



PINAL COUNTY
PROCUREMENT CODE

ARTICLE 9 - LEGAL AND CONTRACTUAL REMEDIES

PC1-901 RULES OF PROCEDURE

Rules of procedure providing for the expeditious administrative review of all contract claims or controversies both before the purchasing agency and through an appeal are set forth in this article.

PC1-902 DEBARMENT AND SUSPENSION OF CONTRACTORS

- A. The Assistant County Manager for Administrative Services, at the recommendation of staff, may suspend and/or debar any contractor from consideration for award of a contract pursuant to this code. The suspension may not exceed more than six months and a debarment may not exceed more than three years for each offense.
- B. The causes for debarment or suspension shall include, but are not limited to, the following:
1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or its political subdivision, or any other state for:
 - a. Embezzlement
 - b. Theft
 - c. Fraudulent schemes
 - d. Bid rigging
 - e. Perjury
 - f. Forgery
 - g. Bribery
 - h. Falsification or destruction of records
 - i. Receiving stolen property
 - j. Any other offense indicating a lack of business integrity or business honesty, which affects responsibility as a contractor.
 3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
 4. Violations of contract provisions of a character which are deemed to be so



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serious as to justify debarment action, such as either of the following:

- a. Knowingly fails without good cause to perform in accordance with the specification or within the time limit provided in the contract.
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by the acts beyond the control of the contractor shall not be considered to be a basis for debarment.
5. Any other cause deemed to affect responsibility as a Pinal County contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity.
- C. An administrative review shall be held by the Assistant County Manager for Administrative Services or designee on any person considered for debarment or suspension. A written notice to the person considered for debarment or suspension shall be mailed at least 10 working days prior to the administrative review and shall at the minimum include:
1. Date, time and place of the administrative review;
 2. Statement of reasons for the recommended action; and
 3. A statement to the person that they may attend and offer information on their behalf.
- D. After a decision has been determined, a written notice shall be sent to the person citing the:
1. Action taken and the effective date and length of time the action shall be in effect.
 2. Reasons for the action taken.

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JUDICIAL REVIEW

The final decision of the Assistant County Manager for Administrative Services or designee regarding debarment or suspension may be the subject of judicial review which shall be filed with the Superior Court in Pinal County.



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PC1-904 VIOLATION; CLASSIFICATION; LIABILITY; ENFORCEMENT AUTHORITY

- A. A person who contracts for or purchases any material, services or construction in a manner contrary to the requirements of this code or the Arizona Revised Statutes may be personally liable for the recovery of all public monies paid plus twenty percent of such amount and legal interest from the date of payment and all costs and damages arising out of the violation.

PC1-905 PROTESTS AND APPEALS OF CONTRACTS AND AWARDS

- A. Any interested party may protest a solicitation issued by Pinal County, or the proposed award or the award of a Pinal County contract. The protest shall be in writing and shall include the following information:
1. The name, address and telephone number of the protester;
 2. The signature of the protester or its representative;
 3. Identification of the purchasing agency and the solicitation or contract number;
 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
 5. The form of relief requested.
- B. Filing
1. Protests are to be filed with the procurement officer issuing the solicitation or contract.
 2. Appeals are to be filed with procurement officer's respective department director.
- C. Time for filing protests:
1. Protests based upon alleged improprieties in a solicitation that are apparent before the bid opening shall be filed before bid opening. Protests based upon alleged improprieties in a solicitation that are apparent before the



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closing date for receipt of initial proposals shall be filed before the closing date for receipt of initial proposals.

2. In procurements requesting proposals, protests concerning improprieties that do not exist in the initial solicitation but that are subsequently incorporated into the solicitation shall be filed by the next closing date for receipt of proposals following the incorporation.
3. In all cases not covered by sections PC1-905 (C) (1) and (2), the protest shall be filed within ten (10) days after contract award.
4. If the protester shows good cause, the procurement officer of the contracting agency may consider any protest that is not filed timely.
5. The procurement officer shall immediately give notice of the protest to all interested parties.
6. If the protest is filed before the award of contract or before performance of a contract has begun, the award may be made or contract performance may proceed, unless the director stays the contract award or performance on determining in writing that there is a reasonable probability that the protest will be sustained or that stay is not contrary to the best interests of Pinal County.

D. Decision by the procurement officer

1. The procurement officer of the purchasing agency shall issue a written decision within 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision and a statement that the decision may be appealed to the procurement officer's department director within five days from receipt of the decision.
2. The procurement officer shall furnish a copy of the decision to the protester, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
3. The time limit for decisions set forth in subsection D (1) may be extended by the director for good cause for a reasonable time not to exceed a total of 30 days. The director shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.



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4. If the procurement officer fails to issue a decision within the time limits, the protestor may proceed as if the procurement officer had issued an adverse decision.

E. Appeals to the Respective Department Director

1. An appeal from a decision entered or deemed to be entered by the procurement officer shall be filed with the respective department director within five days after the date the decision is received. The appellant shall also file a copy of the appeal with the procurement officer.
2. The appeal shall contain the information set forth in PC1-905 (A), a copy of the decision of the procurement officer, and the precise factual or legal error in the decision of the procurement officer from which an appeal is taken.
3. The procurement officer shall immediately give notice of the appeal to interested parties. The department director shall upon request furnish copies of the appeal to any interested party.
4. The department director shall provide the contractor with a written response to the appeal within fourteen working days following its receipt. The decision of the department director shall contain an explanation of the basis of the decision and shall be the final position of Pinal County concerning the dispute, excepting where this Code specifies otherwise.

F. Remedies

1. If the procurement officer of the purchasing agency sustains the protest in whole or part and determines that a solicitation, proposed contract award, or contract award does not comply with the this Code and regulations, the officer shall implement an appropriate remedy.
2. In determining the appropriate remedy, the procurement officer shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the government, the urgency of the procurement, and the impact of the relief on the purchasing agency's mission.



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3. An appropriate remedy may include one or more of the following:
 - a. Decline to exercise an option to renew under the contract;
 - b. Terminate the contract;
 - c. Amend the solicitation;
 - d. Issue a new solicitation;
 - e. Award a contract consistent with this Code;
 - f. Such other relief as is determined necessary to ensure compliance with this Code.