



## **POLICY AND ADMINISTRATIVE PROCEDURES**

### **Manual of Policies and Procedures**

Title

## **OFFENDER BUSINESS ACTIVITIES**

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 5-2-6.3 IC 11-8-2-5 (a)(8) IC 11-8-2-5 (a)(9) IC 11-8-6-1	01-03-105 02-01-101 02-01-103 04-01-104	ACA:  N/A

### **I. PURPOSE:**

The purpose of this policy and administrative procedures is to provide guidance to staff and offenders on offender business activities.

### **II. POLICY STATEMENT:**

The Department of Correction recognizes that some offenders may have business and property interests prior to their commitment to the Department. The Department supports the maintenance of business and property interests and encourages offenders to protect these interests. However, the Department must balance these interests with the safety of the facilities and persons in the community from unscrupulous activities.

The operation of businesses by offenders committed to the Department increases the potential for inappropriate behavior including fraud and trafficking. Additionally, the increased volume of mail and telephone calls that would result from the operation of a business within a correctional facility places increased burdens on staff. In order to attempt to protect persons in the community and to remove a potential burden from staff, offenders shall not be permitted to operate any private business, either for profit or non-profit, while incarcerated in the Department without written authorization from the Commissioner or designee. Such authorization shall be given only after considering the general welfare and safety of all parties that might be impacted by the business interest.

The sale of hobby craft items in accordance with this policy and administrative procedures shall not be considered the operation of a business activity. The Department recognizes that many offenders possess artistic talent and enjoy using

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this talent to create various types of art projects. The Department shall authorize the sale of certain hobby craft items produced by the offenders in accordance with these administrative procedures. The profit from the sale of these items shall be given to the offender, less a deduction for the operation of the cost of the program to sell these items, a deduction to be placed in the Victims of Violent Crimes Compensation Fund and a deduction to pay subsistence (room and board) to the Department.

### III. DEFINITIONS:

For the purpose of this policy and administrative procedures, the following definitions are presented:

- A. **ARTISTIC WORKS:** Poems, written articles, books, music, musical lyrics, etc. that an offender may compose or author while incarcerated in a Department facility.
- B. **BUSINESS ACTIVITY:** Any venture, enterprise or other activity by which an offender or others acting on the behalf of an offender engage in the sale, barter or exchange of goods and/or services or the solicitation of funds and/or services, including, but not limited to, any activity done in the name of an entity or organization rather than in the name of the offender. This venture, enterprise or activity may be either for profit, not-for-profit, private or charitable.
- C. **HOBBY CRAFT:** An activity or handicraft, such as drawing, painting ceramics, sculpture, etc., created by an offender during leisure time.
- D. **HOBBY CRAFT COORDINATOR (COORDINATOR):** The staff person designated by the Facility Head to oversee the sale of hobby crafts/artistic works of offenders at the facility.

### IV. INITIATION OR MAINTENANCE OF A BUSINESS ACTIVITY BY A CONFINED OFFENDER:

An offender shall request in writing approval from the Facility Head to conduct any business activity or to use any Department resource for the benefit of a business activity. The offender shall use REQUEST TO OPERATE A BUSINESS for this request. The Facility Head shall review the request and determine whether the business activity should be approved in accordance with these administrative procedures. If the Facility Head approves the request, the Facility Head shall forward the request to the appropriate Regional Director/Operations or Director/Re-Entry Services. The Regional Director or Director shall review the request and the Facility Head's comments. If the

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Regional Director or Director approves that request, the request and all appropriate recommendations shall be forwarded to the Deputy Commissioner of Operations for final review and approval. The Deputy Commissioner shall approve or deny the request. The Deputy Commissioner shall advise the Facility Head as to the approval or denial and shall instruct the Facility Head to advise the offender in writing as to the decision. Offenders may not attempt to establish any business activity, whether personal, for profit, not-for-profit, charitable or other, without obtaining prior approval from the Deputy Commissioner of Operations. Any attempt to establish or conduct a business activity through the mail, by telephone, or by any other avenue of communication while incarcerated and without receiving prior approval from the Deputy Commissioner of Operations shall subject the offender to a disciplinary action, in accordance with Policy 02-04-101, "The Disciplinary Code for Offenders."

Offenders shall not use a department facility as the principal office of a business. Nor shall the offender use a post office box or mailing address provided by the department for offender correspondence as a business address for any business activity. It shall be the responsibility of the offender who has been approved to conduct a business activity to provide all of the necessary materials required for the business, including paper, envelopes, postage stamps, etc. The offender shall be responsible for all cost incurred in this activity.

Offenders shall not be granted access to department computers or other electronic equipment in order to conduct a business activity. Nor shall offenders be permitted to use department computers to create letterhead stationery or envelopes for private business activities. Offenders shall not be authorized to have access to the internet, either directly or indirectly, in order to conduct a business activity or for solicitation of any type.

The approval for an offender to conduct a business activity shall consider the general welfare and safety of:

1. The public, including the offender's family;
2. Other persons under the control of the Department;
3. The offender seeking approval; and,
4. The Department.

Any offender approved to operate a business activity shall not employ other offenders. Operational procedures shall be developed indicating the manner in which offenders may request approval of a business activity.

## **V. PROTECTION OF PREVIOUSLY-OWNED PROPERTY RIGHTS:**

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Offenders shall be permitted to contact persons either through the mail or by telephone, in order to protect the property and/or funds legitimately owned by the offender prior to his/her commitment to the Department. In such cases, the offender must provide the facility with information that will allow the facility to verify the offender's interest or ownership in this property or funds. This contact shall not place the offender in any form of indebtedness nor shall this contact attempt to solicit funds, as addressed in the administrative procedures for Policy 02-01-103, "Offender Correspondence," or services on behalf of the offender beyond that which is necessary to maintain the property and/or funds.

An offender who owned or operated a business or profession prior his/her to commitment to the Department shall assign authority for the operation of such business or profession to a person in the community within 90 days of commitment. When it is necessary to utilize the mail or telephone for this purpose, the inmate shall coordinate this activity through his/her Case Manager.

### **VI. SUBSCRIPTIONS AND SIMILAR ACTIVITIES:**

Activities, such as subscriptions to magazines or newspapers, which require payment shall have prior approval from the Facility Head or designee. All such activities shall be pre-paid following approval from the Facility Head or designee. Approval for payment of subscriptions to magazines, newspapers or other periodicals or for books shall be in accordance with the procedures governing printed matter in the administrative procedures for Policy 02-01-103, "Offender Correspondence." Approval for payment for such subscriptions or books does not restrict the facility from confiscating the magazine, newspaper, periodical or book upon arrival, if it is determined that the item is prohibited property as indicated in the administrative procedures for Policy 02-01-103.

### **VII. OFFENDER INVESTMENTS:**

Offender investments in stocks, bonds, mutual funds or other securities shall be considered engaging in a business activity and shall be prohibited. However, offenders who had investments prior to their commitment to the Department may keep those investments and may have contact with persons relating to them in accordance with Procedure V.

Interest bearing checking or savings accounts shall not be considered investing for the purposes of this procedure. However, an offender must have approval to open such an account while committed to the Department. Approval may be granted in accordance with the administrative procedures for Policy 04-01-104, "Inmate Trust Funds." Offenders who had such accounts prior to their commitment to the Department may keep these accounts and may contact persons regarding these accounts in accordance with Procedure V.

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VIII. HOBBY CRAFT ACTIVITIES:

Offenders involved in an approved hobby craft program at a facility shall not be considered to be engaged in a business activity. The Facility Head may limit the type and number of hobby craft items that may be made by offenders. The approval of hobby craft programs and the types of such programs shall be based upon the safety and security of the facility and the resources available at the facility to support such a program. Hobby craft materials and supplies for approved programs must be purchased through the facility commissary or through any other source approved by the Facility Head or designee.

Upon completion of an approved hobby craft project, the offender shall be required to dispose of the completed project. The offender shall dispose of the project in accordance with facility operational procedures and in accordance with the administrative procedures for Policy 02-01-101, "Offender Personal Property." When possible, offenders shall be permitted to send the project to someone outside the facility through the mail or an outside courier or the offender may be permitted to have the project picked up at the facility through the use of a "gate release." Use of a "gate release" shall be in accordance with the facility's procedures for "gate releases."

Offenders shall not exchange, trade or barter hobby craft projects with another offender. Nor shall an offender sell or give hobby craft projects or materials to another offender or to staff without the prior approval of the Facility Head or designee.

Operational procedures shall be developed which specify whether hobby crafts are authorized and, if so, which ones and the manner in which an offender may obtain and dispose of completed hobby craft items.

IX. SALE OF HOBBY CRAFT PROJECTS:

A. DESIGNATION OF FACILITY HOBBY CRAFT COORDINATOR:

The Facility Head shall designate a staff person to serve as the coordinator for selling offender hobby craft projects. This staff person shall be responsible for ensuring that any offender wishing to sell his/her hobby craft projects meets all criteria and completes the appropriate request form. The coordinator shall collect all hobby crafts approved for sale and shall forward them to the appropriate location for distribution to the sale site.

B. SALE TO STAFF:

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Offenders who are authorized to sell a hobby craft project shall not sell a project directly to staff of the Department. Nor shall staff place “orders” for specific projects. However, a staff person may purchase a hobby craft project in the same manner as a member of the public. Any project that is approved shall be placed for sale in accordance with the Department’s authorized process for the sale of hobby craft projects.

### **C. CRITERIA FOR SALE OF HOBBY CRAFT PROJECTS:**

Offenders who request to sell a hobby craft project to the public must meet the following criteria:

1. Must be free of having been found guilty of a Class A or Class B violation for a period of six (6) months prior to requesting to sell a hobby craft project.
2. Must not be in a disciplinary segregation unit.
3. Must have no pending disciplinary actions.
4. Must purchase all materials and supplies for the hobby craft project in accordance with facility procedures.
5. Must set a fair market price for the hobby craft project which shall become the sale price.
6. Must be the creator of the hobby craft project. One offender cannot sell a hobby craft project created by another offender; however, offenders who have worked together to create a hobby craft project may jointly request to sell the hobby craft project.
7. Must ensure that the hobby craft project is not offensive to any particular group or to the victims of the offender’s crime, as determined by staff.

If more than one offender was involved in the making of the hobby craft project, all offenders must meet the above criteria in order to be approved to sell the hobby craft project. In such cases, all offenders who made the hobby craft project shall be required to sign the request form and shall be advised that any profits from the sale of the hobby craft project will be split equally between the offenders whose names are on the request.

### **D. REQUEST TO SELL HOBBY CRAFT PROJECT:**

An offender who meets the above criteria must submit a “REQUEST TO SELL HOBBY CRAFT PROJECT,” form (ATTACHMENT I) to the Coordinator. The Coordinator shall review the request to ensure that it is complete and that the offender has met all necessary criteria. The Coordinator shall forward the request to the Facility Head for final approval. The Facility Head shall review the request and determine

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whether approval should be granted. The Facility Head shall return the request to the Coordinator. The Coordinator shall review the Facility Head's decision and shall notify the offender.

If multiple offenders were involved in the creation of the hobby craft project, each offender must submit a "REQUEST TO SELL HOBBY CRAFT PROJECT" form and indicate the name of any other offenders who were involved in the creation of the hobby craft project. The name of the project and the proposed selling price must be the same on each form.

If the request is approved, the Coordinator shall assist the offender to prepare the hobby craft project for transfer to the location designated by the facility to hold the hobby craft projects until they can be transported for sale.

### **E. SALE OF HOBBY CRAFT PROJECTS:**

Hobby craft items may be sold at the facility or through public marketing as authorized by the Commissioner. If the hobby craft projects are sold through public marketing, such as an art gallery or other public place of business, the person in charge of the marketing operation shall have final authority as to what hobby craft projects shall be placed on display for sale to the public. Projects may be refused for sale if the project is damaged, it not considered of high enough quality or artistic value to sell or the price proposed by the offender is too high. An offender may attempt to sell no more than three (3) hobby craft projects at one time, if space permits at the selling location. Projects will be displayed in such a manner as to give the largest number of offenders the opportunity to display their projects. If necessary multiple projects from the same offender may be stored pending space becoming available to display additional projects.

Any hobby craft project approved for sale by the Facility Head and the person in charge of the marketing operation shall be sent to the marketing location in the manner approved by the Facility Head and the marketing operation. If the hobby craft project is mailed to the marketing operation, the offender shall be responsible for all expenses for packaging and mailing the project.

Hobby craft projects that are sold shall be subject to the following deductions:

- No more than 20% of the sale price shall pay for the marketing operation's efforts and expenses;

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- 20% of the sale price shall be paid into the Violent Crime Victims' Compensation Fund; and,
- 20% of the sale price shall be paid to the Department as subsistence (room and board).

Any amount remaining after these deductions shall be sent to the facility housing the offender and placed in the offender's Inmate Trust Fund account. The offender shall be given a receipt indicating the selling price of the hobby craft project, the commission retained by the marketing organization, the amount paid into the Violent Crime Victims' Compensation Fund and the amount deposited into the offender's Inmate Trust Fund account. Generally, the proceeds from the sale of a hobby craft project shall be deposited in the offender's Inmate Trust Fund account within 30 days from the date of the sale of the project. Deposits into the Inmate Trust Fund account shall be in accordance with the administrative procedures for Policy 04-01-104, "Inmate Trust Fund."

After a hobby craft project has been on display for 120 days and has not sold, the marketing operation shall be authorized to reduce the price by 10% of the original sale price. No other reductions in the sale price shall be made. However, at the discretion of the marketing operation, the hobby craft project may be returned to the offender if the project has not sold after 180 days.

### **F. WITHDRAWAL OF PROJECT FOR SALE:**

An offender may choose to withdraw a hobby craft project that has approved for sale at any time. The offender shall submit a **REQUEST TO WITHDRAW HOBBY CRAFT PROJECT FROM SALE** to the Coordinator at the facility indicating that he/she no longer wishes to sell the project. This form must be signed and shall be filed in the offender's packets. If multiple offenders originally requested to sell the hobby craft project, each offender must submit a separate form to withdraw the hobby craft project and copies of the signed request will be placed in each offender's packet. The Coordinator shall discuss this request with the offender(s) and contact the marketing operation requesting that the project be returned to the facility. The offender(s) shall be responsible for any costs associated with the return of the project to the facility.

### **G. LIABILITY:**

The Department shall not be liable for the failure to sell the hobby craft project, for selling the project at an amount less than the offender requests, damage or destruction of the project or the loss of the project. Additionally, the Department shall not be liable for the actions of any



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approved marketing operation or any other person or organization involved in the sale of offender hobby craft projects.

The offender shall be responsible for all costs associated with the sale of the hobby craft project, including, but not limited to: the cost of the materials and supplies used in the creation of the project and the cost of handling, packaging and mailing the project to any approved location. Additionally, the offender shall be responsible for the content of the hobby craft project and shall ensure that it does not contain any content that would be deemed objectionable or derogatory towards any group or individual and does not portray either the offender's offense or victim in a manner that is not appropriate, as determined by staff and any marketing operation.

### **X. SALE OF OTHER OFFENDER ARTISTIC WORKS:**

Offenders may create other artistic works in addition to hobby craft projects. These artistic works may include: poems, written articles, books, music, musical lyrics, etc. Offenders may attempt to sell or have published these artistic works through various means. An offender shall not sell or have published any artistic work without the approval of the Facility Head or designee. This prohibition does not restrict an offender from sending a letter to the editor of a newspaper or magazine or writing letters to persons outside the Department of Correction.

Offenders wishing to sell an artistic work shall contact the counselor and advise as to what the offender is attempting to sell. The offender shall provide a copy of the artistic work to the counselor so that staff can ensure that the work does not contain information that may jeopardize the safety and security of the facility or present a threat to anyone. The counselor or staff person receiving the artistic work shall advise the Facility Head and shall give the copy of the work to the Facility Head for review and approval. Approval shall be granted unless the Facility Head or designee finds a clear and direct threat to the safety and security of the facility or a direct threat to the safety of any person.

If approved, the Facility Head shall give the offender written approval to proceed with attempting to sell the artistic work. Following receipt of the written approval, the offender may proceed with the sale or publishing of the artistic work.

The Facility Head shall advise the Regional Director/Operations and the Department's Public Information Officer when an offender requests approval to sell an artistic work and whether the request is approved. The Facility Head shall provide a copy of the artistic work to the Regional Director and Public Information Officer.

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The Department shall assume no liability for the contents of the artistic work nor shall the Department be responsible for any costs associated with the offender attempting to sell or publish the artistic work, including any costs for mailing or pre-printing costs.

If the offender is able to sell the artistic work, the offender shall advise the facility of any advance payment made to the offender by the publisher or others. If the artistic work is based upon the crime for which the offender has been convicted, the offender will be required to abide by the requirements in IC 5-2-6.3.

Otherwise, the offender shall be required to deduct 20% of the advance payment for deposit in the Violent Crime Victims' Compensation Fund. Only monies received from the advance payment shall be subject to a deduction for the Violent Crime Victims' Compensation Fund. Future payments or royalties shall not have the 20% deducted.

### **XI. APPLICABILITY:**

This policy and its administrative procedures shall be applicable to all facilities and offenders committed to the Department and housed in a Department facility.

Signature on File  
J. David Donahue  
Commissioner

5/15/06  
Date