2026

STATE OF ARKANSAS

Office of State Procurement

Statutes and Administrative Rules, Compiled and Cross-Referenced

Each administrative rule placed beneath the statutory section it implements

Prepared by the Office of State Procurement, Department of Shared Administrative Services

SEPTEMBER 2026

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INTRODUCTION

This document combines the Arkansas Procurement Law and Procurement Rules.

Using This Document:

Reference Index: The reference index enables quick access to the appropriate subject being researched. It also identifies the section of the law and/or rule that applies (use “Ctrl F” as a search tool).

Statutory Numbering: The numbering system used is keyed to the numbering of the Arkansas Code Annotated. The title, chapter, subchapter, and section of the code references are contained within the citation. Thus, in the designation “19-60-101,” the “19” means the provision is in Title 19, the “60” indicates chapter 60, and the “1” in 101 means subchapter 1, with the “01” indicating the first section of the subchapter.

Procurement Rules (CAR): Rules are cited under the Code of Arkansas Rules (CAR) and are placed immediately following their corresponding statutory provision. Procurement Rules begin at 19 CAR. The Codification Notes that follow each rule list the former rule citation used prior to the Code of Arkansas Rules recodification.

Appendix: The appendix contains Title 22, Chapter 8, Motor Vehicles.

Notice: Pursuant to Ark. Code Ann. § 1-2-123, if the official electronic version of the Arkansas Code differs from the official hard-copy version of the Arkansas Code, the hard-copy version shall take precedence over the electronic version.

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SUBTITLE 4. PURCHASING AND CONTRACTS

CHAPTER 60 | GENERAL PROVISIONS

19-60-101. Responsibility of disbursing officer — Maintenance of files by Office of State Procurement.

(a) The disbursing officer of each agency, board, commission, department, or institution shall be responsible for reviewing all invoices prepared by commercial printers or suppliers holding commercial contracts to make certain that the charges to the agency, board, commission, department, or institution are proper under the terms of the contract.

(b) The Office of State Procurement shall maintain complete files that shall be open to public inspection on all commercial term and one-time contracts. The files shall contain:

(1) A copy of the contract;

(2) A list of all printing or duplicating done or commodities ordered, as well as the name of the invoiced agency; and

(3) A copy of all correspondence regarding the contract or jobs performed thereunder.

19-60-102. Use of soybean ink in state printing.

Notwithstanding any law or rule to the contrary, all printing that is chargeable to or that is paid for with funds appropriated wholly or in part by the state, or any state department, division, bureau, board, commission, or agency, shall be printed in soybean ink; provided, however, that the soybean ink is comparable in price to other inks, and that it is equally suitable for use.

19-60-103. Penalty for violation of law.

A person who is found by a court of law to have knowingly violated any state law in conjunction with the performance or acquisition of a contract with the state is ineligible to contract with the state for a period of three (3) years.

19-60-104. Equal opportunity policy — Purpose.

(a) The purpose of this section is to require any entity or person bidding on a state contract, responding to a request for proposals regarding a state contract, responding to a request for qualifications regarding a state contract, or negotiating a contract with the state for professional or consulting services to submit to the Office of State Procurement the most current equal opportunity policy of the entity or person.

(b) The office and a state agency shall require a copy of the most current equal opportunity policy of an entity or person to be filed with the office or state agency for public inspection as a condition precedent to:

(1) Accepting a letter of intent, bid, proposal, or statement of qualification with regard to a

state contract from the entity or person; or

(2) Entering negotiations with the entity or person for a professional or consulting services contract with the state.

19 CAR § 1-101. Collection and maintenance of vendor EEO policies.

(a) Equal opportunity (E.O.) policies are required from vendors who submit responses to state agencies or the Office of State Procurement for procurements other than small procurements.

(b) (1) The office will maintain a file of vendor equal opportunity policies.

(2) State agencies which issue solicitations will be responsible for confirming that vendors have a current E.O. policy on file with the state either through:

(A) Requesting that it be supplied with the solicitation response;

(B) Maintaining an agency file of vendor supplied E.O. policies; or

(C) Accessing and checking the files maintained by the office.

(c) Vendors will be responsible for supplying the state with updated versions of their respective E.O. policies as they are implemented.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-104 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-60-105. Illegal immigrants — Prohibition — Public contracts for services — Definitions.

(a) As used in this section:

(1) "Contractor" means a person having a public contract with a state agency for professional services, technical and general services, or any category of construction in which the total dollar value of the contract is twenty-five thousand dollars ($25,000) or greater;

(2) "Exempt agency" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, the Administrative Office of the Courts, and the Arkansas Development Finance Authority;

(3) "Illegal immigrant" means any person not a citizen of the United States who has:

(A) Entered the United States in violation of the Immigration and Nationality Act, 8 U.S.C. §1101 et seq., or regulations issued under the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.;

(B) Legally entered the United States but without the right to be employed in the

United States; or

(C) Legally entered the United States subject to a time limit but has remained illegally after expiration of the time limit;

(4) "Professional services contract" means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary;

(5) "Public contract for services" means any type of agreement between a state agency and a contractor for the procurement of services and all categories of construction with a state agency in which the total dollar value of that contract is twenty-five thousand dollars ($25,000) or greater;

(6) (A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency under subdivision (a)(7)(B) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54; and

(7) (A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including without limitation work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" does not include the procurement of professional services under § 19-65-101 et seq.

(b) A state agency shall not enter into or renew a public contract for services with a contractor who knows that the contractor or a subcontractor employs or contracts with an illegal immigrant to perform work under the contract.

(c) Before executing a public contract, each prospective contractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the contractor at the time of the certification does not employ or contract with an illegal immigrant.

(d) (1) If a contractor violates this section, the state shall require the contractor to remedy the violation within sixty (60) days.

(2) (A) If the contractor does not remedy the violation within the sixty (60) days specified under subdivision (d)(1) of this section, the state shall terminate the contract for breach of the contract.

(B) If the contract is terminated under subdivision (d)(2)(A) of this section, the contractor shall be liable to the state for actual damages.

(e) (1) (A) If a contractor uses a subcontractor at the time of certification, the subcontractor shall certify in a manner that does not violate federal law in existence on January 1, 2007, that the subcontractor at that time of certification does not employ or contract with an illegal immigrant.

(B) A subcontractor shall submit the certification required under subdivision (e)(1)(A) of this section within thirty (30) days after the execution of the subcontract.

(2) The contractor shall maintain on file the certification of the subcontractor throughout the duration of the term of the contract.

(3) If the contractor learns that a subcontractor is in violation of this section, the contractor may terminate the contract with the subcontractor, and the termination of the contract for a violation of this section shall not be considered a breach of the contract by the contractor and subcontractor.

19 CAR § 1-103. Employment of illegal immigrants—Prohibition—Certification by contractor.

(a) (1) Prior to the award or renewal of a services contract, the contractor must certify that the contractor does not, and agrees that for the aggregate term of the contract will not, employ or contract with any illegal immigrant.

(2) The instructions for certification will be provided in the contract solicitation.

(b) (1) If the contractor violates the above certification or is found not to be in compliance during the term of the contract, the state shall require the contractor to remedy the violation within sixty (60) days of discovery of that violation.

(2) Failure to remedy the violation within the sixty-day period will result in termination for breach of contract, and the contractor shall be liable to the state for the state's actual damages.

(c) (1) If the contractor uses a subcontractor at the time of the above certification, the subcontractor shall certify that the subcontractor does not employ or contract with an

illegal immigrant.

(2) The subcontractor's certification must be submitted within thirty (30) days after award of the contract, and the contractor is required to maintain the certification on file for the remainder of the term of the contract.

(d) (1) In the event that the contractor learns that the subcontractor's certification is in violation of the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., and terminates the contract with the subcontractor, the termination of the subcontract for a violation of this section will not be considered a breach of the contractor's contract with the state.

(2) However, any subcontractor subsequently hired by the contractor shall be required to provide like certification.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-105 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-60-106. Data company — Definitions.

(a) As used in this section:

(1) "Contractor" means a person having a public contract with a public entity for storage services or software services;

(2) "Data" means recorded information, regardless of form or characteristic;

(3) "Data company" means a contractor that provides software and stores data for a public entity or provides storage services for a public entity;

(4) "Entity of the state" means a department, institution of higher education, board, commission, agency, quasi-public organization, official, office, or employee, or an agency, instrumentality, or function thereof;

(5) "Political subdivision of the state" means a county, municipality, quasi-public organization, district, official, office, or employee, or an agency, instrumentality, or function thereof;

(6) (A) "Public contract" means an agreement for the purchase of commodities and services by a public entity.

(B) "Public contract" includes supplemental agreements;

(7) "Public entity" means an entity of the state or a political subdivision of the state or a school;

(8) "School" means a public school district, charter school, or education service cooperative, or a publicly supported entity having supervision over public educational entities; and

(9) "Storage services" means the storage of data of a public entity.

(b) (1) Data that is stored by a data company for a public entity is the property of the public entity.

(2) A data company shall not sell, disclose, or otherwise use the data that is stored for any other purpose without express authorization from the public entity unless the data is:

(A) Considered open; or

(B) Released in the public domain by the public entity.

(3) A data company shall comply with the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

(c) (1) Upon the expiration or termination of a public contract, a data company shall return all data to the public entity in the format specified in the public contract and in a secure manner.

(2) (A) If the public contract does not specify a format for return of the data, as an express term of the public contract, the data company shall return all data to the public entity in a secure common data format specified by the public entity in writing and delivered to the data company within thirty (30) days after the expiration or termination of the public contract.

(B) Notwithstanding the requirement of a public entity to specify in writing the secure common data format for return of the data and to deliver the data in that format to a data company under subdivision (c)(2)(A) of this section, a data company shall return all data to a public entity in a usable format within sixty (60) days after the expiration or termination of a public contract unless there is a contractual agreement that specifies what data can be kept, how long the data can be kept, and the purposes for which the data can be used by the data company.

(d) (1) A data company shall provide for the destruction of data still in its possession in a secure manner such that data cannot be reconstructed with backups or duplicate copies of data.

(2) The data company shall provide a certificate of destruction and describe the methods used for destruction.

(3) Destruction of the data shall be effected:

(A) Upon written approval by the public entity that acknowledges destruction of the data; and

(B) No later than six (6) months after the expiration or termination of the public contract.

(e) This section does not prevent a public entity and a data company from negotiating a public contract to determine the type of data format that is acceptable for transferring data from a data company or from negotiating a public contract that expressly contemplates alternate terms with regard to data return or data destruction, which alternate terms shall prevail over this section.

19-60-107. Contracts.

(a) An agency procurement official or procurement agent may enter into contracts to acquire technology systems for performing the revenue-generating functions and duties of the agency, including without limitation registration, processing, and collection functions.

(b) Any contract entered into under this section between an agency procurement official or procurement agent and a vendor of technology systems shall provide for:

(1) Payment of the technology systems on the basis of a percentage of the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, for a fixed time period, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system; or

(2) Payment of the technology system on a fixed fee contract basis, the fee to be paid from the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system.

(c) (1) All contracts authorized by this section shall be entered into pursuant to the Arkansas Procurement Law, § 19-61-101 et seq.

(2) Before execution of the contract, the following process shall be followed:

(A) The requesting agency shall request approval from the Secretary of the Department of Shared Administrative Services to prepare a request for proposal for a project authorized under this section;

(B) The request shall include the general nature of the project, the anticipated revenues that will be enhanced, and the forecasted revenues for the current biennium;

(C) Upon approval of the Secretary of the Department of Shared Administrative Services, the requesting agency shall prepare a request to the Department of Finance and Administration for approval to prepare a request for proposal for a technology project authorized under this subchapter;

(D) The request shall include the revenue source or sources that will be increased as a result of the project and the projected revenues for the anticipated life of the project;

(E) The requesting agency shall prepare a request for proposal, with advice and consultation from the Department of Finance and Administration, for the purchase of technology systems on the basis of a portion of the increase in the agency's revenues produced by the technology system; and

(F) (i) The request for proposal may provide that the agency and the vendor may negotiate an amount or baseline upon which the increase in taxes or fees is measured.

(ii) A contract other than a fixed fee contract shall include a factor in the baseline calculation to account for an increase in taxes or fees due solely to economic factors and not to the use of the technology.

(3) The agency procurement official or procurement agent and the vendor shall negotiate the contract, with the oversight of the Department of Finance and Administration to assist in negotiating an advantageous contract.

(4) (A) The agency director shall submit the proposed contract and a request for new appropriation to the Governor or his or her designee.

(B) The accompanying information shall include the methodology used to calculate the baseline amount proposed by the agency and other justifications and information that detail the program and the expected benefits of the agreement.

(C) The Governor or his or her designee shall study the request and determine whether the appropriation requested and the terms of the proposed contract are in strict compliance with this section.

(D) (i) The Governor may approve or modify the request for new appropriation and the proposed contract.

(ii) Any modification of the proposed contract shall be submitted to the vendor for approval.

(5) (A) Upon approval of the shared benefit agreement and new appropriation request, the Governor shall seek the advice and recommendation of the Legislative Council.

(B) Upon review of the Legislative Council, the Governor shall forward a copy of his or her approvals to the agency director and the Chief Fiscal Officer of the State.

(d) After receipt of the Governor's approvals, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section from the shared benefit holding appropriation.

(e) The requesting agency may utilize these appropriations to implement the approved contract.

(f) This section does not prohibit an agency that enters into a contract under this section from acquiring goods or services through appropriations for a function or program of that agency not specifically included in a contract entered into under this section.

(g) The Secretary of the Department of Shared Administrative Services may promulgate such rules, procedures, and guidelines as he or she may deem necessary and proper in order to carry out this section.

CHAPTER 61 | ARKANSAS PROCUREMENT LAW

Subchapter 1 — General Provisions

19-61-101. Title.

This chapter shall be known and may be referred to as the "Arkansas Procurement Law."

19-61-102. Purposes and policies.

The underlying purposes and policies of this chapter are to:

(1) Simplify, clarify, and modernize the law governing procurement by this state;

(2) Permit the continued development of procurement policies and practices;

(3) Provide for increased public confidence in the procedures followed in public procurement;

(4) Ensure the fair and equitable treatment of all persons who deal with the procurement system of this state;

(5) Provide increased economy in state procurement activities by fostering effective competition; and

(6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

19-61-103. Definitions generally.

As used in this chapter:

(1) (A) "Agency procurement official" means a person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this chapter and the rules promulgated under it.

(B) "Agency procurement official" includes an authorized representative acting within the limits of authority;

(2) "Business" means a corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other legal entity;

(3) (A) "Capital improvement" means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof that are undertaken, owned, operated, or otherwise managed by a state agency.

(B) "Capital improvement" does not include:

(i) Construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission; or

(ii) A building, facility, plant, structure, or other improvement constructed by, or in behalf of, the Arkansas Department of Transportation or the State Highway Commission;

(4) (A) “Commodities” means all personal property, including without limitation:

(i) Goods, as defined in § 4-2-105;

(ii) Leases, as defined in § 4-2A-103; and

(iii) Insurance.

(B) “Commodities” does not include:

(i) A lease on real property or a permanent interest in real property;

(ii) Exempt commodities and services; and

(iii) Capital improvements;

(5) (A) “Contract” means all types of state agreements, regardless of what they may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

(B) (i) “Contract” includes:

(a) Awards and notices of award;

(b) Contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type;

(c) Contracts providing for the issuance of job or task orders;

(d) Leases;

(e) Letter contracts; and

(f) Purchase orders.

(ii) “Contract” also includes supplemental agreements with respect to any of the items listed under subdivision(5)(B)(i) of this section.

(iii) “Contract” does not include a partial equity ownership agreement as defined under § 19-69-101 et seq.;

(6) “Contract modification” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

(7) “Contractor” means a person having a contract with a state agency;

(8) “Data” means recorded information, regardless of form or characteristic;

(9) “Debarment” means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;

(10) “Designee” means a duly authorized representative of a person holding a superior position;

(11) “Electronic” means electrical, digital, magnetic, optical, or any other similar technology;

(12) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and a nonsalaried individual performing personal services for an agency;

(13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus of the General Assembly, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(14) "Exempt commodities and services" means:

(A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C) (i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.

(ii) A report shall be filed annually with Arkansas Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of the exemption under this subdivision (14)(C);

(D) (i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.

(ii) However, commodities procured under subdivision (14)(D)(i) of this section shall not be sold or transferred to an agency with the intent of circumventing applicable procurement procedures;

(E) (i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

(ii) Contract exemptions under subdivision (14)(E)(i) of this section shall not extend to the procurement of commodities not otherwise exempt that are to be furnished by the agency under the contract;

(F) Contracts awarded by the Arkansas Department of Transportation for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

(G) (i) Farm products procured or sold by a state agency having an agency procurement official.

(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;

(H) Fees, including medical fees and physician fees;

(I) Foster care maintenance services provided by foster family homes or a community

provider that is licensed as a family style residential home or that provides a family home setting approved by the Division of Children and Family Services for children whose placement and care are the responsibility of the Division of Children and Family Services;

(J) Freight and storage charges and demurrage;

(K) Licenses required prior to performance of services;

(L) (i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.

(ii) A procurement under subdivision (14)(L)(i) of this section shall be reported to the State Procurement Director, giving details of the purchase;

(M) Livestock procured for breeding, research, or experimental purposes;

(N) Maintenance on office machines and technical equipment;

(O) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;

(P) Membership in professional, trade, and other similar associations;

(Q) Perishable foodstuffs for immediate use or processing;

(R) Postage;

(S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;

(T) Services of visiting speakers, lecturers, and performing artists;

(U) Taxes;

(V) Travel expense items such as room and board and transportation charges;

(W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(X) Works of art for museum and public display;

(Y) Capital improvements valued at less than the amount stated in § 22-9-203, subject to minimum standards and criteria of the Building Authority Division;

(Z) Services related to work force development, incumbent work force training, or specialized business or industry training;

(AA) The following commodities and services relating to proprietary software after the initial procurement:

(i) Technical support incidental to supporting the continuous operation of proprietary software;

(ii) Renewals;

(iii) Additional copies; and

(iv) License upgrades;

(BB) Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale;

(CC) Commodities purchased by the Division of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals;

(DD) Repair services for hidden or unknown damages to machinery already purchased;

(EE) Commodities and services purchased by an academic medical center using revenue derived from and used for patient care and hospital enterprises; and

(FF) Commodities procured by the State Parks Division to furnish and supply overnight lodging facilities with amenities, linens, furniture, and general décor;

(15) (A) (i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to a person to support a program authorized by law.

(ii) "Grant" does not include an award the primary purpose of which is to procure an end product, whether in the form of commodities or services.

(B) A contract resulting from such an award is not a grant but a procurement contract;

(16) "May" means the permissive;

(17) "Paper product" means an item manufactured from paper or paperboard;

(18) "Person" means a business, individual, union, committee, club, or other organization or group of individuals;

(19) "Political subdivisions" means counties, municipalities, and school districts;

(20) (A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) "Procurement" includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;

(21) "Procurement agency" means a state agency that is authorized by this chapter, by implementing rules, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22) (A) "Procurement agent" means a person authorized by a state agency not having an agency procurement official to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures

prescribed by this chapter.

(B) "Procurement agent" includes an authorized representative acting within the limits of authority;

(23) (A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling.

(B) Without necessarily being limited thereto, "public funds" does not include:

(i) Grants, donations, research contracts, and revenues derived from self-supporting enterprises that are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury; and

(ii) Revenue derived from patient care and self-supporting hospital enterprises of an academic medical center; and

(iii) Cash funds dedicated for use by the Arkansas Development Finance Authority under § 15-5-209(a) or by the Student Loan Authority Division of the Arkansas Development Finance Authority under § 15-5-1904(b);

(24) "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available, including publication in newspapers of general circulation, use of electronic or paper mailing lists, and use of websites designated by the State of Arkansas and maintained for that purpose;

(25) (A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.

(B) "Purchase request" may include without limitation the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of a written or electronic determination and finding required by this chapter;

(26) "Recycled paper" means paper that contains recycled fiber in a proportion specified by the State Procurement Director;

(27) (A) "Services" means the furnishing of labor, time, or effort by a contractor that does not produce tangible commodities.

(B) "Services" includes without limitation:

(i) Consulting services;

(ii) Personal services;

(iii) Professional services;

(iv) Technical and general services; and

(v) The furnishing of labor, time, or effort by a contractor for the generation, customization, configuration, or development of software and other intangible property other than technical support incidental to the procurement of proprietary software.

(C) "Services" does not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Building Authority Division or the Division of Higher Education;

(28) "Shall" means the imperative;

(29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record that is:

(A) Unique to the person using it;

(B) Capable of verification;

(C) Under the sole control of the person using it; and

(D) Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

(30) (A) "State agency" means an agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.

(B) "State agency" includes an exempt agency when an agency or exempt agency procures an item subject to Arkansas Constitution, Amendment 54;

(31) (A) "State contract" means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.

(B) The contract may apply to all or part of the state;

(32) "State Procurement Director" means the person holding the position created in § 19-61-202, as the head of the Office of State Procurement;

(33) "Suspension" means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance, which may lead to debarment;

(34) (A) "Technical and general services" means:

(i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;

(ii) Work performed to meet a demand, including without limitation work of a recurring nature that does not necessarily require special skills or extensive training; or

(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" does not include the procurement of professional services under § 19-65-101 et seq.;

(35) “Using agency” means a state agency that utilizes any commodities or services purchased under this chapter; and

(36) “Written” or “in writing” means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

19 CAR § 1-104. Definitions of terms used in the Arkansas Procurement Law.

(a) (1) “Commodities” is a broad term that encompasses all personal property, except for those categories of personal property expressly exempted under Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq.

(2) The following are specifically included as “commodities” under Arkansas Procurement Law:

(A) Goods, as defined in the Arkansas Uniform Commercial Code at Arkansas Code § 4-2-105;

(B) Leases of goods, as defined in the Arkansas Uniform Commercial Code at Arkansas Code § 4-2A-103; and

(C) Insurance.

(3) (A) Arkansas Code § 19-61-103(4)(B) expressly excludes real property, leases of real property, other permanent interests in real property, capital improvements, and excluded commodities and services from being considered “commodities” for purposes of Arkansas Procurement Law.

(B) Certain types of commodities that would otherwise fall within the definition of personal property are expressly exempted from the application of Arkansas Procurement Law at Arkansas Code § 19-61-103(14).

(C) State agencies not authorized to procure commodities through Arkansas Procurement Law may be authorized to do so under other applicable law.

(D) Exemption from Arkansas Procurement Law does not automatically exempt any state agency or officer from other laws governing the expenditure of public funds or the ethical restrictions at Arkansas Code § 19-64-101 et seq.

(b) “Consulting services” means services of providing professional counsel and expert advice.

(c) (1) “Employment agreement” means an agreement between a state agency, as employer, and its employee in which the terms and conditions of the employee’s employment are stated.

(2) An independent contractor who, in the course of his, her, or its independent occupation or profession, provides services to a state agency pursuant to a contract is not an employee simply by virtue of having a contract with a state agency.

(d) (1) “Personal services” means services unique to the specific individual and personality providing them, as opposed to services that are fungible and could be provided by any person based on a set of skills or knowledge.

(2) Personal services of visiting speakers, lecturers, and performing artists may be procured without any competitive procurement because they are expressly exempted from Arkansas Procurement Law.

(3) Any personal services provided by a contract employee under an employment agreement, as defined below, are excluded by definition from being considered services.

(e) (1) (A) "Professional services" means services furnished by or under the supervision of a professional who has been specially trained to provide such services.

(B) A "professional" is a person who belongs to a learned profession or occupation that requires a high level of training, specialized knowledge, proficiency, and often a professional license.

(2) (A) "Professional services" include medical, legal, financial advisory, architectural, engineering, construction management, and land surveying services.

(B) Under state law, legal, financial advisory, architectural, engineering, construction management, and land surveying services must be procured by means of a request for qualifications.

(C) Absent authority from the State Procurement Director, the request for qualifications shall not be used by state agencies to procure any other professional services unless the director determines by rule or in writing that the request for qualifications process is warranted and the director's approval is submitted to the Legislative Council for review

(D) (i) **Note.** Contracts to pay physician fees and medical fees are exempt from Arkansas Procurement Law under Arkansas Code § 19-61-103(14)(H).

(ii) Although contracts to pay for such fees are exempt from Arkansas Procurement Law, to the extent reasonably practicable, reasonable care should be taken to ensure that professional competence is considered with respect to such services.

(iii) Consequently, the State Procurement Director recognizes a request for qualifications as a suitable method for procuring such services where reasonably possible without the need of advance approval from the director in light of the exemption provided in Arkansas Code § 19-61-103(14)(H).

(f) (1) (A) "Services" is defined at Arkansas Code § 19-61-103(27)(A).

(B) It refers to the labor, time, or effort that a contractor furnishes under a contract as performance for separate consideration and not labor, time, or effort included in or incident to the production or sale of a commodity or commodities.

(2) Labor, time, or effort are included in the production or sale of a commodity if expended within either the production or sale of the commodity and are not set apart for separate consideration outside of the purchase price of the commodity.

(3) (A) Labor, time, or effort are incident to the production or sale of a commodity if they accompany the production or sale of the commodity as a minor consideration, even if a separate but relatively small fee is paid to the contractor for it.

(B) For example, where the purchase of a computer includes delivery and installation for a relatively small fee, the labor, time, and effort involved in the delivery and installation of the computer are incident to the sale of the commodity.

(4) After the state's procurement and acceptance of a commodity as conforming to the contract, subsequent labor, time, or effort furnished by a contractor with respect to the commodity are considered services for purposes of Arkansas Procurement Law if:

(A) They are not incident to the original procurement of the commodity; and

(B) There is a separate consideration paid for those services.

(5) Labor, time, or effort that a contractor furnishes for the customization, generation, configuration, or development of software, beyond that which is incident to the procurement, installation, maintenance, and routine technical support of the software, are considered services for purposes of Arkansas Code § 19-61-116.

(6) Based on the exclusionary definition in Arkansas Code § 19-61-103(27)(C), the following types of contracts are excluded from being considered a contract requiring services within the meaning of Arkansas Code § 19-61-116:

(A) Employment agreements;

(B) Collective bargaining agreements;

(C) Architectural or engineering contracts requiring approval of the Division of Building Authority or the Division of Higher Education; and

(D) Other commodities and services exempted by law.

(g) (1) "Technical and general services" is defined at Arkansas Code § 19-61-103(34)(A).

(2) It is a term that generally encompasses the broad range of services that are not professional services.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-105. Definitions of exempt commodities and services used in the Arkansas Procurement Law.

(a) (1) Certain types of services that would otherwise fall within the definition of services are expressly exempted from the application of Arkansas Procurement Law, Arkansas Code 19-61-101 et seq., at Arkansas Code § 19-61-103(14).

(2) State agencies not authorized to procure services through Arkansas Procurement Law may be authorized to do so under other applicable law.

(3) Exemption from Arkansas Procurement Law does not automatically exempt any state agency or officer from other laws governing the expenditure of public funds or

the ethical restrictions at Arkansas Code § 19-64-101 et seq.

(b) "Exempt commodities and services" means:

(1) Under Arkansas Code § 19-61-103(14)(D)(i), "commodities procured for resale" does not include items used to support the sale of goods or services such as reusable items or items used in preparing, serving, dispensing, or packaging, except for vendor packaging included with the item purchased;

(2) Under Arkansas Code § 19-61-103(14)(G)(i), "farm products" includes unprocessed feed for livestock;

(3) Under Arkansas Code § 19-61-103(14)(K), "license" does not mean software license;

(4) Under Arkansas Code § 19-61-103(14)(M), livestock breeding to include ova and semen;

(5) (A) Under Arkansas Code § 19-61-103(14)(N), "technical equipment" for maintenance purposes shall include, but not be limited to, medical, dental, laboratory, and health aid equipment, climate control equipment, water treatment services, elevators, musical instruments, communications equipment, data processing equipment, and specialized research equipment;

(B) "Maintenance" excludes repairs that are not covered by an existing maintenance agreement;

(6) Under Arkansas Code § 19-61-103(14)(Q), "perishable foodstuffs" means the raw material of food before or after processing, such being liable to spoil or decay in a short duration of time, such as (but not limited to) produce, eggs, or milk;

(7) Retail gasoline credit card purchases are exempt by rule, regardless of the amount;

(8) (A) Renewals of termite protection contracts with the contractor who performed the initial treatment of the facility are exempt.

(B) Not exempt are termite protection contracts which include the initial treatment;

(9) (A) Under Arkansas Code § 19-61-103(14)(H), fees that are uniform and fixed in advance by an authoritative body, such as fees for membership in professional associations, court filing fees, witness fees, workshop fees for professional conferences or training, medical fees, and physician fees, are exempt from Arkansas Procurement Law.

(B) Fees that are payment for professional services for which there is generally free market competition and which may reasonably be subject to negotiation, are not exempt from Arkansas Procurement Law; and

(10) Under Arkansas Code § 19-61-103(14)(EE) and (23)(B)(ii), "academic medical center" consists of a public medical school and its primary teaching hospitals and clinical programs.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-106. Signatures defined.

(a) The definition of "signed" for the purposes of submitting a solicitation response can be found in the Uniform Commercial Code, Arkansas Code § 4-1-201(37) (general definitions), which "...includes any symbol executed or adopted by a party with present intention to authenticate a writing."

(b) Allowance should therefore be made for any mark or writing, whether printed or cursive, which that person uses as his or her signature.

(c) Electronic signatures shall also be permitted, unless otherwise prohibited by law, pursuant to Arkansas Code § 25-32-107.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-107. Tax-supported institutions defined.

"Tax-supported institutions" means institutions that derive at least fifty percent (50%) of their revenue by appropriation from a taxing jurisdiction.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-108. Hidden damages.

(a) (1) Under Arkansas Code § 19-61-103(14)(DD), "hidden or unknown damages" refers to damages to machinery needing repair that were not visible or readily apparent to, or were otherwise not within the knowledge of, agency personnel at the time the piece of machinery was being serviced by a vendor.

(2) By way of example and not limitation, if an agency takes a piece of machinery to a vendor to repair one (1) or more problems, and in the course of such work the vendor notices one (1) or more additional problems that need repair, the agency may, but is not required to, authorize that vendor to undertake such additional repairs without having to solicit competitive bids.

(b) "Machinery" means mechanical devices or combinations of mechanical powers and devices purchased or constructed and used to perform some function and to produce a certain effect or result.

(c) This exemption does not apply to damages that are visible, readily apparent, or are or could be within the knowledge of agency personnel with the exercise of reasonable inspection or investigation.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R7:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-109. Capital improvements.

Under Arkansas Code § 19-61-103(14)(Y), capital improvements valued at less than the amount stated in Arkansas Code § 22-9-203 subject to Department of Shared Administrative Services Building Authority Division minimum standards and criteria are exempt from the requirements of the Arkansas Procurement Law, Arkansas Code § 19-61-101.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-110. Proprietary software.

(a) (1) Software exemption under Arkansas Code § 19-61-103(14)(AA) does not apply to the initial purchase of proprietary software or the development of additional functionality

(2) Nor does the exemption apply to the purchase of software that is part of any mandatory software contract.

(b) Exempt software purchases shall include the purchase of additional proprietary software licenses, copies, license renewals, software upgrades, and proprietary software support, and hosting in a cloud environment for proprietary software after the initial purchase.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-203 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-111. Life cycle cost.

(a) **Life cycle cost.** Life cycle or total ownership costs may include but are not limited to, costs of operation, maintenance, repair, disposal, and/or acquisition.

(b) **Application.**

(1) Life cycle cost formulas may be used for procurements.

(2) Certain specified commodities must be procured using life cycle cost formulas provided by the Office of State Procurement.

(3) For those specified commodities, the State Procurement Director shall provide formulas to be used in the evaluation of bids by the director, the agency procurement officials, or the procurement agents.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R12:19-11-229 and R3:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-104. Applicability.

(a) (1) This chapter applies to:

(A) Every expenditure of public funds by this state, acting through a state agency, under any contract; and

(B) The disposal of state commodities.

(2) This chapter does not apply to:

(A) Either grants or contracts between the state and its political subdivisions or other governments, except as provided in §§ 19-61-801 — 19-61-811; or

(B) Contracts between agencies, except as provided in §§ 19-61-801 — 19-61-811.

(b) This chapter does not preclude the acceptance of gifts and donations in the manner authorized by law.

19-61-105. Exemptions.

(a) An out-of-state office of a state agency need not procure commodities and services for the use of the out-of-state office through the Office of State Procurement.

(b) Commodities and services procured outside the Office of State Procurement under subsection (a) of this section shall be procured subject to the requirements of this chapter and the state procurement rules.

19-61-106. Construction — Preemption of other laws.

This chapter shall:

(1) Be construed liberally and applied to promote its underlying purposes and policies; and

(2) Preempt any conflicting state statutes and principles of common law or equity.

19-61-107. Operation of other laws.

Unless displaced by the particular provisions of this chapter, the principles of law and equity, including the Uniform Commercial Code, § 4-1-101 et seq., of this state, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy supplement this chapter.

19-61-108. Obligation of "good faith" — Definition.

(a) Every contract or duty within this chapter imposes an obligation of good faith in its performance or enforcement.

(b) As used in this section, "good faith" means honesty in fact in the conduct or transaction

concerned and the observance of reasonable commercial standards of fair dealing.

19-61-109. Existing contracts.

The administration of contracts in existence on July 1, 1979, are the responsibility of the appropriate officials described in this chapter.

19-61-110. Federal assistance requirements.

If federal assistance requirements or federal contract requirements conflict with this chapter or rules promulgated under this chapter, nothing in this chapter or its rules shall prevent a state agency or political subdivision from complying with the terms and conditions of the federal assistance requirements or the federal contract requirements.

19-61-111. Determinations and findings.

Written determinations and findings required by this chapter shall be retained in an official contract file by the Office of State Procurement or by the state agency administering the contract for a period of five (5) years.

19 CAR § 1-112. Determination.

(a) Written procurement determinations. Written determinations and findings shall be signed by the employees making said determinations and findings.

(b) Contract files must be retained for five (5) years after all contract renewals, if any, have expired.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-214 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-112. Compliance reporting.

(a) Each report required under this chapter shall be copied to the Secretary of the Department of Shared Administrative Services, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-501 et seq.

(b) If the secretary determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-501 et seq., the secretary shall notify the chief executive officer of the relevant state agency.

19-61-113. Penalty for purposely violating.

A person who purposely violates state procurement laws, this subtitle, upon conviction is guilty of a Class D felony.

19-61-114. Tracking requirements.

(a) The State Procurement Director, each agency procurement official, and any state agency with procurement authority under a delegation order shall track the following for the procurements they conduct and the contracts they execute:

(1) Each protest received and the resolution of the protest;

(2) The outcome of any negotiations under this subtitle; and

(3) The anticipated procurement needs of the state agency based on the contracts that:

(A) Are set to expire during the next twelve (12) months; and

(B) Will require a new solicitation in the next twelve (12) months.

(b) Each agency procurement official and each state agency with procurement authority under a delegation order shall report the information obtained under subsection (a) of this section to the Office of State Procurement.

19-61-115. Requests for information — Definition.

(a) As used in this section, "request for information" means a procedure for formally requesting information, data, comments, or reactions from prospective bidders or offerors in contemplation of a possible competitive sealed bidding procurement under § 19-61-505 or a competitive sealed proposal procurement under § 19-61-506.

(b) The State Procurement Director, a head of a procurement agency, or a designee of the director or of a head of a procurement agency, may issue or authorize another person to issue a request for information.

(c) A request for information under this section shall be published in the same manner and location as an invitation for bids, a request for proposals, or a request for qualifications.

(d) A contract shall not be awarded directly from a request for information.

(e) Information provided in response to a request for information under this section is exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., until:

(1)The bids for a competitive sealed bidding procurement are opened publicly;

(2)The notice of anticipation to award is given for a competitive sealed proposal procurement; or

(3)A decision is made not to pursue a procurement based on the request for information.

(f) A response to a request for information under this section is not required for a vendor's bid, proposal, or statement of qualifications and performance data to be accepted unless the response requirement is:

(1)Explicitly stated in the invitation for bids, request for proposals, or request for statements of qualifications and performance data; and

(2)Approved by the director or the head of the procurement agency.

19 CAR § 1-119. Request for information — Conditions of use.

(a) A request for information (RFI) solicitation may be issued by an agency for the purposes of information gathering and planning while contemplating a possible competitive sealed bid procurement or competitive sealed proposal procurement.

(b) An RFI is not, and should not be construed as, a commitment by the agency to issue a solicitation in the future.

(c) Agencies should not seek, and vendors should not provide, proposals or bids.

(d) A response to an RFI should be treated by the agency as informational only and should not be considered a proposal or bid, nor should any contract be awarded directly from an RFI.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-279 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-120. Request for information — Pricing information.

A request for information (RFI) solicitation may request general pricing models, but specific pricing should be expressly prohibited in the RFI, and if provided unsolicited, should not be considered.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-279 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-116. Submission of contracts required — Definition.

(a) (1) Except for critical emergency procurements and as otherwise provided in this section, a contract requiring the services of one (1) or more persons shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, if the annual contract amount is at least fifty thousand dollars ($50,000) in any one (1) contract year or if the total projected contract amount, including any amendments or possible extensions, is at least three hundred fifty thousand dollars ($350,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement with its review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Office of State Procurement has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(4) (A) (i) A contract that does not have a material change upon renewal or extension shall be included in the monthly report required under § 19-61-210 instead of being submitted to the Legislative Council or the Joint Budget Committee for review under this subsection.

(ii) As used in this subdivision (a)(4), "material change" includes without

limitation:

(a) An increase in the contract amount;

(b) An increase in the total projected contract amount;

(c) A change in any of the essential terms of the contract;

(d) A change in any performance-based standards stated in the contract;

(e) The imposition of financial consequences as the result of a failure to satisfy performance-based standards under § 19-61-517 during the year preceding the renewal or extension of the contract; and

(f) The submission of a vendor performance report during the year preceding the renewal or extension of the contract.

(B) However, a state agency may elect to submit a contract for review under this subsection if the state agency is uncertain whether the contract has a material change.

(5) A contract that is submitted for review under this subsection and that has a total projected contract amount of at least three hundred fifty thousand dollars ($350,000) shall have a cover sheet that provides the following information:

(A) A description of the services being procured;

(B) A description of the procurement process followed, including without limitation the method used for the procurement; and

(C) The outcome of any protests.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this section.

(c) A contract that is procured by a state agency that has a state agency procurement official or procurement authority under a delegation order is subject to the presentment requirements under this section.

(d) It is a violation of state procurement laws, Arkansas Code Title 19, Subtitle 4, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the presentment requirements of this section.

19 CAR § 1-113. Submission of contracts for services.

(a) Contracts requiring "services," as defined in the Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq., and this part, are to be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, before the execution of the contract if the contract amount is fifty thousand dollars ($50,000) or more in any one (1) year of the contract's term, or if the total projected contract amount, including any amendments or possible extensions, is three hundred fifty thousand dollars ($350,000) or more unless they are contracts for critical emergency procurements or are otherwise exempted from the submission requirements of Arkansas Code § 19-61-116.

(b) (1) Labor, time, or effort included in or incident to a contractor's production or sale of a commodity or commodities are not considered "services" for purposes of determining whether a contract is a "contract requiring services" within the meaning of Arkansas Code § 19-61-116.

(2)Consequently, a contract for the procurement of a commodity or commodities is not a "contract requiring services" for purposes of Arkansas Code § 19-61-116 if it only calls for labor, time, or effort included in or incident to the procurement of the commodity or commodities.

(c) (1) Where a tangible commodity exists and is identifiable at the time of the commodity's procurement, any labor, time, or effort expended in its production are not considered "services" if no separate consideration is paid beyond the purchase price of the commodity for the labor, time, and effort expended in producing the commodity.

(2)Even where a present purchase order is for a tangible commodity yet to be produced, the future labor, time, or effort to be expended in the production of the commodity will not be considered "services" if:

(A) The only consideration to be paid is the purchase price of the commodity after its receipt, and incidentals, such as taxes, delivery fees, etc.; and

(B) No separate consideration is paid for the labor, time, or effort expended in the production of the commodity.

(3) However, where a contract requires a contractor to furnish labor, time, or effort to produce a commodity not yet in existence, such as a computer program, and the contract calls for consideration to be paid to the contractor based on the labor, time, or effort furnished in the production of the commodity rather than based on the finished commodity, such labor, time, or effort are considered "services".

(d) If a contract will require procurement of a combination of commodities and services, as those terms are defined in the Arkansas Procurement Law and this part, then it should be submitted for review under Arkansas Code § 19-61-116 if the services component of the contract is fifty thousand dollars ($50,000) or more in any one (1) contract year, or if the total projected contract amount, including any amendments or possible extensions, is three hundred fifty thousand dollars ($350,000) or more.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-114. Material changes to contracts for services.

(a) (1) A contract that has previously been presented for review does not need to be presented for legislative review again upon its renewal or extension unless it introduces a material change.

(2) There are two (2) classes of material changes that trigger a duty to resubmit a contract for review at either renewal of a contract or extension of a contract term:

(A) An amendment that is a material change in contractual terms, includes without limitation:

(i) An increase in the contract amount;

(ii) An increase in the total projected contract amount;

(iii) A change in any of the essential terms of the contract; or

(iv) A change in any performance-based standards stated in the contract; and

(B) A material deviation by a contractor from the performance promised during the period preceding renewal or extension, such as a:

(i) Default requiring the imposition of financial consequences as the result of the contractor's failure to satisfy performance-based standards under Arkansas Code § 19–61–517 during the year preceding the renewal or extension of the contract; or

(ii) Vendor performance resulting in a vendor performance report during the year preceding the renewal or extension of the contract.

(3) Both of these are material changes that trigger the duty to resubmit a contract for review prior to a renewal or an extension.

(4)(A) For purposes of Arkansas Code § 19-61-116, renewal refers to re-establishing an existing contract for another term, whereas extension is extending the term of an existing contract that would otherwise expire.

(B) Although technically distinguishable, they are functionally similar.

(b) **Definitions.**

(1)"Essential terms of a contract," also called "fundamental terms", means provisions that must be included for an enforceable contract to exist between the parties under any applicable statute of frauds.

(2)"Initial contract amount" means the amount agreed to for the initial term of a contract.

(3)"Total projected contract amount" means the total amount that the state is projected to expend under the contract over the entire life of the contract, which can be no more than seven (7) years under Arkansas Code § 19-61-512.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-115. Technical and general services contracts on file in the Office of State Procurement.

All agencies will be required to maintain copies in accordance with current document retention laws, Arkansas Code § 19-61-111, of all purchase orders issued for the procurement of technical and general services.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-116. Reporting of technical and general services contracts.

(a) (1) Technical and general services contracts with a total projected contract amount, including any amendments and possible extensions, of twenty-five thousand dollars ($25,000) and less than one hundred thousand dollars ($100,000) shall be reported to the Legislative Council or the Joint Budget Committee monthly.

(2) Agencies must report contracts using the appropriate method as determined by the Office of State Procurement.

(b) (1) Maintenance contracts are not considered services of one (1) or more individuals for regular full-time or part-time weekly work, and do not require reporting to the Legislative Council or the Joint Budget Committee.

(2) Maintenance contracts are narrowly defined as providing help or assistance needed to support the continuous operation of procured commodities according to the commodities' original functionality and specifications, including but not limited to software maintenance contracts.

(3) Agencies should not apply maintenance contracts so broadly as to frustrate the legislative intent of statutes requiring reporting of certain consulting services or professional service contracts.

(c) Under subdivision (b)(1) of this section, "regular" is defined by giving the word its ordinary and usually accepted meaning in common language, which in the context of subdivision (b)(1) of this section shall be constituted, conducted, scheduled, or done in conformity with established or prescribed usages, rules, or discipline.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-117. Reporting of technical and general services contracts.

(a) (1) Technical and general services contracts with a total projected contract amount, including any amendments and possible extensions, of twenty-five thousand dollars ($25,000) and less than one hundred thousand dollars ($100,000) shall be reported to the Legislative Council or the Joint Budget Committee monthly.

(2) Agencies must report contracts using the appropriate method as determined by the Office of State Procurement.

(b) (1) Maintenance contracts are not considered of one (1) or more individuals for regular full-time or part-time weekly work, and do not require reporting to the Legislative Council or the Joint Budget Committee.

(2)Maintenance contracts are narrowly defined as providing help or assistance needed to support the continuous operation of procured commodities according to the commodities' original functionality and specifications, including but not limited to software maintenance contracts.

(3) Agencies should not apply maintenance contracts so broadly as to frustrate the legislative intent of statutes requiring reporting of certain consulting services or professional service contracts

(c) Under subdivision (b)(1) of this section, "regular" is defined by giving the word its ordinary and usually accepted meaning in common language, which in the context of subdivision (b)(1) of this section shall be constituted, conducted, scheduled, or done in conformity with established or prescribed usages, rules, or discipline.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-118. Technical and general services contracts on file in the Office of State Procurement.

All agencies will be required to maintain copies in accordance with current document retention laws, Arkansas Code § 19-61-111, of all purchase orders issued for the procurement of technical and general services.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R7:19-11-265 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-117. Rules.

(a) (1) The State Procurement Director shall adopt rules in accordance with the applicable provisions of this chapter and of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) A rule promulgated by the director under this chapter is not effective until the rule is:

(A) Submitted to and reviewed by the Review Subcommittee of the Legislative Council; and

(B) Reviewed and approved by the Legislative Council under § 10-3-309.

(b) A rule shall not change any commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of the rule.

(c) (1) A clause that is required by rule to be included is not incorporated by operation of law

in any state contract without the consent of both parties to the contract to the incorporation.

(2) The parties to the contract may give such consent to incorporation by reference at any time after the contract has been entered into and without the necessity of consideration passing to either party.

Subchapter 2 — Office of State Procurement — State Procurement Director

19-61-201. Office of State Procurement.

(a) There is created within the Department of Shared Administrative Services the Office of State Procurement to be administered by the State Procurement Director.

(b) (1) The Office of State Procurement shall be subject to the supervision and management of the Secretary of the Department of Shared Administrative Services.

(2) The rules authorized in this chapter shall be approved by the secretary before the filing of the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

19-61-202. State Procurement Director.

(a) (1) The executive head of the Office of State Procurement is designated as the administrator of the Office of State Procurement, and as such, he or she shall be known and designated as the "State Procurement Director".

(2) The Secretary of the Department of Shared Administrative Services shall appoint the State Procurement Director.

(b) The director shall be at least thirty (30) years of age, of good moral character, and of demonstrated ability or capacity in the field of purchasing commodities and services.

19-61-203. Powers and duties of State Procurement Director.

(a) The State Procurement Director shall serve as the principal procurement officer of the state.

(b) (1) Except as otherwise provided in this chapter and upon the approval of the Secretary of the Department of Shared Administrative Services, the State Procurement Director shall have the authority and responsibility to promulgate rules consistent with this chapter.

(2) In addition, consistent with this chapter, the director may adopt rules governing the internal procedures of the Office of State Procurement.

(c) Except as otherwise specifically provided in this chapter, the director, within the limitations of this chapter and the rules promulgated under authority of this chapter:

(1) Shall procure or supervise the procurement of all commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract;

(2) Shall manage and establish internal procedures for the office;

(3) Shall sell, trade, or otherwise dispose of surplus commodities belonging to the state;

(4) May establish and maintain programs for the inspection, testing, and acceptance of commodities and services;

(5) Shall establish and manage a list of vendors desiring written notice of invitations for bid;

(6) May establish, by rule, a fee for receiving a written or electronic notice of invitations for bid;

(7) Shall ensure compliance with this chapter and implementing rules by reviewing and monitoring procurements conducted by any designee, department, agency, or official delegated authority under this chapter;

(8) Shall create a roster of expiring contracts entered into by a state agency for which there is no new requisition;

(9) Shall analyze information captured in state systems to measure and track the contract routing process to identify stakeholders that may be contributing to the elongation of the contracting process;

(10) Shall ensure that vendor performance reports are available to and searchable by state agencies;

(11) Shall provide for enhanced training on the drafting of specifications for procurements;

(12) Shall maintain records of bids and proposals that are rejected by the office for failure to adhere to the mandatory requirements of a solicitation;

(13) Upon the written request of a state agency or an actual or prospective bidder, offeror, or contractor, may declare his or her administrative interpretation of any provision of this chapter and issue an advisory opinion regarding the construction and application of the provision; and

(14) May negotiate and enter into a nonmandatory state contract with retailers for special prices or rates for commodities or services, or both, for the benefit of public procurement entities, independent of the source selection methods in §§ 19-61-502 and 19-61-505, if the contractor agrees to provide the commodities or services, or both, subject to the contract at either the standard retail price or a discounted price.

(15) Within one hundred twenty (120) days after the effective date of a new or revised statute or rule relating to procurement, shall review the procurement materials of the office and revise the procurement materials to maintain alignment between the procurement materials and the relevant procurement statutes and rules.

19 CAR § 1-201. Authority of the State Procurement Director — Quality assurance, inspection, and testing.

(a) (1) The State Procurement Director shall procure or supervise the procurement of all commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract.

(2) However, in every instance the using agency or college or university receiving commodities or services under the contract shall be responsible for ensuring that commodities and services conform to the necessary specifications, terms, and conditions of the contract.

(3) (A) Unless otherwise agreed, and subject to other applicable law, where commodities are tendered or delivered or identified to the contract for sale, the using agency has a right, before payment or acceptance, to inspect them at any reasonable place and time and in any reasonable manner.

(B) When the seller is required or authorized to send the commodities directly to the using agency, the inspection may be after their arrival.

(4) Using agencies are to provide assessments of the vendor's performance of services as required under Arkansas Code § 19-61-406.

(b) Examination of commodities and services may, where and when necessary, include laboratory testing and/or simulation studies.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-202. Authority of the State Procurement Director— Reporting.

The State Procurement Director has the authority to collect information from any designee, department, agency, and procurement official to facilitate the preparation of statistical and financial reports on state government procurement activity and monitoring of compliance with Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-203. Authority of the State Procurement Director — Vendors.

(a) (1) **Vendor fee.** Vendors shall make application on the Office of State Procurement web site to have their name placed on the State Master Vendor List for the commodities and services they wish to supply or provide.

(2) An annual fee may be required.

(b) **State Master Vendor List.** Inclusion of the name of a business on the vendor's list does not indicate whether the business is responsible with respect to a particular procurement or otherwise capable of successfully performing a contract.

(c) **Vendors not on vendor lists.** Hard copies of invitations to bid requested in response to public notice or other notification of a particular procurement will be provided to the

requestor at a charge consistent with the current costs of reproduction and distribution.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-204. Vendors list.

(a) **Vendors list.** The Office of State Procurement and each agency procurement official will maintain a vendors list.

(b) **Application.**

(1) A vendor must apply as determined by the Office of State Procurement to have its name placed on the vendors lists for the commodities and services it wishes to supply or provide.

(2) The business must provide complete information requested in the application before it will be considered for placement on a vendors list.

(c) **Determination**.

(1) The procurement agencies may refuse to list any prospective bidder not making proper application.

(2) The prospective bidder has the burden of showing that it meets the qualifications for inclusion on the vendors list on which it seeks to be listed.

(3) The prospective bidder will be promptly advised if its application is disapproved and the reasons for disapproval will be stated.

(d) **Reapplication.** Any prospective bidder whose application is disapproved may reapply following the date of disapproval.

(e) **Removal.**

(1) Any bidder who requests in writing to be removed from the vendors list will be removed.

(2) Bidders who have been suspended and/or debarred will be removed from the vendors list.

(f) Vendors seeking to contract with colleges and universities need to contact those institutions.

(g) **Note.** A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Secretary of State.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-206. Roster of expiring contracts.

(a) The roster referenced in Arkansas Code § 19-61-203(c)(9) is a record of active and expiring contracts that may be an electronic record that can be printed or used to populate a list of expiring contracts for which no renewal or new procurement has been initiated by request or requisition.

(b) (1) State agencies have the lead role in identifying any commodities and services that they need in order to perform their respective duties.

(2) Consequently, they are in the best position to monitor and manage their contracts for commodities and services.

(3) As an essential component of managing their contracts, state agencies shall maintain a roster of their active and expiring contracts to submit to the Office of State Procurement.

(4) If a state agency wishes to renew or replace a contract expiring in twelve (12) months or less, it should plan to renew or solicit a replacement with ample time to allow for a new contract to be procured and to avoid a disruption in service due to the expiration of its active contracts.

(5) State agencies that plan to procure commodities or services through a request for proposals should submit a requisition no later than nine (9) calendar months before the estimated start date of the contract it anticipates awarding as a result of the request for proposals.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-207. Direct negotiation of contracts with retailers.

The discretion granted to the State Procurement Director under Arkansas Code § 19-61-203(c)(14) can only be exercised to negotiate nonmandatory contracts with retailers who sell commodities and/or services directly to ultimate consumers for a standard retail price that can easily be determined by reference to reliable and publicly available sources, such as:

(1) The retailer's catalog list price;

(2) Documentation of the manufacturer’s suggested retail price; or

(3) A standing price that the retailer currently offers to public procurement units through a contract with the United States General Services Administration or a cooperative purchasing agreement.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R7:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-204. Assistants and designees — Written delegation orders.

(a) Subject to the Uniform Classification and Compensation Act, § 21-5-201 et seq., and the approval of the Secretary of the Department of Shared Administrative Services, the State Procurement Director may:

(1) Employ and supervise such assistants and other persons as may be necessary and fix their compensation as provided by law; and

(2) (A) Delegate authority to designees or to a state agency by issuing a written delegation order, within the limitations of state law and the state procurement rules.

(B) A written delegation order issued under this section shall:

(i) Include an expiration date for the written delegation order;

(ii) Be publicly posted on the official website of the Office of State Procurement;

(iii) Remain in effect under the original terms unless the terms of the written delegation order are modified or rescinded in writing by the director;

(iv) Not be issued for a term that exceeds two (2) years; and

(v) Be narrowly tailored if the written delegation order is based on the type of commodity or service being procured.

(C) The director shall maintain records of each written delegation order issued under this section.

(D) A person who is to be given authority under a written delegation order issued under this section shall complete training on state procurement laws, as provided for in this chapter and in the rules adopted by the director, before the written delegation order is issued.

(b) The director shall adopt rules to:

(1) Implement the requirements for written delegation orders under this section; and section

(2) Outline the procurement training required under this section.

19 CAR § 1-208. Appointment of assistants and other employees — Delegation of authority by the State Procurement Director.

(a) **Delegation.**

(1) The delegation to state agencies of the authority for the procurement of commodities and services may be made by the State Procurement Director with the approval of the Secretary of Shared Administrative Services.

(2) The delegation may be for a specific commodity or service or for all commodities and services for a specific period of time not exceeding two (2) years.

(3) Such delegation shall be made by a written order signed by the director or by rules promulgated by the director setting forth with particularity the kind or type of procurement activity or function delegated together with any limitations or restrictions on the exercise of such authority.

(4) Delegation orders are nontransferable.

(b) **Limitations.**

(1) All delegations of procurement authority shall remain in force according to the original terms thereof unless modified or until rescinded by the director in writing, or until the expiration date provided by law, whichever comes first.

(2) The term of delegation authority is counted from, and includes the date of, the effective date stated in the written delegation order.

(c) **Small procurements and competitive biddings.** All state agencies not having an agency procurement official and seeking authority to make small procurements and engage in competitive bidding as provided in Arkansas Code §§ 19-61-503 and 19-61-504 shall designate at least one (1) procurement agent to make small purchases and engage in competitive bidding by submitting a letter signed by the administrative head of the state agency to the director requesting such designation of each employee identified as a procurement agent.

(d) A person who is requesting authority under a written delegation order issued under this section shall complete training as required.

(e) (1) Delegation orders may be suspended or rescinded by the director.

(2) Suspended delegation orders may be reinstated, modified, or rescinded in writing by the director.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-218 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-205. Legal counsel — Contract review.

(a) The Attorney General shall act as counsel for the State Procurement Director in preparation of necessary contracts and in all legal matters.

(b) (1) A contract that the director has designated as requiring review shall be reviewed by a person employed as an attorney with a state agency.

(2) The review required under this subsection shall occur before the contract is executed.

(c) The director shall adopt rules to implement this section, including without limitation rules to:

(1) Designate contracts that require review under this section, which may include without

limitation contracts that:

(A) Exceed a certain dollar amount;

(B) Modify the standard state terms and conditions; and

(C) Are based on other stated criteria; and

(2) Identify the requirements for the attorneys who may review contracts under this section, including without limitation:

(A) An attorney employed with the Office of State Procurement, an institution of higher education, or the Office of the Attorney General; and

(B) Any other attorney employed by the state and licensed to practice law in Arkansas.

19 CAR § 1-209. Attorney review of designated contracts.

(a) (1) A contract for services or commodities that, by its terms, requires or may require a state agency to expend an amount of public funds equal to or greater than seventy five thousand dollars ($75,000) in either a calendar or fiscal year shall, prior to execution, be reviewed by any attorney employed by the state and licensed to practice law in Arkansas.

(2) The class of attorneys that can satisfy the requirement should be interpreted broadly so as to maximize the number of attorneys that can help state agencies satisfy it.

(3) This class of attorneys includes, without limitation, licensed attorneys employed by:

(A) The Office of State Procurement;

(B) The office of the Attorney General; and

(C) Any state agency or institution of higher education.

(b) Where the standard terms and conditions that have already been approved by the Office of State Procurement are not used, or they are used but substantively amended, the reviewing attorney shall certify, in writing (electronic or paper), identifying the responsible attorney, that he or she has reviewed the contract and found no term, condition, or provision that requires the state to:

(1) Subject itself to the law of any other state or to appear in any venue outside of the state other than as may be required by federal law;

(2) Indemnify a non-state party or hold a non-state party harmless;

(3) Keep records or information confidential, unless it is consistent with the Arkansas Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., or other applicable supervening law; or

(4) Be financially obligated to make payments for commodities or services before they have been received.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-219 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-206. Exclusive jurisdiction over procurement — Definitions.

(a) The State Procurement Director has exclusive jurisdiction over the procurement of:

(1) Items subject to Arkansas Constitution, Amendment 54;

(2) Wholesale gasoline, oil, and related products;

(3) Tires;

(4) (A) Passenger motor vehicles and trucks, except highway construction and highway maintenance equipment, any specialized type of equipment used in highway construction, or a motor vehicle purchased under § 6-21-307, except as otherwise provided in this chapter.

(B) The director may issue a request for qualifications for the procurement of passenger motor vehicles and trucks to compile a qualified vendor list that includes vendors in multiple areas of the state;

(5) Paper products;

(6) New and used school buses for state agencies;

(7) A purchasing card program and travel card program to include implementation and administration; and

(8) An electronic commerce procurement solution to include planning and administration consistent with the established financial systems of the state.

(b) As used in this section:

(1) "Printing" means the process of transferring images, by the use of standard industrial type printer ink, upon documents such as letterhead, envelopes, pamphlets, booklets, and forms;

(2) "Stationery" means imprinted letterhead and envelopes used by the General Assembly and other departments of state government to identify an individual department, agency, board, commission, etc.; and

(3) "Supplies" means paper and inks used to produce stationery.

19-61-207. Commodities, technical and general services, and professional and consultant services under state contract.

(a) (1) In addition to establishing a state contract for those commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the State Procurement Director under § 19-61-206, the director may award a mandatory state contract for other commodities, technical and general services, and professional and consultant services when the director determines that combining the collective purchasing power of the state would be beneficial to the state.

(2) The director shall submit a mandatory state contract that is not for commodities or services within the exclusive jurisdiction of the director to the Legislative Council or, if the

General Assembly is in session, to the Joint Budget Committee, for review.

(b) (1) Unless an exemption is approved by the director under subdivision (b)(2) of this section, a state agency that requires commodities, technical and general services, and professional and consultant services that are under a mandatory state contract shall procure these commodities, technical and general services, and professional and consultant services exclusively under the mandatory state contract.

(2) (A) Except as provided in § 19-61-508, the director may approve an exemption from a mandatory state contract awarded under this section only if the state agency demonstrates that substantial savings will likely be effected by purchasing outside of the mandatory state contract.

(B) (i) Approval of an exemption from a mandatory state contract under this section shall be in writing.

(ii) Denial of a request for an exemption from a mandatory state contract under this section is not required to be in writing.

(c) All contracts concerning commodities, technical and general services, and professional and consultant services shall disclose a projected total cost, including without limitation expenditures that may be incurred under all available periods of extension if the extensions were executed.

(d) The director shall:

(1) Identify and prioritize opportunities for awarding mandatory state contracts under this section;

(2) Conduct mandatory state contract procurements under this section that would produce savings for the state;

(3) Attempt to invite the participation of the potentially affected state agencies in the development and evaluation of a mandatory state contract procurement;

(4) Post notice of his or her intent to procure a mandatory state contract on the official website of the Office of State Procurement; and

(5) (A) Promote the use of mandatory state contracts among county and city governments, including without limitation making information about the mandatory state contracts readily available and searchable.

(B) The director shall adopt rules to include any necessary conditions, reporting, or document retention standards related to the director's duty to promote mandatory state contract use under this subsection.

19 CAR § 1-210. Commodities and services under state contract.

(a) **Request for exclusion**. State agencies having agency procurement officials may request exemption from a proposed state contract by submitting to the State Procurement Director a written justification for such exemption.

(b) **Determination by director.** Approval of exemption from a state contract shall be made in

writing by the director, but a denial of a request for an exemption from a state contract may be made in any manner reasonably likely to communicate the denial to the requestor.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-223 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-211. Mandatory state contracts.

(a) (1) Unless an exemption is approved by the State Procurement Director in writing, a state agency that requires commodities or services that are under a mandatory state contract shall procure these commodities and services exclusively under the mandatory state contract.

(2) Except in the case of emergency procurements, as defined in Arkansas Code § 19-61-501(4) and as provided in Arkansas Code § 19-61-508, the director may only approve an exemption from a mandatory state contract awarded under this section if the state agency demonstrates that substantial savings will likely be effected by purchasing outside of the mandatory state contract.

(b) "Substantial savings" are the lesser of:

(1) Savings of five percent (5%) or more when compared against purchasing from the mandatory state contract; or

(2) Ten thousand dollars ($10,000) or more when compared against purchasing from the mandatory state contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-223 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-208. Recommendations.

(a) The State Procurement Director shall maintain a close and cooperative relationship with the using agencies.

(b) (1) The director shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to matters affecting the using agency.

(2) At any time, a using agency may make recommendations to the director, and the director may make recommendations to a using agency.

(3) The Secretary of the Department of Shared Administrative Services may make recommendations to the director.

19-61-209. Statistical data.

The State Procurement Director and the Secretary of the Department of Shared Administrative

Services shall cooperate with the Division of Budgets and Accounting in the preparation of statistical data concerning the procurement and disposition of all commodities and services, unless otherwise provided in this chapter.

19-61-210. Reporting requirements.

(a) The State Procurement Director shall compile a monthly report of all executed contracts for services that have a total initial contract amount or a total projected contract amount, including any amendments or possible extensions, of at least twenty-five thousand dollars ($25,000) but less than:

(1) An annual contract amount of fifty thousand dollars ($50,000) in any one (1) contract year; or

(2) A total projected contract amount, including any amendments or possible extensions, of three hundred fifty thousand dollars ($350,000).

(b) A contract that is procured by a state agency that has a state agency procurement official or procurement authority under a delegation order is subject to the reporting requirements under this section.

(c) The State Procurement Director shall adopt rules to:

(1) Prescribe a cover sheet for the report required under this section that sorts and identifies contracts within the report that may be candidates for review;

(2) Create instructions for completing the cover sheet prescribed under subdivision (c)(1) of this section; and

(3) Provide for the identification of any contracts included in the report that may need to be reviewed under § 19-61-116.

(d) It is a violation of state procurement laws, Arkansas Code Title 19, Subtitle 4, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the reporting requirements of this section.

Subchapter 3 — State Agencies — Agency Procurement Officials

19-61-301. Agency procurement officials.

(a) In addition to any state agency authorized by rule to have an agency procurement official, each of the following state agencies may elect to have such an official for commodities, technical and general services, and professional and consultant services, that are not within the exclusive jurisdiction of the State Procurement Director and that are not under state contract:

(1) Arkansas Department of Transportation;

(2) Arkansas State University-Beebe;

(3) Arkansas State University;

(4) Arkansas State University system;

(5) Arkansas Tech University;

(6) Henderson State University;

(7) Southern Arkansas University;

(8) University of Arkansas at Fayetteville;

(9) University of Arkansas Fund entities;

(10) University of Arkansas at Little Rock;

(11) University of Arkansas at Monticello;

(12) University of Arkansas at Pine Bluff;

(13) University of Arkansas for Medical Sciences;

(14) University of Central Arkansas;

(15) Arkansas State University-Mountain Home;

(16) Arkansas State University-Newport;

(17) Black River Technical College;

(18) Cossatot Community College of the University of Arkansas;

(19) East Arkansas Community College of the University of Arkansas;

(20) National Park College;

(21) Arkansas Northeastern College;

(22) Arkansas State University Mid-South;

(23) North Arkansas College;

(24) Northwest Arkansas Community College;

(25) Arkansas State University Three Rivers;

(26) Ozarka College;

(27) Phillips Community College of the University of Arkansas;

(28) University of Arkansas Community College at Morrilton;

(29) University of Arkansas — Pulaski Technical College;

(30) University of Arkansas Community College at Rich Mountain;

(31) SAU-Tech;

(32) Southeast Arkansas College;

(33) South Arkansas College;

(34) University of Arkansas Community College at Batesville;

(35) University of Arkansas Community College at Hope-Texarkana;

(36) University of Arkansas at Fort Smith; and

(37) Division of Higher Education.

(b) (1) Each official shall manage and establish internal procedures for the procurement office of the state agency authorized to have the official to ensure adequate administrative procedures and controls pursuant to law and the procurement rules.

(2) (A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the Secretary of the Department of Shared Administrative Services that administrative procedures and controls are not adequate.

(B) (i) Such a determination shall result in notification by the secretary of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the secretary determines that the deficiencies have been corrected.

(c) Except for the promulgation by the director of rules authorized in this chapter and the letting of state contracts, all rights and practices granted in this chapter to the Office of State Procurement and the director are granted to an official in the administration of contracts for the state agency authorized to have the official.

(d) This section does not prohibit a state agency from utilizing the Office of State Procurement in the same manner as state agencies not authorized to have officials.

19 CAR § 1-301. Procurement agencies.

(a) **Designation.** Each state agency authorized by Arkansas Code § 19-61-301 to elect to have an agency procurement official shall submit a letter signed by the administrative head of the state agency to the State Procurement Director designating an employee who shall be the agency procurement official.

(b) **Internal procedures.**

(1) The internal procurement procedures must ensure adequate management and control of the agency procurement functions pursuant to law and rules.

(2) Each agency shall ensure that a current copy of its internal procurement procedures and rules is kept on file.

(3) The internal procurement procedures established may include, but are not limited to:

(A) A method of recording and filing each transaction as follows:

(i) Legal notice where applicable;

(ii) The original invitation for bids, purchase order, internal purchase request, printing order, or other applicable document;

(iii) A list of all bidders invited to participate;

(iv) The original of all bids received;

(v) An abstract of bids received; and

(vi) A copy of all correspondence, memos, or other documents related to the award and administration of each transaction, including administrative determinations or justifications when applicable; and

(B) A file containing reports regarding the vendor's performance.

(c) **Limitations.** Upon request of the Secretary of the Department of Shared Administrative Services, or his or her designee, the agency procurement official shall make available for audit and inspection records of any and all transactions pertaining to the procurement of commodities and services.

(d) **General.** A state agency having an agency procurement official may request the Office of State Procurement to procure specific commodities and services which the agency procurement official may procure or to procure all commodities and services which the agency procurement official is authorized to procure for a specific period of time.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-220 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-302. Agency Procurement Official for Division of Correction.

(a) In addition to those agencies, institutions, and departments of state government enumerated in § 19-61-301 that may elect to have agency procurement officials for commodities, technical and general services, and professional and consultant services that are not within the exclusive jurisdiction of the State Procurement Director, that are not under state contract, and which are not procured in accordance with § 19-61-506, the Division of Correction and the Division of Community Correction may have such officials for the sole purpose of procuring perishable food items, who shall possess all powers, functions, and duties as authorized for agency procurement officials under this chapter with respect to perishable food items only.

(b) (1) The officials of the Division of Correction and the Division of Community Correction have exclusive authority to procure perishable food items in accordance with applicable administrative procedures and controls established pursuant to this chapter and the procurement rules.

(2) Except as noted in this subsection and in subsection (c) of this section, the officials of the Division of Correction and the Division of Community Correction are subject to all other provisions and requirements of this chapter and administrative procedures controls and procurement rules provided in or promulgated pursuant to this chapter.

(c) (1) (A) The Board of Corrections, annually, and at more frequent intervals if deemed necessary, shall make studies and determine whether it would be in the best interest of the

management of the farm croplands at the farm units or at each of the separate farm units of the Division of Correction to provide for the lease of farm machinery and equipment, or certain items thereof, required for the production of farm crops, or whether it would be in the better interest of the Division of Correction to acquire such items of farm machinery and equipment by purchase.

(B) (i) Upon conclusion of the study, the board, by resolution adopted by a majority of the members of the board at a regular or special meeting, may authorize the agency procurement official for the Division of Correction to advertise for bids for the leasing of farm equipment or for the purchase of the items of farm equipment noted in the resolution.

(ii) (a) A lease of farm equipment shall not be for more than two (2) years nor extend beyond June 30 of the fiscal biennium for which current funds have been appropriated for the operation of the Division of Correction.

(b) However, this section does not prohibit the lease from including provisions, terms, or conditions upon which the lease may be renewed for an additional period of time, not exceeding two (2) years, at the option of the board.

(2) (A) If the board determines to provide for the leasing of farm machinery or equipment necessary in the farming operations of the Division of Correction, the official of the Division of Correction shall be the exclusive purchasing agent for advertising of bids and awarding of contracts for the leases, subject to the approval of the Director of the Division of Correction and the board.

(B) In the advertising for bids and the awarding of contracts, the state laws, procurement procedures, and rules shall be complied with in awarding the contracts.

(C) (i) The board is not required to award the contract for the furnishing of farm machinery and equipment under a lease agreement to the lowest bidder, unless the board determines that the awarding of the contract to the lowest bidder would be in the best interest of the farming operations of the Division of Correction.

(ii) In that event, the board may award the contract to the bidder whose bid proposal is deemed by the board to be in the better interest of the farming operations of the Division of Correction.

(D) In making a determination under subdivision (c)(2)(C) of this section, the board shall consider without limitation the following factors:

(i) The type of equipment to be furnished;

(ii) Compatibility of the equipment with the training and experience of the farm managers and employees of the Division of Correction and the experience and skills of the inmates who will be using the equipment;

(iii) Provisions contained in the bid proposal providing for maintenance, repair, and service and upkeep of the equipment during the lease period, availability of the service and repair facilities, and source of replacement or repair parts; leased; and

(iv) The age and condition of the equipment to be

(v) Such other factors as the board deems essential to performance under the contract and dependability and reliability of the equipment to be furnished during the period of the lease.

(3) (A) (i) In determining the items of farm machinery and equipment to be acquired by purchase, the board may designate, if the board determines it to be within the better interest of the management of farm croplands of the Division of Correction, those items of farm machinery and equipment to be purchased.

(ii) The board may restrict the bid to equipment produced by no fewer than two (2) manufacturers of each item of equipment.

(B) In making a determination under subdivision (c)(3)(A) of this section, the board shall include without limitation a consideration of the following factors:

(i) The types of farm machinery equipment now being used by the Division of Correction and the experience gained by the Division of Correction in the use of the equipment for the purposes for which it is being purchased;

(ii) Availability of service and replacement and spare parts for the equipment;

(iii) Familiarity with the equipment of the employees or inmates responsible for the maintenance, repair, and upkeep thereof;

(iv) Compatibility of the farm machinery and equipment with repair and maintenance shop facilities available at the Division of Correction;

(v) Access to the dealer responsible for warranty service; and

(vi) Such additional factors as the board deems pertinent to the better interests of the management and operation of the farm crop lands of the Division of Correction.

(C) (i) All purchases of farm machinery and equipment shall be in accordance with the applicable state procurement laws and rules promulgated under the applicable state procurement laws.

(ii) Contracts for the providing or furnishing of service, repair, and replacement parts of farm machinery and equipment may include provision for the furnishing of a stated quantity of replacement and spare parts to be stored at the Division of Correction or may include contract prices for major or standard items of service or for the furnishing of replacement and spare parts at stated prices, which shall be at a discount from the published dealer price list, as the board may deem in the best interest of the Division of Correction.

(iii) As an alternative, the board may elect to authorize the official to acquire replacement and spare parts on a need basis by following the applicable state procurement procedure in the acquisition of each item thereof as needed.

(4) (A) The official of the Division of Correction acting under the instruction and direction of the board and the Director of the Division of Correction shall be the sole and exclusive purchasing agent for the acquisition of:

(i) Farm machinery and equipment, whether by lease or purchase;

(ii) Repair services for farm machinery and equipment and repair and replacement parts for farm machinery and equipment in the manner set forth in this section; and

(iii) Those items covered in subsection (b) of this section.

(B) This section does not prohibit the Division of Correction from requesting the State Procurement Director to make available the services of the Office of State Procurement in the acquisition of any item for which the official of the Division of Correction is the exclusive purchasing agent under this section.

19-61-303. Interest and Carrying Charges.

State agencies, including exempt agencies, may enter into contracts that contemplate the payment of interest and late charges, but only when such late charges are incurred sixty (60) days after payment is due or carrying charges under such rules as may be promulgated by the State Procurement Director.

19 CAR § 1-302. Interest, carrying charges, and termination fees — Limitations.

(a) Contracts may be entered into which contemplate the payment of interest or carrying charges only in the following conditions:

(1) When the interest or carrying charge is required because the term of the contract is extended over a period of time; and

(2) When a provision for termination of the contract is included in the contract, as provided in Arkansas Code § 19-61-512(c) and the rules promulgated pursuant thereto.

(b) Contracts may be entered into which contain a provision for the payment of the following charges on delinquent accounts: interest charges, carrying charges, late payment charges, or any other charge which may be construed as a penalty, but only if incurred sixty (60) days after the due date.

(c) Service charges may be paid on credit card procurements.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-224 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-304. Training and Certification of Procurement Personnel.

(a) (1) The State Procurement Director shall establish an in-person training and certification program to facilitate the training, continuing education, and annual certification of state agency procurement personnel.

(2) The training and certification program required under subdivision (a)(1) of this section may be offered through an in-person training course or a live, virtual course.

(b) As part of the training and certification program required under this section, the director:

(1) Shall conduct procurement education and training for state agency employees and other public employees;

(2) (A) Shall establish a tiered core curriculum that outlines the minimum procurement-related training courses a state agency employee is required to complete for certification.

(B) The tiered core curriculum required under subdivision (b)(2)(A) of this section shall:

(i) Be designed to develop procurement competency; and

(ii) Create a uniform training approach for state agency employees ranging from entry-level procurement personnel to agency procurement officials;

(3) May charge a reasonable fee for each participant to cover the cost of providing the training required under this section;

(4) May conduct, develop, and collaborate with established training programs, if any, for the purpose of providing certifications of proficiency to state agency employees who complete the training and certification program;

(5) May conduct research into existing and new procurement methods; and

(6) May establish and maintain a state procurement library.

(c) (1) A state agency employee shall not conduct a procurement under this chapter unless the state agency employee is certified annually through the training and certification program required under this section.

(2) To maintain certification under this section, a state agency employee shall complete a reasonable number of hours of continuing education each year, as provided for by rule by the director.

(d) (1) The director shall revoke the certification of a state agency employee who is certified under this section and who is determined to have knowingly violated state procurement laws, Arkansas Code Title 19, Subtitle 4.

(2) The director shall adopt rules regarding the procedure for revoking a state agency employee's certification under this section.

(e) (1) The director shall report to the Review Subcommittee of the Legislative Council concerning:

(A) The progress made in developing and implementing the training and certification program required under this section; and

(B) The state agencies that have had employees complete the training and certification program required under this section.

(2) The report required under this subsection shall be presented:

(A) For the first year following August 5, 2025, every ninety (90) days; and

(B) Annually each subsequent year.

19 CAR § 1-205. State certification.

The State Procurement Director may create a statewide procurement training and certification program to advance state agency procurement personnel's knowledge.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-217 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-305. Solicitation Conferences.

(a) (1) A state agency may hold a solicitation conference before or after issuing an invitation for bids, a request for proposals, or a request for qualifications under § 19-65-101 et seq.

(2) A solicitation conference may be held:

(A) In person; or

(B) Online or in another virtual format.

(b) Attendance by a vendor at a solicitation conference is not required for that vendor's bid, proposal, or statement of qualifications to be accepted unless the attendance requirement is:

(1) Explicitly stated in the invitation for bids, request for proposals, or request for qualifications; and

(2) Approved by the State Procurement Director or the head of the procurement agency.

(c) A state agency holding a solicitation conference shall:

(1) For an invitation for bids or a request for proposals, include the date and time of the solicitation conference in the notice required under § 19-61-505;

(2) Require vendors in attendance at a solicitation conference to sign in at the solicitation conference or provide a registration record for an online or other virtual solicitation conference, regardless of whether attendance is required under the solicitation; and

(3) Maintain the sign-in sheet or registration records with the other documents related to the solicitation.

(d) A statement made at a solicitation conference does not change the invitation for bids, request for proposals, or request for qualifications unless a change is made by written amendment to the invitation for bids, request for proposals, or request for statements of qualifications.

(e) A state agency is encouraged to hold a solicitation conference for a procurement that:

(1) Has a contract amount of at least:

(A) Five million dollars ($5,000,000) for a single contract year; or

(B) Thirty-five million dollars ($35,000,000) for the total anticipated term of the contract, including any extensions, based on the previous contract for the same commodities or services or, if a previous contract is not available, a contract for similar commodities or services; or

(2) Is of strategic importance to the state.

19 CAR § 1-303. Solicitation conferences.

A solicitation conference may be held by an agency to provide the following information, without limitation, to prospective bidders:

(1) Names and contact information of state personnel who will serve as points of contact to bidders during the solicitation process;

(2) Times, dates, locations, and other relevant information pertaining to the procurement calendar and process;

(3) A description of the services or commodities sought, as well as the agency's objectives;

(4) A review of the specifications and pricing model being sought; and

(5) To take questions from attendees.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-277 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-304. Mandatory solicitation conferences.

(a) Agencies may make attendance at a solicitation conference mandatory by obtaining approval from the State Procurement Director or the head of the procurement agency.

(b) In seeking such approval, the agency shall:

(1) (A) Issue a request letter, addressed to the director or the head of the procurement agency.

(B) Email is sufficient to constitute a request.

(C) Whether delivered by email or mail, the communication should be clearly marked or labeled "Request for a Mandatory Solicitation Conference";

(2) The written request should clearly articulate the factors and reasoning for why the solicitation conference should be made mandatory, as well as a citation to the mandatory language for a solicitation conference in the invitation for bids, request for proposals, or request for statements of qualifications and performance data; and

(3) A copy of the draft invitation for bids, request for proposals, or request for statements of qualifications and performance data should be attached with the written request.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-277 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-305. Limitations of solicitation conferences.

Nothing discussed during a solicitation conference will augment or change the specifications or terms and conditions of a solicitation, nor shall anything discussed during a

solicitation conference be deemed to be binding or incorporated into the specifications or terms and conditions of a solicitation, unless it is subsequently reduced to writing and included in the solicitation.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-277 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-306. Notification to Office of State Procurement.

A state agency other than an institution of higher education shall notify the Office of State Procurement that the state agency is going to issue an invitation for bids or a request for proposals at least seven (7) calendar days before issuing the solicitation.

Subchapter 4 — Vendors — Contractors — Bidders

19-61-401. Responsibility of bidders and offerors.

(a) (1) A determination of nonresponsibility of a bidder or offeror shall be made in accordance with rules promulgated by the State Procurement Director.

(2) A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted.

(3) The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(4) If a bidder or offeror is determined to be nonresponsible, the reasons therefor shall be included in the determination.

(b) (1) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the Office of State Procurement or the procurement agency without prior written consent by the bidder or offeror.

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the Secretary of the Department of Shared Administrative Services when any of those officers deems it necessary.

(c) The director or the agency procurement official may require the posting of a bid bond, a performance bond, or a similar assurance by any actual or prospective bidder, offeror, or contractor, under rules promulgated under this chapter.

19 CAR § 1-401. Nonresponsibility.

(a) (1) Determination of responsibility is made prior to the award of a contract.

(2) A nonresponsible bidder or offeror is an individual group or entity who has been determined through evaluation of bid/offer to lack the capability, integrity, and/or reliability to fully perform the contract.

(b) Determination of responsibility may include, but not be limited to, one (1) or any combination of the following:

(1) The ability, capacity, and skill to perform the contract or provide the service;

(2) The responsibility and experience of the business;

(3) The quality of performance on previous contracts or services;

(4) The previous and existing compliance by the business with laws relating to the contract or services; and

(5) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-235 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-402. Bonds.

(a) **General.** Bidders shall submit bid bonds or performance bonds or similar assurances when required by the terms and conditions of the invitation for bids, solicitation or request for proposals, as obligee with surety satisfactory to the procurement agency, in a sum not to exceed one hundred percent (100%) of the contract price.

(b) **Award.** A bid shall not be awarded to any bidder who fails or refuses to provide a bond when required by the invitation for bids.

(c) **Default.** A contractor may be declared in default of his or her contract with the state, and his or her bond forfeited, when it is determined by the procurement official that the contractor is in breach of the terms and conditions of the contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-235 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-402. Prequalification of suppliers.

(a) (1) The State Procurement Director may provide for prequalification of suppliers as responsible prospective contractors for particular types of commodities, technical and general services, and professional and consultant services.

(2) Solicitation mailing lists of potential contractors shall include without limitation such prequalified suppliers.

(b) Prequalifications shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and making of an award that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

19-61-403. Reporting of suspected collusion — Definition.

(a) As used in this section, "collusion" means cooperation in the restraint of free and open competition in a public procurement, including without limitation:

(1) Price fixing;

(2) Bid rigging;

(3) Customer or market allocation;

(4) Misrepresenting the independence of the relationship between colluding parties; and

(5) Exerting improper influence on public officials to obtain advantage in a public procurement, including without limitation:

(A) Offering bribes or kickbacks;

(B) Extortion; and

(C) Fraudulent misrepresentation.

(b) When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the Attorney General.

(c) (1) All documents involved in a procurement in which collusion is suspected shall be retained until the Attorney General gives notice that they may be destroyed.

(2) All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt of the request.

(d) Collusion is cause for:

(1) Debarment from consideration for award of a contract under § 19-61-702; and

(2) Suspension from consideration for award of a contract if there is probable cause for suspecting collusion as determined by the Attorney General or the State Procurement Director.

19-61-404. Vendor training and polling.

The Office of State Procurement shall:

(1) (A) Develop and deliver vendor training to inform interested vendors of how to do business with the state.

(B) The training required under subdivision (1)(A) of this section shall:

(i) Be offered throughout the state; and

(ii) Be delivered as training sessions in person and online or in another virtual format; and

(2) Periodically poll vendors that have been successful in securing business with the state and vendors that have not been successful in securing business with the state to solicit procurement feedback that can be used to improve vendor training.

19-61-405. Submission of contracts with members of General Assembly required.

(a) All contracts with a member of the General Assembly, his or her spouse, or with any business in which a member of the General Assembly or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract.

(b) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director and the Director of the Arkansas Ethics Commission with its review as to the propriety of the contract, including without limitation whether the agency properly complied with the procurement process and whether the contract represents an improper conflict of interest between the member of the General Assembly and the agency, within thirty (30) days after receipt of the proposed contract.

(c) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Shared Administrative Services has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

19 CAR § 1-403. Submission of contracts with members of the General Assembly.

(a) All contracts or amendments to contracts with a member of the General Assembly, his or her spouse, or with any business in which such a person or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business must be presented to the Legislative Council or the Joint Budget Committee, if the General Assembly is in session.

(b) Such contracts or amendments to contracts must be submitted to the Office of State Procurement in accordance with all applicable policies and guidelines as prescribed on the office website.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-264 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-406. Vendor performance reporting.

(a) (1) A state agency shall report a vendor's performance under a contract executed under this subtitle if the vendor fails to satisfy the performance-based standards stated in the contract in a manner that represents a material deviation.

(2) A state agency shall use a form prescribed by the State Procurement Director and

approved by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, to report a vendor's performance under this section.

(b) The report required under this section shall be:

(1) Filed with the Office of State Procurement and maintained for a minimum of three (3) years from the termination of the relevant contract, including any extensions and amendments;

(2) Signed by the director of the state agency or his or her designee; and

(3) Filed monthly until the vendor has performed satisfactorily under the contract for a period of at least ninety (90) consecutive days.

(c) A state agency may report a vendor's performance in the manner prescribed under this section for any contract that would not require reporting of a vendor's performance under this section if the state agency encounters an issue with the vendor's performance of a contract.

(d) A state agency may use a vendor performance report submitted under this section to evaluate an offeror to the extent that the past performance of an offeror may be considered under the law and the rules adopted by the office.

19 CAR § 1-404. [Repealed]

Codification Notes. 19 CAR § 1-404, concerning vendor performance reporting, was repealed by Ark. R. 2026-76 (eff. July 2, 2026).

19-61-407. Experience requirement — Findings.

(a) (1) The General Assembly finds that:

(A) An invitation for bids, a request for proposals, and a request for qualifications often require that bidders and offerors have a certain amount of experience to qualify;

(B) These experience requirements often apply to the business of the bidder or offeror rather than the key personnel of the bidder or offeror;

(C) As a result, new businesses with highly qualified personnel often do not qualify to compete for state contracts even though the executives and employees of the business have the experience required; and

(D) It is in the best interests of the state to encourage new businesses and to seek out the most qualified people to provide products and services to the state.

(2) The General Assembly intends for this section to:

(A) Encourage entrepreneurship;

(B) Level the playing field for new businesses to compete for business opportunities; and

(C) Enable new businesses with highly qualified personnel to compete for state contracts.

(b) If an invitation for bids, a request for proposals, or a request for qualifications under this subtitle requires a certain amount of experience or a certain number of years in existence for

the bidder or offeror, the requirement shall be satisfied by either:

(1) (A) The amount of experience of the bidder or offeror.

(B) A bidder or offeror may use the combined experience of its owners or senior executive staff to satisfy the requirement under subdivision (b)(1)(A) of this section; or

(2) The combined amount of experience of the key personnel of the bidder or offeror that will be responsible for satisfying the requirements of the contract to be procured.

(c) (1) However, before the issuance of an invitation for bids, a request for proposals, or a request for qualifications, the Office of State Procurement or a procurement agency may determine in writing that the combined experience of the key personnel of a bidder or offeror under subdivision (b)(2) of this section would be insufficient to adequately satisfy the requirements of the invitation for bids, request for proposals, or request for qualifications.

(2) A written determination under subdivision (c)(1) of this section shall include the following:

(A) A specific description of the products or services that the Office of State Procurement or procurement agency seeks to procure; and

(B) A detailed statement of the reasons the combined experience of the key personnel of a bidder or offeror would be insufficient.

19 CAR § 1-405. Experience requirement.

Prior to the release of a bid solicitation, if the agency justifies in writing that the combined experience of the key personnel would be insufficient to adequately satisfy the requirements of the bid solicitation, the agency must include in the bid solicitation a statement indicating that only the experience of the bidder or offeror shall be considered.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-272 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-408. Procurements for services in designated positions and designated financial and information technology positions.

A contract for services with a person employed or entity employing persons in a designated position or designated financial or information technology position as defined in § 21-15-101 shall require compliance with the registry records check and criminal history records check laws under § 21-15-101 et seq.

19-61-409. Compliance.

(a) A contractor shall ensure, in cooperation with a state agency, that the contract between the contractor and the state agency adheres to the requirements of this subtitle, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review.

(b) The signature of a contractor on a contract with a state agency serves as an acknowledgement that the contractor is:

(1) Equally responsible with the state agency for adhering to the requirements of this subtitle related to the content and review of the contract; and

(2) Subject to the relevant ethical provisions of § 19-64-101 et seq.

19-61-410. Cancellation of contract on entry of final business closure order — Definition.

(a) As used in this chapter, "final business closure order" means a business closure order for which a contractor has either:

(1) Waived further administrative review under § 26-18-1001 et seq.; or

(2) Exhausted all remedies to appeal under § 26-18-1001 et seq.

(b) The Revenue Division of the Department of Finance and Administration shall provide to the Office of State Procurement all final business closure orders entered into against a contractor.

(c) Upon receipt of a final business closure order, the office shall, as soon as reasonably practicable:

(1) Notify each state agency with which the contractor has a contract that the:

(A) Contractor is subject to a final business closure order; and

(B) Provision of any goods or services, or both, under a contract with the contractor that is subject to a final business closure order shall cease as soon as reasonably practicable; and

(2) Notify all state agencies that the contractor that is subject to a final business closure order shall not be awarded or maintain a contract with a state agency unless the office provides notice under subsection (d) of this section.

(d) Upon receipt of information that a contractor has resolved a business closure, the office shall notify all state agencies, as soon as reasonably practicable, that:

(1) Any unexpired contracts with the contractor may continue if the contract was not terminated, cancelled, suspended, or discontinued; and

(2) The contractor may be awarded or maintain a contract with a state agency.

19-61-411. Combined written certification.

(a) When a contractor certifies in a contract with a state agency that the contractor shall comply with all Arkansas laws applicable to the contractor's performance under the contract, the certification provided in the contract shall serve as a combined written certification that the contractor certifies and warrants by operation of law that the contractor:

(1) Does not and shall not employ an illegal immigrant or use a subcontractor that employs or contracts with an illegal immigrant in violation of § 19-60-105;

(2) Has not been retained and has not retained a person to solicit or secure a state contract

on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of the contractor's bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business in violation of § 19-64-205;

(3) Under penalty of perjury and to the best of the contractor's knowledge and belief is not providing a regular full-time or part-time employee of a state agency with a personal, direct, or indirect monetary benefit as a result of the execution of the contract in violation of § 19-67-206(b)(8);

(4) Understands that, if the state fails to appropriate funds or make moneys available for a biennial period covered by the term of the contract for the services to be provided by the contractor, the contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes, as provided in § 19-67-206(b)(11);

(5) If applicable, is not currently engaged in and agrees for the duration of the contract not to engage in a boycott of Israel or a boycott of energy, fossil fuel, firearms, and ammunition industries in violation of §§ 25-1-503 and 25-1-1102;

(6) Is not owned in whole or with a majority ownership by the government of the People's Republic of China and is not subcontracting with a scrutinized company as defined in § 25-1-1202 in violation of § 25-1-1203; and

(7) Shall in all other respects comply with the laws, rules, and executive orders of the state that apply to the contractor's performance under the contract.

(b) (1) A combined written certification under this section is a single, universal, and supervening certification that shall be accepted in lieu of the specific, individual certifications otherwise required by Arkansas law.

(2) A state agency may rely on a combined written certification under this section and the implicit certifications and warranties the combined written certification supplies by operation of law in satisfaction of and as an alternative to obtaining the individual specific certifications otherwise required under Arkansas law, including without limitation under §§ 19-60-105, 19-64-205, 19-67-206, 25-1-503, 25-1-1102, and 25-1-1202.

History. Acts 2025, No. 936, § 2.

Subchapter 5 — Source Selection and Contract Formation

19-61-501. Definitions concerning source selection and contract formation.

As used in this chapter:

(1) “Competitive bidding” means a method of procurement that requires obtaining bids by:

(A) Direct mail request to prospective bidders and obtaining written bids;

(B) Telephone;

(C) Telegraph;

(D) Written form; or

(E) Electronic media;

(2) “Competitive sealed bidding” means a method of procurement that requires:

(A) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;

(B) Public, contemporaneous opening of bids at a predesignated time and place;

(C) Unconditional acceptance of a bid without alteration or correction, except as authorized in §§ 19-61-401 — 19-61-403, 19-61-502 — 19-61-508, and 19-61-511 — 19-61-513;

(D) Award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids; and

(E) Public notice;

(3) “Competitive sealed proposals” means a method of procurement that involves without limitation:

(A) Solicitation of proposals through a request for proposals;

(B) Submission of cost or pricing data from the offeror where required;

(C) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award; and

(D) An award made to the responsible offeror whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the request for proposals;

(4) “Emergency procurement” means the acquisition of commodities or services, that if not immediately initiated, will endanger human life or health, state property, or the functional capability of a state agency;

(5) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by a manufacturer or contractor;

(B) Is either published or otherwise available for inspection by customers; and

(C) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the commodities or services involved;

(6) “Invitation for bids” means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in § 19-61-505, which refers to competitive sealed bidding;

(7) “Multiple award contracts” means a method of procurement whereby an indefinite quantity contract is awarded to more than one (1) supplier for furnishing a like item or category of items;

(8) “Purchase description” means specifications or any other document or electronic media

describing the commodities or services to be procured;

(9) "Request for proposals" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in § 19-61-506, which refers to competitive sealed proposals, § 19-61-503, which refers to small procurements, § 19-61-507, which refers to proprietary or sole source procurements, § 19-61-508, which refers to emergency procurements, or § 19-61-504, which refers to competitive bidding;

(10) (A) "Request for qualifications" means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing.

(B) Other than as provided in § 19-65-101 et seq., the request for qualifications process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted;

(11) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance;

(12) "Responsive bidder" means a person who has submitted a bid under § 19-61-505, which refers to competitive sealed bidding, that conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation; and

(13) (A) (i) "Small procurements" means a procurement not exceeding a purchase price of twenty thousand dollars ($20,000).

(ii) Small procurements may be procured without seeking competitive bids or competitive sealed bids.

(iii) However, competition should be used to the maximum extent practicable.

(B) Items under state contract are excluded.

19 CAR § 1-509. Request for qualifications procurement method generally.

(a) (1) The request for qualifications (RFQ) procurement method is used, with prior written approval from the State Procurement Director, when price competition is irrelevant and/or the qualifications or specialized expertise of the vendor is the most important factor in selection.

(2) For example, an RFQ would likely be appropriate in instances where an agency is compiling a list of qualified vendors and will be offering the same contract rates to all qualified vendors, because price competition is irrelevant in such a situation.

(3) An agency should give public notice of an RFQ opportunity, but may also send notice directly to those vendors the agency considers to be best-qualified and capable of performing the scope of work or services required.

(b) (1) Notification of RFQs, for which the Office of State Procurement is responsible, in amounts greater than seventy-five thousand dollars ($75,000) will be made on the office website.

(2) The agency makes its initial selection based upon the respondent's qualifications.

(3) Only after the most qualified respondent is identified does cost become a factor in determining the award.

(4) Discussion may be conducted with qualified vendors who, based upon qualifications submitted, are determined to reasonably be susceptible of being selected for the purpose of clarification to ensure full understanding of, and responsiveness to the solicitation requirements, and to obtain best and final offers.

(5) If the state agency or political subdivision is unable to negotiate a satisfactory contract with the vendor selected, negotiations with that vendor shall be terminated and the agency may proceed to negotiate with one (1) or more of the other qualified vendors.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-204 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-502. Methods of source selection.

Unless otherwise authorized by law, all contracts shall be awarded by competitive sealed bidding, pursuant to § 19-61-505, which refers to competitive sealed bidding, except as provided in:

(1) Section 19-61-506, which refers to competitive sealed proposals;

(2) Section 19-61-503, which refers to small procurements;

(3) Section 19-61-507, which refers to proprietary or sole source procurements;

(4) Section 19-61-508, which refers to emergency procurements;

(5) Section 19-61-504, which refers to competitive bidding;

(6) Section 19-61-509, which refers to multiple award contracts; or

(7) Section 19-61-510, which refers to special procurements.

19-61-503. Small procurements.

(a) Any procurement not exceeding the amount under § 19-61-501(13), which refers to small procurements, may be made in accordance with this section and the small procurement procedures promulgated by the State Procurement Director.

(b) (1) However, procurement requirements shall not be artificially divided so as to constitute a small procurement under this section.

(2) The prohibition stated in subdivision (b)(1) of this section includes without limitation purchasing commodities or services, or both, from more than one (1) vendor owned by the same person or entity if the aggregate amount of the purchases from the vendors owned by the same person or entity exceeds the amount stated in subsection (a) of this section.

(c) A state agency shall not provide information to a vendor regarding the amount the state

agency is willing to pay for commodities or services, or both, before receiving a quote from the vendor for the amount the vendor would charge for the commodities or services, or both.

19 CAR § 1-538. Small procurements – Conditions for use.

(a) (1) **Lease.** All state agencies may lease commodities with the exclusion of vehicles (see Arkansas Code § 22-8-102) where the cost does not exceed twenty thousand dollars ($20,000) during the initial period of the contract without seeking competitive bids, provided the lease does not contain an option to purchase.

(2) Such leases may not be renewed beyond accumulated expenditures of twenty thousand dollars ($20,000).

(b) **Purchase of commodities subject to Arkansas Constitution, Amendment 54.** Purchase of commodities subject to Arkansas Constitution, Amendment 54 must be procured in accordance with competitive bidding and competitive sealed bidding procedures (see Arkansas Code § 19-61-206(b) for definitions of printing, stationery, and supplies). **Authority.** Arkansas Code § 19-61-117.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-231 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-504. Competitive bidding.

(a) (1) A competitive bid form authorized by the State Procurement Director shall be completed for competitive bidding.

(2) If three (3) competitive bids are not obtained on purchases when competitive bids are required, the competitive bid form must show the names of at least three (3) firms contacted in attempting to obtain competition or show the reason three (3) firms were not contacted.

(3) (A) Only firms that sell the type of commodity or service to be procured shall be contacted for competitive bidding.

(B) The purchase procedures outlined in this section shall not apply to commodities, technical and general services, and professional and consultant services under state contract.

(b) (1) Contracts in which the purchase price exceeds twenty thousand dollars ($20,000) and is less than or equal to seventy-five thousand dollars ($75,000) may be awarded by use of competitive bidding procedures.

(2) However, in instances under subdivision (b)(1) of this section, competitive sealed bidding is permitted.

(c) (1) (A) All procurements under this section shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements, criteria, and

specifications.

(B) Delivery time required shall be reasonable and consonant with current industry norms.

(2) Complete justification shall be given if an award is made to a bidder other than the low bidder.

(d) Repeated small quantity procurements to circumvent the competitive bid limits or failure to obtain competitive bids without justification shall constitute a violation of competitive bidding procedures and shall result in withdrawal of the state agency's competitive bid privileges.

19 CAR § 1-532. Competitive bidding – Conditions for use.

(a) **Purchase of commodities subject to the Arkansas Constitution, Amendment 54.** The commodities subject to Arkansas Constitution, Amendment 54 are printing, stationery, and supplies (see also Arkansas Code § 19-61-206(b)).

(b) **Supplies.** All state agencies may purchase certain supplies subject to Arkansas Constitution, Amendment 54 under the following condition: if the cost of the commodity is seventy-five thousand dollars ($75,000) or less, the state agency must obtain, wherever possible, at least three (3) written competitive bids.

(c) **Printing and stationery.** The State Procurement Director or his or her designee shall purchase all printing and stationery subject to Arkansas Constitution, Amendment 54 under the following condition: if the cost of the commodity is seventy-five thousand dollars ($75,000) or less, the State Procurement Director or his or her designee must obtain, wherever possible at least three (3) written competitive bids.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-533. Leases.

(a) **Lease of commodities on state contract.** No contract greater than ninety (90) days for the lease of commodities on state contract will be approved unless the State Procurement Director determines in writing that it is in the best interest of the state and states the reason therefore.

(b) (1) All contracts for the lease of a commodity that exceed a cost of twenty thousand dollars ($20,000) but are less than seventy-five thousand dollars ($75,000) during the initial period of the contract will be awarded on the basis of competitive bidding.

(2) A purchase option and/or lease renewal is allowed as long as the accumulated expenditure does not exceed seventy-five thousand dollars ($75,000).

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-534. Cancellation.

(a) Bids may be cancelled by the State Procurement Director, agency procurement official, or procurement agent prior to contract award.

(b) Notice of cancellation shall be given to all bidders who have submitted bids.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-535. Rejection.

Grounds for rejection of bids include but shall not be limited to:

(1) Failure of a bid to conform to the essential requirements of an invitation for bids;

(2) Any bid which does not conform to the specifications contained or referenced in any bids unless the items offered as alternatives meet the requirements specified in the invitation;

(3) Any bid which fails to conform to a delivery schedule established in an invitation for bids, unless the invitation for bids contains provisions for acceptance of offers with alternative delivery schedules;

(4) A bid imposing conditions which would modify the terms and conditions of the invitation for bids;

(5) (A) Any bid determined by the procurement official in writing to be unreasonable as to price;

(B) An unreasonable price is one determined in writing to be too high relative to bid requirements.

(C) An unrealistic price is one that is determined in writing to be too low to indicate the respondent's ability to successfully meet bid requirements.

(D)(i) Prices should be assessed for reasonableness and realism, in accordance with Office of State Procurement policy, when bids are submitted.

(ii) Additional review and analysis of cost reasonableness and realism may be conducted throughout the procurement process to affirm grounds for rejection;

(6) Bids received from bidders determined to be nonresponsible bidders;

(7) Failure to furnish a bid guarantee when required by an invitation for bids; and

(8) Any or all bids when the procurement official determines it to be in the best interest of the state.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-536. Tie bids.

(a) **Definitions.** As used in this section:

(1) "Arkansas company" means a domestic corporation, limited liability company, partnership, or not-for-profit organization as defined by Arkansas law; and

(2) "Out-of-state company" means all foreign entities as defined by Arkansas law.

(b) In the event the lowest prices offered result in a tie bid, the person responsible for awarding a contract must ensure that all offers meet specifications.

(c) In the event of a tie bid between two (2) or more offers that meet the specifications as required and where one (1) of the offerors is an Arkansas company, then the award shall be made to that Arkansas company.

(d) (1) In the event of a tie bid between two (2) or more offers that meet the specifications as required:

(A) And where at least two (2) of the offerors are Arkansas companies, then an award will be determined by drawing of lots between those Arkansas companies; or

(B) If all of the offerors are out-of-state companies, then an award will be determined by drawing of lots among all the bidders.

(2) (A) The drawing of lots will be done in the presence of at least one (1) witness by the person responsible for awarding the contract.

(B) All witnesses must be employees of the State of Arkansas.

(C) A documentation of the drawing of lots must be:

(i) Included on the tabulation or bid history sheet; and

(ii) Signed by the person responsible for awarding the contract and all witnesses.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-505. Competitive sealed bidding.

(a) (1) Contracts exceeding an estimated purchase price of seventy-five thousand dollars ($75,000) shall be awarded by competitive sealed bidding unless a determination is made in writing by the agency procurement official or the State Procurement Director that this method is not practicable and advantageous and specifically states the reasons that this method is not practicable and advantageous.

(2) The director may provide by rule that it is not practicable to procure specified types of commodities, technical and general services, or professional and consultant services by competitive sealed bidding.

(3) Factors to be considered in determining whether competitive sealed bidding is not

practicable shall include whether:

(A) Purchase descriptions are suitable for award on the basis of the lowest evaluated bid price; and

(B) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.

(b) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced technical proposals to be followed by an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation for bids.

(c) Notice inviting bids shall:

(1) Be given not fewer than five (5) calendar days nor more than ninety (90) calendar days preceding the date for the opening of bids by publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or posting by electronic media, but in all instances, adequate notice shall be given;

(2) Include a general description of the commodities, technical and general services, or professional and consultant services to be procured;

(3) State where invitations for bids may be obtained;

(4) State the date, time, and place of bid opening; and

(5) State the time, date, and place of the solicitation conference if a solicitation conference is to be held before the opening of bids to provide information to prospective bidders.

(d) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

(e) (1) (A) Bids shall be evaluated based on the requirements set forth in the invitation for bids.

(B) Requirements set forth in the invitation for bids may include criteria to determine acceptability such as:

(i) Inspection;

(ii) Testing;

(iii) Quality;

(iv) Workmanship;

(v) Delivery;

(vi) Past performance; and

(vii) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.

(2) (A) The invitation for bids shall set forth the evaluation criteria to be used.

(B) Criteria may not be used in bid evaluation that were not set forth in the invitation for bids.

(3) (A) A time discount may be considered in the evaluation of a bid only:

(i) If the state agency specifically solicits pricing that requests a time discount; and

(ii) Under the structured terms of the invitation for bids.

(B) If a bidder offers a time discount as part of its bid without the solicitation of time discounts by the state agency, the state agency shall not consider the time discount.

(f) (1) Correction of patent or provable errors in bids that do not prejudice other bidders or withdrawal of bids may be allowed only to the extent permitted under rules promulgated by the director and upon written approval of the Attorney General or a designee of the Attorney General.

(2) An award shall not be made on the basis of a corrected bid, if the corrected bid exceeds the next lowest bid of a responsible bidder.

(3) (A) The director or an agency procurement official may seek the clarification of a submitted bid.

(B) A written response by a bidder under this subsection shall only clarify the submitted bid and shall not add any substantive language to the submitted bid or change the terms of the submitted bid.

(C) If the bidder fails or refuses to clarify any matter questioned about the bidder's bid in writing by the deadline set by the director or agency procurement official, the bid may be rejected.

(D) If the bidder clarifies the matter questioned under this subsection in writing, the clarification shall be evaluated and become a part of any contract awarded on the basis of the bidder's bid.

(4) (A) A state agency may determine that the cost of the bid is unrealistic.

(B) As used in this subdivision (f)(4), "unrealistic" means too low to reflect the ability of the bidder to meet the requirements of the invitation for bids.

(C) The director shall promulgate rules concerning the requirements for determining that a bid is unrealistic.

(g) (1) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(2) (A) Except with respect to a contract being procured for a construction project, the director or the head of a procurement agency may negotiate a lower bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder if:

(i) All bids received from responsive and responsible bidders exceed available funding as certified by the appropriate fiscal officer of the procurement agency; or

(ii) It appears that additional savings to the state may result from negotiation.

(B) (i) (a) If negotiations with the lowest responsive and responsible bidder conducted under subdivision (g)(2)(A) of this section fail to result in a lower bid price, the state may negotiate for a lower bid price with the next lowest responsive and responsible bidder.

(b) If negotiations with the next lowest responsive and responsible bidder under subdivision (g)(2)(B)(i)(a) of this section fail to result in a lower bid price, the state may negotiate for a lower bid price with the next lowest responsive and responsible bidder until an acceptable lower bid price is negotiated or the state determines that negotiations are no longer in the best interest of the state.

(ii) A bid price resulting from negotiations conducted under this section shall not be higher than:

(a) The bid price originally submitted by the lowest responsive and responsible bidder; or

(b) A price previously offered in negotiations by a responsive and responsible bidder.

(iii) Negotiations conducted under this section do not preclude the use of other methods of source selection or procurement authority provided under this chapter.

(C) (i) Negotiations under this subsection shall be conducted by a person who is trained and certified in negotiation and procurement processes.

(ii) (a) The Office of State Procurement shall provide for the training and certification required under this subsection.

(b) The training provided by the office shall be specific to Arkansas law.

(3) All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.

(h) (1) An invitation for bids may be cancelled or any or all bids may be rejected in writing by the director or the agency procurement official.

(2) Before the rejection of a bid by the director, the decision to reject the bid may be validated with the state agency for which the procurement is being conducted.

(3) A bid may be rejected for failure to adhere to mandatory requirements.

19 CAR § 1-510. Competitive sealed bidding — Definition.

Invitations for bids for which the Office of State Procurement is responsible will be posted at the location designated by the Office of State Procurement.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-511. Conditions for use.

(a) **Lease.**

(1) All contracts for the lease of a commodity which exceed a cost of seventy-five thousand dollars ($75,000) during the initial period of the contract shall be awarded on the basis of competitive sealed bids.

(2) All contracts for the lease of a commodity that do not exceed seventy-five thousand dollars ($75,000) during the initial period of the contract but contain an option to purchase a commodity costing more than seventy-five thousand dollars ($75,000) will be awarded on the basis of competitive sealed bids.

(3) No lease duration including renewals can extend beyond a seven-year period.

(4) The term "lease" includes rent.

(b) **Purchase of commodities subject to the Arkansas Constitution, Amendment 54.** Commodities subject to the Arkansas Constitution, Amendment 54 (printing, stationery, and supplies) may be purchased only by the State Procurement Director or his or her designee.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-512. Commodities and services.

Commodities and services which are not practicable to procure by competitive sealed bidding:

(1) Postage meter leases;

(2) (A) Motor vehicle rentals

(B) Motor vehicle rentals for thirty (30) days or less, may be procured by use of competitive bid procedures.

(C) All motor vehicle leases over thirty (30) days must be approved by the State Procurement Director under the provisions of Arkansas Code § 22-8-102; and

(3) (A) Agricultural equipment leases.

(B)Agricultural equipment leases for one hundred eighty (180) days or less may be procured by use of competitive bid procedures.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-513. Leases.

Lease of commodities on state contract. No contract greater than ninety (90) days for the lease of commodities on state contract shall be approved unless the State Procurement

Director determines in writing that it is in the best interest of the state and states the reasons therefore.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-514. Bid submission.

(a) (1) Bidders shall submit bids at the place and on or before the date and time set in the invitation for bids.

(2) Bids received after the date and time designated for bid opening are late bids and shall not be considered.

(b) (1) All bids and any modifications to bids previously filed, received prior to the date and time fixed for opening bids, shall be kept secure and unopened.

(2) If a bid is submitted and the invitation for bids number is not clearly marked to indicate the date and time of bid opening, the State Procurement Director or agency procurement official may make a reasonable attempt to determine which bid the sealed submission corresponds to.

(c) Retrieval of a bid for purposes of modification or withdrawal shall be permitted prior to date and time of opening upon positive identification of a bona fide representative of the business.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-515. Solicitation conferences.

(a) A solicitation conference may be held by the State Procurement Director or agency procurement official or a designee to provide information to prospective bidders.

(b) Nothing discussed during a solicitation conference will change the specifications or terms and conditions of a competitive sealed bid, nor shall anything discussed during a solicitation conference be deemed to be binding or incorporated into the specifications or terms and conditions of a competitive sealed bid unless it is subsequently reduced to writing and included in the competitive sealed bid.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-516. Bid opening.

(a) When practical, the names of the bidders and amounts of their bids may be read aloud.

(b) Except where it may be deemed impractical, due to the nature or complexity of an invitation for bids, an abstract of bids which contains the amount of each bid and the name

of the bidder shall be prepared for each invitation for bids.

(c) An abstract of bids shall be retained in the bid file and shall be available for public inspection.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R7:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-517. Bid evaluation.

(a) (1) Those criteria that will affect the bid price and be considered in evaluation for award shall be stated in the bid and objectively measured, such as transportation costs and total or life cycle cost.

(2) Judgmental evaluation of commodities and services may be used in determining whether the commodity or service offered by a bidder meets the specification requirements of the procurement, or the bidder is qualified to provide the service.

(b) The following matters will be applicable to all invitations for bids issued, bids submitted, and contracts awarded for the purchase of commodities:

(1) Time discounts cannot be considered in the evaluation of a bid pursuant to Arkansas Code § 19-61-505(f)(3) unless the solicitation specifically requests a time discount;

(2) (A) Quantity discounts should be included in the price of the item.

(B) When not included in the item price, the discount will be considered only if the procurement agency, or the agency for whose benefit the procurement has been undertaken, deems it to be in the state's best interest.

(C) The unit price shown on the contract will be the net price, less the discount, unless otherwise indicated in the bid;

(3) An award may be made to the lowest aggregate bidder for all items, group of items, or on an individual item basis, whichever is deemed to be in the state's best interest;

(4) Only signed, sealed bids delivered prior to the date and time of bid opening will be accepted; and

(5) Past performance.

(A)(i) The past performance of a bidder on a state contract may be used

by the procurement agency to determine whether the bidder is "responsible".

(ii) Past performance must be supported by written documentation not greater than three (3) years old.

(iii) Documentation may be a formal vendor performance report, an informal memo (signed and dated), or any other appropriate authenticated notation of performance to the vendor file.

(iv) Reports, memos, and files may be in electronic form.

(v) Past performance may be positive or negative.

(B)(i) Past performance on contracts from other Arkansas state agencies may also be used for evaluation.

(ii) Supporting documentation should be provided.

(C) Past performance evaluation should not take the place of suspension or debarment procedures.

(c) **Tie bids.**

(1) **Definitions**. As used in this section:

(A) "Arkansas company" means a domestic corporation, limited liability company, partnership, or not-for-profit organization as defined by Arkansas law; and

(B) "Out-of-state company" means all foreign entities as defined by Arkansas law.

(2) In the event the lowest prices offered result in a tie bid, the person responsible for awarding a contract must ensure that all offers meet specifications.

(3) In the event of a tie bid between two (2) or more offers that meet the specifications as required and where one (1) of the offerors is an Arkansas company, then the award will be made to that Arkansas company.

(4) In the event of a tie bid between two (2) or more offers that meet the specifications as required:

(A) Where at least two (2) of the offerors are Arkansas companies, then an award will be determined by drawing of lots between those Arkansas companies; or

(B) If all of the offerors are out-of-state companies, then an award will be determined by drawing of lots among all the bidders.

(5) (A) The drawing of lots will be done in the presence of at least one (1) witness by the person responsible for awarding the contract.

(B) All witnesses must be employees of the State of Arkansas.

(C) A documentation of the drawing of lots must be:

(i) Included on the tabulation or bid history sheet; and

(ii) Signed by the person responsible for awarding the contract and all witnesses.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R8:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-518. Rejection.

Grounds for rejection of bids include but are not be limited to:

(1) Failure of a bid to conform to the mandatory requirements of an invitation for bids;

(2) Any bid which does not conform to the specifications contained or referenced in any invitation for bids unless the items offered as alternatives meet the requirements specified in the invitation;

(3) Any bid which fails to conform to a delivery schedule established in an invitation for bids, unless the invitation for bids contains provisions for acceptance of offers with alternative delivery schedules;

(4) A bid imposing conditions which would modify the stated terms and conditions of the invitation for bids;

(5) (A) Any bid determined by the procurement official in writing to be unreasonable or unrealistic as to price;

(B) An unreasonable price is one determined in writing to be too high relative to bid requirements.

(C) An unrealistic price is one determined in writing to be too low to indicate the respondent's ability to successfully meet scope requirements.

(D)(i) Prices should be assessed for reasonableness and realism, in accordance with Office of State Procurement policy, when bids are submitted.

(ii) Additional review and analysis of cost reasonableness and realism may be conducted throughout the procurement process to affirm grounds for rejection.

(iii) Clarifications may be issued to bidders to supplement review and analysis, to certify cost or pricing data, or, in the case of unreasonable pricing, to lower proposed cost;

(6) Bids received from bidders determined to be nonresponsible bidders;

(7) Failure to furnish a bid guarantee when required by an invitation for bids; and

(8) Any or all bids when the procurement official makes a written determination that it is in the best interest of the state.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R9:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-519. Correction or withdrawal.

(a) **Correction or withdrawal of bids.**

(1) The State Procurement Director or agency procurement official may waive technicalities (small details) or minor irregularities (something irregular in form or nature) in bids which do not affect the material substance of the bids when it is in the state's best interest to do so.

(2) Amendments to bids shall be allowed if the amendments:

(A) Are in writing and signed;

(B) Are received prior to the date and time of bid opening; and

(C) Clearly indicate the date and time of bid opening and bid number.

(3) (A) If there is a suspected bid mistake, the director or agency procurement official may request confirmation of a bid and shall request the confirmation to be made in writing.

(B) The bid of any bidder who fails or refuses to clarify in writing within a reasonable time any matter contained in his or her bid may be rejected.

(C) (i) The written clarification shall become a part of the contract awarded on the basis of that bid.

(ii) If a mistake is confirmed, the bidder may be permitted to withdraw that portion of the bid.

(iii) Any correction of the price extension or of the price addition by the Office of State Procurement or state agency having an agency procurement official shall not be considered the correction of a bid.

(4) (A) Actual bid prices (including as may be corrected following a suspected mistake under subdivision (a)(3) of this section) shall not be increased after the date and hour of bid opening.

(B) A bid price may be decreased only after a determination has been made that the bid is low.

(5) An otherwise low bidder may be permitted the opportunity to furnish other information requested in the invitation for bids and not supplied due to oversight, so long as it does not affect responsiveness.

(6) (A) When a mistake in a bid is claimed by the vendor prior to award and the evidence is clear and convincing that a material mistake was made in the bid, and that due to such mistake the bid submitted was not the bid intended, the bidder may be permitted to withdraw his or her bid.

(B) Where the evidence is clear and convincing that a material mistake has been made in a bid after the award of a contract and the contractor will sustain a financial loss (a reduction or diminution in profit margin shall not be deemed a financial loss under this subsection) if required to perform the contract, the contract may be rescinded.

(b) **Correction.** Any negotiated adjustments, as defined in Arkansas Code § 19-61-505(h), will not be considered the correction of a bid.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R10:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-520. [Repealed]

Codification Notes. 19 CAR § 1-520, concerning award and negotiation, was repealed by Ark. R. 2026-76 (eff. July 2, 2026).

19 CAR § 1-521. Cancellation of invitations for bids.

(a) When an invitation for bids is cancelled, notice of cancellation of Office of State Procurement bids will be posted at the location designated by the Office of State Procurement.

(b) The bids may be returned if the bid is properly identified.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R13:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-522. Negotiations – Award of competitive sealed bids.

(a) (1) **Negotiation.** Negotiation of competitive sealed bids should be used only in those cases where the best interests of the state are served, such as where the lowest bid submitted by a responsive and responsible bidder:

(A) Exceeds the available funding to pay for the commodity or service, as certified by the appropriate fiscal officer of the procurement agency; or

(B) Can be shown to be above the fair market price available on the open market to a reasonably prudent buyer.

(2) (A) Procurement officials who conduct negotiations should be trained in negotiation and Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq.

(B) "Trained and certified in negotiation and procurement process" means the person will have received certified training from or authorized by the Office of State Procurement.

(3) (A) After it is determined that negotiation is in the best interests of the state and permissible under Arkansas Code § 19-61-505(2)(A), appropriate representatives will proceed with negotiations and award recommendation.

(B) Appropriate representatives include purchasing staff and representatives from the original requesting unit.

(4) The agency should investigate the factors affecting the price offered by the apparent low bidder to include but not be limited to:

(A) Cost;

(B) Delivery requirements;

(C) Warranty;

(D) Location of supplier;

(E) Volatile nature of goods or services requested; and

(F) Current economic condition of the market.

(5) The agency must develop a plan to include at least:

(A) The acceptable range of price, the desired "best" price, and the highest acceptable price;

(B) What adjustment may be made to delivery requirements that may affect price;

(C) Acceptable adjustments in quantity;

(D) A prioritized list of acceptable adjustments in specifications that may result in price reduction; and

(E) Timetable for completion of negotiation.

(6) Negotiation plans shall not be revealed to bidder or bidders nor made available for public review until after the anticipated award is made public in order to avoid revealing information that if disclosed would give advantage to competitors or bidders.

(7) An acceptable negotiated contract must be signed and in writing listing agreed upon terms, conditions, specifications, quantities, and pricing.

(8) If a negotiated contract cannot be developed, the bidder may be declared nonresponsive and, time permitting, the negotiation process may be repeated with the next low bidder.

(9) If negotiations do not result in an acceptable contract, the director or head of a procurement agency may authorize that a new solicitation be issued or elect to procure by special procurement (Arkansas Code § 19-61-510).

(b) **Award**.

(1) After a reasonable bid evaluation period, the bid shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids.

(2) All bids may be rejected if, after evaluation of the bids, including consideration of any clarifying or explanatory information submitted by the bidders, it is determined by the procurement official that no satisfactory bid has been received.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R15:19-11-229 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-506. Competitive sealed proposals.

(a) When the use of competitive sealed bidding is not practicable and advantageous, a contract may be awarded by competitive sealed proposals.

(b) (1) Except as provided in subdivision (b)(2) of this section, public notice of the request for

proposals shall be given in the same manner as provided in § 19-61-505, which refers to public notice of competitive sealed bidding.

(2) (A) A request for proposals under this section shall be issued at least twenty (20) business days before the deadline for the submission of proposals.

(B) If a request for proposals is *reissued before the anticipation to award*, the state agency shall extend the original deadline for the submission of proposals by at least ten (10) business days.

(c) (1) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(2) (A) Except as provided in subdivision (d)(2)(B) of this section, cost shall be weighted at least thirty percent (30%) of the total evaluation score for a proposal submitted in response to the request for proposals.

(B) (i) The State Procurement Director may approve that cost be weighted at a lower percentage of the total evaluation score for a proposal submitted in response to a request for proposals if the director makes a written determination that the lower percentage is in the best interest of the state.

(ii) A state agency's failure to obtain the approval of the director under this subsection for a request for proposals with cost weighted at a lower percentage than required under subdivision (c)(2)(A) of this section is grounds for submitting a protest under § 19-61-701.

(C) The use of a lower percentage under subdivision (c)(2)(B) of this section and the corresponding written determination by the director shall be submitted to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, for review before the request for proposals is issued.

(3) The state's prior experience with an offeror may be considered and scored as part of the offeror's proposal only:

(A) To the extent that the request for proposals requests that all offerors provide references; and

(B) If the offeror's past performance with the state occurred no more than three (3) years before the offeror submitted the proposal.

(4) A state agency shall:

(A) Not include prior experience with the state as a mandatory requirement for submitting a proposal under this section;

(B) Evaluate the cost of each proposal received from a responsible offeror in response to a request for proposals under this section in the state agency's initial evaluation of the proposals; *and*

(C) Not identify responsible offerors as being reasonably susceptible of being awarded a contract under this section until the cost proposal from each responsible offeror has

been evaluated.

(5) (A) A state agency may determine that the cost of the proposal is unreasonable or unrealistic.

(B) As used in this subdivision (d)(5):

(i) "Unrealistic" means too low to reflect the ability of the offeror to meet the requirements of the request for proposals; and

(ii) "Unreasonable" means too high for the requirements of the request for proposals.

(C) The director shall promulgate rules concerning the requirements for determining that the cost of a proposal is unreasonable or unrealistic.

(d) (1) As provided in the request for proposals and under rule, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of:

(A) Clarifying solicitation requirements to assure full understanding of and responsiveness to the solicitation requirements; or

(B) Negotiating a contract that is more advantageous to the state.

(2) (A) If discussions conducted after the deadline for the receipt of proposals clarify one (1) or more requirements that necessitate material revisions of proposals, each offeror determined to be responsible and reasonably susceptible of being awarded a contract shall be provided an opportunity to revise the offeror's proposal for the purpose of submitting a best and final offer.

(B) An offeror may be permitted to revise the offeror's original proposal as a result of discussions only after the original submission deadline and before award for the purpose of providing a best and final offer.

(C) (i) Before issuing the notice of award of a contract, the director or the agency procurement official may request a best and final offer from each responsible offeror that is reasonably susceptible of being awarded the contract.

(ii) In responding to a request for a best and final offer, an offeror may:

(a) Resubmit the offeror's original proposal with lower pricing or additional benefits, or both, in accordance with the specifications of the request for proposals; or

(b) Submit a written response that states that the offeror's original proposal, including without limitation the pricing, remains unchanged.

(c) Resubmit the offeror’s proposal by revising the offeror’s response to one (1) or more of the specifications of the request for proposals.

(iii) If a best and final offer is requested, the director or the agency procurement official shall evaluate each proposal submitted in response to the request for a best and final offer in determining the proposal that is the most advantageous to the state.

(3) In conducting discussions, information derived from a proposal submitted by a competing offeror shall not be disclosed until after a notice of anticipation to award is announced.

(4) (A) Negotiations under this section shall be conducted by a person who is trained and certified in negotiation and procurement processes.

(B) (i) The office shall provide for the training and certification required under subdivision (e)(4)(A) of this section.

(ii) The training provided by the office under this subdivision (e)(4) shall be specific to Arkansas law.

(5) The director shall promulgate rules detailing the requirements for negotiations under this section.

(e) (1) The director or an agency procurement official may seek the clarification of a submitted proposal.

(2) A written response by an offeror under this subsection shall only clarify the submitted proposal and shall not add any substantive language to the submitted proposal or change the terms of the submitted proposal.

(3) If the offeror fails or refuses to clarify any matter questioned about the offeror's proposal in writing by the deadline set by the director or agency procurement official, the proposal may be rejected.

(4) If the offeror clarifies the matter questioned under this subsection in writing, the clarification shall be evaluated and become a part of any contract awarded on the basis of the offeror's proposal.

(f) (1) Award under this section shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration price, the evaluation factors set forth in the request for proposals, any best and final offers submitted, and the results of any discussions conducted with responsible offerors.

(2) Factors or criteria that are not specified in subdivision (f)(1) of this section shall not be used in the evaluation of a proposal.

(3) If it is determined that two (2) or more responsible offerors have tied scores after the evaluation of the proposals, the award under this section shall be made to the responsible offeror that had one (1) of the tied scores and submitted the lowest price proposal.

(4) The director or the agency procurement official may enter into negotiations with the responsible offeror whose proposal is determined in writing to be the most advantageous to the state when the best interests of the state would be served, including without limitation when the state can obtain:

(A) A lower price without changes to the terms or specifications of the request for proposals; or

(B) An improvement to the terms or specifications, or both, of the request for proposals without increasing the price of the proposal.

(g) (1) The Office of State Procurement shall:

(A) Encourage full discussion by the evaluators who are evaluating proposals submitted in response to a request for proposals under this section; and

(B) Develop tools and templates to be used in evaluating proposals submitted in response to a request for proposals under this section that optimize the number of material scored attributes and provide for a limited range of possible scores for each attribute.

(2) (A) A state agency may use one (1) or more private evaluators to evaluate proposals submitted in response to a request for proposals under this section.

(B) A private evaluator used under this subsection shall be:

(i) Held to the same requirements and prohibitions regarding conflicts of interest as state employees;

(ii) A qualified volunteer, unless the state does not have the necessary expertise to evaluate the proposals, in which case a paid private evaluator may be used; and

(iii) Eligible for travel reimbursement if the state agency decides to make travel reimbursement available.

(C) The use of a private evaluator is not required.

(D) If a state agency uses one (1) or more private evaluators, the use of a private evaluator shall be disclosed in the procurement file and in any information submitted to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(h) (1) A competitive sealed proposal may be cancelled or any or all proposals may be rejected in writing by the director or the agency procurement official.

(2) Before the rejection of a proposal by the director, the decision to reject the proposal may be validated with the evaluation committee that evaluated the proposal.

(3) A proposal may be rejected for failure to adhere to mandatory requirements.

(i) A state agency using the method of procurement provided for under this section shall adhere to the procurement rules, policies, and guidance issued by the office concerning the scoring of the technical and cost elements of submitted proposals

19 CAR § 1-523. Competitive sealed proposals — Generally.

Request for proposals for which the Office of State Procurement is responsible will be posted on the office website in adequate time to allow response.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-524. Conditions of use — 30% weighted cost waiver.

(a) **Conditions of use.**

(1)(A) To determine the necessity of using competitive sealed proposals, contracts exceeding an estimated purchase price of seventy-five thousand dollars ($75,000) require formal justification via a determination in writing that competitive sealed bidding is not practicable or advantageous.

(B) Purchase price is the final, agreed-upon cost for a specific item or service, encompassing all relevant charges of a purchase or in a contract.

(2)(A) In determining purchase price for procurement method thresholds, "purchase price" means the estimated dollar amount that an agency may be obligated to pay pursuant to the contract and all executed and proposed amendments, extensions and renewals of the contract.

(B)(i) Purchase price, therefore, is not limited to the cost for the initial term.

(ii) It is determined by the total value of the contract over a contract's term as well as any modifications, renewals, or extensions of the contract.

(3) The key element in determining the necessity for utilization of the competitive sealed proposal method is the type of evaluation required.

(4) Where evaluation involves the relative abilities of offerors to perform, including the degree of technical or professional experience, and price is not the only consideration, use of competitive sealed proposals is appropriate.

(5) Further, where the types of supplies or services may require the use of comparative, judgmental evaluation, competitive sealed proposals are the appropriate procurement method.

(b) **Thirty percent (30%) weighted cost waiver.** In seeking a written determination by the State Procurement Director that it is in the best interest of the state for cost to be weighted at less than thirty percent (30%) of the total evaluation score, the requesting agency shall:

(1) (A) Issue a written request addressed to the director.

(B) The written request may be delivered by email or mail, and in either case, should be clearly marked or labeled "Request for Weighted Cost Deviation";

(2) (A) The written request should clearly articulate the factors for why it is in the best interest of the state for cost to be weighted at a lower percentage than thirty percent (30%), and what percentage the requesting agency seeks.

(B) The factors articulated should be specific to the request for proposal under consideration; and

(3) If the director issues a written determination approving the lower percentage, the written determination shall be submitted for review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-525. Proposal submission.

(a) (1) Offerors shall submit proposals at the place and on or before the date and time set in the request for proposals.

(2) Proposals received after the date and time designated for the proposal opening are considered late and shall not be considered.

(b) (1) All proposals and any modifications to the proposals previously filed, received prior to the date and time fixed for opening the proposals, shall be kept secure and unopened.

(2) If a proposal is submitted and the request for proposals number is not clearly marked to indicate the date and time of the proposal opening the State Procurement Director or agency procurement official may make a reasonable attempt to determine which solicitation the sealed submission corresponds to.

(c) Retrieval of a proposal for purposes of modification or withdrawal shall be permitted prior to date and time of opening upon positive identification of a bona fide representative of the offeror who submitted the proposal.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-526. Request for proposals opening.

(a) The names of the offerors may be read aloud.

(b) An abstract of proposals listing the names of offerors shall be prepared by the entity responsible for the RFP and shall be retained in the request for proposals file and shall be available for public inspection.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-527. Evaluation — Responsibility of offeror — Tie Scores – Private Evaluators.

(a) **Evaluation.**

(1) The evaluation shall be based on the evaluation factors set forth in the request for proposals.

(2) All members of evaluation committees shall participate in evaluation committee training sponsored either by the Office of State Procurement or the college or university agency procurement official.

(3) Evaluations will be conducted in accordance with office policy.

(4) A written recommendation shall be made by the evaluation committee and submitted by the chairperson to the State Procurement Director or agency procurement official stating the basis on which the recommendation for award was found to be most advantageous to the state.

(5) Only the original proposal, a properly clarified proposal, or a proposal submitted as a best and final offer may be considered for evaluation.

(b) **Responsibility of offeror**.

(1) (A) Past performance of an offeror may be used by the procurement agency to determine whether the offeror is "responsible".

(B) No points for past performance may be used in the evaluation scoring criteria unless:

(i) Past performance with the state is a non-mandatory evaluation criteria; and

(ii) The same amount of points allocated for past performance with the state are also made available in the evaluation scoring criteria in such a way as to not prejudice offerors without past performance history with the state.

(C) (i) Past performance must be supported by written documentation and shall have not occurred more than three (3) years before the proposal was submitted.

(ii) Documentation may be:

a. A formal vendor performance report;

b. An informal memo, signed and dated; or

c. Any other appropriate authenticated notation of performance to the vendor file.

(iii) Reports, memos, and files may be in electronic form.

(D) (i) Past performance may be positive or negative.

(ii) a. Past performance on contracts from other Arkansas state agencies may also be used for evaluation.

b. Supporting documentation should be provided.

(iii) Past performance evaluation should not take the place of suspension or debarment procedures.

(2) The awarding of points for references may be used as evaluation scoring criteria if set forth in the solicitation.

(c) **Tie scores.**

(1) **Definitions.** As used in this section:

(A) "Arkansas company" means a domestic corporation, limited liability company, partnership, or not-for-profit organization as defined by Arkansas law; and

(B) “Out-of-state company” means all foreign entities as defined by Arkansas law.

(2) In the event the evaluation of proposals results in a tie score the person responsible for awarding a contract must ensure that all offers meet specifications.

(3) In the event of a tie score between two (2) or more offers that meet the specifications as required and where one (1) of the offerors is an Arkansas company, then the award shall be made to that Arkansas company.

(4) In the event of a tie score between two (2) or more offers that meet the specifications as required:

(A) And where at least two (2) of the offerors are Arkansas companies, then an award will be determined by the lowest cost proposal between those Arkansas companies; or

(B) If all of the offerors are out-of-state companies, then an award will be determined by the lowest cost proposal among all the offerors.

(d) **Private evaluators.**

(1) An agency may use qualified evaluators from nonstate governmental entities or the private sector.

(2) There is no limit on the number of private evaluators that may be used on an evaluation committee, but they must abide by all ethical standards and legal requirements a state employee or former state employee would have to meet in order to serve as an evaluator.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-528. Rejection of proposals.

Grounds for rejection of proposals include but shall not be limited to:

(1) Failure of a proposal to conform to the essential requirements of a request for proposals;

(2) A proposal imposing conditions which would modify the stated terms and conditions of the request for proposal;

(3) (A) Any proposal determined by the procurement official in writing to be unreasonable as to price;

(B) An unreasonable price is one determined in writing to be too high relative to solicitation requirements.

(C) An unrealistic price is one that is determined in writing to be too low, indicating the respondent’s inability to successfully meet the full scope of the solicitation requirements.

(D)(i) Prices should be assessed for reasonableness and realism, in accordance with Office of State Procurement policy, when proposals are submitted.

(ii) Additional review and analysis of cost reasonableness and realism may be conducted throughout the procurement process to affirm grounds for rejection.

(iii) Clarifications may be issued to respondents to supplement review and analysis, to certify cost or pricing data, or, in the case of unreasonable pricing, to lower proposed cost;

(4) Failure to furnish a bond when required by a request for proposals;

(5) The offeror's record of poor past performance or irresponsibility; and

(6) Any or all proposals when the procurement official makes a written determination that it is in the best interest of the state and documents the reason or reasons supporting the determination.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-529. Correction or withdrawal of proposals.

(a) (1) There is a strong public interest in favor of conserving public funds in awarding public contracts, and little, if any, public benefit in disqualifying proposals for technical deficiencies in form or minor irregularities where the offeror does not derive any unfair competitive advantage therefrom.

(2) The State Procurement Director or agency procurement official may waive technicalities in proposals or minor irregularities in a procurement which do not affect the material substance of the request for proposals when it is in the state's best interest to do so.

(b) Amendments to proposals shall be allowed if the amendments:

(1) Are in writing and signed;

(2) Are received prior to the date and time of the proposal opening; and

(3) Clearly indicate the date and time of proposal opening and request for proposals number.

(c) (1) If there is a suspected proposal mistake or the director or agency procurement official chooses to seek a clarification on a matter that is evaluated in the proposal, the director or agency procurement official may request a clarification of a proposal.

(2) (A) The response by the offeror must be made in writing.

(B) Clarifications made verbally, in demonstration presentations, or communicated in any other matter shall not be considered a clarifying response by the offeror, and should be reduced to a written clarification by the offeror to be considered.

(3) The response of any offeror who fails or refuses to clarify in writing within a reasonable time any matter contained in his or her proposal may be rejected.

(4) Any written clarification submitted shall become a part of the contract awarded on the basis of that proposal. Proposal prices shall not be increased after the date and hour of the proposal opening.

(d) Proposal prices shall not be increased after the date and hour of the proposal opening.

(e) When a mistake in a proposal is claimed by the vendor prior to award and the evidence is clear and convincing that a material mistake was made in the proposal, and that due to such mistake the proposal submitted was not the proposal intended, the bidder may be permitted to withdraw his or her proposal.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R7:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-530. Discussions.

(a) **Discussions generally.**

(1) During a request for proposals procurement, the Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq., allows for discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award.

(2) Discussions may be used to clarify a proposal or the terms of a request for proposals, and for the purpose of negotiation.

(3) Preaward discussions with any offeror or offerors should be conducted in a manner that:

(A) Supports public confidence in the procedures followed in public procurement;

(B) Ensures fairness in proposal improvement; and

(C) Fosters effective competition.

(4) To safeguard against discussions being used to provide an offeror an unfair competitive advantage, there shall be no disclosure to any offeror of any information derived from any proposal by any competing offeror during discussions.

(b) **Clarification.**

(1) (A) While conducting discussions, a procurement agency may identify areas of a proposal that require further clarification.

(B) Clarification is appropriate for areas of a proposal where there may have been ambiguity, miscommunication, or misunderstanding regarding the state's evaluation factors, specifications, or requirements.

(C)(i) Any clarification must only address specific elements of the submitted proposal.

(ii) It must not add substantive language, modify the original terms of the proposal, or change the requirements stated in the request for proposals (RFP). (2) The state may seek clarification of a proposal or proposals through written questions, demonstrations, or during negotiations, but shall document any such discussion for

the procurement file.

(3) Any oral clarification made by an offeror during discussions shall be reduced to writing and adopted by the offeror as a binding statement before it may be considered in evaluating whether the offeror's proposal is responsive or the most advantageous to the state.

(4) Note that a clarification sought by the state may be unique to an individual offeror based on unique aspects of the offeror's proposal.

(c) **Reasonably susceptible of being awarded a contract — The competitive range.**

(1) Given the number of proposals and the broad range of competitiveness of responses, it may not be practicable to engage in negotiations with each offeror.

(2)(A) If the procurement agency receives multiple proposals, it may shorten the list of offerors to negotiate with to a "competitive range."

(B) The competitive range consists of the responsible offerors reasonably susceptible of being awarded the contract.

(C)(i) The competitive range shall be based on criteria set forth in the request for proposals, including cost.

(ii)The criteria for selecting the competitive range included in the request for proposals should be established based on evaluation scores.

(d) **Negotiation.**

(1) (A) Negotiation is a discretionary type of discussion permitted under Arkansas Code § 19-61-506 that can be used to seek a proposal or proposals more advantageous to the state than the proposal or proposals initially submitted in response to the solicitation.

(B)(i) During a solicitation, the state may only have preaward discussions with an offeror as provided in the request for proposals and as permitted under procurement rules.

(ii) Procurement officials who conduct negotiations must be trained and certified in negotiation and Arkansas Procurement Law.

(2) Because negotiation is optional and at the discretion of the state, there is no minimum number of negotiation rounds and no maximum number of negotiation rounds that may be conducted.

(3) Negotiations may be conducted with a group of responsible offerors identified based on an established competitive range (those reasonably susceptible of being awarded a contract based on the evaluation factors set forth in the request for proposals), or just with the highest ranked

(4) (A) Negotiation may be limited to cost only.

(B) All cost only negotiations shall be documented for the procurement file.

(C) During cost only negotiation rounds, responsible offerors are not obligated to meet or beat target prices but will not be allowed to increase prices submitted on the initial

price sheet.

(e) **Minimum score.**

(1) The agency procurement official, in conjunction with the requesting agency as appropriate, may establish a minimum score in the request for proposals that an offeror must achieve before the offeror will be considered in the competitive range and thus eligible for additional negotiation.

(2) However, to foster competition, any such minimum score shall not be set unreasonably high.

(3) In the interest of protecting competition, the State Procurement Director may waive the minimum score if:

(A) It eliminates all but one (1) responsible offeror or otherwise unreasonably narrows the competitive range; and

(B) He or she determines it to be in the best interest of the state.

(f) **Negotiation with single offeror versus multiparty [sic] negotiation.** When deciding whether to structure a request for proposals that limits negotiation to just the highest evaluated responsible offeror instead of engaging in multiparty negotiations, the procurement agency should consider the following:

(1) The expected dollar value of the award and length of contract.

(2) Increased dollar value and a lengthy duration weigh in favor of greater competition;

(3) (A) The complexity of the acquisition and the variety and complexity of offered solutions, in terms of impact on the likely breadth and depth of the discussions.

(B) Increased complexity may signal that more time for negotiation is needed, which may weigh in favor of limiting negotiations to the competitive range of highest ranked vendors if there was not enough lead time to allow for lengthy negotiations;

(4) The resources available to conduct discussions versus the expected variable administrative costs of discussions;

(5) The impact on lead-time for award versus the need for timely delivery;

(6) The extent to which discussions with additional offerors would likely provide diminishing returns;

(7) The disparity in pricing between the lowest priced offeror and the other offerors

(g) **Best and final offer (BAFO) negotiation.**

(1) Best and final offer (BAFO) negotiation is an optional step to help obtain an offer that is more advantageous for the state, such as enhanced value or the most cost-effective pricing available.

(2) The BAFO process may be useful when:

(A) No single response addresses all the specifications;

(B) The cost submitted by all offerors is too high, e.g., exceeds the state's estimate of expected costs, budget, etc.;

(C) The scores of two (2) or more offerors are very close after the initial evaluation.

(3) The following rules shall apply to BAFO negotiations:

(A) The procurement agency shall determine if the BAFO process will be conducted and, if so, shall determine which responsible offerors are within the competitive range according to the terms of the request for proposals for receipt of the state's BAFO request;

(B) The procurement agency may only restrict the BAFO negotiations to a single offeror or engage in a multiparty BAFO negotiation as provided in the request for proposals and consistent with Arkansas Procurement Law, including this part;

(C) (i) BAFO negotiation shall only be conducted with responsible offerors.

(ii) Any offeror determined to be nonresponsible shall be excluded.

(iii) Any offeror whose proposal is rejected as nonresponsive or is outside of the competitive range defined in the request for proposals shall be excluded from participation in a BAFO negotiation unless circumstances change which result in their falling within the competitive range;

(D) The content of the BAFO request may come from questions proposed by the procurement official or the evaluation committee;

(E) A procurement agency may request that an offeror readdress important aspects of the proposal, including without limitation:

(i) Implementation schedule;

(ii) Level of support;

(iii) Amount of resources proposed;

(iv) Terms and conditions;

(v) Cost; or

(vi) Clarifications to requirements of the RFP;

(F)(i) The procurement officer shall dispatch the BAFO request stating the elements to be covered and defining the date, time, and place the BAFO must be returned;

(ii) If clarifications to requirements in this manner necessitate material revisions to proposals, all offerors determined to be responsible and reasonably susceptible of being granted the solicitation's award must be provided an opportunity to revise their proposals for the purpose of submitting a best and final offer;

(G) All communication to and from offerors regarding the BAFO request shall be coordinated by the procurement officer;

(H) (i) All responses to the BAFO request must be submitted timely to the procurement

officer in order to be considered.

(ii) BAFOs submitted after the deadline shall not be considered, unless the procurement officer or director determines that:

(a) The submission was timely, but that delivery was prevented by a force majeure;

(b) The delay in delivery is not substantial and does not prejudice the state; or

(c) That waiver of the deadline is in the best interest of the state; and

(I) A BAFO request to multiple offerors shall not identify either the current rank of any of the offerors or any identifiable information derived from a proposal.

(4) All BAFO requests shall contain the following:

(A) (i) Specific information on what is being requested.

(ii) Offerors may be asked to provide additional clarification to specific sections of their response and to rework their proposal content or cost proposal;

(B) Submission requirements with time lines;

(C) Specifics on how the offer or offers will be evaluated and outline the process that will be used to determine the successful offeror, as applicable;

(D) Language stating the procurement officer or the evaluation committee will evaluate and score the BAFO offer or offers after considering the new content of the BAFO proposal or proposals; and

(E) Notice to offerors that they are not required to submit a BAFO proposal and may submit a written response stating that their response remains as originally submitted.

(5) (A) All scoring worksheets, e.g., original evaluation scores, best and final scores, etc., shall be retained for inclusion in the procurement file.

(B) Scores for the BAFO responses shall be entered into a new score sheet/summary worksheet by the procurement officer.

(h) **Target price BAFO.**

(1) A target price BAFO request is a BAFO request that is limited to allowing responsible offerors an opportunity to improve upon their responses by offering more competitive pricing.

(2) Proposers are not obligated to meet or beat target prices, but shall not be allowed to increase overall prices in a target price BAFO negotiation.

(3) All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in the proposal improvement and does not reveal individual offeror pricing.

(4) The state's target price may be reached by considering factors such as:

(A) The current/last contract price paid for the service;

(B) Benchmarks;

(C) Industry standards;

(D) Budgets;

(E) Raw materials that influence the pricing of the product; or

(F) Market trends.

(5) If the state opts to engage in target price BAFO negotiation, then after the initial responses have been received the procurement officer shall:

(A) Determine the lowest proposed cost for each line item, as applicable;

(B) Compare the lowest proposed cost for each line item against current/past contract price and other benchmarks;

(C) Use market analysis to set a target price for each line item in a spreadsheet;

(D) Evaluate the reasonableness of the target price for each line item and for the total target price overall;

(E) Send a request for revised pricing and a target price spreadsheet to offerors deemed responsible and responsive;

(F) Receive target cost proposals;

(G) Determine if target price negotiation resulted in improved cost proposals; and

(H) If the receipt of target price proposals did not result in one (1) or more cost proposals at or below the state's target price, the procurement officer shall evaluate whether an additional round of target price negotiation will result in one (1) or more cost proposals at or below the state's target price.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R8:19-11-230.1 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-531. Cancellation of the request for proposals.

(a) A notice of cancellation of an Office of State Procurement request for proposals shall be posted on the office website.

(b) The proposals may be returned if properly identified.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R9:19-11-230 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-507. Proprietary or sole source procurements.

(a) Under rules promulgated under this chapter, a contract may be awarded for a required

or designated commodity or service to a sole or mandatory supplier when the State Procurement Director, the head of a procurement agency, or a designee of either officer above the level of agency procurement official determines in writing that it is not practicable to use other than the required or designated commodity or service.

(b) Unless a written determination is made that there is only one (1) source for the required or designated commodity or service, efforts shall be made to obtain price competition.

19 CAR § 1-508. Proprietary or sole source procurements — Generally.

(a) (1) **General.** Sole source procurements of commodities and technical services are those procurements which, by virtue of the performance specification, are available from a single source.

(2) Brand name preferences or merely aesthetic design specifications are not sufficient justification for sole source awards.

(3) Such procurements may include but are not limited to:

(A) Requirements of performance compatibility with existing commodities or services; or

(B) Repairs involving hidden damage.

(b) **Approval.** Request for approval shall be made in writing and shall include in the justification:

(1) A copy of the purchase order or requisition;

(2) Why the service is needed;

(3) The methods used to determine that a lack of responsible/responsive competition exists for the service;

(4) How it was determined that the provider possesses exclusive capabilities;

(5) Why the service is unique;

(6) Whether or not there are patent or proprietary rights which make the required service unavailable from other sources;

(7) What the agency would do if the provider/service were no longer available;

(8) Any program considerations which make the use of a sole source critical to the successful completion of the agency's task; and

(9) The Contract and Grant Disclosure and Certification Form required by Governor's Executive Order 98-04, if applicable.

(c) Procurements under this section must be approved in advance by the head of a state agency having an agency procurement official or the State Procurement Director for all other state agencies, or a designee of either officer above the level of agency procurement official.

(d) **Sole source procurements of professional and consultant services.**

(1) The procurement from a single source, as it relates to professional and consultant service contracts, should only be used when all other methods of contracting are clearly not

applicable.

(2) The agency chief fiscal officer or equivalent or director, division director, or deputy of an agency, college, or university may authorize the use of sole source purchases.

(e) (1) **Sole source justification.** Sole source professional and consultant service contracts, except for those exempt by law, must be accompanied by written justification and be approved by the Director of the Office of State Procurement.

(2) The justification must clearly demonstrate that to contract otherwise would not be in the best interests of the state.

(3) The justification must fully address:

(A) Why the service is needed;

(B) The methods used to determine that a lack of responsible/responsive competition exists for the service;

(C) How it was determined that the provider possesses exclusive capabilities;

(D) Why the service is unique;

(E) Whether or not there are patent or proprietary rights which make the required service unavailable from other sources;

(F) What the agency would do if the provider/service were no longer available; and

(G) Any program considerations which make the use of a sole source critical to the successful completion of the agency's task.

(f) **Sole source by law.**

(1) **Definition**. As used in this section, "sole source by law" means the procurement of commodities or services that result from a mandate issued by the court systems, state law, or federal law.

(2) Any sole source by law procurement must be accompanied by the related court order, state law, or federal law.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-232 of the Procurement Rules prior to codification into the Code of Arkansas Rules.
History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-508. Emergency procurements — Definition.

(a) The State Procurement Director, the head of a procurement agency, or a designee of either officer may make or authorize others to make emergency procurements as defined in § 19-61-501(4) and in accordance with rules promulgated by the director.

(b) (1) A person or a state agency that makes an emergency procurement under this section shall:

(A) Receive at least three (3) competitive bids unless the emergency is a critical emergency; and

(B) Complete a quotation abstract that includes the:

(i) Names of the firms contacted;

(ii) Time that each firm was contacted;

(iii) Quoted price obtained from each contacted firm; and

(iv) Method used for contacting each firm.

(2) As used in this subsection, "critical emergency" means:

(A) An emergency in which human life or health is imminently endangered; or

(B) A state of disaster emergency declared under § 12-75-107.

19 CAR § 1-537. Emergency procurements — Generally.

(a) **Approval.**

(1) All noncritical emergency procurements must be approved in advance by the State Procurement Director, the head of a procurement agency, or a designee of either officer.

(2) Where time or circumstance does not permit prior approval, approval must be obtained at the earliest practical date.

(3) Requests for approval must be made in writing and include a:

(A) Copy of the purchase order;

(B) Copy of the quotation abstract Competitive Bid Tabulation Form; and

(C) Written explanation of the emergency.

(b) **Tie bids**.

(1) **Definitions.** As used in this section

(A) "Arkansas company" means a domestic corporation, limited liability company, partnership, or not-for-profit organization as defined by Arkansas law; and

(B) "Out-of-state company" means all foreign entities as defined by Arkansas law.

(2) In the event the lowest prices offered result in a tie bid, the person responsible for awarding a contract must ensure that all offers meet specifications.

(3) In the event of a tie bid between two (2) or more offers that meet the specifications as required and where one (1) of the offerors is an Arkansas company, then the award will be made to that Arkansas company.

(4) In the event of a tie bid between two (2) or more offers that meet the specifications as required:

(A) Where at least two (2) of the offerors are Arkansas companies, then an award will be determined by drawing of lots between those Arkansas companies; or

(B) If all of the offerors are out-of-state companies, then an award will be determined by drawing of lots among all the bidders.

(5) (A) The drawing of lots will be done in the presence of at least one (1) witness by the person responsible for awarding the contract.

(B) All witnesses must be employees of the State of Arkansas.

(C) A documentation of the drawing of lots must be included on the tabulation or bid history sheet and be signed by the person responsible for awarding the contract and all witnesses.

(c) **Legislative review.**

(1) Except in the case of a "critical emergency" procurement, as that term is defined in Arkansas Code § 19-61-508(b)(2), all services contracts must be presented for legislative review as required under Arkansas Code § 19-61-116.

(2) Departments must report critical emergency procurement to the Legislative Council or the Joint Budget Committee at the earliest practicable date.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-233 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-509. Multiple award contracts.

(a) (1) Multiple award contracts may be made only if the State Procurement Director or an agency procurement official determines in writing that a single award is not advantageous to the State of Arkansas.

(2) The determination under subdivision (a)(1) of this section shall state in writing a rationale and basis for the multiple award contract.

(3) Multiple award contracts shall be limited to the least number of suppliers necessary to meet the requirements of the using agencies.

(b) If the director or agency procurement official anticipates that multiple award contracts will be made, the invitation for bids shall include a notification of the right of the Office of State Procurement or agency to make such an award and the criteria upon which such an award will be based.

19 CAR § 1-505. Multiple award contracts.

No multiple award contracts can be awarded unless the invitation for bids or request for proposals included notification of the right to make multiple awards.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-262 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-510. Special procurements.

(a) Notwithstanding any other provision of this chapter, the State Procurement Director or the head of a procurement agency may initiate a procurement above the competitive bid amount specified in § 19-61-504, when the director or the head of a procurement agency determines that an unusual or unique situation exists that makes the application of all requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest.

(b) A written determination under this section of the basis for the procurement and for the selection of the particular contractor shall be included by the director or the head of a procurement agency in the contract file, and he or she shall file a monthly report with the Legislative Council describing all written determinations under this section.

19 CAR § 1-506. Special procurement reporting.

(a) Agencies are required to report special procurements to the Office of State Procurement.

(b) The reports shall include a copy of the written determination of the basis for the procurement and for the selection of a particular contract, and a copy of the contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-263 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-511. Cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee contracts.

As used in this chapter, the cost-plus-a-percentage-of-cost and cost-plus-a-fixed-fee system may be used under the authority of the State Procurement Director when:

(1) There exists no other economically practicable price arrangement to secure the commodity;

(2) A cost saving may be proved over the least expensive alternative; or

(3) The pricing schedule involved is tied to an industry standard or other reliable system of cost prediction.

19-61-512. Multiyear contracts.

(a) Specified Period. Unless otherwise provided by law, a contract for commodities or services may be entered into for periods of not more than seven (7) years if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor.

(b) Determination Prior to Use. Prior to the utilization of a multiyear contract, it shall be determined in writing that:

(1) Estimated requirements cover the period of the contract and are reasonably firm and continuing;

(2) A multiyear contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement; and

(3) In the event of termination of the multiyear contract for any reason, the contract provides for cessation of services or surrender by the state of the commodities and repayment to the state of any accrued equity, or both cessation of services and surrender by the state of the commodities and repayment to the state of any accrued equity.

(c) Termination Due to Unavailability of Funds in Succeeding Years.

(1) Original terms of a multiyear contract shall not exceed four (4) years.

(2) When funds are not appropriated or otherwise made available to support continuation of performance in a multiyear contract, the multiyear contract shall be terminated and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the commodities or services delivered under the multiyear contract.

(3) The cost of termination under subdivision (c)(2) of this section may be paid from:

(A) Appropriations currently available for performance of the multiyear contract;

(B) Appropriations currently available for procurement of similar commodities or services and not otherwise obligated; or

(C) Appropriations made specifically for the payment of such termination costs.

19 CAR § 1-501. Initial term.

(a) A contract may be entered into for up to a maximum period of a total of seven (7) years.

(b) (1) It may be advantageous for agencies to have a contract expire annually unless renewed.

(2) However, they may opt to make the initial term of a contract extend for up to four (4) years before the first renewal.

(c) The aggregate number of years under a nonexempt contract remains seven (7) regardless of the length of the initial term of the contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. No notes are currently available.

19 CAR § 1-502. Prohibition from public entities contracting with companies that boycott Israel.

(a) The contractor must certify that the contractor is not currently engaged in, and agrees that for the aggregate term of the contract will not engage in, a boycott of Israel.

(b)(1) The instructions for certification on contracts over seventy-five thousand dollars ($75,000) will be provided in the contract solicitation.

(2) The instructions for certification on contracts under seventy-five thousand dollars ($75,000) will be provided on the Office of State Procurement website.

(c) (1) If the contractor violates the above certification or is found to not be in compliance during the term of the contract, the state may require the contractor to remedy the violation within sixty (60) days of discovery of that violation.

(2) Failure to remedy the violation within the sixty-day period may result in termination for breach of contract, and the contractor may be liable to the state for the state's actual damages.

(d) (1) This subpart applies to written contracts only and is to be applied prospectively.

(2) Any written contract entered into prior to August 1, 2017, does not require certification.

(e) Vendors are not required to submit a certificate for commodity purchases made with a p-card as they do not require a written contract.

(f) Certification is required upon the execution of a written contract.

(g) Renewals or extensions of contracts do not require recertification.

(h) This subpart does not apply to:

(1) A company that fails to meet the requirements under Acts 2017, No. 710 subdivision (a)(1) of this section but offers to provide the goods or services for at least twenty percent (20%) less than the lowest certifying business; or

(2) Contracts with a total potential value of less than one thousand dollars ($1,000).

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-238 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-513. Finality of determinations.

The following determinations are final and conclusive, unless they are clearly erroneous, arbitrary, capricious, or contrary to law:

(1) The determinations required by § 19-61-505(g), which refers to competitive sealed bidding, award;

(2) The determinations required by § 19-61-506(a), which refers to competitive sealed proposals, conditions for use;

(3) The determinations required by § 19-61-506(f), which refers to competitive sealed proposals, award;

(4) The determinations required by § 19-61-507, which refers to proprietary or sole source procurements;

(5) The determinations required by § 19-61-508, which refers to emergency procurements;

(6) The determinations required by § 19-61-504, which refers to competitive bidding;

(7) The determinations required by § 19-61-401, which refers to responsibility of bidders

and offerors, determination of responsibility;

(8) The determinations required by § 19-61-512(b), which refers to multiyear contracts, determination prior to use; and

(9) The determinations required by § 19-61-510, which refers to special procurements.

19-61-514. Specifications — Definition.

(a) Definition.

(1) "Specification" means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service.

(2) "Specification" may include a description of any requirement for inspecting, testing, or preparing a commodity or service for delivery.

(b) The State Procurement Director shall promulgate rules governing the preparation, maintenance, and content of standard and nonstandard specifications for commodities, technical and general services, and professional and consultant services procured by the Office of State Procurement.

(c) Maximum Practicable Competition. All specifications under this section shall be drafted so as to assure the maximum practicable competition for the state's actual requirements.

19 CAR § 1-503. Issuance of restrictive specifications generally.

A specification may be drafted which describes a product which is proprietary to one (1) manufacturer only where there is a requirement for specifying a particular design or make of product due to factors of compatibility, standardization, or maintainability.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-241 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-504. Issuance of qualified products list specifications — Qualified products list.

(a) **Restrictions on use.** A specification for commodities may include a qualified products list only when the State Procurement Director has approved in writing the written determination of the agency procurement official or Office of State Procurement that the:

(1) Interests of the state require assurance before award that the desired commodity is satisfactory; and

(2) Cost or the time required to test before award would be excessive.

(b) **Notice of intent to adopt a qualified products list.**

(1) Whenever it is determined to include a qualified products list in any specification or to adopt such a list, prompt notice of the intent shall be given to all reasonably known makers and suppliers of the affected commodity.

(2) Such notice shall describe all requirements for achieving qualification.

(c) **Written records of evaluation.**

(1) Detailed written records shall be made of the evaluation of any commodities offered for inclusion on any qualified products list.

(2) Except for records which contain trade secrets or other proprietary information, those records shall be made available for inspection by any member of the public upon request.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-241 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-515. Preferences among bidders — Conflicts with federal law — Definitions.

(a) Definitions.

(1) The definitions in this subsection do not apply to other sections of this chapter.

(2) As used in this section:

(A) "Commodities" means materials and equipment used in the construction of public works projects;

(B) "Firm resident in Arkansas" means any individual, partnership, association, or corporation, whether domestic or foreign, that:

(i) Maintains at least one (1) staffed office in this state;

(ii) For not fewer than two (2) successive years immediately before submitting a bid, has paid taxes under the Division of Workforce Services Law, § 11-10-101 et seq., unless exempt, and either the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., on property used or intended to be used for or in connection with the firm's business; and

(iii) Within the two-year period, has paid taxes to one (1) or more counties, school districts, or municipalities of the State of Arkansas on either real or personal property used or intended to be used or in connection with the firm's business;

(C) "Lowest qualified bid" means the lowest bid that conforms to the specifications and request for bids;

(D) "Nonresident firm" means a firm that is not included in the definition of a "firm resident in Arkansas"; and

(E) "Public agency" means all counties, municipalities, and political subdivisions of the state.

(b) (1) (A) In the purchase of commodities by competitive bidding, a public agency shall accept the lowest qualified bid from a firm resident in Arkansas.

(B) This bid shall be accepted only if the bid does not exceed the lowest qualified bid from a nonresident firm by more than five percent (5%) and if one (1) or more firms resident in Arkansas made written claim for a preference at the time the bids were submitted.

(C) (i) In calculating the preference to be allowed, the appropriate procurement officials, pursuant to this section and §§ 19-61-101 — 19-61-111, 19-61-117, 19-61-201 — 19-61-209, 19-61-301 — 19-61-303, 19-61-401 — 19-61-403, 19-61-501 — 19-61-508, 19-61-511 — 19-61-514, 19-61-601 — 19-61-603, 19-61-701 — 19-61-705, and 19-61-801 — 19-61-811, shall take the amount of each bid of the Arkansas dealers who claimed the preference and deduct five percent (5%) from its total.

(ii) If after making the deduction under subdivision (b)(1)(C)(i) of this section, the bid of an Arkansas bidder claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the Arkansas firm that submitted the lowest bid, whether or not that particular Arkansas firm claimed the preference.

(2) (A) The preference provided for in this section applies only in comparing bids when one (1) or more bids are by a firm resident in Arkansas and the other bid or bids are by a nonresident firm.

(B) The preference provided for under this section does not apply to competing bids if both bidders are firms resident in Arkansas, as defined in this section.

(C) (i) All public agencies shall be responsible for carrying out the spirit and intent of this section in their procurement policies.

(ii) A public agency that, through an employee or designated agent, is found guilty of violating this section or committing an unlawful act under this section, is guilty of an unclassified misdemeanor.

(D) Notwithstanding any other provisions of Arkansas law, upon conviction that person is subject to imprisonment for not more than six (6) months or a fine of not more than one thousand dollars ($1,000), or both.

(E) (i) If a provision or condition of this chapter conflicts with a provision of federal law or a rule or regulation made under federal law pertaining to federal grants-in-aid programs or other federal aid programs, the provision or condition does not apply to the federal-supported contracts for the purchase of commodities to the extent that the conflict exists.

(ii) However, all provisions or conditions of this chapter with which there is no conflict apply to contracts to purchase commodities to be paid, in whole or in part, from federal funds.

(c) (1) (A) This section applies only to projects designed to provide utility needs of a county or municipality.

(B) Projects under subdivision (c)(1)(A) of this section include without limitation pipeline

installation, sanitary projects, and waterline, sewage, and water works.

(2) To the extent that federal purchasing laws or bidding preferences conflict, this chapter does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

19-61-516. High efficiency lighting — Preference — Definitions.

(a) (1) The General Assembly finds:

(A) The expansion of state government makes it one of the state's leading purchasers of lighting commodities;

(B) Recent technological developments have produced energy-efficient devices that reduce energy costs through a reduction in energy usage; and

(C) Prudent use of taxpayer dollars dictates that the State of Arkansas should be at the forefront of implementing energy-efficient devices in facilities operated with public funds.

(2) The intent of this section is to promote the use of high efficiency lighting in facilities operated with public funds when feasible.

(b) As used in this section:

(1) (A) "Fluorescent lamp" means a gas-discharge lamp that:

(i) Utilizes a magnetic, electronic, or other ballast; and

(ii) Uses electricity to excite mercury vapor in argon or neon gas resulting in a plasma that produces short-wave ultraviolet light that causes a phosphor to fluoresce and produce visible light.

(B) "Fluorescent lamp" includes without limitation a compact fluorescent lamp;

(2) "High efficiency lighting" means fluorescent lamp or solid state lighting;

(3) "Solid state lighting" means a light device that utilizes light-emitting diodes, organic light-emitting diodes, or polymer light-emitting diodes as sources of illumination rather than electrical filaments or gas; and

(4) (A) "State agency" means an agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds.

(B) "State agency" includes the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus of the General Assembly, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts.

(c) When a state agency purchases or requires a bid for the purchase of an indoor lamp, a preference for high efficiency lighting shall be exercised if the use of high efficiency lighting is technically feasible and the price is competitive with consideration given to the long-term cost

effectiveness and savings of high efficiency lighting.

(d) (1) The goal of state agencies for the percentage of purchased indoor lamps that are high efficiency lighting shall be one hundred percent (100%).

(2) The Office of State Procurement shall prepare an annual report to the Legislative Council of the state's progress in meeting the goals for the purchase of high efficiency lighting.

19-61-517. Development and use of performance-based contracts — Findings.

(a) The General Assembly finds that:

(1) Performance-based contracts provide an effective and efficient method of monitoring and evaluating the overall quality of services provided; and

(2) The practice of including benchmark objectives that the provider must attain at specific intervals during the term of the contract is an essential requirement for measuring performance.

(b) (1) A state agency, board, commission, or institution of higher education that enters into a contract under this subtitle to procure services that has a contract amount of at least one million dollars ($1,000,000) in a single contract year or a total projected contract amount, including any amendments to or possible extensions of the contract, of at least seven million dollars ($7,000,000) shall use performance-based standards in the contract that are specifically tailored to the services being provided under the contract.

(2) The performance-based standards used under this subsection shall include performance measures based on objective factors.

(3) A state agency, board, commission, or institution of higher education is encouraged to use performance-based standards that are based on objective factors in any other contract in which it would serve the best interest of the state.

(c) A state agency, board, commission, or institution of higher education that enters into a contract with performance-based standards:

(1) (A) Shall monitor the vendor's performance and adherence to the performance-based standards in the contract.

(B) For state contracts, the Office of State Procurement is the state agency that monitors each vendor's performance under this subdivision (c)(1); and

(2) May impose financial consequences, as identified in the contract, on a vendor that is party to a contract with performance-based standards for failure to satisfy the performance-based standards, including without limitation withholding payment or pursuing liquidated damages to the extent allowed by law.

(d) (1) The State Procurement Director shall promulgate rules necessary to implement and administer this section.

(2) Rules promulgated under this subsection are subject to approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

19 CAR § 1-507. Use of performance-based standards in contracts.

(a) The purpose of performance-based standards is to allow the agency to effectively measure the level of performance provided by the contractor at various stages of the contract.

(b) It is recommended that all services contracts include performance standards.

(c) All services contracts that have a contract amount of at least one million dollars ($1,000,000) in a single contract year or a total projected contract amount, including any amendments to or possible extensions of the contract, of at least seven million dollars ($7,000,000) shall include performance standards.

(d) (1) Performance standards, as a general rule, are highly recommended as an element of any service contract and may be:

(A) Standardized for use with similar service contracts; or

(B) Specifically developed for unique requirements.

(2) However, performance-based standards are mandatory and must be specifically tailored to the services being provided under any services contract whenever a state agency, board, commission, or institution of higher education that enters into a contract to procure services that has a contract amount of at least one million dollars ($1,000,000) in a single contract year or a total projected contract amount, including any amendments to or possible extensions of the contract, of at least seven million dollars ($7,000,000).

(e) Performance standards should measure, at prescribed points throughout the term of the contract, the quality, quantity, and timeliness of work being performed.

(f) Performance standards may be refined by the agency and the provider as a part of the contract negotiations.

(g) A provider's inability to meet established performance standards may be sufficient cause for declaring default and may also result in cancellation of the contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-267 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

Subchapter 6 — Commodity Management

19-61-601. Definitions concerning commodity management.

As used in this chapter:

(1) "Commodities" means commodities owned by the state and includes commodities as defined in § 19-61-103;

(2) "Excess commodities" means any commodity, other than expendable commodities, having a remaining useful life but which the using agency in possession of the commodity has determined is no longer required by the using agency;

(3) "Expendable commodities" means all tangible commodities other than nonexpendable

commodities;

(4) “Nonexpendable commodities” means all tangible commodities having an original acquisition cost of more than two thousand five hundred dollars ($2,500) per unit and a useful life of more than one (1) year; and

(5) (A) “Surplus commodities” means any commodities, other than expendable commodities, no longer having any use to the state.

(B) “Surplus commodities” includes obsolete commodities, scrap materials, and nonexpendable commodities that have completed their useful life cycle.

19 CAR § 1-601. Definitions concerning commodity management.

(a) "Cannibalization" means the process whereby a nonexpendable surplus or excess commodity is dismantled for parts to be used as replacements or as components of other machines or devices.

(b) “Donation” means a transfer of ownership and title in surplus commodities for no monetary fees or consideration.

(c) (1) “Electronic auction” means a competitive sale of commodities conducted remotely through a dedicated online platform.

(2) Bidders participate digitally, and the sale is awarded to the highest bidder at the close of the online bidding.

(d) “Eligible entities” is a collective term for state agencies, tax-supported institutions, and not-for-profit organizations.

(e) (1) “Lease” means a transfer of the right to possession and use of surplus commodities, for a specified term length not to exceed a seven-year period, for a monetary fee or other consideration, while retaining ownership and title in the surplus commodities.

(2) Monetary fees or other consideration may not be nominal.

(f) “Marketing and Redistribution” means the Marketing and Redistribution Section created within the Office of State Procurement pursuant to Arkansas Code § 25-8-106.

(g) “Not-for-profit organization” means a private corporation under the Arkansas Nonprofit Corporation Act, Arkansas Code § 4-28-201 et seq., that is an exempt organization as described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and that:

(1) Has benevolent, philanthropic, patriotic, or charitable purpose; and

(2) Performs a function that would be performed at the public expense if it were not performed by the organization.

(h) “State agency” is as defined in Arkansas Code § 19-61-103.

(i) “Tax supported institutions” means institutions that derive at least fifty percent

(j) (1) “Traditional auction” means an in-person, competitive sale of commodities conducted by a licensed auctioneer at a physical location.

(2) Bidders must be physically present to participate, and the sale is awarded to the highest bidder at the close of the bidding.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-205 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

19-61-602. Commodity management rules.

The State Procurement Director shall promulgate rules governing:

(1) (A) The sale, lease, or disposal of surplus commodities by public auction, competitive sealed bidding, or other appropriate method designated by rule.

(B) An employee of the Department of Shared Administrative Services or member of the employee's immediate family shall not be entitled to purchase surplus commodities;

(2) The transfer of excess commodities within the state; and

(3) The sale, lease, or disposal of surplus commodities to not-for-profit organizations under § 22-1-101.

19 CAR § 1-602. [Repealed]

Codification Notes. 19 CAR § 1-602, concerning definitions of terms used in Arkansas Code § 19-11-242, was repealed by Ark. R. 2026-40 (eff. July 2, 2026).

19 CAR § 1-603. Marketing and redistribution surplus computer sales procedures.

(a) **Sales made within the agency.** The state agency will:

(1) (A) Create a customer receipt for the sales price and calculate sales tax.

(B) The receipt shall include:

(i) The type of equipment, model number, serial number, and property tag number;

(ii) The purchaser of the equipment; and

(iii) The purchase amount;

(2) Record the receipt in the cash journal as a customer payment; and

(3)(A) Request a funds transfer through the Division of Budgets and Accounting, who shall transfer funds in accordance with the law.

(B) The sales tax will be paid when the division does their (owning agency's) monthly billing for sales and use tax.

(b) **Sales made through the Marketing and Redistribution Section on behalf of the agency.** The Marketing and Redistribution Section will:

(1) Create a customer receipt to record the sales price and sales tax;

(2) Record the receipt as a customer payment in the cash journal; and

(3)(A) Request funds transfer through the division, who will transfer funds in accordance with the law.

(B) The sales tax due will be included in the Department of Finance and Administration monthly report of sales and use tax.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:25-34-107 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

19 CAR § 1-604. Surplus computer sale reporting.

(a) (1) Each agency shall provide to the Marketing and Redistribution Section, by the tenth of the month following the sale, a list of all surplus computer items sold.

(2) The list shall include the type of equipment, model number, serial number, and property tag number, to whom the equipment was sold, and the amount.

(b) If the sale of surplus computer or electronic equipment is made within the agency, sixty percent (60%) of the proceeds shall be returned to the agency and forty percent (40%) of the proceeds shall be deposited with the Marketing and Redistribution Section.

(c) If the sale is conducted by the Marketing and Redistribution Section outside the agency, the owning agency will receive fifty percent (50%) of the proceeds and fifty percent (50%) of the proceeds will be retained by the Marketing and Redistribution Section.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:25-34-108 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

19 CAR § 1-605. State Agency commodity management procedures – Disposition of commodities other than computers and electronic equipment.

(a) **Resale.**

(1) The Marketing and Redistribution Section will make commodities that are in serviceable condition or commodities that have potential use available to eligible entities for a five-day hold period prior to making them available to the general public.

(2) During the five-day hold period, the Marketing and Redistribution Section may only sell the commodities to eligible entities.

(3) The State Procurement Director or the director's designee may waive the five-day hold requirement when he or she determines that such waiver is in the state's best interest.

(b) **Intrastate agency sale.**

(1) Excess and surplus commodities may be sold to another agency by completing and

submitting an Intrastate Agency Sale Form.

(2) This form must be completed and forwarded electronically from the selling agency to the purchasing agency, then to the Marketing and Redistribution Section, which will forward it to the Division of Budgets and Accounting for completion and transfer of funds.

(c) **Disposal.** When commodities have no scrap or resale value, a certificate of property disposal form must be submitted to the Marketing and Redistribution Section, which will then return a certificate of property disposal authorization to the requestor, indicating the proper handling procedure for the commodities.

(d) **Cannibalization.**

(1) (A) The disassembly of an item for use of its component parts for repair or maintenance of a similar item will only be authorized if such action has greater potential value and benefit than disposal or trade-in of the item in its existing form.

(B) Authorization for cannibalization will be approved by the Marketing and Redistribution Director prior to any disassembly or removal of component parts.

(C) If authorized, the item will be removed from the agency's property listing by the requesting agency.

(D) Any residual material remaining after cannibalization must be processed through the Marketing and Redistribution Section.

(2) **Cannibalization of motor vehicles.**

(A) Motor vehicles eligible to be registered for highway use (cars and trucks), whether registered or not, may be cannibalized after obtaining authorization from the Marketing and Redistribution Director.

(B) These vehicles will not be removed from the property listing until the carcass of the vehicle has been disposed of by the Marketing and Redistribution Section.

(C) These procedures do not exempt an agency from compliance with any other requirements relating to the disposal or acquisition of motor vehicles.

(e) **Handling of surplus equipment.** State Agencies with surplus items must contact the Marketing and Redistribution Section to schedule a delivery or pick-up date.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-242 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

19 CAR § 1-606. Auction and onsite sales — Disposition of commodities.

(a) **General requirements**.

(1) Commodities that are not subject to or have completed the five-day hold period, pursuant to 19 CAR § 1-605(a), may be offered for sale.

(2) (A) Furniture or equipment may be loaned or rented to a state agency with the approval of the owning agency.

(B) The rental fee or fees less applicable handling fee or fees will be remitted to the owning agency.

(b) **Notice required.**

(1) Public notice of commodities sold by competitive sealed bid should be given at least five (5) days prior to the date established for the sale.

(2) The notice will include publication in any electronic or printed medium.

(c) **Public auction.**

(1) (A) Public auction may be used when deemed in the best interest of the state.

(B) Auction costs will be paid from proceeds.

(C) In a traditional auction, the agency requesting the auction will be responsible for any expenses not covered from the proceeds.

(D) Any cost associated with an electronic auction will be covered by proceeds from the sale.

(2) **Procedures.**

(A) (i) In a traditional auction a licensed auctioneer will be used.

(ii) The solicitation to bidders must stipulate, at a minimum:

(a) All terms and conditions of any sale;

(b) That the purchaser must remove all items purchased within a stated time; and

(c) That the state retains the right to reject any and all bids.

(B) In an electronic auction, the purchaser must pick up or otherwise cause the items purchased to be removed within a stated time.

(d) **Competitive sealed bidding.**

(1) Competitive sealed bidding will be used when it is determined by the Marketing and Redistribution Section that it is in the best interest of the state.

(2) **Procedures.** When surplus or excess commodities are to be sold by competitive sealed bidding, the procedures followed must be in accordance with Arkansas Code §§ 19-61-501, 19-61-502, and 19-61-505, and the rules promulgated hereunder except the award will be made to the highest bidder with the state retaining the right to accept or reject any or all bids when in the best interest of the state.

(e) **Onsite sales.**

(1) **Definition.** Onsite sales includes the process of:

(A) Internet auctioning; and

(B) Sale of commodities to the general public from the Marketing and Redistribution Section, a satellite location, and/or other agency locations when approved by the Marketing and Redistribution Section.

(2) Onsite sales will be used for surplus and excess items not purchased by other state agencies or tax supported entities.

(3) **Procedure.** The selling price will be established by the Marketing and Redistribution Section based upon:

(A) Demand;

(B) Condition of commodities;

(C) Past experience gained from auction or competitive sealed bid sales; and

(D) Retail prices for same or similar commodities in the local market.

(f) **Negotiated sale.** A negotiated sale may be used if no acceptable bids were received during the bid process.

(g) **Trade-in.** Surplus commodities may be traded in when the Marketing and Redistribution Director's discretion.

(h) **Lease or donation.**

(1) Surplus commodities may be leased or donated to tax supported entities or nonprofit organizations when:

(A) Requested in writing by the owning agency through a lease or donation request form; and

(B) Approved by the State Procurement Director.

(2) If approved, the requesting agency must maintain a copy of the original written request and the written approval/disapproval from the director for audit purposes.

(3) Copies of the request and approval/disapproval will also be maintained by the Marketing and Redistribution Section.

(i) **Disposition of commodities by the Arkansas Department of Transportation.**

(1)(A) The Arkansas Department of Transportation may dispose of commodities without the assistance of the Office of State Procurement, but it must comply with the procedures outlined herein for said disposition.

(B) However, its dispositions must comply with all applicable law, rules, and procedures.

(2) Nothing herein is intended to prohibit the use of the Office of State Procurement for the disposition of those commodities, and the department may request the Marketing and Redistribution Section make the disposition.

(j) **Online sale for commodities in remote locations or that are cost prohibitive to transport.**

(1) Commodities that are in remote locations or that are cost prohibitive to transport to the Marketing and Redistribution Section shall be reported in writing to the Marketing and

Redistribution Section with a complete description and details of the condition of the commodity.

(2) The Marketing and Redistribution Section will make one (1) of the following recommendations:

(A) **Redistribution.**

(i) The commodity may be redistributed for state use and the Marketing and Redistribution Section will notify eligible entities that could utilize the commodity.

(ii) When the property is sold, the receiving agency will be responsible for the removal of the item or items with the expense of moving being taken into consideration when price is determined;

(B) **Onsite sale.** An onsite sale may be conducted in accordance with 19 § CAR 1-606(e);

(C) **Disposal or cannibalization.** The property may be disposed of or cannibalized in accordance with 19 CAR § 1-605(d); or

(D) **Competitive sealed bidding.** The property may be sold in accordance with 19 CAR § 1-606(d).

(3) Specialized commodities may be offered for trade-in only when the trade-in price is approved by the Marketing and Redistribution Director.

(4) If none of the above procedures are applicable, the State Procurement Director will make an individual determination.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-242 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

19-61-603. Proceeds from surplus commodities.

The State Procurement Director shall promulgate rules for the allocation of proceeds from the sale, lease, or disposal of surplus commodities, to the extent practicable, to the using agency that had possession of the surplus commodities.

19 CAR § 1-607. Allocation and disbursement of proceeds from sale or disposal of surplus commodities.

(a) **Using agency**.

(1) The proceeds from the sale, lease, or disposal of surplus commodities, and proceeds from an insurance policy for loss of property because of fire, storm, or other causes, less appropriate fees, will be remitted to the using agency which had possession of the commodity.

(b) **Fee schedule.**

(1) The Marketing and Redistribution Section will maintain a fee schedule that will

set forth charges for its services.

(2) Any charges will be deducted from the proceeds before they are remitted to the agency.

Authority. Arkansas Code §§ 19-61-117, 19-61-602, 19-61-603.

Codification Notes. This section was promulgated as R1:19-11-243 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-40 (eff. July 2, 2026)

Subchapter 7 — Conflict Resolution — Debarment

19-61-701. Resolution of protested solicitations and awards.

(a) (1) An actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of a contract may protest by presenting a written notice at least seventy-two (72) hours before the filing deadline for the solicitation response to the State Procurement Director or the head of a procurement agency.

(2) (A) An actual bidder, offeror, or contractor who is aggrieved in connection with the award of a contract may protest to the:

(i) Director; or

(ii) Head of a procurement agency.

(B) A person submitting a protest under subdivision (a)(2)(A) of this section shall give notice of the protest to the person named in the anticipation to award a contract by sending the person a copy of the protest by electronic mail and regular mail.

(3) The protest shall be submitted in writing within fourteen (14) calendar days after the calendar day on which the contract is awarded or the notice of anticipation to award the contract is posted, whichever occurs first.

(4) A protest submitted by an aggrieved person under this section shall:

(A) Be limited to one (1) or more of the following grounds:

(i) The award of the contract exceeded the authority of the director or the procurement agency;

(ii) The procurement process violated a constitutional, statutory, or regulatory provision;

(iii) The director or the procurement agency failed to adhere to the rules of the procurement as stated in the solicitation, and the failure to adhere to the rules of the procurement materially affected the contract award;

(iv) The procurement process involved responses that were collusive, submitted in bad faith, or not arrived at independently through open competition; or

(v) The award of the contract resulted from a technical or mathematical error made

during the evaluation process; and

(B) State facts that substantiate each ground on which the protest is based.

(5) (A) A person named in an anticipation to award a contract that is protested under this section may file a written response to the protest.

(B) A response to a protest submitted under subdivision (a)(5)(A) of this section shall be submitted in writing within five (5) calendar days of the date the person is given notice of the protest under subdivision (a)(2)(B) of this section.

(b) (1) (A) The director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest concerning the solicitation or award of a contract before rendering an administrative protest determination.

(B) (i) A meeting in an attempt to settle or resolve a protest is not a public meeting under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(ii) However, a final settlement or resolution of a protest made under this section shall not be kept secret, sealed, or withheld from public disclosure.

(2) The authority to settle or resolve a protest under this section shall be exercised in accordance with laws governing the Arkansas State Claims Commission, which has exclusive jurisdiction over all claims against the state in connection with the solicitation or award of a contract, and the rules promulgated by the State Procurement Director.

(c) (1) If a protest is not settled or resolved by mutual agreement under subsection (b) of this section, the director, the head of a procurement agency, or a designee of either officer shall promptly issue an administrative protest determination in writing.

(2) The administrative protest determination shall state the reasons for the action taken.

(d) Within five (5) calendar days after it is written, a copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished to the protestor and any other party intervening.

(e) An administrative protest determination under subsection (c) of this section is:

(1) Final and conclusive; and

(2) Not an order as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) In the event of a timely protest under subsection (a) of this section:

(1) The state shall not execute a contract that is the result of the protested solicitation or award unless the director or the head of the relevant procurement agency makes a written determination that the execution of the contract without delay is necessary to protect substantial interests of the state.

(2) Contract negotiations with the *anticipated awardee* may proceed.

(g) When the protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may be entitled to the reasonable costs

incurred in connection with the solicitation, including bid preparation costs, through the commission.

(h) An actual or prospective bidder, offeror, or contractor who is aggrieved by a protest submitted under this section that was without merit or intended purely to delay the award of a contract may bring a private cause of action for tortious interference with a business expectancy against the person or entity that submitted the protest.

19 CAR § 1-701. Definitions.

(a) "Aggrieved in connection with the award of a contract" means the condition of being an actual bidder, offeror, or contractor who has been denied the award of a contract as the result of the improper or unlawful award of the contract.

(b) "Aggrieved in connection with a solicitation" means the condition of being an actual or prospective bidder, offeror, or contractor who:

(1) Is interested in submitting a bid, offer, or qualifications, as applicable, in response to a solicitation; and

(2) Is denied a fair opportunity to compete for award of a contract due to improper or unlawful solicitation terms or conduct, including challenges to the solicitation's rules or process

(c) "Anticipation to award a contract" means the state's identification of the person or persons it anticipates contracting with as the result of a solicitation.

(d) (1) "Award of a contract" means the state's process for formally accepting a responsive bid, proposal, or qualifications as the basis for a contract with the state.

(2) Award of a contract is generally preceded by notice of the state's anticipation to award a contract.

(e) (1) "Constructive knowledge", as used in this part, means knowledge or information that a protestor would have by a given date if the protestor had exercised reasonable care or diligence, regardless of whether the protestor actually had the knowledge or information.

(2) It includes knowledge of:

(A) Applicable provisions of Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq., and other applicable law and administrative rules;

(B) Solicitation instructions, criteria, deadlines, and requirements contained in solicitation documents or otherwise available to persons interested in the solicitation or provided in a mandatory presolicitation meeting;

(C) Available public records kept in connection with a solicitation or award of a contract;

(D) Communications or actions regarding the solicitation to any person whose knowledge is imputed to the protestor under the law of agency, fiduciaries, partnership, respondeat superior, or otherwise;

(E) Facts not subject to reasonable dispute that are generally known or ascertained by resort to readily available sources whose accuracy cannot reasonably be questioned;

and

(F) Any other applicable information discoverable by the exercise of reasonable care or diligence, such as a request for information.

(f) "Grounds" of the protest are as defined in Arkansas Code § 19-61-701(a)(4);

(g) (1) "Interested party", when used in relation to a protest in connection with a solicitation, means any actual or prospective bidder, offeror, or contractor actually or prospectively participating in a solicitation.

(2) When used in relation to a protest in connection with the award of a contract, it means a bidder, offeror, or contractor who actually submitted a bid or offer or who holds a contract to provide the commodities or services solicited;

(h) "Protest" means a written objection from a person setting forth facts showing that the person is an interested party who has been aggrieved in connection with the:

(1) Solicitation of a contract; or

(2) Award of a contract;

(i) "Solicitation" means an instance of soliciting bids, proposals, or qualifications for a contract for commodities or services, and includes "competitive bidding," "competitive sealed bidding," "competitive sealed proposals," and "request for qualifications," as those terms are defined in the Arkansas Procurement Law.

(j) (1) "Submitted" means a protest that conforms to the formal requirements as defined in this part, that has been received by the State Procurement Director or the head of the relevant procurement agency.

(2) (A) It is not sufficient for a protestor to merely claim a protest was submitted.

(B) Evidence of actual receipt of the protest must be obtained, whether return receipt, confirmation email by the director or the head of the relevant procurement agency, or other adequate evidence of receipt.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-244 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-702. Protest requirements.

(a) **Substantive requirements.** A protest must set forth facts showing that the protestor:

(1) Is an interested party;

(2) Has been aggrieved:

(A) In connection with a solicitation; or

(B) In connection with the award of a contract; and

(3) Has grounds.

(b) **Formal requirements.**

(1) A protest must be submitted in writing to the State Procurement Director or the head of the relevant procurement agency that issued the solicitation.

(2) To expedite handling of protests, if delivered by mail, the envelope containing a protest should be clearly labeled “Protest”.

(3) Protests delivered by email should be identified as a protest in the subject line and marked as important.

(4) The protestor must provide notice of the protest to the person or entity named in the anticipation to award by sending a copy of the protest by electronic mail and regular mail.

(5) A protest shall include as a minimum the following:

(A) The name and address of the protestor or the protestor’s attorney;

(B) Appropriate identification of the solicitation by reference to its number, if a number has been assigned; and

(C) Unless good cause is shown for its absence, a copy of any documents or supporting evidence upon which the protest is based, attached to or enclosed with the protest as an exhibit.

(6) Where such documents or supporting evidence substantiating any claims made in a protest are believed or known to exist, but are not available with reasonable diligence to include as an exhibit within the time for submitting a protest, the anticipated documents must be described in the protest so as to explain how they are expected to support the protest and when the protestor reasonably anticipates they will be available, if ever.

(7) Failure to provide such supporting exhibits without good cause or within a reasonable time may result in the protest not being sustained.

(c) **Time periods for submission.**

(1) There are two (2) types of protests permitted under Arkansas Code § 19-61-701:

(A) A protest in connection with the solicitation of a contract; and

(B) A protest in connection with the award of a contract.

(2) To be timely, a protest must be submitted in writing to the State Procurement Director or the head of the procurement agency conducting the procurement:

(A) At least seventy-two (72) hours before the deadline for submitting a response to the solicitation, if it is a protest in connection with the solicitation of a contract; or

(B) Within fourteen (14) calendar days after the award or notice of anticipation to

award has been posted, whichever occurs first, if it is a protest in connection with the award of the contract.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-244 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-703. Burden of supporting a protest and supplying requested information.

(a) A party submitting a protest has the burden of stating facts showing that the protestor has grounds in connection with a solicitation or in connection with the award of a contract.

(b) The State Procurement Director or the head of a procurement agency determining a protest may, but has no duty to, request a protestor or other interested party to submit documentation or information relevant to the protest.

(c) Failure of any person to comply expeditiously with a request for documents or information by the director or the head of a procurement agency determining a protest may result in the protest being determined without consideration of the requested information.

(d) Delivery of requested documents or information after three (3) business days from the request is generally not considered expeditious, but the director or the head of a procurement agency may allow additional time for good cause.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-244 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-704. Stay of procurements during protest.

(a) When a solicitation protest has been timely submitted, no award shall be issued until after a protest determination has been issued by the State Procurement Director or relevant procurement agency head, unless the director or relevant procurement agency head, unless the director determines that the issuance of the award is necessary to protect substantial interests of the State of Arkansas.

(b) When an award protest has been timely submitted, no execution of the contract shall be made until the protest has been settled or determined by the director or relevant procurement agency head, unless the director makes a written determination, after consulting with the head of the using agency or the head of the procurement agency, that the execution of the contract without delay is necessary to protect substantial interests of the state.

(c) During an active protest, contract negotiations may proceed with the awarded offeror.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-244 of the Procurement Rules

prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-705. Making information on protests available.

In the interest of transparency, a person who is an interested party in a solicitation should be given the same access to solicitation documents that are public records, as defined in Arkansas Code § 25-19-103(7), as a citizen of the State of Arkansas is entitled to under the Arkansas Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-244 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-706. Decision by the State Procurement Director or the head of a procurement agency.

(a) **Time for decisions.**

(1) A decision on a protest shall be made by the State Procurement Director or the head of a procurement agency with reasonable promptness after receiving all relevant and requested information, or upon determining that information requested by the director or the head of a procurement agency will not be made readily available.

(2) If a protest is sustained, the available remedies include, but are not limited to, those set forth in Arkansas Code §§ 19-61-701(g) and 19-61-704.

(b) **Remedies for successful protestor.**

(1) When a protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may submit a claim for the reasonable costs incurred in connection with the solicitation, including bid preparation costs, through the Arkansas State Claims Commission.

(2) The commission retains exclusive jurisdiction and regulates the procedure for submitting and determining all such claims.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-244 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-702. Debarment or suspension.

(a) This section applies to debarment for cause from consideration for award of contracts, or a suspension from such consideration during an investigation, when there is probable cause for such a debarment.

(b) (1) (A) (i) After reasonable notice to the person involved and reasonable opportunity for that person to have a hearing before a committee according to rules promulgated by the State

Procurement Director, the director or the head of a procurement agency may debar a person for cause from consideration for award of contracts, provided that doing so is in the best interests of the state.

(ii) The debarment shall not be for a period of more than three (3) years.

(B) (i) The same officer may suspend a person from consideration for award of contracts, provided that doing so is in the best interests of the state and there is probable cause for debarment.

(ii) The suspension shall not be for a period exceeding three (3) months.

(2) The authority to debar or suspend shall be exercised in accordance with rules promulgated by the State Procurement Director.

(c) The causes for debarment or suspension because of unsuitability for award of a contract shall be set forth in rules promulgated by the director.

(d) The director or the head of a procurement agency shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(e) A copy of the decision under subsection (d) of this section shall be mailed or otherwise furnished within five (5) calendar days after it is written to the debarred or suspended person and any other party intervening.

(f) A decision under subsection (d) of this section *shall be final and conclusive and not an order as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but* may be appealed to the Secretary of the Department of Shared Administrative Services in accordance with the rules promulgated by the director.

19 CAR § 1-707. Suspension.

(a) Any agency suspension action must be done in consultation with the Office of State Procurement.

(b) Prior to any suspension, the contractor will be afforded an opportunity to discuss with the State Procurement Director or head of a procurement agency the circumstances which led to the possible suspension and to potentially reach a settlement.

(c) In the event a bidder is suspended, a written determination shall be:

(1) Made by the director or head of a procurement agency concerning the facts of any allegation or claim that a bidder has done any action in 19 CAR § 1-709(b); and

(2) Sent to the bidder at the address shown in the procurement agency's records.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-245 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-708. Debarment.

(a) Any agency debarment action must be done in consultation with the Office of State Procurement.

(b) Prior to any debarment hearing, the contractor will be afforded an opportunity to discuss with the State Procurement Director or head of a procurement agency the circumstances which led to the suspension and to potentially reach a settlement.

(c) (1) In the event a bidder or contractor is debarred, a written determination shall be made by the director or head of a procurement agency concerning the facts of any allegation or claim that the bidder or contractor has violated an action in 19 CAR § 1-709.

(2) The written determination shall be sent to the bidder or contractor at the address shown in the procurement agency's records.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-245 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-709. Authority to debar or suspend.

(a) **General.** Any bidder or contractor to the State of Arkansas who, except for good cause shown, has engaged in any of the conduct listed in subsection (b) of this section may be suspended or debarred from consideration for award of contracts.

(b) **Causes for debarment or suspension.** The causes for debarment or suspension include, but are not limited to, the following:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor;

(3) Conviction under state or federal antitrust statutes arising out of submission of bids or proposals;

(4) Violation of contract provisions, as set forth below, of a character which is regarded by the State Procurement Director or the head of a procurement agency to be so serious as to justify debarment action:

(A) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(B) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts, provided that failure to perform or

unsatisfactory performance caused by acts beyond the control of the contractor will not be considered to be a basis for debarment;

(5) Continuous failure to post bid or performance bonds, or to provide an alternate bid or a performance guarantee in the form acceptable to the procurement agency in lieu of a bond, as required by an invitation for bids or a solicitation for proposals;

(6) Substitution of commodities without the prior written approval of the contracting authority;

(7) Failure to replace inferior or defective commodities within a reasonable time after notification by the procurement agency or the agency to which such commodity has been delivered;

(8) Refusal to accept a contract awarded pursuant to the terms and conditions of the contractor's bid;

(9) Falsifying invoices, or making false representations to any state agency or state official, or untrue statements about any payment under a contract or to procure award of a contract, or to induce a modification in the price or the terms of a contract to the contractor's advantage;

(10) Collusion or collaboration with another bidder or other bidders in the submission of a bid or bids for the purpose of lessening or reducing competition;

(11) Falsifying information in the submission of an application for listing on a state vendor's list;

(12) (A) Repeated failure of a vendor or any of its owners to pay all outstanding tax liabilities to the State of Arkansas.

(B) "Repeated failure" shall include, but not be limited to:

(i) The existence of seven (7) or more certificates of indebtedness, liens, or other evidence of tax indebtedness that are in the public record during any biennial period;

(ii) The suspension or revocation of a state excise tax permit or any other state permit for nonpayment of taxes; or

(iii) The existence of three (3) or more writs of garnishment issued for nonpayment of taxes during any biennial period.

(C) This section does not apply to:

(i) Tax debts that are the subject of an administrative or judicial proceeding contesting the validity of such debt until such proceedings are concluded and such tax debts are adjudicated to be valid; or

(ii) Any outstanding individual tax liability of a nonowner employee of a vendor or that of noncontrolling, individual shareholders in a Subchapter C corporation; or

(13) Any other cause the director or head of a procurement agency determines to be so

serious and compelling as to affect responsibility as a state contractor, including debarment by any other governmental entity for any cause, or violation of the ethical standards set forth in Arkansas Code § 19-64-205.

(c) **Debarment.**

(1) Prior to any action for debarment, the Office of State Procurement or agency procurement official must notify the bidder of the opportunity for a hearing at least fourteen (14) days prior to said hearing.

(2) Such notification must state the facts of any allegation or claim.

(3) The director or the head of a procurement agency must consult with the Attorney General or his or her designee prior to debarring a person for cause from consideration for award of contracts.

(d) **Debarment hearing.**

(1) The director or head of a procurement agency shall form a committee composed of three (3) qualified individuals from government and private industry to hear the debarment proceedings.

(2) The Attorney General or his or her designee representing the director or the head of a procurement agency will have the right to present evidence and elicit testimony from witnesses and cross-examine opposing witnesses before the committee.

(3) (A) The contractor may be heard in person or by counsel, may cross-examine witnesses and may offer witnesses, documentary evidence, and/or evidentiary depositions in defense of the debarment charges.

(B) The committee will subpoena witnesses for the contractor upon timely request.

(C) Should the contractor fail to appear, the committee shall proceed to hear the state's evidence and make its recommendations to the director or head of a procurement agency.

(4) After hearing the evidence, the committee will make recommendations to the director or head of the procurement agency.

(5) The director or head of a procurement agency will receive the recommendation and review the record of the hearing and make a decision regarding the debarment.

(e) **Decision.** The written decision concerning debarment will be sent to the contractor within five (5) days and must state the reasons for the action taken and inform the debarred person involved of his or her rights to judicial review.

(f) **Other remedies.** The procedures in this section do not preclude the taking of other action by the state, based on the same facts, as may be otherwise available, either at law or in equity.

(g) **Distribution of decisions.** All agency procurement officials must send a copy of any determination of debarment to the office and the office must post the results of any debarment on the office website.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-245 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-703. Resolution of contract and breach of contract controversies.

(a) Applicability. This section applies to controversies between the state and a contractor that arise under or by virtue of a contract between the state and a contractor, including without limitation controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modifications or rescission.

(b) (1) The State Procurement Director, the head of a procurement agency, or a designee of either officer may settle and resolve a controversy described in subsection (a) of this section before commencement of an action in a court or any other action provided by law concerning the controversy.

(2) The authority under subdivision (b)(1) of this section shall be exercised in accordance with the law governing the Arkansas State Claims Commission and the rules promulgated by the State Procurement Director.

(c) (1) If a claim or controversy as described in this section is not resolved by mutual agreement, and after reasonable notice to the contractor and reasonable opportunity for the contractor to present the claim or controversy in accordance with the rules promulgated by the director, then the head of a procurement agency, the director, or the designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the contractor.

(e) A decision under subsection (c) of this section is final and conclusive.

(f) If the director, the head of a procurement agency, or the designee of either officer does not issue the written decision required under subsection (c) of this section within one hundred twenty (120) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision has been received.

19 CAR § 1-710. Authority to resolve contract and breach of contract controversies.

(a) (1) **General.** Any contract which is determined in writing by the State Procurement Director, or the procurement official, or a designee of either officer, to be terminable due to a breach of any of the terms and conditions of the contract, mistake, misrepresentation, or other cause, may be terminated as a result of such cause.

(2) Declaration of default and/or contract termination may be determined only after the contractor has been afforded the opportunity to discuss with the director or agency procurement official circumstances giving rise to the potential cause for termination and

potential cures.

(b) **Default.** A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:

(1) Failure to perform the contract according to its terms, conditions, and specifications; or

(2) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract.

(c) **Contractor's liability.** The contractor and/or his or her surety, if a performance or payment bond has been required under the contract, shall be jointly and severally liable to the state for any and all loss or damage as provided in the contract between the state and the contractor as a result of the contractor's default, provided, however, that a contractor's surety's liability shall not exceed the final sum specified in the contractor's bond.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-246 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-704. Remedies for unlawful solicitation or award.

(a) The provisions of this section apply where it is determined upon any review provided by law that the creation, solicitation, award, management, or modification of a contract is in violation of law.

(b) If it is determined that a solicitation, proposed award, or modification of a contract is in violation of law, then the solicitation, proposed award, or modification shall be:

(1) Cancelled; or

(2) Revised to comply with the law.

(c) If it is determined that the creation, solicitation, award, management, or modification of a contract is in violation of law, then in addition to or in lieu of other remedies provided by law:

(1) If the vendor has not acted fraudulently or in bad faith:

(A) The contract may be ratified and affirmed if it is determined that doing so is in the best interests of the state; or

(B) The contract may be terminated; and

(2) If the vendor has acted fraudulently or in bad faith:

(A) The contract may be declared null and void; or

(B) The person awarded the contract may be directed to proceed with performance of the contract and pay such damages, if any, as may be appropriate if such action shall be in the best interests of the state.

(d) Before a contract is ratified and affirmed under subdivision (c)(1)(A) of this section, a contract shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, for review if the contract is required to be submitted for review under § 19-61-116.

19-61-705. Finality of administrative determinations.

In a judicial action or other action provided by law, factual or legal determinations by employees, agents, or other persons appointed by the state have no finality and are not conclusive, notwithstanding any contract provision or rule of law to the contrary, except to the extent provided in:

(1) Section 19-61-513, which refers to finality of determinations;

(2) Section 19-61-701(e), which refers to resolution of protested solicitations and awards, finality of decision;

(3) Section 19-61-702(f), which refers to debarment or suspension, finality of decision; and

(4) Section 19-61-703(e), which refers to resolution of contract and breach of contract controversies, finality of decision.

Subchapter 8 — Intergovernmental Relations

19-61-801. Definitions concerning intergovernmental relations.

As used in this subchapter:

(1) "Consumer Price Index" means the most recent Consumer Price Index for All Urban Consumers published by the United States Department of Labor, or its successor;

(2) "Cooperative purchasing agreement" means an agreement entered into as the result of a procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity;

(3) (A) "External procurement activity" means any buying organization not located in this state that, if located in this state, would qualify as a public procurement unit.

(B) An agency of the United States Government is an external procurement activity;

(4) "Local public procurement unit" means:

(A) A county, city, town, state agency, and any other subdivision of the state or public agency of the state;

(B) A fire protection district;

(C) A regional water distribution district;

(D) A rural development authority;

(E) A public authority;

(F) A public educational, health, or other institution;

(G) A nonprofit corporation during the time that it contracts with the Department of Human Services to provide services to individuals with developmental disabilities or for transportation services, so long as the contract exceeds seventy-five thousand dollars ($75,000) per year;

(H) A nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area; and

(I) To the extent not prohibited by law, any other entity that expends public funds for the acquisition or leasing of commodities and services;

(5) "Public procurement unit" means either a local public procurement unit or a state public procurement unit;

(6) (A) "Local government construction services" means services procured by a municipality, public school district, or open-enrollment public charter school under a contract with a corresponding cooperative purchasing verification letter providing for the making of repairs, alterations, erection, or other permanent improvements to a public building, property, or structure that do not exceed a total aggregate amount of one million dollars ($1,000,000) for a public procurement unit in a fiscal year.

(B) (i) Annually on July 1, at the direction of the Office of State Procurement and with the approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the amount stated in subdivision (6)(A) of this section shall be adjusted by the percentage, if any, by which the Consumer Price Index for the current calendar year exceeds the Consumer Price Index for the preceding calendar year, not to exceed three percent (3%).

(ii) The Consumer Price Index for a calendar year is the average of the Consumer Price Index as of the close of the twelve-month period ending on August 31 of that calendar year; and

(7) "State public procurement unit" means the Office of State Procurement and any other procurement agency of this state.

19-61-802. Cooperative purchasing.

(a) (1) A public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of local government construction services, commodities, or other services in accordance with an agreement entered into between the participants.

(2) (A) A cooperative purchasing agreement is limited to local government construction services, commodities, and other services for which the public procurement unit may realize savings or material economic value, or both.

(B) (i) For cooperative purchasing agreements entered into by a state agency, the State Procurement Director shall consider the economic justification for using a cooperative purchasing agreement when granting or withholding approval for the cooperative purchasing agreement.

(ii) The director shall adopt rules to create a review policy outlining how the economic justification required under this section may be demonstrated, including without limitation a comparison of:

(a) Current state contract pricing and the pricing under a cooperative purchasing agreement; or

(b) Information obtained from a request for information and pricing under a cooperative purchasing agreement.

(C) The director and the Secretary of the Department of Shared Administrative Services shall submit any request for the Office of State Procurement to participate in a cooperative purchasing agreement to the Governor for approval.

(b) (1) (A) The director shall present an annual report of all purchases made under cooperative purchasing agreements by a state agency without an agency procurement official under this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee.

(B) A state agency that has an agency procurement official shall present an annual report of all purchases made under cooperative purchasing agreements under this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee.

(2) The reports required under this subsection shall be submitted by October 1 in the format required by the Legislative Council and shall include the following:

(A) The name of the contractor;

(B) The name of the procuring agency;

(C) The contact information for the contractor and procuring agency;

(D) The total cost of the contract, including all available extensions;

(E) A description of the local government construction services, goods, or other services procured; and

(F) Any other information requested by the Legislative Council or the Joint Budget Committee.

(c) A contractor shall cooperate with the director in providing information necessary for the director to complete the report required under subsection (b) of this section.

(d) If a public procurement unit needs to procure local government construction services in excess of the amount provided in § 19-61-801(6), the public procurement unit may submit a request for a waiver to the Executive Subcommittee of the Legislative Council.

19 CAR § 1-801. Cooperative purchasing.

(a) When an agency that is subject to the Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq., seeks to participate in a cooperative purchasing agreement that is administered by a public procurement unit or external procurement activity that is not subject to the Arkansas Procurement Law, it will first need to submit the cooperative purchasing

agreement to the State Procurement Director for a determination as required by Arkansas Code § 19-61-809(b) and this part.

(b) (1) In seeking the determination from the director, the agency must include a verifiable economic justification as to why using the cooperative purchasing agreement is more cost effective or likely to realize savings than conducting a solicitation.

(2) A verifiable economic justification includes a comparison of current state contract pricing and the pricing under a cooperative purchasing agreement, or a comparison of information obtained from a request for information and pricing under a cooperative purchasing agreement, or a comparison of current contract pricing for a nearby comparable state and the pricing under a cooperative purchasing agreement if there is not current state contract pricing.

(3) The justification should include a comparison of a sufficient proportion of the spend to extrapolate an expected overall savings.

(c) If a determination has already been made with respect to a cooperative purchasing agreement, any other public procurement unit may rely on that determination.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-249 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-802. Reporting of cooperative contract purchases.

(a) Cooperative contract purchases of state agencies without an agency procurement official must be presented to the Legislative Council or Joint Budget Committee by the Office of State Procurement annually.

(b) Agencies shall submit purchases using the appropriate method as determined by the office by October 1.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-249 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-803. Sale, etc., of commodities.

A public procurement unit by agreement with another public procurement unit may sell to, acquire from, or use any commodities belonging to or produced by another public procurement unit or external procurement activity independent of the requirements of:

(1) Sections 19-61-401 — 19-61-403, 19-61-501 — 19-61-508, and 19-61-510 — 19-61-513, which refer to source selection and contract formation; and

(2) Sections 19-61-601 — 19-61-603, which refer to commodity management.

19 CAR § 1-803. Sale, acquisition, or use of commodities by a public procurement unit — Department of Corrections Industry Program.

(a) (1) The Department of Corrections is authorized to enter into contracts, purchase orders, compacts, or agreements with the appropriate officials of agencies of other states or of the federal government for the buying and selling of raw materials, goods, and products produced by and belonging to their respective institutions.

(2) The buying and selling of these materials will be for the purpose of producing finished products through a correctional industries program.

(b) (1) The department shall be governed by Arkansas Code § 12-30-101 et seq., the Prison-Made Goods Act of 1967, Arkansas Code § 12-30-201 et seq., and other appropriate laws when utilizing the provisions of this part.

(2) The procurement official/agent for the department may enter into contracts, orders, compacts, or agreements pursuant to this part.

(c) (1) Copies of all such contracts, orders, compacts, or agreements entered into under the provisions of this part shall be filed with the Office of State Procurement and a complete set of books and records shall be kept by the department with respect to all transactions, deliveries, and obligations under each contract, compact, or agreement.

(2) Copies of these books and records shall be filed monthly with the office.

(d) All records and reports required pursuant to this part shall be:

(1) Available to public inspection during normal business hours; and

(2) Retained for a period of three (3) years after completion of the contract, compact, or agreement.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-221 and R1:19-11-250 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-61-804. Intergovernmental use of commodities or services.

(a) A public procurement unit may enter into an agreement with any other public procurement unit or external procurement activity for the intergovernmental use of commodities, technical and general services, or professional and consultant services under the terms agreed upon between the parties and in accordance with the rules promulgated under this chapter, independent of the requirements of:

(1) Sections 19-61-401 — 19-61-403, 19-61-501 — 19-61-508, and 19-61-510 — 19-61-513 that refer to source selection and contract formation; and

(2) Sections 19-61-601 — 19-61-603 that refer to commodity management.

19 CAR § 1-804. Intergovernmental agreements.

Intergovernmental agreements should include at a minimum:

(1) Scope of work to be accomplished;

(2) Amount of compensation, if any;

(3) Delineation of responsibilities and duties of each entity;

(4) Term of agreement; and

(5) Authorized signatures from each entity.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-251 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-61-805. Rules

The State Procurement Director may promulgate reasonable rules pertaining to the sale or acquisition of any commodities, technical and general services, or professional and consultant services belonging to or produced by another public procurement unit or external procurement activity as authorized in this section and §§ 19-61-802 -- 19-61-804 and 19-61-806 -- 19-61-811.

19-61-806. Joint use of facilities.

A public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement activity under the terms agreed upon between the parties.

19-61-807. State information services.

(a) Upon request, the State Procurement Director may make available to public procurement units the following services, among others:

(1) Standard forms;

(2) Printed manuals;

(3) Product specifications and standards;

(4) Quality assurance testing services and methods;

(5) Qualified products lists;

(6) Source information;

(7) Common use commodities listings;

(8) Supplier prequalification information;

(9) Supplier performance ratings;

(10) Debarred and suspended bidders lists;

(11) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and

(12) Contracts, or published summaries of contracts, including price and time of delivery information.

(b) The director may enter into contractual arrangements and publish a schedule of fees for the services provided under this section.

19-61-808. Use of payments received.

All payments from a public procurement unit or external procurement activity received by a public procurement unit supplying services shall be available to the supplying public procurement unit.

19-61-809. Compliance by public procurement units.

(a) Procurement in Accordance with Requirements. When the public procurement unit or external procurement activity administering a cooperative purchase complies with the requirements of this chapter, a public procurement unit participating in the cooperative purchase shall be deemed to have complied with this chapter.

(b) When a public procurement unit or external procurement activity not subject to this chapter administers a cooperative purchase for a public procurement unit subject to this chapter, then the State Procurement Director shall determine in writing that the procurement system and remedies procedures of the public procurement unit or external procurement activity administering the procurement substantially meet the requirements of this chapter.

19-61-810. Review of procurement requirements.

(a) (1) To the extent possible and consistent with efficiency, the State Procurement Director shall collect information concerning the type, cost, quality, and quantity of commonly used commodities or services being procured or used by state public procurement units.

(2) The director may also collect such information from local public procurement units.

(b) The director may make available all such information to any public procurement unit upon request.

19-61-811. Contract controversies.

Under a cooperative purchasing agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with §§ 19-61-701 — 19-61-705, which refer to legal and contractual remedies, when the administering public procurement unit is a state public procurement unit or otherwise subject to §§ 19-61-701 — 19-61-705.

19-61-812. Cooperative purchase of paper products for local governments.

(a) (1) All cities, counties, and school districts shall participate in a cooperative purchasing program for the purchase of paper products.

(2) The program shall be administered by the State Procurement Director.

(b) (1) The director shall promulgate rules for administration of the program.

(2) The rules shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the committees.

[§ 19-61-813 (formerly § 19-11-269), Review of information technology plans, was repealed by Acts 2025, No. 582, § 1 (approved April 14, 2025). Its implementing rules, 19 CAR §§ 1-805 and 1-905, were repealed by Ark. R. 2026-76 (eff. July 2, 2026).]

19 CAR § 1-805. [Repealed]

Codification Notes. 19 CAR § 1-805, concerning the procedures for approval of information technology products or services, was repealed by Ark. R. 2026-76 (eff. July 2, 2026).

CHAPTER 62 | BIDDING — STATE INDUSTRY PRIORITY

Subchapter 1 — General Provisions

19-62-101. Purpose.

The purpose of this chapter is to protect Arkansas private industries which employ Arkansas taxpayers and citizens from the unfair advantage held by certain out-of-state correctional institutions that utilize convict labor and are exempt from minimum wage requirements, Occupational Safety and Health Act of 1970 requirements, and other such standards which are imposed on private industries and which increase the costs of products manufactured by private industries. This advantage which is enjoyed by many out-of-state correctional institutions allows the out-of-state correctional institutions to often receive contracts under the Arkansas Procurement Law, § 19-61-101 et seq., bidding process when Arkansas private industries also submit bids, thus hindering a healthy competitive environment for the private industries of this state.

19-62-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Bid" means a proposal submitted to the state for the sale of products to the state;

(2) "Correctional institution" means a penitentiary, jail, prison, reformatory, or other such establishment owned, operated, or funded by a state or local government in which incarcerated criminals are kept;

(3) "Private industry" means a manufacturer, maker of products, company, corporation, or firm that is not a department, division, or arm of the federal, state, or local governments;

(4) "Private industry located within the State of Arkansas" means private industry that is located in Arkansas, employing Arkansas citizens and taxpayers as laborers in the process of manufacturing goods and products within this state; and

(5) "State" means the government of the State of Arkansas and all departments, branches,

agencies, and subdivisions of the state.

19-62-103. Provisions controlling.

Where provisions of this chapter are inconsistent with provisions of the current Arkansas Procurement Law, § 19-61-101 et seq., the provisions in this chapter shall control.

Subchapter 2 — Bidding Priority

19-62-201. Priority for state industries.

In the bidding process for the sale of products for use by the state, a bid submitted by a private industry located within the State of Arkansas and employing Arkansas taxpayers shall be given priority over a bid submitted by an out-of-state correctional institution employing convict labor.

19-62-202. Award to lowest state bidder — Exceptions.

Subject to any applicable bonding requirements, in all bidding procedures involving a bid by one (1) or more out-of-state correctional institutions and a bid by one (1) or more private industries located within the State of Arkansas, the contract shall be awarded to the sole Arkansas bidder or lowest Arkansas bidder if the Arkansas bidder is not underbid by more than five percent (5%), as provided in § 19-61-515, by another representative of private industry located outside the State of Arkansas or by more than fifteen percent (15%) by an out-of-state correctional institution.

19-62-203. Underbid by nonresident industry or correctional institution.

Subject to any applicable bonding requirements, if a private Arkansas bidder is underbid by more than five percent (5%), as provided in § 19-61-515, by another representative of private industry located outside the State of Arkansas or is underbid by more than fifteen percent (15%) by an out-of-state correctional institution, the state contract shall be awarded to the lowest responsible bidder, whether that bidder is a correctional institution or is a representative of private industry. 31

CHAPTER 63 | FEDERAL GOVERNMENT SURPLUS PROPERTY

19-63-101. Authority to transfer to state and local agencies.

(a) The Division of Emergency Management may cooperate with the United States Government in the transfer of government surplus property to all departments and agencies of state and local government and to all other agencies eligible to receive surplus property under Pub. L. No. 81-152 and Pub. L. No. 81-754, and all other statutory laws that may be enacted by the United States Congress covering the disposal of United State Government surplus property.

(b) The division may take all action necessary to the proper administration of the federal Surplus Property Program in the acquisition of and the distribution of government surplus properties to eligible claimants in this state, distribution to be in accordance with the appropriate controlling federal statutes.

(c) The division may add to the cost of the properties an amount necessary to defray the expenses of service under this section.

19-63-102. Purchase for schools and school districts.

(a) The Division of Emergency Management may purchase surplus commodities, materials, supplies, equipment, and other property from the United States Government through any of its agencies for tax-supported schools and for school districts in Arkansas. The division may cooperate with the State Procurement Director in the purchase of school items.

(b) Schools and school districts desiring to obtain federal surplus materials, equipment, and similar property, shall apply to the division on blanks furnished by the division for that purpose.

(c) Schools and school districts applying to the division to purchase surplus materials, equipment, and other property from the United States Government shall pay cash for it by drawing a voucher or warrant in favor of the United States Government for the purchase price of the surplus materials, equipment, and other property.

19-63-103. Service charge.

(a) The Division of Emergency Management may add to the cost of surplus properties secured by the State Agency for Surplus Property an amount necessary to defray the expense of this service and to repay into the Revolving Loan Fund loans made to the agency as provided in this section.

(b) The division may establish service charges in such amounts as may be necessary to cover the expenses of the department in administering special federal service programs for schools and agencies. These charges are to be paid by the school, institution, or agency in the amount designated by the division.

(c) The division shall take such action as is necessary to collect such charges and may, in its discretion, withhold from any state moneys over which the division has control funds necessary to pay the amounts owing by such school districts and agencies.

(d) It is the intention of the General Assembly that the schools and agencies shall pay for such services amounts sufficient to reimburse the division for expenses incurred in the operation of the federal Surplus Property Program and in the operation of special federal service programs.

19-63-104. Rural water associations.

Rural water associations are eligible to participate in the federal Surplus Property Program operated under Pub. L. No. 81-152 and Pub. L. No. 81-754 as now administered by the Division of Emergency Management.

19-63-105. Authority to transfer excess military property to state and local agencies — Service charge.

The Law Enforcement Support Office may:

(1) Cooperate with the United States Government under 10 U.S.C. § 2576a in the transfer of excess military property to state and local law enforcement agencies:

(A) Whose primary function is the enforcement of applicable federal, state, and local laws; and

(B) (B) Whose compensated law enforcement officers have powers of arrest and apprehension, including without limitation counter-drug and counter-terrorism activities;

(2) Take any action necessary to the proper administration of the acquisition and the distribution of excess military properties to eligible claimants in this state, with distribution to be in accordance with the appropriate controlling federal statutes;

(3) Establish service charges in an amount necessary to cover the expenses of the Department of Public Safety incurred in administering this section; and

(4) Take action as necessary to collect service charges and, from any state moneys over which the department has control, withhold funds necessary to pay an amount owing by a state or local law enforcement agency.

CHAPTER 64 | ETHICS

Subchapter 1 — General Provisions

19-64-101. Definitions.

As used in this chapter:

(1) “Blind trust” means an independently managed trust in which the employee-beneficiary does not have management rights and in which the employee-beneficiary is not given notice of alterations in or other dispositions of the property subject to the trust;

(2) “Business” means a corporation, partnership, individual, sole proprietorship, joint-stock

company, joint venture, or any other legal entity;

(3) “Commodities” means all property, including without limitation:

(A) Equipment;

(B) Printing;

(C) Stationery;

(D) Supplies;

(E) Insurance; and

(F) Real property;

(4) “Confidential information” means information that is available to an employee only because of the employee's status as an employee of this state and is not a matter of public knowledge or available to the public on request;

(5) “Conspicuously” means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it;

(6) (A) “Contract” means any type of state agreement, regardless of what the state agreement is called, for the purchase or disposal of commodities and services.

(B) “Contract” includes:

(i) An award and a notice of award;

(ii) A contract of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type;

(iii) A contract providing for the issuance of job or task orders;

(iv) A lease;

(v) A letter contract;

(vi) A purchase order; and

(vii) A supplemental agreement with respect to any of the items under subdivisions (6)(B)(i)-(vi) of this section;

(7) “Contractor” means a person having a contract with a state agency;

(8) “Employee” means an individual drawing a salary from a state agency, whether elected or not, and a nonsalaried individual performing personal services for a state agency;

(9) “Financial interest” means:

(A) Ownership of any interest or involvement in a relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars ($1,000) per year, or its equivalent;

(B) Ownership of more than a five percent (5%) interest in any business; or

(C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding a position of management;

(10) “Gratuity” means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received;

(11) “Immediate family” means a spouse, child, parent, brother, sister, and grandparent;

(12) “Official responsibility” means direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct state action;

(13) “Person” means a business, individual, union, committee, club, or other organization or group of individuals;

(14) (A) “Procurement” means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) “Procurement” includes all functions that pertain to the obtaining of a public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(15) “Services” means technical, professional, or other services involving the furnishing of labor, time, or effort by a contractor; and

(16) “State agency” means an office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.

19-64-102. Penalties.

An employee or nonemployee who knowingly violates this chapter is guilty of an unclassified felony and upon conviction shall be fined in any sum not to exceed ten thousand dollars ($10,000) or shall be imprisoned not less than one (1) nor more than five (5) years, or shall be punished by both.

19-64-103. Statement of policy.

(a) Public employment is a public trust. It is the policy of the state to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the state. The policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

(b) Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the state procurement organization.

(c) To achieve the purpose of this chapter, it is essential that those doing business with the state also observe the ethical standards prescribed in this chapter.

Subchapter 2 — Standards of Ethical Conduct

19-64-201. General standards of ethical conduct.

(a) General Ethical Standards for Employees.

(1) Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

(2) In order to fulfill this general prescribed standard, an employee shall also meet the specific standards set forth in § 19-64-202, which refers to employee conflict of interest; § 19-64-203, which refers to employee disclosure requirements; § 19-64-204, which refers to gratuities and kickbacks; § 19-64-205, which refers to prohibition against contingent fees; § 19-64-206, which refers to restrictions on employment of present and former employees; and § 19-64-207, which refers to use of confidential information.

(b) General Ethical Standards for Nonemployees. Any effort to influence a public employee to breach the standards of ethical conduct set forth in this chapter is also a breach of ethical standards.

19-64-202. Employee conflict of interest.

(a) Conflict of Interest.

(1) It is a breach of ethical standards for an employee to participate directly or indirectly in a proceeding or application, in a request for ruling or other determination, in a claim or controversy, or in any other particular matter pertaining to a contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge:

(A) The employee or a member of the employee's immediate family has a financial interest;

(B) A business or organization has a financial interest, in which business or organization the employee, or a member of the employee's immediate family, has a financial interest; or

(C) Any other person, business, or organization with whom the employee or a member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.

(2) As used in this subsection, “participate directly or indirectly” includes without limitation involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(b) Financial Interest in a Blind Trust. When an employee or a member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Secretary of the Department of Shared Administrative Services.

(c) Discovery of Conflict of Interest, Disqualification, and Waiver. Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the secretary and withdraw from further participation in the transaction involved and, at the same time, may apply to the secretary in accordance with § 19-64-402 for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § 19-64-403.

19-64-203. Employee disclosure requirements.

(a) Disclosure of Benefit Received from Contract. An employee who has or obtains a benefit from a state contract with a business in which the employee has a financial interest shall report the benefit to the Secretary of the Department of Shared Administrative Services. However, this section does not apply to a contract with a business when the employee's interest in the business has been placed in a disclosed blind trust.

(b) Failure to Disclose Benefit Received. An employee who knows or should have known of a benefit described in subsection (a) of this section and fails to report the benefit to the secretary is in breach of the ethical standards of this section.

19-64-204. Gratuities and kickbacks.

(a) Gratuities. It is a breach of ethical standards for a person to offer, give, or agree to give an employee or former employee, or for an employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with a decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of a specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in a proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to a contract or subcontract and any solicitation or proposal therefor.

(b) Kickbacks. It is a breach of ethical standards for a payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or a person associated therewith, as an inducement for the award of a subcontract or order.

19-64-205. Prohibition against contingent fees.

(a) Contingent Fees. It is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

(b) (1) Representation of Contractor. Before being awarded a state contract other than by procedures set forth in the Arkansas Procurement Law, § 19-61-101 et seq., and rules promulgated under the Arkansas Procurement Law, § 19-61-101 et seq., for small purchases, every person shall represent, in writing, that the person has not retained anyone in violation of

subsection (a) of this section.

(2) Failure to comply with this subsection is a breach of ethical standards.

(c) Notice. The representation prescribed in subsection (b) of this section shall be conspicuously set forth in all contracts and solicitations for contracts.

19 CAR § 1-102. Ethical standards.

In accordance with Arkansas Code § 19-64-205(a), (b), and (c), the following statement must be conspicuously set forth in all contracts and solicitations costing more than twenty thousand dollars ($20,000):

> "It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business."

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-204, R14:19-11-229, R10:19-11-230, R2:19-11-232, R2:19-11-233, and R7:19-11-234 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-64-206. Restrictions on employment of present and former employees — Definition.

(a) Contemporaneous Employment Prohibited. It is a breach of ethical standards for an employee who is involved in procurement to become or be, while such an employee, the employee of a party contracting with the state agency by which the employee is employed.

(b) Restrictions on Former Employees in Matters Connected with Their Former Duties.

(1) Permanent Disqualification of Former Employee Personally Involved in a Particular Matter. It is a breach of ethical standards for a former employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy, in which the employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while an employee, when the state is a party or has a direct and substantial interest.

(2) One-Year Representation Restriction Regarding Matters for Which a Former Employee Was Officially Responsible. It is a breach of ethical standards for any former employee,

within one (1) year after cessation of the former employee's official responsibility in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy, knowingly to act as a principal or as an agent for anyone other than the state in matters that were within the former employee's official responsibility, when the state is a party or has a direct or substantial interest.

(c) Disqualification of Partners.

(1) When Partner Is a State Employee. It is a breach of ethical standards for a person who is a partner of an employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy, in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, when the state is a party or has a direct and substantial interest.

(2) When a Partner Is a Former State Employee. It is a breach of ethical standards for a partner of a former employee knowingly to act as a principal or as an agent for anyone other than the state when the former employee is barred under subsection (b) of this section.

(d) Selling to State After Termination of Employment Is Prohibited.

(1) It is a breach of ethical standards for a former employee, unless the former employee's last annual salary based on the state fiscal year did not exceed fifteen thousand dollars ($15,000), to engage in selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased.

(2) As used in this subsection, “selling or attempting to sell” means:

(A) Signing a bid, proposal, or contract;

(B) Negotiating a contract;

(C) Contacting an employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract;

(D) Settling disputes concerning performance of a contract; or

(E) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract for the sale is subsequently negotiated by another person.

(e) (1) This section does not preclude a former employee from accepting employment with private industry solely because his or her employer is a contractor with this state.

(2) This section does not preclude an employee, a former employee, or a partner of an employee or former employee from filing an action as a taxpayer for alleged violations of this subchapter.

19-64-207. Use of confidential information.

It is a breach of ethical standards for an employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

19-64-208. Public access to procurement information.

Procurement information is a public record to the extent provided in the Freedom of Information Act of 1967, § 25-19-101 et seq., except as otherwise provided in this chapter and the Arkansas Procurement Law, § 19-61-101 et seq.

Subchapter 3 — Remedies for Breach of Ethical Standards

19-64-301. Civil and administrative remedies against employees who breach ethical standards.

(a) Existing Remedies Not Impaired. Civil and administrative remedies against employees that are in existence on July 1, 1979, shall not be impaired.

(b) Supplemental Remedies. In addition to existing remedies for breach of the ethical standards of this chapter, or rules promulgated under this chapter, the Secretary of the Department of Shared Administrative Services may impose any one (1) or more of the following upon an employee:

(1) Oral or written warnings or reprimands;

(2) Forfeiture of pay without suspension;

(3) Suspension with or without pay for specified periods of time; and

(4) Termination of employment.

(c) Right to Recover from Employee Value Received in Breach of Ethical Standards. The value of anything received by an employee in breach of the ethical standards of this chapter, or rules promulgated under this chapter, is recoverable by the state as provided in § 19-64-303, which refers to recovery of value transferred or received in breach of ethical standards.

(d) Due Process. Notice and an opportunity for a hearing shall be provided before imposition of any of the remedies set forth in subsection (b) of this section.

19-64-302. Civil and administrative remedies against nonemployees who breach ethical standards.

(a) Existing Remedies Not Impaired. Civil and administrative remedies against nonemployees that are in existence on July 1, 1979, shall not be impaired.

(b) Supplemental Remedies. In addition to the existing remedies for breach of the ethical standards of this chapter, or rules promulgated under this chapter, the Secretary of the Department of Shared Administrative Services may impose any one (1) or more of the following upon a nonemployee:

(1) Oral or written warnings or reprimands;

(2) Termination of transactions; and

(3) Suspension or debarment from being a contractor or subcontractor under state contracts.

(c) Right to Recover from Nonemployee Value Transferred in Breach of Ethical Standards. The value of anything transferred in breach of the ethical standards of this chapter, or rules promulgated under this chapter, by a nonemployee is recoverable by the state from the nonemployee as provided in § 19-64-303, which refers to recovery of value transferred or received in breach of ethical standards.

(d) Due Process. Notice and an opportunity for a hearing shall be provided before imposition of any of the remedies set forth in subsection (b) of this section.

19-64-303. Recovery of value transferred or received in breach of ethical standards.

(a) General Provisions. The value of anything transferred or received in breach of the ethical standards of this chapter, or rules promulgated under this chapter, by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

(b) Recovery of Kickbacks by the State.

(1) (A) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order under a subcontract, it shall be conclusively presumed that the amount of the kickback was included in the price of the subcontract or order and ultimately borne by the state and is recoverable under this chapter from the recipient.

(B) In addition, the amount of the kickback under subdivision (b)(1)(A) of this section may also be recovered from the subcontractor making the kickback.

(2) Recovery from one (1) offending party under this section does not preclude recovery from other offending parties.

Subchapter 4 — Duties of Secretary of the Department of Shared Administrative Services

19-64-401. Rules.

The Secretary of the Department of Shared Administrative Services shall promulgate rules to

implement this chapter and shall do so in accordance with this chapter and the applicable provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq. 23

19-64-402. Advisory opinions.

(a) (1) On written request of an employee or contractor and in consultation with the Attorney General, the Secretary of the Department of Shared Administrative Services may render a written advisory opinion regarding the appropriateness of the course of conduct to be followed in a proposed transaction.

(2) A request and a written advisory opinion under subdivision (a)(1) of this section may be published in the manner in which rules of this state are published.

(b) Compliance with the requirements of a written advisory opinion of the secretary rendered under this section constitutes compliance with the ethical standards of this chapter.

19 CAR § 1-121. Requesting an advisory opinion or waiver.

(a) (1) Requests for advisory opinions or requests for waivers must be submitted in writing to the Secretary of the Department of Shared Administrative Services and should clearly and concisely state whether the request is for an advisory opinion under Arkansas Code § 19-64-402, a waiver under Arkansas Code § 19-64-403, or both.

(2) To expedite handling of requests, if delivered by mail, the envelope containing a request should be clearly labeled as a request for an advisory opinion or a request for a waiver, as the case may be.

(3) Requests delivered by electronic means should be identified as a request for an advisory opinion or a request for a waiver, as the case may be, in the subject line and marked as important.

(b) Requests for advisory opinions or requests for waivers shall include as a minimum the following:

(1) The name and address of the requester or the requester's attorney;

(2) Appropriate identification of the proposed contract by reference to its contract number or solicitation number, if a number has been assigned;

(3) (A) Sufficient information and relevant background facts so that it is not necessary to infer any aspect of the situation on which the request is based, including but not limited to:

(i) The nature of the disclosed potential conflict of interest, including the relevant persons, relationships, financial interests, and direct or indirect participation in the procurement of the contract;

(ii) Information regarding the relevant state employee, including the:

(a) Employing state agency;

(b) Employee's dates of hire and termination;

(c) Employee's job scope and duties; and

(d) Employee's potential conflict of interest;

(iii) Information regarding the proposed contract, including the:

(a) Contracting state agency;

(b) Contract value;

(c) Work to be done under the contract; and

(d) Procurement method; and

(iv) Information regarding the contractor relevant to the contract and potential conflict of interest, including ownership interests and positions of control.

(B) Failure to provide such supporting information may result in the request being denied; and

(4) The using agency shall act to coordinate the individuals, requests, and documents involved and ensure sufficient information and relevant background facts are submitted.

(c) Requests for a waiver must additionally articulate why the interests of the state so require a waiver and granting of permission to proceed with the proposed transaction, or that the ethical conflict is insubstantial or remote.

Authority. Arkansas Code §§ 19-61-117, 19-64-401.

Codification Notes. This section was promulgated as R1:19-11-715 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-64-403. Waiver.

(a) On written request of an employee, the Secretary of the Department of Shared Administrative Services may grant the employee a written waiver from the application of § 19-64-202, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified.

(b) Waiver and permission under this section may be granted when the interests of the state require the waiver or permission or when the ethical conflict is insubstantial or remote.

Subchapter 5 — Miscellaneous Provisions

19-64-501. Participation in business incubators — Rules and guidelines.

(a) This chapter does not apply to faculty or staff of state-supported institutions of higher education participating in business incubators within this state.

(b)

(1) The Secretary of the Department of Shared Administrative Services shall promulgate rules pursuant to the procedure for adoption as provided under the Arkansas

Administrative Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a program allowing admittance to business incubators by faculty or staff of state-supported institutions of higher education or admittance by companies in which faculty or staff of state-supported institutions of higher education may hold an ownership interest.

(2) The program under this section may include guidelines setting forth full disclosure requirements, any limitations on ownership interests, maximum income amounts to be received, annual reporting to the General Assembly, mandatory levels of student participation and such other reasonable restrictions and requirements as are necessary to maintain the public trust while encouraging the facilitation of commercialization of university-generated technology or discovery.

19-64-502. Contracts or proposals between state-supported institution of higher education and its employees or former employees.

(a) (1) Notwithstanding anything in this chapter to the contrary, if, in either of the events in subdivisions (a)(1)(A) and (B) of this section, the contract or subcontract, solicitation, or proposal involves patents, copyrights, or other proprietary information in which a state-supported institution of higher education and an employee or former employee of the state-supported institution of higher education have rights or interests, provided that a contract or subcontract shall be approved by the governing board of the state-supported institution of higher education in a public meeting, it shall not be a violation of § 19-64-206, a conflict of interest, or a breach of ethical standards for:

(A) The state-supported institution of higher education to contract with a person or firm in which an employee or former employee of the state-supported institution of higher education has a financial interest; or

(B) The employee or former employee of the state-supported institution of higher education to participate directly or indirectly in a matter pertaining to a contract, subcontract, solicitation, or proposal for a contract or subcontract between a state-supported institution of higher education and a person or firm in which the employee or former employee has a financial interest.

(2) (A) Within thirty (30) days of the approval by the governing board of a state-supported institution of higher education of a contract, subcontract, solicitation, or proposal executed under subdivision (a)(1) of this section, the state-supported institution of higher education shall file a summary of the contract, subcontract, solicitation, or proposal with the president of the state-supported institution of higher education.

(B) Failure to file the required summary with the president of the state-supported institution of higher education as required under subdivision (a)(2)(A) of this section renders the contract null and void.

(b) (1) The Arkansas Procurement Law, § 19-61-101 et seq., and § 19-67-101 et seq. do not prevent a state agency from contracting for goods or services, including professional or consultant services, with an organization that employs or contracts with a regular, full-time, or

part-time employee of a state-supported institution of higher education in situations in which the employee of the state-supported institution of higher education will provide some or all of the goods or services under the contract.

(2) An organization or state agency entering into a contract described under this subsection shall comply with the Arkansas Procurement Law, § 19-61-101 et seq., and § 19-67-101 et seq. to the extent that the Arkansas Procurement Law, § 19-61-101 et seq., and § 19-67-101 et seq. do not conflict with this section.

(3) An employee of a state-supported institution of higher education who provides goods or services to a state agency through his or her association with an organization that has a contract with the state agency to provide goods or services shall obtain the requisite approvals under the policies of the state-supported institution of higher education by which he or she is employed and comply with all provisions of this chapter.

(c) (1) No later than January 31 each year, an employee or former employee contracting or receiving benefits under this section shall file with the Secretary of State on a form provided by the Secretary of State a disclosure of the type and amount of the contract or benefits received during the previous year.

(2) Failure to file the required form with the Secretary of State as required under subdivision (c)(1) of this section is a breach of ethical standards.

19-64-503. Special state employees — Conflicts of interest — Definitions.

(a) As used in this section:

(1) (A) "Conflict of interest" means a special state employee's direct or indirect pecuniary or other interest in a matter before a covered board.

(B) "Conflict of interest" includes without limitation the following:

(i) An offer of employment from an entity that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board;

(ii) Being an officer or employee of a business, association, or nonprofit organization that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board; and

(iii) Receiving compensation from an entity that is involved in a procurement matter or is involved in a discussion of a procurement matter with the covered board;

(2) (A) "Covered board" means:

(i) A commission, board, bureau, office, or other state instrumentality created within the executive branch; and

(ii) An entity that is created by rule, statute, legislative direction, executive order, or other informal means if the entity has decision-making authority over procurement criteria, contracts, appointment of individuals to negotiate procurement directly or indirectly, or the approval of procurements.

(B) "Covered board" does not include the following:

(i) The constitutional departments of the state;

(ii) The elected constitutional offices of the state;

(iii) The General Assembly, including the Legislative Council, the Legislative Joint Auditing Committee, and supporting agencies and bureaus of the General Assembly;

(iv) The Supreme Court;

(v) The Court of Appeals;

(vi) The circuit courts;

(vii) Prosecuting attorneys;

(viii) The Administrative Office of the Courts;

(ix) An institution of higher education;

(x) A municipal government;

(xi) A county government;

(xii) An interstate agency; or

(xiii) A legislative task force or committee if the legislative task force or committee only advises the General Assembly; and

(3) (A) "Special state employee" means a person appointed to a covered board, whether or not the person:

(i) Receives compensation for his or her services;

(ii) Receives reimbursement for travel expenses;

(iii) Receives per diem; or

(iv) Was appointed formally or informally.

(B) "Special state employee" does not include a constitutional officeholder or an ex officio or nonvoting member of an entity described in subdivision (a)(2)(A) of this section.

(b) A special state employee shall disclose a conflict of interest in a procurement matter before the covered board:

(1) Either:

(A) In writing to the head of the covered board; or

(B) Orally or in writing at a public meeting of the covered board if the disclosure is included in the minutes of the public meeting; and

(2) By filing a conflict of interest disclosure report with the Secretary of State within five (5) business days of the date the special state employee becomes aware of the conflict of interest.

(c) A special state employee shall not vote on, receive or read confidential materials related to, participate in discussion of, or attempt to influence the covered board's decision on a procurement matter if the special state employee has a conflict of interest in the procurement matter.

(d) A special state employee who is a lobbyist registered under § 21-8-601 shall recuse himself or herself from a procurement matter before the covered board if:

(1) The special state employee receives compensation as a lobbyist from an entity involved in the procurement matter; or

(2) The procurement matter involves a person or entity that is a competitor of a lobbying client of the special state employee.

(e) A special state employee or former special state employee shall not:

(1) Represent an entity other than the state in a matter in which he or she participated in making a decision, rendering approval or disapproval, making a recommendation, or rendering advice on behalf of the covered board; or

(2) Assist or represent a party for contingent compensation in a matter involving a covered board other than in a judicial, administrative, or quasi-judicial proceeding.

(f) A former special state employee shall not lobby a member or the staff of a covered board of which he or she is a former member for one (1) year after the cessation of the special state employee's membership on the covered board.

(g) A contract entered into by a covered board, including a renewal, extension, or amendment of a contract entered into by a covered board, shall include a statement that a special state employee has not been influenced by the vendor in the course of the procurement.

(h) (1) A complaint about a violation of this section may be filed with the Arkansas Ethics Commission.

(2) A violation of this section is grounds for discipline or removal of the special state employee by the commission.

(i) The commission shall promulgate rules regarding disciplinary and removal proceedings for special state employees.

CHAPTER 65 | PROCUREMENT OF PROFESSIONAL SERVICES

Subchapter 1 — General Provisions

19-65-101. Policy.

(a) It is the policy of the State of Arkansas that state agencies shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, architectural, engineering, construction management, and land surveying professional consultant services if:

(1) State agencies not exempt from review and approval of the Building Authority Division shall follow procedures established by the division for the procurement of architectural, engineering, land surveying, and construction management services; and

(2) Institutions of higher education exempt from review and approval of the division shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying, and construction management professional consultant services.

(b) It is the policy of the State of Arkansas and its political subdivisions that political subdivisions shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.

(c) For purposes of this chapter, a political subdivision of the state may elect not to use competitive bidding for other professional services not listed in subsection (b) of this section with a two-thirds (⅔) vote of the political subdivision's governing body.

19-65-102. Definitions.

As used in this chapter:

(1) (A) "Construction management" means a project delivery method based on an agreement in which a state agency, political subdivision, public school district, or institution of higher education acquires from a construction entity a series of services that include without limitation design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

(B) "Construction management" includes without limitation:

(i)(a) "Agency construction management", in which a political subdivision selects a construction manager to serve as an agent for the purpose of providing administration and management services.

(b) The construction manager shall not hold subcontracts for the project or provide project bonding for the project;

(ii) "At-risk construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor and the following conditions are met:

(a) The construction manager provides a maximum guaranteed price;

(b) The political subdivision holds all trade contracts and purchase orders; and

(c) The portion of the project not covered by the trade contracts is bonded and guaranteed by the construction manager; and

(iii) (a) "General contractor construction management", in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor.

(b) The general contractor shall hold all trade contracts and purchase orders and shall bond and guarantee the project;

(2) "Political subdivision" means a county, school district, city of the first class, city of the second class, incorporated town, and all other bodies politic; and

(3) "Other professional services" means professional services not listed in § 19-65-101(b) as defined by a political subdivision with a two-thirds (⅔) vote of its governing body.

19 CAR § 1-901. Building Authority Division criteria.

(a) The guidelines and procedures established by the Building Authority Division shall be used by all agencies, except those exempt from division review, in selecting architects, land surveyors, and engineers for state construction projects.

(b) Refer to the Architectural Section of the Building Authority Division Minimum Standards and Criteria, Professional Services Selection Procedures for State Agencies.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-801 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-902. Procedures for approval of architects, interior designers, and engineers and land surveyor contracts.

(a) (1) With the exception of those agencies exempt from Building Authority Division review, all contracts for architectural, interior design, and engineering and land surveyor services must be first reviewed by the division for its recommendation and approval as to the propriety and legality of the contract.

(2) Agencies shall submit contracts requiring division review in accordance with the time guidelines as prescribed on the Office of State Procurement website.

(3) After receiving the recommendation and approval of the division, the office shall review and prepare such contracts for their ultimate submission to the Legislative Council or the Joint Budget Committee.

(b) (1) In the event the division refuses to give a favorable recommendation to the propriety of the contract, the agency involved may request the Legislative Council to review the decision of the division.

(2) The Legislative Council may then:

(A) Request the division to review their previous decision;

(B) Abide by the decision of the division; or

(C) Request the agency to make changes in the contract.

(c) The division shall not have the final authority to deny a contract solely on the basis of its propriety.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-801 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

Subchapter 2 — Certain Professional Services Procured by the State and Political Subdivisions

19-65-201. Annual statements of qualifications — Restrictions on competitive bidding.

(a) In the procurement of professional services, a state agency or political subdivision that utilizes the professional services may encourage firms engaged in the lawful practice of professions offering professional services to submit annual statements of qualifications to the state agency or political subdivision or may request such information as needed for a particular public project.

(b) The state agency or political subdivision shall evaluate current statements of qualifications of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c) (1) A political subdivision shall not use competitive bidding for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consulting services.

(2) A political subdivision may elect to not use competitive bidding for the procurement of other professional services without a two-thirds (⅔) vote of the political subdivision's governing body.

(d) (1) A public school district that utilizes construction management services shall encourage construction management firms to submit to the school district annual statements of qualifications or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications on file with the public school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

(e) (1) A request for qualifications under this section may be used for certain procurements through a request for qualifications other than legal, architectural, engineering, construction management, land surveying, and interior design services if the:

(A) State Procurement Director approves the use of a request for qualifications and determines that it is the most suitable method of procurement; and

(B) Approval of the director under subdivision (e)(1)(A) of this section is submitted to the Legislative Council for review.

(2) In determining whether a request for qualifications under this subsection is the most suitable method of procurement, the director shall consider, based on information submitted by the requesting state agency:

(A) Why the request for qualifications is the most suitable method of procurement;

(B) Why cost should not be considered in the procurement; and

(C) How the cost of the contract will be controlled if cost is not a factor in the procurement.

19 CAR § 1-903. Request for qualifications (RFQ) procurement method used in the establishment of professional and consultant service contracts.

(a) **Request for qualifications (RFQ).**

(1) The request for qualifications is, in the absence of sole-source justification, the procurement method recommended when contracting for architectural, engineering, land surveying, legal, and interior design services.

(2) It may also be used, with prior approval from the Office of State Procurement and review by the Legislative Council or the Joint Budget Committee, as the selection method for other PCS contracts when it is determined to be the most suitable method of contracting.

(b) (1) The RFQ is sent to those vendors registered with the office for the scope of work or services required, or vendors recommended to the office as best suited to perform the work specified.

(2) Notification to the public must be in accordance with the provisions of Arkansas Code § 19-61-505(d).

(3) The agency makes its initial selection based upon the respondent's qualifications.

(4) Only after the most qualified respondent is identified does cost become a factor in determining the award.

(5) Discussions may be conducted with responsible offerors who, based upon qualifications submitted, are determined to be reasonably susceptible of being selected for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements, and to obtain best and final offers.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-802 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-65-202. Evaluation of qualifications.

In evaluating the qualifications of each firm, the state agency or political subdivision shall consider:

(1) The specialized experience and technical competence of the firm with respect to the type of professional services required;

(2) The capacity and capability of the firm to perform the work in question, including

specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and

(4) The firm's proximity to and familiarity with the area in which the project is located.

19-65-203. Selection.

(a) A state agency or political subdivision shall select three (3) qualified firms under this chapter.

(b) The state agency or political subdivision shall then select the firm considered the best-qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

19-65-204. Negotiation of contracts.

(a) For the basis of negotiations under this chapter, a state agency or political subdivision and the selected firm shall jointly prepare a detailed, written description of the scope of the proposed services.

(b) (1) (A) If a state agency or political subdivision is unable to negotiate a satisfactory contract under this chapter with the firm selected, negotiations with that firm shall be terminated.

(B) The state agency or political subdivision shall then undertake negotiations with another of the qualified firms selected.

(2) (A) If there is a failing of accord with the second firm, negotiations with the firm shall be terminated.

(B) The state agency or political subdivision shall then undertake negotiations with the third qualified firm.

(c) If a state agency or political subdivision is unable to negotiate a contract with any of the selected firms under this chapter, the state agency or political subdivision shall reevaluate the necessary professional services, including the scope and reasonable fee requirements, again compile a list of qualified firms, and proceed in accordance with this chapter.

(d) When unable to negotiate a contract for construction management under this chapter, a public school district also shall perform a reevaluation of services in accordance with subsection (c) of this section.

19-65-205. Design-build construction — Definitions.

(a) As used in this section:

(1) “Design-build” means a project delivery method in which the school district acquires both design and construction services in the same contract from a single legal entity, referred to as the “design-builder”, without competitive bidding;

(2) (A) “Design-builder” means any individual, partnership, joint venture, corporation, or other legal entity that is appropriately licensed in the State of Arkansas and that furnishes

the necessary design services, in addition to the construction of the work, whether by itself or through subcontracts, including without limitation subcontracts for architectural services, landscape architectural services, and engineering services.

(B) Architectural services, landscape architectural services, and engineering services shall be performed by an architect, landscape architect, or engineer licensed in the State of Arkansas.

(C) Construction contracting shall be performed by a contractor qualified and licensed under Arkansas law; and

(3) "Design-build contract" means the contract between the school district and a design-builder to furnish the architecture, engineering, and related services as required and to furnish the labor, materials, and other construction services for the same project.

(b) (1) A school district may use design-build construction as a project delivery method for building, altering, repairing, improving, maintaining, or demolishing any structure, or any improvement to real property owned by the school district.

(2) The design-builder shall contract directly with subcontractors and shall be responsible for the bonding of the project.

(3) A project using design-build construction shall comply with state and federal law.

(c) The Division of Public School Academic Facilities and Transportation shall develop and promulgate rules consistent with this section concerning the use of design-build construction by school districts.

CHAPTER 66 | PURCHASES OF WORK CENTER PRODUCTS AND SERVICES

19-66-101. Definitions.

(a) As used in this chapter:

(1) "Commodities" means all property, including without limitation equipment, printing, stationery, supplies, and insurance, but excluding real property, leases on real property, or a permanent interest in real property;

(2) "Fiscal year" means July 1 of one (1) year through June 30 of the next year;

(3) "Individuals with disabilities" means those persons who have a medically or psychiatrically determined physical, mental, or developmental disability constituting a substantial vocational handicap;

(4) "Ordering office" means a state department, independent establishment, board, commission, bureau, service, or division of state government and a wholly owned state corporation;

(5) "Products" means commodities or services for which the price of the commodities includes at least twenty percent (20%) value added when the work center is awarded a contract using the ten percent (10%) preference, and in the case of services, that the services are performed by individuals with disabilities;

(6) (A) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance.

(B) "Services" does not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of the Building Authority Division;

(7) "Sheltered workshop" means a work center that has:

(A) Certification from the United States Department of Labor as a sheltered workshop; and

(B) Been licensed by the Division of Developmental Disabilities Services or certified by Arkansas Rehabilitation Services;

(8) (A) "Work center" means a facility certified by Arkansas Rehabilitation Services where any manufacture or handiwork is carried on and that is operated for the primary purpose of providing evaluation, training, and gainful employment to individuals with disabilities in Arkansas:

(i) As an interim step in the rehabilitation process for those individuals with disabilities in Arkansas who cannot be readily absorbed in the competitive labor market; or

(ii) During such time as employment opportunities for the individuals with disabilities in Arkansas in the competitive labor market do not exist.

(B) "Work center" includes without limitation:

(i) A sheltered work center; and

(ii) A work center for the blind; and

(9) "Work center for the blind" means a facility certified by the Division of State Services for the Blind where the manufacture, handiwork, or provision of services is carried on and that is operated to provide evaluation, training, and gainful employment to individuals in the State of Arkansas eligible for services from the Division of State Services for the Blind:

(A) As an interim step in the rehabilitation process for those individuals in the State of Arkansas eligible for service from the Division of State Services for the Blind who cannot be readily absorbed in the competitive labor market;

(B) During such time as employment opportunities for individuals in the State of Arkansas eligible for service from the Division of State Services for the Blind in the competitive labor market do not exist; or

(C) For whom such placement represents informed choice as appropriate employment at a competitive wage.

19-66-102. Purchase required — Exception.

(a) All suitable commodities and services, including small purchases, procured according to

applicable state specifications by or for a state department, institution, or agency shall be procured from nonprofit work centers for individuals with disabilities in all cases when the commodities and services are available within the period specified and at the fair market price for the commodities and services so procured.

(b) Services offered by work centers shall be procured by competitive sealed bidding as specified by § 19-61-505, competitive sealed proposals as specified by § 19-61-506, or competitive bidding as specified by § 19-61-504, subject to purchase exceptions set forth in § 19-66-103 — 19-66-105.

(c) This section does not apply in any cases in which commodities and services are available for procurement from a state department, institution, or agency, and procurement from the state department, institution, or agency is required under a law in effect on or after March 1, 1991.

19 CAR § 1-1005. Purchase procedure.

In the case of small order procurement, competitive bidding, and competitive sealed bidding and proposals, the agency shall procure commodities and services from the work centers when contract terms and specifications are equal and the price is not more than ten percent (10%) above the lowest competitive price obtained from a non-work center.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R5:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-66-103. Purchase required — Schedule of commodities and services — Failure by work center.

(a) All state agencies as defined in § 19-61-103 are required to purchase their requirements of needed available and suitable products and purchase suitable services from nonprofit work centers for individuals with disabilities, unless such products and services are authorized by prior legislation for production in another state agency, department, or institution.

(b) (1) The Office of State Procurement shall issue to all state agency purchasing agents a schedule of commodities and services made by work centers and the conditions under which commodities and services are to be procured from the work centers.

(2) The schedule shall include the commodity or service description.

(c) When a commodity or service is identified in the schedule of work center-made commodities and services as being available through the Office of State Procurement, the commodity or service shall be obtained in accordance with the requisitioning procedures of the supplying state agency.

(d) (1) An ordering office may purchase from a non-work-center source commodities or services listed in the schedule of commodities and services made by the work center in any of the following circumstances:

(A) Necessity requires delivery within the specified period, and the work center cannot

give assurance of positive availability; or

(B) When commodities listed on the schedule of work-center-made commodities can be purchased from a non-work-center source by the state agency for a price more than ten percent (10%) lower than commodities made by the work center included in the schedule.

(2) Services offered by any work center shall be procured by any state agency in accordance with this section at a price not more than ten percent (10%) above the lowest price submitted from a non-work-center source.

(e) Product commodities made by a work center shall be delivered in accordance with the terms of the purchase order.

(f) When a work center fails to comply with the terms of a government order, the ordering office shall make reasonable efforts to negotiate an adjustment before taking action to cancel the government order.

19 CAR § 1-1003. Work center product and service schedules.

(a) Work centers must provide a schedule of their commodities, services, and prices to Office of State Procurement.

(b) Ordering offices will contract directly with work centers.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-1006. Reporting.

(a) Agencies must document purchases of work-center-made products as well as purchases of non-work center made commodities and services when work centers are competing but were unsuccessful in obtaining the contract.

(b) Semiannual reports including the circumstances and documentation of purchase exceptions shall be submitted to the Office of State Procurement.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R6:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-66-104. Work center qualification.

(a) Arkansas Rehabilitation Services and the Division of State Services for the Blind shall undertake the inspection on a continuing basis of the work centers certified by each respective state agency to determine that the work centers operate in accordance with the requirements of this chapter and the rules promulgated under this chapter.

(b) (1) In order to qualify for participation in the program as a work center, an organization shall submit an application to the Office of State Procurement.

(2) If required for all vendors, the organization shall include in the application a list of the commodities and services offered for sale to the state.

(c) A work center shall:

(1) Furnish commodities and services in strict accordance with the allocation and government order;

(2) Maintain records of wages paid, hours of employment, and sales;

(3) Make available pertinent books and records of the state agency for inspection at any reasonable time to representatives of Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable; and

(4) (A) Submit to Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable, by September 1 an annual report for the preceding fiscal year.

(B) The annual report under subdivision (c)(4)(A) of this section shall include:

(i) Data on individuals with disabilities who are workers;

(ii) Wages and wage supplements;

(iii) Hours of employment;

(iv) Sales;

(v) Whether the work center requires a facilities-sheltered workshop certificate from the United States Department of Labor and special minimum rates authorized where the certificate is held; and

(vi) Such other relevant information as may be required.

19 CAR § 1-1002. Work center certification.

(a) Before commodities and services may be procured from work centers, the work center will be required to maintain evidence of certification from:

(1) The United States Department of Labor as a sheltered workshop and a license from the Division of Developmental Disabilities Services; or

(2) Arkansas Rehabilitation Services.

(b) Before commodities or services may be procured from a work center for the blind, such work center will be required to maintain evidence of certification from the Division of State Services for the Blind.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-1004. Work center applications for bidding.

(a) All work centers that wish to participate in the Work Center-Made Products Program will be required to register as a vendor with the Office of State Procurement.

(b) The office may check with Arkansas Rehabilitation Services, the Division of Developmental Disabilities Services, and the United States Department of Labor to verify certification or certifications.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-66-105. Rules — Violations.

(a) The Office of State Procurement shall promulgate rules governing implementation of this chapter.

(b) (1) The office shall investigate an alleged violation of the rules promulgated under this chapter.

(2) The office shall notify the work center concerned in the investigation by the office under subdivision (b)(1) of this section and afford the work center an opportunity to submit a statement of facts and evidence.

19 CAR § 1-1001. Work Center-Made Products Program rules.

(a) For the purposes of the Work Center-Made Products Program, the fair market price of commodities offered in a competitive environment shall be at least twenty percent (20%) more than the cost of materials.

(b) In the case of services, those services must be performed by disabled individuals directly under the control of work center representatives.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-902 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

Local Farm and Food Products Procurement — Ark. Code Ann. §§ 15-4-3801 to 15-4-3808

Editorial note: The Local Farm and Food Products Procurement Act, Ark. Code Ann. §§ 15-4-3801 to 15-4-3808, is codified in Title 15 rather than Title 19, Subtitle 4, but it is administered by the Office of State Procurement and is implemented by two rules in 19 CAR Part 1. Those rules are set out below so that all 122 numbered sections of 19 CAR Part 1 are accounted for in this compilation.

19 CAR § 1-1101. Definitions.

(a) "Local farm or food products" includes Arkansas agricultural products that have met the requirements of the Arkansas Grown Branding Program administered through the Department of Agriculture.

(b)(1) "Packaged and processed" means bottled, canned, cartoned, securely bagged, or securely

wrapped, whether packaged in a food service establishment or a food processing plant.

(2) "Packaged and processed" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer or recipient.

(c) "On campus cafeteria" does not include a franchise as defined by Arkansas Code § 4-72-202.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:15-4-3803 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-1102. Procurement goal — Preference — Method of procurement for purchase of food products.

(a)(1) An agency should utilize an appropriate method of procurement as prescribed in the Arkansas Procurement Law, Arkansas Code § 19-61-101 et seq., for the purchase of food products.

(2) This may be a competitive sealed bid if price alone is being considered as the determinative factor or a request for proposals if other factors, such as a history of health code violations, are being considered.

(3) A cooperative purchasing agreement may also be an appropriate mechanism for procuring local farm or food products as a means of reducing the administrative cost of food procurement.

(b) In the event an agency utilizes a procurement method wherein a contract is to be awarded to the lowest responsive bidder, such as competitive sealed bidding, the lowest bid should be accepted only if the bid does not exceed the lowest bid from a provider of local food or farm products by more than ten percent (10%) and if the bidder submitting the lowest bid is not a provider of local farm or food products.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:15-4-3804 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

Appendix A. [Repealed]

Codification Notes. Appendix A, Technology Access Clause, to this part was repealed by Ark. R. 2026-76 (eff. July 2, 2026).

CHAPTER 67 | PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS

Subchapter 1 — General Provisions

19-67-101. Definitions.

As used in this chapter:

(1) “Consultant services contract” means a contract between a state agency and an individual or organization in which:

(A) The service to be rendered to the state agency or to a third-party beneficiary under the contract is primarily the giving of advice by the contractor on a particular problem facing the state agency or the third-party beneficiary;

(B) The contractor is an independent contractor with respect to the state agency;

(C) The state agency does not exercise managerial control over the day-to-day activities of the contractor; and

(D) The contract specifies the results expected from the services to be rendered by the contractor and the advice or assistance to be provided;

(2) “Contractor” means a person or organization that executes a contract with a state agency under which the person or organization agrees to provide professional services or consultant services to the state agency, and the individuals performing the services are not state employees occupying regular full-time or part-time or extra help positions provided by law;

(3) (A) “Design professional contract” means a contract that is primarily for:

(i) Minor projects that are time-critical; and

(ii) Remodeling projects that do not exceed two million dollars ($2,000,000) in cost.

(B) Design professional contracts are primarily for the procurement of architectural, engineering, and professional services competitively selected under §§ 19-65-101, 19-65-102, and 19-65-201 — 19-65-205.

(C) Design professional contracts shall be reviewed by the state agency or institution at least yearly and adjusted to reflect historical expenditures.

(D) (i) A state agency shall follow applicable Building Authority Division guidelines, procedures, and rules for the selection and award of contracts.

(ii) However, a guideline, procedure, or rule of the division shall not increase or decrease the:

(a) Dollar amount under subdivision (3)(A)(ii) of this section; or

(b) Specified period under § 19-61-512(a).

(E) Institutions of higher education that are exempt from review and approval of the division shall comply with this section;

(4) “Employee” means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing professional services for any state agency;

(5) “Professional services contract” means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent

contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;

(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary; and

(6) "State agency" means a department, agency, board, commission, or institution of higher education of the State of Arkansas.

19-67-102. Purpose of contracts.

The principal purpose of a professional services contract or a consultant services contract is the procurement of services by the state agency rather than the procurement of commodities.

19-67-103. Contracts exempted.

This chapter does not apply to:

(1) The contracts of the Arkansas Department of Transportation that are covered by the technical work requirements and administrative controls of the Federal Highway Administration;

(2) Contracts entered into by the department in which the costs and fees are established by competitive bidding;

(3) Contracts of institutions of higher education that are for services related to patents, copyrights, or trademarks; or

(4) Contracts created under federally approved state plans for services reimbursed under Title V of the Social Security Act, 42 U.S.C. §§ 701 — 710, or Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 — 1396v, as they existed on January 1, 2001, if those contracts and services conform to all applicable federal laws and rules, and to the ethical standards provided for in § 19-64-201.

19-67-104. Restrictions on contracts.

(a) A contract under this chapter shall not be used to avoid the purpose or the spirit of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

(b) A contract shall not be approved that would be in violation of § 19-4-701 et seq. relating to expenditures.

(c) (1) Except as provided in this subsection, a state agency shall not engage in a professional services or consultant services contract with a part-time or full-time employee who occupies a position authorized to be paid from extra help or regular salaries for a state agency, except as

provided in § 21-1-403.

(2) However, this subsection does not prohibit an institution of higher education from executing a contract with a state agency under which professional or consulting services will be performed by employees of the institution of higher education.

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the Commissioner of the Division of Higher Education concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized by law for the employee's position with the institution of higher education.

(d) A director or any other department head of a state agency shall not receive additional compensation under this chapter.

(e) (1) A contract under which a state agency retains day-to-day managerial control over the person performing the services or in which the relationship between the contractor and the state agency is that of employer and employee is not a professional services contract and is prohibited.

(2) However, the Office of State Technology may employ persons over whom they exercise day-to-day managerial control for those services under § 25-4-112 for which professional services contracts may be used.

Subchapter 2 — Procedural Requirements — Guidelines and Rules

19-67-201. General guidelines and rules.

The State Procurement Director, after soliciting suggestions from state agencies and after seeking and receiving the advice of the Attorney General and review by the Legislative Council or by the Joint Budget Committee, if the General Assembly is in session, shall publish general guidelines for the procurement of professional and consultant services contracts and general rules governing the use of each type of contract.

19-67-202. Certification by agency head.

The head of a state agency shall certify by his or her signature on each contract entered into by that state agency that:

(1) All information required by law and by rule is supplied;

(2) The proper contracting form is utilized;

(3) All information contained in the contract is true and correct to the best of his or her knowledge and belief;

(4) All general guidelines prescribed by the State Procurement Director have been complied with;

(5) The services proposed to be provided under the contract are necessary for operation of the state agency in fulfilling its legal responsibilities and cannot be provided by any existing state agency;

(6) The contractor is fully qualified to perform the contract and does not have a vested interest in the subject matter of the contract that would constitute a conflict of interest and a bar to the contractor's providing services of a professional and disinterested quality;

(7) The contract terms are reasonable and the benefits to be derived are sufficient to warrant the expenditure of the funds called for in the contract;

(8) Sufficient funds are available to pay the obligations when the obligations become due; and

(9) A projected total cost of the contract is provided to include expenditures that may be incurred under all available periods of extension if the extensions were executed.

19-67-203. Approval or disapproval of contracts.

(a) The State Procurement Director may make whatever additional inquiry he or she deems necessary and may require that additional information be supplied if he or she has reason to believe that the contract should be rejected because it does not comply with this chapter.

(b) The director shall return to the contracting state agency any contract that fails to comply with the applicable laws and rules governing the contract and shall approve any contract that complies with this chapter.

(c) (1) The director has final authority over the supervision and approval of all contracts described in this chapter.

(2) However, the director shall seek review of the Legislative Council or the Joint Budget Committee before approving or disapproving any contract or class or group of contracts authorized under this chapter, unless the Legislative Council or Joint Budget Committee specifically exempts the contract or class or group of contracts by formal committee action.

19 CAR § 1-904. Procedures for approval of architects, interior designers, engineers, and land surveyor contracts.

(a) (1) With the exception of those agencies exempt from Building Authority Division review, all contracts for architectural, interior design, and engineering and land surveyor services must be first reviewed by the division for its recommendation and approval as to the propriety and legality of the contract.

(2) Agencies shall submit contracts requiring division review in accordance with the time guidelines as prescribed on the Office of State Procurement website.

(3) After receiving the recommendation and approval of the division, the office shall review and prepare such contracts for their ultimate submission to the Legislative Council or the Joint Budget Committee.

(b) (1) In the event the division refuses to give a favorable recommendation to the propriety of the contract, the agency involved may request the Legislative Council to review the decision of the division.

(2) The Legislative Council may then request the division to:

(A) Review their previous decision;

(B) Abide by the decision of the division; or

(C) Request the agency to make changes in the contract.

(c) In no event shall the division have the final authority to deny a contract solely on the basis of its propriety.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-1008 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-905. [Repealed]

Codification Notes. 19 CAR § 1-905, concerning the procedures for approval of information technology products or services, was repealed by Ark. R. 2026-76 (eff. July 2, 2026).

19-67-204. Filing of contracts.

Service contracts filed with a state agency under § 19-4-1108 shall be available for public inspection and auditing purposes.

19 CAR § 1-906. Professional and consultant service contracts on file at a state agency.

Professional and consultant service contracts on file with a state agency shall be available for public inspection to the extent permitted by Arkansas state freedom of information laws.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-1009 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-67-205. Review requirement.

(a) (1) Every contract for professional consultant services covered by this chapter that is executed using the professional and consultant services contract form approved by the State Procurement Director shall be filed with the Office of State Procurement.

(2) The execution date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract is to begin and not the date upon which the agreement was made.

(b) (1) A purchase order shall not be paid if a copy of the contract under which the payment is being made has not previously been filed with the Office of State Procurement.

(2) A payment shall not be made covering services rendered before the execution date of

the contract.

(c) (1) It is the intent of the General Assembly that this section be strictly construed and enforced.

(2) However, in the unusual event that an obligation for services has been incurred by a state agency under a contractual agreement or proposed contract before the approval of the contract, the Chief Fiscal Officer of the State may approve payment for such services after having first received the review of the Legislative Council.

19 CAR § 1-907. Professional and consultant service contracts on file in the Office of State Procurement.

All agencies will be required to maintain copies in accordance with current document retention laws, Arkansas Code § 19-61-111, of all purchase orders issued for the procurement of professional and consultant services.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-1011 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19-67-206. Standard contract forms.

(a) The State Procurement Director shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items, plus such additional items as the director shall deem desirable for the purposes of this chapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the state agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars that the state agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6) (A) The names of all individuals who will be supplying services to the state agency or to third-party beneficiaries under the terms of the contract, so far as those names are known to the contractor at the time of the execution of the contract.

(B) If the names of all individuals supplying services under the contract are not available

at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) When the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8) (A) A certification signed by the contractor shall be included as follows: "_____(name)_____(title) I _____, certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract."

(B) As used in subdivision (b)(8)(A) of this section, it is understood that when the contractor is a widely held public corporation "direct or indirect monetary benefit" does not apply to any regular corporate dividends paid to a stockholder of the corporation who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9) (A) For a contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed fifty thousand dollars ($50,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the director.

(B) (i) However, if the state agency enters into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract that utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the director.

(ii) Reporting under subdivision (b)(9)(B)(i) of this section shall be done to allow the director to determine whether the state agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate rules;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause: "In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes. "This provision shall not be construed to abridge any other right of termination the agency may have."

(c) For the purpose of reporting methods of finance, a state agency shall disclose the total estimated project cost in addition to any other reporting requirements of the Legislative Council or the Joint Budget Committee.

19 CAR § 1-908. Compensation.

(a) Each professional and consultant service contract shall clearly state the compensation and indicate if various levels of expertise are to be supplied by the contractor.

(b) A rate for each level and the number of personnel within each level should be listed.

(c) All calculations should be extended and totaled.

(d) A schedule of allowable reimbursable expenses and estimated rates for each item of expense should be agreed to.

(e) All items should be listed along with respective rates.

(f) Rates should be totaled by item column, and a total compensation provided that is inclusive of reimbursable expenses.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:19-11-1012 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-909. Contract dates.

(a) For each professional and consultant service contract form submitted, the agency is required to enter the beginning and ending date of the contract.

(b) The beginning date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract are to begin and not the date upon which the agreement was signed.

(c) This date should be arrived at with emphasis placed on the following:

(1) (A) Any contract or amendment to a contract that requires review by the Legislative Council or Joint Budget Committee must be submitted to the Office of State Procurement in accordance with the time guidelines as prescribed on the office website.

(B) The beginning date of the contract must not precede the date of the Legislative Council meeting in which such contract is to be reviewed.

(C) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with their review as to the propriety of the contract within thirty (30) days of said submission to the Legislative Council or Joint Budget Committee; and

(2) All professional and consultant service contracts with fifty thousand dollars ($50,000) or more in any one (1) year of the contract's term, or if the total projected contract amount, including any amendments or possible extensions, is three hundred fifty thousand dollars ($350,000) or more unless they are contracts for critical emergency procurements or are otherwise exempted from the submission requirements of Arkansas Code § 19-61-116, must be filed with the office for review by the Legislative Council or Joint Budget Committee.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R2:19-11-1012 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

History. Ark. R. 2026-76 (eff. July 2, 2026)

19 CAR § 1-910. Required information.

(a) Information should be provided on each professional and consultant service contract form listing the name and relationship of those persons who will be supplying services to the state agency insofar as they are known at the time the contract is signed.

(b) If the names are not known at the time of the execution of the contract, the contractor shall submit the names along with the other information as they become known.

(c) Such persons shall, for all purposes, be employees or independent contractors operating under the control of the contractor (subcontractors), and nothing herein shall be construed to create an employment relationship between the agencies and the persons listed.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R3:19-11-1012 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19 CAR § 1-911. Professional and consultant service contract form.

Each contract should be completed and include the following information:

(1) (A) Agency assigned contract number or outline agreement and amendment number.

(B) For those contracts for which payment will be made wholly or in part against a method of financing, enter the assigned method of financing on the contract form;

(2) (A) Date the agreement was signed by the agency and the contractor, the outline agreement or contract number, and the vendor number.

(B) Also enter the agency's code (or business area) and title, division, if applicable, and the contractor's federal ID number, name, and address;

(3) Funding source:

(A) State;

(B) Federal;

(C) Cash;

(D) Trust; or

(E) Other (specify);

(4) Any resources to be provided by the agency to the contractor as part of the agreement;

(5) Name of the agency representative who will represent the agency in coordinating the work of the contractor; and

(6) (A) Disclose all information as required under the terms of any existing executive order.

(B) The contractor shall also require the subcontractor to disclose the same information.

(C) Any existing contract and grant disclosure and certification form shall be used for

this purpose.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R4:19-11-1012 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

19-67-207. Compliance reporting — Definition.

(a) Each report required under this chapter shall be copied to the Secretary of the Department of Shared Administrative Services, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-501 et seq.

(b) If the secretary determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-501 et seq., the secretary shall notify the chief executive officer of the relevant state agency.

19-67-208. Cancellation of contract on entry of final business closure order — Definition.

(a) As used in this chapter, "final business closure order" means a business closure order for which a contractor has either:

(1) Waived further administrative review under § 26-18-1001 et seq.; or

(2) Exhausted all remedies to appeal under § 26-18-1001 et seq.

(b) The Revenue Division of the Department of Finance and Administration shall provide to the Office of State Procurement all final business closure orders entered into against a contractor.

(c) Upon receipt of a final business closure order, the office shall, as soon as reasonably practicable:

(1) Notify each state agency with which the contractor has a contract that the:

(A) Contractor is subject to a final business closure order; and

(B) Provision of any goods or services, or both, under a contract with the contractor that is subject to a final business closure order shall cease as soon as reasonably practicable; and

(2) Notify all state agencies that the contractor that is subject to a final business closure order shall not be awarded or maintain a contract with a state agency unless the office provides notice under subsection (d) of this section.

(d) Upon receipt of information that a contractor has resolved a business closure, the office shall notify all state agencies, as soon as reasonably practicable, that:

(1) Any unexpired contracts with the contractor may continue if the contract was not terminated, cancelled, suspended, or discontinued; and

(2) The contractor may be awarded or maintain a contract with a state agency.

APPENDIX 1 MOTOR VEHICLES

TITLE 22 PUBLIC PROPERTY

CHAPTER 8 | MOTOR VEHICLES

Subchapter 1 — General Provisions

22-8-101. Registration of state-owned motor vehicles – Report.

(a) (1) In order that a complete inventory of all state-owned motor vehicles is maintained, every state agency, including the Arkansas Department of Transportation, the Arkansas State Game and Fish Commission, the Division of Arkansas State Police, the Arkansas National Guard, and all constitutional offices shall annually register each motor vehicle owned by the State of Arkansas with the Secretary of the Department of Finance and Administration in a manner prescribed by the secretary.

(2) The registration shall include a description of each motor vehicle, including the year, make, model, license number, vehicle identification number, and other information which the secretary might require.

(b) (1) Whenever any state agency sells or disposes of a motor vehicle, a complete record thereof shall be furnished to the secretary as authorization for the removal of the vehicle from the official state inventory.

(2) Whenever any state agency acquires a new or additional motor vehicle, the information required by this subsection to be placed in the state inventory shall be furnished to the secretary within ten (10) days after the acquisition of the vehicle by the agency.

(3) The secretary shall keep the inventory of motor vehicles owned by the State of Arkansas and its agencies current at all times, categorized in accordance with the motor vehicles owned by each of the respective state agencies.

(c) (1) The secretary shall make an annual report to the Legislative Council as to the number of motor vehicles owned by the State of Arkansas.

(2) The report shall include a comparison of the current inventory of motor vehicles with an inventory of the preceding year.

History. Acts 1977, No. 455, §§ 1, 2; A.S.A. 1947, §§ 14-524, 14-525; Acts 2017, No. 707, § 83; 2019, No. 910, § 3502.

22-8-102. Leasing and renting of vehicles by state agencies — Definitions.

(a) As used in this section:

(1) “Lease” means obtaining the use of a motor vehicle from any source for a monetary fee, for a period of thirty-one (31) days or more;

(2) “Rental” means obtaining the use of a motor vehicle from any source for a monetary fee for a period of thirty (30) days or less; and

(3) “State agency” means the same as defined in § 19-61-103.

(b) (1) Before any state agency leases any motor vehicle or renews any existing lease for a motor vehicle, the state agency shall submit a written request to the State Procurement Director identifying the motor vehicles sought to be leased by the state agency and all facts and circumstances the director may request to enable him or her to determine the economics, need, and feasibility of leasing the motor vehicle.

(2) Upon receipt, the director shall review the request to lease the motor vehicle, and if he or she determines that the lease is in the best interest of the State of Arkansas and that the state agency has adequate funds to pay the lease, he or she may approve the request but only if the proposed lease has been reviewed by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(3) If, after the Legislative Council or the Joint Budget Committee has reviewed the proposed lease of the motor vehicle, the director approves the proposed lease of the motor vehicle, the director shall stamp his or her approval on the request and return it to the state agency, which may proceed to enter into the lease as proposed and approved by the director.

(c) If the director disapproves a proposed lease of a motor vehicle, he or she shall stamp his or her disapproval on the request and return it to the state agency, and it shall be unlawful for the state agency to proceed to lease the motor vehicle.

(d) If federal assistance requirements or federal contract requirements conflict with this section, this section shall not prevent a state agency from complying with the terms and conditions of the federal assistance requirements or the federal contract requirements.

(e) It is a violation of state procurement laws, Arkansas Code Title 19, Chapter 11, for a state agency official to conduct multiple rentals of a motor vehicle to avoid the approval and review requirements of this section.

History. Acts 1977, No. 455, § 3; A.S.A. 1947, § 14-526; Acts 2001, No. 588, § 1; 2019, No. 417, § 10.

19 CAR § 1-122. Authority of director.

(a) For the purposes of this section, “the director” shall refer to the State Procurement Director.

(b) (1) All state agencies shall submit a written request to the director specifying all needed requirements for a lease of a vehicle.

(2) The Office of State Procurement will issue the solicitation based upon the criteria set forth by the agency to determine the lowest responsible and responsive bidder.

(3) The office will award the contract for the lease after review by the Legislative Council, or Joint Budget Committee when the General Assembly is in session.

Authority. Arkansas Code § 19-61-117.

Codification Notes. This section was promulgated as R1:22-8-102 of the Procurement Rules prior to codification into the Code of Arkansas Rules.

22-8-103. Penalty for noncompliance with §§ 22-8-101 and 22-8-102.

Any department head or employee of the State of Arkansas failing or refusing to carry out the

provisions of §§ 22-8-101 and 22-8-102 shall be deemed guilty of a Class B misdemeanor and upon conviction shall be punished in the manner provided by law.

History. Acts 1977, No. 455, § 4; A.S.A. 1947, § 14-527.

22-8-104. Private use of state or county vehicles — Penalty.

(a) It shall be unlawful for any state or county employee who is employed by the Arkansas Department of Transportation or by a county highway department, county judge, or road commissioner to use trucks and automobiles that belong to the state or county for any purpose other than performing actual service for the state or county.

(b) The use of publicly owned cars and trucks for individual use to make pleasure trips on Sundays and other holidays, except when going to and from the place of employment or transporting tools, material, and other supplies to places of necessity, is prohibited.

(c) The provisions of this section shall not be so construed as to prevent judges and road commissioners from making road inspection trips when the judge or road commissioner deems the inspections necessary.

(d) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50.00) and not more than one hundred dollars ($100).

History. Acts 1941, No. 318, §§ 1, 2; A.S.A. 1947, §§ 14-501, 14-502; Acts 2017, No. 707, § 84.

22-8-105. Global positioning devices on certain state-owned vehicles -- Definitions.

(a) As used in this section:

(1) “Global positioning device” means a device that can access a global navigation satellite system or that uses radio frequency information technology and provides reliable location and time information and is capable of recording the travel and location of a vehicle; and

(2)(A) “State-owned vehicles” means vehicles owned by cabinet-level departments of the executive branch of state government.

(B) “State-owned vehicles” does not include vehicles that are owned by a cabinet-level department of the executive branch of state government and used for law enforcement.

(b)(1) On or before January 1, 2028, a global positioning device shall be installed on all state-owned vehicles at the direction of the Department of Shared Administrative Services.

(2) Each state agency, board, or commission shall keep records of its state-owned vehicles' travels and locations as recorded by the global positioning device and shall provide the department with access to these records.

(c)(1) The records kept by a state agency, board, or commission under this section are subject

to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) However, disclosure shall not be made for the travels or locations of any state-owned vehicle under this section until thirty (30) days have elapsed after the travel or after the state-owned vehicle was at the location.

(d) The records kept by a state agency, board, or commission under this section are subject to audit by Arkansas Legislative Audit and shall be kept for at least five (5) years.

(e) The department may promulgate rules for the implementation and administration of this section.