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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 Pinal County roads and facilities. This Article also applies to the procurement of various professional services required by the Pinal County to meet its needs related to the design, construction, reconstruction and remodel of Pinal County roads and facilities.

PC1-502      RESPONSIBILITIES AND AUTHORITY

- A. The Director shall have the following delegated authorities:
  - 1. Change order authority which shall not exceed an aggregate of 30% of the original contract value or \$250,000, whichever is less. Any change exceeding these thresholds shall be specifically authorized by the Board of Supervisors. The Board of Supervisors may also delegate additional change order authority to the Director for a specific project or contract.
  - 2. Authority to issue and award limited scope construction contracts up to the limits specified in A.R.S. § 34-201.C and D and § 28-6713.B.
  - 3. Authority to issue and award simplified construction procurement program contracts.
  - 4. Carry out duties and responsibilities delegated by the Board of Supervisors.
- B. The Director shall determine 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 shall not be performed by County personnel unless permitted by applicable Arizona Statutes.
- B. Selection of and payment for A/E consultant services shall be governed by the procedures contained in PC1-505 of this Article.
- C. Construction contract awards shall be made to the lowest responsible respondent after public advertisement of the proposed contract in accordance with procedures established, but substantially in conformance with the general policies for competitive bidding outlined in PC1-315 through 327 of this Code.
- D. When the date and time has been set for multiple solicitation openings, a respondent who has submitted bids on more than one project may be allowed to withdraw a bid on a second or third project prior to the solicitation 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.


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- 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.
- G. Invitations for Bid on Pinal County construction contracts shall require a bid security in an amount equal to at least 10% of the bid due upon submission of bid.
- H. The Procurement Officer may determine that noncompliance is non-substantial if:
  - 1. Only one bid is received and there is not sufficient time to rebid; or
  - 2. The bid security is inadequate as a result of correcting or modifying a bid and the respondent increases the amount of security to required limits within two days after notification.
- I. A bid received without proper bid security shall be rejected.
- J. All contracts for construction shall be awarded by the Board of Supervisors and signed by the Chairman of the Board unless that authority has been clearly delegated by resolution.

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 Pinal County Public Works and Facilities 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 respondent 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.
  - 5. Construction-Manager-At-Risk - A procurement method where two contracts are awarded separately for the design and the construction of a project. Multiple contracts to phase construction may be awarded under the condition that multiple contracts are advantageous to the project and the County. Design and construction may occur sequentially or concurrently.

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6. Job-Order-Contracting - A project delivery method limited to five years by Arizona Revised Statutes and awarded by the Board of Supervisors, in which:
  - a. The contract is a requirement contract for indefinite quantities of construction.
  - b. The construction to be performed is specified in job orders (or task orders) issued during the contract.
  - c. Financial services, maintenance services, operation services, preconstruction services, design services and other services related to construction may be included.

Note: Sunset provisions for subparagraphs 4, 5, and 6 above:

- 1) Contracts for vertical construction under Title 34 have no sunset date.
  - 2) Contracts for horizontal construction under Title 34 have a sunset date of June 30, 2020.
  - 3) Contracts for horizontal construction under Title 28 have a sunset date of December 31, 2025.
7. No contracts may be entered into after the above-referenced sunset dates for the delivery methods listed in subparagraphs 4, 5, and 6 above unless the sunset dates are otherwise extended by amendment to the applicable Arizona Revised Statute.


**B. Limited Scope Construction Procurement**

1. The Board of Supervisors authorizes the Director of Finance to approve and award construction contracts issued in accordance with this section.
2. 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 respondent 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 respondent 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 shall be on a form approved by the Director of Public Works and the Procurement Officer.
  - d. Responses to a Request for Quotation shall be solicited in accordance with the following guidelines. A no-bid response shall constitute a response:
    - 1) For work of a nominal value of \$5,000.00 or less, one written response is required.

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- 2) For work greater than \$5,000.00 but less than the statutory 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 deemed non-responsive and shall be returned to the respondent unopened.
    - f. Changes in the scope of work after the award shall be described in a change order on an approved form. The change order shall be signed by the Department Manager and approved by the Director of Finance. 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 shall 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 respondent shall provide a performance bond and a payment bond as required by A.R.S. § 41-2574 for construction contracts.
    - e. All information submitted by respondents pursuant to this section be held confidential according to A.R.S. § 41-2533, subsection D.
    - 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.

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D. Design-Bid-Build.


1. Once the design is completed, the project is advertised for bid. The construction contract is awarded to the lowest responsible and responsive respondent 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. The time factor is only authorized to be used on a total of five projects.
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.
4. For each project for horizontal Construction under a Design-Bid-Build construction services contract, the licensed contractor awarded the contract shall perform, with the contractor's own organization, construction work that amounts to not less than fifty-one 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.

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 respondent or a Request for Proposals is sent to all the respondents listed on the short list.
3. For each project under a Design-Build construction services contract, the licensed contractor awarded the contract shall perform, with the contractor's own organization, construction work that amounts to not less than fifty-one 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.

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3. For each project for horizontal construction under a Construction-Manager-At-Risk construction services contract, the licensed contractor awarded the contract shall perform, with the contractor's own organization, construction work that amounts to not less than fifty-one percent 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 than 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 single maximum value of a work assignment issued under this procedure by statute is \$1,000,000 or such higher or lower amount as adopted by the Board of Supervisors as the maximum amount of an individual job order. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement. The maximum yearly contract value of a Job-Order-Contract is \$5,000,000. For the purposes of this sub-paragraph, yearly means the twelve months subsequent to the award of the contract.

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.

- I. Any other type of contract may be used only if the Procurement Officer determines in writing prior to solicitation that the use of that contract type is permitted by law and is advantageous to Pinal County.

PC1-505

REGISTER OF QUALIFIED CONSULTANTS

The Procurement Officer shall 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 Procurement Officer shall maintain a file containing a SF 330: "Architect-Engineer and Related Services Questionnaire," and/or other qualifications information for each consultant on the register. The Procurement Officer shall 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 and Tucson areas inviting consultants to apply for inclusion on the department 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.

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PC1-506      SOLE SOURCE AND COMPETITION IMPRACTICABLE PROCUREMENT

If the need for sole source or competition impracticable 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 PC1-346-351.

PC1-507      EMERGENCY PROCUREMENT

Emergency Procurement shall be performed in accordance with PC1-353.

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), 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 respondent question(s) shall be communicated to all prospective respondents 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 respondents 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 shall be extended in the addendum.

PC1-510      MISTAKES IN BIDS

If a respondent alleges a mistake in its bid, the Article 5 Procurement Officer shall require the respondent 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.



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PC1-511      BOND REQUIREMENTS

A. Bid Security.


1. As a guarantee that the respondent 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 limits established by A.R.S 41-2535. 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 the County from requiring such bid 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 Code 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 Code 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 respondent is permitted to withdraw its bid/proposal before award, no action may be had against the respondent or the bid security.
4. An annual or one-time surety bond executed by a surety company or companies holding a certificate of authority to transact surety business in this State issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, and in a form prescribed by A.R.S. § 41-2573 and R2-7-505; 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 (Mistakes in Bids), if the respondent increases the amount of security to required limits within two days after notification.



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C. Performance and Payment Bonds.

1. Performance and payment bonds are required for all construction contracts.
2. If the respondent fails to provide the required performance and/or payment 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 respondent.
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 respondent to the County within the time limits set forth in the solicitation. If the respondent fails to deliver the required performance or payment bond, the respondent's bid shall be rejected, its bid security shall be forfeited, and award of the contract made to the next low responsive, responsible respondent.

PC1-512 CONTRACT AWARD AND NOTICE TO PROCEED


- A. All contracts shall be awarded by the Board of Supervisors and signed by the Chairman of the Board unless the authority has been clearly delegated and authorized to others by the Board of Supervisors.
- B. Upon receipt from the respondent of the required bonds and insurance after award, a Notice to Proceed shall be issued which begins the performance period of the contract.

PC1-513 INSURANCE REQUIREMENTS

All insurance requirements, insurance coverage contact 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 shall 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 submitted shall be deemed approved and certified for payment after seven (7) days from the date of submission unless before that time the using department 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 department may withhold an amount from the progress payment sufficient to pay the expenses the using

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department 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 department shall 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. § 34-221A(5)).

**C.** Consultant progress payment requests which are not approved shall be returned to the consultant clearly stating the non-compliance. The consultant shall 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.

**E.** A forbearance procedure may be used by the County when, through no fault of the County, a consultant is unable or unwilling to complete the required scope of work within the contracted performance period. The forbearance shall acknowledge the consultants past due performance while maintaining and protecting the County's contractual rights and remedies.


**PC1-515      CHANGE ORDER AUTHORIZATION**

**A.** The Director may delegate authority to Public Works to modify construction contracts through issuance of change orders as listed below, provided;

1. The using department issuing the change order has been formally delegated change order authority by the Director; and
2. The change order is reviewed and approved by the Procurement Officer assigned to that department; and
3. The change order is within the authority limits approved by the Director for that using department; and
4. A standardized change order justification form is approved by all required persons and placed in the contract file.

**B. Change Order Classification:**

1. Time Only Change Orders - Change Orders that address change within the time elements of a contract may be approved and signed by the Director or if delegated, by the department director of a department.
2. Additive Change Orders – Any contract modification(s) resulting in an increase in the contract cost may be approved by the Director without Board of Supervisor approval and shall not exceed an aggregate of 30% of the original contract value or \$250,000, whichever is less.

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3. Deductive Change Orders - Any contract modification(s) resulting in a reduction in the contract cost may be approved by the Director without Board of Supervisors approval unless the modification will result in a substantial change in the scope of work. The requirements of PC1-514.A must be met.
4. Scope of Work Change Order- All change orders that will result in a substantial change in scope of work, regardless of the cost increase or decrease requires Board of Supervisors approval.
5. Contract Term Change Order – Change orders resulting in a change to the terms and conditions of the contract, including but not limited to updated pricing for term and on-call contracts, so long as said change does not alter the intended purpose of the contract or place the County in a less advantageous position, may be signed by the Director or delegated to an Article 5 department director. All other changes to the terms and conditions of the contract must be approved by the Board of Supervisors.

C. Change Order Authority.

The Director may request increased change order authority based on the uniqueness of a specific project or be granted change order authority for a specific project or contract.