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***Army Regulation 210–35**

Effective 9 May 2024

Installations

Civilian Inmate Labor Program and Civilian Inmate Prison Camps on Army Installations

By Order of the Secretary of the Army:

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General, United States Army
Chief of Staff

Official:


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History. This publication is a major revision.

Authorities. This regulation implements 10 USC 2667, 18 USC 2314, Public Law (PL) 103–337, Section 1065, and Executive Order 11755.

Applicability. This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated.

Proponent and exception authority. The proponent of this regulation is the Deputy Chief of Staff, G–9. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific requirements.

Army internal control process. This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (see appendix B).

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) via email to usarmy.pentagon.hqda-dcs-g-9.list.is---logistics@army.mil.

Committee management approval. AR 15–39 requires the proponent to justify establishing/continuing committee(s), coordinate draft publications, and coordinate changes in committee status with the Office of the Administrative Assistant to the Secretary of the Army, Special Programs Directorate, (AARP–ZA), 9301 Chapek Road, Building 1458, Fort Belvoir, VA 22060–5527. Further, if it is determined that an established “group” identified within this regulation later takes on the characteristics of a committee, as found in AR 15–39, then the proponent will follow all AR 15–39 requirements for establishing and continuing the group as a committee.

Distribution. This publication is available in electronic media only and is intended for the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

*This regulation supersedes AR 210–35, dated 14 January 2005.

SUMMARY of CHANGE

AR 210–35

Civilian Inmate Labor Program and Civilian Inmate Prison Camps on Army Installations

This major revision, dated 9 April 2024—

- Changes title (cover).
- Adds roles and responsibilities for Assistant Secretary of the Army (Civil Works) on civil work civilian inmate labor projects (para 1–4a).
- Changes program review from every 5 years to an annual requirement (para 1–4f(4)).
- Assigns responsibilities to the Commanding General, U.S. Army Materiel Command (para 1–4i).

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Chapter 1

Introduction

1–1. Purpose

This regulation prescribes policy for establishing civilian inmate labor programs and civilian inmate 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 Public Law (PL) 103–337, Section 1065. Otherwise, State and/or local inmate labor from off-post corrections facilities is currently excluded from this program.

1–2. References, forms, and explanation of abbreviations

See appendix A. The abbreviations, brevity codes, and acronyms (ABCAs) used in this electronic publication are defined when you hover over them. All ABCAs are listed in the ABCA directory located at <https://armypubs.army.mil/>.

1–3. Associated publications

This section contains no entries.

1–4. Responsibilities

- a. The Assistant Secretary of the Army (Civil Works) will—
 - (1) Serve as the approval authority for the establishment of civilian inmate labor programs on civil works projects for the Army Corps of Engineers.
 - (2) Send the Deputy Chief of Staff (DCS), G–9 a cost-savings worksheet and internal control evaluation annually.
- b. The Assistant Secretary of the Army (Financial Management and Comptroller) will—
 - (1) Prepare reimbursement policy guidance on intragovernmental support agreements, henceforth in this regulation referred to as Installation Agreements (IAs), between installations and corrections facilities that establish civilian inmate prison camps on Army installations.
 - (2) Develop 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 Assistant Secretary of the Army (Installations, Energy and Environment) will—
 - (1) Provide guidance, resolve policy issues, and provide overall program direction.
 - (2) Serve as the approval authority for the establishment of civilian inmate labor programs and civilian inmate prison camps on Army installations.
- d. The Assistant Secretary of the Army (Manpower and Reserve Affairs) will provide policy guidance on inmate labor utilization issues pertaining to existing in-house resources 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 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 DCS, G–9 prior to release.
- f. The DCS, G–9 will—
 - (1) Execute the Army Civilian Inmate Labor Program.
 - (2) Implement policy and procedures on civilian inmate labor use and the establishment of 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 annually.
- (5) Provide guidance on functions for which civilian inmate labor can be used.
- (6) 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.
- g. The Chief of Engineers will manage granting the use of Army real property.
- h. The Provost Marshal General will—
 - (1) Monitor serious incidents, such as walkaways, escapes, riots, disturbances, and any criminal activity by civilian inmates occurring on the installation under AR 190–45.
 - (2) Publish policy on law enforcement operations on Army installations.
- i. The Commanding General, U.S. Army Materiel Command (AMC) will—
 - (1) Ensure that installations participating in civilian inmate labor programs comply with 18 USC 4125, 18 USC 3622, and other applicable laws governing civilian inmate labor, EO 11755, and this regulation.
 - (2) Review and endorse, as appropriate, an installation’s memorandum of agreement (MOA) and inmate labor plans that establish civilian inmate labor programs and proposals to establish civilian inmate prison on Army installations. Forward the MOA, plans, and proposals to Headquarters, Department of the Army (HQDA) DCS, G–9 (DAIN–ISL), for approval.
 - (3) Review and endorse, as appropriate, installation requests for changes to Army Civilian Inmate Labor Program policy.
 - (4) Annually review installation civilian inmate labor programs against the key internal controls listed in appendix B.
- j. Senior commanders will—
 - (1) Comply with 18 USC 4125, 18 USC 3622, and other applicable laws governing civilian inmate labor, EO 11755, and this regulation.
 - (2) Submit the following through command channels to Commanding General, U.S. Army Materiel Command, Human Resources (AMCHR), 4400 Martin Road, Redstone Arsenal, AL 35898–5000:
 - (a) MOAs and inmate labor plans to establish civilian inmate labor programs.
 - (b) Proposals that establish civilian inmate prison camps.
 - (c) Written notification of termination of civilian inmate labor programs.
 - (d) Revisions to an existing MOA.
 - (e) Requests for guidance on any civilian inmate labor situation that is not addressed in this regulation.
 - (3) Annually review civilian inmate labor programs to determine if the programs continue to generate cost avoidance.
 - (4) Annually review civilian inmate labor programs against the internal controls identified in appendix B.
 - (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 Commanding General, U.S. Army Materiel Command, Human Resources (AMCHR), 4400 Martin Road, Redstone Arsenal, AL 35898–5000.

1–5. Records management (recordkeeping) requirements

The records management requirement for all record numbers, associated forms, and reports required by this publication are addressed in the Records Retention Schedule–Army (RRS–A). Detailed information for all related record numbers, forms, and reports are located in Army Records Information Management System (ARIMS)/RRS–A at <https://www.arims.army.mil/>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS–A, see DA Pam 25–403 for guidance.

1–6. 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 manning and funding constraints.
 - (2) Providing meaningful work for inmates and, in some cases, space to alleviate overcrowding in nearby corrections facilities.
 - (3) Making cost-effective use of buildings and land.
- b. Except for the two exceptions listed in paragraph 2–1d, installation civilian inmate labor programs may use civilian inmate labor only from Federal corrections facilities.
- c. To operate an effective civilian inmate labor program, senior commanders will—
 - (1) Establish a comprehensive lease agreement, IA, and MOA with the corrections facility.

- (2) Develop a cooperative working relationship between installation personnel and corrections facility personnel.
- (3) Work closely with installation government employee labor unions to ensure union leaders understand the program and have current information on program status.
- (4) Regularly train all installation personnel involved in the operation or administration of the program.
- (5) Develop a public affairs plan informing the installation and the surrounding local community of the program and work projects assigned to civilian inmate labor.

1–7. Process for establishing an Army Civilian Inmate Labor Program

The actions and approvals required to establish an Army civilian inmate labor program on an installation follow:

- a. To establish a prison camp and inmate labor plan, Senior commanders will—
 - (1) Prepare a proposal to establish a prison camp MOA and inmate labor plan for AMC endorsement and HQDA approval.
 - (2) Prepare an IA and out grant document.
 - (3) Notify unions as appropriate.
- b. To establish a prison camp only, senior commanders will—
 - (1) Prepare a proposal to establish a prison camp MOA for AMC endorsement and HQDA approval.
 - (2) Prepare an IA and out grant document.
 - (3) Notify unions as appropriate.
- c. To establish an inmate labor plan only, senior commanders will—
 - (1) Prepare a proposal to establish an inmate labor plan for AMC endorsement and HQDA approval.
 - (2) Notify unions as appropriate.

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). 18 USC 4125 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 will not pay for civilian inmate labor. Installation civilian inmate labor program operating costs must not exceed the cost avoidance generated from using inmate labor.
- 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. State or local civilian inmate labor from off-post corrections facilities may be used under the following exceptions:
 - (1) The Army may conduct a demonstration project to test the feasibility of providing pre-release employment training to nonviolent offenders in a State corrections facility in accordance with PL 103–337, Section 1065. The demonstration project is limited to not more than three Army installations. The three Army installations participating in the demonstration project may use inmates from an off-post State corrections facility. An agreement must be in place and all requirements of PL 103–337, Section 1065 must be met before such a demonstration project may be conducted.
 - (2) Army Corps of Engineers activities where the Chief of Engineers has statutory authority to accept the services of volunteers in accordance with 33 USC 569c. Inmate services, if contributed from State or local governments, are combined with materials or services paid for with Federally-appropriated funds and must comply with all requirements of EO 11755 and this regulation.
- e. Senior commanders must include all the items in paragraph 2–3 in the MOA with the corrections facilities.

2-2. Negotiating with corrections systems representatives

Senior commanders may initiate discussions with FBOP representatives concerning use of civilian inmate labor on Army installations. Senior commanders are not authorized to negotiate with representatives of State or local corrections systems or State government agencies on 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 writing in agreements with corrections facilities:

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) Senior commanders will limit the areas accessible to inmates, and identify other restrictions for inmates. These areas will be identified in the MOA between the installation and the corrections facility. The intent is to preclude fraternization between inmates and civilians, military personnel, and family members, and to ensure 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 child development centers, youth services, and school-age service centers, schools, recreation centers, and 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 ammunition are sold or stored, nor in areas where alcoholic beverages are sold, stored, or served.

b. Nominal costs. The Army must not incur direct inmate labor cost. Acceptable nominal cost includes costs of equipment, materials, and supplies used in inmate labor details, program administration, telephone calls to corrections facilities, lunch time meals, transportation to and from corrections facilities, and other similar costs in paragraph 4-3. Inmates participating in the program will not be recompensed from appropriated or non-appropriated funds.

(1) Inmates are not Army employees. They will not be paid from Department of the Army (DA) funds, nor receive any personal or private gratuity for work accomplished or services rendered. IAs and MOAs must not create any appearance of Army employment of inmates.

(2) Senior commanders have authority to determine and absorb nominal costs associated with the civilian inmate labor program on a non-reimbursable basis. Senior commanders will not pay nor establish credits to the corrections facility 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 may only operate vehicles in a secured area or under direct observation of installation or corrections facility personnel. Training to operate Army unique vehicles and equipment should be provided by the Army.

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

(6) Installation plans and standing procedures must include strict control over inventory, issuance, and return of hand tools and equipment provided for inmate labor.

c. Services provided to installations. Services provided to the installation must comply with 18 USC 4125. Road construction or repair; clearing, maintaining, or reforesting public land; building levees; or construction or repair of other public ways or works must be financed wholly or in major part with 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 or with work which can be accomplished within authorized

personnel ceilings. The Civilian Inmate Labor Program was created to provide Senior commanders with an alternate labor source to perform valid requirements. Civilian inmate labor must 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) The MOA with the corrections facility will state that the senior commander will direct the removal of any inmate deemed undesirable or detrimental to the mission, Soldiers, Family members, or DA Civilian employees of the installation.

(2) The following types of inmates are not eligible for 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 Senior 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 or who has a criminal history of sex offense.

(e) An inmate convicted of or who has a criminal history of a violent crime.

(f) An inmate convicted of the sale or intent to distribute illegal drugs, who held a leadership position in any drug conspiracy, or who 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 public as determined by the corrections facility superintendent in coordination with the Senior commander.

(i) An inmate declared or found insane or mentally incompetent by a court, administrative proceeding, or physician, or who is 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. DA personnel will not be involved with custodial aspects of inmate labor details.

(1) The warden and administrator of the local corrections facility is charged with the responsibility and accountability for the control and custody of inmates on labor details. The use of Army military or civilian personnel to guard, control, discipline, or otherwise exercise custodial supervision is prohibited.

(2) Army military or civilian personnel may oversee the work to be performed by inmates. 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 timecards at intervals established by the warden or administrator of the local corrections facility. If an inmate cannot be located to sign a timecard 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 controlled by the Army, because of the inmate, will be promptly corrected by the corrections facility, as directed by the Senior commander. The Senior commander may investigate the incident prior to directing the corrections facility to correct the situation. If the Senior commander investigates the incident, both Army and corrections facility personnel will participate in the investigation. If the investigation determines that the damage or interference resulting in a loss was caused by an inmate or corrections personnel, both the Senior commander and the corrections facility superintendent will be briefed on the findings, and the Senior commander may—

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

(2) Direct that the inmate and 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 MOAs with the corrections facility must contain a clause on rectifying property damage and/or interference. Corrections facilities will not be held automatically responsible for any loss or damage; this should be resolved on a case-by-case basis by the Senior commander.

(b) Investigations may be conducted through AR 15–6 procedures or a financial liability investigation.

h. Operation. The Civilian Inmate Labor Program's operations will not interfere with the operation and/or mission of the installation, as determined by the Senior commander.

i. Safety. Inmate accident compensation procedures set forth in Part 301, Title 28, Code of Federal Regulations (28 CFR 301) apply to all work performed by FBOP inmates. However, Senior 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. The 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 after completing OSHA training.

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

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 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 MOA. 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 work 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 annually.

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. 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, DCS, G–9, (DAIN–ISL), and HQDA, Office of the Chief of Public Affairs, Media Relations Division (SAPA–MRD). 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. Establishing installation civilian inmate labor programs

This paragraph applies to both off-post corrections facilities and on-post civilian inmate prison camps.

a. Upon finalizing negotiations with the corrections facility, the Senior commander and corrections facility superintendent will prepare a proposed MOA 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. In addition, the MOA 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.

b. Installations will prepare an Inmate Labor Plan for the 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. The Inmate Labor Plan format is determined locally.

c. The MOA and/or Inmate Labor Plan will be reviewed as needed by the Senior 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 MOA 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 MOA 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 Chapter 71.

f. Requests to establish civilian inmate labor programs will be submitted through command channels to Commanding General, U.S. Army Materiel Command, Human Resources (AMCHR), 4400 Martin Road, Redstone Arsenal, AL 35898–5000. Requests must include AMC endorsement and copies of the proposed MOA and Inmate Labor Plan. The AMC endorsement includes an SJA review of the MOA and Inmate Labor Plan for legal sufficiency. Other AMC functional proponents will review the MOA and Inmate Labor Plan from a functional perspective.

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

Chapter 3

Establishing Civilian Inmate Prison Camps on Army Installations

3–1. Policy statement

The Army does not solicit offers from correctional systems to establish civilian inmate prison camps on Army installations. 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 on a case-by-case basis. Prison camps will house minimum and low security inmates, as determined by the correctional systems. 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

Senior commanders will not initiate formal discussions with correctional systems representatives to establish civilian inmate prison camps on their installations. Senior commanders are not authorized to negotiate with these representatives until HQDA approval is obtained.

a. Establishing civilian inmate prison camps on Army installations is separate from establishing civilian inmate labor programs, as discussed in chapter 2. 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, 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. 31 USC 1342 precludes the United States Government from accepting voluntary services unless specifically allowed by statute. The Army has determined that accepting uncompensated 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. 10 USC 2667 allows the Secretary of the Army to authorize 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, alteration, repair, improvement, or restoration of the leased property or facilities.

3-3. Criteria for 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 senior commander and Headquarters, AMC must assess the impacts that the prison and prison population will have on the installation, military mission, and installation population. At a minimum, the senior 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, barracks, 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 within the requirements and objectives of installation comprehensive planning concepts and environmental considerations at the installation.

f. Civilian inmate prison camps will not be co-located with military confinement facilities.

g. Installation facilities may be used 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 IA in accordance with 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 420-41 establishes policy, responsibility, and procedures for acquisition and sale of utility services. A separate written contract or other agreement 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 providing adequate medical, sanitation, recreational, and other humanitarian services to the inmates housed at the civilian inmate prison camp. These plans will be made available to the senior 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 will not respond to or investigate incidents which occur within the civilian inmate prison camp and involve inmates or correctional facilities personnel,

unless the senior commander determines that such action is reasonably necessary to protect personnel, equipment, or facilities under Army control. They may gather information to fulfill AR 190–45 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. 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 senior 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 3–4d.

3–5. Establishing a civilian inmate prison camp on Army installations

The following applies to establishing a civilian inmate prison camp on Army installations. These procedures are separate from those procedures discussed in chapter 2 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, 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 DCS, G–9 (DAIN–ISL), 600 Army Pentagon, Washington, DC 20310–0600. The proposal must be signed by the senior commander, 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, storm water, 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 affected.

(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 similar legislation.

(7) Local community feedback, including family member feedback on 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. Include the services the Army will provide the prison camp and the services the prison camp will provide the Army. 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, alteration, restoration, repair, and improvement of the leased property or facilities.

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

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

(11) Establish length of time of agreements for IA in accordance with AR 5–9 and lease and/or permit under AR 405–80.

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

b. Upon receiving HQDA DCS, G–9 (DAIN–ISL), approval, installations may request the Corps of Engineers district office to proceed with preparing the appropriate out grant document with the correctional system for the right to use Army real property and facilities, and, for Federal civilian inmate prison camps, to prepare an out grant document and an IA delineating the services to be rendered by the civilian inmate

prison camp and the support required from the installation. One copy of the out grant document and the IA will be forwarded through command channels to AMC (AMCHR).

c. For Federal civilian inmate prison camps, the out grant document will reference the IA governing services the installation will provide the prison camp, and the services the prison camp will provide the installation under the MOA establishing an installation civilian inmate labor program. The out grant document by itself does not establish a civilian inmate labor program. A separate MOA with the corrections facility is still required. All out grants 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.

3–6. Installation Agreements

The IAs document the services installations will provide the Federal civilian inmate prison camp and the services the prison camp will provide the installation, in return. The IAs will be prepared in accordance with DoDI 4000.19 and will cover the same period as the out grant document. The IAs are subject to annual review to examine current costs and determine next year project assignments. Senior commanders have the authority to negotiate and approve IAs locally. Executing an IA does not establish a civilian inmate labor program. A separate MOA with the corrections facility is still required in accordance with the procedures delineated in chapter 2 above.

a. Utility sales contracts and MOA establishing civilian inmate labor programs using inmates from the on-post Federal civilian inmate prison are attachments to the IAs.

b. The IAs 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, such as walkaways, escapes, riots, disturbances, and any criminal action involving inmates participating in the civilian inmate labor program and/or occurring in on-post civilian inmate prison camps, will be reported in accordance with AR 190–45. One copy of incident reports will be provided to AMC (AMCIL) and DCS, G–9 (DAIN–ISL), Office of the Chief of Public Affairs, Media Relations Division (SAPA–MRD). Accidents involving inmates will be investigated and reported in accordance with AR 385–10 and DA Pam 385–40.

4–2. Media coverage

Any media coverage involving inmates participating in the Civilian Inmate Labor Program, or involving on-post civilian inmate prison camps, will be reported through command channels to AMC (AMCIL), DCS, G–9 (DAIN–ISL), Media Relations Division (SAPA–MRD). The installation will report the media source (newspaper, magazine, radio, television, and online), date of coverage, synopsis of report, and whether the report had local, regional, or national coverage, and provide copies of the article and/or script, if available.

4–3. Recordkeeping

Installations will maintain records of their military civilian inmate labor programs. These records will be used in higher headquarters' efforts to assess program utility and assess the effectiveness of internal controls identified in appendix B. 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 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 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 military police 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

Unless otherwise stated, Department of the Army publications are available on the Army Publishing Directorate website at <https://armypubs.army.mil/>. DoD issuances are available at <https://www.esd.whs.mil/>. USCs are available at <https://uscode.house.gov/>. CFRs are available at <https://www.ecfr.gov/>.)

AR 5–9

Installation Agreements (Cited in para 3–5a(11).)

AR 11–2

Managers' Internal Control Program (Cited in title page.)

AR 15–6

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

AR 15–39

Department of the Army Intergovernmental and Intragovernmental Committee Management Program (Cited in title page.)

AR 25–30

Army Publishing Program (Cited in title page.)

AR 25–400–2

Army Records Management Program (Cited in para 4–3.)

AR 190–45

Law Enforcement Reporting (Cited in para 1–4h(1).)

AR 385–10

The Army Safety and Occupational Health Program (Cited in para 4–1.)

AR 405–80

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

AR 420–41

Acquisition and Sale of Utilities Services (Cited in para 3–3k.)

AR 600–55

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

DA Pam 25–403

Army Guide to Recordkeeping (Cited in para 1–5.)

DA Pam 385–40

Army Mishap Investigations and Reporting (Cited in para 4–1.)

DoDI 4000.19

Support Agreements (Cited in paras 3–3i.)

EO 11755

Relating to Prison Labor (Available at <https://www.archives.gov/>.) (Cited in title page.)

PL 103–337, Section 1065

Demonstration project for use of Army installations to provide prerelease employment training to nonviolent offenders in State penal systems (Available at <https://www.congress.gov/>.) (Cited in title page.)

28 CFR 301

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

29 CFR 1910

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

5 USC Chapter 71

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

10 USC 2667

Leases: non-excess property of military departments and Defense Agencies (Cited in title page.)

18 USC 2314

Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting (Cited in title page.)

18 USC 3622

Temporary release of a prisoner (Cited in para 1–4*i*(1).)

18 USC 4125

Public works; prison camps (Cited in para 1–4*i*(1).)

31 USC 1342

Limitation on voluntary services (Cited in para 3–2c.)

33 USC 569c

Services of volunteers (Cited in para 2-1d(2).)

Section II**Prescribed Forms**

This section contains no entries.

Appendix B

Internal Control Evaluation

B–1. Function

This internal control evaluation assesses the administration of the Army's Civilian Inmate Labor Program.

B–2. Purpose

The purpose of this evaluation is to assist HQDA, Headquarters, AMC, and installation program administrators in evaluating the key internal controls outlined below. It is intended as a guide and does not cover all controls.

B–3. Instructions

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

B–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 MOA with the provider corrections facility and an Inmate Labor Plan governing operation of civilian inmate labor details on the installation? Do these MOAs 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?
 - (4) Are inmates performing only those functions allowed under 18 USC 4125?
 - (5) Are incidents involving Army installation civilian inmate labor programs being reported in accordance with AR 190–45 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 on-post 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?

B–5. Supersession

This evaluation replaces the evaluation previously published in AR 210–35, dated 14 January 2005.

B–6. Comments

Help make this a better tool for evaluating management controls. Submit comments to the Deputy Chief of Staff, G–9, Installation Services Logistics Division (DAIN–ISL) at usarmy.pentagon.hqda-dcs-g-9.list.is--logistics@army.mil.

Glossary of Terms

Civilian Inmate Labor Program

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

Civilian inmates

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

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, that is, guarding inmates. This does not include oversight or quality assurance.

Direct labor costs

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

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.

Installation

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

Intragovernmental support agreement

A legal instrument reflecting the support provided by a DoD component to a non-DoD Federal agency and vice versa.

Memorandum of agreement

A general format used to document reimbursable support, or at higher echelons, a transfer of resources.

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 the location of the work site; and performing quality assurance inspections of inmate work.

Program administration costs

Costs incurred by the installation in administering their Civilian Inmate Labor Program, such as preparing the MOA or IA, oversight, and reporting.

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