

## 1.5.A.2 Prison Industry Enhancement Certification Program

### I Policy Index:



**Date Signed:** 01/04/2019  
**Distribution:** Public  
**Replaces Policy:** 5A.5  
**Supersedes Policy Dated:** 01/03/2018  
**Affected Units:** All Institutions  
**Effective Date:** 01/12/2019  
**Scheduled Revision Date:** December 2019  
**Revision Number:** 13  
**Office of Primary Responsibility:** DOC Administration

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### II Policy:

The Department of Corrections (DOC) may allow private industry to establish joint ventures with the DOC to produce goods using inmate labor, in accordance with the Prison Industry Enhancement Certification Program (PIECP). The private sector shall be eligible to be involved in the production and sale of inmate-made goods on the open market. The DOC may seek to establish new industries beyond the use and purpose of furnishing goods, products and services to the federal government, state governments and their political subdivisions (See SDCL § 24-7-3).

### III Definitions:

None

### IV Procedures:

#### 1. Voluntary Participation:

- A. Inmate participation in the Prison Industry Enhancement Certification Program (PIECP) shall be voluntary, in accordance with SDCL § 24-7-3(5).
- B. PICEP provides eligible inmates the opportunity to work in a realistic work environment, receive a prevailing local wage for work and acquire marketable skills to increase potential for successful rehabilitation and meaningful employment upon release from DOC custody.
- C. Prior to participating in PIECP, each inmate must sign the PIECP Agreement section on the Inmate Financial Worksheet, wherein the inmate acknowledges voluntary participation in the PIECP (See [Attachment 1](#)).
  1. The inmate's signature on the Inmate Financial Worksheet signifies an agreement by the inmate to specific deductions from the inmate's gross wages and specified financial obligations (See [Attachment 1](#)).
  2. A staff member must witness the inmate's signature.
- D. No inmate has any implied right or expectation to work in any particular job or program (See SDCL § 24-2-27).

- B. An inmate's, custody level, classification, risk, aptitude, experience and abilities (based on tests and/or personal interview with the inmate), shall be reviewed and considered by institutional staff and private sector employers when considering an inmate for any job within PIECP.
1. Inmates designated "high risk" for institutional job assignment purposes may not be assigned any job within PIECP. Questions regarding whether an inmate is designated "high risk" shall be directed to the inmate's unit staff (See DOC policy 1.5.A.9 [Inmate Work Assignment Risk](#)).

## 2. Inmate Eligibility:

- A. The DOC shall require workman's compensation for inmate workers employed in PIECP, pursuant to SDCL § 24-7-3 (4). Inmates may receive workman's compensation benefits comparable to those made available by the state or federal government to similarly situated private-sector employees.
- B. Inmates working in a PIECP industry must notify their supervisor in advance of any class, program or appointment the inmate intends to attend that will take them away from the workplace during their assigned work hours.
- C. No inmate under the jurisdiction of the DOC has any implied right or expectation to work in any particular job (See SDCL § 24-2-7). Inmates are subject to transfer to another job or removal from any job assignment at the discretion of the employer, supervisor, Warden or designee or Secretary of Corrections.
- D. No inmate seeking employment with PIECP or currently employed by PIECP may be discriminated against on the basis of race, gender, sexual orientation, national origin, disability, religion or other protected status. Employers shall make reasonable accommodations for inmates requesting accommodation on the basis of a disability, consistent with safety and security.
- E. Inmate participation and employment within a PIECP industry is strictly voluntary. Inmates removed from employment with PIECP have no right to continued employment, due process or pay for work completed. Inmates assigned to jobs within PIECP are not "employees" covered by the federal Fair Labor Standards Act.
- F. Inmates must be qualified to perform the essential functions of the job, with or without a reasonable accommodation. The employer retains the right to hire the best qualified inmate applicant for the job.

## 3. Inmate Identification:

- A. The private sector employer shall verify each inmate has a valid Social Security number prior to assigning the inmate a job (See DOC policy 1.1.A.7 [Offender Identification Procedures](#) and DOC policy 1.5.A.1 [Inmate Work Assignments and Pay](#)).

## 4. Inmate Wages:

- A. Inmates participating in PIECP will have an opportunity to earn wages, learn job skills and develop good work habits. Wages paid to inmates will not be less than those paid for work of similar nature in the locality where the work is performed, in accordance with SDCL § 24-7-3 (3).

In the absence of similar work, inmate wages may not be less than state or federal minimum wage, whichever is greater.

B. Wage deductions (a-d are allowed by PIECP certification):

1. All inmates participating PIECP will have deductions made to their gross wages for:
  - a. Federal, state and local taxes.
  - b. Reasonable charges for room and board.
    - 1) If the inmate owes restitution, room and board charges may be activated and the amount collected each month applied to the inmate's owed restitution, till paid in full, or the inmate is no longer involved in PIECP.
  - c. Support of the inmate's family, pursuant to state statute, court order or agreement by the inmate.
  - d. Contribution to the South Dakota Victims Compensation Fund, as administered by the State of South Dakota (See SDCL §§ [23A-28B](#) and [24-7-3 \(1\)](#)). This amount will be equal to at least 5% but not greater than 20% of the inmate's gross wages (this is a requirement for PIECP certification). The total deductions from the inmate's wages shall not exceed 80 percent of gross wages (this is a requirement for PIECP certification).
2. Inmates cannot request extra money withheld from their paychecks if their net paycheck, after required deductions or obligations are withheld, is insufficient to cover the deduction. Inmates cannot have extra money withheld from their wages to avoid paying required deductions or obligations.
3. Inmate wages received are subject to the processes and procedures contained within DOC Policy 1.1.B.2 [Inmate Accounts and Financial Responsibility](#).

## 5. Consultation Requirements:

- A. The DOC and PIECP shall consult with representatives of local labor organizations and local businesses/private industry prior to the use of inmate workers in the production of goods for sale in interstate commerce or to the federal government (See SDCL § [24-7-3 \(2\)](#) (PIECP certification requirement)).
- B. The DOC and private industry shall document the use of inmate workers in the production of goods for sale in interstate commerce or to the federal government through PIECP. Documentation must support employment of inmates will not result in the displacement of employed workers. Inmate workers shall not be used in skills, crafts or trades which there is a surplus of available gainful labor in the locality or significantly impair existing contracts.

## 6. Objectives and Program Benefits:

- A. The two primary objectives of PIECP are as follows:
  1. Generate products and services that enable inmates to make a contribution to society, which shall include helping offset the cost of the inmate's incarceration, providing some compensation to crime victims and helping support the inmate's family, and
  2. Reduce prison idleness by increasing inmates' job skills and improving the prospects for successful transition to the community upon release.

B. PIECP Benefits:

1. Provide inmates a means of repaying victims for harm sustained by the inmate's crime (restitution).
2. Offer inmates a chance to work to help them address financial obligations, increase their job skills (job training and skill development) and increase the likelihood of meaningful employment upon release from incarceration.
3. Provide private sector employers with a stable and readily available workforce; and
4. Enable inmate workers to contribute to room and board, family support, victim compensation, and taxes, which helps reduce the escalating cost of crime on society.

## V Related Directives:

SDCL §§ [24-2-27](#), [24-7-3 \(1-6\)](#) and [23A-28B](#).  
Federal Bureau of Justice Assistance-  
Justice System Improvement Act of 1979 (Public Law 96-157)  
Justice Assistance Act of 1984 (Public Law 98-473)  
Crime Control Act of 1990 (Public Law 101-647)

DOC policy 1.1.A.7-- [Offender Identification Procedures](#)  
DOC policy 1.1.B.2 -- [Inmate Accounts and Financial Responsibility](#)  
DOC policy 1.5.A.1 -- [Inmate Work Assignments and Pay](#)  
DOC policy 1.5.A.9 -- [Inmate Work Assignment Risk](#)

## VI Revision Log:

**December 2004:** Revised the policy statement. Reworded information in the section on Voluntary Participation. Updated attachments 1 and 2.

**November 2005:** Changed signature block.

**January 2007:** Combined the Inmate Financial Worksheet with the Voluntary Agreement of Participation. Added a statement that extra payroll deductions are not permitted. Added a requirement for providing a copy of the inmate/workers Social Security Card.

**January 2008:** Revised the language on an inmate having extra money withheld from their paycheck.

**December 2008:** Revised formatting of policy and attachment in accordance with DOC policy 1.1.A.2. Revised Attachment 1 to include reference to this policy. Revised other minor grammatical changes throughout policy.

**December 2009:** Deleted ss (A2 of Voluntary Participation) referencing participation in the PS/PIE certification requires a copy of an inmate's social security card. Added hyperlinks.

**December 2010:** No Changes

**March 2012:** Added D. & E. & F. to Section 1. Added new Section 2 "Identification Documents" and Renumbered previous Section 2 to Section 3.

**December 2013:** Reviewed with no changes.

**December 2014:** Reviewed with no changes.

**December 2015:** Reviewed with no changes

**December 2016:** Changed title from Private Sector Prison Industry to Prison Industry Enhancement Program. Revised language in the policy statement. Revised language in Section 1 B. consistent with PIECP certification language. Added new B. to Section 1. Added new Section 2. Added Section 5 and 6.

**December 2017:** Added B-F to Section 2. Added 10 to Section 4 B. 1. b.

**December 2018:** Minor updates to language.

*Denny Kaemingk (original signature on file)*

*01/04/2019*

Denny Kaemingk, Secretary of Corrections

Date

