

## **Contracts to be Ratified/Special Circumstances**

1. Letter from Edward Armstrong regarding Ratification of Contracts for Department of Corrections and Mid-South Community College
2. Letter from Department of Corrections Ratification Request
3. Summary of Technical and General Services Contract with Department of Correction
4. Letter from Mid-South Community College Ratification Request
5. Summary of Professional Consultant Services Contract with Mid-South Community College
6. Letter from Edward Armstrong regarding Ratification of Contract for Department of Community Correction
7. Suspension of Rules Request/Ratification Request
8. Letter from Community Corrections for Payment Ratification
9. Summary of Technical and General Services Contract with Department of Community Correction



STATE OF ARKANSAS  
**Department of Finance  
 and Administration**

**OFFICE OF STATE PROCUREMENT**  
 1509 West Seventh Street, Suite 300  
 Little Rock, Arkansas 72201  
 Phone: (501) 324-9316  
 Fax: (501) 324-9311  
<http://www.dfa.arkansas.gov/offices/procurement>

Senator Bill Sample, Co-Chairperson  
 Representative Jim Dotson, Co-Chairperson  
 Senator Scott Flippo  
 Representative Jeff Wardlaw  
 Arkansas Legislative Council (ALC) and  
 ALC-Review  
 State Capitol Building, Room 315  
 Little Rock, Arkansas 72201

RE: (1) Department of Correction contract 4600041758 with Entegrity Energy Partners LLC; and (2) ASU Mid-South Community College contract 1771515 with Manufacturing Institute

Esteemed Co-Chairs:

As we approach our last ALC Review meeting of 2017, I wish you and yours a wonderful holiday season<sup>1</sup> and a happy New Year. I am writing to inform you that among the contracts that have been submitted for review this month (under Ark. Code Ann. § 19-11-1006(a)(1) and Ark. Code Ann. § 19-11-265(a)(1)), there are two contracts that are being submitted for your review prior to being considered for ratification, as required under Ark. Code Ann. § 19-11-247(d), which provides:

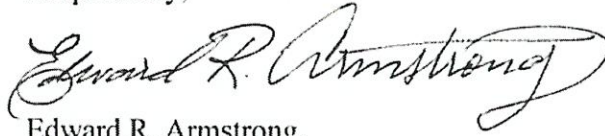
Before a contract is ratified and affirmed under subdivision (c)(1)(A) of this section [which allows for ratification of a contract that has been solicited or awarded in violation of law], a contract shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, for review if the contract is required to be submitted for review under § 19-11-1006.

Ark. Code Ann. § 19-11-247(d). The two contracts at issue are referenced in the subject line above. They appear to have been awarded without prior legislative review. Consequently, they are being submitted for review at this time so that it can be determined whether they should be ratified. The agencies that initiated these contracts have been instructed to have someone in attendance at the ALC Review meeting so that they can answer any questions that may help determine the appropriate course of action with respect to these two contracts.

I look forward to your review.

<sup>1</sup> This greeting is intended to include, without limitation, Christmas Eve, Christmas Day, Hanukkah, Kwanzaa, Pan American Aviation Day, and any other holiday celebrated during this season. My greeting is not intended to offend through omission, but to extend sincere season cheer in an inclusive fashion that should offend no one save those who seek occasion to take offense. Similarly, my specific reference to Christmas and other holidays, such as Hanukkah, in this footnote should not be construed as an intentional slight to persons who may observe other holidays that I did not reference by name. PS: Are greeting cards going to start needing footnotes like this?

Respectfully,

A handwritten signature in black ink, reading "Edward R. Armstrong". The signature is written in a cursive style with a large, looping initial "E" and a long, sweeping underline.

Edward R. Armstrong,  
State Procurement Director



Marshall "Dale" Reed  
 Chief Deputy Director  
 Arkansas Department of Correction  
 P.O. Box 8707  
 Pine Bluff, Arkansas 71611  
 870-267-6301  
 870-267-6313 Fax

December 11, 2017

Arkansas Legislative Council  
 Review Subcommittee  
 Sen. Scott Flipppo, Co-Chair,  
 Rep. Jeff Wardlaw, Co-Chair

RE: Ratification Request  
 Technical Services Contract #4600041758  
 Energy Performance Contracting Service  
 Entegrity Energy Partners, Inc.

Gentlemen:

The Arkansas Department of Correction (ADC) respectfully requests ratification of the above referenced contract with Entegrity Energy Partners, Inc. in the amount of \$17,314,910 for an Energy Performance Contract (EPC). This contract is authorized by the Guaranteed Energy Cost Savings Act (Ark. Code Ann. §§ 19-11-1201 through 1206), and was processed in accordance with the Arkansas Energy Performance Contracting Program Manual under the guidance and direction of the Arkansas Energy Office (AEO). Funding is obtained through ADFA bonds.

The selection of an Energy Service Company (ESCO) is authorized and governed by the Guaranteed Energy Cost Savings Act and is functionally separate from the normal procurement process. To assist agencies with this process, the Arkansas Energy Office has developed the Arkansas Energy Performance Contracting Program Manual which governs the process in a step-by-step basis.

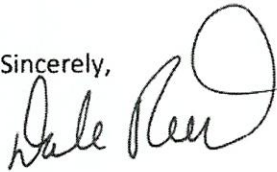
Organizations wishing to participate in the statutorily-authorized program make application to AEO seeking to qualify as an Energy Service Company (ESCO). When a state agency seeks to explore the possibility of an energy performance project, the agency enters into a Memorandum of Understanding (MOU) with AEO specifying the roles and responsibilities of the agency and the AEO. All qualified ESCO's are given the opportunity to submit a qualification statement to the AEO which is then listed on the AEO's web site. The agency then submits an invitation to interview to the AEO for its approval, choosing three or more pre-qualified ESCO's for interview. The agency can, after the interview process, select an ESCO to conduct a preliminary audit of agency facilities for potential inclusion in an energy cost savings program.

If a facility (or facilities) identified for which an energy cost savings program is viable, the agency may then negotiate an Investment Grade Audit (IGA) Contract with the ESCO. This process is overseen by the AEO and the contract is subject to its approval. The resulting findings of the IGA are presented to the agency and the AEO for approval. The agency can then select energy cost savings projects from those identified in the IGA for inclusion in the Energy Performance Contract. The agency then has the option to negotiate an EPC with the ESCO. The EPC must meet the guidelines set out in the AEO Contracting Program Manual. If an agreement is reached, the AEO assists the agency in obtaining funding for the project. In this case, that funding was obtained through ADFA, subject to its review and oversight.

Once all of these steps had been successfully completed, Entegrity was authorized to begin the energy cost savings project, as the ADC was unaware of the necessity for any additional approvals for this highly regulated process. However, once we were ready to make our first payment (10% of the total contract, in this case \$1,731,491.00), we contacted the Office of Accounting to set up the correct fund and were then advised that this contract and payment are subject to Act 557 procurement reporting requirements. Act 557, enacted in August 2015, requires technical and general service contracts with a total projected contract cost of \$100,000 or more be reviewed by the Legislative Council prior to the execution date of the contract or amendment. The Arkansas Energy Performance Contracting Program Manual predated Act 557 and did not include these requirements. Because the Arkansas Energy Office was not aware of these requirements, they met with the Office of State Procurement for clarification and were advised that the ESCO contracts are subject to Act 557. We truly believed we were following the current state guidelines for this type of contract. There was never any intent to sidestep any required reviews or approvals.

We respectfully request ratification of the contract and first payment.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Reed", with a large, stylized loop at the end.

Dale Reed  
Chief Deputy Director

SUMMARY SCHEDULE OF STATE AGENCY CONTRACTS  
FOR ARKANSAS LEGISLATIVE COUNCIL REVIEW  
AS REQUIRED BY ARKANSAS CODE 19-11-1006

*Technical & General Services Contracts*

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<b>1. Agency:</b> Correction Department  <b>Total Authorized:</b> \$0.00 <b>Total After Review:</b> \$17,314,910.00 <b>Total Projected:</b> \$17,314,910.00 <u>Org/Amt:</u> <u>Amount</u> <u>Paid To Date</u> <u>Objective:</u>	<b>Contractor:</b> ENTEGRITY ENERGY PARTNERS LLC <b>Location:</b> CONWAY <b>State:</b> AR <b>Org. Term:</b> 09/18/2017 06/30/2020 <b>Procurement:</b> RFQ <b>Funding:</b> Cash - 100% <b>MOF:</b> <b>Contract Number:</b> 4600041758 <u>New Exp Date</u>  Original: 17,314,910.00      ENERGY SAVINGS PERFORMANCE CONTRACT
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ARKANSAS STATE UNIVERSITY  
**MID-SOUTH**

December 6, 2017

Senator Scott Flippo, Co-Chair  
Representative Jeff Wardlaw, Co-Chair  
ALC-Review Committee

Dear Co-Chairs:

I would like to take this opportunity to explain the timeline and events that occurred around the renewal of our contract with the Manufacturing Institute. This was a contract that was originally awarded in 2015, and was to be funded by a TAACCCT grant from the Department of Labor.

The contract was signed by Brent Weil with the Manufacturing Institute on 10/5/15. Our Chancellor, Dr. West, signed the contract on 10/15/15. The employee that typically handled uploading contracts to OSP left for maternity leave in early October and did not return to this position, and the supervisor that had oversight of that responsibility retired last year.

Recently, we learned that the grant was extended for another year. At that time, we started preparing the extensions for existing contracts for that grant, and we found this contract in the employee's files. We realized that it was never sent for review and we did not have OSP approval. At that time, we tried to determine the best way to resolve the issue, and contacted OSP for direction. I have included the communication with OSP regarding the advice we were given on how to proceed. I have to say that I found OSP to be very helpful in providing advice, and I appreciate Denise's patience and understanding, as we were both working through an unknown process.

I assure you that to my knowledge, we have not had this issue occur before at ASU Mid-South. In order to prevent this from happening again, we have a back-up system where the Purchasing Specialist and the Business Manager both keep records of contracts that have been submitted and approved by DF&A. In addition, there are at least two supervisors involved in the contract review and submission process. We truly apologize for any inconvenience this has caused anyone in your office, and we will strive to not make this mistake again.

I appreciate your willingness to work with us to extend this contract, and we will take whatever steps are necessary to gain the approval needed to continue business with this vendor for this grant.

Sincerely,

JaNan Abernathy  
Vice Chancellor  
Finance & Administration

**SUMMARY SCHEDULE OF STATE AGENCY CONTRACTS  
FOR ARKANSAS LEGISLATIVE COUNCIL REVIEW  
AS REQUIRED BY ARKANSAS CODE 19-11-1006**

***Out-of-State Contracts***

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<b>1. Agency:</b> Mid-South Community College  <b>Total Authorized:</b> \$179,968.00 <b>Total After Review:</b> \$179,968.00 <b>Total Projected:</b> \$179,968.00 <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><u>Org/Amt:</u></td> <td style="width: 20%;"><u>Amount</u></td> <td style="width: 30%;"><u>Paid To Date</u></td> <td style="width: 20%;"><u>Objective:</u></td> <td style="width: 10%;"></td> </tr> <tr> <td>Amd. 1</td> <td style="text-align: right;">0.00</td> <td style="text-align: right;">169,099.34</td> <td>To extend contract through 9/30/2018</td> <td></td> </tr> <tr> <td>Original:</td> <td style="text-align: right;">179,968.00</td> <td></td> <td>Provide technical consultation to engage employers and provide the pathways design to build a pipeline of workers with industry recognized stackable credentials.</td> <td></td> </tr> </table>	<u>Org/Amt:</u>	<u>Amount</u>	<u>Paid To Date</u>	<u>Objective:</u>		Amd. 1	0.00	169,099.34	To extend contract through 9/30/2018		Original:	179,968.00		Provide technical consultation to engage employers and provide the pathways design to build a pipeline of workers with industry recognized stackable credentials.		<b>Contractor:</b> MANUFACTURING INSTITUTE <b>Location:</b> Washington DC <b>State:</b> DC  <b>Org. Term:</b> 10/16/2015 06/30/2017 <b>Funding:</b> Federal - 100% - [DOL TAACCCT] <b>Procurement:</b> RFP <b>MOF:</b> <b>Contract Number:</b> 1771515 <b>New Exp Date</b> 09/30/2018
<u>Org/Amt:</u>	<u>Amount</u>	<u>Paid To Date</u>	<u>Objective:</u>													
Amd. 1	0.00	169,099.34	To extend contract through 9/30/2018													
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 Arkansas Legislative Council  
 State Capitol Building, Room 315  
 Little Rock, Arkansas 72201

RE: Arkansas Community Correction - ratification for contract #1000808389 with Entegriety  
 Energy Partners LLC

Revered Co-Chairs:

I am writing to inform you that on December 11, 2017, I received correspondence from Arkansas Community Correction (ACC) requesting that I ratify the contract identified in the subject line above. I have included a copy of that correspondence with this letter. In its correspondence ACC informs me that it was unaware that the contract required legislative review, and that it made payment before obtaining review. Upon learning that the contract meets the threshold for ALC review, ACC determined to seek ratification of the contract. Because of its eagerness to correct its oversight, ACC is submitting the contract to ALC and the ALC Review subcommittee for review. In the event that this contract is added to the agenda for consideration this month, ACC has been advised to have someone in attendance at the ALC Review meeting so that ACC can answer any questions that may help determine the appropriate course of action with respect to this contract.

Respectfully,

Edward R. Armstrong,  
 State Procurement Director



## Arkansas Community Correction

Two Union Nation Plaza Building  
105 West Capitol, 3<sup>rd</sup> Floor  
Little Rock, AR 72201-5731  
(501) 682-9510 (501) 682-9513 (fax)

December 7, 2017

The Honorable Senator Scott Flippo, Co-Chair  
The Honorable Representative Jeff Wardlaw, -Co-Chair  
The Arkansas Legislative Council Review Subcommittee  
1 Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

Dear Senator Flippo and Representative Wardlaw:

Arkansas Community Correction (ACC) is requesting an emergency procurement and legislative review of our contract with Entegrity Energy Partners, LLC. This Energy Savings Performance Contracting is a contracting frame under an energy service company which makes energy efficiency-based improvements to all ACC's existing facilities and guarantees to ACC that the cost savings rendered from the improvements will be sufficient to service all projects corresponding expenses. This contract will allow ACC to make often substantial upgrades to our facilities with little or no capital contribution. Energy Conservation measures will include LED lighting Upgrades, Water Conversations Upgrades, HVAC Equipment and Controls Upgrades, Food Waste Composting, Wastewater Treatment Upgrades, as well as Process Equipment Upgrades.

This contract went into effect September 1, 2017, therefore, the request for retrospectively review is requested. A pervious payment made to Entegrity Energy Partners, LLC in the amount of \$930,548.90 was formerly processed. If ACC were to use the traditional methods of procurement, we would further delay the process. The Agency was not aware that the contract nor payment would require ALC review and therefore didn't submit because we were under the impression that it was an exempt by law service/commodity according to procurement law ACA§19-11-203.

ACC respectfully requests a suspension of the rules in order to consider this contract at the December 13, 2017 regularly scheduled meeting of the Review Subcommittee meeting of the Arkansas Legislative council.

Your approval of this request would be greatly appreciated, please feel free to contact me if additional information is required. Thanks in advance.

Sincerely,

Sheila Sharp, Director  
Arkansas Community Correction



## Arkansas Community Correction

Two Union Nation Plaza Building  
105 West Capitol, 3rd Floor  
Little Rock, AR 72201-5731  
(501) 682-9510 (501) 682-9513 (fax)

December 11, 2017

Arkansas Office of State Procurement  
Mr. Edward Armstrong, OSP Director  
DFA Building  
1509 W 7<sup>th</sup> Street, Suite 300  
Little Rock, AR 72201

Dear Mr. Armstrong;

Arkansas Community Correction is requesting ratification for the pervious payment made to Entegrity Energy Partners, LLC in the amount of \$930,548.90. The purchase requisition number is 1000808389. The Agency was not aware that the payment would require ALC review; unfortunately, the payment was made under the impression that it was an exempt by law service/commodity according to §19-11-203.

This is a request of approval to pay the existing invoices and the upcoming invoices prior to ALC review not to extend 30 days or whichever comes first. With your approval, this will allow the agency the opportunity to pay for services already occurred. Please note, that no person(s) involved nor the agency had intent to act fraudulent or in bad faith.

The agency will ensure that all procurement laws are strictly adhered to going forward. As well as guarantee all TGS reporting requirements are met. Everyone involved understands review and reporting requirements as outlined in §19-11-263.

Your approval of this request would be greatly appreciated, please feel free to contact me if additional information is required. Thanks in advance.

Sincerely,

Latreasa Mullins, Agency Procurement Administrator  
Arkansas Community Correction

Cc: Shelia Sharp, ACC Director  
Kevin Murphy, ACC Deputy Director  
M. Chad Brown, Deputy Director

SUMMARY SCHEDULE OF STATE AGENCY CONTRACTS  
FOR ARKANSAS LEGISLATIVE COUNCIL REVIEW  
AS REQUIRED BY ARKANSAS CODE 19-11-1006

*Technical & General Services Contracts*

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<b>1. Agency:</b> Community Correction  <b>Total Authorized:</b> \$0.00 <b>Total After Review:</b> \$9,472,179.00 <b>Total Projected:</b> \$9,472,179.00 <u>Org/Amt:</u> <u>Amount</u> <u>Paid To Date</u> <u>Objective:</u>  Original:      9,472,179.00	<b>Contractor:</b> ENTEGRITY ENERGY PARTNERS LLC <b>Location:</b> CONWAY <b>State:</b> AR  <b>Org. Term:</b> 06/09/2017 06/30/2020 <b>Procurement:</b> RFQ <b>Funding:</b> Cash - 100% - [ ] <b>MOF:</b> <b>Contract Number:</b> 4600041773  <u>New Exp Date</u>  ENERGY SAVINGS PERFORMANCE CONTRACT
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