

Army Regulation 210–35

Installations

Civilian Inmate Labor Program

**Headquarters
Department of the Army
Washington, DC
14 January 2005**

UNCLASSIFIED

SUMMARY of CHANGE

AR 210-35

Civilian Inmate Labor Program

This rapid action revision dated 14 January 2005--

- o Assigns responsibilities to Headquarters, Installation Management Agency (para 1-4j).
- o Makes administrative and editorial changes (throughout).

This new regulation dated 9 December 1997

- o Provides Army policy and guidance for establishing civilian inmate labor programs and civilian prison camps on Army installations.
- o Discusses sources of Federal and State civilian inmate labor.

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Chapter 1 Introduction

1–1. Purpose

This regulation provides Army policy and guidance for establishing civilian inmate labor programs and civilian prison camps on Army installations. Sources of civilian inmate labor are limited to on- and off-post Federal corrections facilities, State and/or local corrections facilities operating from on-post prison camps pursuant to leases under Section 2667, Title 10, United States Code (10 USC 2667), and off-post State corrections facilities participating in the demonstration project authorized under Section 1065, Public Law (PL) 103–337. Otherwise, State and/or local inmate labor from off-post corrections facilities is currently excluded from this program.

1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1–4. Responsibilities

- a. The Assistant Secretary of the Army (Installations and Environment) (ASA(I&E)) will—
 - (1) Provide policy guidance and resolve policy issues.
 - (2) Provide overall program direction.
 - (3) Serve as approval authority for establishing civilian inmate labor programs and civilian inmate prison camps on Army installations.
 - (4) Provide procedural guidance on real property acquisition, management, and disposal relating to establishing prison camps on Army installations.
- b. The Assistant Secretary of the Army (Financial Management and Comptroller) (ASA(FM&C)) will—
 - (1) Provide reimbursement policy guidance on interservice, interagency, and/or interdepartmental support agreements between installations and corrections facilities to establish civilian inmate prison camps on Army installations.
 - (2) Provide reimbursement policy for civilian inmate labor utilization, other than reimbursement for inmate labor itself.
 - (3) Review all actions pertaining to the Civilian Inmate Labor Program for compliance with Army financial management guidance.
- c. The Chief of Public Affairs will—
 - (1) Monitor media coverage on installation civilian inmate labor programs and civilian inmate prison camps on Army installations.
 - (2) Coordinate all proposed media coverage of potential national interest concerning the Army Civilian Inmate Labor Program and civilian inmate prison camps with the Assistant Chief of Staff for Installation Management (ACSIM) prior to release.
- d. The Assistant Secretary of the Army (Manpower and Reserve Affairs) (ASA(M&RA)) will—
 - (1) Provide policy guidance on inmate labor utilization issues pertaining to existing in-house resources.
 - (2) Provide policy guidance and procedures for apprising installation government employee labor unions of proposals to use civilian inmate labor and, for existing installation civilian inmate labor programs, apprising these unions of changes in agreements with corrections facilities governing inmate use.
- e. The Assistant Chief of Staff for Installation Management will—
 - (1) Execute the Army Civilian Inmate Labor Program.
 - (2) Develop and implement policy and procedures for using civilian inmate labor and establishing civilian inmate prison camps on Army installations.
 - (3) Serve as the focal point for staff coordination on issues pertaining to the Civilian Inmate Labor Program and/or civilian inmate prison camps.
 - (4) Conduct a program review in accordance with AR 11–2 once every 5 years.
 - (5) Provide policy guidance on functions for which civilian inmate labor can be used.
 - (6) Review reports of availability pertaining to granting the use of Army real property.
 - (7) Immediately inform the Chief, Legislative Liaison of approval of civilian inmate labor programs and civilian inmate prison camps on Army installations to facilitate notification to interested members of Congress.
- f. The General Counsel and the Judge Advocate General will review all actions pertaining to the Civilian Inmate Labor Program and civilian inmate prison camps for compliance with applicable laws and regulations.
- g. The Chief of Engineers will, in those cases involving use of Army real property, handle all matters pertaining to granting the use of Army real property.
- h. The Provost Marshal General will—

(1) Monitor reporting of serious incidents, that is, walkaways, escapes, riots, disturbances, and any criminal activity by civilian inmates occurring on the installation under AR 190–40.

(2) Provide policy on law enforcement operations on Army installations.

i. Heads of other Army Staff and Army Secretariat agencies will provide advice, as necessary, on aspects of the Civilian Inmate Labor Program within their functional areas of responsibility.

j. The Director, Headquarters, Installation Management Agency (HQ, IMA) will—

(1) Ensure that their installations participating in civilian inmate labor programs comply with 18 USC 4125(a) and other applicable laws governing civilian inmate labor, Executive Order (EO) 11755, and all provisions of this regulation.

(2) Review and endorse installation memoranda of agreement (MOA) and Inmate Labor Plans to establish civilian inmate labor programs and proposals to establish civilian inmate prison camps on Army installations, and forward such MOA, plans and proposals to Headquarters, Department of the Army (HQDA) for approval.

(3) Review and endorse installation requests for changes to Army Civilian Inmate Labor Program policy.

(4) Annually review installation civilian inmate labor programs against the key management controls listed in appendix D.

k. Installation commanders will—

(1) Comply with 18 USC 4125(a) and other applicable laws governing civilian inmate labor, EO 11755, and all provisions of this regulation.

(2) Submit the following through command channels to Headquarters, Installation Management Activity (SFIM–PL), 2511 Jefferson Davis Highway, Taylor Building, Arlington, VA 22202–3926:

(*a.*) Memoranda of agreement and Inmate Labor Plans to establish civilian inmate labor programs.

(*b.*) Proposals to establish civilian inmate prison camps.

(*c.*) Written notification of termination of civilian inmate labor programs.

(*d.*) Revisions to existing memoranda of agreement requiring changes to Army Civilian Inmate Labor Program policy.

(*e.*) Requests for guidance on any Civilian Inmate Labor Program situation that is not addressed in this regulation.

(3) Annually review their civilian inmate labor programs to determine if their programs continue to generate cost avoidance.

(4) Annually review their civilian inmate labor programs against the key management controls identified in appendix D.

(5) Report all contacts with State or local corrections system on possible use of civilian inmate labor, facilities, land, or installation through command channels to Headquarters, Installation Management Activity (SFIM–PL), 2511 Jefferson Davis Highway, Taylor Building, Arlington, VA 22202–3926.

1–5. Civilian inmate labor programs

a. Civilian inmate labor programs benefit both the Army and corrections systems by—

(1) Providing a source of labor at no direct labor cost to Army installations to accomplish tasks that would not be possible otherwise due to the manning and funding constraints under which the Army operates.

(2) Providing meaningful work for inmates and, in some cases, additional space to alleviate overcrowding in nearby corrections facilities.

(3) Making cost–effective use of buildings and land not otherwise being used.

b. Except for the 3 exceptions listed in paragraph 2–1*d* below, installation civilian inmate labor programs may use civilian inmate labor only from Federal corrections facilities located either off or on the installation.

c. Keys to operating an effective civilian inmate labor program on Army installations include—

(1) Establishing a comprehensive lease agreement, interservice, interagency, and/or interdepartmental support agreement (ISA), and/or memoranda of agreement with the corrections facility.

(2) Developing a cooperative working relationship between installation personnel and corrections facility personnel.

(3) Working closely with installation government employee labor unions to ensure union leaders understand the program and have current information on program status.

(4) Training all installation personnel involved in the operation or administration of the program frequently.

(5) Developing a public affairs plan informing the installation and the surrounding local community of the program and work projects assigned to civilian inmate labor.

1–6. The process

Figure 1–1 diagrams the Army Civilian Inmate Labor Program process. The flowchart reads top down and left to right, starting with the decision to establish both a prison camp and an inmate labor program (the diamond–shaped box in the upper left corner of the diagram labeled “prison camp inmate labor?”). The diamond–shaped boxes are decision nodes; the rectangular boxes are steps in the process to establish a civilian inmate labor program, establish a civilian inmate

prison camp on post, or do both. Follow the arrows through the flowchart. Chapters 2 and 3 address procedures for establishing a civilian inmate labor program and/or on-post civilian inmate prison camp.

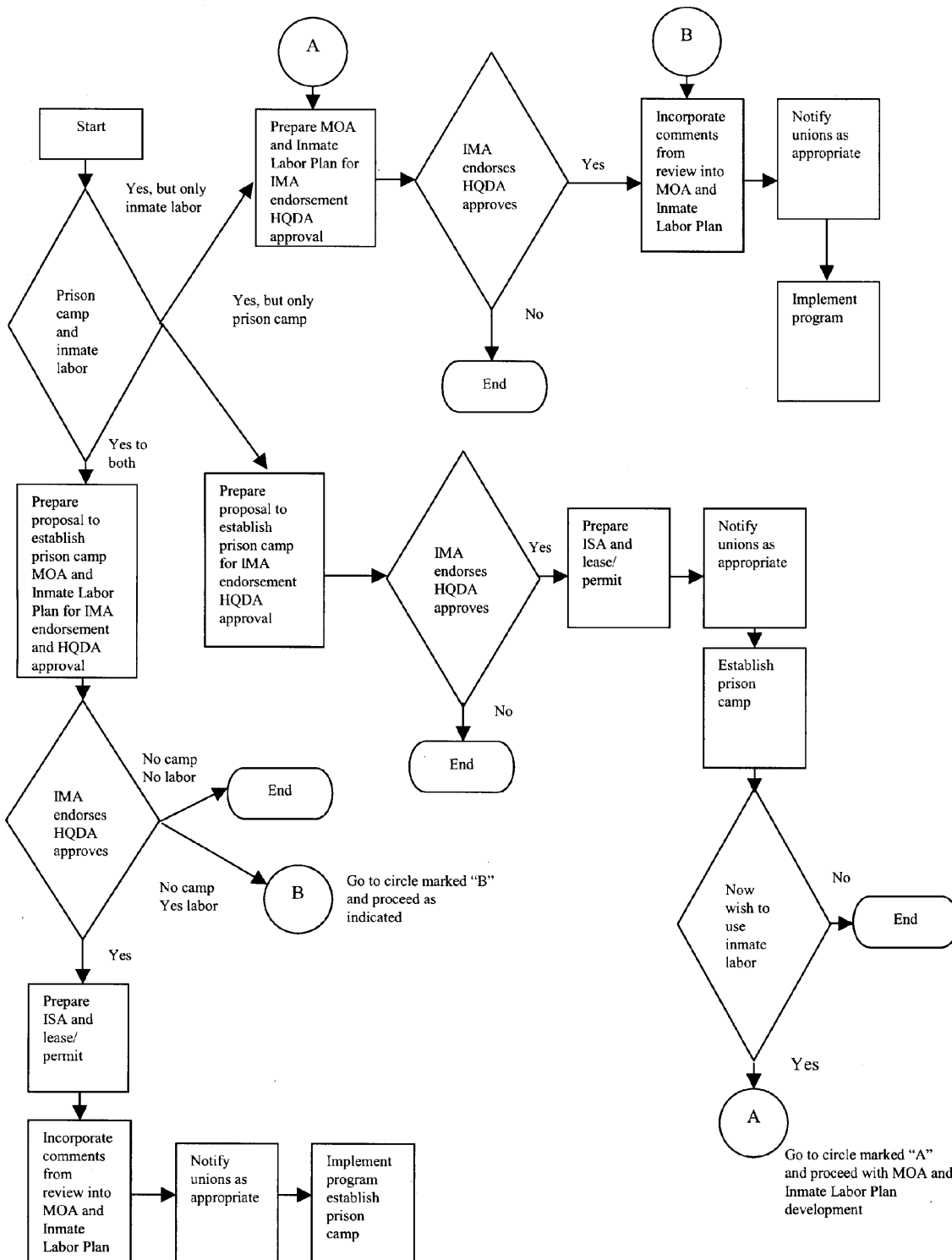


Figure 1-1. Civilian Inmate Labor Program process

Chapter 2 Establishing Installation Civilian Inmate Labor Programs

2-1. Policy statement

a. With a few exceptions, the Army's Civilian Inmate Labor Program is currently limited to using inmates from facilities under the control of the Federal Bureau of Prisons (FBOP). Section 4125(a), Title 18, United States Code allows the Attorney General to make available to other Federal agencies the services of Federal inmates and defines the types of services inmates can perform. The FBOP provides civilian inmate labor free of charge to the Army.

b. The Army is not interested in, nor can afford, any relationship with a corrections facility if that relationship stipulates payment for civilian inmate labor. Installation civilian inmate labor program operating costs must not exceed the cost avoidance generated from using inmate labor (see para 4-3 for a discussion of cost avoidance).

c. Guidelines in this regulation for establishing installation civilian inmate labor programs pertain to negotiating with Federal corrections facilities only. Currently, there is no overarching law that addresses establishing State and/or local civilian inmate labor programs on Department of Defense (DOD) military facilities when these programs use inmates from off-post corrections facilities.

d. However, there are 3 exceptions to using State or local civilian inmate labor from off-post corrections facilities—

(1) Section 1065, PL 103-337, allows the Army to conduct a demonstration project. This demonstration project tests the feasibility of providing prerelease employment training to nonviolent offenders in a State corrections facility. The demonstration project is limited to 3 Army installations. The 3 Army installations participating in the demonstration project may use inmates from an off-post State corrections facility.

(2) Army National Guard units leasing facilities from the Army or occupying State-owned land or facilities may use inmates from an off-post State and/or local corrections facility.

(3) The prohibition against use of State and/or local civilian inmate labor from off-post corrections facilities does not apply to Civil Works projects where the Army has statutory authority to accept voluntary contributions in the form of services from State or local governments. If contributed, inmate services are combined with materials or services paid for with Federally appropriated funds; the use of civilian inmate labor must also comply with the provisions of EO 11755. The use of civilian inmate labor under these exceptions must still comply with the requirements of this regulation.

e. Installation commanders must address, in memoranda of agreement with the corrections facilities, all items in the governing provisions (para 2-3 below).

f. Section 4125(a), Title 18, United States Code and EO 11755 are incorporated into this regulation at appendix E.

2-2. Negotiating with corrections systems representatives

Installation commanders may initiate discussions with FBOP representatives concerning use of civilian inmate labor on Army installations, subject to the governing provisions listed in paragraph 2-3. Installation commanders are not authorized to negotiate with representatives of State or local corrections systems or governmental agencies regarding civilian inmate labor from off-post corrections facilities (see para 3-2).

2-3. Governing provisions

The following provisions govern the Army Civilian Inmate Labor Program and must be reflected in agreements with corrections facilities concerning the use of civilian inmate labor on Army installations:

a. *No use of land or facilities.* No use of land or facilities on installations is involved in executing civilian inmate labor programs, except for designated work, latrine, eating, and vending areas.

(1) Installation commanders will establish areas where inmates are prohibited from entering, and any other restrictions that are deemed necessary. These areas will be outlined in the memoranda of agreement between the installation and the corrections facility. The intent is to preclude fraternization between inmates and civilians, military personnel and/or, family members and to ensure their safety at all times. Army policy on prohibited areas is to restrict inmates to the on-post civilian inmate prison camp (where applicable), work areas, latrines, and vending machine areas.

(2) Inmates will not enter or work in or near family housing areas at any time.

(3) Inmates will not work in day care centers, youth services and/or school-age service centers, schools, recreation centers, and/or libraries, or similar facilities, except when these facilities are closed to the public, or when the likelihood of inmate contact with the general military community or family members is remote.

(4) Inmates will not work in areas where medical supplies (drugs, syringes, and so forth) are stored unless the medical supplies are secured and the inmates are under constant view by Army personnel.

(5) Inmates will not work in areas where firearms and/or ammunition are sold or stored, nor in areas where alcoholic beverages are sold, stored, or served.

b. *Nominal costs.* The program must be without direct labor cost (for inmate labor itself) or expense to the

Department of the Army except for nominal costs for equipment, materials, and supplies used in inmate labor details, program administration, telephone calls to corrections facilities, lunch time meals, transporting inmates to and from corrections facilities, and other similar costs addressed in paragraph 4–3, below. Inmates participating in the program will not be recompensed from Department of Army appropriated or nonappropriated funds.

(1) Inmates are not Department of the Army employees and are not regarded as such. Inmates must not be referred to as employees. They will not be paid from Department of the Army funds, nor receive any personal or private gratuity for work accomplished or services rendered. Interservice, interagency, or interdepartmental support agreements and/or memoranda of agreement with the corrections facility must not create any appearance of employment of inmates.

(2) Installation commanders have authority to determine and absorb nominal costs associated with their civilian inmate labor programs. Nominal costs are minor costs incidental to civilian inmate labor program operations. Nominal costs may be costs for equipment, materials, and supplies used in inmate labor details, program administration, telephone calls to corrections facilities, lunch time meals, transporting inmates to and from corrections facilities, and other similar costs addressed in paragraph 4–3, below. Installations may absorb nominal costs associated with their program on a nonreimbursable basis. However, installation commanders will not reimburse the corrections facility for inmate labor, either as payment of funds or establishing credits in memoranda of agreement or ISAs as payment for inmate labor.

(3) Inmates are not allowed to operate Army vehicles or equipment unless they possess the necessary valid operator's licenses, have been given proper training in vehicle operation and safety by Army personnel in accordance with AR 600–55, and are authorized to operate the vehicle or equipment by both the installation and the corrections facility.

(4) Operation of Army vehicles by inmates is permitted only when absolutely necessary for completion of work. Inmates will not be permitted to operate vehicles unless in a secured area or under direct observation of installation or corrections facility personnel. Training to operate Army unique vehicles and/or equipment should be provided by the Army.

(5) No personal vehicles will be used to transport inmates to and/or from corrections facilities, or to and/or from work sites.

(6) Enforcement of inventory, control, issuance, and return of hand tools and equipment provided for inmate labor details must be controlled by installation plans and/or standing procedures.

c. Services provided to installations. Services provided to the installation must be in accordance with 18 USC 4125(a). Such services are constructing or repairing roads; clearing, maintaining, or reforesting public land; building levees; or constructing or repairing any other public way or works financed wholly or in major part by funds appropriated by Congress. Inmates may perform custodial tasks, building demolition, debris removal, mowing, landscaping, painting, carpentry, trash pickup, transporting debris to and from recycling centers, and other similar activities. No other services are allowed by law.

d. Work performed. Work performed by inmates will not interfere nor conflict with approved projects for which resources have been allocated and funds made available for performance by contract or Army civilian labor force, or with work which can be accomplished within authorized personnel ceilings. The Civilian Inmate Labor Program was created to provide installation commanders with an alternate labor source to perform valid requirements. Civilian inmate labor does not compete with existing in-house or contractor resources.

e. Participants. Only inmates classified as minimum level security will participate in the Civilian Inmate Labor Program. Minimum level security inmates do not need constant guard. Corrections facilities will be responsible for ensuring that only minimum level security inmates participate in the inmate labor program and for selecting inmate participants.

(1) Memoranda of agreement with the corrections facility will state that the installation commander will direct the removal of any inmate deemed undesirable or detrimental in any way to the mission, soldiers, family members, or civilian employees of the installation.

(2) Under no circumstances will the following types of inmates be permitted in the Civilian Inmate Labor Program:

(a) A person in whom there is a significant public interest as determined by the corrections facility superintendent in coordination with the installation commander.

(b) A person who has been a significant management problem in their current corrections facility or in another facility.

(c) A principal organized crime figure.

(d) An inmate convicted of a sex offense or whose criminal history includes such conduct.

(e) An inmate convicted of a violent crime or whose criminal history includes such conduct.

(f) An inmate convicted of the sale or intent to distribute illegal drugs who held a leadership position in any drug conspiracy, or has been involved with drugs within the last 3 years while in prison.

(g) An escape risk.

(h) An inmate who poses a threat to the general public as determined by the corrections facility superintendent in coordination with the installation commander.

(i) An inmate declared or found insane or mentally incompetent by a court, administrative proceeding, or physician, or under treatment for a mental disease or disorder.

(j) An inmate convicted of arson.

(k) A Federal inmate convicted while on active duty, presently serving a sentence for that conviction.

f. *Army personnel.* Department of the Army personnel will not be involved with custodial aspects of inmate labor details.

(a) The Warden and/or Administrator of the local corrections facility is charged with the responsibility and accountability for the control and custody of inmates on labor details at all times. Any use of Army military or civilian personnel to guard, control, discipline, or otherwise exercise custodial supervision is prohibited.

(b) Army military or civilian personnel may oversee the work to be performed by inmates or inmate labor details. Oversight is defined as telling inmates what they must do by specifying work to be accomplished. This oversight includes training inmates in performing assigned work, using special equipment, and safety precautions. Oversight also includes showing inmates the location of the work site and performing quality assurance inspections of inmate work to determine if the work performed meets quality, quantity, and timeliness specifications. Oversight may also include requiring inmates to sign time cards at intervals established by the Warden and/or Administrator of the local corrections facility. If an inmate cannot be located to sign a time card or is otherwise found missing from an assigned work area, Army personnel will immediately notify the local corrections facility point of contact staff supervisor and the installation military police.

g. *Property damage.* Generally, any interference with or damage to property under control of the Department of the Army, incident to the execution of inmate labor details, will be promptly corrected by the corrections facility as directed by the installation commander. However, the installation commander has the prerogative to decide first to thoroughly investigate the incident prior to directing the corrections facility to correct the situation; if the installation commander opts to first investigate the incident, both Army and corrections facility personnel will participate in the investigation. If it is determined that the damage or interference resulting in a loss was caused by an inmate or corrections personnel, both the installation commander and the corrections facility superintendent will be briefed on the findings, and the installation commander may—

(1) Request the corrections facility to promptly correct the situation.

(2) Direct that the inmate and/or corrections personnel be removed from the installation.

(3) Direct that the program with the corrections facility be discontinued.

(4) Decide on any combination of these options. This does not include damages, breakage, or breakdowns occurring to equipment or other property due to normal use, or poor and/or unsafe operational condition.

(a) All memoranda of agreement with the corrections facility must contain a clause addressing how property damage and/or interference will be redressed. An example of this clause is included at appendix B, paragraph 5e. The aforementioned clause has been used successfully in memoranda of agreement with the FBOP. It is offered as suggested terminology. There is no specific requirement that the corrections facility be held automatically responsible for any loss or damage; this should be resolved on a case by case basis by the installation commander.

(b) Investigations may be conducted through AR 15–6 procedures or a report of survey.

h. *Operation.* The Civilian Inmate Labor Program will operate in such a manner that it will not interfere with the operation and/or mission of the installation as determined by the installation commander.

i. *Safety.* Inmate accident compensation procedures set forth at Section 301, Title 28, Code of Federal Regulations (28 CFR 301) apply to all work performed by FBOP inmates. However, installation commanders should check with their legal advisor to determine potential liability for injuries, accidents, or deaths caused by FBOP inmates or corrections facility personnel.

(1) Corrections facilities have their own safety program and will generally provide safety training to all civilian inmates participating in the inmate labor program. Installations may provide safety equipment; for example, shoes, goggles, hard hats, and so forth or negotiate this with the corrections facility. Installations providing this equipment will ensure that the equipment is in safe and serviceable condition.

(2) Installation personnel will provide safety training to inmates and inmate labor details and corrections facility personnel specific to the type of work being performed. Such safety training will also cover accident and/or hazardous working conditions reporting. Installations should provide any required special protective equipment, materials, tools, and supplies in safe and serviceable condition.

(3) Inmate training must include safety instruction as required by the Occupational Safety and Health Administration (OSHA) in 29 CFR 1910 which establishes specific training requirements and places the responsibility for such safety training on the employer (the corrections facility). Inmates will report for work details with this OSHA required training already completed.

(4) Inmates will not be assigned work which is inherently dangerous, or of high risk; for example, hazardous materials cleanup, firefighting, and so forth.

j. *Emergency medical care.* The Army will provide emergency medical care and first aid. In the event of an on–post life threatening situation, the local military hospital will respond with emergency medical service, or the installation will provide transportation to the nearest available hospital. The corrections facility will be promptly notified of such

medical emergencies and/or serious illnesses. The corrections facility will reimburse the Army for all emergency care costs incurred on behalf of the civilian inmates and/or corrections facility personnel. The corrections facility will provide routine medical care for civilian inmates.

k. Security. The corrections facility retains control and custody of the civilian inmates at all times. In addition to defining areas off limits to inmates, installations should consult with and incorporate corrections facility security requirements into their memoranda of agreement. For example, the FBOP does not allow inmates to have access to or use installation phone lines, fax machines, computers and/or computer systems, nor to accept a gratuity of any kind at any time. Also, inmates will not be used in areas where classified information, personnel records, medical records, or other confidential or sensitive data is discussed or is in plain view. Inmates working in areas where such information is locked or secured will be under constant view by Army personnel.

l. Training of Army personnel. The corrections facility will provide training and indoctrination to all Army personnel who will oversee inmate work. Training will cover inmate discipline, staff conduct, inmate accountability, and corrections facility safety program. This training is mandatory. This training will be provided at no cost to the Army and at least on an annual basis.

m. Public affairs. Installations will develop a public affairs plan that informs the installation and the surrounding local community of the program and work projects assigned to civilian inmate labor. This will largely mitigate potential negative repercussions from using and having inmates present on the installation. Press releases involving inmates will be issued only by the corrections facility, in coordination with the installation public affairs office, as corrections facility officials are responsible for protecting the privacy and other rights of inmates. Press releases regarding the civilian inmate labor program should be coordinated with the corrections facility superintendent. One copy of the press release will be routed through command channels to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIMMD), and HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPAPCD). Press releases do not require HQDA approval prior to release.

(1) Media representatives should not be allowed to interview inmates nor take photographs of inmates without the corrections facility's and installation public affairs office specific approval.

(2) Requests for interviews or photographs of inmates should be referred to the corrections facility superintendent and the installation public affairs office.

2-4. Procedures for establishing installation civilian inmate labor programs

Procedures for establishing installation civilian inmate labor programs apply to both off-post corrections facilities and on-post civilian inmate prison camps.

a. Upon finalizing negotiations with the corrections facility, the installation commander and corrections facility superintendent will prepare a proposed memorandum of agreement, using the format at appendix B, covering all aspects of the Civilian Inmate Labor Program under consideration. This agreement will include, but is not limited to, the governing provisions in paragraph 2-3, above. In addition, the memoranda of agreement must include provisions for reporting serious incidents and negative media coverage, addressed in paragraphs 4-1 and 4-2, and the projected cost avoidance from using civilian inmates addressed in paragraph 4-3, below.

b. Installations will prepare an Inmate Labor Plan governing administration and operation of the inmate labor program on the installation. This plan will include, but is not limited to, procedures for assigning inmate labor details, oversight and/or monitoring responsibilities, procedures for requesting inmate labor details, training of personnel involved with the program, required security and/or safety measures, environmental considerations, and any installation reporting requirements. Inmate Labor Plan format is determined locally.

c. Memoranda of agreement and/or Inmate Labor Plans will be reviewed as needed by the installation commander and corrections facility superintendent to incorporate changes in Army Civilian Inmate Labor Program policy and other factors affecting the terms and conditions of these documents.

d. The installation Staff Judge Advocate (SJA) will review the memoranda of agreement and Inmate Labor Plan for legal sufficiency and to ensure that inmates will not be performing functions contrary to law. Other installation functional proponents will review the memoranda of agreement and Inmate Labor Plan from a functional perspective.

e. Installation civilian personnel offices will inform installation Government employee labor unions of proposals to use civilian inmates and comply with any bargaining obligation under 5 USC 7101 et. seq. (Federal Labor Management Relations Statute).

f. Requests to establish civilian inmate labor programs will be submitted through command channels to Headquarters, Installation Management Activity (SFIM-PL), 2511 Jefferson Davis Highway, Taylor Building, Arlington, VA 22202-3926. Requests must include HQ, IMA endorsement and copies of the proposed memoranda of agreement and Inmate Labor Plan. The HQ, IMA endorsement includes an SJA review of the memoranda of agreement and Inmate Labor Plan for legal sufficiency. Other HQ, IMA functional proponents will review the memoranda of agreement and Inmate Labor Plan from a functional perspective.

g. Installations will not implement civilian inmate labor programs, nor incorporate revisions to existing memoranda of agreement and/or Inmate Labor Plans requiring changes to Army Civilian Inmate Labor Program policy without

HQDA approval. Appendix B contains the format for installation memoranda of agreement; appendix C contains a sample Inmate Labor Plan.

Chapter 3

Establishing Civilian Inmate Prison Camps on Army Installations

3–1. Policy statement

It is not Army policy to solicit offers from correctional systems to establish civilian inmate prison camps on Army installations. Nevertheless, the Army recognizes that these correctional systems may approach installations to lease land on which to build corrections facilities, or to lease unoccupied facilities. The Army will evaluate requests to establish civilian inmate prison camps on Army installations on a case by case basis. These prison camps will house minimum and low security inmates, as determined by the correctional systems. However, the Army's primary purpose for allowing establishment of prison camps on Army installations is to use the resident nonviolent civilian inmate labor pool to work on the leased portions of the installation.

3–2. Negotiating with correctional systems representatives to establish prison camps

Installation commanders will not initiate formal discussions with correctional systems representatives to establish civilian inmate prison camps on their installations. Installation commanders are not authorized to negotiate with these representatives without first obtaining HQDA approval to proceed. Once approval is granted, installation commanders may enter into negotiations, subject to the provisions of this chapter.

a. Establishing civilian inmate prison camps on Army installations is separate from establishing civilian inmate labor programs, as discussed in chapter 2 above. Establishing civilian inmate prison camps does not automatically institute a civilian inmate labor program. Procedures for establishing civilian inmate labor programs, incident to establishing civilian inmate prison camps, still apply.

b. As noted in paragraph 2–1, above, civilian inmate labor programs are limited to use of inmates under the control of the FBOP. Accordingly, establishment of a State civilian inmate prison camp under a lease pursuant to 10 USC 2667 does not permit the creation of a civilian inmate labor program.

c. Section 1342, Title 31, United States Code precludes the United States Government from accepting voluntary services unless specifically allowed by statute. The Army has determined that accepting inmate labor with no associated cost for inmate labor is equivalent to accepting voluntary services from corrections facilities. This precludes using State and local civilian inmates from off-post corrections facilities. However, inmate labor programs using State and local civilian inmates from on-post prison camps is allowed. Section 2667, Title 10, United States Code governing leases of DOD property allows acceptance of inmate labor as payment in kind for real property leased to correctional systems for use as prison camps in an amount equivalent to the fair market value of the lease interest; however, such labor is limited to maintenance, protection, repair, improvement, and restoration activities on the leased facilities.

3–3. Governing criteria civilian inmate prison camps

The following criteria apply to establishing civilian inmate prison camps on Army installations:

a. Since the correctional system has full responsibility and authority over the use and occupation of the civilian inmate prison camp, all claims for property damage or personal injury arising therein are the responsibility of the correctional system, not the Army.

b. The installation commander and HQ, IMA must assess the impacts that the prison and prison population will have on the installation, military mission, and installation population. At a minimum, the installation commander must consider mission security, possible impacts on military families living on-post, and community concerns.

c. Prison facility sites should be separated from the general installation population to the maximum extent possible. At a minimum, prison facilities should not be located in close proximity to family housing, dormitories, or community support facilities.

d. Prison facilities should not be located in close proximity to critical mission areas where surveillance of activities could become a source of intelligence data.

e. Location of prison facilities should be in keeping with the requirements and objectives of installation comprehensive planning concepts and environmental considerations at the individual installation.

f. Civilian inmate prison camps will not be collocated with military confinement facilities.

g. Using installation facilities is acceptable when buildings are scheduled for demolition, or are not needed for current or programmed mission requirements and can be rehabilitated.

h. The correctional system will provide the primary source of funding for establishing, operating, and maintaining prison facilities.

i. Support and services provided between the Army installation and a Federal civilian inmate prison camp will be delineated in a formal ISA in accordance with Department of Defense Instruction (DODI) 4000.19. There should be no

need for any reimbursement policy where State corrections facilities are concerned because the cost of doing business with a State corrections facility should be factored into the lease agreement.

j. Correctional systems' use of Army real property will be in accordance with AR 405–80.

k. AR 42041 establishes policy, responsibility, and procedures for acquisition and sale of utility services. A separate contract form is required for use in the sale of utilities and related services.

3–4. Governing provisions for operating civilian inmate prison camps on Army installations

Civilian inmate prison camps on Army installations are subject to the following provisions:

a. No weapons other than those authorized for the security of the civilian inmate prison camp and public protection will be permitted on prison camp premises. Storage, possession, control, and use of such weapons will be in accordance with corrections facility policy and procedures.

b. No alcohol or controlled substances other than those under the control and supervision of the corrections facility medical personnel will be permitted on civilian inmate prison camp premises. Storage, possession, control, dispensing, and use of such drugs will be in accordance with corrections facility policy and procedures.

c. The corrections facility must have a comprehensive written security plan; a contingency plan for handling walkaways, escapes, riots, serious incidents, job actions or strikes, and any other disruption; and a plan designed to ensure that adequate medical, sanitation, recreational, and other humanitarian services are provided for the inmates housed at the civilian inmate prison camp. These plans will be made available to the installation commander.

d. Army personnel will not be involved in quelling or suppressing riots, disorders, and similar incidents within civilian inmate prison camp premises. Military police may not respond to or investigate incidents which occur within the civilian inmate prison camp and involve inmates or correctional facilities personnel, unless the installation commander determines that such action is reasonably necessary to protect personnel, equipment, or facilities under his or her control. They may gather information to fulfill AR 190–40 reporting requirements. Military police may take immediate action to save life or property or protect a Federal function. They may detain and restrain walkaways, escapees, and persons who commit a felony or breach of peace in their presence. However, inmates detained by military police will be turned over to civilian authorities as soon as possible. Military police will continue to perform military law enforcement duties to maintain good order and discipline on the installation, such as patrolling and criminal investigation of incidents occurring outside the prison camp, even if these activities indirectly enhance the camp's security.

e. Civilian inmate prison camp personnel must request approval from the installation commander before using riot control agents or deadly force to quell prison riots, disorders, or other incidents.

f. Army personnel will not be involved in any manner with civilian inmate prison camp operations, except as otherwise specified in paragraph 3–4*d*, above.

3–5. Procedures for establishing a civilian inmate prison camp on Army installations

The following procedures apply to establishing a civilian inmate prison camp on Army installations. These procedures are separate from those procedures discussed in chapter 2 above for establishing a civilian inmate labor program. Installations desiring to both establish a civilian inmate prison camp and an inmate labor program must follow the procedures outlined in chapters 2 and 3 of this regulation. Establishment of a civilian inmate prison camp does not automatically establish a civilian inmate labor program. Separate documents must be executed for each action, as outlined below. However, as noted in paragraph 2–1, above, civilian inmate labor programs are limited to use of inmates under the control of the FBOP. Establishment of a State civilian inmate prison camp under a lease pursuant to 10 USC 2667 does not permit the creation of a civilian inmate labor program.

a. Installations will submit a proposal to establish a civilian inmate prison camp through command channels to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM–MD), 600 Army Pentagon, Washington, DC 20310–0600. The proposal must be signed by the installation commander, be endorsed by the chain of command at all levels, and address the following areas:

(1) Proposed civilian inmate prison campsite, intended use for existing buildings, planned renovations, or new construction. Include a site drawing of the planned area.

(2) Proposed number of inmates to be housed and security level of inmates.

(3) Proposed number of inmates to be used in work details, if applicable.

(4) Economic analysis of the cost and/or benefits of establishing a civilian inmate prison camp. The analysis must include all the costs of providing all utility needs, such as water supply, wastewater treatment, stormwater, solid waste management, electricity, and central steam or hot water. The analysis must also describe the planned method of reimbursing the Army for these costs and how a transfer of funds from the corrections facility to the Army will be effected.

(5) Synopsis of the correctional system's request to establish a civilian inmate prison camp.

(6) Compliance with the National Environmental Policy Act, the Stewart B. McKinney Homeless Assistance Act, and any successor legislation.

(7) Local community reaction, including family member reaction to establishing a civilian inmate prison camp on the installation.

(8) Summary of the benefits the Army will derive from establishing a civilian inmate prison camp. Address the services the Army will provide the prison camp and the services the prison camp will provide the Army in return. However, keep in mind that for State civilian inmate prison camps established pursuant to a lease under 10 USC 2667, the services that the prison camp may provide to the Army are limited to maintenance, protection, restoration, repair, and improvement of the leased facilities.

(9) Risk assessment regarding the facilities proposed for outgranting. Address the viability of establishing a civilian inmate prison camp.

(10) Correctional system security plan for the civilian inmate prison camp.

(11) Proposed length of time of agreements (ISAs and lease and/or permit).

(12) Report of availability of real property and/or facilities proposed for outgranting.

b. Upon receiving HQDA approval, installations may request the Corps of Engineers district office to proceed with preparing the appropriate outgrant document with the correctional system for the right to use Army real property and facilities, and, for Federal civilian inmate prison camps, prepare a permit and an ISA delineating the services to be rendered by the civilian inmate prison camp and the support required from the installation. One copy of the outgrant document and the ISA, where applicable, will be forwarded through command channels to HQ, IMA (SFIM-PL).

c. For Federal civilian inmate prison camps, the outgrant document will reference the ISA governing services the installation will provide the prison camp, and the services the prison camp will provide the installation, if applicable, under the memoranda of agreement establishing an installation civilian inmate labor program. The outgrant document by itself does not establish a civilian inmate labor program. A separate memoranda of agreement with the corrections facility is still required. All outgrants of Army real property will be prepared in accordance with AR 405-80.

d. Installations intending to establish a civilian inmate labor program using inmates to be housed in the on-post prison camp will follow the procedures outlined in chapter 2 above.

3-6. Interservice, interagency, or interdepartmental support agreements

The ISAs documents the services installations will provide the Federal civilian inmate prison camp and the services the prison camp will provide the installation, in return. The ISAs will be prepared in accordance with DODI 4000.19 and AR 37-49 and will cover the same period as the outgrant document. The ISAs are subject to annual review to examine current costs and determine next year project assignments. Installation commanders have the authority to negotiate and approve ISAs locally. Executing an ISA does not establish a civilian inmate labor program. A separate memoranda of agreement with the corrections facility is still required in accordance with the procedures delineated in chapter 2 above.

a. Utility sales contracts and memoranda of agreement establishing civilian inmate labor programs using inmates from the on-post Federal civilian inmate prison are attachments to the ISAs.

b. The ISAs will require the Federal civilian inmate prison camp to have a mutually acceptable utility and/or energy conservation program and an environmental management plan. The prison camp will provide assurance that it is resourced to carry out these provisions.

c. No credits for inmate labor will be given to offset support services provided to the Federal civilian inmate prison camp.

Chapter 4

Reporting and Recordkeeping

4-1. Incident reports

Serious incidents, that is, walkaways, escapes, riots, disturbances, and any criminal action involving inmates participating in the civilian inmate labor program and/or occurring in onpost civilian inmate prison camps will be reported in accordance with AR 190-40. One copy of incident reports will be provided to HQ, IMA (SFIM-PL), and HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPA-PCD). Accidents involving inmates will be investigated and reported in accordance with AR 385-40.

4-2. Media coverage

Any media coverage involving inmates participating in the Civilian Inmate Labor Program, or involving onpost civilian inmate prison camps, will be reported through command channels to HQ, IMA (SFIMPL), and HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPA-PCD). Report media source (newspaper, magazine, radio, television), name of media source (and radio and/or television channel), date of coverage, synopsis of report, and whether the report had local, regional, or national coverage. Provide copies of the article and/or script, if available.

4-3. Recordkeeping

Installations will maintain records of their civilian inmate labor programs. These records will be used in higher headquarters efforts to assess program utility and assess the effectiveness of key management controls identified in appendix D. The management and final disposition of all civilian inmate labor programs and civilian inmate prison camp records will comply with AR 25-400-2. Recordkeeping will cover the following topics:

a. For civilian inmate labor programs—

(1) Summary listing of all work projects employing civilian inmates, including project duration, number of civilian inmates used on the project, number of corrections facility personnel supervising work details assigned to each project, and number of Army military and civilian personnel engaged in oversight activities per project.

(2) Cost avoidance generated from civilian inmate labor. Cost avoidance is based on determining the dollar value of inmate labor by equating inmate work performed to the dollar value and costs of similar work if performed by authorized and funded positions, or by contract. Cost avoidance must be calculated using the following equation:

Cost avoidance=Dollar value of civilian labor (including fringe benefits, monitoring, and overhead) and/or contracts for functions inmates now perform (including overtime) *minus* Cost of equipment, materials, and supplies furnished to inmate labor details *minus* Costs of transporting inmates to and from corrections facility (as applicable) *minus* Inmate meal costs (if provided) *minus* Program administration costs *minus* Any other costs associated with the civilian inmate labor program.

(3) Synopsis of special incidents and/or military police (MP) reports involving civilian inmate labor. This includes significant events and anticipated problems.

(4) Media inquiries and responses provided.

(5) Synopsis of any complaints and/or concerns from the surrounding off-post community and family members regarding inmate labor, together with any action taken to resolve the complaint.

(6) Borrowed military manpower returned to duty resulting from inmate labor.

b. For civilian inmate prison camps—

(1) Monthly average daily population for the facility.

(2) Any Right of Entry violations and corrective measures taken.

(3) Direct and reimbursable obligations for support provided to the civilian inmate prison camp, to allow for analysis of spending trends.

(4) Synopsis of any complaints and/or concerns from the surrounding off-post community and family members regarding the civilian inmate prison camp, together with any action taken to resolve the complaint.

(5) Synopsis of special incidents and/or MP reports involving the civilian inmate prison camp. This includes significant events and anticipated problems.

(6) Media inquiries and responses provided.

Appendix A References

Section I Required Publications

AR 11–2

Management Controls. (Cited in para 1–4e(4).)

AR 15–6

Procedures for Investigating Officers and Boards of Officers. (Cited in para 2–3g(4)(b).)

AR 37–49

Budgeting, Funding, and Reimbursement for Base Operations Support of Army Activities. (Cited in para 3–6.)

AR 190–40

Serious Incident Report. (Cited in paras 1–4h(1), 3–4d, 4–1, and D–4c(5).)

AR 385–40

Accident Reporting and Records. (Cited in para 4–1.)

AR 405–80

Management of Title and Granting Use of Real Property. (Cited in paras 3–3j and 3–5c.)

AR 420–41

Acquisition and Sales of Utilities Services. (Cited in paras 3–3k.)

AR 600–55

The Army Driver and Operator Standardization Program (Selection, Training, Testing and Licensing). (Cited in para 2–3b(3).)

5 USC 7101 et. seq.

Federal Labor Management Relations Statute. (Cited in para 2–4e.)

10 USC 2667

Leases, NonExcess Property of Military Departments. (Cited in paras 1–1, 3–2b, 3–2c, 3–5a(8).)

18 USC 4125(a)

Public Works; Prison Camps. (Cited in paras 1–4j(1), 1–4k(1), 2–1a, 2–1f, and 2–3c.)

28 CFR 301

Inmate Accident Compensation. (Cited in para 2–3i.)

29 CFR 1910

Occupational Safety and Health Standards. (Cited in para 2–3i(3).)

31 USC 1342

Limitation on Voluntary Services. (Cited in para 3–2c.)

DODI 4000.19

Interservice, Interdepartmental, and Interagency Support. (Cited in paras 3–3i and 3–6.)

Executive Order 11755

Prison Labor. (Cited in paras 1–4j(1), 1–4k(1), 2–1d(3), and 2–1f.)

PL 103–337, Section 1065

Demonstration Project for Use of Army Installations to Provide Prerelease Employment Training to Nonviolent Offenders in State Penal Systems. (Cited in paras 1–1 and 2–1d(1).)

Section II

Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this publication. Army regulations and pamphlets are available on the Army Publishing Directorate's Web site at <http://www.apd.army.mil>.

AR 5-9

Area Support Responsibilities

AR 5-20

Commercial Activities Program

AR 25-400-2

The Army Records Information Management System (ARIMS)

AR 190-47

The U.S. Army Correctional System

18 USC Chapter 303

Bureau of Prisons (Available at <http://www.gpoaccess.gov/USCODE/INDEX.HTML>.)

18 USC Chapter 305

Commitment and Transfer (Available at <http://www.gpoaccess.gov/USCODE/INDEX.HTML>.)

18 USC Chapter 1385

Posse Comitatus Act (Available at <http://www.gpoaccess.gov/USCODE/INDEX.HTML>.)

28 USC 1346(b), 2671-2680

Federal Tort Claims Act (Available at <http://www.gpoaccess.gov/USCODE/INDEX.HTML>.)

DODD 5525.5

DOD Cooperation with Civilian Law Enforcement Officials (Available at <http://www.dtic.whs/directives>.)

FAR, Part 22.201

Convict Labor (Available at <http://www.arnet.gov.far/>.)

Section III

Prescribed Forms

This section contains no entries.

Section IV

Referenced Forms

DA Form 11-2-R

Management Control Evaluation Certification Statement (Available at <http://www.apd.army.mil>.)

Appendix B

Memorandum of Agreement Format

This memorandum of agreement (MOA) format addresses agreements between Army organizations and Federal corrections facilities under the control of the U.S. Federal Bureau of Prisons (FBOP) and is the template for developing such agreements. This MOA format contains all required clauses for compliance with Army policy on using civilian inmates. This MOA format may be modified to accommodate State/local civilian inmate use authorized under the exceptions cited in paragraph 2-1d of this regulation. Users of this template should make the appropriate substitutions indicated in bold print and bounded by parenthesis to tailor this template for their own use.

**MEMORANDUM OF AGREEMENT
BETWEEN
(NAME AND LOCATION OF CORRECTIONS FACILITY
PROVIDING CIVILIAN INMATES)
AND
(NAME AND LOCATION OF ARMY ORGANIZATION)
FOR
THE USE OF FEDERAL CIVILIAN INMATE LABOR
DETAILS ON PROPERTY UNDER (ARMY ORGANIZATION) CONTROL**

THIS MEMORANDUM OF AGREEMENT is entered into by, and between, **(the name and location of local Federal corrections facility)** and **(name and location of Army organization)** hereinafter referred to as the Host Agency.

WHEREAS, Title 18 USC 4125(a) provides that the services of United States civilian inmates may be made available to perform work set forth under terms, conditions, and rates mutually agreed upon, for constructing or repairing roads, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress; and

WHEREAS, the Host Agency will have a continuing requirement for labor to include, but not limited to, providing repair and maintenance work such as mowing, painting, carpentry, cutting trees, landscaping, planting, building demolition, general maintenance and repair, trash pickup, custodial work, transporting material to and from recycling centers, and other similar type work on property under Host Agency control; and

WHEREAS, **(the name and location of local Federal corrections facility)** has under its custody and control a varying number of able-bodied, minimum security, community custody status inmates who can be made available for such activities; and

WHEREAS, it is to the mutual advantage of **(the name and location of local Federal corrections facility)** and the Host Agency to have these inmates performing such work;

NOW, THEREFORE IT IS AGREED:

1. **(The name of local Federal corrections facility)** shall:
 - a. Select inmates and inmate labor details in accordance with this Memorandum of Agreement (MOA) for work at **(specify location, by name, e.g. installation, satellite facility, recreation areas, etc. where work will be performed)**.
 - b. Provide Host Agency personnel an introduction to and training in **(name of local Federal corrections facility)** policies and procedures in such areas as inmate and inmate labor detail discipline, staff conduct, inmate accountability, **(name of local Federal corrections facility)** safety, and any other training which would further the purposes and terms of this MOA. Provision of such training will be at no cost or fee to the Host Agency.
 - c. Provide inmates and inmate labor details routine medical care, regular standardized work clothing not resembling known military or civilian uniforms, safety shoes, and daily meals. **(Name of local Federal corrections facility)** shall enforce inventory and control of equipment, tools, materials, and supplies provided by **(name of local Federal corrections facility)** that are not consumed in the work performed by inmate labor details.
 - d. Reimburse the Host Agency for the reasonable cost of emergency medical care, including transportation, in the event the Host Agency provides inmates any such emergency medical care or transportation.
 - e. Provide appropriate compensation to inmates in accordance with **(name of local Federal corrections facility)** inmate pay schedules.
 - f. The Warden/Administrator of **(Name of local Federal corrections facility)** is charged with the responsibility and accountability for the control and custody of inmates on labor details. The daily technical oversight of inmate labor details will be the responsibility of the Host Agency. Oversight functions of the Host Agency includes: training inmates to perform assigned tasks, performing quality assurance checks, and requiring inmates to sign time cards at intervals established by the Warden/Administrator of **(Name of local Federal corrections facility)**. If an inmate cannot be located to sign

Figure B-1. Sample format for a memorandum of agreement

a time card, the Host Agency will immediately notify the **(Name of local Federal corrections facility)** point of contact staff supervisor.

g. Provide inmate photo identification cards.
(Add additional paragraphs as appropriate.)

2. The Host Agency shall—

a. Provide personnel who will instruct inmates and inmate labor details on work safety, work tasks, work materials and supplies, use of work tools and equipment, host agency measures for control and accountability of tools and equipment, and quality of work to be performed. Host Agency personnel will not become involved directly with **(name of local Federal corrections facility)** operation of inmate labor details, and in no event will Host Agency personnel act as, nor for, **(name of local Federal corrections facility)** supervisors of inmates or inmate labor details.

b. Provide, as needed for tasks and work to be performed, safe and serviceable protective and safety equipment except shoes provided by **(name of local Federal corrections facility)**, tools, materials and supplies for inmates and inmate labor details. Host Agency shall enforce inventory and control of equipment, tools, materials, and supplies provided by Host Agency that are not consumed in the work performed by inmate labor details.

c. Provide a safe and humane work environment for inmates and inmate labor details. In addition to daily instructions on work tasks, work equipment use, and work safety, Host Agency personnel will provide inmates and inmate labor details a regular Host Agency safety briefing at least weekly. Weekly safety briefings will be documented on a form provided by **(name of local Federal corrections facility)**.

d. Complete daily, and submit to **(name of local Federal corrections facility)** personnel not less than monthly **(name of local Federal corrections facility)** required inmate and inmate labor detail reports and time sheets.

e. Prepare an annual report of inmate labor detail project accomplishments and furnish a copy to **(name of local Federal corrections facility)**.

f. Ensure that Host Agency personnel involved with **(name of local Federal corrections facility)** inmates and inmate labor details are of good integrity, have no known criminal record, have no known history of drug or alcohol abuse, and have no prior nor present social or other relationship with inmates.

g. Provide first aid and emergency medical care, on a cost reimbursable basis, for inmates and inmate labor details and immediately notify **(name of local Federal corrections facility)** point of contact in the event of inmate injury or illness. In the event of an emergency or serious injury, the Host Agency will provide transportation to the nearest available hospital (or on-post medical facilities, if applicable) and the **(name of local Federal corrections facility)** point of contact will be promptly notified. Inmates becoming ill, but not requiring emergency medical care, while on labor detail will be returned to **(name of local Federal corrections facility)** and the **(name of local Federal corrections facility)** point of contact notified of such illness.

h. Take appropriate measures to ensure that the work performed by inmates and inmate labor details will comply with the following:

(1) No Federal civilian employees will be displaced by inmates or inmate labor details.

(2) Inmate labor details will not interfere nor conflict with projects/work for which resources have been allocated and funds made available for accomplishment by contract or by the Federal civilian workforce.

(3) Inmate labor details will not impair current Federal contracts for services.

(4) Inmates and inmate labor details will not be used in any manner inconsistent with this agreement or any other law and regulation.

i. Ensure that the use of inmates and inmate labor details does not interfere with the operation and/or mission of activities on Host Agency property.
(Add additional paragraphs as appropriate.)

3. Selection of Inmates:

a. Inmates selected for participation on inmate labor details will be suitable for work projects to be accomplished on Host Agency work sites, giving due regard to their safe custody, their mental and physical competence, and their suitability for work programs within the Host Agency. **(Name of local Federal corrections facility)** Warden/Administrator will make inmate labor detail assignments in coordination with the Host Agency's **(fill in name/title of responsible individual or division/directorate)**.

b. Number of inmates selected will be sufficient in number for Host Agency work projects as determined by the Host Agency's **(fill in name/title of responsible individual or division/directorate)**, in consultation with **(name of local Federal corrections facility)** Warden/Administrator. The number of inmates and inmate labor details may be increased or decreased as determined necessary

Figure B-1. Sample format for a memorandum of agreement—continued

by the Host Agency's **(fill in name/title of responsible individual or division/directorate)** who will then advise the **(name of local Federal corrections facility)** Administrator of his/her determination.

c. Inmates will be medically cleared for labor detail status with no medical or psychological restrictions.

d. Inmates will be satisfactorily participating in or have completed financial obligations under the Inmate Financial Responsibility Program.

e. Inmates will have no detainers or pending charges.

f. Inmates will receive Central Inmate Monitoring (CIM) clearance from **(name of local Federal corrections facility)** if necessary.

g. Inmates will have no prior personal or contractual relationship with the Host Agency or Host Agency personnel.

h. Only inmates classified at the minimum level of FBOP security classification, and who have community custody status, will be used in the inmate labor program.

i. Inmates will not be any of the following:

(1) A person in whom there is significant public interest as determined by the **(name of local Federal corrections facility)** Warden/Administrator, in coordination with the Host Agency Commander.

(2) A person who is or has been a significant management problem in **(name of local Federal corrections facility)** or other corrections facilities.

(3) A principal organized crime figure.

(4) An inmate convicted of a sex offense or whose criminal history includes such conduct.

(5) An inmate convicted of a violent crime or whose criminal history includes such conduct.

(6) An inmate convicted of the sale of or intent to distribute illegal drugs who held a leadership position in any drug conspiracy, or been involved with drugs within the last three years while they have been in prison.

(7) An escape risk.

(8) An inmate who poses a threat to the general public.

(9) An inmate convicted of arson.

(10) An inmate declared or found insane or mentally incompetent by a court, administrative proceeding, physician, or under treatment for a mental disease or disorder.

(11) A Federal inmate convicted while on active duty, presently serving a sentence for that conviction.

j. Inmates who do not perform to the satisfaction of Host Agency personnel while participating in inmate labor details will be reported to **(name of local Federal corrections facility)** and removed from the inmate labor program at the Host Agency.

4. General Provisions:

a. The Warden/Administrator of **(name of local Federal corrections facility)** is charged with control and custody of inmates and inmate labor details at all times. No Host Agency personnel will be involved with custodial aspects of inmate labor details. In no event shall Host Agency personnel provide custodial supervision over inmates or inmate labor details. Host Agency personnel may check on the quality of work being performed by inmates or inmate labor details. Host Agency personnel will instruct inmates and inmate labor details on various aspects of work tasks.

b. The Host Agency Commander **(or designated representative)** shall direct the removal of any inmate or **(name of local Federal corrections facility)** personnel deemed undesirable or detrimental in any way to the mission, soldiers, family members, visitors, or civilian employees of the Host Agency.

c. The civilian inmate labor program is without direct labor cost or expense to the Department of Army, except for nominal costs for equipment, materials, and supplies used to accomplish work during inmate labor details, program administration, **(telephone calls to corrections facilities, lunch time meals, and transporting inmates to and from Federal corrections facilities, if applicable)**. Any costs incurred by either party in implementing, abiding by, suspending, terminating, changing, or renewing this MOA, with the exception of reimbursement for medical care and medical transportation provided by the Host Agency, **(and any other reimbursable services to be provided)**, are the responsibility of that party.

d. All laws of the United States and rules of **(name of local Federal corrections facility)** relating to, or in any way affecting, the imprisonment, transfer, control, discipline, escape, or release of inmates shall apply to all **(name of local Federal corrections facility)** inmates selected and provided under the terms of this MOA.

e. All inmates and inmate labor details selected and provided under this MOA shall be used under 18 USC 4125(a), and are covered for any injury under the provisions of the Inmate Accident Compensation Program, 28 CFR 301.

f. Inmates and inmate labor details are in no manner employees of the Host Agency and will not be paid from Host Agency funds, nor receive any type of personal or private gratuity for work accomplished or services rendered.

Figure B-1. Sample format for a memorandum of agreement—continued

g. Inmates placed under this program are not Federal employees for the purpose of laws administered by the Office of Personnel Management and do not have title to any Federal benefits such as insurance, retirement, and leave.

h. Specific projects will be negotiated locally within the limits of the inmate labor program and consistent with 18 USC 4125(a). Necessary approvals for the use of inmate labor on any specific project will be obtained by the Host Agency or **(name of local Federal corrections facility)**, as dictated by the rules and regulations governing the respective agency.

i. Should an emergency situation arise, i.e. escape, hostage situation, etc., the **(name of local Federal corrections facility)** will be contacted immediately and the appropriate contingency plans enacted.

j. No Host Agency land and/or facilities will be involved in executing the inmate labor program, excepting designated latrine, work, eating, and vending areas.

k. Inmates may purchase soft drinks, food stuffs, candy bars, and cigarettes from designated vending areas. However, inmates will not be given gifts, food stuffs, or money in any amount by any military, contractor, DOD civilian personnel, or the general public.

l. Inmates will abide by the rules and regulations prescribed by **(fill in title of responsible division/directorate)** unless otherwise directed by a **(name of local Federal corrections facility)** employee as may be necessary to protect the security, good order, and discipline of Federal inmates. This includes, but is not limited to, the general maintenance of law and order and rules concerning employee on-the-job performance and conduct, and safety rules.

m. Inmates and inmate labor details will not be allowed in any Host Agency sensitive or prohibited areas/offices. Inmates and inmate labor details working in areas where classified information, personnel records, medical records, or other confidential or sensitive data is locked or secured will be under constant view by Army personnel. Inmates will not be used in areas where classified information is discussed or is in plain view. **(Add additional criteria as appropriate).**

n. Inmates and inmate labor details are prohibited from entering any establishment that serves or stores alcoholic beverages.

o. Inmates and inmate labor details will not enter or work in family housing areas at any time. Inmates will not work in day care centers, youth services/school age services centers, schools, recreation centers/libraries, or similar facilities, except when these facilities are closed to the public or the likelihood of inmate contact with the general military community or family members is remote.

p. Inmates and inmate labor details will not work in areas where firearms and/or ammunition are sold or stored, nor in areas where alcohol products are sold, stored, or served.

q. Inmates and inmate labor details will not work in areas where medical supplies (drugs, syringes, etc.) are stored unless the medical supplies are secured, and the inmates are under constant view by Army personnel.

r. Inmates will not have access to or use phone lines or fax machines, computers/computer systems **(and any other restrictions the local Federal corrections facility may place on inmate use).**

s. Inmates will not be allowed to operate Host Agency vehicles or equipment unless they possess the necessary valid operator's license(s), have been given proper training in vehicle operation and safety by Army personnel, and are authorized to operate the vehicle or equipment in accordance with AR 600-55 by both the Host Agency and **(name of local Federal corrections facility).**

t. Serious incidents, i.e. walkaways, escapes, riots, disturbances, and any criminal action involving inmates participating in the civilian inmate labor program will be reported in accordance with AR 190-40. One copy of incident reports will be provided to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM-MD), and HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPA-PCD). Accidents involving inmates will be investigated and reported in accordance with AR 385-40 as applicable.

u. Any negative media coverage involving inmates participating in the civilian inmate labor program will be reported through command channels to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM-MD), DSN 224-3084 or (703) 614-3084, and HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPA-PCD), DSN 227-7591 or (703) 697-7591. Report media source (newspaper, magazine, radio television), name of media source (and radio/television channel), date of coverage, synopsis of report, and whether the report had local, regional or national coverage, will be reported. Provide one copy of the article/script, if available. **(Add additional paragraphs as appropriate).**

5. It is Mutually Agreed:

a. The Host Agency shall not be liable for misconduct or unauthorized absence of inmates, but shall report such incident to the **(name of local Federal corrections facility)** immediately.

b. The Host Agency shall not bear responsibility for payment of expenses of inmates, for which the **(name of local corrections facility)** bears full and exclusive responsibility.

c. The Host Agency shall not be liable for sickness, accidents, or death of inmates or **(name of**

Figure B-1. Sample format for a memorandum of agreement—continued

local Federal corrections facility) personnel engaged in any activity conducted under this agreement and compensable through the Inmate Accident Compensation Program and the Federal Employees Compensation Act, respectively.

d. Nothing in this MOA shall be construed as obligating the Host Agency or **(name of local Federal corrections facility)** to expend, or as involving the Host Agency or **(name of local Federal corrections facility)** in any obligations for the future payment of money in excess of appropriations authorized by law and administratively made available for this work.

e. Any interference with or damage to property under control of the Department of the Army incident to the execution of an inmate labor detail will be thoroughly investigated by designated Army/FBOP personnel. If it is determined that the damage or interference resulting in a loss was caused by an inmate or correctional personnel, both the Host Agency Commander and the **(name of local Federal corrections facility)** Warden/Administrator will be briefed on the findings, and the Host Agency Commander may:

- (1) Request the **(name of local Federal corrections facility)** to promptly correct the situation;
- (2) Direct that the inmates, inmate labor detail, and/or corrections facility personnel be removed from the installation;
- (3) Direct that the program with **(name of local Federal corrections facility)** be discontinued; or
- (4) Decide on any combination of these options. This does not include damages, breakage, or breakdowns occurring to equipment or other property due to normal use, or poor/unsafe operating condition.

f. Concerning the media:

(1) Any requests for interviews and/or photographs of any inmates and/or inmate labor details received by the Host Agency will be referred to the **(name of local Federal corrections facility)** Warden/Administrator.

(2) At no time will any media representative be allowed to interview any inmate or inmate labor detail without the expressed consent of the **(name of local Federal corrections facility)** Warden/Administrator and the Host Agency Public Affairs Office.

(3) No photograph, film, nor video may be taken or made of any inmate or inmate labor detail for any reason by anyone without the expressed consent of the **(name of local Federal corrections facility)** Warden/Administrator and the Host Agency Public Affairs Office.

(4) Press releases regarding the inmates and/or inmate labor details will be with the joint coordination of the **(name of local Federal corrections facility)** Warden/Administrator and the Host Agency Commander or Public Affairs Office. Press releases will only be released to the media by **(name of local Federal corrections facility)** which has the responsibility to protect the privacy and other rights of inmates. The Host Agency Public Affairs Office will route the contents of such press releases through command channels to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM-MD), and to HQDA, Office of the Chief of Public Affairs, Public Communications Division (SAPA-PCD).

(5) The Host Agency Public Affairs Office will coordinate all denial/approval of media requests with the **(name of local Federal corrections facility)**. The Public Affairs Office will inform the Host Agency **(fill in name of division/office)** of any denial/approval of media requests to ensure proper coordination of media coverage, or to protect inmate privacy.

(6) The Host Agency Commander and Public Affairs Office will institute public awareness and community training regarding the presence of inmates or inmate work details on the installation. The Host Agency Public Affairs Office will develop a public affairs plan which informs the installation and surrounding community of the civilian inmate labor program, projects inmates and inmate labor details will perform, and community training regarding the presence of inmates on the installation.

(Add additional paragraphs as appropriate).

6. Effective Date, Suspension and Termination Provision:

a. This MOA becomes effective upon signing by the Host Agency Commander and the **(name of local Federal corrections facility)** Warden/Administrator after both parties have secured approval to enter into this agreement from their respective approval entities.

b. This MOA may be suspended or terminated by either party at no cost upon 60 days advance written notification of such suspension or termination, or at any time by mutual written consent of the parties, or at any time upon notice to the other party of an operational or emergency need of either party.

7. Review and Change:

a. Required changes to this MOA will be accomplished by written amendments which will be sequentially numbered. Change amendments will be jointly authorized by the Commander, **(name of Host Agency)** and the Warden/Administrator, **(name of local Federal corrections facility)**. All change amendments will be subject to approval of appropriate officials of the **(name of local Federal corrections facility)** and the Host Agency.

b. Any substantive revisions requiring changes to the Army's Civilian Inmate Labor Program policy will be forwarded through **(fill in name(s) of offices within the Host Agency's chain of command)**

Figure B-1. Sample format for a memorandum of agreement—continued

to HQDA, Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM-MD) for review and approval. These changes will not become part of the MOA without first obtaining HQDA approval and confirmation that these changes have become part of the Army's Civilian Inmate Labor Program policy.

c. This MOA will be reviewed as required to determine if the conditions of the document are still current.

**(/s/ Name
Warden/Administrator
Name and location of local
Federal corrections facility)**

**(/s/ Name
Rank
Commander
Name and location of Army
organization)**

Date:

Date:

Figure B-1. Sample format for a memorandum of agreement—continued

Appendix C Sample Inmate Labor Plan

This sample Inmate Labor Plan may be used as a template to develop user Inmate Labor Plans. This sample Inmate Labor Plan contains all required clauses for compliance with Army policy on using civilian inmates. Users of this template should make the appropriate substitutions indicated in bold print and bounded by parenthesis to tailor this template for their own use. User Inmate Labor Plans may be a regulation, letter of instruction, policy memorandum, or other document of the user's choice.

**DEPARTMENT OF THE ARMY
(NAME AND LOCATION OF ARMY ORGANIZATION
USING CIVILIAN INMATE LABOR)**

(Army Organization) Regulation No. _____

FEDERAL INMATE LABOR PROGRAM

1. Purpose. This regulation establishes guidelines for the Federal Civilian Inmate Labor Program at **(name of Army organization)** and prescribes policies, procedures, and responsibilities for using Federal civilian inmate labor on **(name of Army organization)**.

2. References.

- a. AR 210-35, Army Civilian Inmate Labor Program.
- b. AR 190-40, Serious Incident Reporting.
- c. 18 USC 4125(a).
- d. 28 CFR 301.
- e. Memorandum of Agreement between **(name of local Federal corrections facility)** and **(name of Army organization)**.
- f. **(Add any other applicable local regulations)**.

3. General.

a. Headquarters, Department of the Army has approved establishing a Federal civilian inmate labor program at **(name of Army organization)**, and has granted the Commander, **(name of Army organization)** permission to enter into agreement with **(name of local Federal corrections facility)** to provide inmate labor for labor details on **(name of Army organization)**.

b. The **(name of division/office)** will provide stewardship for the Federal civilian inmate labor program at **(name of Army organization)**.

c. Civilian inmates and inmate labor details will perform tasks for which funding is not available and therefore would not normally be performed. Civilian inmate labor will not replace authorized civilian positions, nor impair service contracts. Civilian inmates and inmate labor details will not interfere nor conflict with projects for which resources have been allocated and funds made available for accomplishment by contract or Federal civilian labor force.

d. Federal civilian employees will not be displaced by civilian inmates or inmate labor details.

e. Only minimum security community custody inmates will work on **(name of Army organization)**. These inmates are those convicted of nonviolent crimes who have been judged by established prison standards to represent no threat to the population at **(name of Army organization)** and who are not considered escape risks.

f. Inmates and inmate labor details will perform work defined by 18 USC 4125(a), i.e. road repair/construction, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress.

g. Typical work projects inmate labor can perform include painting, carpentry, general maintenance and repair, landscape planting and/or maintenance, mowing, trash pickup, custodial work, transporting material to and from recycling centers, and other similar type work.

h. Inmates will not be used in any manner inconsistent with this plan or any other law and regulation.

4. Responsibilities.

a. **(Name of division/office with overall responsibility for the civilian inmate labor program)** will:

(1) Have overall responsibility for managing and coordinating action of the Federal civilian inmate labor program and will establish priorities for use of all inmate labor on **(name of Army organization)**.

(2) Maintain a current list of all **(name of Army organization)** personnel trained and certified by **(name of local Federal corrections facility)** to check on the quality of inmate labor being performed, provide necessary daily training related to tasks, safety, and proper use of equipment, materials, tools, and supplies for inmates working at **(name of Army organization)**.

(3) Provide/accomplish all inmate labor reporting requirements.

(4) Ensure that training and licensing of inmates is accomplished in accordance with Army

Figure C-1. Sample Inmate Labor Plan—continued

regulations, as necessary, for inmates to operate government equipment/vehicles on **(name of Army organization)**.

(5) Coordinate training for **(name of Army organization)** personnel on **(name of local Federal corrections facility)** policies and procedures in such areas as inmate and inmate labor detail discipline, accountability, **(name of local Federal corrections facility)** staff conduct and safety. This training will be required for personnel who will serve as inmate labor detail monitors, or have any contact with inmates.

(6) Review and approve (or disapprove) each inmate labor work project request.

(Add additional paragraphs as appropriate).

b. The **(name of Army organization)** Public Affairs Office (PAO) will develop a plan to inform the installation and surrounding communities (to include family members) of the Federal civilian inmate labor program, projects inmate labor will perform, and community training regarding the presence of inmates on the installation.

c. The **(name of Army organization)** Staff Judge Advocate will review each inmate labor work project request to ensure that the work projects are within the parameters of 18 USC 4125(a). Factors other than those identified herein may be considered in the approval process.

d. Director and heads of other organizations will ensure that the provisions of this regulation are followed by personnel within their respective organizations.

e. Users of inmate labor will:

(1) Provide trained personnel for inmate labor details. Personnel provided must be trained and certified by **(name of local Federal corrections facility)** officials and be listed on the **(name of local Federal corrections facility)** record of training. Personnel will check on the quality of work being performed and provide necessary daily training related to tasks, safety, and proper use of equipment, materials, tools, and supplies. These personnel will not become directly involved with the operation of labor details, and in no event will perform custodial supervision of inmates or inmate labor details.

(2) Identify designated work break, lunch, restroom, and vending machine areas for use by inmates and inmate labor details.

(3) Submit written requests, **(specify type of written request)** to **(division/office having overall responsibility for the civilian inmate labor program)** for inmate labor support. All written requests must contain the following:

(a) Work location (building, area, place, etc.)

(b) Work period (days, hours, etc.)

(c) Duration of work required (weeks, months, indefinite, etc.)

(d) Names of **(name of local Federal corrections facility)** trained personnel who will be providing assistance at the work site.

(e) Names and telephone numbers of points of contact within the user's organization.

(f) Number of inmates required.

(g) Statement of work to be performed. This information should be simply stated but comprehensive enough to show expertise, training, qualifications, or any other knowledge/ skills inmates must possess to perform the work. Include physical requirements of the job.

(4) Ensure that inmates are used in accordance with guidelines and instructions provided by **(name of local Federal corrections facility)** officials, **(name of Army organization)** requirements, and job safety.

(5) Provide an escort at all times for inmate labor details working within controlled and restricted areas.

(6) Report the following to **(name of division/office with overall responsibility for the civilian inmate labor program)**:

(a) Any walkaway, escape, riot, disturbances or similar incident involving inmates or the **(name of Army organization)** Federal civilian inmate labor program.

(b) Any criminal act by a **(name of local Federal corrections facility)** inmate against a military member or civilian assigned to, residing on, or traversing the installation.

(c) Any negative media coverage concerning the inmate labor program or **(name of local Federal corrections facility)** inmates.

(d) Accidents/injuries.

(7) Maintain records of hours worked and work performed.

(8) Provide a safe and humane work environment for inmate labor details.

(9) Provide all materials, supplies, equipment, tools, and personal protective equipment for inmates and inmate labor details in a safe and serviceable condition.

(10) Enforce inventory and control procedures for hand tools and other equipment provided for inmate labor details.

(11) Ensure that personnel in their organization who will be directly involved with inmates and inmate labor details are of good integrity, have no known criminal record, have no known history of drug or alcohol abuse, and have no prior nor present social or other relationship with inmates and members of inmate labor details.

Figure C-1. Sample Inmate Labor Plan—continued

(Add additional paragraphs as appropriate).

5. Training. The **(name of local Federal corrections facility)** will provide training on the requirements for dealing with inmates to **(name of Army organization)** personnel who will be working with inmates. Training will be provided before implementation of the Federal civilian inmate labor program and at least annually thereafter. Training is mandatory for all employees, civilian and military, who work with inmates. Inmates will not be provided to organizations unless they have personnel who have been trained and certified by **(name of local Federal corrections facility)** officials.

6. Rules pertaining to inmates.

a. Inmates who work on **(name of Army organization)** are classified as minimum security, community custody inmates. They do not require supervision under guard.

b. Inmates will wear distinctive work uniforms at all times while on labor details at **(name of Army organization)**. Inmate uniforms will not resemble those worn by military or civilian personnel on the Host Agency installation.

c. Inmates will not interact with the general public. They are not to be given access to telephones or computer modems.

d. Inmates will not enter or work in family housing areas at any time. Inmates will not work in day care centers, youth services/school age services centers, schools, recreation centers/libraries, or similar facilities, except when these facilities are closed to the public or the likelihood of inmate contact with the general military community or family members is remote.

e. Inmates will not work in areas where medical supplies (drugs, syringes, etc.) are stored unless the medical supplies are secured and the inmates are under constant view by Army personnel.

f. Inmates will not work in areas where firearms and/or ammunition are sold or stored, nor in areas where alcohol products are sold, stored, or served.

g. Inmates will not work in sensitive or prohibited areas or offices. Inmates working in areas where classified information, personnel records, medical records, or other confidential or sensitive data is locked or secured will be under constant view by Army personnel. Inmates will not work in areas where classified information is discussed or in plain view.

h. Inmates will not operate vehicles or equipment unless they have the necessary valid operator's license(s), have been trained in proper operation and safety by Army personnel, and are authorized in accordance with AR 600-55 in writing by **(division/office having overall responsibility for the civilian inmate labor program)** to operate the vehicles or equipment.

i. Concerning the media:

(1) Any requests for interviews, photographs, films, and/or videos of individuals or collective members of inmate labor details must be referred to **(division/office having overall responsibility for the civilian inmate labor program)**. As program coordinator, the **(division/office having overall responsibility for the civilian inmate labor program)** will notify the **(name of Army organization)** PAO and **(name of local Federal corrections facility)** of such requests.

(2) At no time will any media representative be allowed to interview any inmate labor detail or member without prior written permission from both the **(name of Army organization)** PAO and **(name of local Federal corrections facility)** officials.

(3) No photograph, film, nor video may be taken or made of any inmate labor detail or member for any reason without prior written permission from both the **(name of Army organization)** PAO and **(name of local Federal corrections facility)** officials.

(4) No press release of any kind by anyone for any reason or any publication concerning inmate labor details or members will be made without prior written permission from both the **(name of Army organization)** PAO and **(name of local Federal corrections facility)** officials.

j. Inmates will not be transported in privately owned vehicles at any time.

k. Inmates are prohibited from performing any type of personal service.

l. Inmates are not allowed to receive anything (gratuities, food stuffs, clothing, soft drinks, etc.) from **(name of Army organization)** civilian or military personnel, or from the general public. Inmates are not authorized to receive visitors while working at **(name of Army organization)**.

m. Civilian and military personnel will not accept anything from inmates.

n. Inmates assigned to labor details are not DOD or Army employees. All assigned inmates are under the control and custody of **(name of local Federal corrections facility)**. Inmates are covered for injuries by the Federal Bureau of Prison's Inmate Accident Compensation Program. **(Name of local Federal corrections facility)** is responsible for injuries or damage to persons or property caused by the negligent or willful acts of assigned inmates.

(Add additional paragraphs on reporting accidents/injuries, transporting inmates to/from work sites and to local hospitals in the case of serious injuries, points of contact, and other paragraphs tailored to specific situations, as applicable.)

Figure C-1. Sample Inmate Labor Plan—continued

Appendix D Management Control Evaluation Checklist

D-1. Function

The function covered by this checklist is the administration of the Army's Civilian Inmate Labor Program, which is currently limited to using inmates from facilities under the control of the Federal Bureau of Prisons.

D-2. Purpose

The purpose of this checklist is to assist HQDA, HQ, IMA, and installation program administrators in evaluating the key management controls outlined below. It is not intended to cover all controls.

D-3. Instructions

Answers must be based on the actual testing of key management controls (for example, document analysis, direct observation, sampling, simulation, other). Answers that indicate deficiencies must be explained and corrective action indicated in supporting documentation. These key management controls must be formally evaluated annually. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2-R (Management Control Evaluation Certification Statement).

D-4. Test Questions

- a.* Are any installations using civilian inmate labor without HQDA approval?
- b.* Do all installations using civilian inmate labor have an HQDA approved Memorandum of Agreement with the provider corrections facility and an Inmate Labor Plan governing operation of civilian inmate labor details on the installation? Do these memorandum of agreements and Inmate Labor Plans reflect current Department of Army guidance on civilian inmate labor use?
- c.* Are installations using civilian inmates in accordance with existing legislation and/or regulations and/or policy governing civilian inmate labor utilization on Army installations? Specifically
 - (1) Are Army civilian and/or military personnel engaged in custodial supervision (guarding) of inmate labor details?
 - (2) Are inmates working in and around government housing areas? Are inmates working in and around schools, recreation areas and/or facilities, day care centers, recreation libraries, and similar facilities while these facilities are open to the public?
 - (3) Are only minimum security, nonviolent inmates being used on inmate labor details? Do inmates meet Army Civilian Inmate Labor Program selection criteria defined in paragraph 2-3e, above?
 - (4) Are inmates performing only those functions allowed under 18 USC 4125(a) or by HQDA?
 - (5) Are incidents involving Army installation civilian inmate labor programs being reported in accordance with AR 190-40 and reporting guidance in this regulation?
- d.* For Army installations operating civilian inmate labor programs from on-post corrections facilities, are these corrections facilities being given credits for inmate labor to offset base operations support services provided to the corrections facilities?
- e.* Do all installations with onpost corrections facilities have HQDA approval to rent facilities and/or land to correctional systems?
- f.* Do the costs of operating civilian inmate labor programs on Army installations exceed the cost avoidance generated from using civilian inmates, that is, do installation civilian inmate labor programs continue to generate cost avoidance?

D-5. Supersession

This checklist is the first checklist developed for the Army Civilian Inmate Labor Program.

D-6. Comments

Help make this a better tool for evaluating management controls. Submit comments to: Assistant Chief of Staff for Installation Management, Plans and Operations Division (DAIM-MD, 600 Army Pentagon, Washington, DC 20310-0600).

Appendix E 18 USC 4125(A), and Executive Order 11755 18 USC 4125(a)

The Attorney General may make available to the heads of the several departments the services of United States prisoners under terms, conditions, and rates mutually agreed upon, for constructing or repairing roads, clearing,

maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress.

Executive Order 11755, Dec 29, 1973, as amended by Executive Order 12608, Sep 9, 1987 and Executive Order 12943, Dec 13, 1994, Prison Labor.

The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care must be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services.

Under sections 3621 and 3622 of title 18 of the United States Code, the Bureau of Prisons is empowered to authorize Federal prisoners to work at paid employment in the community during their terms of imprisonment under conditions that protect against both the exploitation of convict labor and unfair competition with free labor.

Several States and other jurisdictions have similar laws or regulations under which individuals confined for violations of the laws of those places may be authorized to work at paid employment in the community.

Executive Order No. 325A, which was originally issued by President Theodore Roosevelt in 1905, prohibits the employment, in the performance of Federal contracts, of any person who is serving a sentence of imprisonment at hard labor imposed by a court of a State, territory, or municipality.

I have now determined that Executive Order No. 325A should be replaced with a new Executive Order which would permit the employment of non-Federal prison inmates in the performance of Federal contracts under terms and conditions that are comparable to those now applicable to inmates of Federal prisons.

NOW THEREFORE, pursuant to the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1.

a. All contracts involving the use of appropriated funds which shall hereafter be entered into by any department or agency of the executive branch for performance in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands shall, unless otherwise provided by law, contain a stipulation forbidding in the performance of such contracts, the employment of persons undergoing sentences of imprisonment which have been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by a contractor in the performance of such contracts of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by a contractor in the performance of such contracts of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if

((1)(a)) The worker is paid or is in an approved work training program on a voluntary basis;

((b)) Representatives of local union central bodies or similar labor union organizations have been consulted;

((c)) Such paid employment will not result in the displacement of employed workers, or 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; and

((d)) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(2). The Attorney General has certified that the work release laws or regulations of the jurisdiction involved are in conformity with the requirements of this order.

((b)) After notice and opportunity for hearing, the Attorney General shall revoke any such certification under section 1(a)(2) if he finds that the workrelease program of the jurisdiction involved is not being conducted in conformity with the requirements of this order or with its intent or purposes.

((c)) The provisions of this order do not apply to purchases made under the micropurchase authority contained in section 32 of the Office of Federal Procurement Policy Act, as amended.

SECTION 2. The Federal Procurement Regulations, the Armed Services Procurement Regulations, and to the extent necessary, any supplemental or comparable regulations issued by any agency of the executive branch shall be revised to reflect the policy prescribed by this order.

SECTION 3. Executive Order No. 325A is hereby superseded.

SECTION 4. This order shall be effective as of January 1, 1974.

Glossary

Section I Abbreviations

ACSIM

Assistant Chief of Staff for Installation Management

AR

Army Regulation

ASA(FMC)

Assistant Secretary of the Army (Financial Management and Comptroller)

ASA(IE)

Assistant Secretary of the Army (Installations Environment)

ASA(MRA)

Assistant Secretary of the Army (Manpower and Reserve Affairs)

CFR

Code of Federal Regulation

DA

Department of the Army

DCS, G-1

Deputy Chief of Staff for Personnel

DOD

Department of Defense

DODI

Department of Defense Instruction

EO

Executive Order

FAR

Federal Acquisition Regulation

FBOP

Federal Bureau of Prisons

HQDA

Headquarters, Department of the Army

HQ, IMA

Headquarters, Installation Management Agency

ISA

Interservice, Interagency, or Interdepartmental Support Agreement

MOA

Memorandum of Agreement

MP

Military Police

NAFI

Nonappropriated fund instrumentality

OSHA

Occupational Safety and Health Administration

PL

Public Law

PM

Provost Marshal General

SJA

Staff Judge Advocate

USC

United States Code

Section II**Terms****10 USC 2667 (Leases; Non-Excess Property)**

The Federal law governing leases of DOD property.

18 USC 4125(a) (Public Works; Prison Camps)

The Federal law governing services Federal civilian inmates can perform for DOD agencies.

29 CFR 1910 (Occupational Safety and Health Standards)

The Federal law governing workplace safety and health standards.

31 USC 1342 (Limitation on Voluntary Services)

The Federal law prohibiting Federal government employees or officers from accepting voluntary services except as specifically allowed by law.

Executive Order 11755

Executive Order governing use of non-Federal civilian inmates on Federal contracts.

Civilian inmates

Prisoners incarcerated in a Federal, State, or local government penal facility. Prisoners of a military confinement facility are not civilian inmates.

Civilian Inmate Labor Program

Legislation, regulations, policies, and procedures governing the use of civilian inmates on Army installations.

Compensation

Includes any payment, gift, benefit, reward, favor, or gratuity provided directly or indirectly for services rendered by the person accepting such payment. Compensation will be deemed indirectly received if it is paid to an entity other than the individual, in exchange for services performed by the individual.

Corrections facility

Facility providing correctional treatment to civilian prisoners to motivate them for return to the civilian community.

Custodial supervision

Any activity undertaken to ensure charge and control, i.e. guarding inmates. This does not include oversight or quality assurance.

DA personnel

Department of the Army civilian employees; active duty personnel; National Guard and Reserve personnel on active duty for training or when performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

Direct labor costs

Costs for inmate labor hours worked, i.e., labor costs charged by the corrections facility for working inmates on Army property.

DOD personnel

Civilian employees and active duty personnel of the Army, Navy, Air Force, and Marine Corps.

Employment

A relationship under which an individual furnishes services in return for any payment or other compensation paid directly or indirectly to the individual for the services.

Gratuity

Any gift, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

HQDA

The executive part of the Department of the Army at the seat of Government. Consists of the Office of the Secretary of the Army and the Army Staff.

Installation

Installations, agencies, airfields, areas, armories, arsenals, bases, camps, centers, depots, districts, divisions, forts, garrisons, laboratories, projects, etc. under the Active Army, the U.S. Army Reserve, the Army National Guard, and Civil Works responsibilities of the U.S. Army Corps of Engineers.

Interservice, interagency, or interdepartmental support

Support provided by one Federal agency or subdivision thereof to another Federal, State or local agency or subdivision thereof when at least one of the participating agencies or subdivisions is the Department of Defense or a DOD Component.

Headquarters, Installation Management Agency

Headquarters, Installation Management Agency (HQ, IMA). A subordinate command of Office of the Assistant Chief of Staff for Installation Management (OACSIM). Responsible for all actions at Army installations worldwide through their seven regions.

Memorandum of Agreement

The documentation of mutually agreed statement of facts, intentions, procedures, parameters, and policies for future actions and matters of coordination.

Minimum (level) security inmates

Civilian inmates who do not need constant guard and who have committed nonviolent crimes. Minimum security inmates participating in the Civilian Inmate Labor Program are also usually within 1 year of parole, are medically cleared for regular duty status with no medical or psychological restrictions, and have no prior employment or relationship with the host agency (Army organization using civilian inmates).

Nominal costs

Minor costs incidental to installation Civilian Inmate Labor Program operations. Nominal costs may be costs for equipment, materials and supplies used in inmate labor details, telephone calls to corrections facilities, lunch time meals, and transporting inmates to and from corrections facilities.

Oversight

Activities associated with specifying work to be done; training inmates in performing assigned work, using special equipment, and safety precautions; showing inmates location of the work site; and performing quality assurance inspections of inmate work.

Program administration costs

Costs incurred by the installation in administrating their Civilian Inmate Labor Program, such as preparing the Memorandum of Agreement or Interservice, Interagency, or Interdepartmental Support Agreement, oversight, and reporting.

Quality assurance

Those actions taken by the Government to determine that the services received meet quality, quantity, and timeliness specifications.

Serious incidents

Any actual or alleged incident, accident, misconduct, or act, primarily criminal in nature that, because of its nature, gravity, potential for adverse publicity, or potential consequences warrants timely notice to HQDA.

Section III**Special Abbreviations and Terms**

This section contains no entries.

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