Subpart 22.2 - Convict Labor

Parent topic: Part 22 - Application of Labor Laws to Government Acquisitions

22.201 General.

(a) Executive Order 11755, December 29,1973, as amended by Executive Order 12608, September 9,1987, and Executive Order 12943, December 13,1994, states: "The development of the occupational and educational skills of prison inmates is essential to their rehabilitation and to their ability to make an effective return to free society. Meaningful employment serves to develop those skills. It is also true, however, that care *must* be exercised to avoid either the exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods and services." The Executive order does not prohibit the contractor, in performing the contract, from employing-

(1) Persons on parole or probation;

(2) Persons who have been pardoned or who have served their terms;

(3) Federal prisoners; or

(4) Nonfederal prisoners authorized to work at paid employment in the community under the laws of a jurisdiction listed in the Executive order if-

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Paid employment will not-

(A) Result in the displacement of employed workers;

(B) Be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality; or

(C) Impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those for work of a similar nature in the locality where the work is being performed; and

(v) The Attorney General of the *United States* has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended.

(b) Department of Justice regulations authorize the Director of the Bureau of Justice Assistance to exercise the power and authority vested in the Attorney General by the Executive order to certify and to revoke the certification of work-release laws or regulations (see 28 CFR0.94-1(b)).

22.202 Contract clause.

Insert the clause at 52.222-3, Convict Labor, in *solicitations* and contracts above the *micro-purchase threshold*, when the contract will be performed in the *United States*, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands; unless-

(a) The contract will be subject to 41 U.S.C. chapter 65, (see subpart 22.6), which contains a separate prohibition against the employment of convict labor;

(b) The *supplies* or services are to be purchased from Federal Prison Industries, Inc. (see subpart 8.6); or

(c) The *acquisition* involves the purchase, from any State prison, of finished *supplies* that *may* be secured in the open market or from existing stocks, as distinguished from *supplies* requiring special fabrication.