

CORRECTIONS DEPARTMENT[201]

Adopted and Filed

Pursuant to the authority of Iowa Code section 904.804, the Department of Corrections hereby amends Chapter 37, "Iowa State Industries," Iowa Administrative Code.

With these amendments, Iowa State Industries updates rules on routine matters such as addresses, hours of operation, and location of product catalogs. The amendments also clarify that products may be sold to contractors when the products will be sold to a public entity, adopt by reference the provisions of Department of Administrative Services' rules dealing with procurement of goods and services, and replace a defined term governing private sector employment of offenders. Revisions of cross references in Item 3 are based on amendments to the Department of Administrative Services' rules published in the Iowa Administrative Bulletin on June 10, 2015, as **ARC 2036C**.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 13, 2015, as **ARC 1990C**. A public hearing was held on June 2, 2015, from 11 a.m. to 1 p.m. in the Department of Corrections conference room. Several stakeholders attended the public hearing, and one written comment was received. Based on comments received at the public hearing, changes were made to the amendments published under Notice of Intended Action. In Item 1, new subrule 37.2(5) was expanded to include criteria that must be met in order for products to be sold to a general contractor on behalf of an authorized customer. In Item 5, the definition of "Wage range" was changed in subrule 37.9(1). Item 6 in the Notice, which proposed to amend rule 201—37.10(904), was not adopted.

These rules do not provide for waivers in specified situations. An agencywide waiver provision is provided in 201—Chapter 7.

These amendments were approved during the June 18, 2015, meeting of the Iowa Prison Industries Advisory Board.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 904.804.

These amendments will become effective on August 12, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following new subrule 37.2(5):

37.2(5) Iowa state industries may sell products to a general contractor when the products purchased will be sold to a public entity as provided in subrules 37.2(1) to 37.2(3). The public entity shall submit a written request to Iowa state industries specifying the products and quantities to be purchased. Such sales shall be limited to contractors involved in construction, renovation, and remodeling projects. Sales to a general contractor shall be approved by the Iowa prison industries advisory board.

ITEM 2. Rescind rules 201—37.3(904) and 201—37.4(904) and adopt the following new rules in lieu thereof:

201—37.3(904) Catalogs. Catalogs are available online at the Iowa state industries Internet home page <http://www.iaprisoinind.com>, or at the Iowa state industries showroom located at 1445 East Grand Avenue, Des Moines, Iowa 50316. Requests for mailed copies may be sent to the Iowa state industries showroom address.

201—37.4(904) Offices. The showroom and main office for Iowa state industries are located at 1445 East Grand Avenue, Des Moines, Iowa 50316; telephone (515)242-5778. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

ITEM 3. Amend rule 201—37.7(904) as follows:

201—37.7(904) Procurement of goods and services. The provisions of 11—Chapter 405 117 are hereby adopted by reference with the following amendments.

1. Strike “Department of Administrative Services” and insert in lieu thereof “Iowa State Industries” in all rules except rule ~~11—105.10(8A)~~ 11—117.11(8A), which pertains to procurement of information technology devices and services.

2. In lieu of the definitions of “Department” and “Director,” insert the following:

“Department” means the division of Iowa state industries.

“Director” means the director of the division of Iowa state industries or the director’s designee.

3. ~~Rules 11—105.6(8A), 11—105.13(8A), and 11—105.15(8A) are not adopted. Rules 11—117.7(8A) and 11—117.15(8A) and subrule 117.4(3) are not adopted.~~

4. In lieu of the text of ~~11—subrule 105.14(1)~~ 117.14(1), insert the following: “Purchase of goods. An agency may acquire goods not otherwise available through a master agreement in accordance with the procurement threshold guidelines in ~~11—105.3(8A)~~ subrule 117.5(3).”

5. In lieu of the text of rule ~~11—105.20(8A)~~ 117.20(8A), insert the following: “Appeal process. Vendors may appeal actions by Iowa state industries under these rules as follows:

“Step 1. Appeals shall be filed in writing to the Business Manager, Iowa State Industries, 406 North High Street, Anamosa, Iowa 52205, within ~~five~~ 5 working days of notification of the action being appealed. The appeal shall state the specific grounds upon which the vendor is challenging the action. The business manager, Iowa state industries, shall notify the vendor in writing of the decision within 10 working days.

“Step 2. If the appeal is not resolved, it may be further appealed by the vendor to the Director of Iowa State Industries, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 1 appeal response. The director of Iowa state industries shall notify the vendor in writing of the decision within 15 working days.

“Step 3. An unresolved appeal to the Director of Iowa State Industries shall be referred to the Director of the Department of Corrections, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 2 appeal response. The director of the department of corrections shall notify the vendor in writing of the decision within 15 working days.”

This rule is intended to implement Iowa Code section 904.813.

ITEM 4. Amend subrule 37.8(1) as follows:

37.8(1) Rules of procedure. The seven-member prison industries advisory board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, department of corrections. The principal duties of the advisory board are to promulgate and adopt rules and to advise the director, Iowa state industries, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. When a quorum is present, a position is carried by a majority of the members of the board.

c. The board shall meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

~~(1) The communications media shall be notified at least two weeks in advance of board meetings.~~

(1) Notice of the meetings shall be given pursuant to Iowa Code chapter 21.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

d. Copies of the minutes are kept on file in the office of the director, Iowa state industries. Minutes are available from the director’s office to interested persons upon request. Organizations may request to be placed on a mailing list. Copies of administrative rules and other materials considered are made a part of the minutes by reference.

e. In cases not covered by these rules, Robert’s Rules of Order shall govern.

ITEM 5. Amend rule 201—37.9(904) as follows:

201—37.9(904) Private sector employment projects.

37.9(1) Definitions.

“Advisory board” means the prison industries advisory board.

“Deputy director of prison industries” means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

“Director” means the chief executive officer of the department of corrections.

“Wage range” means the wage paid that is commensurate to wages paid to persons in similar jobs outside the correctional institution.

“Workforce development board” means the state workforce development board.

“Workforce development director” means the chief executive officer of the department of workforce development.

~~37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.~~

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37.9(3) Employer application.

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

- (1) Work program, including job description;
- (2) Proposed wage rate;
- (3) Description of job site;
- (4) Duration of the work; and
- (5) A copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer’s 30-day job listing, the ~~average wage rate~~ wage range for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

37.9(4) Verification. The workforce development director shall verify the employment levels and ~~prevailing wages paid~~ wage range for similar jobs in the area and provide to the deputy director of prison industries, in writing:

a. Verification of the employer’s 30-day job listing;

b. The number of qualified applicant referrals and hires made as a result of the job order;

~~c. The average wage rate for the proposed job(s);~~

~~d. c.~~ The wage range for the proposed job(s);

~~e. d.~~ The current unemployment rate for the county where the employer is located; and

~~f. e.~~ The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

37.9(5) Prevailing wages Wage range. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the ~~prevailing wages~~ wage range for the

job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the ~~average wage rate and~~ wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide. To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

- a.* Offenders shall not be eligible for unemployment compensation while incarcerated.
- b.* Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.
- c.* In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

37.9(6) to 37.9(9) No change.

This rule is intended to implement Iowa Code section 904.809.

[Filed 6/18/15, effective 8/12/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.