



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: CPD/PMB
NUMBER: 7740.04
DATE: February 20, 2015

Acquisition of Private Sector Secure Correctional Beds

/s/

Approved: Charles E. Samuels, Jr.
Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

To define the roles of staff involved in planning for and procuring privately operated secure adult correctional beds.

The Program Statement applies **only to contract beds** at privately operated secure adult correctional facilities managed by the Privatization Management Branch (PMB), Correctional Programs Division (CPD).

No provision in this policy may conflict with or be inconsistent with the Federal Acquisition Regulation (FAR), Justice Acquisition Regulation (JAR), or the Program Statement **Bureau of Prisons Acquisition Policy**.

a. Summary of Changes

Policy Rescinded

P7740.03 Private Sector Secure Correctional Beds, Acquisition of (7/01/04)

- Updates the definition of Contracting Officer consistent with the FAR definition; updates terminology (i.e., Performance Work Statement, Post Award Conference); changes the Source Selection Authority to the Contracting Officer.
- Updates the section detailing contract solicitation and award to include the point-of-entry (www.fbo.gov) for informing potential contractors of new Requests for Proposal.

b. **Program Objectives.** Expected results of this program are:

- Private secure adult correctional facilities will be identified and considered as part of the Bureau's population management planning process.
- Privately operated secure adult correctional facilities will be acquired in accordance with regulations.

c. **Institution Supplement.** None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2.. DEFINITIONS

a. A **privately operated secure adult correctional facility** is a place of continuous confinement for federal adult offenders managed and operated under a Performance Work Statement (PWS) set forth by a contract between the Bureau and a private provider.

b. The **Class Acquisition Plan** addresses technical, business, management, and other significant considerations in an acquisition. It summarizes acquisition deliberations and identifies milestones for decisions.

c. The **Contracting Officer** is a Government employee, who by virtue of a Contracting Officer's Warrant, is the only person authorized to obligate, negotiate, award, administer, cancel, or terminate contracts on behalf of the United States Government.

d. The **Source Selection Authority (SSA)** is the Federal official in charge of selecting a source or sources in a competitive negotiated acquisition. The Contracting Officer serves as SSA for acquiring private secure corrections and detention services. The SSA:

- Establishes an evaluation group structure.
- Approves the Source Selection Plan.
- Considers the recommendations of evaluation and advisory groups in making the source selection decision.

3. NEED DETERMINATION

a. **Planning.** The Capacity Planning Committee identifies future capacity needs to meet anticipated growth in the Bureau's population and recommends to the Director and Executive Staff a capacity expansion strategy.

The Capacity Planning Committee considers several alternatives, including:

- New construction.
- Expansion of existing facilities.
- Intergovernmental Agreements with state and local jurisdictions.
- Contracting with privately operated adult correctional companies.

When an existing contract with a privately operated adult correctional company is about to expire, the Committee must decide whether to re-procure the services. If the decision is to re-procure, a change of mission may still be considered.

The Committee identifies:

- Geographic location.
- Number of beds.
- Security level of the prison.
- Type of offenders, if a specialized population is to be housed.

b. **National Environmental Protection Act (NEPA).** Any new acquisition requires coordination between the Administration Division, CPD, and the Office of General Counsel (OGC) to ensure compliance with NEPA.

c. **Notification to CPD.** Once the Director has approved the recommendation and the Executive Staff has been notified, the Capacity Planning Committee forwards a copy of the minutes of the decision to CPD.

The Committee also ensures that funds are available or being requested to cover the procurement's cost.

d. **Presolicitation Activities.** Upon notification from the Capacity Planning Committee that privately operated secure adult correctional services are needed, PMB develops the Class Acquisition Plan with the Contracting Officer's concurrence.

Along with the Class Acquisition Plan, the following documents, at a minimum, are developed:

- Source Selection Plan.
- Request for Contract Action.
- Performance Work Statement (PWS).
- Evaluation factors for award.
- Proposal preparation instructions.

These documents are forwarded to the Contracting Officer in the Acquisitions Branch, who completes the Request for Proposal (RFP).

The Council of Prison Locals (Union) is given a copy of a sample standard PWS used in contracting for secure correctional beds. While this is **not** a negotiating session, the Union will have the opportunity to review and provide input into the standard PWS.

If changes are made to the standard PWS that alter its intent, the Union is again given the opportunity to provide input. The Union may provide unsolicited input at any time.

4. **CONTRACT SOLICITATION AND AWARD**

The Contracting Officer ensures that a notice is placed in the point-of-entry (www.fbo.gov) informing potential contractors of a new RFP. The Union is given a copy of each RFP at the same time it is made available to potential bidders.

The Contracting Officer is the focal point for inquiries from prospective offerors.

After receipt of proposals, the Contracting Officer coordinates exchanges with the offerors in accordance with the FAR.

a. **Proposal Evaluation.** When the RFP has closed, the proposals are evaluated consistent with the FAR, the JAR, and the Program Statement **Bureau of Prisons Acquisition Policy**.

After the Contracting Officer has evaluated the proposals and prepared a final report, results are forwarded to the SSA:

b. **Selection and Notification.** The SSA makes a source selection recommendation for award to the Contracting Officer. The recommendation must include a rationale for the award.

After the recommendation is received, the Contracting Officer makes the award and notifies both the successful and unsuccessful offerors.

Normally, 36 months are needed between the time the Capacity Planning Branch notifies CPD of the need for a privately operated adult correctional facility and the award of a contract.

c. **Post Award Conference.** The Contracting Officer arranges a Post Award Conference involving:

- The Contracting Officer.
- Representatives of PMB.
- Contract oversight staff.
- Other Bureau staff as necessary.
- Council of Prisons President or Designee.
- The contractor.

If issues arise at the Conference affecting conditions of employment of Bureau bargaining unit staff, the Master Agreement will be followed, as appropriate.

d. **Contractor Staff Training.** The contractor provides appropriate professional training to its employees.

When working conditions of bargaining unit employees are affected by the Bureau's training of contract employees, the Bureau recognizes its obligation to negotiate to the extent required by the law and the Master Agreement.

e. **Budget/Cost Information.** Upon request, and to the extent the information is **automated**, the Bureau provides budget/cost information on a particular contract by type of expense. This does not preclude the Union from making other information requests pursuant to law.

5. STAFF ASSISTANCE IN THE SOURCE SELECTION PROCESS

The success of efforts to develop privately operated secure adult correctional facilities depends on the involvement of staff from other Central Office divisions. Subject Matter Experts (SMEs):

- Help develop the PWS.
- Serve on the Source Selection Panel to evaluate the technical merits of the proposals.
- Assist in other aspects of the award process.

The Assistant Director, CPD, may select individuals as Contract Oversight Trainees to assist PMB in the procurement process. These individuals are assigned to PMB until the award has been made, and are then reassigned to the field. The Contract Oversight Trainee Program:

- Provides temporary assistance to PMB during periods of high activity.
- Reduces the number of permanent staff needed in PMB.
- Provides introductory training for the employee before assuming duties in the field to ensure continuity in the oversight process.

Appropriate staff also assist with monitoring private contracts after award.

6. POLICY REVIEW

To fully integrate privately operated secure adult correctional facilities into Bureau operations, each division ensures that new and existing policy undergoing review take into account the impact on these facilities.

Other divisions and the Office of National Policy Management work with PMB to ensure the compatibility of Bureau policy with the operation of privately operated secure adult correctional facilities.

REFERENCES

Program Statements

P4100.04 Bureau of Prisons Acquisitions Policy (5/19/04)

Other Policy

Federal Acquisition Regulation (FAR)

Justice Acquisition Regulation (JAR)

ACA Standards

- American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4-4038
- American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-7D-15

Records Retention

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.