



Final Regulation Agency Background Document

Agency name	Department of Corrections
Virginia Administrative Code (VAC) citation	6 VAC 15-28
Regulation title	Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility
Action title	Amend 6 VAC 15-28
Date this document prepared	January 5, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

6VAC15-28 governs the form and review process for agreements between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility. These regulations have been in place in their current form since 1995. Since that time there have been several changes to the Code of Virginia related to "work programs and agreements with other entities." The amendments affect internal operational practices for the review of proposed agreements between the DOC and public or private entities. Changes delete the requirement for an appointed committee to approve any contractual documents implementing an agreement prior to forwarding it to the Office of the Attorney General to ensure compliance with state statutes and to the Governor. There is no change to the criteria listed in 6VAC15-28-40; all current criteria shall continue to be met before the director approves a proposed agreement.

Statement of final agency action

The Board of Corrections adopted the final Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility, on March 17, 2010

Legal basis

The Office of the Attorney General has confirmed that the Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility 6 VAC 15-28 et seq. are within the authority of

the Board of Corrections to promulgate Under COV §53.1-5, Powers and Duties of the Board, and that the regulations do not conflict with either state or federal law. § 53.1-45.1 allows the Department of Corrections Director, with the prior approval of the Governor, to enter into an agreement with a public or private entity to operate a work program in a state correctional facility for prisoners confined therein.

Purpose

The joint venture programs review process provides an orderly system for proposed agreements to be received and approved, increasing the department’s visibility within the community and private sector, thus improving opportunities for individuals to obtain post-incarceration employment, which may ultimately lead to enhanced community public safety and welfare. Since this regulation was promulgated, the Code of Virginia §53.1-45.2 through §45.5 (Creation of the Virginia Correctional Enterprises Advisory Board and appointment of Advisory) has been repealed by Acts 2003, cc.94 and 854, cl. 2. The amendments to this regulation will delete references to this committee and assign approval power to the Director of the Department of Corrections.

Substance

Amendments to this regulation include deleting committee requirements for review of proposed agreements between the DOC and a public or private entity. The application and approval process for submission of proposed agreements between the DOC and public or private entities will be delegated to the DOC Director. Additionally, the Proposed Joint Venture application form incorporated by reference will be deleted. All current criteria for approval of proposed agreements will continue to remain in place.

Issues

The adoption of 6VAC 15-28 poses no disadvantages to the public or the Commonwealth. The amendments affect internal operational practices, and serve to make the regulations more consistent with the Code of Virginia. These regulations should prove advantageous to the department and to participating private entities because the programs allow the Department of Corrections to have access to external resources in order to expand facilities, enter new markets or develop new products; and in turn private entities benefit through utilization of manpower resources from the department.

Changes made since the proposed stage

None

Public comment

No public comment was received during the proposed stage.

All changes made in this regulatory action

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

<p>6 VAC 15-28-10 Definitions</p>		<p>“Committee” means the group appointed by the governor which reviews any proposed agreement between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility for prisoners confined in it. The committee consists of representatives from an employee association or organization, the business community, a chamber of commerce, an industry association, the Office of the Secretary of commerce and Trade, and the Office of the Secretary of Public Safety.”</p>	<p>Delete “Committee” and definition.</p>
<p>6VAC15-28-30D.</p>		<p>The committee shall evaluate the proposed agreement according to the criteria listed under 6VAC 15-28-40</p>	<p>The committee <u>director</u> shall evaluate the proposed agreement according to the criteria listed under 6VAC 15-28-40</p>
<p>6VAC15-28-30E.</p>		<p>Upon approval by the committee, any contractual documents implementing the agreement shall be forwarded to the Office of the Attorney General to ensure compliance with state statutes.</p>	<p>Upon approval by the committee <u>director</u>, any contractual documents implementing the agreement shall be forwarded to the Office of the Attorney General to ensure compliance with state statutes.</p>
<p>6VAC15-28-30F.</p>		<p>Upon the assurance of the Office of the Attorney General that the agreement is in compliance with state statutes, the governor shall review the agreement.</p>	<p>Upon the assurance of the The Office of the Attorney General <u>will assure</u> that the agreement is in compliance with state statutes, the <u>The</u> governor shall review the agreement.</p>
<p>6VAC15-28-40A.</p>		<p>The committee shall review the provisions of any proposed agreement according to the following criteria:</p>	<p>The committee <u>director</u> shall review the provisions of any proposed agreement according to the following criteria:</p>
<p>6VAC15-28-40B.</p>		<p>All criteria listed in 6VAC15-28-40 A shall be met before the committee approves a proposed agreement.</p>	<p>All criteria listed in 6VAC15-28-40 A shall be met before the committee <u>director</u> approves a proposed agreement.</p>
<p>6VAC15-28-9998</p>		<p>FORMS (6VAC15-28) Proposed Joint Venture</p>	<p>Repealed</p>

	Application Form.	
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Regulatory flexibility analysis

These regulations do not directly affect services provided by small businesses; however the proposed review and agreement process between the DOC and public or private entities (i) provides such entities with clear requirements, and (ii) ensures consistency in such requirements through the Commonwealth. The amendments would streamline the review process while not affecting the requirements set forth in the current regulations.

Family impact

The proposed regulatory action does not strengthen or erode the authority or rights of parents in the education, nurturing and supervision of their children. There will be no impact on economic self-sufficiency, self pride, marital commitment or disposable family income.