



**DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
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WASHINGTON DC 20310-0104**

SAGC (E&F)

MEMORANDUM FOR RECORD

SUBJECT: Authority to Accept Inmate Labor from State and Local Corrections Facilities at Army Civil Works Projects Pursuant to Section 203 of the Water Resources Development Act of 1992

1. This office concurs with the US Army Corps of Engineers (USACE) Chief Counsel's Office view that section 203 of the Water Resources Development Act (WRDA) of 1992, as amended (33 U.S.C. §2325) provides authority to accept inmate labor in carrying out a water resources project for environmental protection and restoration or a water resources project for recreation as specified below.
2. Section 203 provides "[i]n connection with carrying out a water resources project for environmental protection and restoration of a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor." By the plain language of the provision, section 203 authorizes the acceptance of services from persons, including governmental entities (such as prisons), but not the project sponsor, in connection with carrying out water resources projects for the purpose of environmental protections and restoration or recreation. A project sponsor is defined as the entity responsible for the real estate at issue. Acceptance of inmate labor for the purpose of carrying out these types of projects meets these statutory requirements.
3. Because it is the state or local correctional institution that is providing these voluntary services of inmates to USACE, the Secretary may accept such contributions. I agree with the rationale provided by the USACE Office of the Chief Counsel that AR 210-35, envisions the use of state or local correctional institution inmates. Specifically per Chapter 2, Paragraph 2-1 "d.(3) The prohibition against use of State and/or local civilian inmate labor from off-post corrections facilities does not apply to Civil Works projects where the Army has statutory authority to accept voluntary contributions in the form of services from State or local governments." Hence, the Secretary may accept the service of civilian inmate labor to carry out a water resources project for environmental protection and restoration or a water resources project for recreation.

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