copy of the report to NCIA in a timely manner.
- g. Maintain a copy of each Quarterly Consolidated Statistical Report for review.
- h. Complete a Notice of Un-designation Form when a CAC ceases to operate within PIECP work program requirements or becomes defunct. Forward such documents to BJA for approval. Maintain copies of all such documentation for timely review.
- i. Prior to CAC start-up, the PIE Coordinator shall obtain written assurances from the Georgia Department of Labor that such work programs will not:
  - 1) Result in the displacement of employed workers;
  - 2) Be applied in skills, crafts, or trades in which there is a surplus of available labor in the locality; or
  - 3) Impair existing contracts for services.
- j. Prior to CAC start-up, the PIE Coordinator shall also:
  - 1) Obtain written documentation from the private partner reflecting its agreement not to displace its non-inmate employees by participation in a PIECP work program.
  - 2) Consult with representatives of local union central bodies or similar labor union organizations.
  - 3) Consult with organizations that may have an interest in the trade or skill to be performed by PIECP work program inmates.

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- 4) Provide detailed information to pertinent labor organizations about the contemplated CAC, including identification of the scope of the program and projected start-up date. Inform said organizations that consultation is required, and comments are invited. Copies of public notices or minutes from Department Board meetings may serve as an alternative form of consultation.
  
- 5) Consult with representatives of local businesses that may be economically impacted by CAC production by providing information about the contemplated CAC. Information should include identifying the scope of the intended CAC and projected start-up date. Inform said representatives that consultation is required, and comments are invited. Copies of public notices or minutes from Department Board meetings may serve as an alternative form of consultation.
  
- 6) Submit environmental data and information regarding proposed CACs, and, if necessary, environmental assessments, to the BJA for review and approval.

**C. Inmate Participation in PIECP Work Programs:**

1. Each inmate participating in a PIECP work program must indicate, in writing, that:
  - a. He or she agrees voluntarily to participate in the PIECP program.
  - b. He or she agrees voluntarily, in advance, to specific deductions made from gross wages, as well as all other financial arrangements made as to PIECP work program wages.
  
2. Inmate participation in PIECP work programs shall not:

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- a. Result in the displacement of employed workers.
- b. Be applied in skills, crafts or trades in which there is a surplus of available gainful labor in the locality.
- c. Impair existing contracts for services.
3. Inmates participating in PIECP work programs must be paid at a rate not less than that paid for work of a similar nature in the locality in which the work is to be performed.
4. Inmates participating in PIECP work programs shall be provided benefits comparable with those made available by the federal and/or state government to similarly situated private sector employees, including workers' compensation and, under certain circumstances, Social Security.
5. Inmates applying for PIECP work programs should meet the following minimum requirements:
  - a. Two or more years left until release date
  - b. Free from disciplinary reports of a high or greatest severity level for a period of one year from date of application.
  - c. Current medical classification commensurate with expected work assignment.
  - d. Other requirements as may be imposed by the PIE Coordinator or at the correctional facility where the PIECP work program is located.
6. Preference should be given to inmates who have demonstrated a positive work history in Georgia Correctional Industries work program and release dates within 7 years of application.
7. Preference should be given to inmates who have completed or are working towards completing requirements for a GED or high school diploma and/or program case plan.



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#### **D. Application to PIECP Work Program**

1. Eligible inmates are to fill out a job application form provided by the Counselor.
  - a. If the inmate applicant meets the criteria for eligibility, the Classification Committee shall consider the application and forward the recommendations to the Warden for approval.
  - b. Approved applications will be returned to the Classification Committee and forwarded to the Private Sector Partner and PIECP Coordinator.
  - c. Applicants failing to meet eligibility criteria shall receive written notification from the Classification Committee, a copy of which shall be placed in the inmate's institutional file.
  - d. No application to a PIECP work program shall be favorably recommended by the Classification Committee unless the Committee is satisfied that the inmate's past performance and compliance in program participation indicate that:
    - 1) The inmate does not constitute a security risk.
    - 2) The inmate is capable of abiding by the terms and conditions of the program.
    - 3) The inmate's immediate staff supervisor has acknowledged his or her receipt of the inmate's application. Acknowledgment may be accomplished by initialing the inmate's application.
  - e. Inmates assigned to any PIECP work program shall obey all Departmental rules and regulations.
  - f. Inmates participating in PIECP work programs must sign the "Voluntary Agreement of

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Participation Form" (Attachment 1) and "Wage Deduction Agreement" (Attachment 2).

- g. In an Employer Model CAC, the Private Partner shall interview the inmate and make the final decision as to employment.

**E. Inmate Wages**

1. The PIE Coordinator shall ensure that all inmate workers are paid at a rate that is not less than that paid for work of a similar nature in the locality in which the work is to be done. This wage must be verified by the PIE Coordinator through the Georgia Department of Labor prior to the initiation of PIECP work programs.
2. The prevailing wage must never be set below federal minimum wage, as defined in the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* Payment of the Federal minimum wage, however, does not automatically achieve compliance with the prevailing wage requirement unless the prevailing wage for the comparable private sector industries is, in fact, the Federal minimum wage.
3. The PIE Coordinator shall, at a minimum, annually re-verify wage rates through the Georgia Department of Labor to ensure the Department's compliance with BJA requirements. Wage rate verifications provided by the Georgia Department of Labor shall be compared to actual rates paid to inmates participating in PIECP programs.
4. Overtime shall be paid at one and one-half times the working wage rate on the PIECP work program wage scale for work hours more than forty hours per week pursuant to the payment standard imposed on private sector competition at 29 U.S.C. § 207(a).
5. Piecework wage rates shall be converted into an equivalent hourly wage and shall otherwise meet all federal and state requirements.

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6. In all Employer Model PIECP work programs, the private sector partner must make F.I.C.A. deductions and payments for each inmate employed.
7. The PIE Coordinator shall assure that each CAC provides all participating worker inmates with Worker's Compensation coverage, Private Worker's Compensation Insurance, or comparable self-funded coverage, and F.I.C.A. when required by state or federal law.

**F. Deductions and Disbursement of Inmate Earnings**

1. Earnings of participating inmates must be paid by check directly to the Department and/or the G.C.I. and to the inmate.
2. The Department shall retain an amount to be established by the Commissioner for room and board.
3. Inmates shall be required to place into a savings account an amount to be established by the Commissioner.
4. If the inmate has court ordered support or a person or persons dependent upon him/her for support, the inmate shall be required to remit to such person(s) an amount from each paycheck as established by the Commissioner.
5. The inmate shall be required to give, at a minimum, ten percent of his/her gross income to the Georgia Crime Victim Emergency Fund.
6. The inmate shall have deducted from his/her check all applicable local, county, state and federal taxes.
7. The number of exemptions the inmate may claim for withholding taxes must be verified through the inmate's institutional file.
8. The inmate shall sign a form of understanding listing the wage plan and all deductions that shall be withheld from gross wages prior to acceptance into a PIECP work program.

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9. Changes in inmate wage deductions or disbursements shall require renewed written authorization from participating inmates.
10. Wage deductions, in aggregate, shall not exceed eighty percent of gross wages.

**VII. RETENTION SCHEDULE:**

Attachment 1 - Upon completion the form is to be placed in the Inmate's Facility Administrative File. Retention of this form shall be in accordance with the retention schedule for that file.