

EX. ORD. NO. 11755. PRISON LABOR

Ex. Ord. No. 11755, Dec. 29, 1973, 39 F.R. 779, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12943, Dec. 13, 1994, 59 F.R. 64553, provided:

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.

Under sections 3621 and 3622 of title 18, United States Code, the Bureau of Prisons is empowered to authorize Federal prisoners to work at paid employment in the community during their terms of imprisonment under conditions that protect against both the exploitation of convict labor and unfair competition with free labor.

Several states and other jurisdictions have similar laws or regulations under which individuals confined for violations of the laws of those places may be authorized to work at paid employment in the community.

Executive Order No. 325A, which was originally issued by President Theodore Roosevelt in 1905, prohibits the employment, in the performance of Federal contracts, of any person who is serving a sentence of imprisonment at hard labor imposed by a court of a State, territory, or municipality.

I have now determined that Executive Order No. 325A should be replaced with a new Executive Order which would permit the employment of non-Federal prison inmates in the performance of Federal contracts under terms and conditions that are comparable to those now applicable to inmates of Federal prisons.

NOW, THEREFORE, pursuant to the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) All contracts involving the use of appropriated funds which shall hereafter be entered into by any department or agency of the executive branch for performance in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands shall, unless otherwise provided by law, contain a stipulation forbidding in the performance of such contracts, the employment of persons undergoing sentences of imprisonment which have been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by a contractor in the performance of such contracts of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by a contractor in the performance of such contracts of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if

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

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

(C) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(D) The rates of pay and other conditions of employment will not be less than those paid or provided for

work of a similar nature in the locality in which the work is being performed; and

(2) The Attorney General has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of this order.

(b) After notice and opportunity for hearing, the Attorney General shall revoke any such certification under section 1(a)(2) if he finds that the work-release program of the jurisdiction involved is not being conducted in conformity with the requirements of this order or with its intent or purposes.

(c) The provisions of this order do not apply to purchases made under the micropurchase authority contained in section 32 of the Office of Federal Procurement Policy Act, as amended [now 41 U.S.C. 1902].

SEC. 2. The Federal Procurement Regulations, the Armed Services Procurement Regulations, and to the extent necessary, any supplemental or comparable regulations issued by any agency of the executive branch shall be revised to reflect the policy prescribed by this order.

SEC. 3. Executive Order No. 325A is hereby superseded.

SEC. 4. This order shall be effective as of January 1, 1974.

§ 3623. Transfer of a prisoner to State authority

The Director of the Bureau of Prisons shall order that a prisoner who has been charged in an indictment or information with, or convicted of, a State felony, be transferred to an official detention facility within such State prior to his release from a Federal prison facility if—

(1) the transfer has been requested by the Governor or other executive authority of the State;

(2) the State has presented to the Director a certified copy of the indictment, information, or judgment of conviction; and

(3) the Director finds that the transfer would be in the public interest.

If more than one request is presented with respect to a prisoner, the Director shall determine which request should receive preference. The expenses of such transfer shall be borne by the State requesting the transfer.

(Added Pub. L. 98-473, title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2008.)

PRIOR PROVISIONS

For a prior section 3623, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

§ 3624. Release of a prisoner

(a) DATE OF RELEASE.—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of the prisoner's term of imprisonment, less any time credited toward the service of the prisoner's sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—(1) Subject to paragraph (2), a prisoner who is serving a term of im-