

**U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons**



**PROGRAM STATEMENT
Federal Prison Industries
Inmate Work Program**

Approved by	 William K. Marshall III Director, Federal Bureau of Prisons
DPI	FPI
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Summary of Changes

Program Statement Rescinded:

- 8120.03 Work Programs for Inmates – FPI (02/23/2017)

Changes:

- Updates the positions (primarily Operations Manager and Factory Manager) responsible for particular tasks.
- Removes information contained in Standard Operating Procedures (SOP) and references relevant SOPs.
- Adds section on the Federal Prison Industries (FPI) Inmate Reference Letter Initiative.

1. § 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).

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. Program Objectives.

- 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 Senior Operations Manager or Operations Manager 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 and should include physical tours of the operation whenever possible.
- Waiting lists for hiring purposes will be maintained; exceptions may be made for needed skills, prior FPI assignment, factory change, or special needs. See SOP UNICOR Inmate Waiting List Exceptions.
- 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 their work skills, abilities, qualifications, and work performance demonstrate an ability to handle more complex assignments, provided they have 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, incentive, 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.

b. Institution Supplement. None.

2. § 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 Senior Operations Manager, Operations Manager, or Factory Manager, as specified throughout this program statement. The Senior Operations Manager or Operations Manager has overall responsibility for business group operations at a location. The Assistant Director is also referred to as the Chief Executive Officer of FPI.

(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 (see 28 CFR 541.15). The Warden shall authorize these staff members to impose minor sanctions for violation of prohibited act(s).
- (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 required by 28 CFR 541.15 before the UDC.
- (g) ***Pretrial inmate*** - The definition of pretrial inmate in 28 CFR 551.101(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 (Bureau) has not received notification of conviction. Thus, “pretrial inmate” ordinarily includes a person awaiting trial, being tried, or awaiting a verdict.

h. ***DOT Code***. Code listed for a specific job as identified in the Dictionary of Occupational Titles (DOT) created by the U.S. Department of Labor. The DOT classifies jobs into over 12,000 titles based on the tasks performed and industry designation.

i. ***Inmate Employment***. Terms such as “work,” “worker,” “employment,” “hire,” etc., refer to participation in an FPI work program. The term “inmate” includes all persons in federal custody, including those housed in residential reentry centers, home confinement, and private prisons.

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.

CONTENTS

Chapter 1. Delegation of Authority, Inmate Personnel Management System

Purpose/Summary	7
Delegations	7

Chapter 2. Labor Utilization and Position Classification

General.....	8
Action.....	8
Position Classification	8
Understanding of the Program.....	9
Classification Integrity.....	10

Chapter 3. Recruitment and Hiring Practices

Recruitment.....	11
Hiring.....	11
Waiting List Hiring Exceptions	12
Refusal to Employ.....	13
Assignments to FPI.....	13

Chapter 4. Inmate Worker Standards and Performance Appraisal

General.....	15
Inmate Worker Standards	15
Performance Appraisal for Inmate Workers	17
Inmate Worker Dismissal	18

Chapter 5. Inmate Pay and Benefits

General.....	21
Purpose and Summary	21
Inmate Pay	21
Premium Pay.....	22
Incentive Pay Plans.....	24
Piecework Rates.....	24
Overtime Compensation	25
Longevity Pay	25
Vacation Pay	26
Administrative Pay.....	27

Holiday Pay.....	27
Inmate Performance Pay	27
Training Pay.....	28
Inmate Earnings Statement	28
Inmate Accident Compensation.....	28
Post-Release Inmate Accident Compensation	28
Funds Due Deceased Inmates	29
Referral of Releasable Medical Data to FPI Staff	29
Inmate Medical Work Limitation	29
Claims Limitation	29
Retention of Benefits	29
Guidelines for Inmate Pay and Benefits	32

Chapter 6. Awards Program

General.....	33
Official Commendations.....	33
Cash Bonus or Cash Award.....	33
Procedures for Granting Awards for Suggestions/Inventions	34
Awards for Special Achievements for Inmate Workers	34

Chapter 7. FPI Inmate Training and Scholarship Programs

General.....	36
Pre-Industrial Training.....	36
Apprenticeship Training	37
Job Safety Training.....	37
FPI Scholarship Fund.....	37

Chapter 8. Records and Files

General.....	40
Permanent Records	40
Personnel Forms.....	41

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, FPI (hereafter referred to as Assistant Director). Certain functions can then be re-delegated by the Assistant Director to the Senior Operations Manager, Operations Manager, or Factory Manager, 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 Factory Manager after appropriate screening by the unit team.

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

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

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

Violations of FPI inmate worker standards may be handled within the local FPI organization structure at the Factory Manager'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. Budget, 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 Senior Operations Manager or Operations Manager on the level of inmate employment necessary to support planned sales and earnings for the FPI operation at each facility. During budget planning and formulation, the Senior Operations Manager or Operations Manager must coordinate with the appropriate Financial Management Branch representative and meet deadlines contained in the Budget Formulation and Execution SOP.

2. ACTION

Senior Operations Managers or Operations Managers 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 Senior Operations Manager or Operations Manager 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 operations. This may be executed as a part of a total workforce assessment effort in which both civilian and inmate workforces are examined. The Senior Operations Manager or Operations Manager must have the analysis available for discussion with FPI 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 internal and external audits to improve the 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. § 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 through memoranda issued by FPI. 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.

The Factory Manager has overall responsibility for position classification, which must be treated as an integral part of the total inmate worker personnel management system. The Senior Operations Manager or Operations Manager is responsible for ensuring that position classification aligns with the location's budget. 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 most sound and 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 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 Factory Manager have the responsibility for position classification at each location, the Senior Operations Manager or Operations Manager 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, Job Schedule, summarizing all operative positions in the FPI factory. This document lists each position by job number, title using the DOT code, and total positions in each pay grade level.

- An FPI Form 82, Job Grading Sheet, summarizing the data needed to grade an inmate. It is essential the duties performed agree with the Form 82 requirements.
- Documentation of any special actions taken (e.g., moving 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, Job Schedule. FPI Form 82s, Job Grading Sheet, will reflect the changes put into the record covering the new positions, as necessary.

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

(3) **Certification.** The Factory Manager must certify to the Senior Operations Manager or Operations Manager that the positions are necessary and accurately described.

5. CLASSIFICATION INTEGRITY

The accuracy of inmate pay grade classification (FPI Form 82, Job Grading Sheet) 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 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. § 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 Factory Manager is required to ensure 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. A&O presentations should include physical tours of FPI operations whenever possible.

An appropriate amount of time must be left open to answer 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 Factory Manager may solicit inmates with needed skills for employment in FPI. The Factory Manager 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. § 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.

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

The Factory Manager must maintain a waiting list for the operation and provide waiting list information upon request from FPI's Corporate Branch.

3. **§ 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.

The Factory Manager must maintain this documentation. 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 re-assignment 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.

The determination of whether to hire an inmate who is a disciplinary transfer is made by the Factory Manager.

- 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 a certain amount of time 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 certain minimum obligation. See the SOP UNICOR Inmate Waiting List Exceptions for additional information.

4. **§ 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.

The Factory Manager is responsible for determining when a refusal to assign is appropriate and consistent with this section.

5. **§ 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 case management assignment (CMA) in the Bureau's inmate management system. The Factory Manager 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. The unit team 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 Factory Manager and appropriate Associate Warden 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 sewing factory may be required to complete a course in pre-industrial training at the Factory Manager'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. § 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

The Factory Manager may develop additional local guidelines. 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. Occupational health and safety questions may be directed to the local Safety Manager or the Health Services Division's Industrial Hygienist. Health and safety

incidents must be promptly reported in accordance with local incident reporting procedures, and FPI corporate management must be notified through the chain of command within one business day.

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 instructed.
- Keep the work area neat and orderly as required by local safety rules and by the work supervisor, so as not to 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 Factory Manager.
- 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 Factory Manager.

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 errors.
- 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.
- Cooperate with work measurement activities to monitor work progress and quality in production.

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 meals, 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 workstations 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. **§ 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).

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

The Factory Manager must ensure that evaluations are conducted and submitted 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.

The Factory Manager or their designee 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 who have not 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 Senior Operations Manager or Operations Manager'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.
- Factory need, due to a short waiting list or short average sentence length at the location, with General Manager approval.

c. **Performance Ratings and Corrective Actions.** Factory Managers ensure inmate performance ratings and corrective actions are used consistently to promote improved inmate work performance.

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 Factory Manager might disallow an inmate's vacation time for the month due to unsatisfactory work performance. This would apply only to the months in which the unsatisfactory work performance occurs. As another example, a Factory Manager 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. **§ 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, at a minimum, the Factory Manager 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 Factory Manager 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 Factory Manager, the inmate 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 their pay grade; is placed on the bottom of the waiting list, with the Factory Manager's approval, if reapplying to FPI; and, if rehired at the discretion of the Factory Manager, does not receive accelerated promotion. For removed inmates who were working in FPI to get credit under the First Step Act of 2018 to meet an identified work need, the applicable fail code will be entered in the Bureau's inmate management system in accordance with Program Statement **First Step Act of 2018 – Time Credits: Procedures for Implementation of 18 U.S.C. § 3632(d)(4)**.

- (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)).

See Program Statement **Financial Responsibility Program, Inmate** for additional information. The Factory Manager must fully document the reason for dismissal in a memorandum to the unit team.

- (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 CMA in the Bureau's inmate management system. The Factory Manager 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 they no longer have a CMA related to a deportation, exclusion, or removal order. If they previously worked for FPI, their name must be placed in the top 10 percent of the FPI waiting list.

The Factory Manager coordinates notification to the affected inmate of their 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 the inmate's 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 additional information.

Chapter 5. Inmate Pay and Benefits

1. § 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**.

3. § 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).

Inmate pay will be assessed at regular intervals and established via pay tables that are approved by FPI's Board of Directors and implemented through memoranda issued by FPI. 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.

(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.

See Section 21 of this chapter for information on which benefits are retained under various conditions (including transfer, writ, and administrative detention). 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.
- (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.

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. Refer to Program Statement **Literacy Program** for additional information.

4. § 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.

The Factory Manager serves as the chief selecting official for premium pay positions.

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.

(c) [Reserved]

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

Premium pay rates are implemented by memoranda issued by FPI.

(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 be expected to help with ensuring the flow of materials to workstations, 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, Job Grading Sheet, 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, Factory Managers 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 Factory Manager.

(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.

The Factory Manager is responsible for removing inmates from premium pay status in accordance with this section.

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. Distribution of Premium Pay positions is limited only by the number of first grade positions approved at each institution (15% of first grade positions). The Senior Operations Manager or Operations Manager must annually review premium pay and confirm that all premium pay inmates are still eligible and that the 15% limit has not been exceeded.

5. INCENTIVE PAY PLANS

Except as provided for in the Program Statement **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**, 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 Senior Operations Manager or Operations Manager 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. § 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. **§ 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**. PIECP inmates receive overtime pay at a rate of one and a half times the hourly rate.

8. **§ 345.55 Longevity pay.**

- (a) Except as provided in 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls** for longevity pay computation instructions. Longevity pay rates are set by FPI's Board of Directors and implemented by memoranda issued by FPI.

PIECP inmates do not receive longevity pay; however, the time during which an inmate performs PIECP work is counted toward their 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.

The decision regarding whether there was a good faith effort will be made by the Factory Manager.

9. § 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, and submit it to the work supervisor, department head, and Factory Manager 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls** for additional 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.

The Factory Manager determines whether taking vacation time is for a good reason.

- (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 payroll through execution of FPI Form 96, Inmate Industrial Employment Action (see the inmate payroll section of the Program Statement **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**).

- (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. § 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.

The Factory Manager is responsible for making determinations regarding administrative pay. Both graded inmate workers and inmates performing PIECP work may receive administrative pay.

11. § 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. § 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. **§ 345.60 Training pay.**

Inmates directed by the SOI to take a particular type of training in connection with a 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.

The Factory Manager is the FPI official with authority to direct inmates to take a particular type of training.

14. **§ 345.61 Inmate earnings statement.**

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

The Factory Manager may determine the method of distributing the earnings statements.

15. **§ 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.

Additional instructions are provided in the Program Statement **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**. 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 FPI Financial Management Branch 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls** for additional information.

17. § 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. § 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.

The Factory Manager is responsible for the duties in this section.

19. § 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. § 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. § 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 Senior Operations Manager or Operations Manager is delegated authority to dispose of individual cases and is encouraged to contact the FPI Office of 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 situation 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.

The Factory Manager is responsible for filling positions, placing inmates within the top ten percent of the FPI waiting list, and making other decisions in accordance with sections a. and b. above. 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 Senior Operations Manager or Operations Manager 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/ FM'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/FM's approval	On performance, if rehired
Disciplinary segregation	Lost	Lost	Lost	Lost	Bottom of list w/FM's approval	On performance, if rehired
Writ	Lost	Retained	Retained	Greater than 30 days with FM's approval	w/FM's approval	After 30 days, if rehired, accelerated promotion
Administrative detention – guilty	FM may retain	Retained (for time period accrued)	Retained (for time period accrued)	Retained	w/FM's approval	On performance, if rehired
Administrative detention – not guilty	----Continues for 30 days of administrative detention----				Top 10%	After 30 days, if rehired, accelerated promotion
Medical idle** (if more than 30 days, same as Admin. transfer)	Retained	Retained	Retained	Continues	N/A	N/A
FPI work-related injury & absence, no fault found**	Retained	Continues	Continues	Continues	N/A	N/A
FPI work-related injury & absence, with safety violation**	*	Lost	Lost	*	w/FM's approval	On performance, if rehired

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 FM may retain or terminate FPI work status.

** Refer to 28 CFR part 301 for information on lost-time wages.

*** “FM” refers to the Factory Manager.

Chapter 6. Awards Program

1. § 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.** Each year, the Senior Operations Manager or Operations Manager must prepare the annual budget, which must include the estimate for incentive awards. The total value of awards at each plant must be consistent with the budget and the SOP FPI Staff and Inmate 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls.**

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

2. § 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.

The Factory Manager makes determinations regarding official commendations.

3. § 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 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. § 345.73 Procedures for granting awards for suggestions or inventions.

- (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 Senior Operations Manager or Operations Manager and two other FPI managers. When the Senior Operations Manager or Operations Manager is not a member of the committee, the committee's recommendation and justification are forwarded through the Senior Operations Manager or Operations Manager 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.

The Senior Operations Manager or Operations Manager will provide the Warden with the committee's award recommendations.

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

5. § 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.

The Senior Operations Manager or Operations Manager is responsible for appointing a local institution committee to consider special achievement awards and approves individual awards for up to \$100. Refer to the SOP FPI Staff and Inmate Awards for additional information.

Chapter 7. FPI Inmate Training and Scholarship Programs

1. § 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 Factory Manager sends a list of awardees to the Warden after selections are made.

2. § 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. § 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.

To more effectively meet its mission, FPI seeks to establish approved apprenticeship programs in areas related to FPI 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.

4. § 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 are designed to eliminate inmate industrial accidents, which often result in personal injury and lost workdays.

5. § 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.

The Factory Manager works with the Supervisor of Education to develop application procedures consistent with this section and participates on the selection committee. 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**, which should be consulted 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 **Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls**.

a. **Availability of Records.** Personnel records of inmate 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 Factory Manager and the Correctional Systems Manager at the institution. For further information, contact the Bureau's Office of General Counsel.

b. **Records Custodian.** The Factory Manager 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 them. The Factory Manager 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 Factory Manager's approval.

d. **Inmate Transfers and Releases.** When FPI is made officially aware of the impending transfer of an inmate worker, the FPI Form 44, Yearly Chronological FPI Work Performance Evaluation Form, 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 Factory Manager (at the request of the receiving Factory Manager).

e. **Inmate Reference Letters.** The FPI Inmate Reference Letter Initiative offers eligible inmate workers the opportunity to receive a reference letter prior to release.

The purpose of the initiative is to enhance the employment prospects of releasing inmates with FPI work experience, as reference letters are often encouraged or required by potential employers.

Staff should review the SOP Inmate Reference Letter Initiative for information regarding eligibility requirements and the process for requesting, generating, and distributing letters.

Inmates should request information about the Inmate Reference Letter Initiative from their Factory Manager.

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 sheets have both been removed and sent to the unit team.

The procedure provides both the unit team 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.

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 Dictionary of Occupational Titles (DOT) created by the U.S. Department of Labor.

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 Factory Manager 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 reason for the disapproval is provided.

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. Information from this form is entered into the FPI financial information system.

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

Inmates may request copies of their Form 96s through their unit team prior to job-seeking or other pre-release activities. The Factory Manager 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.

REFERENCES

Program Statements

Institution Hearing Program

Inmate Discipline Program

Special Housing Units

Literacy Program

Financial Responsibility Program, Inmate

First Step Act of 2018 – Time Credits: Procedures for Implementation of 18 U.S.C. § 3632(d)(4)

Federal Prison Industries Accounting Procedures for Civilian and Inmate Payrolls

Bureau Forms

BP-A0140 Injury Report - Inmate

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

Federal Statutes

18 U.S.C. § 1761(c)

First Step Act of 2018

Federal Regulations

28 CFR 345.10–345.84

28 CFR 545.11(d)

Other References

U.S. Department of Labor’s Dictionary of Occupational Titles

Standard Operating Procedure FPI Staff and Inmate Awards

Standard Operating Procedure Inmate Reference Letter Initiative

Standard Operating Procedure UNICOR Inmate Waiting List Exceptions

Standard Operating Procedure Budget Formulation and Execution

ACA Standards

Evidence-Based Standards and Expected Practices for Adult Correctional Institutions (5th Edition): 5-ACI-7A-01, 5-ACI-7A-02, 5-ACI-7A-03, 5-ACI-7A-04, 5-ACI-7A-05, 5-ACI-7A-06, 5-ACI-7A-07(M), 5-ACI-7A-08, 5-ACI-7A-09, 5-ACI-7A-10, 5-ACI-7A-11, 5-ACI-7A-12

Evidence-Based Standards and Expected Practices for Adult Detention Facilities Institutions (5th Edition): 5-ALDF-5C-06, 5-ALDF-5C-07, 5-ALDF-5C-08, 5-ALDF-5C-10, 5-ALDF-5C-11, 5-ALDF-5C-12, 5-ALDF-5C-12, 5-ALDF-5C-13, 5-ALDF-5C-14, 5-ALDF-5C-15, 5-ALDF-5C-16

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) on the Bureau's intranet site.