	<b>DEPARTMENT OF PUBLIC SAFETY</b> <b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>	<b>EFFECTIVE DATE:</b> <b>FEB 19 2009</b>	<b>POLICY NO.:</b> <b>COR.21.02</b>
		<b>SUPERSEDES NO:</b> <b>493.21.02 &amp; 05/19/92</b>	
<b>SUBJECT:</b> <b>VENTURED AGREEMENTS—INTERSTATE COMMERCE</b>		<b>Page 1 of 7</b>	

## 1.0 PURPOSE

To provide guidelines and procedures governing partnerships with private parties and Correctional Industries that involve interstate and federal commerce for the sale of prison- made goods and services.

## 2.0 REFERENCES AND DEFINITIONS

### .1 References

- a. Bureau of Justice Assistance, Private Sector/Prison Industry Enhancement Certification Program, Insurance of Final Guideline. Federal Register, volume 50, number 61/March 29, 1985.
- b. Federal prohibitions affecting the movement of state prisoner-made goods:
  1. The Sumners-Ashurst Act (18 U.S.C. 1761, 1948).
  2. The Walsh-Healy Act (41 U.S.C. 35-45, 1936)
- c. Department policy 493.21.03, Conditions for Inmate Employment-Ventured Agreements.

### .2 Definitions

- a. Cost Accounting Center: A distinct production operation unit within the Correctional Industries system, which is managed as a cost center or separate accounting entity.
- b. Ventured Agreement: A contract between a private party and Correctional Industries for the employment of inmate labor to produce goods or services for sale to the public.

## 3.0 POLICY

To promote the placement of Correctional Industries products and services in interstate and federal commerce, an administrative and reporting system shall be established which will satisfy all requirements of the Federal Private Sector/Prison Industry Enhancement Certification Program established under 18 U.S.C. 1961 ©.

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#### 4.0 PROCEDURES

##### .1 Certification Program Control/Administration

The Correctional Industries Program Administrator shall be responsible for the overall management of the Private Sector/Prison Industry Enhancement Certification Program. This includes providing direction and guidance in developing, implementing, monitoring, and revising a comprehensive plan for the program as well as establishing contracts/agreements with private parties for the interstate sale of prison goods and services.

The Correctional Industries Program Administrator shall also be responsible for maintaining liaison with the Federal Bureau of Justice Assistance, Hawaii Department of Labor and Industrial Relations, local labor unions, local businesses, Hawaii Criminal Injuries Compensation Commission, and any other victim assistance programs.

##### .2 Establishing Contracts/Agreements with Private Parties

The Correctional Industries Program Administrator shall develop and recommend to the Deputy Director contract and agreements with private parties for the utilization of inmate labor in the manufacture, processing or assembly of components, finished goods, services or product lines within facilities owned or leased by the Department. Such contracts shall include the following provisions:

- a. The number of inmates expected to be hired by the private company;
- b. Description of the work to be performed by the inmates;
- c. Rate of compensation for participating inmates;
- d. The amount of space that will be provided by the Department to the private party;
- e. Payments as are reasonable and warranted to be made by the private party for lease rent, cost of utilities, rental of equipment, and other charges. The Administrator may recommend that these payments be waived for specified periods to insure the successful implementation of the project.

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- f. Any provisions required to ensure that the security of the facility and of the private party is not jeopardized.
- g. All provisions of the standard State of Hawaii contract that are appropriate to these agreements;

These contracts and agreements shall be reviewed as to form by the Attorney General and by the Advisory Committee prior to finalization.

.3 Consultation with Business and Labor Organizations

All contracts/agreements with the private sector involving interstate or federal commerce shall be coordinated with the following agencies prior to finalization of the contract.

a. Local Unions/Labor Organizations

The purpose for this consultation is to ensure a cooperative understanding of the goals of the proposed project, the concerns and needs of the unions, and that the project will not infringe upon union membership.

b. Local Businesses

Local businesses that may be affected by the proposed project shall be consulted to ensure that the goods or services offered for sale are competing fairly in their region.

c. Department of Labor and Industrial Relations  
Workforce Development Division Hilo

The Department of Employment Security (or other appropriate agency) of the state in which the good or services are proposed for sale shall be consulted and written assurance obtained concerning the following issues. Where appropriate, written assurance shall also be obtained from the Hawaii State Department of Labor and Industrial Relations.

- 1. Inmate worker compensation plans, including wages, bonuses, and piecework rates are comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Wages will be reviewed and updated on an annual basis.

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2. Inmate employment will not result in the displacement of employed workers; be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or impair existing contracts for services/goods.

#### .4 Analysis and Planning

The analysis and planning for each cost accounting center involving ventured agreements with private persons for interstate and federal commerce shall include, as a minimum, the following:

- a. Project Goals/Objectives

The goals and objectives of each cost accounting center shall be reviewed annually to determine the degree of success in their achievement. Revisions shall be made where necessary to ensure continued adherence to the goals and objectives of the overall comprehensive plan.

- b. Inmate Wage Scales

Annually, inmate wage scales shall be reviewed and revised where necessary to ensure continued compatibility with the wage for similar work in private industries.

- c. Consultation with Local Labor Unions

Local labor unions and labor organizations shall be consulted annually to ensure continued cooperative understanding.

- d. Consultation with Local Businesses

Local businesses affected by the project shall be consulted annually to ensure their continued cooperation and satisfaction.

#### .5 Monitoring

Each cost accounting center shall be monitored to ensure they are in compliance with department policy and procedures and in compliance with federal certification requirements.

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a. On-Site Visits

On-site visits shall be conducted annually by the Department Evaluation and Compliance Office. The following information shall be gathered, documented, and a written report of findings submitted to the Correctional Industries Program Administrator and the Corrections Program Services Administrator.

1. Project location and name.
2. Number of inmates prescribed in the contract for each shift.
3. Number of inmates observed working on the shift visited.
4. Brief description of work site conditions including compliance or non-compliance with state fire and safety codes.
5. A random consensus of staff comments about the project.
6. A random consensus of inmate employee comments about the project.
7. A random consensus of any private industry staff comments about the project.
8. Recommendations to improve any deficiencies observed.

b. Review of Private Employer's Payroll and Income

The contract with each private employer involved in a venture shall stipulate that copies of the following documents are to be sent to the Correctional Industries Program Administrator:

1. Employer's Quarterly Federal Tax Return, form 941.
2. Employer's Quarterly Report, State of Hawaii.

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This information shall be used to verify that:

1. All wages paid are correct and the same as the payroll records of Correctional Industries.
2. Federal and state taxes withheld are correct as reported.
3. Social Security taxes paid are correct.
4. Required payments for workman's compensation and unemployment compensation are correct.

c. Review of Private Employer's Financial Statement

Hawaii Correctional Industries will pull a Dunn and Bradstreet Report on an annual basis.

.6 Performance Reporting

Each cost accounting center shall provide the Federal Department of Justice, Bureau of Justice Assistance, the following data and information.

a. Notice of Designation and Certification of Compliance

When a new cost accounting center is established, a Notice of Designation and Certification of Compliance shall be completed and sent to the Bureau of Justice Assistance (reference Attachment A). This form may be generated on a word processor.

b. Notice of Undesignation

When a cost accounting center is terminated, a Notice of Undesignation (reference Attachment B) shall be sent to the Bureau of Justice Assistance. The form may be generated on a word processor.

c. Quarterly reports

By the 30<sup>th</sup> of the month following each calendar quarter, a report summarizing the activities of all cost accounting centers shall be sent to the

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Bureau of Justice Assistance (reference Attachment C). This form may be generated on a word processor.

d. Special Reports


Whenever a change occurs which affects a cost accounting center, such as prevailing wage plans, positions of support by either organized labor or local business, etc., a report shall be immediately made to the Bureau of Justice Assistance. This report shall include as a minimum:

1. Name and location of the cost accounting center, its basic functions, and revenue generated.
2. A description of the change and the conditions, which brought on the change.
3. Number of inmates employed at the cost accounting center.
4. What the cost accounting center intends to do as a result of the change.

5.0 SCOPE

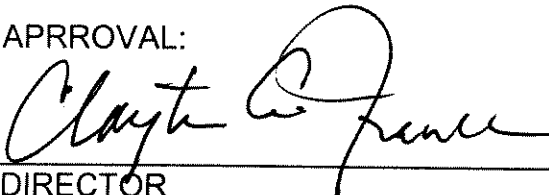
This policy applies to all private sector partnership ventures with Correctional Industries that involve commerce with other states or federal agencies.

RECOMMEND APPROVAL:

  
 \_\_\_\_\_  
 Deputy Director for Corrections

1/30/09  
 \_\_\_\_\_  
 Date

APPROVAL:

  
 \_\_\_\_\_  
 DIRECTOR

2/19/09  
 \_\_\_\_\_  
 Date

STATE OF HAWAII  
DEPARTMENT OF PUBLIC SAFETY  
CORRECTIONAL INDUSTRIES

NOTICE OF DESIGNATION AND CERTIFICATION OF COMPLIANCE

A. Description of Project

Project Name: \_\_\_\_\_

Location: \_\_\_\_\_

Number of Workers: \_\_\_\_\_ Approved Wage or Piece Rate: \_\_\_\_\_

Product Line: \_\_\_\_\_  
\_\_\_\_\_

Proposed Market: \_\_\_\_\_  
\_\_\_\_\_

B. Certification of Compliance

I certify the above-named cost accounting center complies with the following Private Sector/Prison Industry Enhancement statutory and guideline criteria:

1. Contributions resulting from the operation of the cost accounting center will be collected and provided to:

a. State crime victim compensation program or agency,

\_\_\_\_\_  
(Please Specify)

b. State crime victim assistance program or agency,

\_\_\_\_\_  
(Please Specify)

2. The preceding state crime victim program(s) or agency(ies) is authorized to accept the financial contributions resulting from the operation of the cost accounting center identified above.

3. Appropriate local or state labor union central bodies or similar labor organization representatives have been consulted prior to the designation of the above cost accounting center.



4. Authority to substantially involve the private sector as (check all that apply):
- An employer of inmate workers;
  - An investor in a prison-based business owned by the state;
  - A customer purchasing a significant portion of the output of a prison-based business;
  - A manager of a prison-based business owned by the state; or
  - Other (describe).
5. Appropriate local business representatives have been consulted prior to the designation of the above cost accounting center.
6. The State Department of Economic Security (or other appropriate state agency) has provided written assurance that the payment of wages, bonuses, and piecework rate compensation to inmates working within this cost accounting center is comparable to wages paid for work of a similar nature in the locality in which the work is to be performed or the federal minimum wage, whichever is higher.
7. The State Department of Economic Security (or other appropriate state agency) has provided written assurance that the labor of inmate workers within the above cost accounting center will not; result in the displacement of employed workers; be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality in which the work is to be performed; or impair existing contracts for services.
8. Inmates working within the above cost accounting center are entitled to benefits and compensation as a result of injuries sustained in the course of their work.
9. Inmates have signed, in advance, a written agreement that specifies their work in the cost accounting center identified above is voluntary; and that they have agreed to the specific deductions to be taken from gross wages and to all other financial arrangements.

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Signature

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Date

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Typed Title

STATE OF HAWAII  
DEPARTMENT OF PUBLIC SAFETY  
CORRECTIONAL INDUSTRIES

NOTICE OF UNDESIGNATION

A. Description of Designated Cost Accounting Center

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

B. Reasons for Undesignating Center

Please explain why this designated cost accounting center is being undesignated:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Title

STATE OF HAWAII  
DEPARTMENT OF PUBLIC SAFETY  
CORRECTIONAL INDUSTRIES

PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT  
CERTIFICATION PROGRAM

QUARTERLY REPORT

Title and Location  
of Designated Project: \_\_\_\_\_

Period Covered: \_\_\_\_\_

Agency Reporting: \_\_\_\_\_

1. Total manhours worked this quarter \_\_\_\_\_

(Manhours is total number of hours worked during  
the quarter by all employed offenders)

2. Average daily offender employment during quarter \_\_\_\_\_

(Daily count of employed offenders divided by  
number of working days in quarter)

3. Total gross wages paid during the quarter \$ \_\_\_\_\_

4. Approved hourly rate range for production workers \$ \_\_\_\_\_

(This is amount reported by your Department of  
Economic Security or its' equivalent)

5. Approved piecework rate range for production workers \$ \_\_\_\_\_

(Same explanation as item #4 above)

6. Average monthly wage this quarter \$ \_\_\_\_\_

(Item #3 divided by item #2 divided by 3)

7. Average number of hours worked per day \_\_\_\_\_

(Item #1 divided by number of workdays  
in quarter divided by item #2)

8. Total quarterly contributions to victim's program \$ \_\_\_\_\_

ATTACHMENT C

9. Taxes withheld this quarter:

Federal: \$ \_\_\_\_\_

State: \$ \_\_\_\_\_

Other: (Social Security, etc.) \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

10. Total room and board deducted this quarter \$ \_\_\_\_\_

11. Total family support paid this quarter \$ \_\_\_\_\_

12. Sub-total Deductions \$ \_\_\_\_\_

13. Percentage rate of deductions \_\_\_\_\_%

(Item #12 divided by item #3—result cannot be in excess of 80%)

14. Other \$ \_\_\_\_\_

(Describe other deductions withheld during quarter)

CERTIFIED CORRECT:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Title

PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT  
CERTIFICATION PROGRAM

CONSOLIDATED SUMMARY  
(for all designated cost accounting centers)

Agency reporting: \_\_\_\_\_

Period Covered: \_\_\_\_\_

Wages and Disbursements

- |   |          |
|---|----------|
| 1. Total manhours worked this quarter               | _____    |
| 2. Average daily offender employment during quarter | _____    |
| 3. Total gross wages paid                           | \$ _____ |
| 4. Hourly wage range                                | \$ _____ |
| 5. Piecework rate range                             | _____    |
| 6. Average monthly wage                             | \$ _____ |
| 7. Average number of hours worked per day           | _____    |
| 8. Total contributions to victim's programs         | \$ _____ |
| 9. Total federal income taxes withheld              | \$ _____ |
| Total state and local income taxes withheld         | \$ _____ |
| Other deductions (social security, etc.)            | \$ _____ |
| 10. Total deduction for room and board              | \$ _____ |
| 11. Total deduction for family support              | \$ _____ |

PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT PROGRAM  
QUARTERLY PERFORMANCE REPORT

PROGRAM STATUS REPORT

1. Do you expect any of the figures provided for any designated cost accounting center to change appreciably next quarter? If so, please identify the applicable cost accounting center and explain:

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2. Please describe any private sector "opportunities" you are currently exploring (this information will be treated confidentially):

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3. Do you believe that you will be designating a cost accounting center next quarter? \_\_\_\_\_ If yes, please complete the following:

Project Name: \_\_\_\_\_

Location: \_\_\_\_\_

Estimated Number of Workers: \_\_\_\_\_ Proposed Wage or Piece Rate: \_\_\_\_\_

Product Line: \_\_\_\_\_

Proposed Market: \_\_\_\_\_

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ATTACHMENT D

4. Please summarize any problems you are having with any aspect of the enhancement certification program:

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5. Could the T/A contractor assist you in resolving any of the problems listed above? \_\_\_\_\_