

## Public and private sector partnerships in prison industries and offender employment

Since the early 1980s, inmate populations have grown at an unprecedented rate. For example, the U.S. federal prison population has nearly tripled in the past decade, from 32,000 in 1984 to 90,000 in 1995.

Prison industries have, as a result, become an indispensable program for correctional administrators-both in meeting their short-term goal of maintaining order in overtaxed correctional facilities and in meeting their long-term goal of eventually keeping offenders gainfully employed. The courts have also entered orders requiring meaningful offender work in situations where a correctional system has been found to be in violation of the Eighth Amendment (cruel and unusual punishment).

However, several difficulties have arisen in attempts to expand correctional industries, such as the limited availability of (or access to) funding and the need for research into new products and markets. One way correctional industries have chosen to meet these challenges is by involving the private sector.

This article discusses how the private sector is becoming involved in correctional industries, and examines the benefits and risks of such a partnership. Most important, the article then sets out guidelines for the effective planning and successful operation of such a "merger."

**Private sector involvement** The private sector can be involved in prison industries at several levels. At the most basic level, government organizations have long attempted to model their operations after the private sector and to recruit staff expertise from non-governmental employers.

Prison industries have, therefore, been given the tools to run more "business-like" operations, such as the authority to borrow money, flexibility in purchasing, and leeway in hiring and paying staff.

Prison industries have also begun to hire staff with industrial backgrounds (from management to the production floor) and to rely more on outside business expertise.

On a more direct level, private sector companies now completely manage and operate numerous Prison Industry Enhancement projects certified by the U.S. Department of Justice.<sup>(2)</sup> Similarly, the state of Florida has (since 1984) allowed a quasi independent corporation to manage the state's prison industries.

One variation on this theme involves partnership or "teaming" agreements between prison industries and private firms. Such partnerships combine prison industries' supply of inmate labour and access to the government market with the technical expertise of private sector firms.

**The benefits and risks of partnership** There are several potential benefits of such partnerships for correctional industries:

- increased sales potential and, therefore, the potential for more inmate jobs;
- a real-world work environment for inmates;
- reduced financial risk;
- improved access to specialized skills (such as engineering and marketing skills);
- any public relations benefits generated by the effort to work with the private sector;
- the ability to establish innovative facility operations; and

- product name recognition.

Private sector firms also obtain benefits from such an arrangement, such as reduced labour costs, access to government markets, an available workforce for evening shifts, and access to ready-to-use factory space. In short, the potential exists for a "win-win" situation for both parties.

However, partnerships create many challenges and should not be underestimated. The risks for correctional agencies would likely include:

- the significant investment of time, energy and resources involved in planning;
- at least some loss of control over correctional industries;
- potential failure;
- recruitment of an unworthy partner; and
- complaints from firms not selected for partnership.

The parameters for a partnership program In pursuing and maintaining a partnership, it is vital to thoroughly understand the responsibilities and obligations of both parties.

As such, a marketing plan should be carefully laid out-particularly when the responsibilities for marketing the product are shared by the correctional industry and its private sector partner. Related questions include who is responsible for trade shows and product literature, and whether training will be provided for sales representatives.

With the exception of existing orders, all government agency customer contacts made by the private sector partner should be made on behalf of, and as a marketing representative for, prison industries. However, their marketing approach should avoid characterizing prison industries as the mandatory source for government products. The preferred approach is that customers buy from us because they want to for reasons of price, quality and service, not because they have to.

It must also be made very clear how labour, material, marketing, training and overhead costs will be shared. Along the same lines, the sharing of earnings must be specified. Earnings can be shared through either a flat fee or on a percentage of profits basis.

The sharing of capital expenses for equipment should also be determined beforehand, based on the product selected, the risks assumed by each party and projected earnings.

It is likely, at least during the initial stages of a partnership, that a prison industry operation will suffer financial losses, and most private contractors are not prepared to subsidize losing operations for long. Long-term success will, therefore, often depend on selecting a contractor willing to absorb start-up costs and tolerate some degree of financial uncertainty.

The control of inmate hiring, firing and work hours should be clearly specified, as should lines of authority and reporting responsibilities. Contractors should also be required to pay inmates at rates established for prison industries and to meet all reporting requirements in this area.

As for on-site management, the contractor may well provide production supervisors, requiring just minimal supervision from correctional industry staff. However, the contractor's staff should have to undergo processes such as a background investigation, a drug test and institutional familiarization training.

Finally, production levels must be carefully negotiated, particularly when the product is being produced at another plant. Correctional agencies must be careful to avoid or minimize competition and comparison with a contractor's other facilities or products.

The Federal Prison Industries model Federal Prison Industries and its partners share common goals-to provide customers timely delivery of quality products at competitive prices. To this end, Federal Prison Industries and its partners share both the benefits and the risks involved in doing business.

As such, Federal Prison Industries enters into long-term contracts, ensures a minimum level of business, and looks to its partners first to provide additional products.

In exchange, partners agree to contribute to the success of Federal Prison Industries' product group by providing research and development into related new products and technical support. The partners also help Federal Prison Industries produce the components for their products by providing technical drawings and their knowledge of equipment and technology.

Further, the partners help Federal Prison Industries remain competitive in its market niches by continually modernizing and enhancing product lines, modifying prices as needed and sharing cost information. They also help maintain inventory at the minimum levels sufficient to meet increasingly narrow industry turnaround times.

In general, both sides are committed to continued open communications at all levels. This is achieved by sharing all information relating to the items or program under contract.

Federal Prison Industries has had mixed success with private sector partnerships to date. Current successful partnerships include one to manufacture architectural signs and another to re-manufacture laser toner cartridges.

There have also been failures. A data processing facility at a federal prison in New Jersey failed because of an inadequate marketing plan. In another case, no bids were received on a potential partnership to manufacture envelopes due to bidder unwillingness to assume the required high level of financial risk. Critical planning areas In pursuing the development of a partnership, 10 points should be carefully addressed in the planning process:

- determine the product and location of the venture;
- designate a main point of contact;
- determine what resources can be made available to the private firm;
- thoroughly evaluate potential private sector partners;
- develop a working relationship with the partner and understand each other's needs;

- be truthful at all times;
- develop a well-thought-out and detailed plan before the contract is signed;
- establish an implementation timetable;
- tightly define parameters (what's in, what's out) and put agreements in writing; and
- plan now for the end of the contract by including a "phase-out" provision and even an "opt-out" clause for cases where both parties agree that the partnership does not work.

Another critical area for discussion in negotiating a contract with a private sector partner is the financial strength of the firm. It is important that the partner be financially stable enough to have the resources required for startup and regular cash flow.

The way of the future? As we look to the future, it is clear that correctional industries will continue to play a major role in the safe and effective management of our crowded correctional facilities. It is equally clear that prison industries will increasingly look to the private sector to help find solutions to its expansion needs.

Although partnerships with the private sector are not the sole answer to the challenges facing prison industry administrators, they do appear to have a place in the overall picture. Although many challenges and investments are necessary to develop a successful partnership, the outcome can be very rewarding.

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<sup>(1)</sup>320 First Street NW, Washington, D.C. 20534. Opinions expressed in this article are those of the author and do not necessarily represent the opinions or policies of the U.S. Federal Bureau of Prisons or the U.S. Department of Justice.

<sup>(2)</sup>Legislation enacted in 1977 allows for up to 50 Prison Industries Enhancement projects to be certified by the Department of Justice. These industries are then exempt from laws preventing prison-made goods from entering interstate commerce.