



PINAL COUNTY
PROCUREMENT CODE

ARTICLE 5 – CONSTRUCTION AND SPECIFIED PROFESSIONAL SERVICES

PC1-501 APPLICABILITY

Article 5 of the Pinal County Procurement Code defines the requirements and authorities for procurement and contract activities associated with the design, construction, reconstruction and remodel of county facilities. This article also applies to the procurement of various professional services required by the county to meet its needs related to the design, construction, reconstruction and remodel of county facilities.

PC1-502 RESPONSIBILITIES AND AUTHORITY

- A. The Director of Public Works will promulgate implementing procedures, consistent with this code, governing the planning, design and construction of county buildings and structures.
- B. The Director of Public Works shall provide the departmental Article 5 procurement officers with the annual statutory contracting limits pursuant to A.R.S. § 34-201.C and § 28-6713.B. Projects shall not be artificially divided or fragmented to circumvent the statutorily defined limits.

PC1-503 CONSTRUCTION CONTRACT PROCEDURES

- A. Pinal County construction work will not be performed by county personnel unless permitted by applicable Arizona Statutes.
- B. Selection of and payment for A/E consultant services will be governed by the procedures contained in PC1-505 of this article.
- C. Construction contract awards will be made to the lowest responsible bidder after public advertisement of the proposed contract in accordance with procedures established, but substantially in conformance with the general policies for competitive bidding outline by articles PC1-316-324 of this code.
- D. When the date and time has been set for multiple bid openings, a contractor who has submitted bids on more than one project may be allowed to withdraw a bid on a second or third project prior to bid opening if he is the apparent low bidder on a bid previously opened.
- E. After the bids are opened, they are irrevocable for the period specified in the invitation for bids.
- F. Bid security shall be required for all competitive sealed bidding for construction contracts. Bid security shall be a bond provided by a surety company authorized to do business in this state or the equivalent security supplied in a form satisfactory to Pinal County.



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- G. Invitations for Bid on Pinal County construction contracts shall require submission of bid security in an amount equal to at least 5% of the bid, at the time the bid is submitted.
- H. The procurement officer may determine that noncompliance is nonsubstantial if:
 - a. Only one bid is received and there is not sufficient time to rebid; or
 - b. The bid security is inadequate as a result of correcting or modifying a bid and the bidder increases the amount of security to required limits within two days after notification.
- I. A bid received without proper bid security will be rejected.

PC1-504

TYPES OF ARTICLE 5 PROCUREMENT

- A. Title 34 of the Arizona Revised Statutes authorizes the county to conduct several types of construction and professional service procurements. These procurements are: limited scope construction procurement, simplified construction procurement, design-bid-build, design-build, construction-manager-at-risk, and job-order contracting. In addition, Title 28 of the Arizona Revised Statutes authorizes the County Department of Transportation to conduct the equivalent of the Title 34 design-bid-build process. A brief description of each Article 5 procurement method is as follows:
 - 1. Limited Scope Construction Procurement - Statutory dollar limited Construction with a simplified bid process.
 - 2. Simplified Construction Procurement Program - Limited to \$100,000 including all change orders subsequent to award. Invitations for bids shall be sent to contractors listed on an annually updated construction contractor register.
 - 3. Design-Bid-Build - The county's procurement method in which sequentially a consultant under one contract designs a project, the project is publicly bid, and the lowest responsible and responsive bidder constructs the project under a second and separate contract.
 - 4. Design-Build - A procurement method where one contract is awarded for both the design and construction of a project. Design is normally accomplished prior to construction but, design and construction may occur simultaneously.



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5. Construction-Manager-At-Risk - A procurement method where two contracts are awarded for the design and the construction of a project. Design and construction may occur sequentially or concurrently.
6. Job-Order-Contracting - This type of contract is basically an “on-call” construction contract. This type contract is limited to three years by state statute.

NOTE: Except for the Title 28 authority, all four (subparagraphs 3, 4, 5 and 6) procurement processes have a sunset of June 30, 2010. This means that no contract may be executed after June 30, 2010. Services under contract as of June 30, 2010 may continue.

B. Limited Scope Construction Procurement

1. The following procedures will be used to implement Limited Scope Construction Procurements:
 - a. Prepare specifications and scope of work. The scope of work shall be written in sufficient detail to enable a contractor to submit a written response for the described work. The scope of work may include drawings, sketches, job project coordination requirements or other data that would affect the price. The scope of work may also require a contractor to subcontract a minor portion of the project with a consultant to prepare drawings or other documents.
 - b. Prepare a cost estimate for the scope of work in compliance with A.R.S. § 34-201 et seq. and this code.
 - c. Prepare a request for quotation that lists the date, time and location for receipt of sealed written responses. The request for quotation will be on a form approved by the Director of Public Works.
 - d. Responses to a request for quotation will be solicited in accordance with the following guidelines. A no-bid response shall constitute a response:
 1. For work of a nominal value of \$1,000.00 or less, one written response is required.
 2. For work greater than \$1,000.00 but less than \$5,000.00, two written responses are required.
 3. For work greater than \$5,000.00 but less than the statutory



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ceiling, (A.R.S. § 34-201.C and § 28-6713. B), three written responses are required.

- e. Respondents must submit their offers as specified in the request for quotation. Responses received after the due date and time or at the wrong location shall be non-responsive and will be returned to the respondent unopened.
- f. Should changes in the scope of work be necessary after the award they shall be described in a change order on an approved form. The change order shall be signed by the Director of Public Works and approved by the Board of Supervisors. The initial contract shall direct the contractor not to begin work as the result of any change until receipt of a written approved change order.
- g. Payment for work performed, should when practical, be made in one lump sum. Payment will be made within 45 days of the request for payment after final county acceptance. If the contract period exceeds two months, the contractor may request a partial payment. (In compliance with standard partial payment provisions).

C. Simplified Construction Procurement Program

- 1. A procurement involving construction not exceeding \$100,000 may be made pursuant to rules adopted by the Director of Public Works in accordance with this section. At a minimum the rules shall require:
 - a. A list is maintained of persons who desire to receive solicitations to bid on construction projects to which additions shall be permitted throughout the year.
 - b. The list of persons is available for public inspection.
 - c. Agreements for construction are on forms approved by the Director of Public Works.
 - d. A performance bond and a payment bond as required by A.R.S. § 34-222 and 34-223 be provided for contracts for construction by contractors.
 - e. All information submitted by bidders pursuant to this section be held confidential according to PC1-104.



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- f. All bids for construction are opened at a public opening.
- g. All persons desiring to submit bids be treated equitably and the information related to each project be available to all eligible persons.
- h. Competition for construction projects under the simplified construction procurement program is encouraged to the maximum extent possible.

2. Register of Prequalified Contractors

The Public Works Director may maintain a register of prequalified contractors.

D. Design-Bid-Build.

- 1. In this process, a design consultant is selected on the basis of qualifications and a fee for the professional services is negotiated. Once the design is completed, the project is advertised for bid. The construction contract is awarded to the lowest responsible and responsive bidder except in cases where the Board has previously authorized the Public Works Department, in writing, authority to include time as a factor in the solicitation as authorized in A.R.S. §28-6713C. Except for transportation, whose time of completion factor is limited to five projects, all other county departments have unlimited projects. (ARS 28-6713.C)
- 2. Any county department designated as an Article 5 procurement department by the Public Works Director may use this procurement method.
- 3. Direct selection of professional services to be used in Article 5 procurement is prohibited.

E. Design-Build.

- 1. A qualification-based selection method. Authority for design-build differs by type of construction. Prior written approval of the Public Works Director is required before initiation of this process.
- 2. The design-build procurement is a qualification-based selection process that produces a short list of qualified bidders. Discussions are initiated with the highest qualified bidder or a request for proposals is sent to all the contractors listed on the short list.



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3. For each project for horizontal construction under a design-build construction services contract, the licensed contractor performing the contract shall perform, with the contractor's own organization, construction work that amounts to not less than forty-five per cent of the total contract price for construction. For purposes of this paragraph, the total contract price for construction does not include the cost of preconstruction services, design services or any other related services for the cost to procure any right-of-way or other cost of condemnation.

F. Construction-Manager-At-Risk.

1. A qualification-based selection method that will result in multiple contracts for the project. Authority for construction-manager-at-risk differs by type of construction. Prior written approval of the Public Works Director is required before initiation of this process.
2. Construction-manager-at-risk procurement is a qualification-based selection process that produces a short list of qualified contractors. Discussions are initiated with the highest qualified contractor or a request for proposals is sent to all the contractors listed on the short list.
3. For each project for horizontal construction under a design-build construction services contract, the licensed contractor performing the contract shall perform, with contractor's own organization, construction work that amounts to not less than forty-five per cent of the total contract price for construction. For purposes of this paragraph, the total contract price for construction does not include the cost of preconstruction services, design services or any other related services for the cost to procure any right-of-way or other cost of condemnation.

G. Job-Order-Contracting.

1. This procurement method is a qualification-based process that may include design services and is for "on-call" construction capability. This type service may be procured for up to five years. If the contract will allow renewal/extension, the provisions for and the conditions of the renewal/extension must be included in the solicitation.
2. The maximum yearly contract value of a job-order-contract is \$1,000,000. For the purposes of this sub-paragraph, yearly means the twelve months subsequent to the award of the contract.



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H. Procurement Of Consultant Services Other Than Architect, Landscape Architect, Assayer, Geologist, and Land Surveyor Consultants

1. This section applies to consultants other than those listed in A.R.S. 32-101. This list includes but is not limited to hydrologists, appraisers and archaeologists.
2. Selection of consultants or professional services required during the process of construction of county facilities is to be made with procedures developed by the Director of Public Works.

PC1-505. REGISTER OF QUALIFIED CONSULTANTS

The Public Works Director will maintain a register of consultants that have expressed an interest in performing work for the county and have provided evidence of their professional qualifications for such work. The register may be categorized to reflect the consultant's primary field of expertise. The Public Works Director will maintain a file containing a SF 254 or 330: "Architect-Engineer and Related Services Questionnaire," and/or other qualifications information for each consultant on the register. The Public Works Director will notify each consultant listed on the register annually of their status and invite updating of their professional qualifications. In addition to publication in the official newspaper of the county, a public advertisement may be placed in a major newspaper of general circulation in the Phoenix area inviting consultants to apply for inclusion on the agency consultant register. Consultants which have failed to provide satisfactory evidence of qualification or have performed unsatisfactorily may be removed from the register after written notification to the consultant in accordance with Article 9 of this code.

PC1-506. SOLE SOURCE PROCUREMENT

If the need for sole source procurement should arise on a construction project or to obtain a consultant required for Article 5 procurement, the procedures followed should be in accordance with PC1-343.

PC1-507. EMERGENCY PROCUREMENT

Emergency Procurement shall be performed in accordance with PC1-344.

PC1-508 PUBLIC NOTICE

Construction procurement with a value greater than the amount stipulated in A.R.S. §§ 34-201 or 28-6713 shall be advertised in accordance with A.R.S. §§ 39-204 and 28-6713. The advertisement shall include a description of the project, location of the work, requirements and location to obtain a bid package, cost range of project, date of pre-bid and site tour (if any), county contact person, cost to obtain plans and specification, M/WSBE goals (if any),



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and bid opening date and location. If there is a mandatory pre-bid meeting and/or site tour, the date, time and location must be included in the advertisement.

PC1-509 ADDENDA

- A. Clarifications or changes to the solicitations made in response to contractor question(s) shall be transmitted to all prospective contractors by an addendum. The addendum shall document all changes or revisions to the solicitation and shall include at a minimum the following information:
1. Number of addendum, title and solicitation number of the project;
 2. Indication of a revised or unchanged bid opening date; and
 3. Reminder that acknowledgment of receipt of the addendum on bids is required for a responsive bid.
- B. An addendum shall be issued within a reasonable time before bid opening to allow prospective contractors time in which to prepare their bids. If, in the judgment of the Article 5 procurement officer, the date and time set for bid opening does not permit sufficient time for bid preparation, the date and time for the bid opening will be extended in the addendum.

PC1-510 MISTAKES IN BIDS

If a contractor alleges a mistake in its bid, the Article 5 procurement officer shall require the contractor to submit within a reasonable time, not to exceed 24 hours from bid opening, the original estimating documents along with any other price development documents and information to verify said mistake. In addition to this requirement, mistakes in bids shall be handled in accordance with PC1-322.

PC1-511 BOND REQUIREMENTS

- A. Bid Security
1. As a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications, bid security shall be required for all competitive sealed bidding/proposals for construction if the price is estimated to exceed fifty thousand dollars. Bid security shall be a certified check, cashier's check or surety bond for ten per cent of the amount of the bid for design-bid-build, for ten percent of the construction expenses in a design-build proposal, or ten percent of the estimated first year construction costs of a job-order-contracting proposal. Nothing in this section prevents a county governmental unit from requiring such bid



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security in relation to any construction contract. The surety bond shall be executed and furnished as required by Title 34, Chapter 2, of the Arizona Revised Statutes and the conditions and provisions of the surety bond regarding the surety's obligations shall follow the form required by A.R.S. §34-201, subsection A, paragraph 3. For design-build and job-order contracting, the surety bond shall be executed and furnished as required by Title 34, Chapter 6, of the Arizona Revised Statutes and the conditions and provisions of the surety bond regarding the surety's obligations shall follow the form required by A.R.S. §34-606, subsection D.

2. If the Invitation for Bids/Competitive Sealed Proposals requires security, noncompliance requires that the bid/proposal be rejected unless, pursuant to rules it is determined that the bid fails to comply in a non-substantial manner with the security requirements.
3. After the bids/proposals are opened, they are irrevocable for the period specified in the Invitation for Bids/Proposals, except as provided in PC1-315 (F). If a contractor is permitted to withdraw its bid/proposal before award, no action may be had against the contractor or the bid security.
4. An acceptable surety bond or a certified or cashier's check shall be acceptable Bid security.

B. Non-Substantial Failure to Comply with Bid Security

The Article 5 procurement officer may determine that noncompliance of bid/proposal security is non-substantial if:

1. Only one bid/proposal is received and there is not sufficient time to rebid; or
2. The amount of the bid/proposal security submitted, although less than the amount required by the Invitation for Bids, is equal to, or greater than the difference between the apparent low bid and the next higher acceptable bid; or
3. The bid/proposal security is inadequate as a result of correcting or modifying a bid in accordance with PC1-322 and PC-510 (Mistakes in Bids), if the contractor increases the amount of security to required limits within two days after notification.

C. Performance and Payment Bonds

1. Performance and payment bonds are required for all construction contracts.
2. If the contractor fails to provide the required performance and/or payment



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bonds within the time specified by the contract, the bid shall be rejected, bid security forfeited, and the contract awarded to the next lowest responsive, responsible contractor.

3. Performance bonds are to be submitted to the county executed by a surety company holding a certificate of authority to transact surety business in this state issued by the Director of the Department of Insurance in the amount and for the duration specified in the contract.
4. Payment bonds are to be submitted to the county, executed by a surety company holding a certificate of authority to transact surety business in this state issued by the Director of the Department of Insurance for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work required by the contract. The bond shall be in the amount specified in the contract.
5. The performance bond and payment bond shall be delivered by the contractor to the county within the time limits set forth in the solicitation. If the contractor fails to deliver the required performance or payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract made to the next low responsive, responsible contractor.

PCI-512 CONTRACT AWARD AND NOTICE TO PROCEED

- A. Except as provided in PC1-105A, all contracts for construction will be awarded by the Board of Supervisors and signed by the Chairman of the Board unless that authority has been clearly delegated by resolution.
- B. Upon receipt from the contractor of the required bonds and insurance after award, a Notice to Proceed will be issued which begins the performance period of the contract.

PCI-513 INSURANCE REQUIREMENTS

All insurance requirements, insurance coverage contract language and indemnification contract language will be coordinated with the County Risk Management office prior to issuance of a solicitation or addendum thereto.

PC1-514 CONSTRUCTION CONTRACT PAYMENT

- A. Construction contract payments will be made in accordance with rates and schedules identified in the contract and are to be made within fourteen (14) calendar days of receipt of a certified and approved payment request. An estimate of the work



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submitted shall be deemed approved and certified for payment after seven (7) days from the date of submission unless before that time the using agency prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the contract. The using agency may withhold an amount from the progress payment sufficient to pay the expenses the using agency reasonably expects to incur in correcting the deficiency set forth in the written finding.

B. Retention

Unless arrangements have been made for substitute security and except for job-order-contracting, the using agency will retain 10% of each progress payment made to contractors/consultants until the work is 50% complete. After the contract is 50% completed no more than 5% of the amount of any subsequent progress payments made under the contract may be retained providing the contractor is making satisfactory progress on the project. (A.R.S. § 34-221.(3)) Retention is to be released upon final acceptance of the work and receipt of a certificate of performance. Retention must be returned within sixty (60) days after completion or filing the notice of completion. (A.R.S. § 34-221.A(5)). Retention for Design-Build construction services and Construction – Manager- at- Risk are optional. Retention for Job-Order-Contracting construction services is prohibited.

C. Consultant progress payment requests which are not approved will be returned to the consultant clearly stating the non-compliance. The consultant will also be notified that payment is being held pending receipt of a revised and corrected payment request.

D. Notification of progress payment to a prime contractor shall be made to the subcontractor within five (5) days of each payment, if requested by the subcontractor.