



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

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Work Programs for Inmates – FPI

/s/

Approved: Thomas R. Kane
Acting Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

§345.10 Purpose and scope.

It is the policy of the Bureau of Prisons to provide work to all inmates (including inmates with a disability who, with or without reasonable accommodations, can perform the essential tasks of the work assignment) confined in a federal institution. Federal Prison Industries, Inc. (FPI) was established as a program to provide meaningful work for inmates. This work is designed to allow inmates the opportunity to acquire the knowledge, skills, and work habits which will be useful when released from the institution. There is no statutory requirement that inmates be paid for work in an industrial assignment. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates working in Industries. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Federal Prison Industries' Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Assistant Director, Industries, Education, and Vocational Training (Assistant Director).

Federal Regulations from 28 CFR are shown in this type.
Implementing instructions are shown in this type.

The requirement for inmates of the same grade job to receive approximately the same compensation does not apply to non-grade jobs under the Prison Industry Enhancement Certification Program (PIECP), 18 U.S.C. 1761(c).

a. Summary of Changes

Policy Rescinded

P8120.02 Work Programs for Inmates – FPI (7/15/99)

Changes that have been incorporated in this Program Statement include:

- Explanation of the Prison Industry Enhancement Certification Program (PIECP), including in relation to inmate pay and benefits; clarification of the grounds for dismissal of inmate workers from the FPI program; and description of certain specific special needs waiting list hiring exceptions.
- Clarification that for facilities without a Superintendent of Industries (SOI), responsibilities of the SOI discussed in this Program Statement are delegated to the Factory Manager.

b. Program Objectives. Expected results of this program are:

- Work opportunities will be provided to as many eligible inmates as possible.
- Each inmate will obtain knowledge, skills, and work habits to use upon release.
- Inmates working for FPI will be compensated according to the grade level attained or local prevailing wage for PIECP work.
- FPI Corporate Management will develop a Memorandum of Understanding (MOU) (i.e., Annual Operating Plan) with each Warden and the Superintendent of Industries (SOI) or highest ranking official annually, specifying the level of inmate employment.
- Inmate worker positions will be classified appropriately, based upon principles of pay equity, economy, and workforce resources.
- An FPI work opportunities presentation will be made during each Admission and Orientation session.
- Waiting lists for hiring purposes will be maintained; exceptions may be made for needed skills, prior FPI assignment, factory change, or special needs.
- FPI will not discriminate on the basis of race, color, religion, ethnic origin, age, or physical handicap.
- Each inmate worker will receive a semi-annual performance evaluation.
- An inmate may be promoted when his/her work skills, abilities, qualifications, and work performance demonstrate an ability to handle more complex assignments, provided he/she has sufficient time-in-grade.

- An inmate may be terminated from FPI work status in accordance with the inmate worker dismissal provisions in Chapter 4.
- Inmates seeking FPI work assignments above Grade 4 must possess a high school diploma or GED or be satisfactorily enrolled in a literacy program.
- Premium pay, incentive pay, piecework rates, overtime, longevity, vacation, administrative, holiday, and inmate performance pay will be given to eligible inmates.
- Each inmate will receive a monthly earnings statement.
- Eligible inmates may receive commendations or cash awards for special work achievements, scholarships, suggestions, inventions, or self-development.
- Each inmate will receive job safety training.
- Post-secondary scholarships may be offered to selected, qualified inmate workers.
- Appropriate records will be maintained on inmate workers.

2. DEFINITIONS

§345.11 Definitions.

a. *Federal Prison Industries, Inc. (FPI).* A government corporation organizationally within the Bureau of Prisons whose mission is to provide work simulation programs and training opportunities for inmates confined in Federal correctional facilities. The commercial or “trade” name of Federal Prison Industries, Inc. is UNICOR. Most factories or shops of Federal Prison Industries, Inc. are commonly referred to as “UNICOR” or as “Industries.” Where these terms are used, they refer to FPI production locations and to the corporation as a whole. UNICOR, FPI, and Industries are used interchangeably in this manner. For these purposes, Federal Prison Industries, Inc. will hereinafter be referred to as FPI.

b. *Superintendent of Industries (SOI).* The Superintendent of Industries, also referred to as Associate Warden/Industries and Education, is responsible for the efficient management and operation of an FPI factory. Hereinafter, referred to as SOI.

For FPI facilities without an SOI, responsibilities of the SOI discussed in this Program Statement are delegated to the Factory Manager or other highest ranking FPI management official, who will be supervised by an Operations Manager or other management official designated by the Assistant Director. The Assistant Director is also referred to as the Chief Executive Officer of Federal Prison Industries.

c. *FPI Work Status.* Assignment to an Industries work detail.

(1) An inmate is in FPI work status if on the job, on sick call during the inmate's assigned hours, on furlough, on vacation, for the first thirty days on writ, for the first 30 days in administrative detention, or for the first 30 days on medical idle for FPI work related injury so long as the injury did not result from an intentional violation by the inmate of work safety standards.

(2) **Full-Time Work Status.** A work schedule for an inmate consisting of 90% or more of the normal FPI factory work week.

(3) **Part-Time Work Status.** A work schedule of less than 90% of the normal FPI factory work week.

A primary use of part-time work status is job share, which is a work schedule whereby two or more inmates working different shifts share the work of a single work assignment. For example, if a factory has 100 positions, it could provide work to 140 inmates by using 60 inmates on a full-time basis and 80 inmates on a job-share basis.

d. **Unit Team.** Bureau of Prisons staff responsible for the management of inmates and the delivery of programs and services. The Unit Team may consist of a unit manager, case manager, correctional counselor, unit secretary, unit officer, education representative, and psychologist.

e. **Unit Discipline Committee (UDC).** The term Unit Discipline Committee refers to one or more institution staff members delegated by the Warden with the authority and duty to hold an initial hearing upon completion of the investigation concerning alleged charge(s) of inmate misconduct....The Warden shall authorize these staff members to impose minor sanctions for violation of prohibited act(s).

For guidance, refer to the Program Statements **Special Housing Units** and **Inmate Discipline Program**. In institutions with Unit Management, the authority to hold initial hearings and impose minor sanctions is ordinarily delegated to the staff assigned to the inmate's unit. Where the institution does not have a Unit Management System, the Warden must delegate to one or more institution staff members the authority to hold initial hearings and impose minor sanctions.

f. **Discipline Hearing Officer (DHO).** This term refers to an independent discipline hearing officer who is responsible for conducting Institution Discipline Hearings and who imposes appropriate sanctions for incidents of inmate misconduct referred for disposition following the hearing...before the UDC.

For guidance, refer to the Program Statements **Special Housing Units** and **Inmate Discipline Program**. The Discipline Hearing Officer may be assigned to one institution or may be responsible for conducting institution discipline hearings at several different institutions.

g. *Pretrial Inmate.* The definition of pretrial inmate in 28 CFR 550.101(a) is applicable to this part.

Such an inmate is defined as a person who is legally detained but for whom the Bureau of Prisons has not received notification of conviction. Thus, “pretrial inmate” ordinarily includes a person awaiting trial, being tried, or awaiting a verdict.

h. *SOC Code.* Standard Occupational Classification code used to classify occupations and issued by the U.S. Department of Commerce.

i. *Inmate Employment.* Terms such as “work,” “worker,” “employment,” “hire,” etc., refer to participation in an FPI work program.

j. *Prison Industry Enhancement Certification Program (PIECP).* A program codified at 18 U.S.C. § 1761(c) that allows correctional industries to sell products to the commercial market under specific conditions. Inmates performing PIECP work do not receive grades and are paid based on the local prevailing wage, subject to allowable deductions. As discussed in Chapter 5, some of the benefits received by graded inmates are inapplicable to inmates performing PIECP work.

REFERENCES

Program Statements

P1600.09 Occupational Safety, Environmental Compliance, and Fire Protection (10/31/07)
P5111.04 Institution Hearing Program (7/3/06)
P5180.05 Central Inmate Monitoring System (12/31/07)
P5251.06 Inmate Work and Performance Pay (10/1/08)
P5270.09 Inmate Discipline Program (7/8/11)
P5270.11 Special Housing Units (11/23/16)
P5290.14 Admission and Orientation Program (4/3/03)
P5350.28 Literacy Program (GED Standard) (12/1/03)
P5353.01 Occupational Education Programs (12/17/03)
P5380.08 Financial Responsibility Program, Inmate (8/15/05)
P8000.01 UNICOR Corporate Policy and Procedures (6/25/01)
P8570.01 Accounting Procedures for Civilian and Inmate Payrolls – FPI (6/25/01)

Other References

Rules cited in this Program Statement are contained in 28 CFR 345.10–345.84.

Standard Occupational Classification Code issued by the U.S. Department of Commerce.

BOP Forms

BP-A0140 Injury Report - Inmate

BP-A0372 Ideas are Dollars

FPI Forms

Form 39 Request for Inmate Vacation

Form 44 Yearly Chronological FPI Work Performance Evaluation Form

Form 82 Job Grading Sheet

Form 83 Job Schedule

Form 96 Inmate Industrial Employment Action

ACA Standards

American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4-4448, 4-4451, 4-4452, 4-4457, 4-4458, and 4-4461.

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) system on Sallyport.

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INTRODUCTION

The task of hiring and managing inmate workers in Federal Prison Industries requires this policy on FPI Inmate Work Programs. It provides clarifications and updates that should assist FPI staff and inmates in day-to-day decision-making regarding inmate work assignments, pay, and benefits.

This policy contains changes in the areas of inmate hiring, pay, and benefits. It contains provisions covering all aspects of inmate work in FPI, including inmate worker standards as the basis for inmate personnel management; information regarding FPI pay and benefits; disciplinary actions; and the Prison Industry Enhancement Certification Program (PIECP).

Chapter 1. Delegation of Authority, Inmate Personnel Management System

1. PURPOSE/SUMMARY

To establish delegation of authority for inmate worker personnel matters.

2. DELEGATIONS

The Director, Bureau of Prisons, re-delegates the authority for general administration of inmate worker personnel matters to the Assistant Director/Chief Executive Officer, Federal Prison Industries (hereafter referred to as Assistant Director). Certain functions can then be re-delegated by the Assistant Director to the SOI, as indicated below.

a. **Selection Authority.** Authority to employ inmates and to select inmates for key positions, premium pay positions, and other specialized positions that may become available to inmate workers in FPI is delegated to the SOI after appropriate screening by the Unit Team.

The SOI may further delegate the selection authority to FPI staff, via an official memorandum to those staff members from the SOI.

b. **Classification Authority.** Authority to classify inmate worker positions is delegated to the SOI.

c. **Corrective Action Authority.** Authority to take FPI corrective actions regarding an inmate worker is delegated to the SOI.

Violations of FPI Inmate Worker Standards may be handled within the local FPI organization structure at the SOI's discretion, and are to be appropriately documented.

Violations of Bureau rules are processed in accordance with the Program Statements **Inmate Discipline Program** and **Special Housing Units**.

Chapter 2. Labor Utilization and Position Classification

1. GENERAL

It is FPI's policy to employ inmate resources efficiently. During the annual FPI planning cycle, FPI will develop a Memorandum of Understanding (MOU) (i.e., Annual Operating Plan) with each Warden and SOI on the level of inmate employment necessary to support planned sales and earnings for the FPI operation at each facility.

2. ACTION

Superintendents of Industries must, at a minimum, complete the procedures listed below to ensure the effective employment of inmate resources:

- Formulate an inmate worker staffing pattern annually. The SOI will note turnover rates, workload increases and decreases expected, labor availability, expected population trends, and anticipated mission, product, or program changes that will have a significant impact on industries operations. This may be executed as a part of a total workforce assessment effort in which both civilian and inmate workforces are examined. SOIs are advised to have the analysis available for discussion with Corporate executives, program managers, and others as needed.
- Review all short-range operation plans (one year or less) to assess inmate workforce needs.
- Review projected and actual overtime use and design methods of reducing overtime costs while optimizing inmate employment.
- Review the results of program reviews to improve the institution's industrial program.
- Make recommendations on the consolidation of functions, reorganization, duplication of effort, layering, better use of technology, vertical integration, and other means of workforce utilization.

3. POSITION CLASSIFICATION

§345.20 Position classification.

a. Inmate worker positions must be assigned an appropriate level of pay. All inmate workers shall be informed of the objectives and principles of pay classification as a part of the routine orientation of new FPI inmate workers.

Pay rates for graded positions are set by FPI's Board of Directors, and implemented by appropriate Bureau directives. Pay rates for PIECP positions are based on the local prevailing wage, subject to allowable deductions.

b. The Warden and SOI have the responsibility for position classification at each location.

Position classification must be treated as an integral part of the total inmate worker personnel management system. The classification program should represent a balance of pay equity, economy, and workforce resources.

(1) **Pay Equity.** Position classification should result in pay equity for graded positions. Differences in compensation paid to different inmate workers will be proportional to the differences in the difficulty, responsibility, and qualification requirements of the work performed. Individuals with similar skills and job assignments should receive similar pay.

(2) **Economy.** Good position management requires that inmate worker positions are established consistent with the soundest and most economical organizational structure to accomplish the mission efficiently. The skills assigned to a graded position should be consistent as to type and level, with higher level skills concentrated in higher level graded positions and lower level skills concentrated in lower level graded positions.

(3) **Workforce Resources.** The available quality and level of skills existing among inmates within the institution as well as the potential for development through training should be considered. As vacancies arise, individuals with the necessary skill potential will be advanced.

4. UNDERSTANDING OF THE PROGRAM

a. **Purpose.** This establishes the requirements and responsibilities for position classification in FPI as it pertains to graded inmate workers. It is essential that inmate workers be informed of the standards of the pay classification system and understand the basis for determining their pay system and their resulting pay grades.

b. **Responsibility.** While the Warden and SOI have the responsibility for position classification at each location, FPI managers must support that responsibility by ensuring that inmate workers are accurately classified and graded.

c. **Position Classification Files and Records.** Position classification files and records should be available for easy access and use by local FPI staff, auditors, program management staff, and other official visitors. They should contain the following information:

- An FPI Form 83, summarizing all operative positions in the FPI factory. This document lists each job by job number, title using the SOC code, and total positions in each pay grade level.

- An FPI Form 82 summarizing the data needed to grade an inmate. It is essential that the duties actually performed agree with the Form 82 requirements.
- Documentation of any special actions taken (e.g., “jumping inmates ahead” on the Waiting Lists or hiring at higher than entry level wages) and the basis for those actions.

d. **Classification Maintenance**

(1) **Position Changes.** Position changes, except for temporary or “acting” positions, are posted on FPI Form 83. FPI Form 82s will reflect the changes put into the record covering the new positions, as necessary.

(2) **Cyclic Review.** A review of inmate worker positions should be completed prior to the annual MOU (i.e., Annual Operating Plan) meeting and for any major product line change. These reviews should be submitted to the Operations Manager along with the suggested FPI factory profile.

(3) **Certification.** All FPI managers should be able to certify to the SOI that the positions are necessary and accurately described.

5. **CLASSIFICATION INTEGRITY**

The accuracy of inmate pay grade classification (FPI Form 82) may be checked during program reviews and other audit activities (e.g., external audits and OMB A-123 reviews). An audit sample that displays a large degree of disparity between the duties actually performed and the work as described on the Form 82 will be sufficient to require further review of inmate job classifications for that FPI factory.

Chapter 3. Recruitment and Hiring Practices

1. RECRUITMENT

§345.31 Recruitment.

Inmate workers for FPI locations may be recruited through admission and orientation lectures or through direct recruiting.

a. **Admission and Orientation Lectures.** Each SOI is required to ensure that a lecture (or video presentation) is given to each group of inmates during the Admission and Orientation (A&O) program. Each location must have a written lecture or outline to ensure that all inmate A&O classes receive the same information.

An appropriate amount of time must be left open for answering questions from inmates.

Each lecture or video presentation must, at a minimum, cover the following topics:

- An introduction to FPI, including its mission.
- FPI worker standard expectations.
- Inmate pay and benefits.
- Local rules and hours of operation.
- Recruitment, hiring, and dismissal procedures.
- Safety and sanitation responsibilities.
- The products, their uses, and the major customers at the local FPI factory.
- The value of the FPI work experience in correctional adjustment and in skills development for reentry.

b. **Direct Recruiting.** The SOI may solicit inmates with needed skills for employment in Industries. The SOI and other FPI employees may inform prospective workers of the benefits of a career with FPI prior to receipt of the workers' applications for employment.

2. HIRING

§345.32 Hiring.

a. Inmate workers are ordinarily hired through waiting lists. Except as noted in §345.33, inmates are to be placed on the waiting lists in order of receipt of applications for work with Industries, and are to be hired in the same sequence.

28 CFR 345.33 refers to Section 3 of this Chapter.

b. Waiting lists are to be maintained and kept available for scrutiny by auditors and other staff with a need to know. SOIs are encouraged to maintain a waiting list for each FPI factory.

3. WAITING LIST HIRING EXCEPTIONS

§345.33 Waiting list hiring exceptions.

a. *Needed skills.* An inmate may be hired ahead of other inmates on the waiting list if the inmate possesses needed skills and the SOI documents the reasons for the action in the position classification files.

Inmates selected to perform PIECP work are considered to possess needed skills for the specific PIECP work assignments for which they are selected.

b. *Prior FPI work assignment.* An inmate with prior FPI work experience during the inmate's current commitment and with no break in custody will ordinarily be placed within the top ten percent of the waiting lists unless the inmate was transferred for disciplinary reasons, was placed in segregation, or voluntarily left the FPI work assignment for non-program reasons (i.e., for some reason other than formal education, vocational training, drug abuse or similar formal programs). For example, an inmate transferred administratively for nondisciplinary reasons, and who has documented credit as a prior worker, is covered under the provisions of this paragraph.

An inmate with prior FPI work experience will similarly not be placed in the top 10 percent of the waiting lists if the inmate was previously terminated from FPI employment for violating the Inmate Worker Standards.

c. *Industry closing and relocation.* When an FPI factory closes in a location with two or more FPI factories, an inmate worker affected may be transferred to remaining FPI factories ahead of the top portion of the inmates on the waiting lists, so there is no break in active duty with FPI. Such actions are also in order where the work force of an industry is reduced to meet institution or FPI needs. An inmate transferred under the provisions of this part will have the same benefits as any intra-industry transfer.

d. **Disciplinary transfers.** An inmate who is a disciplinary transfer from the last institution designated and who wishes reassignment in FPI at the receiving institution may be hired on a case-by-case basis at the discretion of the SOI, who should consider the security level and reasons for the misconduct. Such an inmate, despite prior experience, is not due special placement on the waiting list, is not given advance hiring preference, and does not receive consideration for accelerated promotion back to the grade held at time of transfer.

e. **Special needs.** For special needs, such as Inmate Financial Responsibility assignment to assist in paying a significant financial obligation or for release preparation, the unit team may recommend an inmate for priority placement on the waiting list. Such placement must be documented and include the reason for the exception.

See the Program Statement **Financial Responsibility Program, Inmate**. Specifically, special needs include, but are not limited to: inmates within three years of their projected release dates; inmates who are honorably discharged veterans of the U.S. military; and inmates enrolled in the Inmate Financial Responsibility Program who have a minimum obligation of \$1,000.

4. **REFUSAL TO EMPLOY**

§345.34 Refusal to employ.

a. The SOI has authority to refuse an FPI assignment to an inmate who, in the judgment of the SOI, would constitute a serious threat to the orderly and safe operation of the FPI factory. A refusal to assign must be documented by a memorandum to the unit team listing reasons for the refusal, with a copy to the position classification files in FPI. Typically, the reasons should include other earlier (ordinarily within the past twelve months) documented violations of the FPI inmate worker standards or institution disciplinary regulations.

b. The refusal to assign is to be rescinded when, in the judgment of the SOI, the worker no longer constitutes a serious threat to the FPI industrial operation.

5. **ASSIGNMENTS TO FPI**

§345.35 Assignments to FPI.

a. An inmate or detainee may be considered for assignment with FPI unless the inmate is a pretrial inmate or is currently under an order of deportation, exclusion,

or removal. However, an inmate or detainee who is currently under an order of deportation, exclusion, or removal may be considered for assignment with FPI if the Attorney General has determined that the inmate or detainee cannot be removed from the United States because the designated country of removal will not accept his/her return. Any request by an inmate for consideration must be made through the unit team. FPI does not discriminate on the bases of race, color, religion, ethnic origin, age, or disability.

Upon receiving written documentation from the U.S. Immigration and Customs Enforcement (ICE) or the Executive Office for Immigration Review (EOIR) that an inmate has been issued a deportation, exclusion, or removal order, the unit team adds the appropriate SENTRY Case Management Assignment (CMA) (IHP CMP WD-IHP Complete; IHP CMP WDE-IHP Complete; or IHP CMP WDI-IHP Complete). The SOI must not include any inmate with these CMAs when determining eligibility for an FPI assignment, except as specified in Chapter 4, Section 4(d).

These inmates will be reassigned to non FPI work assignments for which they are otherwise eligible. Unit staff must also remove inmates with these CMAs from the FPI Waiting List, except as specified in Chapter 4, Section 4(d). Inmates for whom no decision has been made to deport are unaffected by this policy. The SOI and Associate Warden of Programs coordinate notification to affected inmates of their pending removal from FPI work assignments.

b. The SOI ordinarily makes assignments based on the recommendation of the unit team.

(1) New workers are ordinarily assigned at pay grade five. All first-time inmate workers shall enter at pay grade five and may be required to successfully complete a course in pre-industrial training or on-the-job training (as available) before promotion to pay grade four.

(2) An inmate who has not successfully completed pre-industrial or on-the-job training remains at pay grade five for at least 30 days.

Inmates undergoing such training should expect a period of at least 30 days for successful completion of the training. After 30 days, promotions may occur based on available openings and job performance.

(3) An inmate hired after having resigned voluntarily from FPI may be excused from pre-industrial training and may be hired at a pay grade based on previous training and experience.

For example, an inmate who previously worked in the FPI print factory and is rehired to work again in the print factory may be exempted from pre-industrial training. An inmate who previously worked in the print factory and is rehired to work in the broom factory may be required to complete a course in pre-industrial training at the SOI's discretion.

(4) Employing job-share workers is an excellent method of allowing the maximum number of inmates to take part in the FPI work experience. Job-share work is also encouraged because it grants inmates the opportunity to participate in a wide range of other correctional programs.

Chapter 4. Inmate Worker Standards and Performance Appraisal

1. GENERAL

§345.40 General.

This subpart authorizes the establishment of minimum work standards for inmate workers assigned to the Industries program at all field locations. The SOI may reproduce these standards and may also develop additional local guidelines to augment these standards and to adapt them to local needs and conditions. Local Industries shall place these standards and any additional local guidelines on display at appropriate locations within the industrial sites. Inmates shall be provided with a copy of these standards and local guidelines, and shall sign receipts acknowledging they have received and understand them before beginning work in the Industries program. In the case of a disabled inmate, alternate media or means of communicating this information and indicating the inmate's receipt may be provided, if necessary as a reasonable accommodation.

a. At a minimum, each industrial location is to have work standards for each of the following areas:

- (1) **Safety**—ensuring the promotion of workplace safety and the avoidance of activities that could result in injury to self or others.
- (2) **Quality assurance**—ensuring that work is done as directed by the supervisor in an attentive manner so as to minimize the chance of error.
- (3) **Personal conduct and hygiene**—ensuring the promotion of harmony and sanitary conditions in the workplace through observation of good hygiene and full cooperation with other inmate workers, work supervisors, and training staff.
- (4) **Punctuality and productivity**—ensuring the productive and efficient use of time while the inmate is on work assignment or in training.

b. ***Compliance with work standards.*** Each inmate assigned to FPI shall comply with all work standards pertaining to his or her work assignment. Adherence to the standards should be considered in evaluating the inmate's work performance and documented in individual hiring, retention, and promotion/demotion situations.

2. INMATE WORKER STANDARDS

In general, inmate industrial workers should engage in activities that promote workplace safety and avoid activities that could result in injury to self or others.

a. **Inmate Worker Safety: Minimum Acceptable Standards.** Staff are to advise inmates to:

- Follow posted safety rules and procedures at all times while on work assignment.
- Report all injuries to the work supervisor immediately, no matter how minor or trivial the injury may appear.
- Use equipment, tools, or machinery only when directed by the work supervisor and only in the manner told to use them.
- Keep the work area neat and orderly as required by local safety rules and by the work supervisor, so as to not pose a safety hazard to self or to others.
- Always use required protective equipment provided at the work site. Such equipment includes, but is not limited to, safety shoes, eye protection, ear protection, respirators or face masks, protective clothing, and other items that may be designated by the SOI.
- Actively participate in regularly scheduled safety talks and other safety-related training.
- Maintain a personal appearance that meets FPI factory safety requirements; e.g., hair may not be so long as to create an unnecessary safety hazard in the judgment of the SOI.

b. **Quality Assurance Activities: Minimum Acceptable Standards.** Staff are to advise inmates to:

- Perform the work exactly to the specifications the supervisor assigns.
- Be attentive in performing the work so as to minimize the chance of error(s).
- Make no changes in materials or production procedures without the work supervisor's explicit permission for each change made.
- Report to the supervisor, and, upon the supervisor's instructions, repair or correct product defects resulting from defective workmanship, whether done by oneself or by others.

c. **Personal Conduct and Hygiene: Minimum Acceptable Standards.** Staff are to advise inmates to:

- Work without causing friction with other inmate workers, and cooperate fully with peers.
- Obey and cooperate fully with the work supervisor or training instructor by successfully completing assigned tasks in the manner prescribed.
- Not bring prohibited items to the work area.
- Observe basic standards of grooming and good hygiene.

d. **Punctuality and Productivity: Minimum Acceptable Standards.** Staff are to advise inmates to:

- Report to the assigned work or training area promptly when coming to work at the beginning of a shift, after meal(s), or after breaks.
- Remain at work during the time designated by the local work schedule.
- Use work time efficiently and keep nonproductive time to a minimum during hours of FPI factory operation.
- Meet work requirements (production) the work supervisor establishes for those work stations having no specific production standards.
- Meet all established production and quality standards.
- Demonstrate an ability to adapt to changing work conditions to meet the goals of the FPI factory (including job reassignments).
- Demonstrate a willingness to develop additional skills through participation in, and completion of, on the job training and formal education and training programs.
- Comply with rules, instructions, and guidance pertaining to the Inmate Payroll System.

3. PERFORMANCE APPRAISAL FOR INMATE WORKERS

§345.41 Performance appraisal for inmate workers.

Work supervisors should complete a performance appraisal form for each inmate semi-annually, by March 31 and September 30, or upon termination or transfer from the industrial work assignment. Copies shall be sent to the unit team. Inmate workers should discuss their appraisals with their supervisors at a mutually agreeable time in order to improve their performance. Satisfactory and unsatisfactory performance ratings shall be based on the standards in §345.40(a).

28 CFR 345.40(a) refers to Section 1.a. of this Chapter.

a. The SOI is to ensure that evaluations are done and are submitted to unit teams in a timely manner.

b. The SOI or a designee may promote an inmate to a higher grade level if an opening exists when the inmate's skills, abilities, qualifications, and work performance are sufficiently developed to enable the inmate to carry out a more complex FPI factory assignment successfully, when the inmate has met the institution's time-in-grade (unless waived by the SOI), and when the inmate has abided by the inmate worker standards. Conversely, the SOI or SOI designee may

demote an inmate worker for failing to abide by the inmate worker standards. Such demotions shall be fully documented.

Each institution must establish minimum times in grade, which must not be less than the following:

- **Fifth Grade to Fourth Grade.** No time limit with a minimum of 30 days for inmates not having completed an FPI or pre-industrial training program.
- **All Other Promotions.** Ninety days except at court processing/short term facilities such as Metropolitan Correctional Centers, Federal Detention Centers, and Metropolitan Detention Centers, where the minimum time in grade is 30 days. These facilities need to maintain additional pay incentives to encourage short-term inmates to work in FPI.

The minimum time-in-grade requirement may not apply when an inmate has prior FPI work experience or possesses needed skills, and is eligible for accelerated promotion. At the SOI's discretion, an accelerated promotion may be applicable in the following situations:

- Non-disciplinary transfer.
- FPI factory closing.
- After 30 days on writ.
- After 30 days on medical idle.
- After 30 days in administrative detention.
- Withdrawal, in good faith, from a training, drug rehabilitation, or similar program.

c. **Performance Ratings and Corrective Actions.** SOIs ensure that inmate performance ratings and corrective actions are used consistently to promote improved inmate work performance. SOIs ensure that there is consistent granting/withholding of inmate pay, benefit, or award conditions (described in Chapter 5, Inmate Pay and Benefits, and Chapter 6, Awards) to improve performance ratings given any particular inmate.

Regular documentation of satisfactory and unsatisfactory work performance is encouraged to form a basis for the inmate performance rating. Staff must fully document any action taken that directly increases or reduces inmate pay, benefits, or official awards; the documentation should include the Inmate Worker Standards.

For example, a specific corrective action would be that the SOI might disallow an inmate's Industrial Good Time for the month due to unsatisfactory work performance. This would apply only to the month(s) in which the unsatisfactory work performance occurs. As another example, an SOI may demote an inmate to a lower pay grade for failing to meet the Inmate Worker

Standards, with full documentation to the unit team for the Inmate Central File and eventual documentation in the performance appraisal.

4. INMATE WORKER DISMISSAL

§345.42 Inmate worker dismissal.

The SOI may remove an inmate from Industries work status in cooperation with the unit team.

Working in cooperation with the unit team means that, at a minimum, the SOI must fully document the reason for dismissal in a memorandum to the unit team.

a. The SOI may remove an inmate from FPI work status according to the conditions outlined in the pay and benefits section of this policy and in cooperation with the unit team.

See Chapter 5, Table 1. As noted therein, among other grounds, the SOI may remove an inmate from FPI work status for a serious violation, or repeated less serious violations, of the Inmate Worker Standards. An inmate may also be dismissed if, in the judgment of the SOI, he/she constitutes a threat to the safe and orderly operation of the FPI facility.

In the case of removal for violating the Inmate Worker Standards or for constituting a threat to the safe and orderly operation of the FPI facility, the inmate loses all longevity and vacation credit; loses his/her pay grade; is placed on the bottom of the waiting list, with the SOI's approval, if reapplying to FPI; and, if rehired at the discretion of the SOI, does not receive accelerated promotion.

b. An inmate may be removed from FPI work status for failure to comply with any court-mandated financial responsibility. (See 28 CFR 545.11(d)).

The SOI must fully document the reason for dismissal in a memorandum to the unit team. 28 CFR 545.11(d) refers to Program Statement **Financial Responsibility Program, Inmate.**

c. An inmate found to have committed a prohibited act (whether or not it is FPI related) resulting in segregation or disciplinary transfer is also to be dismissed from Industries based on an unsatisfactory performance rating for failure to be at work.

d. Any inmate or detainee who is a pretrial inmate or who is currently under an order of deportation, exclusion, or removal shall be removed from any FPI work assignment and reassigned to a non-FPI work assignment for which the inmate is eligible. However, an inmate or detainee who is currently under an order of deportation, exclusion, or removal may be retained in the FPI assignment if the Attorney General has determined that the inmate or detainee cannot be removed from the United States because the designated country of removal will not accept his/her return.

Upon receiving written documentation from Immigration and Customs Enforcement (ICE) or the Executive Office for Immigration Review (EOIR) that an inmate has been issued a deportation, exclusion, or removal order, the unit team adds the appropriate Case Management Activities (CMA – IHP CMP WD-IHP Complete; IHP CMP WDE-IHP Complete; or IHP CMP WDI-IHP Complete). The SOI must remove from FPI work assignments all inmates with these CMAs. These inmates will be reassigned to non-FPI work assignments for which they are otherwise eligible.

In addition, inmates with a deportation order who are appealing the decision are ineligible for FPI work assignments. If the inmate's appeal is granted, the inmate is then eligible to apply for an FPI work assignment, as he/she no longer has a CMA related to a deportation, exclusion, or removal order. If he/she previously worked for FPI, his/her name must be placed within the top 10 percent of the FPI Waiting List.

The SOI coordinates notification to the affected inmate of his/her pending removal from an FPI work assignment. Staff should remain sensitive and communicate with affected non-U.S. citizen inmates concerning this issue. Non-U.S. citizen inmates for whom no decision has yet been made to deport are unaffected by this policy.

It has been determined that Cubans (Mariels and non-Mariels) cannot be removed from the United States, and therefore should be considered for assignment with FPI. All other non-U.S. citizens who have been ordered deported, excluded, or removed, should not be considered for an assignment with FPI, unless ICE notifies the Correctional Programs Branch, Central Office, that a designated country of removal will not accept his/her return. This information is then provided to Bureau staff. Inmates who claim countries will not accept them must obtain from ICE such a determination to be retained in FPI work assignments. Staff having questions concerning which countries have such a determination should consult with the Correctional Programs Branch. Refer to the Program Statement **Institution Hearing Program** for information on IHP CMA assignments.

Chapter 5. Inmate Pay and Benefits

1. GENERAL

§345.50 General.

Title 18 U.S. Code Section 4126 authorizes FPI to compensate inmates under rules and regulations promulgated by the Attorney General. It is the policy of FPI to provide compensation to FPI inmate workers through various conditions of pay and benefits, except as otherwise provided in these regulations.

The various pay and benefit conditions allow performance-based recognition of the value of the inmate work performed based on the standards in the previous chapter. Compensation in pay grades and other pay and benefit conditions is designed to be equitable and constructive for individual inmates.

2. PURPOSE AND SUMMARY

This chapter provides a description of the various FPI inmate pay and benefit conditions as well as guidelines for granting, withholding, and rescinding them. Guidelines for major inmate worker benefits are also summarized in the table following this chapter. Additional detailed instructions for computing and executing payroll and benefit obligations may be found in the inmate payroll section of the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**.

3. INMATE PAY

§345.51 Inmate pay.

a. Grade Levels. Inmate workers in FPI locations receive pay at five levels ranging from 5th grade pay (lowest) to 1st grade pay (highest).

The grade system does not apply to inmates performing PIECP work, who receive pay based on the local prevailing wage, subject to allowable deductions, which may amount to 80% of gross wages, in addition to deductions from net wages for legal obligations under the Inmate Financial Responsibility Program. The hourly compensation rates for graded inmate workers are as follows:

| <u>Grade</u> | <u>Compensation Rate</u> |
|--------------|--------------------------|
| 1 | \$1.15 |
| 2 | .92 |
| 3 | .69 |
| 4 | .46 |
| 5 | .23 |

Time-in-grade requirements are covered in the section on performance appraisal.

b. Eligibility

(1) An inmate shall accrue vacation time, longevity service credit, and shall receive holiday pay for the period of time the inmate is officially assigned to the Industries work detail. For limitations on claims, refer to §345.66.

28 CFR 345.66 refers to Section 20 in this Chapter. See Table 1 (Guidelines for Inmate Pay and Benefits) for writ conditions.

While performing PIECP work, inmates accrue vacation time and longevity service credit (but are not paid longevity pay), and receive holiday pay.

(2) Inmate workers may be eligible for premium pay as specified in §345.52. Eligibility for other pay and benefits are described separately in this subpart.

28 CFR 345.52 refers to Section 4 of this Chapter.

(3) FPI pay and benefits are lost in cases of disciplinary transfer and segregation.

(4) An inmate returned to the institution due to program failure at a Community Corrections Center or while on parole or escape is not entitled to credit for time spent in Industries prior to said program failure. This rule also applies to any other program failure which results in a break in confinement status.

(5) Inmate workers who wish to secure an FPI assignment above grade 4 of compensation or wish to work in incentive pay (piece work) or PIECP positions must have obtained a GED or high school diploma. However, if labor force needs require, inmates who do not meet the literacy requirements may be employed in FPI incentive pay positions if they are simultaneously enrolled in a literacy or related program, provided they are found to be progressing at an acceptable level as defined by the Supervisor of Education.

Failure to maintain satisfactory progress will result in termination of FPI incentive pay employment. Generally, for promotion purposes, the current literacy requirements do not apply to inmates who were promoted above entry level prior to May 1, 1991. These inmates fall under the literacy requirements in effect at the time of their promotion. Refer to the Program Statement **Literacy Program (GED Standard)**.

4. PREMIUM PAY

§345.52 Premium pay.

Payment of premium pay to selected inmates is authorized. The total number of qualifying inmates may not exceed 15% of first grade inmates at a location.

a. *Eligibility.* Inmates in first grade pay status may be considered for premium pay.

b. *The selection process.* Candidates for premium pay must be nominated by a foreman on the FPI staff, and recommended on the basis of specific posted criteria by a selection committee assigned by the SOI.

(1) The SOI, as the chief selecting official, must sign approval for all premium pay inmate selections. This authority may not be delegated below the level of Acting SOI.

(2) The selected candidate(s) are notified by the FPI Manager or by a posted list on the FPI bulletin board. A record of the selection and who was on the selection board is kept for documentation purposes. An inmate nominated to be a premium pay inmate may refuse the appointment without prejudice.

c. *Selection Criteria.* Candidates for the position are rated based on traits that may be posted at the institution. Sample traits are:

- Knowledge and Ability.
- Leadership.
- Initiative.
- Past Job Performance.
- Positive Attitude .

d. *Pay rate.* Premium pay inmates receive a specified amount over and above all other pay and benefits to which they may be entitled (e.g., longevity pay, overtime, piecework rates, etc.).

The premium pay rate is currently an additional \$.20 per hour. Premium pay for a pay grade 1 inmate earning overtime would be calculated as follows: $\$2.30 + .20 = \2.50 .

Premium pay is also paid for vacation, holiday, and administrative hours.

e. *Duties of premium pay inmates.* Premium pay is a means of recognizing the value of those traits supportive of morale and good institutional adjustment. It is not a form of bonus or incentive pay for highly productive inmates.

Premium pay workers may legitimately be expected to help with ensuring the flow of materials to work stations, more complex clerical and accounting tasks, warehouse organization, quality assurance integrity, training other inmates, etc. Inmates receiving premium pay must not be used in any way as supervisors of other inmates. Specific duties of premium pay inmates are determined by local conditions and articulated by local staff. FPI locations employing premium pay inmates must keep appropriately executed FPI Form 82s on hand for each premium pay position, and discuss the specific duties thoroughly with each new premium pay worker.

f. *Transfer status of premium pay inmates.* Premium pay status may not be transferred from institution to institution with the inmate worker. Premium pay status must be earned at each location.

In recognition of the often singular contributions of such workers to FPI, SOIs are requested to add a special notation to the evaluation forms of such inmates prior to transfer, or to note their special status with the FPI factory when discussing transferred inmates' prior experience with the receiving SOI.

g. *Removals from premium pay status.* Removal from premium pay status may occur for failure to demonstrate the premium pay selection traits or for failure to abide by the inmate worker standards set forth in this policy. All removals from premium pay status shall be documented on the inmate's evaluation form. The following conditions also may result in removal from premium pay status:

(1) Any premium pay inmate found to have committed any level 100 or 200 series offense by the DHO is automatically removed from premium pay status whether or not the offense was FPI-related.

(2) Inmates absent from work for more than 30 consecutive calendar days may be removed from premium pay status by the SOI.

h. Distribution of Premium Pay Positions. FPI locations must make every effort to put premium pay positions in each major department, including the Business Office, Quality Assurance, and Warehouse groups. Distribution of Premium Pay positions is limited only by the number of first grade positions approved at each institution (15% of first grade positions).

5. INCENTIVE PAY PLANS

Except as provided for in detail in the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**, the maximum pay rate for each grade under the pay system may not exceed 120% of the standard hourly pay rate for corresponding pay grades. The SOI may approve hourly rates under incentive pay plans to exceed 120% of the corresponding standard hourly rates under unusual circumstances for a period not to exceed three months.

6. PIECEWORK RATES

§345.53 Piecework rates.

Piecework rates are incentives for workers to strive for higher pay and production benefiting both the worker and FPI. Piecework rates may be of two major types: individual piecework (in which an individual's pay goes up or down depending upon his/her own output) or Group Wage Fund (in which all members of a group strive for higher rates or production output as a unit, and all share in a pool of funds distributed among work group members equally).

7. OVERTIME COMPENSATION

§345.54 Overtime compensation.

An inmate worker is entitled to overtime pay at a rate of two times the hourly or unit rate for hourly, individual, and group piecework rate workers, when the total hours worked (including administrative pay) exceed the FPI factory's regularly scheduled workday. Hours worked on days other than the scheduled work week (e.g., Saturday) shall be compensated at the overtime rate.

See the inmate payroll section of the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**. PIECP inmates receive overtime pay at a rate of one and a half times the hourly rate.

8. LONGEVITY PAY

§345.55 Longevity pay.

a. Except as provided by paragraph (b) of this section, an inmate earns longevity pay raises after 18 months spent in FPI work status regardless of whether or not the work was continuous. The service may have occurred in one or more FPI factories or shops. An inmate qualifies for longevity pay raises as provided in the table below:

Length of Service With FPI

After 18 months of service and payable in the 19th month

After 30 months of service and payable in the 31st month

After 42 months of service and payable in the 43rd month

After 60 months of service and payable in the 61st month

After 84 months of service (& more) and payable in the 85th month

Longevity pay allowances shall be added after the wages for each actual hour in pay status have been properly computed.

Refer to the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI** for longevity pay computation instructions.

PIECP inmates do not receive longevity pay; however, the time during which an inmate performs PIECP work is counted toward his/her length of service with FPI.

b. Exceptions.

(1) FPI work status during service of a previous sentence with a subsequent break in custody may not be considered in determining longevity pay.

(2) An inmate in segregation or who is given a disciplinary transfer loses any longevity status previously achieved.

(3) An inmate who voluntarily transfers to a non-FPI work assignment loses any longevity status previously achieved. An inmate who leaves FPI to enter education, vocational training, or drug abuse treatment programs, however, generally retains longevity and pay grade status upon return to FPI, unless the

inmate withdraws from those programs without a good faith effort to complete them. The decision on whether there was a good faith effort is to be made by the SOI in concert with the staff member in charge of the program.

9. VACATION PAY

§345.56 Vacation pay.

Inmate workers are granted FPI vacation pay by the SOI when their continued good work performance justifies such pay, based on such criteria as quality of work, attendance and punctuality, attentiveness, and adherence to industry operating regulations. The inmate must submit a written request for vacation time, ordinarily two weeks in advance of the requested vacation time. The work supervisor must recommend to the SOI the vacation time to be taken or paid. Eligibility for vacation pay must be verified by the Business Office prior to approval by the SOI. The SOI may declare an inmate ineligible for vacation credit because of an inmate's unsatisfactory work performance during the month in which such credit was to occur.

An inmate must complete FPI Form 39, Request for Inmate Vacation, requesting vacation time and submit it to the work supervisor, department head, and SOI for approval. Inmates performing PIECP work based on a customer or manpower model receive vacation pay based on the criteria described in this section. Inmates performing PIECP work based on an employer model receive vacation pay in accordance with the policies of the employer. (See the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI** for detailed guidance on vacation pay/credit.)

a. An inmate may take accrued vacation time for visits, participation in institution programs or for other good reasons at the discretion of the SOI. Industrial managers should make every reasonable attempt to schedule an inmate worker's vacations so as not to conflict with the workforce requirements of FPI factory production schedules and Inmate Systems Management requirements.

b. An inmate temporarily assigned to the Industrial detail, e.g., on construction details, also earns vacation credit which he or she must take or be paid for at the end of the temporary assignment.

Such inmates are placed on the industrial payroll through execution of FPI Form 96 (see the inmate payroll section of the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**).

c. An inmate must take and/or be paid for vacation credit within sixty days after each annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate who elects not to take vacation time must indicate this in writing. That inmate shall receive pay for the annual vacation credit in a lump sum on the regular monthly payroll. This amount is ordinarily paid within sixty days after the annual eligibility date of the inmate's most recent date of assignment to FPI. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall be paid for this credit on the monthly payroll.

10. ADMINISTRATIVE PAY

§345.57 Administrative pay.

An inmate excused from a job assignment may receive administrative pay for such circumstances as a general recall for an institution, power outages, blood donations, or other situations at the discretion of the SOI. Such pay may not exceed an aggregate of three hours per month.

Both graded inmate workers and inmates performing PIECP work may receive administrative pay.

11. HOLIDAY PAY

§345.58 Holiday pay.

An inmate worker in FPI work status shall receive pay at the standard hourly rate, plus longevity where applicable, for all Federal holidays provided the inmate is in work status on the day before and the day after the holiday occurs. Full-time workers receive one full day's pay. Part-time workers receive one-half day's pay.

Both graded inmate workers and inmates performing PIECP work receive holiday pay.

12. INMATE PERFORMANCE PAY

§345.59 Inmate performance pay.

Inmate workers for FPI may also receive Inmate Performance Pay for participation in programs where this award is made. However, inmate workers may not receive both Industries Pay and Performance Pay for the same program activity. For

example, an inmate assigned to a pre-industrial class may not receive FPI pay as well as inmate performance pay for participation in the class.

Inmates performing PIECP work are not eligible to receive performance pay.

13. TRAINING PAY

§345.60 Training pay.

Inmates directed by the SOI to take a particular type of training in connection with an FPI job are to receive FPI pay if the training time occurs during routine FPI factory hours of operation. This does not include ABE/GED or pre-industrial training.]

14. INMATE EARNINGS STATEMENT

§345.61 Inmate earnings statement.

Each inmate worker in FPI shall be given a monthly earnings statement while actively working for FPI.

The SOI may determine the method of distributing the earnings statements.

15. INMATE ACCIDENT COMPENSATION

§345.62 Inmate accident compensation.

An inmate worker shall be paid lost-time wages while hospitalized or confined to quarters due to work related injuries (including occupational disease or illnesses directly caused by the worker's job assignments) as specified by the Inmate Accident Compensation Program (28 CFR part 301).

The staff member responsible for the injured inmate's detail must complete a BP-A0140, Injury Report – Inmate, for work-related injuries that occur during duty hours.

Full instructions are provided in the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**. Inmate workers performing PIECP work based on an employer model receive workers' compensation benefits in accordance with the workers' compensation policy of the employer.

16. POST RELEASE INMATE ACCIDENT COMPENSATION

Any definite or indefinite post release award of inmate accident compensation made as a result of a work-related injury must be expensed by the Financial Management Division of FPI during the month in which the award is determined. Definite awards are of a fixed amount and are paid in a lump sum. Indefinite awards are specific monthly awards made for an indefinite period (see the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**).

17. FUNDS DUE DECEASED INMATES

§345.63 Funds due deceased inmates.

Funds due a deceased inmate for work performed for FPI are payable to a legal representative of the inmate's estate or in accordance with the law of descent and distribution of the state of domicile.

All funds due to the deceased inmate must be retained in the inmate's commissary account until legally authorized for distribution.

18. REFERRAL OF RELEASABLE MEDICAL DATA TO FPI STAFF

§345.64 Referral of releasable medical data to FPI staff.

The SOI is responsible for ensuring that appropriate releasable information pertaining to an inmate's medical limitation (e.g., back injury) is made available to the FPI staff member who directly supervises the assignment.

19. INMATE MEDICAL WORK LIMITATION

§345.65 Inmate medical work limitation.

In addition to any prior illnesses or injuries, medical limitations also include any illness or injury sustained by an inmate which necessitates removing the ill worker from an FPI work assignment. If an inmate worker is injured more than once in a comparatively short time, and the circumstances of the injury suggest an awkwardness or ineptitude which in turn indicates that further danger exists, the inmate may be removed to another FPI detail or to a non-FPI detail.

20. CLAIMS LIMITATION

§345.66 Claims limitation.

Claims relating to pay and/or benefits must occur within one calendar year of the period of time for which the claim is made. Inmate claims submitted more than one year after the time in question require the approval of the Assistant Director before an inmate may receive such pay and/or benefit.

21. RETENTION OF BENEFITS

§345.67 Retention of benefits

Guidelines for retention of benefits for jobs, pay grades, longevity and vacation credit, waiting lists, and positions are found in the table following this chapter. Most generic situations involving retention of benefits problems are addressed and presented as guidelines in the table.

For unforeseen problems involving such benefits, the SOI is delegated authority to dispose of individual cases and is encouraged to contact the FPI Office of the General Counsel for policy guidance and coordination. In general, the benefits are depicted on a sliding scale of gain-retention-loss, depending on the severity of the situations as explained below and depicted in the table.

a. *Job retention.* Ordinarily, when an inmate is absent from the job for a significant period of time, the SOI will fill that position with another inmate, and the first inmate will have no entitlement to continued FPI employment.

(1) For up to the first 30 days when an inmate is in medical idle status, that inmate will retain FPI pay grade status, with suspension of actual pay, and will be able to return to FPI when medically able, provided the absence was not because of a FPI work-related injury resulting from the inmate's violation of safety standards. If the medical idle lasts longer than 30 days, was not caused by a violation of safety standards, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(2) Likewise, for up to the first 30 days when an inmate is in Administrative Detention, that inmate may retain FPI pay grade status, with actual pay suspended, and will be able to return to FPI, provided the inmate is not found to have committed a prohibited act. If Administrative Detention lasts longer than 30 days, and the inmate is not found to have committed a prohibited act, and the unit team

approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

(3) An inmate in Administrative Detention, and found to have committed a prohibited act, may return to FPI work status at the discretion of the SOI.

(4) If an inmate is injured and absent from the job because of a violation of FPI safety standards, the SOI may reassign the inmate within FPI or recommend that the unit team reassign the inmate to a non-FPI work assignment.

(5) If an inmate is transferred from one institution to another for administrative (not disciplinary) reasons, and the unit team approves the inmate's return to FPI, the SOI shall place that inmate within the top ten percent of the FPI waiting list.

b. *Longevity and vacation credit.* Ordinarily, when an inmate's FPI employment is interrupted, the inmate loses all accumulated longevity and vacation credit with the following exceptions:

(1) The inmate retains longevity and vacation credit when placed in medical idle status, provided the medical idle is not because of a FPI work-related injury resulting from the inmate's violation of safety standards. If the medical idle results from a FPI work-related injury where the inmate was not at fault, the inmate also continues to earn longevity and vacation credit.

(2) Likewise, the inmate retains, and continues earning for up to 30 days, longevity and vacation credit if placed in Administrative Detention, provided the inmate is not found to have committed a prohibited act.

(3) The inmate retains, but does not continue earning, longevity and vacation credit when transferring from one institution to another for administrative (not disciplinary) reasons, when absent from the institution on writ, or when placed in administrative detention and found to have committed a prohibited act.

If commission of a prohibited act results in disciplinary segregation, however, the inmate loses all longevity and vacation credit. See sections 3(b)(3) and 8(b)(2) of this chapter.

c. *Pay grade retention.* Ordinarily, when an inmate's FPI employment is interrupted, that inmate is not entitled to retain his or her pay grade, with the following exceptions:

(1) An inmate retains pay grade status, with actual pay suspended, for up to 30 days in Administrative Detention. However, the inmate is not reimbursed for the time spent in detention.

(2) Likewise, an inmate retains pay grade status for up to 30 days while absent from the institution on writ, with actual pay suspended. The SOI may approve pay grade retention when an inmate is on writ for longer than 30 days on a case-by-case basis.

(3) If an inmate is absent because of a FPI work-related injury where the inmate was not at fault, the inmate retains his or her pay grade, with actual pay suspended.

d. **Other Situations.** For all other matters not covered above or in Table 1 of this chapter, the SOI should base decisions regarding pay and benefit modification and retention on documented instances of conformance or non-conformance to the Inmate Worker Standards (see Chapter 4) and decisions regarding job retention on Chapter 4, Section 4 (Inmate Worker Dismissal) of this policy.

Table 1. Guidelines for Inmate Pay and Benefits

| SITUATION | JOB | LONGEVITY CREDIT | VACATION CREDIT | PAY GRADE RETENTION | WAITING LIST | PROMOTION |
|---|-------------------|--|--|--|------------------------------------|--|
| Dismissal for Violation of Inmate Worker Standards | lost | lost | lost | lost | bottom of list w/SOI's Approval | On performance, if rehired |
| Administrative Transfer | lost | retained | retained | lost | Top 10% | Accelerated |
| Disciplinary Transfer | lost | lost | lost | lost | bottom of list w/SOI's Approval | On performance, if rehired |
| Disc. Segregation | lost | lost | lost | lost | bottom of list w/SOI's Approval | On performance, if rehired |
| Writ | lost | retained | retained | Greater than 30 days with SOI's Approval | w/SOI's Approval | After 30 days, if rehired, accelerated promotion |
| Administrative Detention/guilty | SOI may retain | retained (for time period accrued) | retained (for time period accrued) | retained | w/SOI's Approval | On performance, if rehired |
| Administrative Detention/ not guilty | ————— | | Continues for 30 days of admin. detention | ————— Top 10% | | After 30 days, if rehired, accelerated promotion |
| Medical Idle** | retained | retained | retained | continues | N/A | N/A |

(If greater than 30 days,
same as Administrative Transfer)

| | | | | | | |
|---|----------|-----------|-----------|-----------|------------------|----------------------------|
| FPI work related injury and absence, no fault found** | retained | continues | continues | continues | N/A | N/A |
| FPI work related injury and absence w/ safety violation** | * | lost | lost | * | w/SOI's Approval | If rehired, on performance |

(Decisions on all other matters should be based on the Inmate Worker Standards and Chapter 4, Section 4 of this policy.)

* If the UDC/DHO process does not determine job loss, the SOI may retain or terminate FPI work status.

** Refer to 28 CFR part 301 for information on Lost-Time Wages.

Chapter 6. Awards Program

1. GENERAL

§345.70 General.

FPI provides incentive awards of various types to inmate workers for special achievements in their work, scholarship, suggestions, for inventions which improve industry processes or safety or which conserve energy or materials consumed in FPI operations, and for outstanding levels of self-development.

a. **Limitation on Awards.** With the exception of the FPI Incentive Award Plan, the total value of awards at each institution's industry location in any given year is limited to an amount no more than one percent of the location's inmate payroll estimate for the current year, based on the operating plan and projected inmate employment.

No later than October 1 each year, the SOI must prepare the annual budget, which must include the estimate for incentive awards.

b. **Costing the Incentive Awards Programs.** Costs associated with the Incentive Awards Program are charged locally. Costs are recorded under appropriate overhead accounts. Payments for Incentive Awards are made in accordance with the established payroll system and included on the monthly payroll, in accordance with the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**.

c. **Reporting Inmate Worker Awards.** Each SOI is responsible for maintaining records on inmate awards each fiscal year.

2. OFFICIAL COMMENDATIONS

§345.71 Official commendations.

An inmate worker may receive an official written commendation for any suggestion or invention adopted by FPI, or for any special achievement, as determined by the SOI, related to the inmate's industrial work assignment. A copy of the commendation is to be placed in the inmate's central file.

3. CASH BONUS OR CASH AWARD

§345.72 Cash bonus or cash award.

An inmate worker may receive a cash bonus or cash award for any suggestion or invention which is adopted by FPI and produces a net savings to FPI of at least \$250.00. Cash awards shall be one percent of the net estimated savings during the first year, with the minimum award being \$25.00, and the maximum award being \$1,000.00.

When there are substantial one-time costs to implement a suggestion or invention that will produce benefits over a number of years, and it is believed that an award based on first-year savings would be inadequate compensation, the award may be based on an annual average of the estimated benefits over a period of three years.

4. PROCEDURES FOR GRANTING AWARDS FOR SUGGESTIONS OR INVENTIONS

§345.73 Procedures for granting awards for suggestions or inventions.

Inmate suggestions for improvements in operations or safety, or for conservation of energy or material, must be submitted in writing.

The standard Bureau suggestions form (Ideas are Dollars, BP-A0372) may be used with the phrase “Inmate Suggestion” typed in the upper-right-hand corner, and put into a suggestion box or other locally approved receptacle.

a. The inmate’s immediate supervisor shall review the suggestion and forward it with comments and award recommendation to the SOI.

b. The SOI shall ensure that all inmate suggestions and/or inventions formally submitted are considered for incentive awards by a committee comprised of Industries personnel designated by the SOI.

Ordinarily the committee is composed of the SOI and two other FPI managers. When the SOI is not a member of the committee, the committee’s recommendation and justification are forwarded through the SOI to the Warden for approval.

(1) The committee is authorized to award a cash award of up to \$100.00 or an equivalent gift not to exceed \$100.00 in value to an inmate whose suggestion has been adopted. A recommendation for an award in excess of \$100.00 shall be forwarded to the Assistant Director for a final decision.

(2) The committee shall forward all recommendations for awards for inventions through the SOI to the Warden. The Warden may choose to add his or her comments before forwarding to the Assistant Director for a final decision.

(3) Incentive awards are the exclusive methods for recognizing inmates for suggestions or inventions.

5. AWARDS FOR SPECIAL ACHIEVEMENTS FOR INMATE WORKERS

§345.74 Awards for special achievements for inmate workers.

While recognition of inmate worker special achievements may originate from any FPI staff member, the achievement ordinarily will be submitted in writing by the inmate's immediate supervisor.

a. The SOI shall appoint a local institution committee to consider inmates for special achievement awards.

b. The committee shall forward its recommendations to the SOI, who is authorized to approve individual awards (cash or gifts) not to exceed \$100 in value. A recommendation for an award in excess of \$100 (cash or gifts) shall be forwarded, with the Superintendent's recommendation and the justification for it, through the Warden to the Assistant Director. The Warden may submit comments on the recommendation.

Chapter 7. FPI Inmate Training and Scholarship Programs

1. GENERAL

§345.80 General.

As earnings permit, FPI provides appropriate training for inmates which is directly related to the inmate worker's job assignment. Additionally, FPI administers a scholarship program to provide inmates with an opportunity to begin, or to continue with business and industry courses or vocational training.

- a. An applicant for FPI-funded training programs should be evaluated to determine sufficient interest and preparation to successfully complete the course content. The evaluation may be done by the Education Department, unit team, or other qualified personnel.
- b. An inmate selected to participate in FPI-funded training programs ordinarily must have enough sentence time remaining to serve to complete the training.

The SOI sends a list of awardees to the Warden after each group of awards is made.

2. PRE-INDUSTRIAL TRAINING

§345.81 Pre-industrial training.

FPI encourages the development and use of pre-industrial training programs. Such training ordinarily provides benefits to the inmate and to the FPI factory. Pre-industrial training also provides an additional management tool for replacing inmate idleness with constructive activity. Accordingly, each FPI factory location may provide a pre-industrial training program.

- a. Pre-industrial program trainees shall ordinarily begin at the entry level pay grade (grade 5). Positions for pre-industrial training programs are filled in the same manner as other grade five positions.
- b. Pre-industrial training is not a prerequisite for work placement if the inmate already possesses the needed skill.

c. If pre-industrial training is available and the worker has not completed both the skill training and orientation phases of pre-industrial training, the inmate should be put into the first available training class.

d. When pre-industrial training is not available, new FPI assignees will receive on the job training in pre-industrial pay status for a period of at least 30 days before being promoted into available fourth grade jobs.

3. APPRENTICESHIP TRAINING

§345.82 Apprenticeship training.

FPI provides inmate workers with an opportunity to participate in apprenticeship training programs to the extent practicable. Such programs help prepare workers for post-release employment in a variety of trades. Apprentices are given related trades classroom instruction in addition to the skill training during work hours, where necessary.

It is FPI policy to establish approved apprenticeship programs in areas of industrial operations that have the potential to meet the requirements of the:

- Bureau of Apprenticeship Training (BAT) of the U.S. Department of Labor.
- Department of Education of the state in which the training is located.
- Training Representative of the appropriate labor union.

Refer to the Program Statement **Occupational Education Programs** for further information.

4. JOB SAFETY TRAINING

§345.83 Job safety training.

FPI provides inmates with regular job safety training which is developed and scheduled in coordination with the institution Safety Manager. Participation in the training shall be documented in a safety training record signed by the inmate.

Initial job orientation and annual job safety training is designed to eliminate inmate industrial accidents, which often result in personal injury and lost work days.

5. THE FPI SCHOLARSHIP FUND

§345.84 The FPI scholarship fund.

FPI shall award post secondary school scholarships to selected, qualified inmate workers. These scholarships provide an inmate with the opportunity to begin or continue with business and industry courses or vocational training as approved and deemed appropriate by the Supervisor of Education.

The course of study should relate to the recipient's career choice and is not restricted to the local institution's FPI factory needs. Inmate workers complete locally developed scholarship application forms to be considered for selection.

a. *Eligibility requirements.* The SOI and the Supervisor of Education at each institution shall develop application procedures to include, at a minimum, the following criteria:

- (1) The inmate shall be a full-time FPI worker.**
- (2) The inmate has a favorable recommendation for participation from his or her work supervisor.**
- (3) The inmate meets all relevant institution requirements for participation (e.g. disciplinary record, custody level).**
- (4) The inmate is accepted by the institution of higher learning offering the course or program which is requested.**
- (5) The inmate must maintain a verifiable average of "C" or better to continue program eligibility.**
- (6) Before beginning the course of study, the inmate must sign an agreement to provide the SOI with an unaltered, original copy of his or her grades.**

b. *Scholarship selection procedures.* FPI scholarship awards shall be made by a three member Selection Committee comprised of the SOI, the Supervisor of Education, and one other person designated by the SOI.

c. *Scholarship program operation*

(1) Ordinarily, one scholarship may be awarded per school period for every fifty workers assigned. At least one scholarship may be awarded at each institution location, regardless of the number of inmates assigned.

One school period refers to the period of time necessary to complete one course; e.g., trimester, quarter, semester.

(2) Individual scholarships ordinarily should not exceed the cost of tuition and books for one course. Where several courses may be taken for the same cost as one, the inmate worker may be allowed to take more than one course.

(3) Scholarship monies are to be paid only to the institution providing instruction, or to the Education Department for transfer of funds to the college, university, or technical institution providing instruction.

(4) An inmate may not receive more than one scholarship per school period.

(5) An inmate must maintain at least a “C” average to be continued as eligible for further assistance. An inmate earning less than “C” must wait one school period of eligibility before reapplying for further assistance. Where a course grade is based on a “pass/fail” system, the course must be “passed” to be eligible for further assistance.

(6) An inmate awarded a correspondence course must successfully complete the course during a school year (e.g., 2 semesters, 3 quarters).

(7) An inmate receiving scholarship aid must have approval from the SOI and the Supervisor of Education before withdrawing from classes for good reason. An inmate withdrawing or “dropping” courses without permission shall wait one school year before applying for further scholarship assistance. An inmate may withdraw from courses without penalty for medical or non-disciplinary administrative reasons such as transfer, writ, release, etc., without first securing permission, although withdrawals for medical reasons must be certified in writing by the Hospital Administrator.

Chapter 8. Records and Files.

1. GENERAL

These guidelines are intended to supplement, not replace, the regulations already available in the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**. Consult this policy for detailed instructions on the proper execution of FPI forms related to the management of inmate personnel.

2. PERMANENT RECORDS

The records listed in this chapter are used for inmate workers and are kept for two years before archiving. The archive process must be handled according to provisions in the Program Statement **Accounting Procedures for Civilian and Inmate Payrolls – FPI**.

a. **Availability of Records.** Personnel records of workers must be made available to Bureau and FPI staff members upon request.

Requests for records by persons other than FPI or Bureau staff must be cleared through the SOI and the Correctional Systems Manager at the institution. For further information, contact:

Office of General Counsel
Federal Bureau of Prisons
320 First St. NW
Washington DC 20534

b. **Records Custodian.** The SOI is the official custodian of FPI records. This function may be further delegated to FPI civilian staff.

c. **Inmate Worker Access to Records.** The content of an inmate's personnel evaluation and resume may be shared with him/her. The SOI is responsible for notifying inmates of the procedures to be followed for such requests. Inmate clerks, in assisting with clerical duties, are allowed to see these records only with the SOI's approval.

d. **Inmate Transfers and Releases.** When FPI is made officially aware of the impending transfer of an inmate worker, the Evaluation Form 44 should be updated and sent immediately to the unit manager for inclusion in the Inmate Central File. A copy should be retained for use in advising the receiving SOI (at the request of the receiving SOI).

3. PERSONNEL FORMS

The following forms must be used for the FPI Inmate Personnel/Management System. Work status begins once a properly executed FPI form has been prepared, the name of the inmate has been entered on the institution change sheet, and the assignment has been approved by the unit team.

a. **FPI Form 44 – Yearly Chronological FPI Work Performance Evaluation Form.** This form provides semi-annual evaluations of inmate workers for a period of one year. The top sheet is executed no later than March 31. The process is repeated no later than September 30 each year. At the end of both semi-annual periods, the top sheet contains a cumulative year's record of evaluative data and the two NCR sheets have both been removed and sent to the unit teams.

The procedure provides both unit teams and FPI staff with a compact but comprehensive annual record of each worker's performance during the year. Inmates must be employed at least three months prior to this formal evaluation.

Exception. FPI Form 44 is only completed for sentenced inmates, not for pretrial inmates.

b. **FPI Form 82 – Job Grading Sheet.** This form is used to categorize the duties covered by an individual position and to determine a pay grade rating for that position. Categories of duties are matched with actual duties of the job. The grade is determined using the numeric weights assigned to each category of duties. The job and its rating then become a part of the FPI factory's pay grade structure for payroll purposes.

The classification method is based on the Standard Occupational Classification (SOC) published by the U.S. Department of Labor. The SOC is available online from the Bureau of Labor Statistics.

c. **FPI Form 83 – Job Schedule.** This form displays the grade structure and level of inmate employment for each FPI factory. Form 83 lists all current jobs, titles, and pay grades. While Form 82 is concerned with the structure of a single position, Form 83 is concerned with the composite structure of all positions.

d. **Inmate Earnings Statement.** The Automated Inmate Payroll system generates a detailed monthly earnings statement given to each inmate actively working for FPI. FPI locations that do not have the automated system should generate locally produced monthly earnings statements for each inmate.

e. **FPI Form 39 – Request for Inmate Vacation.** This form, or a similar locally developed form, should be submitted to the work supervisor, department head, and SOI for approval at least two weeks in advance of the requested vacation time. The approved request is forwarded to the unit team. If the request is denied, the unit team states the reason(s) for the disapproval.

f. **FPI Form 96 – Inmate Industrial Employment Action.** This form shows the employment record of inmate workers. It records all data on the worker from initial hiring to final removal, and forms the basis for ADP system entries on inmate workers. Information from this form is entered into the Automated Inmate Payroll System.

Finally, these forms provide a resume of jobs held by the inmate and the period of employment. The SOC codes included furnish prospective employers with a uniform system for understanding what duties the ex-offender applying for employment can actually perform.

Inmates may request copies of their Form 96s through their unit team prior to job-seeking or other pre-release activities. The SOI must notify inmates of the procedures to be followed to obtain copies of their Form 96 (ordinarily through the unit team as part of the release preparation program). Copies requested in this manner are provided free of charge to inmate workers.