

Chapter 4.14

The Role of Prisons in Offshoring

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ABSTRACT

Outsourcing and offshoring are popular (and often controversial) trends in American business, yet not all outsourcing is done in foreign countries; many jobs are being sent to prisons, where inmates can provide low-cost, locally based labor. This trend has extended from a role in manufacturing to white-collar jobs, like telemarketing. This chapter analyzes this type of outsourcing in terms of the costs and benefits for business and consumers, as well as the social implications.

OVERVIEW

From a U.S. perspective, there are businesses that can afford outsourcing contracts managed from a distance, but there are also businesses that would like to remain competitive and keep the jobs “on the home front.” One solution is to

outsource to prisons in the U.S. Since 1995, several states in the U.S. have embraced this concept. The perceived benefit is that prison outsourcing is beneficial for the taxpayers, it is an answer to reducing recidivism to promote our social duty to help return criminals to society, and it provides a ready talent pool of inexpensive labor.

Popular media have always depicted inmates making license plates or doing some kind of manufacturing. Those things were really happening in many prisons nationwide until 1929, when the Hawes-Cooper Act was put into place banning prison goods from interstate commerce; many of these initiatives are underwritten by state governments and were viewed as a way to keep primary state industries protected and profitable.

Recently, Oregon, California, Iowa, Oklahoma, Texas, Michigan, Utah, and other states have jumped on the bandwagon, employing prison labor to carry out their low-level jobs. Many of these states provide tax incentives to businesses

for utilizing prison labor. According to Jon Swartz of *USA Today*, “[...] companies seek cheap labor without incurring the wrath of politicians and unions” (2004). However, the unions have a different perspective. Unions see prison outsourcing as a violation of minimum-wage laws and as being unfair to workers in America. To curb the arguments laid out by the unions, correctional authorities claim they pay the workers minimum wage, but the net income to prisoners is reduced as they must pay rent and other miscellaneous bills and taxes. And they argue that if prison outsourcing did not exist, the same amount of jobs would be exported, anyway.

ORGANIZATION BACKGROUND

As foreign outsourcing has been on the increase, so has correction outsourcing programs. An agency that has furthered the option of correctional outsourcing is The National Correctional Industries Association (NCIA). The NCIA consists of “all 50 state correctional industry agencies, Federal Prison Industries, foreign correctional industry agencies, and numerous city and county jail industry programs” (2007). NCIA has been around since 1941, primarily focusing on the manufacturing industry, but now, this focus is changing.

While there are several programs focusing on allowing prisons to participate in providing outsourcing services, one program found in most all federal prisons is the UNICOR Federal Prison Industries. They provide all sorts of services, and have now begun to cater to the call-center industry. Their Web site has a video that explicitly shows how operations are conducted, and how the security qualms of the business partners and citizens can be potentially mitigated (http://www.unicor.gov/services/contact_helpdesk/).

Legislative History

The Hawes-Cooper Act and the Ashurst-Sumner Act of 1935 banned prison goods from interstate

commerce due to earlier instances of abuse of prison labor. In 1979, Chief Justice Warren Burger advocated using the prison system to set up programs that would be beneficial to the economy. The Justice System Improvement Act of 1979 created seven Prison Industry Enhancement (PIE) pilot projects. In 1984, the program was expanded to 50 PIE projects. The Crime Control Act of 1990 (Public Law 101-647) continued the program indefinitely. Correctional departments have to become certified by the Director of the Bureau of Justice Assistance (BJA), U.S. Department of Justice. Arizona Correctional Industries (ACI) is one of the programs certified by the U.S. Department of Justice, and must therefore comply with the *Mandatory Criteria for Program Participation*:

Corrections departments that apply to participate in PIECP must meet all nine of the following criteria:

1. Eligibility: Authority to involve the private sector in the production and sale of inmate-made goods on the open market.
2. Wages: Authority to pay wages at a rate not less than that paid for work of a similar nature in the locality in which the work is performed.
3. Non-inmate worker displacement: Written assurances that PIECP will not result in the displacement of employed workers; be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or significantly impair existing contracts.
4. Benefits: Authority to provide inmate workers with benefits comparable to those made available by the federal or state government to similarly situated private-sector employees, including workers' compensation and, in some circumstances, Social Security.
5. Deductions: Corrections departments may opt to take deductions from inmate worker wages. Permissible deductions are limited

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