



# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	<b>SECTION NUMBER</b>  <b>01-105D</b>	<b>PAGE NUMBER</b>  <b>1 of 7</b>
		<b>SUBJECT:</b>  <b>ADMINISTRATION: Contracts for Programs and Services</b>	
<b>Approved By:</b>   <b>Secretary of Corrections</b>		<b>Original Date Issued:</b> <span style="float: right;"><b>03-12-15</b></span>  <b>Replaces Version Issued:</b> <span style="float: right;"><b>N/A</b></span>  <b>CURRENT VERSION EFFECTIVE:</b> <span style="float: right;"><b>03-12-15</b></span>	

<b>APPLICABILITY:</b>	<input type="checkbox"/> <b>ADULT Operations Only</b>	<input type="checkbox"/> <b>JUVENILE Operations Only</b>	<input checked="" type="checkbox"/> <b>DEPARTMENT-WIDE</b>
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## POLICY STATEMENT

Contractual agreements for programs and services shall follow established procedures for initial negotiation, review, drafting, approval/disapproval, and implementation. Each such agreement shall, where appropriate, include a provision, which specifies the desired mission related outcomes and how they will be measured. Contracts shall include language which requires that all consultants and contract personnel who work with offenders are required to abide by the Department’s policies regarding confidentiality of information. (ACI 3-4068)

Employees of other public or private organizations providing a service to the agency are accountable to the principal administrator of the program in which they work; contractual agreements shall reflect the same. (ACO 2-1C-17)

## DEFINITIONS

Division Deputy Secretary: Deputy Secretary of Juvenile Services Deputy Secretary of Community and Field Services, and/or Deputy Secretary of Facilities Management.

Fiscal Officer: The Central Office staff person designated by the Secretary of Corrections with the responsibility to coordinate the Department’s budget and fiscal policies.

Interagency Agreement: A contractual agreement between the Department of Corrections and another state agency, federal agency, political subdivision of Kansas, agencies of other states or subdivisions thereof, or private nonprofit educational institution without a competitive bid process as authorized under K.S.A. 75-3739(g).

Local Service Contract: A contract which is limited in scope to one particular facility or office for such services as: refuse removal, vermin and pest control, equipment maintenance, etc.

Procurement Negotiation Committee (P.N.C.): A committee composed of representatives of the Secretary of Administration, the Office of Procurement and Contracts, and the Secretary of Corrections who are authorized under K.S.A. 75-37,102 to negotiate contracts for the Department of Corrections.

Procurement Negotiated Contract: A contract negotiated through a competitive bid process involving members of a Procurement Negotiation Committee.

Sole Source Contract: A contract negotiated without a competitive bid process on the basis that the program or service can only be provided by the designated vendor.

## **PROCEDURES**

### **I. Local Service Contracts**

#### **A. Facilities**

1. Local service contracts shall be established and renewed in accordance with Section II. of this IMPP except that the warden or superintendent shall be the reviewing authority rather than the divisional deputy secretary or Secretary of Corrections.

#### **B. Parole Offices**

1. Local service contracts involving parole offices shall be established as provided by this IMPP except that the Deputy Secretary for Community and Field Services, rather than the Secretary of Corrections shall be the final approving authority.

### **II. Procurement Contract Development and Negotiation**

- #### **A.**
- All contractual agreements for programs and services shall follow the procedures and guidelines of the Department of Administration, Office of Procurements and Contracts as established by K.S.A. 75-3737a through 75-3744 and K.S.A. 75-37,102.

#### **B. Procurement Negotiated Contract**

1. Prior to the development of a Request for Proposal for a proposed contract, the management team member or the Deputy Secretary of the division proposing the contract shall prepare a letter from the Secretary of Corrections to the Director of Purchasing and Contracts requesting to convene a procurement negotiating committee for the purpose of negotiating the proposed contract.
  - a. This request letter shall contain:
    - (1) Statutory reference to K.S.A. 75-37,102;
    - (2) The purpose of the procurement; and,
    - (3) Designation of the Secretary's representative on the P.N.C.
2. Upon receipt of authorization from the Director of Purchasing and Contracts, the KDOC division staff shall submit to the Office of Procurement and Contracts a Request for Proposal, which shall include specifications, related to:
  - a. Section I: Instructions for bidders including the term of the contract, schedules, and criteria for evaluating bid proposals;
  - b. Section II: Statement of work including the purpose of the program and the specific services to be provided.
3. Upon conclusion of the procurement negotiations, the management team member or the divisional deputy secretary shall prepare a letter from the Secretary of Corrections to the Director of Purchasing and Contracts recommending the award of the contract to a specific vendor or reject all proposals.
4. Upon receipt of the Secretary's recommendation, the Office of Procurement and Contracts will issue an "Intent to Award" letter instructing the designated vendor to meet with appropriate KDOC staff to negotiate the final contract terms.

#### **C. Exemptions to the Competitive Bid Process**

1. A sole source contract or interagency agreement may only be entered into after receiving prior approval from the Department of Administration. Requests for exemption from competitive bidding requirements shall be made in accordance with IMPP 04-116D, Section I.D.2. through D.4.

### III. Contract, Review, Drafting, Approval/Disapproval, And Implementation

- A. All contract terms shall be reviewed by the management team member or the Deputy Secretary of the division proposing the contractual agreement.
  1. Upon completion of contract negotiations, the staff member(s) submitting the proposal shall forward the completed proposal for contract to the management team member or the divisional deputy secretary.
  2. The management team member or the divisional deputy secretary shall review the proposal for contract within 10 working days of its receipt from the staff.
    - a. If the proposed contract meets with the management team member or the Deputy's approval, the management team member or the Deputy shall forward the proposal to the Chief Legal Counsel for review.
      - (1) Prior to forwarding the proposal for contract, the management team member or the divisional deputy secretary shall ensure that the proposal contains, at a minimum, the following specifics:
        - (a) Who is to perform the service or provide the program;
        - (b) How the services are to be performed or the program is to be provided;
        - (c) When and/or with what frequency the services are to be performed or the program is to be provided;
        - (d) Who the intended recipients of the service or program are;
        - (e) Where the service or program will be provided;
        - (f) At what cost the service or program is to be provided, and what schedule of payments is to be established in liquidation of the contractual obligations incurred;
        - (g) The role and function of contract employees providing services are specified in their relationship to the authority and responsibility of the principal administrator; and, (ACI 3-4012)
        - (h) The requirement that all consultants and contract personnel who work with offenders abide by the Department's policies regarding confidentiality of information. (ACI 3-4068)
    - b. If the proposal for contract does not meet with his/her approval, the management team member or the divisional deputy secretary shall return the proposal, with comments for revision and/or reasons for disapproval, to the staff person(s) submitting the proposal.
- B. The original draft of the contract, based upon proposals approved by a management team member or a divisional deputy secretary, shall be prepared by the originating Division head or other designated staff member or at the option of the originating Division head, by the Chief Legal Counsel. (ACO 2-1A-28, ACI 3-4023)

1. Upon receipt of the original draft of the contract, or the approved proposal for contract, the Chief Legal Counsel or designee, shall, as applicable, either review the original draft of the contract or prepare a contract so written as to carry out the terms and conditions specified within the proposal.
    - a. Unless the Chief Legal Counsel is of the opinion that the specificity of the information contained within the original draft of the contract is insufficient it shall be returned to the originating Division head or designated staff member.
    - b. If the Chief Legal Counsel is of the opinion that the information contained within the original draft of the contract or the proposal is not sufficiently specific, he/she shall, within five (5) working days of its receipt, return the original draft or proposal to the initiating Division head or designated staff member with appropriate comments identifying the additional specifics required prior to its next submission for consideration.
      - (1) Prior to again submitting the original draft of the contract or proposal for contract to the Chief Legal Counsel, the initiating Division head or designated staff member shall insure that the additional details requested are provided with the original draft or proposal.
  2. Once the original draft of the contract is approved by the Chief Legal Counsel or designee, or a contract is drafted by the Chief Counsel or designee, the Chief Counsel or designee, shall attach the Department Of Corrections Contract Review (Attachment A) to the face of the contract, and shall return the contract and cover sheet to the initiating management team member or the divisional deputy secretary.
- C. All contracts shall be subject to a process of contract review, which shall be completed prior to the contract becoming effective.
1. Upon receiving the original draft of the contract, or a drafted contract from the Chief Legal Counsel with cover sheet attached, the initiating management team member or divisional deputy secretary shall begin the review process by taking the following actions:
    - a. Entering the following information at the top of the Department Of Corrections Contract Review (Attachment A);
      - (1) The purpose of the contract;
      - (2) Whether or not the contract covers a specific budget item;
      - (3) The program/subprogram to which the contract is to be charged;
      - (4) The date upon which the contract is to be executed; and,
      - (5) The name of the staff member requesting the contract.
    - b. Reviewing the contract draft, marking the appropriate response under the "APPROVALS" section of the contract review sheet, and adding any pertinent comments which may apply; and
    - c. Forwarding the contract draft and cover sheet to the Fiscal Officer for further review.
  2. Upon receiving contract draft from the initiating management team member or divisional deputy secretary with cover sheet attached, the Fiscal Officer shall continue the review process by taking the following actions:

- a. Reviewing the contract draft, marking the appropriate response under the "APPROVALS" section of the contract review sheet, and adding any pertinent comments which may apply; and
  - b. Forwarding the contract draft and cover sheet to the Chief Legal Counsel for completion of the review process.
3. Upon receiving contract draft from the Fiscal Officer with cover sheet attached, the Chief Legal Counsel shall complete the review process by taking the following actions:
- a. Reviewing the contract draft, marking the appropriate response under the "APPROVALS" section of the contract review sheet, and adding any pertinent comments which may apply; and
  - b. May then either forward the contract draft and cover sheet to the Secretary of Corrections for approval/disapproval or return the contract draft to the initiating Division head or designated staff member for a second review and further revisions.
    - (1) If no revisions have been made to the original draft, and all reviewers have approved the draft in original form, the draft copy and cover sheet shall be forwarded directly to the Secretary of Corrections for approval/disapproval.
    - (2) Based upon the comments made during the review process, the contract draft shall be returned to the initiating Division head or designated staff person to review and make any further revisions.
      - (a) If revisions have been made to the original draft, then the contract shall be subject to a second review.
- D. The action of the Secretary of Corrections shall be final.
1. If approved by the Secretary of Corrections, the initiating management team member or Deputy Secretary of Corrections shall ensure that the terms of the contract are implemented, and that the original of the signed contract is delivered to the Chief Legal Counsel.
  2. If disapproved by the Secretary of Corrections, the draft contract shall be returned to the initiating management team member or divisional deputy secretary with whatever comments the Secretary of Corrections deems appropriate.
    - a. The management team member or divisional deputy secretary shall forward the draft contract and comments to the divisional staff initiating the contract proposal.

#### **IV. Monitoring of Program or Service Delivery**

- A. The management team member or divisional deputy secretary responsible for the service or program delivery specified by a given contract shall designate a staff person(s) who shall be responsible for monitoring on a continuous basis the delivery of all services and/or programs specified within the terms of the contract through inspections, audits and reviews.
1. The warden, superintendent or parole director of each facility wherein programs and/or services are delivered by terms of the contract shall assist designated staff in all aspects of the monitoring function.
    - a. Upon request of the management team member or divisional deputy secretary or designee, the warden or superintendent shall provide such statistical, financial, and operational data as are required to effectively monitor the contractual performance of any programs and/or services which may be provided under the

terms of contracts within the management team member's or divisional deputy secretary's scope of responsibility.

- b. A management team member or a divisional deputy secretary and/or designee shall be granted access to the buildings and grounds of each facility wherein contractual programs and/or services are provided under the terms of contracts for which the management team member or divisional deputy secretary has responsibility.
  2. Each Principal Administrator shall act as the departmental liaison with all contractors providing programs and/or services under the terms of contracts within the management team member's or divisional deputy secretary's scope of responsibility.
- B. All contractual agreements for programs and/or services shall be reviewed with the contracting agent at least twice a year. (ACO 2-1A-22, 2-1B-01, 2-1B-10; ACI 3-4018; 4-APPFS-3D-08)
1. The management team member or divisional deputy secretary responsible for the service or program delivery specified by a given contract shall designate a staff person(s) who shall be responsible for meeting and initiating the contract reviews with the contracting agent.
    - a. All such reviews, inspections, audits and meetings shall be documented in writing.
  2. In the event that services or programs are not being provided as agreed upon, staff responsible for the contract review shall provide written documentation to the management team member or the Deputy Secretary concerning the deficient area(s). Remedies shall be pursued in accord with the provisions of the contract.

#### V. Central Location of Contracts

- A. All contracts, leases and memoranda of agreements/understandings shall be maintained at central collection points to facilitate access to information regarding such documents.
1. Each warden and superintendent shall establish a central collection point and designate responsible staff to retain a copy of each contract, lease, and memorandum of agreement/understanding related to services provided to or by the facility.
    - a. A log of all contracts and agreements shall be maintained at the facility's central collection points.
  2. With the exception of the local-level service contracts covered in Section I.A., the KDOC Legal Division shall be the central collection point for retaining the originals of all contracts, leases, and memoranda of agreement/understanding related to services provided to or by any facility or organizational entity within the Department.
    - a. The Legal Division shall maintain a log of these documents in the Central Office.
- B. Each division that causes a contract or agreement to be entered into shall establish a process to ensure that the Legal Division is provided the original of each such document.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal

Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

K.S.A. 75-5205, 75-3737a through 75-3744, 75-37,102  
IMPP 04-116D  
ACO 2-1A-22, 2-1A-28, 2-1B-01, 2-1B-10, 2-1C-17, 2-1A-28  
ACI 3-4012, 3-4018, 3-4023, 3-4068  
4-APPFS-3D-08

**ATTACHMENTS**

<b>Attachment</b>	<b>Title of Attachment</b>	<b>Page Total</b>
A	Department of Corrections Contract Review	1 page

