

PS 7740.01 PRIVATE SECTOR SECURE CORRECTIONAL FACILITIES,
OVERSIGHT OF



Program Statement

OPI: CCD
NUMBER: 7740.01
DATE: 6/13/2000
SUBJECT: Private Sector Secure
Correctional
Facilities, Oversight
of

1. **PURPOSE AND SCOPE.** To establish the authority and responsibilities involved in the oversight of privately operated secure adult correctional facilities under contract to the Bureau.

- This Program Statement does not provide guidance on the specific procedures to be followed in conducting contract oversight. Rather, it outlines the major responsibilities of components with a primary interest in contract oversight of these facilities.

For further direction on procedures for contract oversight, staff should refer to the contract, which outlines monitoring requirements and steps to address non-compliance with contract requirements. Staff should also refer to procedures developed at the regional level.

2. **PROGRAM OBJECTIVES.** The expected results of this program are:

- a. Activities of the Central Office and regional offices in contract oversight will be coordinated.
- b. Effective monitoring of privately operated secure adult correctional facilities will result in deficiencies being identified and corrected.

3. **DIRECTIVE REFERENCED**

PS 4100.03 BOP Acquisitions Manual (9/16/96)

4. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4038

b. American Correctional Association 2nd Edition Standards for the Administration of Correctional Agencies: 2-CO-1B-09

c. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-1B-11

5. DEFINITIONS

a. A **privately operated secure adult correctional facility** is a place of continuous confinement for federal inmates managed and operated under a Statement of Work established by a contract between the Bureau and a provider.

b. The **Contracting Officer (CO)** is a Government employee, by virtue of a Contracting Officer's Warrant, empowered to negotiate, award, cancel, or terminate contracts on behalf of the United States Government.

c. The **Contracting Officer's Representative (COR)** and the **Contracting Officer's Technical Representative (COTR)** are government employees and the CO's authorized representatives. The COR is the senior Bureau employee responsible for contract administration and ensuring contractor performance. The COTR is supervised by the COR and is responsible for monitoring contract performance.

The authority of the COR and the COTR to act on contractual matters is set forth in individual letters of appointment signed by the CO and provided to the contractor. Any changes in the authority of the COR or the COTR are to be in writing.

d. The **Contract Administrator** is the Bureau employee responsible for the oversight of the contractor's performance.

e. **Contract Oversight Assessment** is a process to identify strategic issues important to the quality assurance and quality control programs and a mutual understanding of these programs by both Bureau and contractor staff.

f. **Performance Evaluation** is the periodic evaluation of the contractor's performance in carrying out its obligations under a Government contract.

g. **Quality Assurance** is a system developed by the Government to monitor the quality of the contractor's products and services to ensure that contract requirements are defined and that satisfactory performance is achieved.

h. **Quality Control** consists of actions performed by the contractor to improve the quality of the organization's products and services. The contract requires that the contractor provide a quality control system to ensure that the work meets contract requirements. Quality control can be seen as consisting of:

- ! setting performance standards,
- ! comparing the quality of services in relation to those standards,
- ! taking corrective action when necessary, and
- ! planning for improvements.

i. **Award Fee** is a payment made to the contractor for achieving optimum performance. The granting of an award fee is the unilateral right of the Government. The award fee process will be administered in accordance with the contract.

j. The **Performance Evaluation Board** determines the amount of the award in accordance with the contract. The Board is headed by the Fee Determination Official (FDO) appointed by the Regional Director.

6. **RESPONSIBILITIES**

a. **Regional Director.** The Regional Director or designee will monitor the performance and operation of secure private prison contracts.

Upon award of a contract, the Regional Director selects the Contract Administrator, oversight specialists, and other personnel as appropriate, and notifies the Assistant Director, Community Corrections and Detention Division, of the selections. Ordinarily, staff are physically located at the contractor's work site. The Agency will notify the Council of Prison Locals President and the Council of Prisons Regional Vice President of the award of the contract. Notification of bargaining unit employees working in a contract facility will follow Article 1, section D, of the Master Agreement.

b. **Community Corrections and Detention Division (CCDD)**

(1) **Privatization and Special Projects Branch (PSPB).** PSPB provides support services to include on-site and Regional Office technical assistance visits. The PSPB will provide

guidance to contract oversight staff as needed and will help coordinate formal training and/or conduct technical assistance visits when requested in writing by the COR.

(2) Detention Services Branch. When a privately operated facility is used for inmates in Bureau custody who are not United States citizens, the Detention Services Branch must coordinate with regional personnel on the oversight of all functions and issues related to the Institution Hearing Program. This includes liaison with the Immigration and Naturalization Service and the Executive Office for Immigration Review, as well as on-site technical assistance visits.

c. **Regional Administrators.** Regional Administrators are the primary subject matter experts responsible for assisting the COR and COTRs with oversight of the contractor's performance. Regional Administrators are expected to assist contract oversight staff with:

- ! review of the contractor's quality control plan,
- ! establishment of the Government's quality assurance plan,
- ! review of the contractor's policies and procedures (including subsequent modifications),
- ! routine oversight duties, and
- ! technical assistance.

Regional Administrators are expected to understand:

- ! performance-based contracting procedures,
- ! the Statement of Work, and
- ! the contract's terms and conditions.

The Community Corrections Regional Administrator in particular must be well informed concerning the contract requirements and will be involved in contract oversight.

d. **Central Office Administrators.** Central Office Administrators are responsible for ensuring the Bureau's national privatization objectives are met within their respective disciplines. Central Office Administrators serve as technical experts for the PSPB and advise Regional Administrators on privatization issues affecting their specific disciplines.

7. TRANSMITTAL OF CONTRACT DOCUMENTS

a. **Documents Provided to the COR.** Upon award of the contract, the CO shall provide the COR with the following documents:

- ! The contract award document.
 - ! Full text copy of each amendment.
 - ! Copy of all portions of the contractor's proposal incorporated into the contract (including construction/building plans).
 - ! Copy of each discussion letter.
 - ! Copy of each proposal revision.
 - ! COR/COTR letters, provided the proposed COR/COTRs are eligible for appointment. The COR/COTRs must sign the letters immediately and return them to the CO within two days of receipt.
- Subsequent to the COR and COTRs signing the letters of appointment, the CO will provide the COR with acknowledgment verification that the contractor has received the letters.
- ! All copies of technical proposal construction/building plans.
 - ! Any excess copies of the contractor's technical proposal as requested by the COR. The request must be made within 60 calendar days of contract award.

With the exception of the Discussion letters, a copy of these documents will also be provided to the Council of Prison Locals President and affected Regional Vice President, so that changes in working conditions of bargaining unit employees may be negotiated, as required by Statute.

b. **Documents Provided to PSPB.** The CO is to provide PSPB a minimum of one complete copy of the offeror's entire proposal including revisions. A complete copy of all unsuccessful offeror proposals including revisions must also be provided to PSPB.

8. **CONTRACT MONITORING.** The Contract Oversight Assessment process ensures that both the contractor and oversight staff understand the strategy for monitoring the contractor's performance. Integral parts of the strategy are:

- ! the Quality Control Plan developed by the contractor, and,
- ! the Quality Assurance Plan developed by the COR.

a. **Quality Control Plan.** After contract award, the COR schedules an interchange meeting as part of the Contract Oversight Assessment. In preparing for the interchange meeting, the COR will assemble a team of subject matter experts, including Regional Administrators and representatives from PSPB, to review and become familiar with the contract's requirements.

These subject matter experts may later be called upon to assist with contract oversight.

The COR will then identify the Contract Oversight Assessment participants, who must include:

- ! the contractor,
- ! the Community Corrections Regional Administrator, and
- ! representatives from PSPB.

The purpose of the Contract Oversight Assessment is to critique the contractor's Quality Control Plan, taking into account the vital functions outlined in the contract and any modifications the COR has made.

The Quality Control Plan is the contractor's responsibility, and it must take into account the direction provided at the interchange meeting. The COR must approve the Quality Control Plan.

b. **Quality Assurance Plan.** In response to the contractor's Quality Control Plan, the COR develops a Quality Assurance Plan. The Quality Assurance Plan describes the strategy to be used to ensure that contract monitoring is both thorough and effective. The COR shall work closely with PSPB to develop the Quality Assurance Plan.

No later than **10 working days** prior to expected issuance of the Notice to Proceed, the COR must submit the contractor's Quality Control Plan along with the final Quality Assurance Plan to PSPB.

PSPB is to review the Quality Assurance Plan for consistency with national privatization objectives and approve the Quality Assurance Plan. PSPB must concur with any substantive changes to the Quality Assurance Plan.

9. **CONTENT OF COR FILES.** Files may be established in any manner deemed appropriate. All files must be clearly marked and indexed. Any form of filing (e.g., electronic, six-part folders, or binders) is acceptable as long as the information is readily accessible and easily transmitted to requesting parties.

All files are to contain a Table of Contents which clearly indicates the location of documents. A suggested format for organizing the files is shown in the Suggested Contract File Format (Attachment A).

10. **PERFORMANCE EVALUATION BOARD.** Generally, the FDO determines membership on the Board. However, the Administrator of PSPB, or designee, serves as the CCDD's representative on all Performance Evaluation Boards. To ensure consistency in the process, the PSPB develops award criteria for the Performance Evaluation Plan.

11. **NATIONAL COORDINATION.** The PSPB facilitates the sharing of information among contract oversight staff in different regions to ensure consistency in contract monitoring nationally. To assist the PSPB in this task, the Contract Administrator will send to PSPB a copy of all significant documents related to contract evaluation and contract actions for information purposes.

a. **Contract Actions.** Contract actions will be taken in accordance with the BOP Acquisition Manual. The Contract Administrator is to notify the PSPB regarding action the Bureau has taken to ensure compliance with the contract's terms and conditions within **five working days** of the action including:

- ! contract modifications;
- ! actions pertaining to disputes;
- ! notice of unsatisfactory contractor performance; and
- ! problem solving activities necessitated by unforeseeable circumstances arising after contract award.

b. **Routine Reports.** In addition to notification of contract actions, the Contract Administrator will submit a monthly report to PSPB summarizing routine contract activities, such as key staff changes. The monthly report will be forwarded to PSPB by the **15th of the month** and will summarize the activities of the previous month. The Contract Administrator will also forward copies of all monitoring reports to PSPB within **five working days** of completion.

12. **TRAINING.** All CORs and COTRs must be certified as a COR or COTR in accordance with Department of Justice and Bureau policy.

All CORs and COTRs must attend at least one of the following courses as approved by PSPB **within the first year** of appointment. Course selection will be done in consultation with PSPB.

- ! Contracting Officer's Representative Course

- ! Contracting Basics for COTRs
- ! The COR and COTR Training Program

All CORs and COTRs are to spend a minimum of **10 working days** at a Bureau privately-operated secure facility **within the first year** of appointment. The purpose of the assignment is to become familiar with oversight procedures at privately-operated facilities.

If approved by the Program Review Division, all CORs and COTRs must participate in a minimum of two program reviews in a discipline outside their area of expertise within two years of appointment.

All CORs and COTRs must also have training in the following areas. Training taken prior to appointment as a COR or COTR can meet this requirement.

- ! Problem Solving
- ! Effective Writing
- ! Interpersonal Communications
- ! Conflict Management/Dispute Resolution

/s/
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Director

SUGGESTED CONTRACT FILE FORMAT

CONTRACT FILE

- C Contract Award Document (including all amendments with full-text, parts of the contractor's proposal incorporated into the contract and government-/contractor-generated correspondence related to proposal evaluation)
- C Notice to Proceed with supporting documentation
- C A complete copy of the contractor's technical proposal
- C Contract Modifications (in order of issuance from earliest to latest)
- C COR/COTR Letters of Appointment (with evidence of contractor receipt)
- C Post-award Meeting

QUALITY CONTROL/ASSURANCE FILE

- C Contractor Quality Control Plan (QCP)
- C Government Quality Assurance Plan (QAP)
- C Documentation relating to QCP
- C Documentation relating to QAP
- C Management Assessment
- C Monthly QCP reports
- C Monthly QAP reports
- C PSPB approval of QAP
- C Individually tabbed deductions with:
 - , Government-generated correspondence
 - , Contractor-generated correspondence
 - , Documentation of deduction amount and effective date
- C Government monthly inspection files based on the contract's Performance Requirements Summary Table Contract Requirements
- C Contractor monthly inspection files based on the contract's Performance Requirements Summary Table Contract Requirements
- C Performance Evaluation Meetings
- C Changes to QCP
 - , Contractor requests
 - , Government approvals
- C Changes to QAP
 - , Support documentation for change
 - , PSPB approval of change

GOVERNMENT-OCCUPIED SPACE

- C Request to contractor for government-occupied space
- C Communication lines (e.g., telephone, fax, computer) requests
- C Parking requests
- C Key accountability
- C Government property

PERSONNEL FILES

- C Staffing Plan
- C Fingerprint card requests
- C NCIC/NLETS procedures
- C Approvals
 - , Conditional
 - , Final
 - , Change in Key or Essential Personnel

EMERGENCIES

- C Contractor Emergency Plan
- C Government Emergency Plan
- C As-builts
 - , Documentation of transmittal to Region
 - , Documentation of transmittal to Office of Emergency Preparedness
- C Photos
 - , Aerial
 - , Ground
 - , Documentation of transmittal of both to Office of Emergency Preparedness

SIGNIFICANT INCIDENTS

- C Form 583s
- C Form 586s
- C After-action Reports
- C Contractor reporting (to the Government) procedures
- C Duty-officer schedule (if appropriate)

AMERICAN CORRECTIONAL ASSOCIATION (ACA) ACCREDITATION FILES

- C Evidence of ACA accreditation
- C Evidence of re-accreditation
- C Government-waived ACA standards with supporting documentation

MODIFICATION FILE(S)

- C Individually tabbed modifications with:
 - , Request for Contract Action
 - , Supporting documentation for modification both Government- and contractor-generated

AWARD-FEE FILE(S)

- C Award-fee supporting documentation
- C Contractor-generated award-fee information

FISCAL DATA

- C Copies of all contractor invoices
- C SENTRY verification documentation for application of Fixed Incremental Unit Price
- C Inmate Telephones
 - , Copy of long-distance contract
 - , Copies of rebates
- C Copies of all Government requests for reimbursements

PAST PERFORMANCE INFORMATION

- C Report Cards

OPTION YEAR FILE(S)

- C Request for Contract Action

The above are minimum requirements. Other files may be created as appropriate. A Miscellaneous Section may be created for each file for documentation not elsewhere classified. It is not necessary for all files to be of the same filing method, e.g., electronic or six-part folders.