201—37.5(904) Utilization of offender labor in construction and maintenance projects.

37.5(1) *Definitions.*

"Director" means the same as defined in Iowa Code section 904.101(5).

"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 same as described in Iowa Code section 84A.1(2).

37.5(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.

37.5(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 904.

a. 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.

b. The department of corrections will verify through the department of workforce development the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the work is being performed, and the current employment level of the employer that will employ the offenders.

37.5(4) *Verification.* Upon written request from the department of corrections, the workforce development division administrator shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, in writing:

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

b. The wage range;

c. The prevailing wage as determined by the U.S. Department of Labor;

d. The current unemployment rate for the county where the work is being performed;

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

37.5(5) *Safety training.* The employer shall document that all offenders employed in construction and maintenance projects receive an Occupational Safety and Health Administration (OSHA) 10-Hour outreach course provided free of charge by an authorized OSHA outreach trainer.

37.5(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 will 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 will 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 will:

1. Request and receive from the workforce development division administrator 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.

37.5(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 rule 877—1.3(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.

[**ARC 0790D**, IAB 11/25/26, effective 12/30/26]