

Prison Industry Enhancement Certification Program (PIECP) Compliance Guide

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The PIECP Compliance Guide is a resource for PIECP Certificate Holders. Although the PIECP Compliance Guide does not replace or amend the [1999 PIECP Guideline](#), it provides additional information for PIECP Certificate Holders.

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DEFINITIONS

Benefits refer to inmate benefit coverage required by [18 U.S.C. 1761\(c\)\(3\)](#). PIECP projects must provide inmate workers with appropriate benefits comparable to those made available by the federal or state government to private sector employees. The scope of the appropriate benefits coverage is impacted by whether the Cost Accounting Center is structured as an employer or customer model and whether the inmate labor work force is controlled by a public agency or the private sector.

BJA refers to the Bureau of Justice Assistance within the Office of Justice Programs, U.S. Department of Justice.

Certificate Holder refers to a department of corrections, or an alternate umbrella authority, which is approved by BJA for PIECP Project certification. Certificate Holders assume monitoring and designation responsibilities with respect to their designated Cost Accounting Centers. All PIECP prisoner-made goods are produced within Cost Accounting Centers that a Certificate Holder designates within itself, private prisons located in the same state or jurisdiction, or, in the case of an umbrella authority, within its membership agencies.

Certification refers to an exercise of BJA's discretionary authority to designate a Prison Work Pilot Project pursuant to [18 U.S.C. 1761\(c\)](#). BJA may issue either standard or provisional certifications to applicant projects. BJA-certified projects are exempted from certain federal marketability restraints on the transport of prisoner-made goods in interstate commerce, as described in [18 U.S.C. 1761\(a\)](#), and sales to the federal government in excess of \$10,000, as described in [41 U.S.C. 35](#).

Chief State Correctional Officer refers either to the highest correctional officer for the jurisdiction in which the certified work pilot project is located or, with respect to umbrella authorities that control PIECP Cost Accounting Centers within a mix of state and local jurisdictions, the authorities themselves.

Cost Accounting Center (CAC) refers to a distinct PIECP goods production unit of the correctional industries system that is managed as a separate accounting entity under the authority of a Certificate Holder. All PIECP production activities are conducted within the context of a designated CAC that, generally, is structured either as a customer or employer model for purposes of determining PIECP inmate benefits. All CACs must operate in compliance with the provisions set forth in [18 U.S.C. 1761\(c\)](#) and this Guideline.

CAC Re-designation is the act of modifying a CAC to accommodate changes in CAC operations that do not require a new CAC designation.

CAC Un-designation refers to a Certificate Holder terminating the designation status of a CAC. As of the effective date of the CAC un-designation, the Certificate Holder may not operate the CAC under its PIECP Certification.

Customer Model is one of three forms of a PIECP CAC management structure. In this model, the private sector is engaged in a CAC enterprise only to the extent that it purchases all or a significant portion of the output of a prison-based business owned and operated by a governmental entity, political subdivision, or an instrumentality thereof. The private sector partner assumes no major role in industry operations, does not direct production, and has no control over inmate labor. These functions are performed, rather, by a department of corrections.

Deductions. CACs may elect to take deductions from a PIECP Inmate Worker's wages for certain authorized items. Deductions from PIECP inmate gross wages, if taken, may be made only for those items specified in [18 U.S.C. 1761\(c\)\(2\)](#), including payment of taxes, reasonable charges for room and board, allocations for family support, and contributions to any funds established by law to compensate victims of crime (no less than 5 percent and no more than 20 percent). In no event may a PIECP Inmate Worker's total deductions exceed 80 percent of gross wages, and each and every PIECP Inmate Worker must agree, in advance, to all deductions from their gross wages.

Department of Corrections refers to a state or local governmental entity or a political subdivision or instrumentality thereof, including not-for-profit entities, which are legally sanctioned by state legislatures to administer prison industries.

Department of Economic Security (DES) refers to the agency with the authority to set wages in the state where a CAC is located. DES may also be known as the state Department of Labor, Department of Workforce Development, or Department of Employment Security.

Designation is an exercise of a Certificate Holder's discretionary authority to bring a CAC within its certified PIECP Project. This exercise of authority extends the PIECP exception status to and imposes compliance requirements on the CAC operating within the certified PIECP Project.

Displacement occurs when CAC operations result in the displacement of employed workers; are applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or significantly impair existing contracts. Displacement also refers to the inappropriate transfer of private sector job functions to PIECP Inmate Workers.

Employer Model is one of three forms of a PIECP CAC management structure. In this model, the private sector owns and operates the CAC by controlling the hiring, firing, training, supervision, and payment of the inmate work force. The department of corrections assumes no major role in industry operations, does not direct production, and exercises minimum control over inmate labor performance. These functions are performed and managed by a private sector entity.

Goods include tangible items, wares, and merchandise.

Locality means the geographic area impacted by the presence of a PIECP CAC operation. For PIECP CACs, locality is important for: determining inmate wages, providing consultation to appropriate labor and private sector organizations, and determining whether a PIECP CAC operation will displace the private sector labor force. All locality determinations must be documented as part of a Notice of Designation. As used in the calculation of CAC wage rates, locality is usually defined by the appropriate state agency that normally determines wage rates (i.e., the State Department of Economic Security).

Manpower Model is one of three forms of a PIECP CAC management structure. In this model, which is essentially a labor-leasing model considered by BJA to be a subtype of the customer model, a pre-determined fee covering labor, overhead, and profit is paid by the private sector entity to the prison industry.

Minimum Wage refers to the federal minimum wage, which is the lowest possible wage that can be paid to private sector employees under the Fair Labor Standards Act, 29 U.S.C. 206. Any special wage program, excepted by law from the minimum wage requirement in the private sector, may be used by a PIECP CAC as long as the CAC meets the same program participation conditions as private sector participants. The requisite payment of at least a minimum wage by a CAC is in no way intended by BJA to imply that PIECP Inmate Workers are employees for purposes of the PIECP statute or any other federal law.

Monitoring refers to the process of examining Prison Work Pilot Project activities to ensure continuing compliance with [18 U.S.C. 1761\(c\)](#) and this Guideline. It includes, at a minimum, BJA's receipt and analysis of performance reports and onsite CAC monitoring visits by BJA, BJA contractors, and Certificate Holders.

NEPA means the National Environmental Policy Act, Public Law 91-190, 83 Stat. 852 (1970) (codified as amended at [42 U.S.C. 4321-4347](#); implemented under 40 C.F.R. pt. 1500).

Participation means engaging in the activities and operations of an [18 U.S.C. 1761\(c\)](#) excepted PIECP Project.

PIECP means the Prison Industry Enhancement Certification Program as authorized by [18 U.S.C. 1761\(c\)](#).

PIECP Exception Status. Any PIECP Project that produces prisoner-made goods pursuant to [18 U.S.C. 1761\(c\)](#) is excepted from certain federal restraints imposed on the marketability of prisoner-made goods, including [18 U.S.C. 1761\(a\)](#) and [41 U.S.C. 35](#).

PIECP Inmate Worker is a convict or prisoner who performs notable tasks necessary to produce or transport goods in interstate commerce and for a Prison Work Pilot Project certified under [18 U.S.C. 1761\(c\)](#). The PIECP Inmate Worker benefits by receiving training and work experience.

Prevailing Wage is a wage rate that is not less than that paid for work of a similar nature in the locality in which the work is to be performed, as required by [18 U.S.C. 1761\(c\)\(2\)](#).

Prison Industry means an organized utilization of inmate labor to produce goods or render services.

Prison Work Pilot Project (PIECP Project) refers to 1 of 50 nonfederal Prison Work Pilot Projects that may be designated by the Director of BJA under [18 U.S.C. 1761\(c\)](#). This term encompasses the operations of the Certificate Holder's designated CAC(s). Any Prison Work Pilot Project may consist of one or more CACs.

Prisoner includes prison and jail inmates, convicts, and incarcerated juvenile offenders, but does not include prisoners on parole, probation, or supervised release. Title [18 U.S.C. 1761\(a\)](#) does not regulate the transport of goods produced by prisoners on parole, supervised release, or probation.

Prisoner-Made Goods include all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners (except convicts or prisoners on parole or probation).

Production is the forming of new marketable goods or transformation of marketable goods. The term includes mining and manufacturing, but excludes services.

Provisional Certification is issued by BJA in instances where an applicant has not yet come into full compliance with all PIECP requirements, but such compliance appears imminent. It entitles the holder to PIECP exception status for an identified period of time, may be made contingent upon the occurrence of identified conditions, and may or may not be renewed by BJA.

Split Wage occurs when wage payments to PIECP Inmate Workers are made at one rate for PIECP products and at another rate for non-PIECP products.

Standard Occupational Classification (SOC) Codes are used by federal agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data.

Statutory Exception Status refers to a prison industry that meets the statutory requirements set forth in [18 U.S.C. 1761\(b\)](#), and is thereby entitled to an exception from the prohibition set forth in [18 U.S.C. 1761\(a\)](#).

Umbrella Authority refers to a type of Certificate Holder that is authorized by law to administer a PIECP Project and consists of state and/or local departments of correction located within the same state. A certified umbrella authority may designate CACs within its membership agencies, as well as within members' private prisons, and assumes responsibility for monitoring CAC compliance.

PIECP ADMINISTRATION

1. Certificate Holders

Eligibility:

All departments of correction and juvenile justice agencies authorized by law to administer prison industry programs are eligible to apply for PIECP certification.

Obtaining PIECP Certification Materials/Application:

Interested applicants may contact the Bureau of Justice Assistance (BJA) to obtain a PIECP Certification Application. Please see below for BJA's contact information:

Bureau of Justice Assistance

Phone: 202-616-6500

Email: AskBJA@usdoj.gov

Website: <https://bja.ojp.gov/>

Certification Application Process:

An eligible, prospective Certificate Holder should submit a completed [Certification Application](#) to BJA. BJA and the PIECP Training and Technical Assistance Provider will review the application, and BJA will provide a final determination regarding application approval and certification.

Following BJA's approval of a Certificate Holder's application, BJA will send the applicant a written Notice of Certification. The Chief State Correctional Officer must sign the Notice of Certification and return it to BJA. BJA will then provide the Certificate Holder with the PIECP Certificate. The Certificate Holder should keep the Notice of Certification and the PIECP Certificate on file during the duration of PIECP activity and through the end of the 12th month following termination of the PIECP Certificate.

Certificate Categories:

There are two PIECP Certificate Categories:

- (1) Single Agency – The Certificate Holder is authorized by law to hold a PIECP Certificate for a single federal, state, or local department of correction. A single agency Certificate Holder may designate Cost Accounting Centers (CACs) only within its own department of correction.

- (2) Umbrella Authority – The Certificate Holder is authorized by law to hold a PIECP Certificate for a state and/or multiple local departments of correction located within the same state. A certified umbrella authority may designate CACs within its membership agencies (state and/or multiple local departments of correction) and within private prisons operated on behalf of the Certificate Holder, and it assumes all responsibility for monitoring CAC compliance.

Other Notification/Reporting Requirements:

The following circumstances, which may affect a Certificate Holder's continued compliance or eligibility, require written notification to BJA and the PIECP Training and Technical Assistance Provider:

- (1) CAC re-designation
- (2) CAC un-designation
- (3) Changes in deductions, benefits, and/or voluntary participation
- (4) Notification from the state Department of Economic Security (DES) of any displacement or wage issues
- (5) Changes in legislation or regulation that may affect the Certificate Holder's continued compliance or eligibility in PIECP
- (6) Any change to the Certificate Holder's program or CAC that the Certificate Holder believes affects continued compliance

Any of these notifications may require additional action on the part of the Certificate Holder in order to maintain PIECP compliance.

PIECP Certification Termination:

BJA may terminate a Certificate Holder's PIECP Certification if the Certificate Holder is found to be out of compliance with any of the program's mandatory criteria and unwilling or unable to reach compliance within a reasonable period of time, or if, without reasonable cause, the certificate was inactive for more than 6 consecutive months.

2. Cost Accounting Centers

Cost Accounting Center Designation:

BJA defines Cost Accounting Center (CAC) Designation as an exercise of a Certificate Holder's discretionary authority to bring a CAC under its PIECP Certificate. This exercise of authority extends the PIECP exception status to and imposes compliance requirements on the CAC identified as operating under the PIECP Certificate. Certificate Holders are required to file a [CAC Designation Application](#) with BJA and the PIECP Training and Technical Assistance Provider each time a PIECP CAC is established. CAC Designation Applications may also be obtained from BJA or the PIECP Training and Technical Assistance Provider.

Following BJA's approval of a CAC Designation Application, BJA will send the Certificate Holder a CAC approval letter. Upon receipt of the CAC approval letter, the CAC may begin operation. This written notification should be kept on file by the Certificate Holder while the CAC is designated and at least through the end of the 12th month following CAC un-designation.

CAC Models:

There are three CAC models:

- (1) The **Customer Model** is a form of a PIECP CAC management structure. In this model, the private sector partner is engaged in a CAC only to the extent that it purchases all or a significant portion of the output of a prison-based business operated by the Certificate Holder. A Customer Model private sector partner assumes no major role in the prison industry operations, does not direct production, and has no control of the PIECP Inmate Workers. These functions are performed by the Certificate Holder.
- (2) The **Manpower Model** is a form of PIECP CAC management structure that is a labor-leasing model, considered by BJA to be a subtype of the Customer Model for benefit determination purposes. The private sector partner pays a pre-determined fee covering labor, overhead, and profit to the Certificate Holder.
- (3) The **Employer Model** is a form of a PIECP management structure. In this model, the private sector partner operates the CAC by controlling the hiring, firing, training, supervision, and payment of the PIECP work force. The Certificate Holder assumes no major role in industry operations, does not direct production, and exercises minimum control of PIECP Inmate Worker performance. These functions are performed by the private sector partner.

Determining Whether a Given Correctional Industry Activity Should Be Designated as a PIECP CAC:

It is the responsibility of the Certificate Holder to determine whether a given activity should be designated as a PIECP CAC. When making such determination, consider, among other factors, the following:

- *Is a statutory exception applicable under [18 U.S.C. 1761\(b\)](#)?*

The following prisoner-made items are excepted from the prohibition set forth in [18 U.S.C. 1761\(a\)](#):

- o Parts for the repair of farm machinery.
 - o Commodities manufactured in a federal, District of Columbia, or state institution for use by the U.S. Federal Government, or by the District of Columbia, or by any state or political subdivision of a state or not-for-profit organization. This exception is intended to inure to the benefit of the public.
 - o Agricultural commodities grown or cultivated on a farm that retain continuing substantial identity through the processing stages, if any. In making the determination as to whether a processing stage changes a product from an agricultural commodity to a manufactured commodity, a relevant consideration is whether the processing is incidental or ancillary to agricultural commodity growth and/or cultivation. If the processing is incidental or ancillary in nature and is commonly undertaken by agricultural enterprises, then it would likely fall within the scope of the statutory exception.
- *Could the contemplated activity trigger [18 U.S.C. 1761\(a\)](#) by resulting in a production of goods by prisoners in any penal or reformatory institution?*

The production of goods, which is regulated by [18 U.S.C. 1761\(a\)](#), must be distinguished from inmate services, which are not regulated by the criminal prohibition. The following factors are relevant in determining whether a given activity results in the production of prisoner-made goods:

- o Has a tangible item been produced, manufactured, or mined?
 - o Has a tangible item been formed or transformed?
 - o Has the activity resulted in the creation of property or in a new, marketable item?
- *Could the contemplated activity trigger [18 U.S.C. 1761\(a\)](#) by resulting in a post-production interstate transportation of prisoner-made goods?*

- o Will there be transportation of prisoner-made goods into the flow of interstate commerce (i.e., across state lines or from a foreign country into the United States)?
- o Is there a commercial economic enterprise present?

Circumstances Requiring the Re-designation of a CAC:

The Certificate Holder must designate or re-designate a CAC when:

- A different product is to be produced than the product(s) currently designated.
- A CAC is moved to a new location (not necessarily a new “locality”).
- Additional components or processes are being added to an existing CAC that potentially have environmental impact.

The Certificate Holder should notify BJA and the PIECP Training and Technical Assistance Provider if it intends to make a new National Environmental Policy Act (NEPA) categorical exclusion request, notify local labor or local private industry of changes in the PIECP CAC, or if the Certificate Holder receives a negative displacement ruling from the Department of Economic Security (DES) for the state where the CAC is located. Any of these actions could trigger a new decision as to the compliance status of the CAC in question.

Quarterly Report Requirements:

Certificate Holders must submit quarterly data reports to the PIECP Training and Technical Assistance Provider. The Certificate Holder must submit a [Certificate Holder Quarterly Consolidated Report](#) and a [CAC Quarterly Statistic Report](#) for each CAC designated by the Certificate Holder.

Each Certificate Holder must submit the reports within 30 days following the close of each calendar quarter. The last days of each calendar quarter are:

- 1st Quarter – March 31
- 2nd Quarter – June 30
- 3rd Quarter – September 30
- 4th Quarter – December 31

CAC Compliance Monitoring – Effective Monitoring Plan:

An Effective Monitoring Plan is an optional self-assessment conducted by the Certificate Holder on an annual basis. The plan includes monitoring specific compliance areas such as wages, benefits, deductions, voluntary participation, and NEPA. Effective Monitoring Plan forms and outlines are provided by the PIECP Training and Technical Assistance Provider.

CAC Compliance Monitoring – Assessments:

CACs are monitored for compliance by the PIECP Training and Technical Assistance Provider, at the request of BJA, on a periodic basis, either through an onsite assessment or an off-site desk assessment. BJA, at its discretion, may direct the PIECP Training and Technical Assistance Provider to conduct an ad-hoc assessment of any Certificate Holder or CAC at any time.

BJA reviews some or all CACs operated by a Certificate Holder to ensure the mandatory requirements are being met. If any CAC is operating in a state of non-compliance, BJA will develop a compliance plan for the Certificate Holder to complete in order to bring the CAC back in compliance with the mandatory requirements. BJA will also determine a timeframe and deadline for compliance plan completion. If the Certificate Holder fails to complete the compliance plan within the determined timeframe, BJA may suspend or terminate the Certificate Holder's PIECP Certificate.

Following the completion of an onsite assessment or off-site desk assessment, BJA will send the Certificate Holder written notification that its CAC(s) has met the PIECP mandatory program criteria and may continue to operate. This written notification should be kept on file by the Certificate Holder while the CAC is designated and at least through the end of the 12th month following CAC un-designation.

Designation of a New CAC when in a State of Non-Compliance Following an Assessment:

If the Certificate Holder is appealing a non-compliance finding, then BJA will allow the Certificate Holder to designate a new CAC. However, once the Certificate Holder agrees to a compliance plan resulting from a non-compliance finding, then the Certificate Holder may not designate a new CAC until the compliance plan has been completed and BJA sends written notification that the Certificate Holder is in full compliance.

CAC Un-designation:

The Certificate Holder may un-designate a CAC by submitting a [CAC Un-designation Form](#) (provided by BJA or the PIECP Training and Technical Assistance Provider). Please note that Certificate Holders should keep all records related to the continued compliance of this CAC on file for at least 12 months following un-designation.

COMPLIANCE GUIDANCE

1. Prevailing Wage/Displacement

Prevailing Wage Determination – Department of Economic Security Wage Determination Request:

The Certificate Holder must request a prevailing wage determination from the Department of Economic Security (DES) for the state where the CAC is located prior to CAC startup. Certificate Holders must request, receive, and update their prevailing wage determination annually thereafter (on or before the anniversary of the previous wage update).

A Certificate Holder's DES Wage Determination Request should include the following:

- (1) CAC name and location.
- (2) Identify that the CAC is operating under the PIECP authorized by [18 U.S.C. 1761 \(c\)](#) and notify DES that the CAC is required to obtain wage data from DES that will not result in the displacement of employed workers performing similar work in the relevant locality.
- (3) Standard Occupational Classification (SOC) Codes (and attached job descriptions that list all notable tasks, job duties, and responsibilities for each SOC Code utilized).
- (4) Request that DES provide the 10th percentile wage for each SOC Code utilized. **IMPORTANT:** The Certificate Holder should also state that the DES may provide a wage higher than the 10th percentile for any SOC Code if the DES determines that a higher wage is necessary to prevent the displacement of employed workers performing similar work in the relevant locality.
- (5) Request approval of a training wage/period (if applicable).
- (6) Request to approve the locality definition utilized by the CAC.

A sample DES Wage Determination Request is included with the [CAC Designation Application](#).

Prevailing Wage Determination – DES-approved PIECP Wage:

BJA defers the determination of the prevailing wage to the DES for the state where the CAC is located. BJA requires that wages for PIECP Inmate Workers not fall below the 10th percentile.

CACs may pay a wage that exceeds the 10th percentile. If the DES for the state where the CAC is located provides a prevailing wage that is higher than the 10th percentile wage, the Certificate Holder would be required to pay the higher wage. In no case, however, can the wage fall below the federal or state minimum wage, whichever is higher. Federal or state minimum wage means the lowest possible wage that can be paid to private sector employees under the Fair Labor Standards Act, [29 U.S.C. 206](#).

BJA also defers defining “locality” for each CAC to the DES for the state where the CAC is located. The Certificate Holder should seek approval from the DES for the locality definition utilized in the wage request.

DES Refusal to Provide a Wage Verification:

If the state DES refuses to provide a wage verification, the Certificate Holder may provide BJA with written proof of the DES’s denial and obtain approval from BJA to self-determine the appropriate prevailing wage. In such instances, BJA may approve the use of state-provided wage tables (if available) or the U.S. Department of Labor (USDOL) Occupational Employment Statistics (OES) wage tables.

If such approval is granted by BJA, the Certificate Holder should keep on file for BJA’s review:

- (1) Written denial by the DES to provide a wage verification and all communication from the Certificate Holder to the DES requesting the wage verification.
- (2) Wage data from either state DES wage tables or USDOL OES wage tables that were in effect at the time of CAC designation, and annually thereafter.

Split Wages:

A Certificate Holder may use a split wage in a given CAC that manufactures its products for both the traditional correctional industries market and for sale on the open market in interstate commerce. In a split wage CAC, the PIECP Inmate Worker receives the DES-approved PIECP wage for hours worked on PIECP products and a traditional wage for hours worked on non-PIECP products.

The Certificate Holder must develop written documentation of the split wage that includes:

- The criteria utilized for selecting offenders to receive PIECP wages
- How the split wage is calculated and tracked

This written documentation of the split wage should be shared with PIECP Inmate Workers.

Acceptable methods for determining the split wage include:

- Percentage of Sales – The CAC calculates the percentage of sales for PIECP and non-PIECP products and uses the same percentages to determine the number of hours to be paid at the DES-approved PIECP wage rate and the traditional wage rate. For example, if the percentage of sales split for the CAC is 70 percent PIECP/30 percent traditional, then the hours worked would be split with 70 percent paid at the DES-approved PIECP wage rate and 30 percent paid at the traditional wage rate.
- Split Shop – Workers are divided into traditional workers (who work on non-PIECP products and earn a traditional wage) and PIECP Inmate Workers (who work on PIECP products and earn the DES-approved PIECP wage).
- Specific Product/Order – A PIECP Inmate Worker receives the DES-approved PIECP wage when working on a PIECP product/order and receives the traditional wage when working on a non-PIECP product. The CAC may track product types (PIECP vs. non-PIECP) using product tags or order sheets, and may track hours worked via separate timecard, spreadsheet, or other tracking method.

Piece Work Wages:

A piece work wage is a wage based upon an individual production rate as measured by the number of products produced in a given period of time. It may not fall below the federal or state minimum wage (whichever is higher).

When using a piece work wage, Certificate Holders should perform a standard hourly wage analysis to determine if the wage plan is designed such that a majority of the workers in the CAC meet or exceed the DES-approved PIECP wage. If less than half the workers are paid an actual hourly wage below the DES-approved PIECP wage, then the CAC is not in compliance. For each PIECP Inmate Worker paid an actual hourly wage below the DES-approved PIECP wage, the CAC must identify PIECP Inmate Worker performance variances as justification for the lower wage rate or provide appropriate back wages. In no case may a PIECP Inmate Worker be paid less than the federal or state minimum wage, whichever is higher.

Training Wages and Periods:

A CAC utilizing a wage less than the 10th percentile for a limited training period must have written justification for the training period and the training wage at the time of CAC designation. Like all PIECP wages, this training wage would also need to be verified during each annual wage update. Ideally, the DES for the state where the CAC is located will provide or approve this information for the Certificate Holder upon request.

However, if the DES will not provide this information, then the Certificate Holder will be responsible for providing BJA with documentation showing relevant training times for similar operations in the state where the CAC is located. Examples of acceptable documentation may include training wages/ periods utilized by the CAC's private partner, industry data validating a training wage and period for similar operations, or suggested training wages and time periods from government resources such as USDOL's [O*NET](#), which contains hundreds of standardized and occupation-specific descriptors on almost 1,000 occupations covering the entire U.S. economy. The database, which is available to the public at no cost, is continually updated with input by a broad range of workers in each occupation.

Tracking the Training Wage/Period:

Acceptable methods for tracking the training wage/period include:

- By hours accumulated while working in the CAC (e.g., 480 hours)
- By days/months working in the CAC (e.g., 90 days; 3 months)
- Graduated tracking – the Certificate Holder may also use a graduated tracking method where the training wage increases in incremental intervals, based on hours, days, or months worked in the CAC, as illustrated below:
 - o Training period 1 = \$7.25 for the first 480 hours worked in the CAC
 - o Training period 2 = \$8.00 for the next 480 hours worked in the CAC
 - o Training period 3 = \$9.20 for the final 480 hours worked in the CAC
 - o After completion of 1,440 hours worked, the PIECP Inmate Worker will be earning the DES-approved PIECP wage.

The DES must approve the training wage/period tracking method prior to CAC designation and annually thereafter.

Training Wage/Period Tracking Documentation:

The Certificate Holder must provide written documentation that tracks the hours/days worked and the training wage earned for each PIECP Inmate Worker while in training.

Training Wage/Period Completion:

PIECP Inmate Workers must earn at least the 10th percentile wage upon completion of the approved training. PIECP Inmate Workers who complete the approved training must have their wages verified by the DES annually.

State Training Wage Laws and Exceptions:

The Certificate Holder may use a state training wage law or exception to pay a wage that is lower than the federal minimum wage or state minimum wage, but only if this state training wage exception is also available to private employers within the state where the CAC is located.

Standard Occupational Classification Codes:

All PIECP work and notable tasks must be classified by Standard Occupational Classification (SOC) Codes.

PIECP Inmate Workers should be classified using the one SOC Code that best matches their job description and the job duties/notable tasks performed for the majority of their time working in the CAC. For example, if a PIECP Inmate Worker performs the job duties of a welder for most of the time worked in the CAC, but also works as a forklift operator, the SOC Code for welder should be utilized.

At the initial wage verification (prior to CAC designation) and at every annual wage verification thereafter, the Certificate Holder must provide the SOC Codes its CAC is utilizing to the DES for the state where the CAC is located. If the Certificate Holder does not have SOC Codes, it may provide the notable tasks performed and request the appropriate SOC Codes from the DES for the state where the CAC is located.

The DES will use these SOC Codes when determining the appropriate prevailing wage.

SOC Code Misclassification:

Minor misclassifications due to clerical errors may be fixed by assigning the correct SOC Code. However, if during an assessment (or at any other time), the assessor or BJA determines that there is a systematic issue with the assignment of SOC Codes and the payment of the correct DES-approved PIECP wage, then generally, BJA will develop a compliance plan to ensure that the proper SOC Code is assigned to each PIECP Inmate Worker.

Notable Tasks:

A notable task is a discreet job function necessary for PIECP production and is performed by comparable private sector workers. Notable tasks may also include indirect work (such as janitorial, office support, shipping, plant/equipment maintenance, etc.).

Any inmate (that is not already assigned an SOC Code) who is performing a notable task that requires 2 or more hours per week to complete (by one worker or by multiple workers on a cumulative basis) must be assigned an SOC Code and receive the DES-approved PIECP wage for the hours when the PIECP Inmate Worker performed the notable tasks.

Determining “Cumulative Basis” in Order To Meet the 2 Hour per Week Threshold:

If any inmate (that is not already assigned an SOC Code) is performing a notable task for 2 or more hours per week or if multiple workers perform the notable task for more than 2 hours per week on a cumulative basis, then each worker performing the notable task must receive the DES-approved PIECP wage assigned to the SOC Code covering that notable task for those hours performing it. An example of calculating the cumulative basis is as follows: If there are three workers performing the notable task for 1 hour each week, then 3 hours performing the notable task have accumulated (exceeding the 2-hour threshold), and each of the three workers performing the notable task must be paid the DES-approved PIECP wage assigned to the SOC Code covering that notable task for those 3 hours.

Overtime:

Overtime must be paid at time-and-a-half for work in excess of 40 hours per week.

Back Wage Calculations and Payments:

If it is determined that a PIECP Inmate Worker was paid at a rate below the DES-approved PIECP wage (or DES-approved training wage), BJA will require that back wages be paid. In determining appropriate back wage amounts, the Certificate Holder should calculate the difference between the DES-approved PIECP hourly wage (or DES-approved training wage) and the actual hourly wage paid to each PIECP Inmate Worker. Back wages should be calculated for every payroll period falling within the period of non-compliance. The total amount of back wages that must be paid equals the cumulative amount of unpaid wages for all payroll periods that fall within the non-compliance time frame.

Regardless of the CAC models in place within the Certificate Holder, BJA holds the Certificate Holder as ultimately responsible for complying with the PIECP wage requirements. The back wage amount must be paid within 90 days of the date when BJA approves the Certificate Holder’s back wage amount. If the Certificate Holder continues to operate in non-compliance, after being informed of instances of non-compliance with the PIECP wage requirements and the back wage policy, and refuses BJA proposed compliance plans, BJA will take action to terminate the Certificate Holder’s certification.

The Certificate Holder may take authorized deductions from back wage payments.

2. Non-Displacement

Determination of Non-Displacement of Employed Workers:

BJA leaves the determination of non-displacement of employed workers to the DES in the state where the CAC is located; however, the Certificate Holder must inform the DES of BJA's displacement requirements. The Certificate Holder may use either BJA's definition for displacement or the displacement definition used by the state DES where the CAC is located.

Certificate Holders must include a request for a non-displacement determination with the initial DES wage determination request. Like the DES wage determination, the non-displacement determination must be made prior to CAC designation. It does not need to be re-verified annually; however, compliance is a continuing obligation, and it should be noted that displacement could occur as a result of a change in economic conditions at some point in the life of the CAC.

For Employer Model CACs, the private sector partner must provide a written statement that it does not intend to displace private sector workers or private sector industry in its locality.

DES Refusal to Provide a Non-Displacement Determination:

If the Certificate Holder's DES refuses to provide a non-displacement determination, the Certificate Holder may provide BJA with written evidence of the DES's refusal to make the non-displacement determination and confer with BJA as to alternate measures that may be available.

3. Benefits

The scope of appropriate benefits coverage is impacted by whether the CAC is structured as an Employer, Customer, or Manpower Model and whether the PIECP work force is controlled by a Certificate Holder or the private sector partner.

Benefit Provision to PIECP Inmate Workers:

Benefits must be comparable to those made available by federal or state law to similarly situated employed workers in the state where the CAC is located, including worker's compensation and, under certain circumstances, Social Security.

When the Employer Model is used and the private sector partner directs and manages the PIECP Inmate Worker, the Certificate Holder must provide PIECP Inmate Workers with Social Security benefits.

Where a Customer Model is used and a government entity, or instrumentality thereof, directs or manages the PIECP Inmate Worker, BJA recognizes the applicability of other provisions of federal law that may affect the provision of certain benefits to PIECP Inmate Workers, including Social Security.

Workers' Compensation Documentation:

The Certificate Holder may prove Workers' Compensation coverage by providing a current Certificate of Insurance issued by an insurance carrier showing Workers' Compensation coverage or by providing documentation of a self-insured or comparable program.

Workers' Compensation – Self-Insurance or Comparable Program:

If the Certificate Holder utilizes a self-insured or comparable Workers' Compensation program, the Certificate Holder should compare the workers' compensation coverage provided to PIECP Inmate Workers in the CAC with coverage provided to an equivalent non-offender group to determine whether the benefits are comparable to those provided to similarly situated non-offender employees.

In the case of an Employer Model CAC, this comparison would be with the company's employed workers, or, if no free world branch of the company exists, then similarly situated employed workers in the state where the CAC is located.

In the case of a Customer or Manpower Model CAC, comparison would be with federal, state, or county correctional industry employees. For Customer Model CACs, the types of coverage must be comparable to those provided to federal, state, or county correctional industry employees, but amounts need not be identical if the Certificate Holder can show that the benefits for PIECP Inmate Workers are comparable to those provided to similarly situated private sector workers (versus federal, state, or county correctional industry employees).

Procedures need not be identical. The burden is on the Certificate Holder to show comparability, which is determined by comparing:

- Temporary and partial disability lost income formulas
- Permanent disability lost income and lump sum payment criteria and payment maximums
- Death benefits, including payment maximums

Final Workers' Compensation comparability determinations may be made by BJA.

Workers' Compensation – Application upon Release:

The Certificate Holder may, as part of the administrative procedures, dictate that the PIECP Inmate Worker can only apply for and receive Workers' Compensation benefits upon their release from incarceration.

Social Security/Federal Insurance Contributions Act Benefits:

Employer Model CACs must take Social Security/Federal Insurance Contributions Act (FICA) deductions from PIECP Inmate Worker gross wages. For Customer/Manpower Model CACs, PIECP Inmate Workers are exempt from Social Security deductions.

4. Deductions

Authorized Deductions under 18 U.S.C. 1761(c):

The four authorized deductions are:

- (1) Taxes (federal, state, local)
- (2) Reasonable charges for room and board as determined by regulations issued by the Chief State Correctional Officer
- (3) Allocations for support of family pursuant to state statute, court order, or agreement by the PIECP Inmate Worker
- (4) Contributions of not more than 20 percent but not less than 5 percent of gross wages to any fund established by law to compensate the victims of crime. This deduction may include victims' restitution.

Such deductions, in the aggregate, cannot exceed 80 percent of gross wages. The remainder, after all deductions, must be at least 20 percent of gross wages. PIECP inmate workers must be paid, credited with, or otherwise benefit legally from, at least a 20 percent gross remainder. The remainder may be deposited in a PIECP Inmate Worker's expense account, savings account, or toward settling the worker's legal obligations, including the payment of legal fines and restitution.

BJA is the ultimate authority in determining whether or not authorized deductions are consistent with the PIECP Statute and Guideline. A Certificate Holder may be required to modify its deductions based upon a BJA review and determination.

Tax Deductions:

Certificate Holders should take care to ensure that they comply with all applicable laws relating to federal, state, and local taxes.

Room and Board Deductions:

Each Certificate Holder, through its respective Chief State Correctional Officer, retains flexibility in determining appropriate room and board charges that may be deducted from PIECP Inmate Workers' gross wages.

The room and board deduction is intended to lower the costs of incarceration. Federal, state, or county/city laws and administrative practices vary as to how such funds are distributed.

Room and Board Deductions for a CAC Located in a Private Prison Operated on Behalf of the Certificate Holder:

CACs located in a private prison operated on behalf of the Certificate Holder must obtain written approval for proposed room and board deductions from the Chief State Correctional Officer in those states from which the PIECP Inmate Worker was remanded.

Family Support Deductions:

Deductions for both court-ordered and voluntary family support may be taken from a PIECP Inmate Worker's gross wages. Court-ordered family support may also be taken from net wages, but only after an allowable deduction from gross wages (up to 80 percent of gross wages) and if provided for in the Worker's Voluntary Participation form. For example, if a PIECP Inmate Worker's legal obligation for family support is so substantial that even after deducting the entire permissible 80 percent from gross wages, a court-ordered family support obligation remains, those remaining obligations may be satisfied by using the remaining net wages.

Victim Compensation Deductions:

The Chief State Correctional Officer may determine the percentage of the victim compensation deduction, with the statutory requirement that the deduction must fall between 5 percent and 20 percent of gross salary (and may include victim restitution). Victim compensation deductions should be deposited into a fund established by law to compensate the victims of crime.

Additional court-ordered victim restitution may be satisfied using net wages if provided for in the Worker's Voluntary Participation form; however, there must first be an allowable deduction from gross wages for court-ordered victim restitution (between 5 percent and 20 percent when combined with victim compensation). In other words, the Certificate Holder may not just deduct court-ordered victim restitution from net wages.

Examples of Funds Established by Law to Compensate the Victims of Crime:

Funds established by law to compensate victims of crime include victim compensation funds, victim assistance funds, nonprofit organizations that provide victim compensation/assistance, and victim notification systems. BJA may consider for approval other funds and nonprofit organizations that help the victims of crime as recipients of the victim compensation deduction.

Victim Compensation Deductions for a CAC Located in a Private Prison Operated on Behalf of the Certificate Holder:

Amounts deducted by CACs located in a private prison operated on behalf of the Certificate Holder should be deposited into crime victim compensation or restitution funds in the states from which the PIECP Inmate Workers were remanded. In the case of federal PIECP Inmate Workers, amounts deducted by private prison CACs should be deposited into the federal victim compensation fund.

Internal Revenue Service Levies:

Internal Revenue Service (IRS) levies for taxes owed may be deducted from gross wages. IRS levies for interest and/or fines may only be deducted from net wages.

Mandatory Savings Accounts:

Mandatory savings accounts (sometimes referred to as "release funds") are allowed under PIECP and are not classified as "deductions" for PIECP purposes.

PIECP Inmate Workers should be allowed to assign beneficiaries for their mandatory savings accounts.

Net Wages:

Net wages (gross wages minus all allowable deductions) should be deposited into the PIECP Inmate Worker's savings, trust, and/or commissary account. After the net wages are deposited into the PIECP Inmate Worker's savings, trust, and/or commissary account, continued disposition of these funds shall follow the Certificate Holder's policies and procedures.

5. Voluntary Participation

The Voluntary Participation Form must clearly state that the PIECP Inmate Worker voluntarily agrees to participate in the Prison Industry Enhancement Certification Program. The Voluntary Participation Form should also state that the PIECP Inmate Worker agrees in advance of beginning work in the CAC to specific allowable deductions made from gross wages and to all other financial

arrangements made as to earned PIECP wages. Specific allowable deductions (along with percentages or amounts) must be individually listed on the Voluntary Participation Form. The form must state that allowable deductions may not exceed 80 percent of gross wages.

The form should also state the final disposition of remaining wages (e.g., deposit into savings account, inmate trust account, commissary account, etc.) and must specifically address whether any will be used toward the settling of the worker's legal obligations, including the payment of fines and restitution.

The Voluntary Participation Form must be signed and dated (with the same date) by both the PIECP Inmate Worker and an authorized representative of the Certificate Holder or CAC before the PIECP Inmate Worker begins work in the CAC.

Signed Voluntary Participation Forms for each PIECP Inmate Worker should be kept on file for 12 months following the PIECP Inmate Worker's termination.

A sample Voluntary Participation Form is included with the CAC Designation Application.

6. Consultation with Labor Representatives

CACs should direct written communications to as many local labor organizations as may have an interest in the trades or skills to be performed by the PIECP Inmate Workers. If no local labor organizations are interested, then the Certificate Holder may consult with state labor organizations. Adequate information should be provided such as, at a minimum, the scope of the intended CAC and projected initiation date, as well as an explanation of the fact that such consultation is required by law and comments are invited. CACs should retain documentation reflecting adequate consultation.

Labor organizations do not have the power to veto the Certificate Holder's proposed CAC; however, if local labor organizations have serious objections to the proposed CAC, the Certificate Holder must provide these objections to BJA for review.

7. Consultation with the Private Sector

CACs should direct written communications to as many business organizations (e.g., chamber of commerce) as may have an interest in the trades or skills to be performed by the PIECP Inmate Workers. If no local business organizations are interested, then the Certificate Holder may consult with state business organizations. Adequate information should be provided such as, at a

minimum, the scope of the intended CAC and projected initiation date, as well as an explanation of the fact that statutory consultation is required and comments are invited. CACs should retain documentation reflecting adequate consultation.

Business organizations do not have the power to veto the Certificate Holder's proposed CAC; however, if local business organizations have serious objections to the proposed CAC, the Certificate Holder must provide these objections to BJA for review.

8. Compliance with National Environmental Policy Act

A PIECP Certification or a CAC designation constitutes a "Federal Action," as defined by [40 CFR 1508.18](#) of the Council on Environmental Quality's (CEQ) regulations for implementing NEPA. CACs are required to submit for BJA review environmental data and information regarding their proposed activities and, if necessary, environmental assessments. They must also assist BJA in the preparation of any required environmental impact statements. PIECP CACs typically qualify for categorical exemption from NEPA, but requests for such exemption must be filed with BJA and the PIECP Training and Technical Assistance Provider.

NEPA Categorical Exclusion Forms are available from BJA or the PIECP Training and Technical Assistance Provider. The PIECP Training and Technical Assistance Provider can assist Certificate Holders in understanding these specific requirements.

DOCUMENT RETENTION

At a minimum, for purposes of PIECP, Certificate Holders should adhere to the following document retention schedule:

Document Holder: Certificate Holder

Document Type	Retention Period
Certification Application and Supporting Materials	While certificate is active (during the duration of PIECP activity) and 12 months following certificate termination
Notice of Certification	While certificate is active (during the duration of PIECP activity) and 12 months following certificate termination
Final Assessment Reports	5 years
Assessment Announcement and Completion Letters	5 years
All other communications (letters/emails) from BJA	While certificate is active (during the duration of PIECP activity) and 12 months following certificate termination
Quarterly Reports	5 years

Document Holder: Cost Accounting Center (CAC)

Document Type	Retention Period
CAC Designation Application and Supporting Materials (including any updates to the application resulting from a CAC re-designation)	While CAC is designated and 12 months following CAC un-designation
CAC Approval Letter from BJA	While CAC is designated and 12 months following CAC un-designation
CAC Un-designation Form	While CAC is designated and 12 months following CAC un-designation
Payroll Documentation (including allowable deductions)	5 years
Workers Compensation Policies	5 years
DES Wage/Displacement Requests and Verifications	5 years
Deduction Deposit Information (victim compensation deductions)	5 years
Court-ordered Deduction Deposit Information (family support, restitution)	5 years
Court Orders (family support, restitution)	5 years
Voluntary Participation Forms	12 months following PIECP Inmate Worker termination

Bureau of Justice Assistance Information

BJA helps to make American communities safer by strengthening the nation's criminal justice system; its grants, training and technical assistance, and policy development services provide state, local, and tribal governments with the cutting-edge tools and best practices they need to reduce violent and drug-related crime, support law enforcement, and combat victimization.

- Emphasize local control.
- Build relationships in the field.
- Provide training and technical assistance in support of efforts to prevent crime, drug abuse, and violence at the national, state, and local levels.
- Develop collaborations and partnerships.
- Promote capacity building through planning.
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- Encourage innovation.
- Communicate the value of justice efforts to decision makers at every level.

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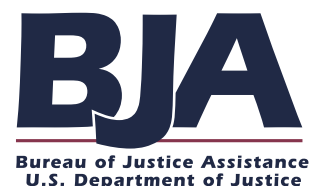


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