

A Review of the Department of Corrections' Prison Industries Program

BACKGROUND

In October 2003, we published a performance audit of the South Carolina Department of Corrections' (SCDC) prison industries program. Our audit focused on a program in which private sector companies contract with SCDC for the use of inmate labor.

We addressed performance measures, the potential for inmates to displace other South Carolina workers, deductions made from inmate wages, and the purchase of inmate-made products by government entities.

In our follow-up review, we found that 5 (38%) of our 13 recommendations had been implemented.

1. **The Department of Corrections should establish goals and performance measures for the prison industries program that accurately reflect the degree to which the program is assisting the department in meeting its mission. This information should be reported as part of the agency's accountability report.**

SCDC has implemented this recommendation. In our follow-up review, we found that SCDC published performance measures for the prison industries program in its FY 04-05 annual accountability report. These measures pertain to the department's mission of providing inmates educational and vocational training, engaging inmates in productive work, and preparing inmates for re-entry into their communities. SCDC has also published broad goals that pertain to its mission.

2. **The Employment Security Commission (ESC) should review its methodology for determining displacement and inmate wages to ensure that inmates are not taking jobs from private sector workers and that wages are similar to those of private sector workers.**

We concluded that the ESC has not implemented this recommendation, because it made no significant changes in its method for determining inmate wages. In our 2003 review, we analyzed contracts in which inmates were used to manufacture goods sold through interstate commerce. We found that the ESC did not have an adequate method for determining (1) whether inmate workers displaced workers who were not inmates, and (2) whether inmates were paid wages comparable to those of workers who were not inmates.

In February 2006, the ESC and SCDC signed a document with a methodology for determining whether the use of inmates will cause the displacement of non-inmate workers. The factors to be considered, according to this document, are the local unemployment rate, a statement from the company saying that currently employed workers will not be displaced, and the professional judgment of local ESC staff. This document also includes a method for ensuring that inmate wages are comparable to non-inmate wages. However, we found no significant difference between the 2006 method of analyzing wages and the method we found to be inadequate in our 2003 review.

3. **The Department of Corrections should list the additional benefits received by private sector companies in its annual accountability report.**

SCDC has not implemented this recommendation. In our 2003 review, we found that private companies contracting with prison industries did not pay fringe benefits for SCDC inmates, paid nominal rent for the use of SCDC buildings, and received electricity at a discounted rate. During our follow-up review, we found that SCDC's FY 04-05 accountability report contained no reference to benefits received by companies contracting with prison industries.

4. **The Department of Corrections should examine the feasibility of bidding out inmate labor.**

SCDC has not implemented this recommendation. In our 2003 review, we found that SCDC did not bid out its inmate labor services. During our follow-up review, SCDC reported that "a quarterly notice is placed in the South Carolina Business Opportunities Bulletin to advise private sector companies of any opportunity to contact Prison Industries for potential partnership." SCDC, however, provided no documentation that it had examined the feasibility of bidding out inmate labor.

5. **The Department of Corrections should ensure that inmate training wages are paid entirely by the private sector company hiring the inmates.**

SCDC has implemented this recommendation. In our 2003 review, we found one instance in which SCDC paid half of inmate wages for a private company during a 160-hour training period. After the U.S. Justice Department questioned the practice, during our 2003 review, SCDC notified the company that the practice would be discontinued. During our follow-up review, SCDC reported that companies "currently pay the entire amount of inmate training wages."



METHODOLOGY

We received information from the Department of Corrections, the Employment Security Commission, and the Budget and Control Board regarding the implementation of the audit's recommendations. We reviewed this and other information, interviewed officials, and verified supporting evidence as appropriate.

FOR MORE INFORMATION

Our October 2003 report and this document are published on the Internet at

www.state.sc.us/sclac

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6. The Department of Corrections should consult with the Employment Security Commission when establishing a training period with private companies.

SCDC has implemented this recommendation. In our 2003 review, we found that SCDC had not consulted with the ESC before establishing a training period for inmate workers. During our follow-up review, in February 2006, SCDC and the ESC established a methodology for establishing a training period. They signed an agreement stating that "[t]he web-based national Occupational Information Network (O*Net) would be an appropriate system for evaluating training criteria."

7. The Department of Corrections should take steps to ensure that companies are billed properly for inmate labor.

SCDC has implemented this recommendation. In our 2003 review, we found two instances where prison industries failed to bill companies accurately. In our follow-up review, we reviewed a limited sample of invoices submitted to companies by SCDC and found no evidence of inaccurate billing.

8. SCDC should ensure that it complies with all state laws that require deductions from the wages of inmates in its prison industries program who produce goods or perform services for private organizations.

9. SCDC and the Department of Social Services (DSS) should coordinate with each other to ensure that legally required wage deductions are made for child support.

SCDC has not implemented these two recommendations. In our 2003 review, we found that SCDC had not coordinated with DSS to ensure that child support deductions were made from the wages of SCDC inmates working for private companies that *made goods sold through interstate commerce*. In our follow-up review, we analyzed the records of the 50 highest paid inmates in 2005 and found that 9 had court-ordered child support debts, according to DSS. For four of the nine inmates, SCDC made no wage deductions in 2005 to pay these debts, according to county clerks of court. The four inmates had earnings ranging from \$14,255 to \$18,589 and year-end child support debts ranging from \$7,430 to \$20,222. During our follow-up review, DSS and SCDC began a new effort to ensure an adequate system of child support wage deductions.

10. SCDC should ensure that it regularly reviews inmate sentencing documents to ensure that wage deductions are made for court-ordered victim restitution.

SCDC has implemented this recommendation. In our 2003 review, we noted that SCDC had not adequately made legally required deductions from the wages of inmates who worked for private companies. In our follow-up review, SCDC documented that it made victim restitution deductions in calendar year 2005.

11. The General Assembly should consider amending state law so that state agencies are required to follow the same purchasing laws whether buying goods and services from the South Carolina Department of Corrections or from other vendors.

12. The General Assembly should consider amending state law so that local governments have the authority to purchase any of the inmate-produced products sold by SCDC.

The General Assembly has not implemented these two recommendations. In our 2003 review, we found that state law did not require state agencies to solicit competitive bids, quotes, or proposals when purchasing goods and services from prison industries. We also found that state law prohibited the sale of retreaded tires, produced by prison industries, to local governments. In our follow-up review, we found that the General Assembly had not considered amending these laws.

13. The materials management office of the Budget and Control Board should implement a formal process for complying with §24-3-330 (B) of the South Carolina Code of Laws. This process should include regular monitoring and reporting of state agency compliance with the laws pertaining to state agency purchases of SCDC goods and services.

The Budget and Control Board has not implemented this recommendation. In our 2003 review, we found that state law required state agencies to buy goods and services from prison industries when its prices were the same or less than those charged by other vendors. State law also required the Budget and Control Board to "monitor the cooperation of state ...agencies in the procurement of goods, products, and services from the Division of Prison Industries...." In 2003 and during our follow-up review, the board reported that it did not have a formal process for monitoring state agency cooperation in the procurement of items from prison industries. Board officials stated that "a formal audit process...is not authorized by current statute."