Policy Number:	**104.305**
Title:	**Purchasing Violations**
Effective Date:	**12/5/17**

PURPOSE: To establish guidelines for addressing purchases violating Minn. Stat. §§ 16A, 16B, and 16C, as well as other purchasing violations.

APPLICABILITY: Minnesota Department of Corrections (DOC); department-wide

DEFINITIONS:

Agency purchasing card coordinator – the authority for local purchase (ALP) certified manager or supervisor appointed by the department to manage, coordinate and control purchasing cards within the agency.

Encumbrance – a commitment of funds to meet an obligation expected to be incurred, in order to pay for the obligation received by the DOC or to pay for a grant.

Fully executed – contract is encumbered and signed by all parties.

Obligation – when an employee of the State of Minnesota requests goods or services (including professional services) to be rendered for the state by verbal or written communications.

Office of State Procurement (OSP) – division of the Department of Administration involved with state purchasing, formerly known as the Materials Management Division (MMD).

Purchasing card reconcilers and approver – DOC financial services staff that have been designated to receive and review monthly information from cardholders.

Targeted vendor – businesses or individuals certified by OSP to be primarily operated by minority, female, veterans, or persons with disabilities; or businesses operating in economically disadvantaged areas.

Violator – the individual who, through a purchase using a purchasing card, or departmental purchase order, violated Minn. Stat. §§ 16A, 16B, 16C, or other purchasing violations as outlined in policy.

PROCEDURES:

A. Prior to incurring an obligation, agency staff must ensure sufficient funds are encumbered and appropriate documentation is in place. Failure to do so may be a purchasing violation, will result in investigation, and may result in personal liability or discipline (including termination by the appointing authority). See Policy 104.300, Purchasing for DOC purchasing procedures.

B. Violations of Minn. Stat. §§ 16A, 16B, and 16C

1. Accounts payable or purchasing staff identify purchasing violations. If they are unsure if it is a violation, they work with the purchasing director or facility/central office finance director, for the respective location to make the violation determination. All purchasing

card violations are handled in a similar manner. See policy 104.301, Use of Purchasing Cards.

a) When the violation is identified by accounts payable staff, the appropriate finance director or designee send a Purchasing Violation Investigation form (see link below) to the violator and copies the appropriate buyer and the purchasing director.

b) When the violation is identified by purchasing staff, the purchasing staff sends a Purchasing Violation Investigation form to the violator and copies the purchasing director and appropriate finance director.

2. The violator must complete the Purchasing Violation Investigation form and submit it to his/her supervisor for signature. This form must be completed and signed by the violator within five days of receipt.

3. The violator's supervisor must review and sign the form and route it to the facility/central office finance director or p-card coordinator for review.

4. The finance director or p-card coordinator must sign the form and forward it to the agency chief financial officer (CFO) for final investigation review.

5. If necessary, the CFO provides final directions and instructions. All items are returned to the violator, who is responsible for effective completion.

6. Approved purchasing violation investigation forms are retained in the purchasing files. Violation logs are compiled and retained by the central office designee.

7. Violations include such examples as:

a) Minn. Stat. § 16A.15: An obligation is incurred against an expense budget without an encumbrance. Entering an EIOR request does not constitute a valid encumbrance until the buyers have established the purchase order.

b) Minn. Stat. § 16B:

(1) Space in a private building is leased without approval from the commissioner of Administration.

(2) A capital improvement is begun without legislative authority, except for those instances outlined in Minnesota Statute 16B.30.

c) Minn. Stat. § 16C:

(1) Non-recycled material is purchased instead of recycled material, if the recycled material is available and the price does not exceed the price of the non-recycled material by more than ten percent.

(2) Product is purchased from a vendor if the same product is also available as a MINNCOR Industries product and MINNCOR was not given the opportunity to bid, or if slight variations in product specifications are adopted in an effort to exclude MINNCOR as a vendor.

C. Contract Violations

1. Violations relating to contracts requires the completion of the Department of Administration 16A.15/16C.05 Violation form (attached).

2. After obtaining appropriate signatures, the DOC authorized representative submits this violation form to the Department of Administration when the contract is processed.

3. Violation forms are retained with the original contract in compliance with financial services record retention.

4. Contract violations (Minn. Stat. § 16C.05) examples include:
   a) Work starting prior to a contract being fully executed or prior to funds being encumbered.
   b) If the start date of the contract has passed but work has not started, Box 1 of the 16A.15-16C.05 form must be completed.

INTERNAL CONTROLS:

A. Approved purchasing violation investigation forms are retained in the purchasing files.

B. Violation logs are compiled and retained by the central office designee.

C. Contract violation forms are retained with the original contract.

ACA STANDARDS: None

REFERENCES: Minn. Stat. §§ 16A.15, 16B, and 16C.05
Minnesota Management and Budget and Department of Administration Policy 0702-01, "Reinstating Encumbrances after Close of the Fiscal Year"
Policy 104.300, "Purchasing."
Policy 104.301, "Use of Purchasing Cards."
Division Directive 302.310, "Use of Tobacco for American Indian Ceremonies."
Department of Administration Authority for Local Purchase

REPLACES: Policy 104.305, "Purchasing Violations," 8/2/16.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Purchasing Violation Investigation Form (staff accessible – iShare)
16A.15/16C.05 Violation Form (Department of Administration)

APPROVED BY:
Deputy Commissioner, Facility Services
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