


Executive Directive



Title: Division of Capital Construction and Facilities Maintenance	Executive Directive Number: CAP.010.0019 Revised
Related MD Statute/Regulations: Correctional Services Article, §§2-103 and 10-101 et al., Annotated Code of Maryland State Finance and Procurement Article, §§4-406(g), 11-101(u), 12-107(b)(6), and 15-101 et al., Annotated Code of Maryland	Supersedes: Executive Directive CAP.010.0019 Dated 08/01/2016
Related ACA Standards: 4-4001, 4-4123 — 4142, 4-4145 — 4173	Responsible Authority:  Director, Capital Construction and Facilities Maintenance
Related MCCS Standards: COMAR 12.14.04.02 and .04 COMAR Title 21	Effective Date: October 27, 2017 Number of Pages: 9



Stephen T. Moyer
Secretary



David N. Bezanson
Assistant Secretary
Capital Programs

.01 Purpose.

This directive continues the authority and responsibilities of the Division of Capital Construction and Facilities Maintenance (Division) under the Assistant Secretary for Capital Programs for the Department of Public Safety and Correctional Services (Department)

.02 Scope.

This directive applies to all Department units.

.03 Policy.

- A. The Department is committed to the effective use of resources related to capital construction and capital budget and operating budget maintenance at correctional facilities.
- B. The Department shall comply with all statutory and regulatory requirements and standards, including Minority Business Enterprise requirements related to identifying, selecting, procuring, and managing products and services related to capital construction and capital budget and operating budget maintenance at correctional facilities.
- C. The Department shall monitor construction and maintenance services contracts to prevent, to the extent possible, waste or misuse of physical or fiscal resources related to capital construction and capital budget and operating budget maintenance at correctional facilities.

.04 Definitions.

- A. In this directive, the following terms have the meanings indicated.

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B. Terms Defined.

- (1) “Assistant Secretary” means the Department’s Assistant Secretary for Capital Programs.
- (2) “Correctional facility” means a building owned or leased by the Department or a unit used to house individuals in the custody of the Department.
- (3) “Real property” means land, including the buildings or improvements on the land and its natural assets, such as minerals and water.

.05 Responsibility.

A. The Director – Capital Construction and Facilities Maintenance (Director) reports to the Assistant Secretary and is responsible for:

- (1) Overall administration and oversight of the Division of Capital Construction and Facilities Maintenance (Division);
- (2) Preparing, for approval by the Assistant Secretary, an organization and staffing plan for the Division;
- (3) Identifying, selecting, procuring, and managing products and services related to capital construction and capital budget and operating budget maintenance at correctional facilities;
- (4) Preparing, for the Secretary’s signature, the Department’s annual Capital Improvement Program and capital budget request;
- (5) When designated by the Assistant Secretary, representing the Department at legislative hearings and before the Board of Public Works in areas concerning capital construction, capital maintenance, and real property;
- (6) Preparing and maintaining written procedures necessary to perform assigned responsibilities;
- (7) Complying with State, Department, statutory, and regulatory requirements for solicitation, selection, procurement, management, and reporting requirements for obtaining products and services related to capital construction and capital maintenance projects and real property;
- (8) Including health, safety, environmental, and security requirements as part of any capital construction or capital maintenance project or contract;
- (9) Monitoring each capital construction project to ensure compliance with statutory and regulatory requirements for:
 - (a) Procurement, contract administration, and close-out;
 - (b) Recommending awards for approval by the Board of Public Works; and
 - (c) Signing, with the authorization of the Assistant Secretary, a capital construction contract after the Board of Public Works approves an award;

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- (10) Administering capital construction, capital maintenance, and facility maintenance budgets;
- (11) Ensuring that appropriate Department personnel are involved in:
 - (a) Identifying capital construction and capital maintenance needs and developing capital project programs to meet identified needs;
 - (b) Developing standards and requirements for equipment and materials used in capital construction, capital maintenance, and facility maintenance projects to ensure public safety and correctional facility security;
 - (c) Correctional facility construction and capital maintenance contract activities to ensure public safety and correctional facility security;
 - (d) Architect and engineer selection, estimates, administration, decision-making, and problem resolution related to capital construction and capital maintenance projects;
 - (e) Scheduling correctional facility capital construction and capital maintenance project activities; and
 - (f) Conducting on-site inspections of correctional facility capital construction, capital maintenance, and facility maintenance projects;
- (12) Conducting compliance reviews of capital construction, capital maintenance, and facility maintenance projects and resolving issues identified during a compliance review;
- (13) Monitoring and evaluating correctional facility capital construction, capital maintenance, and facility maintenance projects to ensure:
 - (a) Standard designs are consistent with Department requirements;
 - (b) Compliance with federal, State, and local statutory and regulatory requirements;
 - (c) Project timelines are maintained and contract sanctions are enforced; and
 - (d) The Department complies with contract requirements;
- (14) With the assistance of the Attorney General's Office, and, if appropriate, the Board of Contract Appeals, processing capital construction or construction-related services contract claims or disputes for final approval by the Board of Public Works; and
- (15) In cooperation with the Department of Budget and Management and Department of General Services:
 - (a) Coordinating requests from local governments for State funding for local jail construction projects; and
 - (b) Administering standards for State-funded local jail design and construction.

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B. Department Maintenance – Non-Capital Maintenance Projects.

- (1) The Director, Division of Capital Construction and Facilities Maintenance (Director):
 - (a) Is responsible for oversight of the administrative, financial and operational activities of the Department's State-wide facility maintenance program.
 - (b) The Assistant Director, Division of Capital Construction and Facilities Maintenance is designated the Assistant Director of Maintenance with the authority for management of the Department's Facilities Maintenance Program (Program).
- (2) The Assistant Director of Maintenance is responsible for:
 - (a) Directly supervising Regional Maintenance Managers;
 - (b) Developing, implementing, and maintaining a State-wide correctional facility preventative and corrective maintenance program;
 - (c) Overseeing maintenance budgets and staff allocation;
 - (d) When appropriate, maximizing the application of inmate labor to maintenance projects;
 - (e) Evaluating correctional facility maintenance requirements;
 - (f) Developing and maintaining procedures for maintenance-related inventory control and processing work orders;
 - (g) Developing and maintaining a facility maintenance operational procedures manual necessary to carry out policy established under this directive;
 - (h) Preparing and overseeing maintenance-related service contracts;
 - (i) Conducting audits of correctional facility maintenance activities;
 - (j) Identifying and prioritizing Department maintenance for inclusion in the Department's budget submission;
 - (k) Identifying and processing for approval maintenance projects that require:
 - (i) Capital funding; and
 - (ii) Operating budget funding; and
 - (l) Ensuring work performed as the result of maintenance projects meets applicable federal, State, and local fire, sanitation, safety, and health codes.
- (3) The Division shall establish and administer a regional correctional facility maintenance program.

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C. Procurement and Contracting.

- (1) The State Finance and Procurement Article, § 12-107, Annotated Code of Maryland establishes that the Department may, without approval of any of the other primary procurement units, engage in the procurement of:
 - (a) Construction and construction related services for State correctional facilities; and
 - (b) Supplies, materials, and equipment in support of construction and construction related services for State correctional facilities.
- (2) The Department's procurement authority established under State Finance and Procurement Article, § 12-107, Annotated Code of Maryland is:
 - (a) The responsibility of the Division;
 - (b) Not limited by dollar value;
 - (c) Requires Board of Public Works (BPW) approval for a contract exceeding \$200,000 and modification exceeding \$200,000; and
 - (d) For contracts \$200,000 and under and modifications \$200,000 and under subject to the procedures under §.05C(3) of this directive.
- (3) The Division is responsible for contracting authority that the Board of Public Works (BPW) delegated to the Secretary of Public Safety and Correctional Services (Secretary) for the approval and award of the following procurement contracts for State correctional facilities within the Department's jurisdiction, consistent with COMAR 21.02.01:
 - (a) Capital construction contracts in the amount of \$200,000 or less;
 - (b) Capital construction-related services contracts in the amount of \$200,000 or less;
 - (c) Architectural and engineering contracts based upon the selection made by the Department of General Services in accordance with COMAR 21.12.05 in the amount of \$200,000 or less;
 - (d) For any single item of equipment or single equipment lease within the procurement authority of the Secretary, equipment contracts and leases of equipment in support of construction and construction-related services in the amount of \$200,000 or less, unless funded with general obligation bond proceeds, which must be approved by the BPW regardless of amount;
 - (e) Contract modifications relating to contracts for architectural services and engineering services, construction, construction-related services, and supplies, commodities, and equipment in support of construction and construction-related services that:
 - (i) Do not materially change the scope of the original contract;

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- (ii) Individually do not change the amount of the contract, or any cost component of the contract, by more than \$200,000 (or \$50,000 in the case of architect/engineering contracts); or
 - (iii) Exercise by the agency a contract option of \$200,000 or less;
 - (f) Invoices necessary for the administration of capital improvement contracts;
 - (g) Contracts for the purchase of commodities and supplies in support of construction and construction-related services;
 - (h) Contracts in the amount of \$50,000 or less in support of construction and construction-related services resulting from sole source procurement; and
 - (i) Contracts in the amount of \$50,000 or less in support of construction and construction-related services resulting from competitive procurement in which only one bid or offer was received.
- (4) The following procurement and project delivery methods are utilized by the Division in compliance with COMAR 21, Subtitle 05:
- (a) Competitive Sealed Bidding;
 - (b) Competitive Sealed Proposals;
 - (c) Negotiated Award after Unsatisfactory Competitive Sealed Bidding;
 - (d) Sole Source;
 - (e) Emergency;
 - (f) Design-Build;
 - (g) Construction Management at Risk;
 - (h) Small Procurement; and
 - (i) Multi-Step Sealed Bidding.
- (5) eMaryland Marketplace (eMM).
- (a) A procurement, with the exception of Emergency and Sole Source, of \$25,000 and greater shall be solicited on eMaryland Marketplace (eMM) for a minimum of twenty-one (21) days.
 - (b) A procurement estimated to be \$15,000 or greater is solicited on eMM for a minimum of three (3) days as required.
 - (c) Vendors are required to be registered on eMM in order to receive a contract award.
- (6) Emergency and Sole Source Procurement.

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- (a) Emergency procurements of \$25,000 and greater are reported to the BPW.
 - (b) An award of a Sole Source procurement is approved by either the Public Safety Review Board (PSPRB) or BPW, depending on the dollar amount.
- (7) The Division evaluates each new project to determine the potential Minority Business Enterprise (MBE) or Veteran-Owned Small Business Enterprise (VSBE) participation.
- (a) If applicable, MBE or VSBE participation on projects \$200,000 and greater requires approval by the Department's Procurement Review Board.
 - (b) MBE or VSBE participation on projects greater than \$100,000 requires approval by the Department's MBE Office.
 - (c) The Department's MBE Office shall review all contracts exceeding \$100,000.
- (8) The Division shall comply with COMAR 21 Subtitle 06, in the solicitation and award of contracts.
- (9) Each contract agreement shall comply with terms and conditions of COMAR 21 Subtitle 07.
- (10) The Division shall comply with socioeconomic policies outlined in COMAR 21 Subtitle 11, including the following procurements:
- (a) Small Business Preference Program;
 - (b) Small Business Reserve Program;
 - (c) MBE Participation and Affirmative Action;
 - (d) Maryland Correctional Enterprises;
 - (e) Blind Industries and Services of Maryland; and
 - (f) VSBE Participation.
- (11) To address civil and administrative remedies related to procurement and contracting, the Division shall comply with COMAR 21 Subtitle 10, including:
- (a) Bid protests;
 - (b) Maryland State Board of Contract Appeals (MSBCA) procedures for appealing contract disputes; and
 - (c) Prompt payment of contractors on State contracts.

D. Public Safety Procurement Review Board (Board).

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- (1) The Division's procurement and contracting authority, established by statute and this directive are vested in the Board.
- (2) The Assistant Secretary shall chair the Board.
- (3) The Assistant Secretary shall designate, with the Secretary's approval, the remaining number of positions for the Board and the individuals to fill the positions.
- (4) The Board is responsible for reviewing and, if appropriate, approving procurement contracts according to authority established by the Board of Public Works.
- (5) The Board shall:
 - (a) Meet on a schedule determined by the Assistant Secretary;
 - (b) Record all proceedings; and
 - (c) Prepare a monthly report detailing the Board's actions since the last report and forward that report to the Board of Public Works for review and auditing.

E. Minority Business Enterprise (MBE) and Veteran-Owned Small Business Enterprise (VSBE).

The Division shall ensure compliance with, and enforcement and verification of, MBE and VSBE requirements related to capital construction and maintenance procurement and contracts.

F. Americans with Disabilities Act of 1990 (ADA) Transition Plan.

- (1) The Division shall develop and maintain an ADA Transition Plan for the Department, including an implementation schedule and measureable objectives for services provided to individuals with disabilities.
- (2) To ensure compliance with ADA, the Transition Plan required under §.05F(1) of this directive shall provide:
 - (a) Access to all Department facilities for individuals with a disability visiting an inmate or conducting official business with the Department;
 - (b) An inmate with a disability access to programs within a correctional facility, for example education, medical, and recreational;
 - (c) Public access for individuals with a disability to Department training facilities and programs; and
 - (d) Workplace access for employees with a disability.
- (3) According to a schedule established by the Maryland Department of Disabilities (MDOD), the Division shall submit the Transition Plan for the Department to MDOD for incorporation in the Maryland State Disabilities Plan.

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.06 Attachment(s).

There are no attachments to this directive.

.07 History.

A. This Department Directive supersedes Executive Directive CAP.101.0019 dated August 1, 2016 by addressing the statutory changes required under Chapter Law 588 of the 2017 Acts of the Maryland General Assembly.

B. This Department Directive supersedes Department Directive CAP.010.0019 dated September 18, 2015 by:

(1) Updating the Division's procurement and contracting authority and referencing codes where that authority is described.

(2) Assigning responsibility for a centralized maintenance program to the Assistant Director, CCFM.

B. This directive supersedes provisions of any other prior existing Department or unit communication with which it may be in conflict.

.08 Correctional Facility Distribution Code.

A

S Procurement, Maintenance