

Act 556 of 2023 Proposed Rule

**R7: 19-11-217 Direct Negotiation of Contracts With Retailers**

The discretion granted to the State Procurement Director under Arkansas Code Annotated § 19-11-217(c)(15) can only be exercised to negotiate non-mandatory contracts with retailers who sell commodities and/or services directly to ultimate consumers for a standard retail price that can easily be determined by reference to reliable and publicly available sources, such as the retailer's catalog list price, documentation of the Manufacturer's Suggested Retail Price, or a standing price that the retailer currently offers to public procurement units through a contract with the U.S. General Services Administration or a cooperative purchasing agreement.

**RECEIVED**

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**BLR**

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1735

By: Representative Wardlaw  
By: Senator J. Dotson

## For An Act To Be Entitled

AN ACT TO AMEND THE POWERS AND DUTIES OF THE STATE  
PROCUREMENT DIRECTOR; TO AUTHORIZE THE STATE  
PROCUREMENT DIRECTOR TO ENTER INTO NONMANDATORY STATE  
CONTRACTS IN CERTAIN CIRCUMSTANCES; AND FOR OTHER  
PURPOSES.

## Subtitle

TO AMEND THE POWERS AND DUTIES OF THE  
STATE PROCUREMENT DIRECTOR; AND TO  
AUTHORIZE THE STATE PROCUREMENT DIRECTOR  
TO ENTER INTO NONMANDATORY STATE  
CONTRACTS IN CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 19-11-217(c)(2), concerning the powers and  
duties of State Procurement Director as subject to the limitations of the  
Arkansas Procurement Law and related rules, is repealed.

~~(2)(A) Shall develop and implement a plan for all state agencies  
acquiring vehicles that will reduce the overall annual petroleum consumption  
of those state agencies by at least ten percent (10%) by January 1, 2009,  
through measures that include:~~

~~(i) The use of alternative fuels, as defined by 42  
U.S.C. § 13211, as it existed on January 1, 2005;~~

~~(ii) The acquisition of vehicles with higher fuel  
economy, such as a hybrid vehicle operating on electricity and gasoline or~~



~~diesel or bio-diesel fuel; and~~

~~(iii) The substitution of cars for light trucks.~~

~~(B)(i) By January 30 of each year, the director shall submit to the Legislative Council his or her report evaluating the progress of the plan toward achieving the goal set in subdivision (c)(2)(A) of this section.~~

~~(ii) The report shall include:~~

~~(a) The number and type of alternative fueled vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005, procured;~~

~~(b) The total number of alternative fueled vehicles used by each state agency;~~

~~(c) The difference between the cost of the purchase, maintenance, and operation of alternative fueled vehicles and comparable conventionally fueled motor vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;~~

~~(d) An evaluation of the plan's success; and~~

~~(e) Suggestions for modifying the plan;~~

SECTION 2. Arkansas Code § 19-11-217(c), concerning the powers and duties of State Procurement Director as subject to the limitations of the Arkansas Procurement Law and related rules, is amended to add an additional subdivision to read as follows:

(15) May negotiate and enter into a nonmandatory state contract with retailers for special prices or rates for commodities or services, or both, for the benefit of public procurement entities, independent of the source selection methods in §§ 19-11-228 and 19-11-229, if the contractor agrees to provide the commodities or services, or both, subject to the contract at either the standard retail price or a discounted price.

APPROVED: 4/11/23