

EXEMPT BY LAW (EL)

The purchase of some commodities or services are exempt from the standard procurement procedures by law. These commodities and services are specified in Arkansas law (Ark. Code Ann. § 19-11-203). The purchase still must follow established “exempt” purchasing procedures and may require special approvals. Follow the steps below for the purchase of these exempt commodities or services.

1. Review 19-11-203 (14) to confirm the commodity or service is exempt. Seek the advice of your agency’s legal counsel if you are unsure.
2. Create the purchase requisition (PR) for the purchase.
3. After all approvals are received on the PR, create the purchase order (PO) or outline agreement (OA) using the EL procurement code in the Our Reference field. The EL code will ensure the document is routed through the appropriate approval process for this method of procurement. After all internal releases/approvals are executed, the PO or OA will automatically be routed through AASIS to the Office of State Procurement (OSP) for the State Procurement Director’s approval.
4. If the purchase meets the criteria for Arkansas Legislative Council (ALC) review, prior to the final AASIS release at TSS OSP, a contract submission in the portal is required. Once reviewed, the contract will be executed by TSS OSP, and then the final TSS OSP releases can be made to begin the contract.
5. Attach the executed Services form to the PO or OA. See the TSS OSP website for information regarding legislative review of services contracts.

According to Ark. Code Ann. 19-11-203 (14):

“Exempt commodities and services” means:

(A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C) (i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.

- (ii) A report shall be filed annually with the Division of Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;
- (D) (i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.
(ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;
- (E) (i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.
(ii) These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt that are to be furnished by the agency under any such contract;
- (F) Contracts awarded by the Arkansas State Highway and Transportation Department for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;
- (G) (i) Farm products procured or sold by a state agency having an agency procurement official.
(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;
- (H) Fees, including medical fees and physician fees;
- (I) Foster care maintenance services provided by foster family homes or a community provider that is licensed as a family style residential home or that provides a family home setting approved by the Division of Children and Family Services of the Department of Human Services for children whose placement and care are the responsibility of the Division of Children and Family Services of the Department of Human Services;
- (J) Freight and storage charges and demurrage;
- (K) Licenses required prior to performance of services;
- (L) (i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.
(ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;
- (M) Livestock procured for breeding, research, or experimental purposes;
- (N) Maintenance on office machines and technical equipment;
- (O) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;
- (P) Membership in professional, trade, and other similar associations;
- (Q) Perishable foodstuffs for immediate use or processing;
- (R) Postage;

(S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;

(T) Services of visiting speakers, lecturers, and performing artists;

(U) Taxes;

(V) Travel expense items such as room and board and transportation charges;

(W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(X) Works of art for museum and public display;

(Y) Capital improvements valued at less than the amount stated in § 22-9-203, subject to minimum standards and criteria of the Building Authority Division;

(Z) Services related to work force development, incumbent work force training, or specialized business or industry training;

(AA) The following commodities and services relating to proprietary software after the initial procurement:

(i) Technical support incidental to supporting the continuous operation of proprietary software;

(ii) Renewals;

(iii) Additional copies; and

(iv) License upgrades;

(BB) Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale;

(CC) Commodities purchased by the Department of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals; and

(DD) Repair services for hidden or unknown damages to machinery already purchased; (EE) Commodities and services purchased by an academic medical center using revenue derived from and used for patient care and hospital enterprises.