

CHAPTER: 100

Agency Administration/Management

DEPARTMENT ORDER:

106 – Contract Beds

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OPS

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# Arizona Department of Corrections Rehabilitation and Reentry



Department Order Manual

A handwritten signature in black ink, appearing to read "David Shinn", is written over a horizontal line.

David Shinn, Director

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## **PURPOSE**

This Department Order establishes the responsibility of Contract Beds Bureau staff (and any other Department employees who may be temporarily assigned) to monitor, inspect, support, and oversee private prison operations to ensure compliance with federal and state law, applicable Department policy and the terms of contracts between the Department and private prison.

## **PROCEDURES**

### **1.0 PRIVATE PRISON OVERSIGHT**

- 1.1 The Assistant Director for Prison Operations shall ensure:
  - 1.1.1 Assigned staff coordinates the development of new, and renewals of existing, privatization projects and monitor the operations of private prisons.
  - 1.1.2 The following are in compliance with the terms of the contract, State of Arizona laws, applicable Department Orders and other written instructions:
    - 1.1.2.1 Department and private prison operations
    - 1.1.2.2 All expenditures by the Department for private prisons
    - 1.1.2.3 Procedures, processes, systems and services in use at private prisons
    - 1.1.2.4 Periodic comprehensive evaluations of private prison operations
  - 1.1.3 A Contract Beds Bureau Monitoring Team is assigned to every private prison, which shall:
    - 1.1.3.1 Review correctional operations mandated by contract, Department Order and other written instructions.
    - 1.1.3.2 Transmit deficiencies noted during inspections to the private prison's Warden and/or designee and to the Contract Beds Bureau. The Contract Beds Operations Director shall make the final determination in resolving any noncompliance issues.
  - 1.1.4 A Tactical Support Agreement is developed to ensure adequate and sufficient tactical assistance is provided to private prisons by the Department in the event of emergency. This is primarily applicable to in-state private prisons.
    - 1.1.4.1 The Security Operations Administrator or designee shall attend and evaluate private prison Tactical Support Unit training, as applicable, quarterly; and provide a written report of findings to the Contract Beds Operations Director and private prison Warden.
  - 1.1.5 The Contract Beds Bureau staff coordinates the processing and/or tracking of Arizona Criminal Information Center/National Criminal Information Center (ACIC/NCIC) background investigations for all private prison staff, visitors and inmates about to be released.

- 1.1.6 Copies of all inspection reports by the Department or independent regulatory agencies are submitted to the Contract Beds Bureau.
- 1.1.7 All statutory requirements, including the requirements for approval of sites for certain private prisons, are observed.
- 1.1.8 Appropriate Department staff support the Contract Beds Bureau requests for assistance.
  - 1.1.8.1 Following a call-out of the Tactical Support Unit (TSU) to an in-state private prison the Complex Warden(s) or designee(s) shall provide an accounting of staff, hours and costs associated with the call-out to the Contract Beds Operations Director.
- 1.2 The Contract Beds Bureau staff shall:
  - 1.2.1 Conduct inspections to determine if the contractor is complying with the contract.
  - 1.2.2 Track and document all noncompliance issues and occurrences, including staffing pattern noncompliance, for possible reductions in private prison payment (offsets) under terms of the contract.
  - 1.2.3 Provide noncompliance documentation in writing to the following:
    - 1.2.3.1 Private prison management – All noncompliance issues
    - 1.2.3.2 The affected Assistant Director, Bureau Administrator or Administrator – Private prison staffing pattern noncompliance issues
    - 1.2.3.3 The Procurement Services Bureau – Noncompliance issues of a significant nature and/or which may justify a Vendor Performance Report (VPR)
  - 1.2.4 Act on potential or actual contract violations.
  - 1.2.5 Monitor inmate discipline and answer inmate appeals in accordance with Department Orders #803, Inmate Disciplinary Procedure and #802, Inmate Grievance Procedure.
  - 1.2.6 Review and recommend all classification actions in accordance with Department Order #801, Inmate Classification, including levels of supervision.
  - 1.2.7 Review ACIC/NCIC background clearances for all private prison staff hires, in accordance with Department Order #602, Background Investigations and other written instructions.
  - 1.2.8 Determine visitation eligibility for visitors, in accordance with Department Order #911, Inmate Visitation.
  - 1.2.9 Assist with developing inmate work contracts and approving the type of work to be performed.

- 1.2.9.1 Contract Beds Monitoring staff shall review and approve 100% of all levels of supervision for all inmates assigned to off-site work crews to ensure compliance with Department Order #903, Inmate Work Activities, and conduct random reviews of inmates assigned to on-site inmate work assignments. Approval notes shall be documented in Arizona Correctional Information System (ACIS).
- 1.2.10 Coordinate with other Department staff, as required.
- 1.2.11 Establish fixed office hours of access for inmates.
- 1.2.12 Observe, assess, and record private prison staff response to routine operational events, as well as response to emergency incidents.
- 1.2.13 Sign all inmate release authorizations in accordance with Department Orders #1001, Inmate Release System and #1002, Inmate Release Eligibility System.
- 1.2.14 Review all Significant Incident Reports, Form 105-3, Use of Force/Incident Command Report, Form 804-2, Department Order waivers, Technical Manuals, Inmate Grievances, Unit Post Orders, and other written instructions.
- 1.2.15 Complete and/or review periodic reports on private prison operations to include information and data needed for the 703 Inspections System (<http://adc703/>), the Monthly Statistical Report, and others as required.
- 1.2.16 Review all private prison requests for expenditures from the private prison's Welfare and Benefits Account prior to forwarding to the Assistant Director for Prison Operations, Contract Beds Operations Director, or other designee for approval, as outlined in Department Order #303, Bank Accounts. This fund is equivalent to the Department's Inmate Store Proceeds Fund.
- 1.2.17 Ensure intelligence information and other information regarding criminal activity or security issues is submitted to private prison senior management as needed.
- 1.2.18 Contact the Inspector General Bureau to request an investigation when there is apparent:
  - 1.2.18.1 Inmate activity, which could lead to criminal charges (e.g., attempted escape, escape, assault, possession of illegal drugs, introduction of contraband and theft).
  - 1.2.18.2 Staff activity involving inmates, which could lead to criminal charges (e.g., introduction of contraband, aiding in the escape of inmates, any form of sexual misconduct, and excessive use of force).
  - 1.2.18.3 Other activity requiring investigation in accordance with the contract or applicable Department policy.
- 1.2.19 Coordinate and/or monitor the delivery of required Department training to include:
  - 1.2.19.1 Classification, Offender Information Unit, and other associated programs.

- 1.2.19.2 ACIS.
- 1.2.19.3 Inmate Banking.
- 1.2.19.4 Firearms, Emergency Preparedness, and other security-related training.
- 1.2.19.5 Medical Records and other associated programs.
- 1.2.19.6 Current Pre-Service and In-Service Annual Training requirements.
- 1.2.19.7 Any other training required by contract or applicable Department policy.

1.3 The Inspector General or designee shall:

- 1.3.1 Ensure private prisons are inspected for compliance in accordance with Department Orders #606, Internal Inspections Program and #703, Security/Facility Inspections.
- 1.3.2 Ensure copies of all inspections reports are provided to the Assistant Director for Prison Operations.
- 1.3.3 Review inspection reports and assign staff to meet with the Contract Beds Operations Director for a formal review of the reports.
- 1.3.4 Ensure a State prison complex-based Criminal Investigations Unit is identified to handle cases at each private prison. These staff shall ensure criminal investigations involving private prison staff and inmates are initiated and conducted in accordance with the following guidelines:
  - 1.3.4.1 Investigation requests for private prison staff or inmates housed in private prisons shall be made through the Contract Beds Operations Director or designee.
    - 1.3.4.1.1 Private prison staff may not directly request an investigation from the Inspector General or designee.
  - 1.3.4.2 The assigned Criminal Investigations Unit Manager or designee shall decide if a criminal matter will be investigated.
  - 1.3.4.3 Requests for investigations shall include Background Investigations and Arizona Criminal Justice Information System (ACJIS) actions related to volunteers and visitors.
  - 1.3.4.4 Investigations shall be conducted in accordance with Department Order #608, Criminal Investigations.
  - 1.3.4.5 Any other criminal activity on the part of Department or private prison staff not addressed by this section shall be investigated by local criminal justice agencies, which are to be shared with the assigned Criminal Investigative Unit(s).
- 1.3.5 Provide reports of all completed investigations to the private prison Warden, through the Contract Beds Operations Director and the Assistant Director for Prison Operations.

- 1.4 The Assistant Director for Medical Services or designee shall ensure:
  - 1.4.1 Medical Services staff conducts inspections of:
    - 1.4.1.1 New private prisons to determine if the quality and availability of health care to be provided is consistent with Department written instructions, the contract and to ensure deficiencies are corrected prior to the transfer of any inmate to that private prison.
    - 1.4.1.2 Private prison medical, dental, mental health, medical records, and other health-related services on a monthly basis. The CGAR (Compliance Green, Amber, Red inspection system (<http://cgar/>)) shall be used to document how the quality and availability of health care for inmates is consistent with Department written instructions and contract respective to the private prison in question.
  - 1.4.2 All inspection reports posted to the CGAR are accessible by the Contract Beds Bureau.
  - 1.4.3 Licensures, credentials, and all other specialized requirements for all medical, dental, mental health, and related staff are verified, and candidates are appropriately qualified for hire.
- 1.5 The Assistant Director for Financial Services or designee shall:
  - 1.5.1 Ensure Financial Services Division employees provide technical guidance in the development of Requests for Proposals.
    - 1.5.1.1 The Financial Services Division shall participate in the evaluation of resulting proposals from private prison operators or developers to ensure compliance with State Procurement Rules.
  - 1.5.2 Ensure the Chief Procurement Officer provides support to the Contract Beds Bureau staff by providing:
    - 1.5.2.1 Technical assistance as requested related to the development of solicitation, contract documents, intergovernmental agreements, and memoranda of understanding.
    - 1.5.2.2 Advice and direction related to interpretation of procurement laws, rules and regulations, as well as solicitation and contract documents.
  - 1.5.3 Oversee those aspects of the business operations of private prisons which directly affect inmates, to include inmate accounts, and shall ensure private prisons:
    - 1.5.3.1 Utilize the Department's Inmate Trust Account (ITA) System for accounting of all inmate monies.
    - 1.5.3.2 Comply with Department Orders #303, Bank Accounts and #905, Inmate Trust Account/Money System, except where private prisons are specifically excluded.
    - 1.5.3.3 Are responsible for purchasing the required electronic equipment.

1.5.3.3.1 The Department shall connect the private prison to the Arizona Department of Administration Data Center.

1.5.3.3.2 The private prison shall schedule ITA System training with the appropriate Department staff.

1.6 The Chief Human Resources Officer or designee shall ensure:

1.6.1 The Staff Development and Training Bureau provides curriculum (i.e., Pre-Service, In-Service, position-specific specialized training) as outlined in the Department’s Annual Training Plan or other mandates and as required by the private prison contracts. The Staff Development and Training Bureau reserve the right to review private prison developed curriculum to determine equivalency to the Department’s current training curriculum.

1.6.1.1 The Staff Development and Training Bureau shall:

1.6.1.1.1 Provide staff to evaluate selected private prison Pre-Service, In-Service and specialty training (e.g., Correctional Officer III Academy, Field Training Officer training) monthly for compliance with curriculum, instructor certification and quality of delivery; providing a written report of findings to the Contract Beds Operations Director, Chief Learning Officer, and private prison Warden.

1.6.1.1.1.1 Visits shall be unannounced.

1.6.1.1.1.2 Deficiencies or concerns shall result in a formal letter from the Chief Learning Officer to the private prison Warden. The private prison Warden shall submit a written corrective action to the Chief Learning Officer, and Contract Beds Operations Director.

1.6.1.1.2 Follow up on any corrective action plans to ensure compliance.

1.7 The Assistant Director for Inmate Programs and Reentry or designee shall ensure:

1.7.1 Private prison inmate programs’ quality and availability are consistent with Department written instructions and contracts respective to the facility in question through the performance of annual inspections as follows:

1.7.1.1 Counseling and Treatment staff shall conduct annual inspections of all substance abuse and sex offender treatment programs.

1.7.1.2 Education Unit staff shall conduct annual inspections of all Career and Technical Education and academic education programs. An annual report of findings shall be provided to the Assistant Director for Inmate Programs and Reentry, Contract Beds Operations Director, and Education Unit Administrator.



1.7.1.2.1 The private prison Warden shall submit a written corrective action plan response for any deficiencies found to the Assistant Director for Inmate Programs and Reentry, Contract Beds Operations Director, and Education Unit Administrator.

1.7.1.2.2 The Education Unit Administrator shall follow up on the corrective action plans to ensure compliance.

1.7.1.3 Pastoral Services staff shall conduct annual inspections of religious services programs.

1.7.2 Copies of all inspection reports are forwarded to the Contract Beds Bureau.

1.7.3 Licensures, credentials, and all other specialized requirements for all private prison Counseling and Treatment, Education and Pastoral Services staff are verified and candidates are appropriately qualified for hire.

1.7.4 The Education Unit staff train appropriate private prison programs/education supervisors in the use of the Danielson Framework Evaluation tool used by the Department to evaluate its teaching staff. Private prison programs/education supervisors shall evaluate the private prisons education instructors annually using this tool. The Education Unit staff shall visit, observe, and evaluate education instructors annually. A written report of findings shall be prepared and submitted as outlined in 1.7.1.2 of this section.

1.8 The Emergency Preparedness Administrator shall:

1.8.1 Review private prison Emergency Response plans annually and provide a written report of findings to the Contract Beds Operations Director and private prison Warden.

1.8.1.1 The private prison Warden shall submit a written corrective action plan response for any deficiencies found to the Emergency Preparedness Administrator and Contract Beds Operations Director.

1.8.2 Follow up on corrective action plans to ensure compliance.

## **2.0 INMATE ELIGIBILITY, CLASSIFICATION AND TRANSFER**

2.1 Institutional Classification staff, with consideration for recommendations by the Unit Administrator or designee, shall review inmates for eligibility and submit the names of inmates meeting eligibility criteria to Central Office Classification.

2.2 Central Office Classification staff shall determine eligibility for placement into a private prison in accordance with the Inmate Classification Technical Manual, 801-T-OPS.

## **3.0 TRANSFERRING INMATES FROM A PRIVATE PRISON – Transfers shall be approved by Central Office Classification.**

3.1 The movement of inmates housed at private prisons shall be in accordance with Department Order #1004, Inmate Transfer System.

- 3.2 Inmates removed from private prisons in accordance with Department Order #1004, Inmate Transfer System, may also be reclassified prior to movement in accordance with Department Order #801, Inmate Classification.

#### 4.0 RELEASE PROCEDURES

- 4.1 The Offender Services Bureau, Time Computation Unit (TCU) shall calculate inmate release eligibility dates in accordance with Department Order #1002, Inmate Release Eligibility System.
- 4.2 The Office of Victim Services shall notify victims and other approved parties or agencies of inmates released in accordance with Department Order #1001, Inmate Release System.
- 4.3 The private prison Warden and the Lead Contract Monitor shall ensure inmates:
  - 4.3.1 Are released in accordance with Department Orders #1001, Inmate Release System and #1002, Inmate Release Eligibility System, including the preparation of documents, Release packets and other information as required.
  - 4.3.2 Who are eligible and meet criteria receive release monies and the Department is invoiced for reimbursement for the billing period specified in the contract.

#### 5.0 OFFENDER INFORMATION – The Contract Beds Bureau Monitor shall coordinate appropriate training for private prison staff through the Offender Services Bureau.

- 5.1 The Offender Services Offender Information Unit (OIU) and the Information Technology Bureau shall:
  - 5.1.1 Determine access and entry capability to offender information.
  - 5.1.2 Provide training to private prisons staff on how to access and enter offender information, including:
    - 5.1.2.1 ACIS data entry into all screens including movement, work evaluations and program participation.
    - 5.1.2.2 Security, control and dissemination of offender information in accordance with Department Orders #901, Inmate Records Information and Court Action and #201, Legal Services - Records Release.
    - 5.1.2.3 Accessing and printing the ACIS Inmate Record.
- 5.2 Private prison staff shall:
  - 5.2.1 Maintain Institutional Files and control and disseminate offender information in accordance with Department Orders #901, Inmate Records Information and Court Action and #201, Legal Services - Records Release.
  - 5.2.2 Provide inmates access to their ACIS Inmate Record in accordance with Department Order #901, Inmate Records Information and Court Action.
  - 5.2.3 Process intelligence information in accordance with the Department's intelligence system.

## 6.0 COMPLIANCE WITH WRITTEN INSTRUCTION

- 6.1 The Contract Beds Bureau shall operationally support the practices of the Department, consistent with statutes, Department Orders and other written instruction including, in general, inmate work and program activities, visitation and telephone practices and other operational activities as directed by contract.
- 6.2 The Contract Beds Bureau, Contract Beds Bureau Monitors and private prison staff may apply for a Department Order waiver, for a section of a Department Order or other written instruction in accordance with Department Order #101, System of Written Instructions. The Contracts Beds Operations Director shall determine the appropriateness of the application for a waiver.
- 6.3 The Contracts Beds Operations Director shall monitor the applicability of Department Orders to private prisons and wherever possible eliminate the need for individual waivers. The Contracts Beds Operations Director or designee, in consultation with the Policy Unit, shall determine the appropriate approach to documenting the applicability. An entire Department Order or individual sections of a Department Order may be declared not applicable to one or more private prisons.
  - 6.3.1 Applicability may be addressed in the specific contract for private prisons and/or may be further addressed in the specific Department Order.
    - 6.3.1.1 If needed, the applicability of a specific Department Order may be addressed in a separate Applicability statement, in the text of the affected Department Order or as an attachment to the Department Order as outlined in Department Order #101, System of Written Instructions.
    - 6.3.1.2 An alternate process may be approved and included as part of the Department Order.
  - 6.3.2 Department Orders which apply only to staff, inmates or other individuals specifically identified in the text of the Department Order do not require a specific waiver or written determination of applicability if the Department Order does not task the private prison or its staff with any responsibilities.
    - 6.3.2.1 Private prison Wardens with questions related to the applicability of a Department Order to private prisons shall consult with the Contracts Beds Operations Director who will determine applicability.
  - 6.3.3 The Contracts Beds Operations Director shall review existing, new or revised Department Orders.
- 6.4 The Contracts Beds Operations Director or designee shall address:
  - 6.4.1 Applicability and waivers for Technical Manuals in a similar fashion with the Office of Primary Responsibility for the Technical Manual.
  - 6.4.2 Applicability and waivers for Department standardized Post Orders in a similar fashion with the Assistant Director for Prison Operations or designee.

## **DEFINITIONS/GLOSSARY**

Refer to the Glossary of Terms

## **AUTHORITY**

A.R.S. §41-1609, Agreements with Federal or Private Agencies and Institutions; Contract Review; Emergency Contracts

A.R.S. §41-1609.01, Adult Incarceration Contracts; Criteria

A.R.S. §41-1609.02, Establishment of Private Prison Facilities; Notice

A.R.S. §41-1609.03, Adult Incarceration Private Contractors; Liability for Services

A.R.S. §41-1609.04. Reimbursing County for Expense of Prosecution; Private prison

A.R.S. §41-1830.31, Private Prison Escapee Fund; Monies; Uses; Lapsing; Definitions