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| <p style="text-align: center;">SOUTH DAKOTA</p>  <p style="text-align: center;">DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES</p> | | POLICY NUMBER 1.1.B.08 | PAGE NUMBER 1 OF 5 |
| | | DISTRIBUTION: Public | |
| | | SUBJECT: Procurement Management | |
| RELATED STANDARDS: | ACA Standards: 5-ACI-1B-07, 5-ACI-1B-14 | EFFECTIVE DATE: December 15, 2023 | |
| | | SUPERSESION: New Policy | |
| DESCRIPTION: Administration & Management – Fiscal Management | REVIEW MONTH: December |  KELLIE WASKO SECRETARY OF CORRECTIONS | |

I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to purchase all supplies, equipment, and services in accordance with the requirements and intent of SDCL § 5-18A and § 5-18D.

II. PURPOSE

The purpose of this policy is to ensure the purchasing procedures *for the collecting, safeguarding, and disbursing monies comply with the accounting procedures established by the governing jurisdiction* [ACA 5-ACI-1B-07]. The procedures to be followed will ensure that all DOC procurement activities are conducted in an efficient and orderly manner and in compliance with SD codified law, guidelines set forth by the Office of Procurement Management, Office of the Attorney General, and the Office of the State Auditor.

III. DEFINITIONS

Approving Official:

The DOC employee responsible for authorizing the appropriate funds for any proposed purchases to be made from their area of responsibility. This individual advises and informs persons concerning purchasing procedures. This person is also responsible for ensuring that purchase requisitions are accurate before submitting for approval in the e-procurement system. Approving officials include business managers, accountant IIIs, the associate director of budget and business operations, and the director of finance and administration.

Bid Letting:

The process allowed for bidders to review and respond to an invitation for bids or a request for proposals.

Competitive Bidding:

Process where prospective bidders compete for the sale or lease of items by submitting sealed bids, either in response to formal or informal notification on behalf of the state.

Contract:

Any type of agreement, regardless of what the agreement may be called, for the procurement of supplies or services.

Office of Procurement Management:

The division under the Bureau of Human Resources and Administration that is responsible for the procurement of all supplies, materials and equipment required by state agencies, except when otherwise provided for in state law. The division also establishes statewide contracts for goods and services and authorizes small purchases and equipment leases by state agencies in compliance with state law.

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Quote:

A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchases below the amount requiring formal bidding.

Request for Proposal:

All documents, whether attached or incorporated by reference, used for soliciting competitive sealed proposals.

Requisition:

The procedure used to communicate to the Office of Procurement Management on the state’s e-procurement system a need for an item or service and the information regarding where the ordered item is to be sent.

Services:

Furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

Supplies:

Furniture, fixtures, equipment, printing, stationary, fuel, clothing, staple foodstuffs, utilities, and all other commodities purchased, leased, hired or lease-purchased for the state or its agencies.

Warrant for Payment:

Legal instrument of payment authorizing money to be paid from the state treasury.

IV. PROCEDURES

1. Purchasing:

A. *Written policy and procedure govern the requisition and purchase of supplies and equipment, including at a minimum, the purchasing procedures and criteria for the selection of bidders and vendors [ACA 5-ACI-1B-14].* The department will utilize established state or cooperative contracts for the purchase of goods and services whenever available. If a state or cooperative contract is not available, then the department will follow the statutory purchasing guidelines below (SDCL § 5-18A).

1. The purchase of goods and services that do not exceed \$4,000 may be approved by a state purchasing cardholder, business manager, or accountant III. If a state or cooperative contract is not available, the state purchasing cardholder, business manager, or accountant III may use their best discretion to obtain the best value for the taxpayer.
 - a. Purchases that exceed \$4,000 may not be artificially divided in an attempt to circumvent the \$4,000 purchase transaction limit. Placing multiple, simultaneous, or consecutive transactions for this purpose is prohibited.
2. The purchase of supplies greater than \$4,000, but less than \$50,000 require the approval of a business manager or accountant III. If a state or cooperative contract is not available, a business manager or accountant III will request three written quotes from the purchaser and submit a requisition to the Office of Procurement Management (OPM) using the State’s e-procurement system.
 - a. The associate director of budget and business operations or designee must approve requisitions before submittal to the OPM.
 - b. Sharing vendor quotes is not allowed.
3. The purchase of services greater than \$4,000, but less than \$50,000 require the approval of a business manager or accountant III. If a state or cooperative contract is not available, a business manager or accountant III may use their best discretion to obtain the best value for the taxpayer by issuing a service purchase order or contract which requires the approval of the associate director of budget and business operations.

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- a. The director of finance and administration or secretary of corrections must approve and sign the contract for it to be valid.
 4. The purchase of supplies exceeding \$50,000 requires the approval of the associate director of budget and business operations. If a state or cooperative contract is not available, a business manager or accountant III, with the approval of the associate director of budget and business operations, may submit requirements to the OPM which will be placed on a scheduled bid letting.
 5. The purchase of services exceeding \$50,000 requires the approval of the director of finance and administration. If a state contract is not available, the associate director of budget and business operations, with the approval of the director of finance and administration, may advertise for competitive sealed bids or competitive sealed proposals using a request for proposal (RFP).
- B. Requests for proposals are used to solicit competitive sealed bids or competitive sealed proposals and must be used for services exceeding \$50,000.
1. Request for proposals will be issued on the electronic procurement system maintained by the OPM and will include the procedures for the solicitation and award of the contract and evaluation criteria. (SDCL §§ 5-18D-17, 5-18D-18).
 2. The associate director of budget and business operations will submit the final RFP to the OPM.
 3. Information and technology related projects require the involvement of the Bureau of Information and Telecommunications (BIT) staff and must undergo the technology review process.
 4. The following professional service exemptions are outlined in SDCL § 5-18D-21 and do not require an RFP. Exemptions that may be applicable to the department include:
 - a. Services of such unique nature that the contractor selected is clearly and justifiably the only practicable source to the provide the service. Certain security supplies and equipment may qualify for this type of exemption.
 - 1) The use of this exemption requires approval from the OPM. The associate director of budget and business operations may submit a request to OPM for a sole source purchase.
 - b. Emergency services necessary to meet an urgent or unexpected requirement or if health and public safety or the conservation of public resources is at risk.
 - 1) The use of this exemption requires approval from the OPM. The associate director of budget and business operations may submit a request to OPM for each emergency purchase.
 - c. Services for professional legal services, including contract attorneys.
 - d. Medical services and home and community-based services, including contracted community placements for offenders, parolees, and juveniles.
 - e. Services to be performed for a state agency by another state or local government agency, including contracts with local jails.
- C. Certain other procurements are exempt from the requirements outlined in SDCL § 5-18A and 5-18D. Those that may be applicable to the department include equipment repair contracts, utilities, medical supplies, communication technologies, computer hardware and software, food, surplus property, and supplies needed for the manufacturing of products by Pheasantland Industries (SDCL § 5-18A-22).
1. The purchase of these items still requires the approval of a business manager or accountant III if the cost is between \$4,000 and \$50,000 and the approval of the associate director of budget and business operations if the cost exceeds \$50,000.
 2. Any computer hardware or software purchase that is not included in the BIT standards list must be approved by BIT. A business manager or accountant III may submit a Moratorium Exception Form via the BIT service desk online at BIT's website.
 3. All security technology, communication technology, and any type of electronic purchase requires the approval of the Security Technology Manager.

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- D. Certain purchases are not allowed by the State Auditor’s Office, which has the authority to govern the procedure for issuing state warrants and the disbursements for which warrant may and may not be issued (SDCL § 4-9-1.1). Commonly requested items that are not allowable state expenditures are listed below. This list is not all inclusive.
1. Decorative items for which there is little or no legitimate need are not approved. Such items include pictures, walls hangings, flowers, plants, etc.
 2. Retirement parties and funeral expenses are not allowable state expenditures.
 3. Meals/food for state employees at their post of duty, location where an employee is permanently assigned for work and permanently resides, is not an allowed expense (ARSD 05:01:02:17).
 - a. However, the State Board of Finance may authorize a meal expense reimbursement at the per diem rate if the agency/employee conducting state business at an event or meeting extending through a mealtime without interruption, regardless of duty station (SDCL § 3-9-2.2).
 - b. The associate director of budget and business operations or designee may submit the Home Station Per Diem Reimbursement Request, available on the SD Secretary of State’s website, to the State Board of Finance for reimbursement.

2. Contracts:

- A. The Division of Finance and Administration works with legal staff to ensure that contracts comply with all laws, rules, and regulations. The Office of the Attorney General provides a contract template and guidelines for drafting consulting and professional service contracts that need to be followed unless otherwise approved by the Office of the Attorney General. The template provides the items that need to be included as well as the required clauses and executive orders. Any deviation from the language in the template needs to be approved by legal staff.
1. All consultant contracts are required to be on file with the Office of State Auditor (SDCL § 1-24A-1). The associate director of budget and business operations or designee is responsible for the submittal of contracts to the Office of State Auditor.
 1. All contracts that exceed \$10,000 are required to be posted to open.sd no less than sixty (60) days after the contract begins. The associate director of budget and business operations or designee is responsible for posting contracts online.
 2. The associate director of budget and business operations or designee will maintain a current and historical list of contracts.
- B. Contracts are required for services that exceed \$50,000 but are also used to outline agreed upon services for lesser amounts.
- C. Contracts may be awarded from competitive sealed bids, competitive sealed proposals, small purchase procurement (services less than \$50,000), sole source procurement, or emergency procurement.
- D. All contracts require the signature of the director of finance and administration or the secretary of corrections to be valid. Contracts that exceed \$50,000 also require the signature of the division director for the department in which the services will be provided.

3. Purchasing Card (P-card):

- A. A state purchasing card may be used for any legal state purchase of supplies and services in the amount of \$4,000 or less. If the item is on state contract, the p-card may be used to buy from that source. If the item is not on state contract, the p-card may be used at any vendor accepting Visa.
1. The p-card may not be used for any of the following categories without written authorization from the OPM. A business manager or accountant III may request approval from OPM if needed for each incident.
 - a. Computer hardware or software.
 - b. Cash Advances.
 - c. Travel expenses (hotels, meals, beverages, fuel, etc.).
 - d. Fuel/gas.

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- e. Standard merchant category exclusions (liquor stores, jewelry, etc.).
 - f. Personal items.
 - g. Food items for staff or offenders.
 - h. Items for office break rooms including disposable utensils.
- B. Only approved cardholders may use a state purchasing card. The associate director of budget and business operations must approve all purchasing cards for DOC employees. The employee must then complete the Purchasing Card User Application available online on OPM’s website, which is signed by the designated DOC site coordinator and submitted to the OPM for authorization and issuance of card.
- 1. Cardholder responsibilities include:
 - a. Ensuring the p-card is used for approved purchases in the amount of \$4,000 or less.
 - b. Obtaining and retaining receipts, invoices, and card slips for all transactions to be submitted to a business manager or accountant III who will reconcile with the monthly statement.
 - c. Ensuring the vendor does not charge sales tax. If sales tax is charged, the cardholder is responsible for getting it removed.
 - d. Reporting the card to U.S. Bank and the site coordinator immediately if lost or stolen.
 - e. Reading and adhering to the guidelines in the Purchasing Cardholder Responsibilities Manual available on OPM’s website.
 - f. Securing the card and account number.

4. Conflict of Interest:

- A. No person employed by the Department of Corrections may have any monetary interest in any contract or business conducted by the department (SDCL § 24-1-25).
- B. No supplies of any kind may be purchased for correctional facilities from any officer or employee of any correctional facility, or from any firm or corporation in which such officer or employee may be interested, and it is unlawful for the state auditor to allow any bills to any such officer, employee, or corporation or firm in which they may be interested, for any supplies of any kind or character for any state institution (SDCL § 1-15-12).

V. RESPONSIBILITY

It is the responsibility of the director of Finance and Administration to conduct annual review of this policy and make revisions as necessary.

VI. AUTHORITY

ARSD 05:01:02:17
SDCL § 1-24A-1
SDCL § 3-9-2.2
SDCL § 4-9-1.1
SDCL § 5-18A
SDCL § 5-18D
SDCL § 24-1-25
SDCL § 1-15-12

VII. HISTORY

December 2023 – New Policy

ATTACHMENTS *(*Indicates document opens externally)*

- 1. DOC Policy Implementation / Adjustments