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<b>Private Prison Monitoring Requirements</b>	<b>ACA Standards: 2-CO-1A-22, 2-CO-1B-10, 2-CO-1C-1, 5-ACI-1A-17, 5-ACI-1A-18, 5-ACI-7A-08</b>		
<b>Scott Crow, Director Oklahoma Department of Corrections</b>	<b>Signature on File</b>		

## **Private Prison Monitoring Requirements**

In accordance with 57 O.S. § 561, the Oklahoma Department of Corrections (ODOC), under the policies of the Board of Corrections, is authorized to contract with non-governmental entities or public trusts for the housing, care, and control of inmates. Services offered for persons under the custody or supervision of the agency includes but is not limited to: housing, alcoholism and drug treatment, medical and mental health services, nursing home care, or halfway house placement.

The director of Community Corrections and Contract Services will monitor compliance with standards to include, but not be limited to: Prison Rape Elimination Act, internal and perimeter security, inmate discipline, education and employment, programming, food service, and clothing. Appropriate dental, optometric, mental health and medical care for inmates assigned to private prisons are monitored through quarterly process improvement audits and routine scheduled and unscheduled contact by the medical monitor who is supervised by the health services division. Findings and concerns related to health care will be relayed by the medical monitor to the region III director.

This procedure outlines the requirements for contract compliance to ensure all applicable laws and standards are met. (5-ACI-1A-17)

I. Definitions

A. Contract

An agreement between the ODOC and a non-governmental entity or public trust.

B. Contract Monitor

The person appointed by ODOC who will work for, and is paid by, the agency. The contract monitor will serve as a liaison between the agency and the private prison contractor/operator on all matters pertaining to the operation and management services as specified by state statute and/or contractual agreement.

C. Medical Monitor

The person appointed by ODOC who will work for, and is paid by, the agency to serve as a liaison between the agency and the private prison contractor/operator on all matters pertaining to the operation and management of medical, dental, optometric, and mental health care for inmates who are housed in private prisons, as specified by state statute and/or contractual agreement. The medical monitor is supervised by the agency's chief medical officer; however medical monitoring activities will be coordinated with the director of Community Corrections and Contract Services and chief mental health officer. Communication regarding matters involving medical and mental health care/treatment will occur as appropriate.

D. Audit Team

Those persons who have been appointed by the chief compliance officer to conduct an annual evaluation of the operations of the private prison as specified in this procedure.

E. Private Prison Contractor/Operator

1. A non-governmental entity or public trust which, pursuant to a contract with ODOC, provides for housing, care, and control of Oklahoma inmates and performs other functions related to said responsibilities within a maximum, medium, or minimum security level facility not owned by the agency, but operated by the contractor; or
2. A non-governmental entity or public trust which, pursuant to a contract with the United States government or another state, provides for the housing, care, and control of maximum, medium, or minimum security inmates in the custody of the United States government or another state, and performs other functions related

to said responsibilities within a facility owned or operated by a private contractor.

## II. Contract Negotiations and Interpretations

- A. The director of Community Corrections and Contract Services in conjunction with the chief of Operations and General Counsel, is responsible for contract negotiations and interpretations.
- B. The director of Community Corrections and Contract Services coordinates the application of ODOC procedures, payment of private prison invoices, statutory and contractual compliance, onsite monitoring, and audits.

## III. Monitoring Private Prisons Housing Oklahoma Inmates (Contract Prisons)

### A. Contract Monitoring (2-CO-1B-10)

State statutes, the contract and subsequent addenda, amendments and memoranda of understanding between ODOC and the contractor will form the basis of the standards for contract compliance monitoring. Monitoring of contract prison facilities may also consist of gathering information not specified herein but made necessary by a federal, state, local, or agency initiative or court order.

#### 1. Contract Monitors

The contract monitors for the agency will:

- a. Serve as a liaison between the agency and vendors involved in the care and custody of inmates to ensure proper interpretation and uniform application of Oklahoma State Statutes, ACA Standards, policies and procedures of ODOC and compliance with contractual agreements.
- b. The director of Community Corrections and Contract Services staff will monitor the contract private prisons through regular monitoring visits and/or by an on-site monitor.

#### 2. Monitoring Process (2-CO-1A-22, 5-ACI-1A-17, 5-ACI-1A-18)

The agency will monitor contractual compliance utilizing the following methods that include, but are not limited to:

##### a. On-Site Monitoring and Periodic Visits

The contract monitors will conduct regular on-site visits, to include unannounced audits. During these visits, the facility will be observed during normal daily operations, to include observation on all three shifts. The contract monitors may

review various procedures, interview staff/inmates and review files, records, and programs. Additionally, the contract monitors may meet and discuss any issues with the contractor, communicate any relevant information and follow-up with former concerns. The following specific areas will be monitored in accordance with state statutes, ODOC procedures, contract standards, court order, and sound correctional practices:

- (1) Inmate housing, program participation and employment in accordance with [OP-030102](#) entitled "Inmate Housing" and [OP-030103](#) entitled "Inmate Job and Program Assignments";
- (2) Inmate programs/employment/idleness/morale; (5-ACI-1A-18 b# 4)
- (3) Disciplinary process/actions;
- (4) Classification/records;
- (5) Earned credit levels; assignment, approval;
- (6) Reportable incidents and serious incident report reviews; (5-ACI-1A-18 b# 2)
- (7) Incident reports;
- (8) Grievance process;
- (9) Segregation operations;
- (10) Population statistics - count (in/out), type of moves; (5-ACI-1A-18 b# 3)
- (11) Escorted leave for funeral/hospital trips;
- (12) Population transfers;
- (13) Inmate population;
- (14) Internal/external security;
- (15) Staffing levels; (5-ACI-1A-18 b# 4)
- (16) Staff training;
- (17) ACA standards;

- (18) Medical, mental health, optometric and dental services;
- (19) Food service;
- (20) Access to courts;
- (21) Prison Rape Elimination Act ([OP-030601](#) entitled "Oklahoma Prison Rape Elimination Act") - Zero tolerance information: poster, reporting, training (staff, contractors, volunteers and inmates), etc;
- (22) Major developments in each department or administrative unit; (5-ACI-1A-18 b# 1) and
- (23) Major problems and plans for solving them. (5-ACI-1A-18 b# 5)

b. Contract Monitoring Reports

Contract monitoring reports will be prepared on a weekly basis.

c. Team Visits

- (1) Based upon need and specialized area, a team may conduct audits, inspections, or evaluation/assessments of each contractor site.
- (2) Following these visits, the team will complete a report outlining their findings. If there is corrective action required of the contractor, notice is given with a due date for compliance. The contractor may appeal the findings of the team to the director of Community Corrections and Contract Services.

d. Annual Audit

The operational audit team from the Auditing and Compliance Unit will conduct an annual audit to evaluate the facility's performance and compliance with the provision of rules and standards as set forth in the applicable contract as well as pertinent state statutes, Standards for Adult Correctional Institutions as amended and published by ACA, sound correctional practices, and applicable ODOC procedures. (5-ACI-1A-17)

e. Review Audit

- (1) The ODOC audit team will submit a report of its findings to the director of Community Corrections and Contract Services who is responsible to provide the private prison contact with the audit report.
- (2) The private prison contractor will have 30 days in which to review the audit report, and submit a corrective action plan to the director of Community Corrections and Contract Services.
- (3) A copy of the final report will be provided to the chief compliance officer.

B. Liquidated Damages Non-Performance Penalties

1. Non-Compliance

In the event of a breach in the contract by the contractor, the state may withhold, as liquidated damages, the amounts designated in the contract from any amounts owed to the contractor, pursuant to the terms of the contract

C. Housing of Non-Oklahoma Inmates with Oklahoma Inmates

A private prison contractor will not house inmates from this state with federal inmates or inmates from another state unless segregated or otherwise housed in such a manner as to satisfy the agency director. The private prison contractor will submit a written plan to the director of Community Corrections and Contract Services for multiple jurisdiction populations when Oklahoma inmates are housed at the private prison.

IV. Monitoring Private Prisons Housing Non-Oklahoma Inmates (Non-Contract Private Prisons)

In accordance with 57 O.S. § 563.1-3, private prison operators, not contracting with ODOC which house inmates of another state, will meet the following requirements:

A. Standards

A private prison operator, within two months of commencing operations and thereafter as required by ODOC, will accomplish the following:

1. Approval

Obtain ODOC approval of the internal and perimeter security of the facility. Such approval will be given only if the director of Community Corrections and Contract Services determines that the security is adequate to protect the public.

## 2. Audit Procedures

The director of Community Corrections and Contract Services will assign staff to conduct an audit based on sound correctional practices and ACA standards which verify, to the satisfaction of ODOC, that the requirements of 57 O.S. § 563 are being met.

### B. Travel Restrictions

A private prison operator housing federal inmates from jurisdictions other than Oklahoma or inmates sentenced pursuant to the legal authority of another state, will not allow any such inmate to leave the premises of the facility except to comply with an order to appear in a court of competent jurisdiction, to receive medical care not available at the facility for inmate labor pursuant to 57 O.S. 563.2 (G) or to be transferred to another state.

### C. Failure to Comply with Statutory Requirements

The director of Community Corrections and Contract Services will monitor the performance of the private prison operator and the continued compliance of the private prison operator with the provisions of this procedure and law. If at any time after commencing operations a private prison operator fails to comply with any of said provisions:

1. The agency director may recommend that the State Board of Corrections assess the private prison contractor/operator at least one-half the per diem rate up to but not to exceed the full per diem rate paid by the jurisdiction(s) to the private prison contractor/operator for the period of time the violation continues and is not corrected with due diligence, or when ODOC has identified other physical plant security deficiencies based on ACA standards and the deficiencies are not corrected with due diligence. This penalty does not preclude the director from ordering the facility to cease operations.
2. The agency director may order the facility to cease operations. This order may be enforced by injunction issued by a district court of this state, and all legal fees and costs will be assessed to the private prison owner/operator.

### D. Litigation Responsibilities

A private prison operator housing federal inmates or inmates of another state will be responsible for the reimbursement of all reasonable costs and expenses incurred by this state or a political subdivision of this state for legal actions brought in this state by or on behalf of any federal inmate or inmate of another state while incarcerated in the facility.

Such costs will include: court costs, sheriff's mileage fees, witness fees, district attorney expenses, expenses of the Attorney General, indigent or

public defender fees and costs, judicial expenses, court reporter expenses and any other costs, fees, or expenses associated with the proceedings or actions.

#### V. References

Policy Statement No. P-030100 entitled "Provisions of Services/Inmate Rights and Responsibilities"

OP-030102 entitled "Inmate Housing"

OP-030103 entitled "Inmate Job and Program Assignments"

OP-030601 entitled "Oklahoma Prison Rape Elimination Act"

OP-040101 entitled "Facility Security Standards"

OP-050108 entitled "Use of Force Standards and Reportable Incidents"

OP-052001 entitled "Emergency Procedures for Private Prisons"

OP-080201 entitled "Private Sector Correctional Industry Standards"

OP-090106 entitled "Prisoners Public Work Contract and Assignment of Inmates to Public Works Programs"

OP-120230 entitled "Offender Banking System"

OP-150202 entitled "Facility Construction Security Standards"

18 U.S.C. § 1761 (c) Federal Private Industry Enhancement (PIE) guidelines

57 O.S. § 549

57 O.S. § 561-561.3

57 O. S. § 563

70 O.S. § 3311

#### VI. Action

The director of Community Corrections and Contract Services is responsible for compliance with this procedure and the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.



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