

CHAPTER 37
IOWA STATE INDUSTRIES
[Prior to 10/1/83, Social Services[770] Ch 23]
[Prior to 3/20/91, Corrections Department[291]]

201—37.1(904) Mission and function. Iowa state industries, which is established by Iowa Code chapter 904, consists of a policy board, a director, and manufacturing, farming, surplus and private sector work programs. Each business is entirely self-funded and receives no state appropriation.

37.1(1) The mission of Iowa state industries is to employ staff and offenders who are dedicated to providing exceptional service, reasonable prices and quality products.

37.1(2) Iowa state industries is charged with making available to offenders of the state correctional institutions opportunities for work in meaningful jobs that will ensure the offenders' chances of a successful return to society as law-abiding and self-supporting members of the community upon the offenders' release. Iowa state industries is further charged with enabling offenders to work in order to provide financial assistance to their dependents, make restitution, pay the cost of board and maintenance in a correctional institution, and accumulate savings upon their eventual return to the community.

201—37.2(904) Sale of products.

37.2(1) Iowa state industries shall sell products to any tax-supported institution or governmental subdivision in any level of government, including state, county, city or school. Iowa state industries may sell products to employees of such entities.

37.2(2) Iowa state industries may sell products to nonprofit organizations such as parochial schools, churches, or fraternal organizations and employees of such nonprofit organizations.

37.2(3) Iowa state industries may sell products to nonprofit health care facilities serving Medicaid or social security patients.

37.2(4) Sales will not generally be solicited from the general public. However, the state director of Iowa state industries may determine with the advice of the prison industries advisory board that limited public sales will be made when the sales to political subdivisions are insufficient to justify continued operation of a shop.

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.

This rule is intended to implement Iowa Code section 904.815.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

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.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

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.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

201—37.5(904) Obtaining information from or reporting information to Iowa state industries. Persons wishing to obtain information from or report information to Iowa state industries may contact the Iowa State Industries Business Office, P.O. Box 430, 406 North High Street, Anamosa, Iowa 52205; telephone (319)462-3504. Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. Information may also be found on the Iowa state industries Web site: <http://www.iaprisoinind.com>.

201—37.6(904) Internet Web site. Iowa State Industries Internet home page is located at <http://www.iaprisonind.com>.

201—37.7(904) Procurement of goods and services. The provisions of 11—Chapter 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—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—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 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—subrule 117.5(3).”

5. In lieu of the text of rule 11—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 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 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 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.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

201—37.8(904) Prison industries advisory board. The state director of Iowa state industries has, by statute, the advice and counsel of the prison industries advisory board.

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) 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.

37.8(2) Meetings. All meetings will be open to the public unless specifically allowed to be closed under Iowa Code chapter 21.

a. Persons wishing to make a presentation shall make such request to the director, Iowa state industries, or to any member of the board at least one week in advance of the scheduled meeting.

b. Persons requesting to make a presentation are requested to submit one written copy of their remarks for the record. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda.

c. Persons who have not made previous arrangements to speak at a meeting may be given the floor at the discretion of the chairperson.

37.8(3) The chairperson may appoint committees of the board as necessary to conduct the business of the board. Committee meetings shall comply with Iowa Code chapter 21.

37.8(4) The board shall:

a. Promulgate and adopt rules.

b. Advise the state director of Iowa state industries regarding the management of Iowa state industries.

This rule is intended to implement Iowa Code section 904.803.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

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 with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet site.

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 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 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 wage range for the proposed job(s);
- d. The current unemployment rate for the county where the employer is located; and
- 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) Wage range. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the 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 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) Ineligible projects. The deputy director of prison industries shall evaluate the information from the department of workforce development to verify nondisplacement of civilian workers. Employment of offenders in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

37.9(7) Notification and review.

a. The deputy director of prison industries shall provide a copy of the private sector work proposal and the department of workforce development review of the private sector work proposal to the following:

- (1) Governor's office;
- (2) Speaker of the house;
- (3) President of the senate;
- (4) Warden/superintendent at the proposed work site;
- (5) Local labor organization(s);
- (6) Director of workforce development; and
- (7) Department of Justice, Washington, DC.

b. Within 14 calendar days of receiving the department of workforce development review, the deputy director of prison industries will consolidate the recommendations for review and approval by the director of corrections.

37.9(8) Prison industries advisory board review.

a. Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

b. The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that

the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

37.9(9) Disputes.

a. Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

b. The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

[ARC 2056C, IAB 7/8/15, effective 8/12/15]

201—37.10(904) Utilization of offender labor in construction and maintenance projects.

37.10(1) Definitions.

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

“*Employer*” means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of administrative services.

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

37.10(2) Scope. Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of administrative services.

37.10(3) Employer application. Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall contain the prevailing wage determined by the department of workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.

b. The employer’s application shall include:

- (1) Scope of work, including type of work and required number of workers;
- (2) Proposed wage rate;
- (3) Location;
- (4) Duration; and
- (5) Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development the employer’s 30-day job listing, the average wage rate 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 employer that will employ the offenders.

37.10(4) Verification. The director of workforce development shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, 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.* The wage range;
- e.* The prevailing wage as determined by the U.S. Department of Labor;
- f.* The current unemployment rate for the county where the employer is located;

g. The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.10(5) Safety training. The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development or by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

37.10(6) Prevailing wages.

a. The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the prevailing wages for the jobs in question. The average wage rate and wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

b. To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

(1) Offenders will not be eligible for unemployment compensation while incarcerated.

(2) Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.

(3) If the contract to employ offender labor exceeds six months, the director shall:

1. Request and receive from the workforce development director the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders; and

2. Compile a side-by-side comparison of each employer.

37.10(7) Disputes. Anyone who believes that the employer's application violates this rule shall present concerns in writing to the workforce development board. A written complaint may be filed with the workforce development board for any dispute arising from the implementation of the employer's application in accordance with workforce development board rule 877—1.6(84A). The workforce development board shall consult with the director prior to making recommendations. The director will assist the workforce development board in compiling all information necessary to resolve the dispute. The workforce development board shall notify the director and interested parties in writing of the corrective action plan to resolve the dispute, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.701.

[Filed 6/25/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]

[Filed 7/31/78, Notice 5/31/78—published 8/23/78, effective 9/27/78]

[Filed 10/23/81, Notice 8/19/81—published 11/11/81, effective 12/16/81]

[Filed 1/29/82, Notice 11/11/81—published 2/17/82, effective 3/24/82]¹

[Filed emergency 8/29/83—published 9/14/83, effective 10/1/83]

[Filed emergency 7/22/88 after Notice 6/15/88—published 8/10/88, effective 7/22/88]

[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]

[Filed 6/9/00, Notice 4/5/00—published 6/28/00, effective 8/2/00][◇]

[Filed emergency 8/18/00—published 9/6/00, effective 8/18/00]

[Filed emergency 10/13/00—published 11/1/00, effective 10/13/00]

[Filed 4/9/08, Notice 1/16/08—published 5/7/08, effective 6/11/08]

[Filed ARC 2056C (Notice ARC 1990C, IAB 5/13/15), IAB 7/8/15, effective 8/12/15]

[◇] Two or more ARCs

¹ Prior to 3/20/91, see Prison Industries Advisory Board 635—Chapter 1