

SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.A.2	PAGE NUMBER 1 OF 5
		DISTRIBUTION:	Public
		SUBJECT:	Prison Industry Enhancement Certification Program
RELATED STANDARDS:	None.	EFFECTIVE DATE:	June 1, 2022
		SUPERSESION:	12/10/2019
DESCRIPTION: Work and Correctional Industry	REVIEW MONTH: May	 KELLIE WASKO SECRETARY OF CORRECTIONS	

I. POLICY

It is the policy of 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). When a correctional agency or authority wishes to participate in the PIECP, an application must be prepared and submitted to the Bureau of Justice Assistance, U.S. Department of Justice. The applicant determines whether a Single or Umbrella Authority application is the most appropriate given the unique circumstances in that jurisdiction. Applicants must then demonstrate that the necessary statutory and/or administrative authority to meet all mandatory program and administrative criteria is in place, as well as appropriate policies and procedures to implement program requirements, before BJA PIECP certification is issued. Additionally, a site visit will be performed by experienced federal and state practitioners to review and evaluate submitted materials, to ensure their accuracy and completeness. Lastly, if and when PIECP certification is granted, it may be suspended or terminated at the discretion of BJA if program standards are not maintained in keeping with the PIECP federal guidelines and statutory requirements or for prolonged inactivity of six months or longer.

II. PURPOSE

To outline criteria and guidelines for participation in the Prison Industry Enhancement Certification Program (PIECP).

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).

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- B. PIECP 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 wherein the inmate acknowledges voluntary participation in the PIECP (See Attachment 1).
 - 1. The inmate's signature on the PIECP Agreement 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. 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 the 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 Associate Director of Offender Services (See DOC policy 1.5.A.9 *Inmate Work Assignment Risk*).

2. Inmate Eligibility:

- A. Inmates employed in a PIECP industry must notify their supervisor in advance of any class, program, or appointment they intend to attend that will take them away from the workplace during their assigned work hours.
- B. No inmate under the jurisdiction of the DOC has any implied right or expectation to work in any particular job (See SDCL § 24-2-27). 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.
- C. No inmate seeking employment with a PIECP industry or currently employed by a PIECP industry 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.
 - 1. Inmates must be capable of performing 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 (See DOC policy 1.1.E.7 *Americans with Disabilities Act (ADA)*).

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*). Inmates without a valid Social Security number may not work for a wage within the PIECP.

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:

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- 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 employed within the 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 five percent (5%), but not greater than twenty percent (20%) of the inmate's gross wages (requirement for PIECP certification). The total deductions from the inmate's wages shall not exceed eighty percent (80%) of gross wages (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 are subject to the processes and procedures and requirements described within DOC Policy 1.1.B.2 *Inmate Accounts and Financial Responsibility*.
- C. The DOC shall require Workmen's Compensation be provided by the employer for inmate workers employed in a PIECP industry, pursuant to SDCL § 24-7-3 (4). Inmates may receive Workmen's Compensation benefits comparable to those made available by the state or federal government to similarly situated private-sector employees.
- D. Inmates removed from employment with PIECP have no right to continued employment, due process or pay for work completed. Inmates employed by a PIECP industry are not "employees" covered by the federal Fair Labor Standards Act.

5. Consultation Requirements:

- A. The DOC and PIECP industry employers 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 PIECP industry employers 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 that employment of inmates will not result in the displacement of employed workers within the locality. Inmate workers shall not be used in skills, crafts, or trades in 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:
 1. To 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. To 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 address financial obligations, increase job skills (job training and skill development), and increase the likelihood of meaningful employment upon release from incarceration.

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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. RESPONSIBILITY

The Pheasantland Industries Manager is responsible for the overall implementation and annual review of this policy.

VI. AUTHORITY

- A. SDCL §§ 23A-28B, 24-2-27, 24-7-3 (1), 24-7-3 (2), 24-7-3 (3), 24-7-3 (4), 24-7-3(5).
- B. The PIE Certification Program originally was authorized under the Justice System Improvement Act of 1979 (P.L. 96-157, Sec. 827) and later expanded under the Justice Assistance Act of 1984 (P.L. 98-473, Sec. 819). The Crime Control Act of 1990 (P.L. 101-647) authorizes continuation of the program indefinitely.

VII. HISTORY

December 2019
December 2018
December 2017
December 2016
December 2015
December 2014
December 2013
March 2012
December 2010
December 2009

ATTACHMENTS (Published in PolicyTech unless otherwise noted)

1. PIECP Agreement
2. DOC Policy Implementation / Adjustments

DOC POLICY IMPLEMENTATION/ADJUSTMENTS

DESCRIPTION	TITLE	POLICY #	EFFECTIVE
Work and Correctional Industry	Prison Industry Enhancement Certification Program	1.5.A.2	06/01/2022

(FACILITY/WORK UNIT NAME)

WILL ACCEPT AND IMPLEMENT THE PROVISIONS OF THE ABOVE ADMINISTRATIVE REGULATION:

AS WRITTEN

NOT APPLICABLE

WITH THE FOLLOWING PROCEDURES TO ACCOMPLISH THE INTENT OF THE POLICY

(SIGNED) _____ (DATE) _____
Warden / Director