

State of New York
Office of the State Comptroller
Division of Management Audit
and State Financial Services

**DEPARTMENT OF CORRECTIONAL
SERVICES**

**STAFF STUDY:
ALTERNATIVES TO ENHANCE NEW
YORK STATE'S PRISON INDUSTRIES
PROGRAM**

REPORT 96-D-28



H. Carl McCall
Comptroller



State of New York Office of the State Comptroller

Division of Management Audit and State Financial Services

Report 96-D-28

Mr. Glenn S. Goord
Commissioner
Department of Correctional Services
The Harriman State Campus
1220 Washington Avenue
Albany, NY 12226-2050

Dear Mr. Goord:

This following is our study report on Alternatives to Enhance New York State's Prison Industries Program.

We did this study according to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law. We list major contributors to the report in Appendix A.

*Office of the State Comptroller
Division of Management Audit
and State Financial Services*

March 9, 1998

Executive Summary

Department Of Correctional Services

Staff Study:

Alternatives To Enhance New York State's Prison Industries Program

Scope of Study

Prison industries across the nation produce over \$1 billion in goods and services but only employ about 70,000 inmates in state and Federal prisons nationwide (roughly 6 percent of the 1.1 million prison population). The use of inmate labor continues to be a controversial issue that concerns government, organized labor, private enterprise and society.

The New York State Department of Correctional Services (Department) operates a traditional industry program (Corcraft). Various statutory, economic and logistical constraints have limited inmate employment, the products sold, and the markets they can be sold in. Consequently, without changing its programs, Corcraft will continue to operate with marginal or negative operating results, and substantial inmate idleness will continue. Our performance audit of Corcraft (Report 96-S-24) concluded that management, working with State policymakers, needs to consider program alternatives to enhance operations.

In January 1997, during our study, Department management submitted its proposed Prison Industry Enhancement (PIE) legislation to the Governor's Office. This proposal is a first step for New York State to involve private industry, expand Corcraft's market, and obtain certification based on 1979 Federal legislation. This approach has been taken by 34 other states, reportedly with success.

Our study addressed the following issues relating to possible alternatives to enhance New York State's correctional industries program:

- Should State policymakers consider currently available alternatives to its correctional industries program, in line with approaches taken by other states?
- What actions would be necessary to properly consider, plan, develop and implement such changes?

Study Observations and Conclusions

In line with the Federal PIE legislation and other developments taking place to enhance prison industries in the nation, and based on the reported success of many states, we concluded that State policymakers should consider establishing an appropriate framework within which to plan, develop and implement enhancements to New York State's program. There are many alternatives and options for State policymakers to consider. For example, private sector involvement can include goods and services sold for state use only, or through PIE the State could produce and sell inmate-made goods and services in interstate commerce. In addition, partnering with the private sector

could lead to an export business from the State's ports. Therefore, careful planning is necessary to obtain sufficient information for evaluation and analysis, as well as to assess potential pitfalls and benefits. (See pp. 7-10)

Although only about 2,000 prisoners in the nation participate in about 120 PIE projects, prison officials in other states report the projects have generally been successful. PIE programs range from few inmates to several hundred inmates working with Fortune 500 companies at dedicated plants. Some companies involved have opted to participate in PIE rather than move their operations overseas. Some states have attracted private industry by offering economic development incentives, such as capital, equipment, expense reimbursement and physical plants. PIE products and services include top quality clothing, electronic cables, telemarketing, metal work, mapmaking and computer networking. To date, South Carolina, California, Washington and Nevada are reported leaders in private employment of inmates. Texas, Utah, Minnesota, Tennessee, Nebraska and Connecticut also appear to have emerging programs. (See pp. 11-15)

Prison industries enhancement can be beneficial by employing more inmates and reducing idleness, and by providing inmates with valuable work skills and increasing the possibility of their future success. Programs can also reduce costs of imprisonment, enable inmates to contribute to society, expand overall business and commerce, and provide increased funds to crime-related and family support programs. Implementing enhancements can be challenging and requires coordination among state policymakers, organized labor and private business interests. In addition, such activity poses many public policy issues concerning the economic impact of inmate labor. Therefore, proper precautions should be taken to help ensure that programs are planned, developed and implemented properly with appropriate input from organized labor, private industry and the public. (See pp. 17-23)

We also found that the states we contacted employ a wide variety of approaches to implementing its programs, including oversight advisory boards and/or operating authorities for their respective prison industries. Generally, government, business, organized labor and the public are represented on such boards or authorities. In addition, there are a variety of methods to engage the private sector, share costs and administrative functions, help ensure that public/private partnering efforts are beneficial, and comply with legal requirements. These are among the many issues that State policymakers will need to consider, as discussed in our study. (See pp. 24-26)

Comments of Department Officials

Department officials generally agree with our conclusions and support the PIE program as a desirable alternative in certain circumstances. In January 1997, officials proposed the necessary legislation to authorize prison industry enhancement, but it was not approved by the Legislature. Officials added that they will continue to monitor and study PIE activities nationwide and to collaborate with stakeholders to develop new enterprises and expand their market.

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Introduction

Background

All states operate a traditional prison industry program, selling various goods and services to governments and public authorities. Currently, about 54,000 inmates in state prisons and 16,000 in Federal prisons nationwide are working in prison industries. This represents roughly 6 percent of the entire prison population (over 1.1 million). Prison industries produce more than \$1 billion worth of goods and services annually. However, the use of inmate labor continues to be a controversial issue relating to competition and free enterprise that concerns government, organized labor, private enterprise and society.

Traditional prison industries are characterized by various statutory, economic and logistical constraints. Key limitations include restrictions on employing inmate labor, resulting products and related markets, the type of industries established, and the extent of capital employed. Other factors include: the existing correctional environment related to inmate security levels, physical plant, and the available labor pool. These constraints have served to limit the number and types of jobs available in traditional prison industries.

Faced with increasing inmate populations and limited prison industry jobs, many states have turned to other traditional prison work such as highway and park maintenance, while others are turning to the private sector. Some states have also found a market for rehabilitating used equipment and other items for government agencies, such as tool repair and bookbinding for schools or libraries. While to date, such industry enhancements have shown limited success, there are many potential benefits in considering changes to the current programs.

The New York State Department of Correctional Services (Department) operates a traditional prison industries program (Corcraft) at 14 of its 70 facilities. In New York State, the rate of inmate employment has decreased. For the 1995-1996 fiscal year, Corcraft reported a net loss of \$4.4 million and employed an average of 2,160 inmates (3.1 percent of the State's 69,000 inmate population) primarily at maximum security facilities.

Corcraft manufactures thousands of products in 11 lines, including cleaning products, chairs, wood furniture, metal furniture, apparel and license plates. In addition, Corcraft provides telephone answering services as well as construction and asbestos abatement work. However, since 1980, State taxpayers have subsidized Corcraft operations by about \$46.9 million, in part, because the market for its products and services is limited by law to Federal, state and local governments, and to public authorities and corporations.

Moreover, similar to other states, New York State law prohibits Corcraft from contracting with the private sector to sell products made by inmates.

Our companion performance audit of Corcraft (Report 96-S-24, issued July 24, 1997) concluded that management, in conjunction with State policymakers, needs to consider and pursue program alternatives to enhance and improve operations. New York State has not been authorized by Federal law (for interstate commerce) or State law (for in-State commerce) to participate in alternatives to its current program. Without alternatives to change and enhance its program, Corcraft will continue to experience marginal or negative operating results.

Corcraft management is beginning to explore new directions for Corcraft's future. New York has begun some partnering efforts with the private sector to finish component parts or items for sale in its current market. These include cell fabrication and assembly, and informal investigations into potential new industries such as imaging technology and computerized mapping.

In late January 1997, during our study, Department management submitted its Private Sector/Prison Industry Enhancement Certification Program (PIE) legislation to the Governor's Office as a proposed departmental bill. This proposal presents the basic boilerplate, as required by the Federal government, for allowing New York State to involve private industry in interstate commerce, expand its market, and obtain Federal certification as a PIE program. This approach is currently being taken by 34 other states, with many states reporting success.

Historical Perspective

The more than 200 year historical view of prison industries in this nation provides valuable insight into the various policy shifts which have taken place, as well as the common theme of enhancing and improving prison programs to benefit inmates, government and taxpayers. The original government policy of having self-supporting prison industries is re-emerging as an alternative. This is due to limited government resources, the need to reduce inmate idleness and provide inmates with valuable skills and meaningful employment, as well as the need to share taxpayer burdens and expand crime victim and family support programs.

The American prison industries system originated in Pennsylvania in 1790, and in 1797 in New York City, with inmate production of handicrafts. Government officials originally intended that prison labor offset the costs of incarceration. New York State's prison industries system began at the Auburn

facility in 1823. The "Auburn system" was comprised of congregate workshops where inmate labor was contracted to private businesses. This system came to dominate prisons nationwide, because of its potential for profit. In fact, prisons in New York, Massachusetts, Ohio and Connecticut showed surpluses. In New York State, by the 1840s, concerns mounted about competition from prison-made products, as well as the adequacy of inmate treatment and community security. These conditions resulted in legislative action to restrict the use of inmate labor and private business involvement. As a result, the concept of self-supporting facilities eventually became unrealistic.

In southern states such as Kentucky, Tennessee and Texas, different approaches were tried, including the leasing of prisoners to private businesses for outside work. Activities included chain gang work in farm camps, railroad construction, and mines. By the 1880s, leasing became very profitable, and government officials welcomed the additional income. By the early 1920s, most forms of prisoner lease programs had ended as a result of opposition from prison reformers and labor leaders.

In New York State, legislation in the late 1880s abolished all inmate labor contracts and limited inmate labor to handicrafts for in-State use only. Similar legislation was passed in New Jersey, Pennsylvania, Ohio, Illinois, Michigan, Kansas, Oregon, Wyoming, Georgia and Texas. In New York State, an 1896 State Constitutional provision outlawed prison labor for private interests, and established the State-use system, which requires that State agencies purchase goods from the prisons. Between the 1890s and the 1920s, many other states adopted similar State-use systems and also prohibited the sale of inmate-made goods on the open market.

From 1929 onward, Federal legislation restricted interstate commerce of inmate-made goods, and placed a \$10,000 limit per contract for sales of inmate-made goods to the Federal government. During World War II, Federal prohibitions on inmate labor were relaxed, and prison industries became more productive and profitable. However, restrictions were re-imposed after the war.

Recent Developments

In 1979, Congress again relaxed restrictions on inmate labor when it authorized PIE legislation, a first step in allowing private industry to employ inmate labor in interstate commerce and in the open market. As noted earlier, some states, including New York, operated successful programs involving inmates and private industry. However, most forms of these programs ended when restrictions were imposed on inmate labor. Today, many states have changed their laws to participate in the PIE program, and to allow private industry involvement with inmate labor for interstate commerce as well as overseas exports. In effect, states are enhancing prison industries programs to produce and sell inmate-made goods and services in conjunction/partnership with private enterprise. Since 1979 the PIE program has certified 37 jurisdictions to engage in joint ventures with private enterprises to employ inmates. Although only about 2,000 prisoners currently participate nationwide, correctional administrators who have taken part in PIE projects report some success in opening new markets, retaining business in their states and keeping inmates productive.

State and local prison agencies must meet the following basic criteria to be PIE certified:

- legal authority to involve private business with inmate labor;
- legal authority to pay inmates prevailing private sector wages and related benefits;
- legal authority to collect financial contributions for crime victims' programs;
- formal assurance that PIE will not displace workers employed before program startup;
- inmate participation must be voluntary;
- organized labor and local private industry must be consulted before program startup; and
- the authority to provide worker benefits, including workers' compensation or its equivalent.

Today, the issues of easing taxpayer burdens and inmate sharing of costs is gaining support. For example, in September 1996, the National Center for Policy Analysis, a non-profit non-partisan research institute, recommended expanding the role of the private sector in prison work, either through the PIE program or through partnering with government. The report projected that taxpayers nationwide could save \$2.4 billion annually if 25 percent of inmates were employed privately, earning \$5 an hour for 40 hours a week, and if 60 percent of the earnings went for paying taxes, funding various programs, and contributing to prison costs. Although the PIE program is over 18 years old, it has not experienced widespread implementation. Therefore, based on the current level of PIE activities nationwide, we believe such estimates may be optimistic. However, there is significant potential to expand the use of the PIE program as it gains acceptance nationwide. It is important to note that the PIE program is one method to enhance existing prison industries programs. Other approaches being implemented by certain states include exporting goods overseas or engaging in various public/private partnerships strictly within a state.

Scope, Objectives and Methodology of Study

Our study of the Department's Correctional Industries Program covered the period April 1, 1992 through March 31, 1997. The principal objective of this study was to determine whether New York State policymakers should consider currently available alternatives to its correctional industries program, in line with approaches taken by other states. This involved the following:

- examining the current state and Federal legal environment in which prison industries programs operate;
- gaining an understanding of what is needed to properly plan, develop and implement such changes;
- examining the approaches taken by other states, including their positive and negative experiences; and
- examining the pros and cons of economic issues related to private industry involvement with inmates.

This study is intended to raise pertinent questions for State policymakers to consider as to what efforts they can take to enhance and expand current operations, reach self-sufficiency, maximize inmate employment, and provide quality products to its customers timely.

Our study included a review of the history and evolution of prison industries nationwide with information about current developments from a variety of sources, including the Internet, the New York State Library, as well as published reports, articles and analyses (See Exhibit A). We also contacted the Federal government, prison industry officials in other states, prison industry experts, and Department management. In addition, we reviewed the Department's proposed PIE legislation and examined the relevant issues posed by such inmate involvement with private industry. Also, we visited South Carolina to speak with officials, obtain relevant information and reports, and observe PIE program activities there. South Carolina is a recognized national leader for PIE program implementation. Further, we consulted with State business and organized labor leaders for their views on the use of prison labor and sent 14 states a questionnaire to obtain basic information about their programs.

Comments of Department Officials

Draft copies of the matters included in this study report were provided to Department officials for their review and comment. Department officials generally agreed with our conclusions, and appear firmly committed and dedicated to enhancing New York State's prison industries program. Department officials support the PIE program as a desirable alternative in certain circumstances, and last year proposed the necessary legislation to authorize a PIE program. Officials added that PIE programs can help create and/or retain jobs, and that they will continue to monitor and study PIE activities nationwide and to collaborate with stakeholders to develop new enterprises. Their comments have been considered in preparing this final report and are included as Appendix B.

Within 90 days after final release of this study, we request the Commissioner of the Department of Correctional Services to report to the Governor, the State Comptroller, and the leaders of the Legislative and fiscal committees, advising what actions were taken by Department management in response to the observations made and questions raised in the study.

Consideration of Available Alternatives to Enhance New York State's Prison Industries Program

We conclude that State policymakers, working with representatives from business, labor, academia and the public, should consider establishing an appropriate framework for planning, developing and implementing enhancements to New York State's prison industries program. This could be initiated by legislative change to allow private sector involvement with inmate labor. There are many alternatives and options for State policymakers to consider. For example, private sector involvement can include goods and services sold for state use only, or through the Federal PIE program the State could produce and sell inmate-made goods and services in interstate commerce. In addition, partnering with the private sector could be beneficial and also lead to an export business from the State. Therefore, careful planning is necessary to obtain sufficient information for evaluation and analysis, as well as to assess potential pitfalls and benefits.

Our conclusion is based mainly on the fact that Corcraft's operating results are predictably marginal or negative, with no on-going system to assess overall operations or to establish long-term strategic plans. Corcraft operates in a restricted market and has incurred large net losses, inmate employment levels have declined, and Corcraft is facing stronger competition from private industry. Corcraft has remained largely unchanged over the years, while other states have moved forward with the private sector to meet new economic challenges. Therefore, we believe it is now time for State policymakers to determine whether they will move forward to enhance the industries program like other states have done or get out of the business.

Officials from other states and the Federal government, as well as experts, told us that alternative programs have the potential to benefit inmates and society by employing more inmates and reducing idleness, providing inmates with valuable work skills and increasing the possibility of their future success, reducing State costs of imprisonment, enabling inmates to contribute to society, expanding overall business and commerce, and providing increased funds to crime victim and family support programs. Additionally, implementing such alternatives has the potential to benefit the State's overall economic development by attracting new business into the State, and creating or retaining jobs for State taxpayers. The concept of attracting private industry from outside the State is integral to revitalizing the State's economy. Therefore, the impact and potential benefits of prison industry enhancement concepts should be considered as part of an overall approach to improving the State's future economic and job development.

For example, as of April 1997, records show that 540,000 people are unemployed in New York, of whom 60 percent live in New York City. On January 23, 1997, the State Comptroller testified before the State Assembly concerning the impact of implementing the new Federal welfare reforms. He pointed out that private business and manufacturing jobs are moving out of New York State to other states or other countries. New York State ranks near the bottom in job growth, which has been weak and slowing. Unemployment rates exceed the national average by 1.4 percent, and one-third of New York City's workforce earns \$8 hourly or less. In addition, job training and creation programs may not be working, and the prospect for manufacturing job growth is not encouraging.

In New York State, the need to coordinate overall economic and job development policies has become crucial in light of current efforts to reach job/training target requirements for welfare recipients to comply with welfare reforms. In conjunction with the Department of Labor and the Empire State Development Corporation, concepts such as PIE or other alternative enhancement programs we noted can be used to promote the State's overall economy. For example, South Carolina and California involve many parts of their governments in expanding and retaining jobs and industry where possible. Under such a scenario, industry is brought into the State, and jobs are created both inside and outside of prisons, through various incentives and alternative arrangements.

One alternative that has gained some popularity with states and shows strong potential for success is the PIE program. As of March 31, 1996, 34 states and 3 counties certified under the PIE program by the Federal government, employed about 2,000 inmates. PIE certifications were issued as early as mid-1985, and several states were certified between 1993 and 1995. Since inception of the PIE program, participating inmates have earned over \$63 million in wages at the prevailing rate (\$5 to \$6 hourly compared to 20 to 60 cents hourly before PIE), returning almost \$29 million (about 46 percent) to government for crime victims' programs, family support, room and board, and taxes.

PIE programs nationwide range from handfuls of inmates working with private concerns to several hundred inmates working with Fortune 500 companies at dedicated plants. Although participating states have had limited experience and success to date in attracting private industry and expanding PIE, some of the private concerns involved have opted to participate in the PIE program rather than move their operations out of the United States. Some states have been successful in attracting private industry by offering economic development incentives, such as capital, equipment, expense reimbursement and physical plants.

Reports about other state industry programs cite the following major benefits of PIE programs:

- reduced inmate idleness, leading to better inmate behavior and possible post-release success;
- resulting revenues to offset prison and societal costs;
- enhancement of restitution and family support programs; and
- turning non-contributing inmates into taxpayers.

Other alternatives to enhance prison industries include involving private enterprises doing business only in New York State, or establishing export programs. We noted that several states, including Oregon and Florida, are involved with export programs, reportedly with success.

Whether or not New York State adopts PIE legislation and/or other alternatives, the concepts presented by the PIE model provide an excellent framework for helping ensure that all interested parties and stakeholders have appropriate input to a state's plan to enhance prison industries. While implementing PIE is not an overnight panacea and does not ensure the full employment of inmates, it provides the opportunity for opening markets which have been traditionally off limits to prison industries. It also brings a consistent approach for a state to plan and coordinate a prison industries policy in line with its overall economic and job development programs and objectives. Many of the longstanding economic impact issues can be addressed during a state's program planning and development process for PIE certification and in meeting the established criteria for participating in the PIE program. Other inmate-related issues can be dealt with when a state actually makes arrangements for program startup with private businesses, e.g., inmate conditions, wages, operating practices and security arrangements.

In January 1997, Department management submitted its PIE legislation to the Governor's Office as a proposed departmental bill. Based on our review of the operating structure of other states with PIE programs, we believe that this legislation needs to be enhanced to address program oversight. More importantly, to move forward, State policymakers need a comprehensive approach to plan, develop and implement enhancements to the prison industries program. The remainder of this report discusses the various program concepts, approaches and results which can help the State's policymakers in formulating the direction for New York's prison industries.

Issue To Be Considered

1. Should State policymakers consider commissioning a representative task force comprised of interested and knowledgeable individuals from government, business, labor, academia, and the public to formulate an appropriate direction for the future of New York's prison industries, as part of a comprehensive approach to improving the State's future economic and job development?

(Department officials responded that there is ongoing dialogue with these parties to some extent, and that as they move forward with strategic planning, they intend to do so with input from these key areas.)

Successes in Other States

The successes reported by other states that are enhancing prison industries are noteworthy. State policymakers can benefit from assessing specific programs operating in other states and determining whether they can be adapted for future implementation in New York. Although only about 2,000 prisoners in the nation participate in less than 120 PIE work projects, correctional administrators who have taken part report the projects have generally been successful.

There is a wide range of production resulting from PIE programs. Products and services include clothing, electronic cables, telemarketing, bedspreads and drapes, metal fabrication and assembly, sheet metal products, heaters, bottling, fishing items, mapmaking, computer networking equipment, saddles and related items, pallets, boat lifts and exposed aggregate concrete. At the time of our study, reports indicate that South Carolina, California, Washington, Nevada, Texas, Utah, Minnesota, Tennessee, Nebraska and Connecticut appear to have significant PIE activity. In addition, many states have gained PIE certification since the beginning of 1993, and are starting to expand their programs. In addition to PIE programs, we noted that several states, including Oregon and Florida, have been successful in developing in-state and/or export programs. Following are examples of some programs which are reported to be successfully operating in other states:

South Carolina

Reports from experts in the field and the Federal government indicate that South Carolina is a leader in enhancing prison industries through the PIE program. In January 1997, we visited with officials of the South Carolina prison industry program to obtain pertinent information concerning program history and development, to observe PIE operations, and to obtain officials' perspective on program successes and drawbacks. At the time of our visit, South Carolina housed about 20,000 inmates in 32 facilities. About 1,500 inmates work in that state's traditional prison industries, and over 320 inmates work in PIE programs at four facilities. Two of the largest PIE programs in the nation are operated in South Carolina, and are more fully described below:

Electronic Cables. Inside the Evans Correctional Facility, a maximum/medium security prison, 160 inmates assemble \$20 million in cables annually for use with electronic equipment. This work is done for a Fortune 500 conglomerate based in Columbus, Ohio, and the cables are purchased by several major computer and telephone corporations. The Evans plant, one of the company's seven manufacturing facilities in the United

States, is supervised by a civilian staff of ten. The Evans plant manager reported that the productivity and quality of this work force is as good as, if not better than, any that he has ever worked with. The plant won an award from a major computer firm for being in the top 10 among 500 plants by delivering 25,000 cables with zero defects. In the early 1990s the company was offered financial incentives by South Carolina, such as low cost space and an equipment subsidy. This resulted in locating a domestic feeder plant on prison grounds rather than an alternative plant based in Mexico.

Graduation Gowns. Inside the Leath women's prison, about 120 inmates sew, inspect, sort and package graduation caps and gowns for the largest manufacturer of graduation gowns in the country, with 43 offices and manufacturing plants throughout the United States, Mexico and the Caribbean. The firm's main gown plant is only 25 miles from the Leath prison. The company had considered moving operations to Mexico, but decided on the prison, in late 1992, because of the proximity, labor availability, quality space and equipment incentives. The production manager reported that quality initially was a problem, but it improved with new training methods. In addition, absenteeism and turnover are no different than at the nearby plant, and productivity is good.

Two other programs manufacturing hardwood floors and plastic chairs are recent startups. These two programs currently employ over 50 inmates, and are expected to eventually employ 350 inmates in total.

In South Carolina, such programs have not gone without setbacks. For example, the first company to operate under the PIE program went bankrupt in about one year, and several subsequent failures occurred due to under capitalization and/or poor management. Nevertheless, South Carolina officials report that current PIE programs are successful.

Officials cited many advantages to PIE programs, including:

- reduced taxpayer burden to pay for inmates and employees;
- inmates contribute to crime victims programs, room and board, and taxes;
- participating inmates are among the best behaved and want to retain these privileges;
- non-violent felons can reduce their prison stays by working; and

-
- the ability to retain business in the state, and lure new business which would otherwise leave the state or nation.

Prior to 1987, South Carolina operated a traditional prison industry program with goods sold to state agencies only. In August 1985, the Governor appointed a task force including business, taxpayers, victims, and government, to develop a plan for private sector involvement in expanding prison industries. The intent was to increase inmate employment and marketable skills, to enable program self-sufficiency, and to enable inmates to contribute to victims, their families and society. The task force shared its findings with experts, private industry, other states and the Federal government. In 1987, with the cooperation of business and organized labor, the legislature passed enabling laws to obtain PIE certification and authorize joint ventures with the private sector.

In the late 1980s, South Carolina's director of industries began a push to contact the private sector and encourage companies to employ inmates. Concurrently, from 1989 to 1993, inmate populations increased dramatically while state budget resources for prisons became limited. The intent of the South Carolina PIE program was to treat newly build prisons like economic development zones, and to encourage companies to locate new businesses there. As a result, prisons in South Carolina could provide a stable workforce, certain inmate benefits may not have to be borne by the company, and various arrangements could be negotiated for equipment incentives, space, and sharing of other costs. In one case, the company pays the state a flat rate based on inmate wages (about \$6 hourly), plus a fee for overhead and administrative costs. Security costs are paid for by the state.

In addition, South Carolina officials have taken steps to help ensure the future success of the PIE program. To be considered for the PIE program in South Carolina, businesses must be able to guarantee that at least 60 inmates would be employed. Officials stated that they monitor indicators of potential future success, including whether a business can meet projected employment levels, and whether the business can pay its bills timely. South Carolina also selects all inmates for hiring, and helps ensure that work flow is not unduly interrupted, and that needed materials and supplies are procured timely and competitively. Further, all inmates who work in the program must either be high school graduates, have a General Equivalency Diploma or be working toward one.

Other states have also reported successes in their relationships with private companies. Following are several of these examples:

Connecticut

Inside the maximum security Somers unit of the Connecticut Department of Corrections, a Maryland-based company employs 18 inmates to make and sew baseball caps that are sold to private companies, retail sporting goods stores and government agencies. This firm holds the license for manufacturing the emblems of all the teams of the National Football League and Major League Baseball. The prison warden reported that this joint venture, started in 1990, has been good for the prison because it gives inmates a positive goal. The plant manager reported the venture offered an affordable way to enter a new market closely related to its main line of emblems. The company was provided prison space and decided, in part, to pursue this venture because of the prison's geographic proximity to its main plant.

California

Since 1986, a major airline has employed 300 inmates in the California Youth Authority's Ventura Training School for youthful offenders as agents who schedule all itineraries for around-the-world trips. The airline firm is provided space, and typical of other businesses located in a prison, the workforce is not subject to commuting problems and other factors. The work force typically consists of 70 agents, and nearly 60 have continued their employment at the company's Los Angeles reservation center after release from prison. The 1992 riots in Los Angeles highlighted the reliability of the Ventura center. The airline was forced to close its Los Angeles office, but Ventura stayed open, handling calls from travelers who otherwise would have been lost to competitors.

Oregon

In Oregon, up until recently, 60 inmates manufactured blue jeans ("prison blues") for sale on the open market, including 500 stores in the United States, as well as for export. This activity was operated by the correctional agency itself. Product quality is reportedly very high, and the product competes with designer jeans produced primarily offshore. Annual sales are about \$2 million. Due to an in-state referendum and an Attorney General's opinion, interstate sales have been suspended until Oregon voters amend their Constitution concerning inmate use of earnings.

Washington

In 1995, a Fortune 500 company contracted with Washington for inmates to help package thousands of office software units, and hundreds of thousands of computer input devices, for shipping.

Florida

In addition to the PIE program, we were informed by Florida officials that they operate an export program for prison-made goods to the global market. To date, products sold to Latin America and the Caribbean include furniture, footwear, road paint, cigar boxes, and reassembled vehicles. Officials project annual sales of at least \$5 million. In addition, Florida prisons sell some of their raw agricultural products in-state to the open market. Neither of these programs require Federal PIE certification because they do not involve interstate sales of inmate-made goods. These programs present interesting possibilities for other states to consider in enhancing prison industry programs.

Issue To Be Considered

2. How can State policymakers capitalized on the various approaches taken by other states in planning, developing and implementing prison industry enhancements? Can the approaches taken by other states effectively lead to job creation and/or retention, as well as business expansion? Can specific programs currently operating in other states be adapted for possible implementation in New York? Can New York implement a program to export products globally from its ports, as is done in Florida?

(Department officials responded they recognize the benefits of prison industry enhancement programs, and believe that certain approaches can lead to job creation and/or retention. Officials added that some programs in other states cannot be replicated due to current legal restraints. In addition, officials will continue to try exporting as a means to expand their market.)



Planning for Prison Industry Enhancements

Implementing the PIE program or related industry enhancements can be challenging and requires a coordinated approach among state policymakers, organized labor and private business interests. Careful planning and practical business decisions by the private sector and government are necessary before the two sectors can effectively work together in a prison environment. Moreover, enhancing prison industries by involving the private sector and/or opening up available markets poses many public policy issues concerning the impact of inmate labor on the local economy. In addition, there is a wide variety of approaches to PIE operations among other states, in terms of organization, financial relationships and other important operating practices. These and other issues would need careful consideration in shaping potential prison industry alternatives, including legislative proposals to implement such alternatives.

Legislative Requirements

In late January 1997, Department management submitted its Prison Industry Enhancement legislation to the Governor's Office as a proposed departmental bill. This proposal presents the basic boilerplate for allowing New York State to involve private industry with prison industries and for receiving Federal certification under PIE. However, as noted below, we believe that more planning and concept development is needed before such legislation can be properly implemented. (Department officials replied that their legislation was not approved. However, their PIE bill will come up again in the current legislative session, therefore they are in the process of reviewing the language of the bill and determining what can be done to gain support for the proposed legislation.)

Our study found that the three major concerns which need to be addressed are: adequate consultation with labor and industry; prevention of job displacement; and paying prevailing wages to inmates. Before implementing PIE, State officials would need to consult with labor and private industry, and obtain formal assurance that job displacement would not occur. In addition, among other items, prevailing wages would have to be paid to inmates. Failure to adequately address these and other issues will result in significant program obstacles.

We noted that Federal PIE guidelines do not specifically define job displacement and how it can be avoided. Guidelines also do not address the parameters within which businesses can operate and still comply. In addition, guidelines covering displacement, wages and consultation do not specify how these activities should take place in a statewide or local context. Notwithstanding these problems, we believe that a properly planned, coordinated and

implemented PIE or alternative program could help prevent adverse conditions from occurring.

Consultation with Organized Labor and Private Industry

PIE requires written proof of consultation with organized labor and local private industry before program startup. Therefore provisions must be included to conform with PIE. We noted that South Carolina requires its director of industries to contact and consult with labor unions, including the AFL-CIO, concerning the private sector as an employer of inmates and a customer of prison-based output. Concerning private industry, South Carolina's director must consult with the chamber of commerce, trade organizations and the commerce agency, and procedures include soliciting formal comments and surveying labor and industry. In Washington, organized labor and private industry represent two-thirds of the Correctional Industries Board, along with the general public which has three representatives. Other states including Tennessee and California have private industry and labor representatives on their boards as well. In Wisconsin, there is a legislative public hearing process before program startup. Louisiana's program was initially opposed by organized labor. However, program officials there indicated that support was subsequently gained from labor officials after they explained the program, and the fact that the products to be produced were currently coming from overseas. Failure to adequately consult with labor and/or industry has resulted in problems in several states as follows:

Ohio

In 1992, the United Automobile Workers union was successful in getting a major automaker to discontinue a contract with a private corporation for parts assembled by county jail inmates. In this case, organized labor reportedly was not consulted in advance, and inmates were being paid significantly less than prevailing wages.

Illinois

In 1994, a labor union protest stopped a Chicago-area store from using inmate labor to replace employees to stock shelves and clean floors at night. The store management claimed that they could not find workers in the neighborhood to do this job. It appears that labor was not consulted in advance before inmates replaced private workers.

Formal Assurance of No Job Displacement Before Program Startup

PIE requires formal assurance that workers employed before program startup will not be displaced as a result of the program. New York needs to address displacement of workers, and such a provision must be included to conform with PIE. In South Carolina, the process involves obtaining assurances from appropriate state agencies that inmates will not displace workers, or be used in skills, crafts or trades where there is an available surplus of workers in the locality or where existing service contracts can be impaired. In addition, South Carolina's labor agency will analyze the potential effect of the inmate program on geographic location, employment, products and markets. The California Code of Regulations requires PIE to reclaim, retain or create jobs in deficient labor markets (with no displacement). To reclaim lost industry, Wisconsin law authorizes prison industries to contract with private firms if goods and services were formerly supplied by a manufacturer or distributor from outside the United States in the past year. On the other hand, in Washington, out-of-state or foreign suppliers providing services or products are eligible for PIE. Failure to obtain proper assurances to prevent job displacement has resulted in the following problems in other states:

Texas

In 1994, a technology company closed a plant in Texas, laid off 150 workers and moved its operations into a state prison operated by a private company. The prisoners are reportedly paid the Federal minimum wage to assemble circuit boards, they are not provided with health or other benefits (they have them already) and they are allowed to keep 20 percent of their wages. The products are sold to major computer manufacturers. Officials of the Texas AFL-CIO, complained that Federal law was violated because organized labor was not consulted. However, the Texas Employment Commission stated that consultation was not required in the largely rural county where the prison is located because there were no unions to be considered. Thus, the state agency interpreted the law as limiting the required consultation to the immediate county in which the business was located. In this case, business interests did not necessarily comply with Federal guidelines requiring consultation with local business and labor. This illustrates a possible conflict between Federal and state PIE legislation and its implementation.

Wisconsin

In 1997, a glove company reportedly laid off more than 25 percent of its workforce while hiring 90 inmates to cut, sew and inspect glove and mitten liners. In some cases, civilian workers were laid off or their employment was terminated about the same time the lower-paid inmates began working. Federal policy and state rules governing prison work

programs forbid job displacement. This case has spurred several inquiries and hearings by state legislators, and Federal Justice Department auditors were slated to begin reviewing this program in mid-1997.

Prevailing Wages to Inmates

PIE requires paying inmates the prevailing wage rate and related benefits. In New York's proposed PIE legislation, the Department's Commissioner would be authorized to ensure that inmates are compensated at prevailing wage rates. New York would have to establish a mechanism to do this. For example, in South Carolina, appropriate state agencies review wage plans including job descriptions to ensure that wages are comparable for similar work in that locality. In Tennessee, the law requires that wages paid to inmates conform to the state's prevailing wage law. In Washington, the Director of Correctional Industries determines the comparability of wages. The Ohio and Wisconsin examples presented earlier illustrate problems associated with not paying inmates prevailing wages.

Issues To Be Considered

3. Should Department management work in conjunction with the Governor's Office, the Division of the Budget, and the State Legislature to plan and develop necessary changes to State laws and operations which authorize prison industries to implement program alternatives to enhance operations in compliance with Federal laws and regulations?
4. Should State policymakers consider whether the proposed legislative changes to authorize prison industry alternatives adequately address the need for representation from industry and organized labor? Should they also consider the need to involve the Commissioner of Labor, Chairman of the Empire State Development Corporation and other officials to help ensure compliance with Federal laws prohibiting job displacement, requiring prevailing wages, and requiring formal consultation with business and labor interests?

(Department officials responded they are reviewing the language of their proposed legislation, and are reviewing alternatives to identify the best way to document that interested parties (e.g., business community and labor unions) have been consulted during the development process.)

Public Policy Issues and the Economic Impact of Inmate Labor

Historically, complaints have surrounded inmate labor, primarily concerned with its potential or real impact on competition with private business, organized labor, prevailing wages and worker displacement. In addition, concerns have existed over treatment of prisoners, security, plant conditions and the overall working environment for prisoners leased to private businesses. The objections to competition from prison-made products were largely responsible for the restrictive state and Federal laws that play a big part in the idleness of so many prisoners today. These concerns present policymakers with conflicting public policy issues which need to be resolved.

Inmate involvement with private industry continues to be debated by prison and government officials, labor unions, public interest groups, and business and trade groups. There is no clear-cut resolution for these issues, except that proper precautions can and must be taken by government to help ensure that PIE or other alternative enhancement programs are implemented properly,

meeting all Federal criteria, and involving representatives from labor, trade and private industry.

For example, the national AFL-CIO supports prison labor programs that teach marketable skills, that produce goods solely for government use, that pay prevailing wages, and that could have a rehabilitative effect and reduce recidivism. However, poorly conceived programs can unfairly compete and displace workers. In states like Ohio, Texas, Nevada and Florida, labor groups are seeking market restrictions for inmate-made goods. New York's AFL-CIO is opposed to indiscriminate use of prison labor and believes that private businesses inside prisons have lower cost structures and can unfairly compete with outside business.

In addition, we found that certain industry associations and trade groups had various positions on prison industries programs. For example, one printing industry trade group stated that printing firms are unable to compete with the Federal prison industries. Members of the National Federation of Independent Businesses are generally opposed to government competition with private business. The Prison Industries Reform Alliance, which represents industries impacted by prison competition, believes that prison industries should not attempt to act like a private business. An international furniture trade group (Business and Institutional Furniture Manufacturer's Association) is opposed to the unrestricted growth of Federal prison industries. The United States' Chamber of Commerce, along with other business and trade groups (American Apparel Manufacturers, and the National Association of Manufacturers), endorse inmate training and employment, but are opposed to exclusive markets created by government production of goods for itself. In addition, the American Civil Liberties Union is not opposed to inmate labor, but is concerned about the potential that inmate labor could be exploited by private business.

The following are some of the pros and cons of various economic issues which State policymakers need to consider and evaluate:

- Inmate labor could displace local labor, hurt small business, and bring down wages. However, if the industry or occupation does not exist locally or domestically, inmate labor could add to the industry base. For example, in Wisconsin, inmates can only be involved with goods and services previously produced outside the United States. In California, by law, emphasis on prison industries is placed on retaining or reclaiming jobs, supporting new industries or creating jobs. In some cases, a particular program is more beneficial where inmates only produce product components which are labor intensive,

because this arrangement can augment the productivity of the existing nearby industry base and/or reduce total product cost.

- Inmate labor has the potential to erode the nation's existing private industry base. However, PIE or alternative programs can be structured to produce goods currently produced in foreign or offshore markets, with little or no competition within the existing local markets. In addition, like Florida, markets can be expanded by exporting certain inmate-made products from the United States. Moreover, like South Carolina, such programs can seek to retain existing business and/or prevent business from moving out. Consequently, existing domestic industrial and labor bases can be retained, expanded or created.
- Some types of businesses may be inappropriate for inmates, e.g., businesses involving data bases, credit cards, and other privacy concerns. Some negative experiences have been reported due to inmates gaining access to confidential data, such as telephone numbers, social security numbers, mailing addresses, and credit cards. However, adequate security precautions could be taken by prison officials in the program planning and implementation stages to help ensure that such situations are minimized.
- The potential exists for increased lawsuits due to inmate/civilian involvement with private industry, e.g., job injuries, inmate assaults, product liability cases and other matters. However, these risks currently exist both in private industry and within the prison settings. Precautions can be taken to help ensure workplace safety, quality control, and the security of inmates and civilians.

Issues To Be Considered

5. How can State policymakers best ensure a comprehensive review and evaluation of the public policy issues posed by the impact of private industry involvement with inmate labor, in a manner that involves all interested parties and stakeholders?
6. What is the best way for State policymakers to properly plan, develop and implement prison industries enhancement programs in order to help prevent negative impacts on existing business and labor interests, such as job losses, business failures, and downward pressure on wages?

(Department officials responded that they are sensitive to the concerns of organized labor and others. Before implementing a PIE program, officials stated they will determine the best way to ensure such a comprehensive review and evaluation with all interested parties and stakeholders.)

Approaches Taken by Other States

The U.S. Department of Justice issued a report in 1988 entitled “Work in American Prisons: The Private Sector Gets Involved.” This report, as well as others prepared by recognized experts in the field, present possible frameworks in which government and business can plan, develop and implement private sector involvement with inmates. Also presented are different models for maximizing such public/private ventures, while inmate workers are paid minimum wage, receive job benefits and pay taxes.

State policymakers need to balance inmate and State concerns with the private sector’s need to achieve profits and maximize employment. This should include an evaluation of costs and benefits based on the projected activity. In addition, many other issues need to be addressed by all parties, including program objectives, potential problems or barriers, analysis of governing laws, responsibilities and required contracts, the prison environment and inmate labor force, available resources and incentives, basic organizational structures, and operating policies. Other issues include worker safety, inmate fringe benefits and insurance, the potential problems that may arise among inmates when inmates within the same prison make substantially different wages, prison security, physical plant and logistical concerns, and other related factors.

The results of PIE programs in other states have been directly impacted by the attitudes and the willingness of those state policymakers to implement such alternatives, and the extent to which private business can foresee a benefit from inmate involvement. We contacted officials from other state prison industries and reviewed materials submitted by them. We found a variety of approaches to PIE program operations in terms of organization, financial relationships, and other operating practices. We believe that State policymakers should consider these various approaches in planning for and implementing program startup in the future.

Many states have established oversight advisory boards and/or operating authorities for their respective prison industries programs. Generally, government, business, organized labor and the public are represented on such boards or authorities. However, most states operate their PIE programs separately from traditional prison industries, but through state auspices. Many of these PIE programs are overseen by representative policy setting or advisory boards (e.g., California, Oregon, Washington, Tennessee). Very often, membership also includes government, organized labor, business, government and the public.

In contrast to Corcraft, which operates almost exclusively in maximum security settings, certain states operate their PIE programs in less than maximum security environments. In addition, there are a variety of methods prison industries can use to engage the private sector, to share costs and administrative functions, and to help ensure that public/private partnering efforts are beneficial and comply with legal requirements. In all cases, wage and benefit payments to inmates come from the private sector.

However, the nature of the business relationship can be structured in many different ways. Some inmate programs supply parts or components of goods to private business for use in final products (customer model). Other programs lease their inmates to private business to manufacture final products (manpower model). In some cases, government handles administrative functions, such as personnel and payroll, while in other states, the private business takes on these roles. The business would then actually hire and fire inmate workers (employer model). In other states, the prison agencies have a role in assigning inmates to work.

Some states seek reimbursement from PIE activities for indirect/overhead costs (e.g., California, Oregon), while other states absorb these costs (e.g., Minnesota, Washington), or provide nominal or free space (e.g., South Carolina, Minnesota, and Washington) and some free utilities (e.g., Minnesota, Kansas). Other states charge for some or all of these items (e.g., Wisconsin, Connecticut). In some cases, civilian staff supervise inmates, while in others,

traditional prison security exists. Some states pay for security costs (e.g., Connecticut, California, Oregon), while other states do not (e.g., Wisconsin, Kansas). Some states also provide certain financial leverage to private businesses to operate in the prison environment. Incentives can include a combination of investment capital, bonding, and/or equipment arrangements.

Issues To Be Considered

7. Should Department management do a detailed study of current developments in other state prison industries programs to determine the best practices available for use in any proposed alternative prison industries program?

(Department officials responded that once they have legal authority to proceed with a PIE program, they will study other jurisdictions to determine what the best practices are for use here in New York.)

8. If alternatives to current industries operations are deemed beneficial, should Department management develop a best practices approach to program oversight, as well as to organizing, structuring, and overseeing the most appropriate program for New York to help ensure that proper business decisions are made by the private sector and government before joint ventures are undertaken?

(Department officials responded that developing a best practices approach makes sense to insure that potential private-sector participants make proper business decisions before joint ventures are undertaken.)

Significant Studies and Reports Concerning Prison Industries and Inmate Labor

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Work In American Prisons: Joint Ventures with the Private Sector, George E. Sexton, National Institute of Justice.....November 1995.

Work In American Prisons: The Private Sector Gets Involved, Barbara J. Auerbach, George E. Sexton, et. al., National Institute of Justice.....May 1988.

Penology for Profit: A History of the Texas Prison System 1867-1912, Donald R. Walker.....1988.

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GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
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December 8, 1997

Mr. William P. Challice
Audit Director
Division of Management Audit &
State Financial Services
270 Broadway, 19th Floor
New York, New York 10007

Re: Draft Study 96-D-28
Alternatives to Enhance New York State's
Prison Industries Program

Dear Mr. Challice:

In accordance with Section 170 of the Executive Law and in response to your correspondence of November 7, 1997, attached is the Department's reply to the Draft Study on Alternatives to Enhance New York State's Prison Industries Program, Report 96-D-28.

For your information, we are simultaneously forwarding two copies of this response to the Division of the Budget.

Sincerely,

A handwritten signature in black ink, appearing to read "G. S. Goord", written over a horizontal line.

Glenn S. Goord
Commissioner

Attachment



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
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Dr. Raymond Broaddus
Deputy Commissioner

December 5, 1997

Mr. William P. Challice
Audit Director
N.Y.S. Office of the State Comptroller
A. E. Smith State Office Building
Albany, New York 12236

Dear Mr. Challice:

We have reviewed the draft staff study entitled Alternatives to Enhance New York State's Prison Industries Program (96-D-28). Since its inception nearly 20 years ago, we have monitored the progress of the Prison Industry Enhancement Program (PIE). While we do not see PIE as a substitute for the traditional program we operate, we do see PIE as a desirable alternative in certain circumstances.

Last year, after careful consideration, we proposed the necessary legislation to authorize this Department to establish a PIE program. There was considerable opposition on several fronts. Both the business community and various labor unions have expressed concerns with this proposal. Most of the questions you raise address issues related to the best way to approach establishing a viable PIE program. We, of course, agree that we should study what other jurisdictions have done, what has worked and what has not, and incorporate that experience into our planning.

Our first priority is our existing program. As you know, PIE programs in various jurisdictions across the country currently employ approximately 2,300 inmates. We believe measured expansion of the traditional industries operations holds the most potential for increasing inmate assignments. As with PIE, many of the same stakeholders have concerns about expanding (or existing programs for that matter) correctional industries. We will continue to collaborate with those stakeholders as we develop new enterprises.

What follows are specific answers to the questions you raise in your study:

1. **Question:** Should State policymakers consider commissioning a representative task force comprised of interested and knowledgeable individuals from government, business, labor, academia, and the public to formulate an appropriate direction for the future of New York's prison industries, as part of a comprehensive approach to improving the State's future economic and job development?

Response: We already maintain an ongoing dialogue with individuals from government, business, labor, academia, and the public. By law, we are required to consult the Statewide Procurement Council on new products and businesses. The Council includes representatives from these areas. Feedback from these parties is an important component in the policy formulation process. While we would not rule out the establishment of a task force to advise us, communication among these parties serves the same purpose. As we move forward with the strategic planning process discussed in your previous audit, it is our intention to do so with input from these key areas.

2. **Question:** How can State policymakers capitalize on the various approaches taken by other states in planning, developing and implementing prison industry enhancements? Can the approaches taken by other states effectively lead to job creation and/or retention, as well as business expansion? Can specific programs currently operating in other states be adapted for possible implementation in New York? Can New York implement a program to export products globally from its ports, as is done in Florida?

Response: We recognize the benefits of a Prison Industry Enhancement Program (PIE). That is why we are seeking the authority to establish a PIE program here in New York. We did so because we believe that approaches taken by other states can lead to job creation and/or retention here as well. However, both the Assembly and the Senate opposed a bill which would have given us the authority to develop PIE programs. Some programs operated in other states cannot be replicated here. For example, Oregon manufactures blue jeans and sells them on the open market. While this program operates under PIE certification, it is operated by the traditional correctional industries organization. Correction Law and our State Constitution (Article III, Section 24) preclude us from selling on the open market. However, inmates may work for the private sector sewing baseball caps, as they do in Connecticut, if they work voluntarily and if we are given

the authority to establish PIE programs. Under present law, New York can export goods globally for governmental use as Florida does. Having done a limited amount of exporting with mixed success, we are proceeding, nonetheless, to explore this opportunity to expand our markets.

Our PIE bill will come up again in the upcoming legislative session. We expect there will be considerable opposition to it by both the business community and labor unions. The State Comptroller's support for the bill would be very helpful.

3. **Question:** Should Department management work in conjunction with the Governor's Office, the Division of the Budget, and the State Legislature to plan and develop necessary changes to State laws and operations which authorize prison industries to implement program alternatives to enhance operations in compliance with Federal laws and regulations?

Response: As noted in the study itself, the Department has already proposed legislation which would allow the establishment of the Prison Industry Enhancement Program here in New York. We are in the process of reviewing the language of the bill.

While the Prison Industry Enhancement certification process requires proof that interested parties have been consulted during the development process, we recognize that there may be a requirement to reinforce these assurances in order to gain support for the proposed legislation. We are currently reviewing alternatives to identify the best way to accomplish this.

4. **Question:** Should State policymakers consider whether the proposed legislative changes to authorize prison industry alternatives adequately address the need for representation from industry and organized labor? Should they also consider the need to involve the Commissioner of Labor, Chairman of the Empire State Development Corporation and other officials to help ensure compliance with Federal laws prohibiting job displacement, requiring prevailing wages, and requiring formal consultation with business and labor interests?

Response: Same response to question #3.

5. **Question:** How can State policymakers best ensure a comprehensive review and evaluation of the public policy issues posed by the impact of private industry involvement with inmate labor, in a manner that involves all interested parties and stakeholders?

Response: We are sensitive to the concerns of organized labor and others when we establish any correctional industries program. The PIE certification process requires documentation that organized labor and private-sector business interests be consulted before any program is certified. There are a number of alternatives to insuring that a comprehensive review and evaluation of the public policy issues posed by the impact of private industry involvement with inmate labor has involved all of the stakeholders. For example, we operate our construction and asbestos abatement enterprises under a formal agreement with organized labor. Before implementing a PIE program, we will review all of these alternatives and determine which works best in New York.

6. **Question:** What is the best way for State policymakers to properly plan, develop and implement prison industries enhancement programs in order to help prevent negative impacts on existing business and labor interests, such as job losses, business failures, and downward pressure on wages?

Response: PIE certification requires that inmates be paid the prevailing wage. In addition, as we discuss in our answer to question #5, the certification process also requires consultation with organized labor and private-sector businesses. We will review and benchmark how other jurisdictions have addressed these issues to determine what is the best approach for New York.

7. **Question:** Should Department management do a detailed study of current developments in other state prison industries programs to determine the best practices available for use in any proposed alternative prison industries program?

Response: While we are knowledgeable about what other jurisdictions are doing, once we have the authority to proceed with the PIE program, we will undertake a detailed study of other jurisdictions to determine the best practices for use here in New York.

8. **Question:** If alternatives to current industries operations are deemed beneficial, should Department management develop a best practices approach to organizing, structuring, and overseeing the most appropriate program for New York to help ensure that proper business decisions are made by the private sector and government before joint ventures are undertaken?

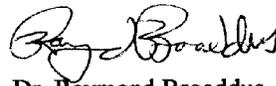
Mr. William P. Challice

-5-

December 5, 1997

Response: Similar to the response to question #7, we believe that developing a best practices approach makes sense to insure that potential private-sector participants make the proper business decisions before joint ventures are undertaken. This is in keeping with our commitment to using total quality practices and techniques that have been successful in government and the private sector.

Sincerely,



Dr. Raymond Broaddus
Deputy Commissioner

cc: Glenn S. Goord
Stephen Bernardi
Joseph Ostrowidzki
Donald Felter
John Conroy