

PS 7740.02 PRIVATE SECTOR SECURE CORRECTIONAL BEDS, ACQUISITION
OF



Program Statement

OPI: CCD
NUMBER: 7740.02
DATE: 8/24/2000
SUBJECT: Private Sector Secure
Correctional Beds,
Acquisition of

1. **PURPOSE AND SCOPE.** To delineate clearly the role of the various offices involved in planning for and procuring privately operated secure adult correctional beds.

- The Program Statement **does not apply** to other contract beds, such as non-secure adult beds, juvenile beds, or beds obtained through intergovernmental agreements.
- No provision in this policy can be read to conflict with or be inconsistent with the Federal Acquisition Regulation, Justice Acquisition Regulation or the Bureau of Prisons Acquisition Policy.

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

a. All private secure adult correctional facilities will be identified and considered as part of the Bureau's overall population management planning process.

b. Privately operated secure adult correctional facilities will be acquired in accordance with regulations and employees provided appropriate professional training by the contractor.

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

3. **DIRECTIVES REFERENCED**

PS 4100.03 BOP Acquisitions Policy (9/16/96)
 Federal Acquisition Regulations (FAR)
 Justice Acquisition Regulations (JAR)

4. **STANDARDS REFERENCED.** None

5. **DEFINITIONS**

a. A **privately operated secure adult correctional facility** is

- a place of continuous confinement for federal adult offenders managed, and,
- operated under a statement of work set forth by a contract between the Bureau and a private provider.

b. The **Acquisition Plan** is a plan addressing all technical, business, management, and other significant considerations that will control an acquisition.

- It summarizes acquisition planning deliberations and identifies milestones for decisions in the acquisition process.

c. The **Contracting Officer**, is a Government employee with authority to enter into, administer, and terminate contracts, and take other contracting actions on behalf of the United States Government.

d. The **Source Selection Authority** is the Government official in charge of selecting a source or sources in a competitive negotiated acquisition.

- The Source Selection Authority establishes an evaluation group structure, approves the Source Selection Plan, and considers the recommendations of evaluation and advisory groups in making the source selection decision.

6. **NEED DETERMINATION**

a. **Planning.** The Capacity Planning Committee identifies future needs for capacity to meet the 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, to include:

- new construction,
- expansion of existing facilities,
- intergovernmental agreements with state and local jurisdictions, as well as
- contracting with privately operated adult correctional companies.

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

The Capacity Planning Committee must identify:

- geographic location;
- number of beds;
- security level of the prison; and
- type of offenders to be housed, if a specialized population is to be served.

The Administrator of the Privatization and Special Projects Branch (PSPB), Community Corrections and Detention Division (CCDD), serves as the Source Selection Authority (SSA) for acquiring private secure corrections and detention services.

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

c. **Notification to CCDD.** Once the Director has approved the recommendation and Executive Staff has been notified, the Capacity Planning Committee will ensure that a copy of the minutes covering that decision is forwarded to CCDD.

- The Committee will ensure that funds are available or are being requested to cover the cost of the procurement.

d. **Acquisition Plan Development.** Upon notification from the Capacity Planning Committee that privately operated secure adult correctional services are needed, PSPB will develop the Acquisition Plan with the Contracting Officer's concurrence.

The Acquisition Plan is to include, at a minimum, the following:

- The statement of work;
- Technical proposal instructions;
- Technical evaluation criteria;
- Request for Contract Action;
- Copy of the Class Acquisition Plan; and
- Source Selection Plan.

These documents are forwarded to the Contracting Officer in the Procurement and Property Branch, which completes the Request for Proposal (RFP).

The Union will be provided with a copy of a boilerplate standard statement of work used in the contracting for secure correctional beds. The Union will have the opportunity to review and provide input into the standard statement of work for consideration by the agency. It is understood this is not a negotiating session. If changes are made to the standard statement of work which changes the statement of work's intent, the Union will again be given the opportunity to provide input. Nothing is to prevent the Union from providing unsolicited input at any time.

7. **CONTRACT SOLICITATION AND AWARD.** The Contracting Officer ensures that a notice is placed in the Commerce Business Daily (CBD) informing potential contractors of a new RFP. The Council of Prison Locals' President (or designee) will be issued a copy of the RFP at the same time it is made available to potential bidders with respect to each procurement.

- The Contracting Officer serves as the focal point for inquiries from all prospective offerors.
- After receipt of proposals, the Contracting Officer coordinates all exchanges with the offerors in accordance with the FAR.

When the RFP has closed, the proposals are to be evaluated consistent with the FAR, the JAR, and BOP Acquisition Policy.

After the proposals have been evaluated and a final report prepared by the Contracting Officer, the results are forwarded to the SSA.

- The SSA makes a source selection recommendation for award to the Contracting Officer. The recommendation must include a rationale for the recommendation for award.

After the recommendation has been received, the Contracting Officer will make the award and notify the successful and the unsuccessful offerors.

- Normally, 18 months is required between the time the Capacity Planning Branch notifies CCDD of the need for a privately operated adult correctional facility and the award of a contract.

The Contracting Officer will arrange a pre-performance conference involving:

- the Contracting Officer,
- representatives of PSPB,
- contract oversight staff,
- other Bureau staff as necessary,
- a Union representative, and
- the contractor.

If issues arise at the pre-performance conference concerning conditions of employment of Bureau of Prisons bargaining unit staff, the Union and Agency will discuss and may negotiate a Memorandum of Understanding which addresses those issues.

Upon request, and to the extent the information is automated, the Bureau of Prisons will provide budget/cost information related to a particular contract by type of expense. This does not preclude the Union from making other information requests pursuant to law.

8. STAFF ASSISTANCE IN THE SOURCE SELECTION PROCESS. The success of the Bureau's efforts to develop privately operated secure adult correctional facilities depends on the involvement of staff from other Divisions in the Central Office.

Expert staff will:

- assist in the development of the statement of work,
- serve on the Source Selection Panel to evaluate the technical merits of the proposals, and
- assist in other aspects of the award process.

The Assistant Director, CCDD, with the appropriate Regional Director's concurrence, may select up to two individuals as Contract Oversight Trainees to assist the PSPB in the procurement process.

- These individuals will be assigned to PSPB until the award has been made and will then be reassigned to the field.

The purposes of the trainees are:

- To provide needed temporary assistance to the PSPB during periods of high activity.
- To reduce the number of permanent staff needed in PSPB.
- To provide introductory training for the trainees prior to assuming duties in the field to ensure continuity in the oversight process.

Expert staff are also needed to assist with monitoring private contracts after award.

- Contract oversight is primarily a regional responsibility. If contacted by a Regional Director or CCDD, other Divisions are to assist as needed.

9. POLICY REVIEW. To fully integrate privately operated secure adult correctional facilities in Bureau operations, each Division will ensure that all newly developed policy and any existing policy undergoing review take into account the impact of such policy on privately operated secure adult correctional facilities.

- Other Divisions will work closely with the PSPB to ensure the compatibility of Bureau policy with the operation of privately operated secure adult correctional facilities.

- The Office of National Policy Review in the Information, Policy and Public Affairs Division, will assist in this effort.

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Director