Minnesota Department of Corrections

Policy Number:	**300.045**
Title:	**Contractor Relationship to Department**
Effective Date:	**9/18/18**

PURPOSE: To provide procedures regarding training, access, and movement for contractors, physical plant contractors, and design team consultants.

APPLICABILITY: All correctional facilities and field services

DEFINITIONS:

Authorized representative – a professional, supervisory, or managerial staff person who is responsible for processing, negotiating, monitoring, and evaluating a contract, or other agent to which the department is a party (see DOC Policy 106.030, "Processing Contracts and Other Agreements").

Contractor– an individual employed by a business working under a formal, written agreement to provide direct, minimal, or intermittent offender/resident contact services in exchange for specified consideration. Examples may include education, treatment, health services, or other programming.

Design team consultant – individuals or firms such as architects, engineers, and hazardous materials consultants that contract with the State of Minnesota to provide construction design, or firms that are interested in providing construction design services to the State of Minnesota.

Direct and on-going offender contact (adult facility) – providing services directly with offenders/residents for 17 or more hours per week and on a continuing basis in the treatment, custody, programming, or supervision of offenders/residents.

Direct and on-going resident contact (juvenile facility) – as defined in Minn. Rule 2960.0020, Subp. 28, direct contact means the provision of face-to-face care, training, supervision, counseling, consultation, or medication assistance to a resident.

Escort – the corrections staff assigned to ensure visual contact or relative close proximity contact with physical plant contractors and design team consultants while they are within designated areas of the facility.

Minimal or intermittent offender/resident contact – providing services in direct contact with offenders/residents for 16 or fewer hours per week.

Physical plant contractor – any person directly contracted or working for a firm that is directly contracted or subcontracted with the State of Minnesota to work on a remodeling or repair project, new construction project, or a maintenance service contract, or providing a maintenance service.

Sensitive security areas – facility areas, as determined by the facility captain/administration, where access to staff and others is limited or controlled, including such examples as: close proximity to the perimeter fence/wall, tunnel system, security bubbles, and control centers.

PROCEDURES:

A. Contractor – facilities

1. The representative/designee for the contractor must,
   a) Hire new contractor in accordance with the DOC hiring schedule whenever possible; and
   b) Work with the local employee development unit to register the contractor for facility orientation and the full DOC academy (see DOC Policy 103.420, "Pre-Service and Orientation Training").

2. The authorized representative/designee must ensure the contractor with ten or more hours of direct offender/resident contact per week undergoes a test for tuberculosis prior to the start of work and annually thereafter in accordance with Policy 105.180, "Tuberculosis Control for Applicants, Employees, Contractors, Volunteers, and Students." The authorized representative/designee must retain documentation of tuberculosis testing in the contractor's file, or another designated file.

3. The authorized representative/designee must ensure the contractor produces a relevant license and/or certificate prior to performing professional services.

4. Contractor training and orientation
   a) Contractors who have direct and on-going contact with offenders/residents must attend:
      (1) The full academy at central office; and
      (2) An orientation at the facility prior to working independently in any assignment involving direct offender/resident contact.
   b) This includes such examples as contractors who work in food service, education, and other offender/resident programming, but health services contractors are not included. Whenever possible, the representative/designee must notify the facility employee development unit of any new contractors at least two weeks prior to the start of a facility orientation date.
   c) Training for contractors with direct and on-going offender/resident contact must be documented using standardized entries in the approved agency training management system.
   d) The authorized representative/designee must ensure the contractor signs written documentation of participation in a facility orientation, and agreement to follow the rules and procedures.
   e) Health services contractors must refer to the employee development annual training plan for training requirements.

5. Contractors, except health services contractors, who have minimal or intermittent offender/resident contact must, at a minimum, attend an orientation at the facility prior to beginning the assignment.
   a) Whenever possible, the representative/designee must notify the facility volunteer coordinator of any new contractors at least two weeks prior to the start of a facility volunteer orientation date.
   b) Contractors with minimal or intermittent offender/resident contact must receive security training consistent with the requirements specified in DOC Policy 300.040, "Volunteer Services Program," attachment 300.400D, "Volunteers, Contractors, and Interns Orientation Checklist and Agreement."
   c) The facility orientation includes topics such as identified on 300.400D, "Volunteers, Contractors, and Interns Orientation Checklist and Agreement" (attached).

d) The authorized representative/designee must ensure the contractor signs written documentation of participation in a facility orientation, and agreement to follow the rules and procedures.

e) Health services contractors must refer to the employee development annual training plan for training requirements.

6. The authorized representative/designee must ensure that a contractor who has negligible contact with offenders/residents (e.g., construction workers, participation in an offender/resident program on a one-time basis) receives an abbreviated facility orientation which contains only the components the contractor needs to know to perform his/her services.

   a) A record of the training must be retained by the authorized representative/designee.

   b) Contractors who have negligible contact with offenders/residents and who have not been trained must be escorted by a facility employee at all times.

7. The authorized representative/designee must ensure that the contractor is issued an identification (ID) card at the commencement of the contract or agreement in accordance with Policy 103.013, "Identification Cards – Employees/Contractors/Volunteers/Interns." The authorized representative/designee must ensure that the ID card is returned upon termination of the contract.

8. The authorized representative/designee recertifies the contractor annually, which includes:

   a) Current criminal history check;

   b) Proof of an annual test for tuberculosis (if the contractor provides direct offender/resident contact services more than ten hours per week); and

   c) Review of relevant policies and procedures.

9. Training for contractors with direct and on-going offender/resident contact must be documented using standardized entries in the approved agency learning management system. Training for contractors, except health service contractors, who have minimal or intermittent offender/resident contact must be documented by the facility volunteer coordinator or authorized representative/designee. The volunteer coordinator or authorized representative must track training documentation and retain documentation for no less than three years.

B. Contractors – field services

The authorized representatives using contractors for pre-sentence investigations (PSI) must ensure a criminal background check of each contractor is conducted prior to start of work, in accordance with Policy 103.014, "Background Checks for Applicants and Current Employees." The authorized representative/designee must retain background check documentation in the contractor's file or another designated file.

C. Physical plant contractors and design team consultants – facilities

1. Admittance authorization, background checks, and identification

   a) Pre-bid construction meetings and emergency repairs

      (1) Correctional facilities may allow prospective physical plant contractors to attend short term, single event meetings (such as pre-bid meetings) by following Division Directive 300.032, "Admittance Authorization to Adult Facilities."

(2) Correctional facilities may allow persons performing emergency repairs into the secure perimeter for a single event.

(3) A criminal history background check is not required, provided the person(s) is(are) escorted by DOC staff while on facility grounds.

b) Project duration one week or less:

(1) Correctional facilities may admit physical plant contractors and design team consultants using Division Directive 300.032, "Admittance Authorization to Adult Facilities."

(2) The authorized representative must complete criminal history background checks on the physical plant contractors/design team consultants on or before the first day of contracted work.

(a) The background check may be run, reviewed, and approved while the physical plant contractor/design team consultants are on-site for job site planning meetings working with the staff escort.

(b) However, the admittance authorization process must be followed until background checks have been completed.

(c) In the event of a positive criminal history, the authorized representative must review the information with the appointing authority and obtain authorization prior to the prospective contractor gaining admittance to a facility.

(d) The authorized representative must retain background check documentation in the physical plant contractor's/design team consultant's file, or another designated file.

(3) Physical plant contractors/design team consultants must be under staff escort in the correctional facility secure perimeter and do not require department training/orientation.

c) Ongoing/regular access and projects with duration of greater than one week:

(1) All physical plant contractors and design team consultants entering state grounds on an ongoing, regular basis (greater than one week) must have a criminal history background check completed, reviewed, and approved by the authorized representative or designated personnel.

(a) When possible, the physical plant contractor/design team consultant must submit individual background check information a minimum of one week in advance of facility entry.

(b) In the event of a positive criminal history, the authorized representative must review the information with the appointing authority and obtain authorization prior to the prospective contractor gaining admittance to a facility.

(c) The authorized representative must retain background check documentation in the physical plant contractor's/design team consultant's file, or another designated file.

(2) The authorized representative is responsible for cross-referencing physical plant contractor and design team consultant names with the offender/resident visiting database. If any contractor name appears on an offender's/resident's visiting list, designated facility staff must determine if the contractor may be approved to enter the facility.

(3) The DOC reserves the right to run a criminal background check on any physical plant contractor or design team consultant at any time.

(4) The correctional facility issues a department contractor identification (ID) card to a physical plant contractor/design team consultant once the

individual has completed an employee development-approved designated training/orientation (see also Policy 103.013, "Identification Cards – Employees/Contractors/Volunteers/Interns").

(a) The contractor ID card expires at the end of the contract with the department, or one year after issuance of the ID, whichever is first.

(b) The facility determines whether the contractor ID card must remain at the facility or may go off-site with the contractor(s).

(c) At the end of the project, all physical plant contractors and design team consultants must return the ID cards to the facility.

d) Juvenile facilities

(1) Contractors used by a juvenile facility to provide direct contact services to juvenile residents must also undergo a Department of Human Services (DHS) background check.

(2) The authorized representative must retain all background check documentation in the contractor's file, or another designated file.

2. Tuberculosis screening

Physical plant contractors and design team consultants are not required to have tuberculosis screening.

3. Escorts and communications

a) Escorts

(1) Correctional staff must escort physical plant contractors and design team consultants in sensitive security areas.

(2) Physical plant contractors and design team consultants who have not completed designated training/orientation must be escorted inside the secured perimeter.

(3) Each correctional facility determines if an escort and/or training/orientation may be required for work outside the secured perimeter on a case-by case basis.

(4) If physical plant contractors or design team consultants received designated training/orientation, each correctional facility may allow the physical plant contractor/design team consultants to move to/from and around the construction site unescorted.

(5) When an escort is not required, corrections staff may perform random security checks.

(6) The facility must identify whether any machinery, equipment, tools, vehicles, or materials require continuous department staff supervision inside the secured perimeter (see Policy 301.040, "Tool Control").

(7) Under limited circumstances and with prior facility approval, physical plant contractors and design consultants may be allowed to move from a specific construction site to a different construction site inside the perimeter without a correctional staff escort.

b) Communications

(1) The correctional facility ensures that physical plant contractors have some means of communication with correctional staff, such as by phone or radio.

(2) With the warden's prior approval, the project superintendent and designated foremen may be allowed to carry cell phones within the secure perimeter pursuant to Policy 104.470 "Mobile Communications Devices."

(3) With prior facility approval, a physical plant contractor-supplied two-way radio may be allowed, as long as the radio frequency used does not interfere with facility operations.

4. Tool control
   a) Facility staff performs an inventory on all contractor tools upon entry to and exit from the facility secured perimeter. Corrections staff and physical plant contractors must participate in the tool inventory counts.
      (1) To facilitate this process, the contractor must bring tools to the facility in advance of the start date of the project to complete the initial inventory count.
      (2) The number of tools must be kept to a minimum throughout the project, to shorten the amount of time needed for the inventory process.
   b) For work outside the secured perimeter, tool inventories may be taken upon entrance and exit to the facility grounds and randomly during the project work.
   c) Tools must be kept under observation when in use and secured in a locked gang box, room, or vehicle when not in use. Physical plant contractors and design team consultants must also provide for control and security of materials and products.
   d) Tools left inside the perimeter may be subject to random tool inventory counts during the course of the project.
   e) Class 1-A and class A tools (See Policy 301.040, "Tool Control") must be removed daily from the secured perimeter unless otherwise approved to remain inside the secured perimeter by the security captain. Each correctional facility determines the appropriate means to secure all tools remaining inside the secured perimeter.
   f) Ladders and lifts must be secured when not in use.
   g) Motorized equipment must be disabled and secured at the end of the work day.

5. Training and orientation
   a) When training/orientation is appropriate for physical plant contractors and design team consultants, training must include at a minimum:
      (1) An introduction to the DOC and specific facility site;
      (2) An overview of policies applicable to physical plant contractors, including such examples as:
         (a) Policy 301.060, "Access Control Devices;"
         (b) Policy 103.223, "Personal Associations Between Staff and Offenders;"
         (c) Policy 301.030, "Contraband;"
         (d) Policy 301.040, "Tool Control;"
         (e) Policy 301.140, "Incident Command System;"
         (f) Division Directive 300.032, "Admittance Authorization to Adult Facilities;"
         (g) Policy 202.057, "Sexual Abuse/Harassment Prevention, Reporting, and Response;"
         (h) Fire and safety procedures;
         (i) Policy 106.210, "Providing Access to and Protecting Government Data;" and
         (j) Site specific instructions pertaining to personal property and vehicle contents.
   b) Training for physical plant contractors and design team consultants with direct and on-going offender/resident contact must be documented using standardized entries

in the approved agency learning management system. Training for physical plant contractors and design team contractors, except health services contractors, who have minimal or intermittent offender/resident contact must be documented by the facility volunteer coordinator or authorized representative/designee. The volunteer coordinator or authorized representative must track training documentation and store documentation for no less than three years.

c) Training records for physical plant contractors and design team consultants must be retained by the authorized representative/designee.

D. Prison Rape Elimination Act (PREA) standards
In compliance with the Prison Rape Elimination Act (PREA) standards, any contractor, physical plant contractor, or design team consultant who engages in sexual abuse must be prohibited from contact with offenders/residents. The individual must also be reported to law enforcement agencies and relevant licensing bodies, unless the activity was clearly not criminal. Designated facility staff must also take appropriate remedial measures, and consider whether to prohibit an individual from further contact with offenders/residents, in the case of any other violation of agency sexual abuse or sexual harassment policies.

INTERNAL CONTROLS

A. Orientation and other training records are retained in the contractor's/physical plant contractor's/design team consultant's file, or another designated file, by the authorized representative/designee, the volunteer coordinator, or the training management system, as applicable.

B. Background check documentation is retained in the contractor's/physical plant contractor's/design team consultant's file, or another designated file, by the authorized representative/designee.

C. Documentation of tuberculosis testing is retained in the contractor's file, or another designated file, by the authorized representative/designee.

ACA STANDARDS: 4-4070, 4-4085, 4-4088, 4-4229, 1-ABC-1C-18, 1-ABC-1D-14, 4-APPFS-3C-03, 4-JCF-3B-04, and 4-JCF-6E-13

REFERENCES: Minn. Stat. §§ 241.01, subd. 3a and 15.061
Policy 103.420, "Pre-Service and Orientation Training Program"
Policy 104.303, "Professional and Technical Services Contracts and Other Agreements"
Policy 103.013, "Identification Cards – Employees/Contractors/Volunteers/Interns"
Policy 500.520, "Tuberculosis Prevention and Control for Offenders"
Policy 103.014, "Background Checks for Applicants and Current Employees"
Policy 301.040, "Tool Control"
Division Directive 300.032, "Admittance Authorization to Adult Facilities"
Policy 104.470 "Mobile Communications Devices"
Policy 103.223, "Personal Associations Between Staff and Offenders"
Policy 103.300, "Discrimination-Free Workplace"
Policy 301.030, "Contraband"
Policy 301.060, "Access Control Devices"
Policy 301.140, "Incident Command System"
Policy 202.057, "Sexual Abuse/Harassment Prevention, Reporting, and Response"

Policy 106.210, "Providing Access to and Protecting Government Data"
Policy 105.180, "Tuberculosis Control for Applicants, Employees, Contractors, Volunteers, and Students"
Policy 300.040, "Volunteer Services Program"
Prison Rape Elimination Act (PREA), 28 C.F.R. §115 (2012)
Employee Development Annual Training Plan
Minn. Rule 2960.0020, Subp. 28

REPLACES: Policy 300.045, "Contractor Relationship to Department," 3/21/17.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Volunteers, Contractors, and Interns Orientation Checklist and Agreement (300.040D)

APPROVALS:
Deputy Commissioner, Facility Services
Deputy Commissioner, Community Services
Assistant Commissioner, Facility Services
Assistant Commissioner, Operations Support

Security Instructions
300.045-1LL, "Contractor Admittance to Facility"