

 <p>KENTUCKY CORRECTIONS Policies and Procedures</p>	Policy Number	Total Pages
	2.11	4
	Date Filed	Effective Date
	*	February 28, 2020
Authority/References KRS Chapter 45A, KRS 197.210 200 KAR Chapter 5 Finance and Administrative Cabinet Manual of Policies and Procedures ACA 2-CO-1B-09, 2-CO-1B-10, 2-CO-1C-17 Justice and Public Safety Cabinet interim policy and procedure 1	Subject <p style="text-align: center;">PROCUREMENT</p>	

I. DEFINITIONS

“Catalog Master Agreement” refers to an all state agency contract for use by all state government agencies.

“FAP” means Finance and Administration Cabinet Manual of Policies and Procedures.

“Indirect Costs” means the costs of a contractor in providing services to the Department which are not directly tied to a specific portion of contracted services, like administrative staff overhead, rent, maintenance, etc., but are tied to the overall administration and provision of services.

“Procurement” means the purchase or acquisition of items or services for use by the Department of Corrections.

“Sole Source” means that only one known vendor can provide the specified goods or services. Items or services that are proprietary are also known as sole source. (Example: ACA Audits)

II. POLICY AND PROCEDURE

The Department of Corrections will ensure proper procurement procedures are followed. The model procurement code, stipulated in KRS Chapter 45A is the governing authority for state government purchasing and shall be followed in all Department procurement activity.

- A. Procurement assistance or questions shall be directed to the Department of Corrections Division of Administrative Services.

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- B. Purchases shall be made from Catalog Master Agreements if an agreement exists for the commodities or services needed. If no Catalog Master Agreement exists for the commodities or services, the procurement methods outlined in this policy shall be followed. Items under \$1,000 on a Catalog Master Agreement may be purchased from an alternate vendor as stipulated in FAP 111-37-00.
- C. Any items produced by Kentucky Correctional Industries, including inmate clothing, bedding, etc., shall be purchased for Department use. Requests to purchase from alternate vendors must be justified and approved by the Office of Adult Institutions.
- D. Small Purchase Authority – The small purchase limit for the Department is \$20,000. Purchases between \$5,000 and \$20,000 shall have three quotes on file. If a vendor other than the vendor with the lowest quote is chosen, documentation of selection and reasoning for selection of this vendor shall be on file. All small purchases shall follow the guidelines issued under FAP 111-55-00.
- E. Items or services that exceed the Department’s small purchase authority and are not on a state master agreement shall be issued for solicitation by the Finance and Administration Cabinet on an eMARS RQS document.
- F. All Adult Institutions and Division purchases shall have written authorization from the Warden or Director or his designee and the Fiscal Manager or Fiscal Officer prior to purchase. The Fiscal Manager or Officer shall be responsible for ensuring all procurement laws, regulations, procedures and this policy are followed prior to authorizing procurement action.
- G. All purchase orders or documentation shall accompany the payment documentation and be filed for audit purposes.
- H. Competitive bidding exceptions and items determined to be not feasible to bid are outlined in FAP 111-08-00 and FAP 111-09-00. Cooperative purchases with other state agencies are permitted as indicated in FAP 111-08-00.
- I. Sole source purchases shall be documented and require Finance Cabinet approval if the purchase exceeds \$5,000 (FAP 111-10-00).
- J. Procurement document retention shall be followed as outlined in FAP 111-28-00.
- K. Emergency purchases shall follow the procedure outlined in FAP 11-39-00 and KRS 45A.095(3). Emergency purchases shall be reported to the Deputy Commissioner of Adult Institutions or his designee and coordinated with the Division of Administrative Services. Attempts in obtaining quotes for emergency purchases over \$5,000 shall be made and fully documented if unobtainable.

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- L. Construction services small purchase authority is governed by FAP 220-10-00. The Department's construction small purchase authority is \$40,000. Three or more quotes shall be solicited for services between \$20,000 and \$40,000. The construction small purchase authority shall not be used for construction and building services completed with inmate labor and shall only be used if a vendor is supplying both materials and labor.
- M. Procurement for capital construction projects managed by the Department's Capital Construction Management Branch (CCMB) shall follow all procurement procedures as indicated in this policy, KRS Chapter 45A and the FAPs. In addition, the assigned project manager shall be consulted and approval received prior to any procurement activity. Invoices for capital construction funded projects shall be forwarded to the Capital Construction Branch for payment.
- N. A Required Affidavit is mandatory for all purchases over \$1,000 (except procurement card purchases) from vendors who are not on a catalog master agreement or other contract (e.g., personal service contracts, master agreements, etc.). See Attachment 1.
- O. Conflicts of Interest – Any Department of Corrections employee who is related to or has a personal relationship with (friend, etc.) a potential or existing vendor shall abstain from all parts of the procurement process in which that vendor may be providing services or commodities to the Department.
- P. Indirect Cost Limitations for Contracts Procedures:
 - a. The Department of Corrections limits administrative fees and indirect cost percentages to 15% of the direct costs of the contracted services award.
 - b. The 15% limit for indirect costs may only be waived if specified by law, regulation or federal grant requirement.
- Q. Contracts for services shall be reviewed by the Department annually. Directors or managers responsible for the oversight of contracted services shall meet with contractors on an annual basis.
- R. The Commissioner or Deputy Commissioner shall be the only individuals authorized to sign contractual agreements for the Department. All contracts and agreements shall follow the Justice and Public Safety Cabinet interim policy and procedure 1.
- S. The Justice and Public Safety Cabinet Office of Legal Services requires sixty (60) days to review a contract. To meet this requirement, requests for new contracts or

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contract modifications shall be sent to the Division of Administrative Services no less than ninety (90) days prior to the proposed effective date.

- T. Vendors shall not commence work, or be compensated for work, prior to the effective date of a contract or prior to final approval by the Finance and Administration Cabinet. Work shall cease at the expiration date of the contract.
- U. Procurement card usage shall follow Finance and Administration Cabinet policy FAP 111-58-00. Procurement cards may be suspended or terminated for failure to follow FAP 111-58-00 or the cardholder user agreement.
- V. All less-lethal chemical munitions shall be ordered by the Commissioner or Commissioner's designee in the Division of Administrative Services. Only items authorized by the Commissioner or Deputy Commissioner of Adult Institutions may be procured. All munitions and weapons shall require authorization from the Commissioner or his designee.
- W. Government Contract Review Committee – Department contracts are subject to be selected for review by the Government Contract Review Committee. When Department contracts are selected for review, the following representatives shall attend the committee meeting: (1) the contract manager/subject matter expert (Director or Branch Manager for the division or branch requesting the contract) and (2) a procurement representative. If deemed necessary by the Commissioner, Deputy Commissioner or the Justice and Public Safety Cabinet, a budget officer and attorney may attend. The Justice and Public Safety Cabinet will determine if testimony preparation is required and coordinate accordingly.