

SUMMARY

A Review of the Department of Corrections' Prison Industries Program

INTRODUCTION

Members of the South Carolina General Assembly requested the Legislative Audit Council to review the Department of Corrections' program of contracting with private companies to use inmate labor. Legislators were concerned that inmates might be employed in jobs that would otherwise be filled by South Carolinians who are not inmates.

As of August 2003, approximately 1,200 inmates worked in the prison industries program making products or providing services for private companies. Examples of work performed by inmates under SCDC contracts with private companies include tearing down and cleaning of used transmissions and the manufacture of hardwood flooring.

SCDC has two categories of inmate employment with private companies. Under federal law, inmates that work for companies that manufacture products sold through interstate commerce must be paid a wage that "... is not less than that paid for work of a similar nature in the locality in which the work was performed." Inmates who provide services or who produce goods NOT sold through interstate commerce are not regulated by the federal government and are paid significantly less than federal minimum wage.

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PROGRAM GOALS

The South Carolina Department of Corrections (SCDC) does not have adequate goals or performance measures for its prison industries program. Without adequate goals and performance measures, the effectiveness of the program cannot be accurately assessed.

There are goals not established for prison industries which could help SCDC accomplish its mission of protecting the public, its employees, and the inmates. Among these are reducing recidivism and improving the working skills of inmates. We found, however, that the recidivism rate for inmates in the prison industries program is not better than that for the general population. In addition, we found that prison industries generally has better educated inmates and uses inmates who have been sentenced to longer terms than SCDC's general population. This may indicate that prison industries is not serving the type of inmates that could benefit most from the program (those with poor work or educational skills who will be released within a few years).

INMATE COMPETITION WITH PRIVATE SECTOR

The employment of SCDC inmates may create a competitive advantage over private sector workers because companies that employ inmates pay low wages, do not pay fringe benefits, and receive subsidized rent and utilities. Whether this competitive advantage results in the displacement of private sector workers by inmates depends on whether a company would transfer its operation to a foreign country, if it were not employing inmates.

Worker displacement needs to be assessed on a case-by-case basis for each contract the department enters into with private employers. We found, however, that the Employment Security Commission has an inadequate methodology for conducting such an assessment. In our opinion, it is uncertain in some instances whether private sector workers are being displaced; for example, SCDC has two contracts to provide laundry services to private sector companies.

We found four counties with above average unemployment rates in which private companies employed inmates.

COUNTIES WITH ABOVE-AVERAGE UNEMPLOYMENT IN WHICH PRIVATE COMPANIES EMPLOY INMATES	
COUNTY	UNEMPLOYMENT RATE AS OF APRIL 2003
Marlboro	13.4%
Greenwood	9.7%
Lancaster	8.4%
Lee	7.5%

The average unemployment rate in S.C. was 6.1% as of April 2003.

FOR MORE INFORMATION

Our full report, including comments from relevant agencies, and this document are published on the Internet at

www.state.sc.us/sclac

Copies can also be obtained by calling

(803) 253-7612

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DEDUCTIONS FROM WAGES

Contrary to state law, SCDC has not consistently made deductions from the wages of inmates in its prison industries who work for private organizations. As a result, funding has been reduced for items such as child support, victim restitution, and inmate room and board.

The department has made deductions from the wages of inmates who perform manufacturing jobs for private organizations involved in interstate commerce. However, until FY 03-04, SCDC did not make deductions required by state law from the wages of inmates involved in "service" jobs or jobs that did not involve interstate commerce. We analyzed inmate wage deductions that were required by law but not made by SCDC in FY 01-02. More than \$200,000 in additional funding would have been allocated to victim restitution if SCDC had made the required deductions. There also would have been increased funding for child support as well as room and board.

The department does not have adequate procedures for checking whether inmates earning wages have court-ordered obligations to pay child support and/or victim restitution. In many instances, SCDC officials determine whether court-ordered obligations exist by asking the inmates. Asking persons convicted of crimes to report their financial obligations may not result in reliable information.

INMATE TRAINING WAGE

SCDC has not adhered to the requirements of federal law by dividing the cost of inmate training between SCDC and a private company. In addition, SCDC has not consulted with the Employment Security Commission before establishing the training period for inmate workers.

SCDC entered into an agreement with a private company that established a 160-hour training period for inmates. During this time the inmate workers would be paid a training wage of between \$5.15 and \$5.25 per hour which was split between SCDC and the private company. For 2002, we estimate that the private company saved over \$50,000 by having SCDC pay half the training cost. During our audit, SCDC notified the company it could no longer split the training wages.

We also found that the 160-hour training period was decided between SCDC and the private company without input from the Employment Security Commission. According to a consultant for the federal program, any training period should be set in consultation with the state's Employment Security Commission.

SALES TO GOVERNMENT ENTITIES

SCDC's prison industries have a legally mandated competitive advantage over private sector vendors when selling goods and services to state agencies. Under South Carolina law, state agencies are not required to solicit competitive bids, quotes, or proposals when purchasing items from SCDC. State agencies may purchase items from SCDC without soliciting competition even when private vendors' prices are lower. On the other hand, SCDC's prison industries are at a disadvantage when selling retreaded tires. South Carolina law allows SCDC to sell retreaded tires to state agencies but prohibits SCDC from selling retreaded tires to local governments.

We also found that the State Budget and Control Board is required by state law to monitor the sale of prison industries goods and services to state agencies but has no formal process for doing so.