

## APPENDIX 2: FSA'S EBRP AND PRODUCTIVE ACTIVITY PROVISIONS IN DETAIL

**A. General Requirements and Guidelines.** Evidence-based recidivism-programs are defined by FSA as group or individual activities that have been “shown by empirical evidence to reduce recidivism or [are] based on research indicating that [they are] likely to be effective in reducing recidivism,” and are “designed to help prisoners succeed in their communities upon release.” Such activities “must” include “programs to treat dyslexia” and “may” include programs involving: treatment of “other learning disabilities”; social learning and communication, interpersonal, anti-bullying, rejection response, and other life skills; family relationship building, structured parent-child interaction, and parenting skills; classes on morality and ethics; academic classes; cognitive behavioral therapy; mentoring; substance abuse treatment; vocational training; faith-based classes or services; civic engagement and reintegrative community services; a prison job, including through a prison work program; victim-impact classes or other restorative justice programs; and trauma counseling and trauma-informed support programs.

To expand the availability of EBRPs “and productive activities,” the Attorney General shall develop policies for the warden of each BOP facility to enter into partnerships, subject to available appropriations, with: non-profit and other private organizations, including faith-based, art, and community-based organizations that will deliver recidivism-reduction programming on a paid or volunteer basis; institutions of higher education that will deliver recidivism-reduction programming on a paid or volunteer basis; private entities that will deliver vocational training and certifications; provide equipment to facilitate vocational training or employment opportunities for prisoners; employ prisoners; or assist prisoners in prerelease custody or supervised release in finding employment; and industry-sponsored organizations that will deliver workforce development and training on a paid or volunteer basis.

**B. General EBRP Incentives and Rewards.** The RNAS shall “provide incentives and rewards for prisoners to participate and complete” (or for prisoners who are “successfully completing”) EBRP activities as follows: phone privileges, or if available, video conferencing privileges, for up to 30 minutes per day, and up to 510 minutes per month; additional time for visitation at the prison as determined by the warden; and consideration for transfer to a BOP facility closer to the prisoner’s release residency upon request from the prisoner and subject to bed availability, the prisoner’s security designation, and a recommendation from the prisoner’s current warden. The RNAS shall also provide certain additional incentives, the full extent and nature of which are to be determined by DOJ, though they must include at least two of the following: increased commissary spending limits and product offerings; extended opportunities to use email; and consideration for transfer to preferred housing units (including those at different BOP facilities).

**C. EBRP and Productive Activity Time Credits.** Subject to the eligibility requirements and restrictions described in the next paragraph, prisoners are to receive 10 days of time credits for every 30 days of successful participation in EBRPs and productive activities, and prisoners who are classified as “minimum” or “low” risk (and whose risk classification has not increased over 2 consecutive assessments) are to receive an additional 5 days of time credits for every 30 days of successful participation. Time credits thus earned by these prisoners are ultimately to be applied toward equivalent terms in prerelease custody or supervised release (as further described in Appendix 3, below) during what would otherwise be end of their regular BOP sentences.

**D. Eligibility for EBRP and Productive Activity Time Credits.** Prisoners are ineligible to *earn and receive* the above-described time credits if they are serving a sentence for conviction of any among 62 FSA-listed categories of offenses. Furthermore, prisoners may earn and receive the above-described time credits but *may generally not apply the credits* toward equivalent terms in pre-release custody or supervised release if they are subject to a final order of removal under any provision of federal immigration law.

**E. IRC Report on EBRP Participation and FSA Time Credit Eligibility Provisions.** Not more than two years following FSA's enactment (by December 21, 2020), the IRC is required to submit a report to the House and Senate Judiciary Committees and Appropriations Subcommittees on Commerce, Justice, Science, and Related Agencies providing statistical and demographic information on BOP inmates ineligible to receive the time credits otherwise made available in connection with the new RNAS; similar information on participation (and non-participation) by those ineligible inmates in EBRPs and productive activities; and related recommendations, if any, for the modification of FSA's time-credit eligibility provisions.