

**DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES, OFFICE OF
STATE PROCUREMENT**

SUBJECT: Rules Governing Mandatory Procurement Training Program

DESCRIPTION: This three-part rule addresses the requirements contained in Ark. Code Ann. § 19-11-280 for the establishment of a mandatory training and certification program for state agency procurement personnel. The rule establishes the mandatory procurement training program, addresses documentation of compliance, addresses apparent non-compliance, and provides notice for revocation of procurement certification or delegated authority.

PUBLIC COMMENT: A public hearing was held on this rule on June 29, 2022. The public comment period expired on July 18, 2022. The agency indicated that it received no public comments.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

Q. A.C.A. § 19-11-280(c)(2) states, “To maintain certification under this section, a state agency employee shall complete a reasonable number of hours of continuing education, as provided for by rule by the director.” The proposed rules provide that the State Procurement Director “shall set the minimum number of hours of procurement training required for the following fiscal year by June 30th.” Will this occur through the formal rulemaking process, or will the Director set the annual minimum through some other process? **RESPONSE:** In response to your inquiry, Secretary Rouse has advised that setting the minimum number of hours of required procurement training will occur through policy and not formal rulemaking.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: This rule implements Act 419 of 2019. The Act, sponsored by Representative Jeff Wardlaw, amended the laws concerning various procurement methods, provided for the training and certification of procurement officials, and required additional legislative review of procurement rules. The Act required the State Procurement Director to “establish a training and certification program to facilitate the training, continuing education, and certification of state agency procurement personnel” and to promulgate rules regarding the procedure for revoking a state agency employee’s procurement certification. Ark. Code Ann. § 19-11-280(a), (d)(2). The Director also has authority to promulgate rules regarding the required number of continuing education hours for procurement personnel. Ark. Code Ann. § 19-11-280(c)(2).

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**STATE OF ARKANSAS
DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT
RULES GOVERNING MANDATORY PROCUREMENT TRAINING PROGRAM**

PROPOSED RULES

R1:19-11-280. Mandatory Procurement Training Program.

Pursuant to Ark. Code Ann. § 19-11-280, a tiered training and certification program has been established for the training, continuing education, and certification program for state agency "procurement personnel." For purposes of this rule, the term "procurement personnel" is understood to include "agency procurement officials" and "procurement agents," as defined in Arkansas Procurement Law, and personnel authorized to procure commodities or services on behalf of a "state agency," as defined in Arkansas Procurement Law, in an amount greater than the limit for "small procurements" set in Ark. Code Ann. § 19-11-204(13), regardless of their title. State employees who are not authorized to procure commodities or services in excess of the small procurement amount are not considered to be procurement personnel.

Beginning July 1, 2021, procurement personnel must annually complete the minimum number of hours of procurement training. The State Procurement Director shall set the minimum number of hours of procurement training required for the following fiscal year by June 30th. A listing of approved courses and requirements will be maintained by the Department of Transformation and Shared Services, Office of State Procurement, and displayed on a website or otherwise made available as needed. Additional courses may be approved by the State Procurement Director. In cases of disability or hardship, the State Procurement Director may approve an accommodation or a substitute training plan by which individuals may meet the training requirements.

R2:19-11-280. Documentation of Compliance.

As of July 1, 2021, it shall be the duty of each person seeking procurement authority through a delegation order from the State Procurement Director to maintain documentation certifying that he or she has completed the requisite procurement training before the written delegation order is issued. He or she shall also be responsible for ensuring that anyone who exercises procurement authority under his or her delegated authority also receives at least the minimum amount of procurement training required under Arkansas Procurement Law and these rules.

If a procurement official exercises procurement authority under a direct grant of statutory procurement authority, then as of July 1, 2021 it shall be his or her responsibility to document that he or she has satisfied the requirement for certification and continuing education and that anyone who exercises procurement authority under his or her

supervision also receives required procurement training and continuing education in compliance with these rules.

R3:19-11-280. Apparent Non-compliance.

If a person to whom these rules apply fails to obtain and maintain the required training and that apparent noncompliance is reported to the State Procurement Director, the Office of State Procurement shall notify the affected person and the chief executive officer of the Department, institution, board, or agency that employs the affected person. That notice may be sent electronically or by first class mail.

The notice shall contain a statement of the: (a) legal authority and jurisdiction under which the notice is being sent; (B) apparent noncompliance; (C) possible administrative revocation for noncompliance; and (D) the right to present satisfactory evidence of compliance or corrected noncompliance.

The named person must, within sixty (60) business days of the date of the notice of apparent noncompliance, provide the State Procurement Director satisfactory evidence that the person is either in compliance or has corrected the noncompliance. If the named person fails either to provide satisfactory evidence of compliance or that the noncompliance has been corrected within the allotted time provided in the paragraph above, the Office of State Procurement shall serve a notice of intent to revoke procurement certification and delegated authority to the affected person and the chief executive officer of the Department, institution, board, or agency that employs the affected person. The notice shall advise the person and the Department, institution, board, or agency that noncompliance shall be presumed and the delegated procurement authority or certification of that person shall be administratively revoked after the conclusion of thirty (30) or more business days from the date on the notice of intent to revoke.

No revocation shall be made without notice. The duration of the revocation should be commensurate with the gravity of the offense, but not less than three (3) months nor more than two (2) years. Administrative revocation may be rescinded subsequently upon a showing of compliance satisfactory to the Director.