



*State of North Carolina
Department of Public Safety
Prisons*

Chapter: D
Section: .0700
Title: **Offender Labor for Public Work Projects**
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POLICY AND PROCEDURES

References

Related ACA Standards

5th Edition Standards for Adult Correctional Institutions 5-ACI-7A-03, 5-ACI-7A-04

.0707 POLICY

- (a) General. The policy of the North Carolina Department of Public Safety (DPS) Prisons is that all able-bodied prison offenders shall be required to perform diligently all work assignments provided for them. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the Offender population while enabling Offenders to acquire or retain skills and work habits needed to secure honest employment after their release. Approved Offender Labor Contracts may serve as a legitimate and effective use of labor.
- (b) Conditions for Use of Offender Labor. The use of Offender labor contracts must meet the following conditions:
- (1) The project or service involved is a type of work that Offenders are qualified to perform;
 - (2) The project or service is of benefit to the citizens of North Carolina or units of state or local government;
- (c) Contracts. The Department of Public Safety Prison Section may make contracts with departments, institutions, agencies, and other political subdivisions of the State of North Carolina for the use of Offender labor that will help make the prisons as nearly self-supporting as is consistent with the purpose of their creation. Contracts shall be initiated, modified and renewed using the appropriate Form DC-251 (Offender Labor Contract). Instructions on how to complete, approve and maintain DC-251 forms should be followed using Fiscal Policy & Procedure .2300. The Offender Labor Director is hereby designated as the Coordinator for Offender Labor Contracts and as such shall monitor the contracts and address any concerns with the contracts.

.0708 SUPERVISION

Any individual approved by the Labor Contract agency to supervise offenders must be approved, certified and trained by Prisons' staff to be a Custodial Agent. The guidelines for this process may be found in Prisons' Policy & Procedure Chapter F .1400 Custodial Agents. Approved Custodial Agents shall carry their pink custodial agent card at all times while supervising offenders on offender labor contract work duties.

.0709 SAFETY

(a) Responsibility: Offender safety while working on offender labor contracts is the primary responsibility of the Labor Contract Supervisor. Offender Labor Contract Supervisors must adhere to all safety requirements as listed in the DC-251 (Offender Labor Contract). They must ensure the offenders under their supervision are properly trained on safety procedures and equipment established by their agency's guidelines. Offenders will be monitored and required to follow safety training and expectations. Further, offender assignment procedures for offender labor contract assignments will include the use of the established Incentive Wage Description Form (IW01) and Essential Functions Checklist (EFC) forms developed and maintained in the Offender Assignment Manual. These forms also cover safety procedures as well as other essential job-related expectations.

(b) Prohibitions: The following prohibitions apply to Offender Labor Contracts.

(1) Offenders who are eligible and have been accepted for work release, study release and/or vocational assignments may not be used.

(2) Offenders are prohibited from working on the premises of any institution operated or administered by the Youth Development Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety unless approved by the Assistant Commissioner of Prisons and then, a complete sight and sound barrier must be erected and maintained during the course of the labor being performed by adult offenders.

(3) Offenders are prohibited from working at a school while students are on the property. This includes either public or private elementary, middle or high schools. Prior to any work being done on school property, the school administrator or principal must provide a letter certifying that there will be no students on the property during the time the work is being performed.

(c) Offender Selection Criteria. The following selection criteria apply to minimum custody offenders being used for offender labor contracts.

(1) All offenders selected for work on labor contracts must be mentally and

physically capable of performing any type of manual labor and must be in the appropriate health grade.

(2) Offenders shall not be considered for offender labor contract assignment who have a history of:

(A) One escape from armed supervision within the past five years; or

(B) Two or more escapes from any classification within the past five years.

(3) Offenders sentenced to serious assaultive crimes against persons or sexual crimes against persons shall not be selected for offender labor contract assignments until they have served a minimum of 60 days in minimum custody. In addition, sex offenders must be in minimum custody level two (2) or three (3) prior to assignment to any offender labor contract work assignment as they are supervised by custodial agents, not correctional staff; refer to Prisons Policy Chapter C .2500 on Community Based Programs for Sex Offenders for additional information. A sex offender will not be assigned to any offender labor contract that works on or near school property. This includes either public or private elementary, middle or high schools, community college or university.

(4) Exceptions to these selection and assignment criteria may be made as necessary and appropriate by the supervising Warden or designee.

.0710 COMPENSATION

(a) The Department of Public Safety, Prisons shall be reimbursed on a cost basis for expenses incurred in providing offender labor under an Offender Labor Contract. The rate of reimbursement shall be as agreed upon and documented in the contract between the Department of Public Safety, Prisons and the appropriate responsible department head or public official.

(b) In the event of any disagreement between Prisons and the contracting public agency regarding the scope or performance of the contract, the contracting public agency shall discuss the issue with the responsible Warden in order to work towards informal resolution of the issue. The Warden may consult with the responsible Regional Director and/or Prisons Administration regarding the best way to address the concern of the contracting public agency.

.0711 APPROVAL OF CONTRACTS

Wardens shall have authority to initiate Offender Labor Contracts (DC-251). The responsible Region Director shall then review and approve the contract. The approved agreement then shall be forwarded to the Prisons' Offender Labor Director for review and signature. A copy of the

executed contract shall be sent to the Central Accounting Office.

- (a) The Governmental Agency Authority should sign and date the DC-251 before any other signing authority.
- (b) The DC-251 (Offender Labor Contract) is generally approved for a maximum of one (1) year with a begin date of July 1 and end date of June 30. Renewals must be initiated and approved prior to the beginning of the next fiscal year (July 1).
- (c) Contracts under review, either initial or renewal, should be referred to the Region and/or to Prisons Administration for further review and consultation as necessary if there are questions/concerns.
- (d) Request for Waiver of Administrative costs will be forwarded to the supervising Region Director for subsequent review and final action processing.

.0712 SUSPENSION OF CONTRACTS

- (a) Violations That Do Not Result In Injuries
 - (1) The first reported or observed and confirmed violation of a safety or health regulation, Offender Labor Contract component or correctional agent training component will result in a letter of warning from the Warden. The warning letter will require a letter of response specifying corrective action taken.
 - (2) A second reported or observed and confirmed violation of a safety or health regulation, Offender Labor Contract component or correctional agent training component within a twelve-month period will result in a one-week suspension of the Offender Labor Contract by the Warden. As part of the suspension the Warden will require a letter of response specifying corrective action taken before the contract is resumed.
 - (3) A third reported or observed and confirmed violation of a safety or health regulation, Offender Labor Contract component or correctional agent training component within a twelve-month period will result in a three-month suspension of the Offender labor contract by the Warden. As part of the suspension the Warden will require a letter specifying corrective action taken before the contract is resumed.
 - (4) A fourth reported or observed and confirmed violation of a safety or health regulation, Offender Labor Contract component or correctional agent training component within a twelve-month period will result in a six-month suspension of the Offender labor contract by the Region Director. As part of the suspension the Region Director will require a letter specifying corrective action taken before the

contract is resumed.

(b) Violations Resulting In First Aid Treatment

- (1) The first accident that results in first aid treatment, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component will result in a letter of warning from the **Warden**. The warning letter will require a letter of response specifying corrective action taken.
- (2) A second accident that results in first aid treatment, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component within a twelve-month period will result in a one-week suspension of the **Offender** Labor Contract by the **Warden**. As part of the suspension the **Warden** will require a letter specifying corrective action taken before the contract is resumed.
- (3) A third accident that results in first aid treatment, as the result a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component within a twelve-month period will result in a three-month suspension of the **Offender** labor contract by the **Warden**. As part of the suspension the **Warden** will require a letter specifying corrective action taken before the contract is resumed.
- (4) A forth accident that results in first aid treatment, as the result a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component within a twelve-month period will result in a six-month suspension of the **Offender** Labor Contract by the Region Director. As part of the suspension the Region Director will require a letter specifying corrective action taken before the contract is resumed.

(c) Violations Resulting In Injuries or Illnesses Requiring Medical Treatment Greater Than First Aid

- (1) The first accident that result in injury or illness requiring medical treatment greater than first aid, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component will result in a three-month suspension by the **Warden**. As part of the suspension the **Warden** will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities.
- (2) A second accident that results in injury or illness requiring medical treatment greater than first aid, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component

within a twelve-month period will result in a six-month suspension of the **Offender** Labor Contract by the Region Director. As part of the suspension the Region Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities.

- (3) A third accident that results in injury or illness requiring medical treatment greater than first aid, as the result a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component within a twelve-month period will result in a one-year suspension of the **Offender** Labor Contract by the Assistant Director for **Auxiliary Services**. As part of the suspension the Assistant Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities.
- (d) Violations That Result In Permanent And / Or Disabling Injuries Or Illnesses
- (1) Accidents that result in permanent and/or disabling injury or illness, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component will result in a six-month suspension by the Region Director. As part of the suspension the Region Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities.
 - (2) A second accident that results in permanent and/or disabling injury or illness, as the result of a violation of a safety or health regulation, **Offender** labor contract component or correctional agent training component within a twelve-month period will result in a one-year suspension of the **Offender** Labor Contract by the Assistant Director for **Rehabilitative** Services. As part of the suspension the Assistant Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities.
- (e) Violations Resulting in Fatality
- (1) Accidents that result in fatality, as the result of a violation of a safety or health regulation, **Offender** Labor Contract component or correctional agent training component will result in a one-year suspension by the Assistant Director for **Rehabilitative** Services. As part of the suspension the Assistant Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities. The agency may require

a comprehensive survey of the contracting organization's safety program by OSHA Consultative Services and correction of any discrepancies before allowing resumption of contract activities.

- (2) Any subsequent accident that result in fatality, as the result of a violation of a safety or health regulation, Offender Labor Contract component or correctional agent training component will result in a five-year suspension of the Offender labor contract and suspension by the Assistant Director for Rehabilitative Services. As part of the suspension the Assistant Director will require a letter specifying corrective action taken. An agency safety officer will review the safety program of the contracting organization and their corrective actions before allowing resumption of contract activities. The agency may require a comprehensive survey of the contracting organization's safety program by OSHA Consultative Services and correction of any discrepancies before allowing resumption of contract activities.

.0712 TERMINATION OF CONTRACTS

- (a) Either Prisons or the approved Offender Labor Contract agency can terminate the contract by giving thirty (30) days written notice. Any violation of the agreement by an approved Offender Labor Contract agency or by an approved custodial agent will be reviewed for seriousness and the facility should confer with Region and Prisons Administration prior to termination.



Commissioner of Prisons

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Date