



OFFICE OF THE SECRETARY

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SECRETARIAL DIRECTIVE

SUBJECT: Procurement, Purchasing, Disposition, and Contracting Guidelines

NUMBER: 2022-05

SUPERSEDES: SD 2021-10

APPLICABILITY: All Department Employees

REFERENCE: AR 118 Procurement and Disposition Activities; A.C.A. §§ 12-27-111, 19-11-221, 25-43-105, 25-43-108, and 25-43-403.

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APPROVED: Original signature on file

EFFECTIVE DATE: 6/27/22

I. POLICY:

As the executive head of the Arkansas Department of Corrections (Department), it is the responsibility of the Secretary of Corrections (Secretary) to administer the various rules, orders, or directives issued by the Department, in addition to administering the real and personal property, fixtures, contracts and assignable leases of the Department. The purpose of this directive is to ensure that procurement and contracting guidelines comply with all applicable state laws, federal laws, and administrative rules issued by the Board of Corrections (Board). This policy, and any substantive revision, must be approved by the Board prior to adoption.

II. DEFINITIONS:

- A. Capital Equipment. Equipment with a value of \$5,000 or more than can be moved from place to place (ex. washer, dryer, oven, etc.).
- B. Commodities. Any tangible good or product that can be bought or sold (ex. shoes, mattress, office supplies, cleaning supplies, etc.).
- C. Disposition. Disposal, sale, or transfer of surplus Commodities.
- D. Emergency Procurements. Acquisition of Commodities or services of which, if not immediately initiated, will endanger human life or health, Department property, or the functional capability of the Department.
- E. Natural Resources. Materials or substances that occur in nature and can be used for economic gain (ex. trees, land, etc.).
- F. Procurement. Purchasing, buying, renting, leasing, contracting, or otherwise obtaining any Commodities or services.
- G. Professional Services. Service that requires professional licensure (ex. architectural services, dietetics, etc.).

- H. Sole Source Procurements. Acquisition of Commodities or services that by virtue of specifications, are available from a single source.
- I. Technical Services. Services that include a commodity (ex. pest control service, waste disposal service, reentry housing, transitional housing, etc.).
- J. Vehicle. Applies to Vehicles that would require state licensure if they were to be used on state highways. All-terrain vehicles (ATVs) are not subject to requirements as specified in this policy.

III. ADMINISTRATION:

- A. The Chief Financial Officer (CFO) will maintain a Procurement Section as a Shared Service within the Department. The Procurement section will administer the Procurement and Disposition of all Commodities and Services as consistent with the provisions of this directive.
- B. The Procurement section will establish Procurement liaisons for each division and other operational areas within the Department. The liaisons will serve as the initial point of contact for any issue related to the Procurement or Disposition of Commodities and Services.

IV. GUIDELINES:

- A. Procurement of Commodities and Services
 - 1. Procedures for Procurement and receiving of Commodities and Services are governed by applicable state laws, federal laws, and policies of agencies with the authority to administer these activities.
 - 2. Procurements within approved operating budgets for various divisions which are not subject to other authorizations, do not impact other divisions, or are otherwise restricted by policy will be authorized by the appropriate Division Director or their designee.
 - 3. Emergency Procurements must be approved by the appropriate Division Director or Chief of Staff (for Shared Services).
 - 4. Sole Source Procurement of equipment requires approval of the Secretary. Sole Source Procurement of equipment exceeding \$50,000 also requires approval of the Board.
 - 5. In the event there is a farm equipment item available for purchase at auction, advanced approval for Sole Source Procurement must be obtained from the Office of State Procurement and the Board of Correction Farm Liaison prior to submitting a bid. If the bid is successful, details of the purchase will be provided in the following monthly report to the Board.
 - 6. Procurement of Capital Equipment items from all fund sources requires approval of the appropriate Division Director. However, the Division Director may delegate their approval authority for Procurement of specific Capital Equipment items or specific dollar amounts.
 - a. Capital Equipment Procurement in excess of \$10,000 must also be approved by the Secretary.
 - b. Capital Equipment Procurements in excess of \$20,000 must also be approved by the Board. The Board will receive notification only, from the Secretary or designee, of Capital Equipment Procurements between \$10,000 and \$20,000.
 - c. If there is a variance in price exceeding 10% of the original approved cost of a Capital Equipment item after the date the purchase request is approved and before the actual purchase, additional approval from the Board is required before the item can be purchased.
 - 7. Inmate Welfare Fund merchandise for resale may be procured by the Warden. Other Procurements from the Inmate Welfare Fund require the following approvals:

- a. Procurements of \$1,000 or less require prior approval of the applicable Warden and the Chief Financial Officer.
 - b. Procurements of more than \$1,000 but less than \$10,000 also require the approval of the Director of Division of Correction or their designee.
 - c. Procurements of \$10,000 or more, unless exempted in the following section, also require the approval of the Secretary and the Board.
 - d. Procurements related to facility maintenance do not require Board approval unless they exceed \$20,000.
8. Procurements from the Paws in Prison Fund shall be limited to operational support of the program and require the following approvals:
- a. Procurements of \$1,000 or less require prior approval of the Department Communications Director who supervises the program.
 - b. Procurements of more than \$1,000 but less than \$10,000 require approval of the Director of the Division of Correction.
 - c. Procurements of \$10,000 or more require approval of the Secretary and the Board.
9. Procurements from the Resident Services Cash Fund of merchandise for resale and food items may be procured by the Center Supervisor. Other Procurements from the Resident Services Cash Fund require the following approvals:
- a. Purchases less than \$10,000 require the approval of the Division Director and the Division Deputy Director of Residential Services.
 - b. Purchases of \$10,000 or more, unless exempted in the following section, also require approval of the Secretary and the Board.
 - c. Purchases related to facility maintenance do not require Board approval unless they exceed \$20,000.
10. Procurement of Commodities and Services required for authorized construction or renovation projects shall be approved by the Division Director or their designee.
11. Procurement of Vehicles requires approval of the Department of Finance and Administration (DFA). Upon the recommendation of the Division Director, the Secretary must sign and approve the Vehicle request form which is forwarded to the DFA for final approval. DFA guidelines for Vehicle Procurement can be found in the latest version of the State of Arkansas Vehicle Use and Management Handbook.
- B. Prohibition. The utilization of Split Procurement to avoid the approval thresholds will be considered a violation of this Directive.

V. DISPOSITION OF COMMODITIES:

- A. Disposition of Commodities and Natural Resources shall be governed by applicable state and federal laws, guidelines, and procedures.
1. Sales of industry produced Commodities and services and farm produced Commodities are governed by applicable state and federal laws, guidelines, and procedures.
 2. The sale or Disposition of buildings, goods, land, and sales exceeding \$50,000 require the approval of the Secretary and the Board. The demolition of any building requires the Division Director, Secretary, and the Board regardless of the building's value.

VI. LEASES:

- A. Leases of equipment, offices, storage space, land for agricultural operations, and buildings to house offenders shall be governed by applicable state and federal laws, procedures, and guidelines.
- B. Approvals
 1. Lease of offices, equipment, and storage space:
 - a. Leases of office, storage space and equipment require approval of the Division Director. However, if a new lease will exceed \$50,000 or an existing lease agreement will increase by more than 5% per year, the approval of the Secretary and the Board is also required.
 - b. Lease of office space resulting in relocation of staff requires the approval of the Secretary and the Board.
 - c. Lease of land or buildings for agricultural operations, or to house offenders requires the approval of the Division Director, the Secretary, and the Board.
 - d. Leases over \$10,000 per year requires approval of the appropriate Division Director.
 2. Lease of farm equipment:
 - a. Pursuant to A.C.A. § 19-11-221, the Board shall on an annual basis or more frequently if deemed necessary, shall determine if it is in the best interest of the State to lease or purchase farm machinery and equipment. If leasing is determined to be the better option, contracts for leased farm equipment and machinery may be awarded for an initial period of two (2) years with the option to renew for two (2) additional years. However, the total contract term shall not be more than 5 years.
 - b. On an annual basis, the Division of Correction's Agricultural Administrator will present an itemized list with the cost of leased farm machinery and equipment to the Board for approval.

VII. PROCUREMENT OF LAND, BUILDINGS, CONSTRUCTION, OR RENOVATION PROJECTS:

- A. Procurement of land, buildings, construction, and renovation projects shall be governed by applicable state and federal laws, guidelines, and procedures. In addition, the following approvals are required:
 1. Procurement of land, buildings, construction, and renovation projects under \$50,000 requires approval of the appropriate Division Director.
 2. Procurement of land, buildings, construction, and renovation projects \$50,000 and greater requires approval of the Secretary and the Board.

VIII. CONTRACTS:

- A. Contracts for Commodities or Services shall be governed by applicable state and federal law, guidelines, policies, and procedures. Amendments that adjust the amount of fees or the percentages of the total amounts to be paid, the scope of services, or that increase the previously approved cost per offender per day contract bid rate require the same approvals as initially required. In addition, the following approvals are required:
 1. Professional and Consultant Services. Contracts for Professional and Consultant Services require approval of the Secretary. Contracts for \$50,000 or greater, inclusive of amendments, further require approval of the Board. Board approval is only required for the Divisions of Correction and Community Correction, Shared Services, and the Correctional School District.

2. Architectural and Engineering Services. Contracts for architectural and engineering services for new construction or facility improvements require Board and Secretarial selection and approval of a contractor pursuant to A.C.A § 12-27-111. Selection and approval may be based on approval of an interview committee. If used, interview committees will include a Board member or the designee of the Board, in addition to Division staff. Amendments that increase or decrease the percentage of the total contract amount to be paid to the contractor require approval of the Board and the Secretary.
- B. All contracts for medical, legal, and operation of private facilities require review by the Department's Legal Division prior to consideration of the Board.
1. Medical Services. The Secretary will submit all contracts for medical services which require Board selection and approval. Amendments that affect the scope of services, the previously approved per offender per day contract rate exceeding the contract bid rate, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board.
 2. Legal Services. The Secretary will submit contracts for outside legal services to the Board for approval.
 3. Private Facility Operation Services. The Secretary will submit contracts for the operation of residential, Community Correction, or prison facilities to the Board for approval of contractor. Amendments that affect the scope of services, the per offender per day contract rate exceeding the contract bid rate previously approved, the method of calculation of compensation, and other adjustments to fees to be paid also require approval of the Board. This requirement does not apply to the selection of transitional housing or reentry facilities.
- C. Should an emergency or time-sensitive situation necessitate immediate Procurement of Commodities or services that require approval of the Board as outlined herein, the Secretary's Office will contact the Board Chairman or a designated Board liaison if the Chairman is unavailable for the Board's emergency approval or to request a special meeting for full Board consideration and approval.

IX. REPORTS:

The Secretary shall provide a monthly report to the Board listing new or renewed contracts of \$10,000 or more pertaining to the Division of Correction, Division of Community Correction, or the Correctional School District.