PINAL COUNTY

WIDE OPEN OPPORTUNITY

PROCUREMENT CODE

REVISED 2/28/2018

PINAL COUNTY FINANCE DEPARTMENT

PC1-101 DEFINITIONS

1. "ADVANTAGEOUS" means in the best interests of Pinal County as solely determined by the Director except as otherwise specified in this Code.

2. "ARCHITECTURE/ENGINEERING (A/E) CONSULTANT SERVICES" means services of an architect, engineer, land surveyor, hydrologist, geologist, appraiser, archeologist, assayer, landscape architect, or other related professional, whose services are required to provide planning, design, or construction management support for Pinal County and its governmental units.

3. "ADDENDA" or "ADDENDUM" means a document attached to, and made a part of, the original contract. The language can override terms and conditions, or it can provide clarity to items that may not be spelled out.

4. "AFFILIATE" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. The term applies to persons doing business under a variety of names, persons in a parent-subsidiary relationship, or persons that are similarly affiliated.

5. "AMENDMENT" means any change to previously agreed upon terms/conditions of an executed contract.

6. "AWARD" means the final execution of a contract by the County representative as authorized by the County Board of Supervisors.

7. "BID" means an offer to perform a contract for work and labor or supplying goods or services at a specified time.

8. "BID BOND" means a form of security, which indemnifies the County against a successful respondent's failure to execute the contract documents and proceed with performance.

9. "BOND" means a form of security in compliance with the Arizona Revised Statutes which indemnifies the County from various events.

10. "BRAND NAME OR EQUAL SPECIFICATION" means a specification that uses one or more manufacturers' names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet Pinal County requirements, and that provides for the submission of equivalent products.

11. "BRAND NAME SPECIFICATION" means a specification limited to one or more items by manufacturers' name or catalog numbers.

12. "BUSINESS" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

13. "CAPABILITY" means respondent's ability to fully perform the contract requirements at the time of award.

14. "CHANGE ORDER" means a written change to the contract documents and agreed to by the County's authorized contracting officer or Procurement Officer, contractor, architect or vendor. It may change the contract sum, time of performance, quantity, degree of services contemplated in the original contract's intent.

15. “CLARIFICATION” means written or oral communication with a respondent, including demonstrations or questions and answers, for the sole purpose of information gathering or of eliminating minor informalities or correcting nonjudgmental mistakes in a bid or proposal. Clarification does not otherwise afford the respondent the opportunity to alter or change its bid or proposal.

16. “COMMODITIES” means all property, including equipment, supplies, printing, insurance and leases of personal property, but does not include land or other real property interests.

17. “COMPETITION IMPRACTICABLE” means a procurement requirement which makes compliance with State and County competitive purchasing statutes impracticable, unnecessary or contrary to public interest but which is not an emergency.

18. “CONSTRUCTION” means a process of improving, altering, remodeling, or demolishing of any public structure, highway, bridge, building or public improvement of any kind to any real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, highways, bridges or public property.

19. “CONSTRUCTION AGENCIES” means a Pinal County Governmental Unit, duly authorized to issue contracts for construction and consultant services for construction.

20. "CONSTRUCTION-MANAGER-AT-RISK" means 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.

21. “CONTRACT” means all properly executed agreements, regardless of what they may be called, for the procurement of commodities, services, construction or the disposal of materials.

22. “CONTRACT MODIFICATION” means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.

23. “CONTRACTOR” means any person who has a contract with a County department.

24. “COOPERATIVE PURCHASING” means a procurement conducted by, or on behalf of, more than one public procurement unit.

25. “COST” means, for the purposes of the Code, the actual amount paid or incurred by a contractor to provide a commodity or service exclusive of any profit or markup.

26. “COST ANALYSIS” means the evaluation of the cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

27. “COST DATA” means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.

28. “COST-PLUS-FIXED-FEE-CONTRACT” means a cost-reimbursement contract that provides for the payment of a fixed fee to the contractor, in addition to costs which are reasonable, allowable and allocable in accordance with the contract terms and the provisions of this Code. The fixed fee, once negotiated, does not vary with the actual cost but may be adjusted as a result of any subsequent changes in the scope of work or services to be performed.

29. “COST-PLUS-A-PERCENTAGE-OF-COST-CONTRACT” means a cost-reimbursement contract that, prior to completion of the work, the parties agree that the profit fee will be a predetermined percentage of the total cost of the work. Such a contract is not permissible under this Code, PC1-302, unless it is only a portion of the contract and that portion is not under the control of the contractor and which shall not include labor.

30. “COST-REIMBURSEMENT CONTRACT” means a contract under which a contractor is reimbursed for costs which are reasonable, allowable and allocable in accordance with the contract terms and the provisions of this Code, and a fee, if provided for in the contract.

31. “DATA” means documented information, regardless of form or characteristic.

32. “DAYS” means calendar days and shall be computed pursuant to A.R.S. §1-243.

33. “DEBARMENT” means an action taken by the Director to prohibit a person from participating in Pinal County procurements.

34. “DEFECTIVE DATA” means data that is inaccurate, incomplete, outdated or misleading.

35. “DEPARTMENT” means the Finance Department.

36. "DESIGN-BID-BUILD" means a 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.

37. "DESIGN-BUILD" means 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. There is a minimum project cost for horizontal projects specified in A.R.S. §34-603 before this procedure may be used.

38. “DESIGNEE” means a duly authorized representative of the Director.

39. “DESCRIPTIVE LITERATURE” means information available in the ordinary course of business that shows the characteristics, construction, or operation of an item offered in a bid or proposal.

40. “DESIGN SPECIFICATION” means a specification that sets forth physical characteristics in definitive terms.

41. “DIRECT TRANSFER” means the transfer of surplus or excess property from one county governmental unit to another without physically moving the property to the designated surplus property area.

42. “DIRECTOR” means the Director of the Finance Department.

43. “DUE DATE” means the date and time set forth in the solicitation after which no bid, proposal, or other offer will be considered.

44. “EARTH MOVING, MATERIAL HANDLING, ROAD MAINTENANCE, AND CONSTRUCTION EQUIPMENT” could mean a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader, having a published manufacture's minimum unit list price of $50,000 or more and a minimum expected life cycle of three years.

45. “ELIGIBLE PROCUREMENT UNIT” means a public procurement unit or a public educational or public health institution.

46. "EMERGENCY PROCUREMENT" means a procurement occurring under a written declaration of emergency by the appropriate County leader.

47. "EMPLOYEE" means an individual drawing a salary from a county governmental unit.

48. "ERRORS AND OMISSIONS (E & O) INSURANCE" means liability insurance to protect those providers of services from claims arising out of negligent acts, errors or omissions, or breach of the contract during performance of the contractual duties.

49. "ESTABLISHED CATALOG PRICE" means the price included in a catalog, price list, schedule or other form that:

    - Is regularly maintained by a manufacturer, distributor or contractor.
    - Is either published or otherwise available for inspection by customers.
    - States prices at which sales are currently or were last made to a significant number of any category of buyers constituting the general buying public for the commodities or services involved.

50. "EXCESS MATERIALS" means any materials which have a remaining useful life but which are no longer required by the using department in possession of the materials.

51. "EXCESS FIXED ASSETS" means any personal property which has a remaining useful life but which is no longer required by the using department in possession of the fixed assets.

52. "EXPENDABLE COMMODITIES" means all tangible commodities other than fixed assets.

53. "FILED" means delivery to the Procurement Officer or to the Director, whichever is applicable. A time/date stamp affixed to a document by the office of the Procurement Officer or the Director, whichever is applicable, shall be determinative of the time of delivery for purposes of filing.

54. "FINISHED GOODS" mean units of manufactured product awaiting sale.

55. "FIXED PRICE-CONTRACT" means a price not subject to any adjustments by the contractor in performing a contract.

56. "FORBEARANCE" means the action of refraining from exercising the legal right, especially enforcing the payment of a debt.

57. "FUNCTIONAL SPECIFICATION" means a specification that sets forth the specific operational requirements or results.

58. "GENERAL SERVICES ADMINISTRATION CONTRACT" means contracts awarded by the United States government general services administration.

59. "GRANT" means the transfer of funds, property or services to a county governmental unit.

60. "INCREMENTAL AWARD" means an award of portions of a definite quantity requirement to more than one respondent. Each portion is for definite quantity and the sum of the portions is the total definite quantity required.

61. "INFORMATION SYSTEMS" means a system of hardware, software or related support with a price of more than $100,000 that process information, data or processing methods and devices.

62. “INVITATION FOR BIDS” means, except for construction, all documents including detailed scope of work and/or technical specifications whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in Section PC1-315.

63. “INVITATION TO NEGOTIATE” means a written solicitation for sealed proposals to select one or more vendors with which to commence negotiations for the procurement of unique goods or services described in the solicitation. The outcome of this process is selection of the response that represents the best value to the county in accordance with the procedures prescribed in Section PC1-344.

64. "JOB-ORDER-CONTRACTING" means a type of “on-call” construction contract. This type of contract is limited to three years by A.R.S. §34-603.

65. “LETTER OF INTEREST (LOI)” means information submitted in response to a public advertisement and used by the County to identify firms for further procurement consideration, may also be referred to as expressions of interest.

66. “LIFE CYCLE” means the useful life of the material, equipment or systems to the original using department to perform the application for which it was initially procured.

67. "LIMITED SCOPE CONSTRUCTION PROCUREMENT" means statutory dollar limited construction with a simplified bid process.

68. “LITIGATION” means all judicial, administrative, alternative dispute and mediation proceedings or hearings.

69. “LIQUIDATED DAMAGES” means damages provided under a contract in a sum certain to be awarded to the County if a contractor fails to perform as agreed.

70. “MINOR INFORMALITY” means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery, or other contractual terms and the waiver or correction of such mistake does not prejudice other respondents.

71. “MULTIPLE AWARD” means an award of an indefinite quantity contract for one or more similar commodities or services to more than one respondent.

72. “MULTI-STEP SEALED BIDDING” means a two phase process consisting of a technical first phase composed of one or more steps in which the respondent submits un-priced technical proposals to be evaluated, and a second phase in which those respondents whose technical proposals were determined to be acceptable during the first phase have their price proposals considered.

73. "NEGOTIATIONS" means an exchange of information or any form of communication during which the respondent and the County may alter or otherwise change the conditions, terms, and price, unless prohibited, of the proposed contract. Negotiations may be conducted in connection with Multi-Step Sealed Bidding, Competitive Sealed Proposals, Multi-Step Sealed Proposals, Invitation to Negotiate, Request for Quotations, Review of Qualifications, small purchases, sole source procurements, emergency procurements, competition impracticable procurements, and special procurements or contract amendments.

74. “NOTICE OF AWARD” means a letter from a County governmental unit advising the respondent of the award of a contract.

75. “NOTICE TO PROCEED” means a letter from the County governmental unit authorizing the respondent to start the work specified in the contract.

76. "ON-LINE BIDDING" means a procurement process in which public agencies receive vendors' bids for goods, services, construction, or information services electronically over the internet in a real-time, competitive bidding event.

77. "OPEN DATE" means the date and time set forth in the solicitation that the submitted proposals will be opened and recorded.

78. "PAYMENT BOND" means a form of security required to be provided by a contractor for the protection of claimants supplying labor and/or commodities to the contractor or their subcontractors.

79. "PERFORMANCE BOND" means a form of security provided by a contractor that secures the contractor's obligation to properly complete their work in accordance with the contract.

80. "PERFORMANCE SPECIFICATION" means a specification that sets forth a predefined criteria or objective to be met.

81. "PERSON" means any corporation, business, individual, union, committee, club, other organization or group of individuals.

82. "PRICE" means, for the purposes of the Code, the total expenditure for a defined quantity of a commodity or service.

83. "PRICE ANALYSIS" means the evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.

84. "PRICE DATA" means information concerning prices, including profit, for commodities, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered or proposed selling prices, historical selling prices, or current selling prices of the items being purchased.

85. "PROCUREMENT" means buying, purchasing, renting, leasing or otherwise acquiring any information, commodities, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

86. "PROCUREMENT OFFICER" means any person duly authorized by the Director to engage in specific limited procurement activity acting within the limits of authority under this Code.

87. "PROFESSIONAL SERVICES" means services approved by the Board of Supervisors and listed in PC1-203.C as appropriate for procurement pursuant to PC1-355 which require the application of specialized or advanced training, experience, or skills or qualifications in a given field of science or learning that has been generally accepted as a profession and where the final product or result may not be accurately predicted.

88. "PROPOSAL" means a written offer, solicited or unsolicited, for consideration as a basis for awarding or modifying a contract.

89. "PROPRIETARY SPECIFICATION" means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance, or functional characteristics from being responsive to the Solicitation.

90. "PUBLIC EDUCATIONAL OR PUBLIC HEALTH INSTITUTION" means any educational or public health institution, no part of the income of which is distributable to its members, directors or officers, as defined in rules promulgated by the Board of Supervisors.

91. "PUBLIC PROCUREMENT UNIT" means either a local public procurement unit, the department, any other state or an agency of the United States.

92. "PURCHASE DESCRIPTION" means the language used in a solicitation to describe the commodities or services to be acquired and includes specifications attached to, or made a part of, the Solicitation.

93. "PURCHASE REQUEST" means a document, electronic transmission, or verbal request, whereby a using department specifies a need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information supplied for the making of any written determination required by this Code.

94. "PURCHASING DEPARTMENT" means Pinal County Purchasing Division of the Finance Department or any County governmental unit delegated by the Director and approved by the Board of Supervisors to engage in specific procurement activity within the limits of authority under this Code.

95. "QUALIFIED PRODUCTS LIST" means an approved list of commodities described by the manufacturer by model or catalog numbers, that Pinal County has determined will meet the applicable specification requirements prior to a competitive solicitation.

96. "RAW MATERIALS" means goods, excluding equipment and machinery, purchased for use in manufacturing a product.

97. "REGIONAL AWARD" means the division of a contract for one or more similar commodities or services into geographic regions.

98. "REQUEST FOR INFORMATION" means a formal process used to gather data from the vendor community which may or may not be used in a future solicitation.

99. "REQUEST FOR PROPOSAL" means the solicitation issued in accordance with PC1-328 through PC1-338.

100. "REQUEST FOR TECHNICAL PROPOSAL" means the solicitation issued in accordance with PC1-325 and PC1-339.

101. "RESIDUAL VALUE" means the guaranteed minimum value offered by the contractor at the end of the life cycle of the material, equipment or systems being procured.

102. "RESPONDENT" means any individual, corporation, partnership, or business entity, organization or agency which responds to a bid, proposal, solicitation, offer or any other invitation or request which Pinal County invites a person to participate.

103. "RESPONSIBLE RESPONDENT" means an entity having the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.

104. "RESPONSIVE RESPONSE" means the submission of a bid or proposal from an entity which conforms in all material respects.

105. "REVIEW OF QUALIFICATIONS" means the solicitation type set forth in PC1-355.D and PC1-504.

106. “SAMPLE” means an item furnished by a respondent to show the characteristics of the item offered in the solicitation.

107. “SERVICES” means the furnishing of labor, time or effort by a respondent which does not involve the delivery of a specific end product other than required reports and performance. Services do not include employment agreements or collective bargaining agreements.

108. "SIMPLIFIED CONSTRUCTION PROCUREMENT PROGRAM" means construction 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.

109. “SMALL PURCHASE” means a purchase of less than five thousand dollars.

110. “SOLICITATION” means an Invitation for Bids, a Request for Technical Proposal, a Request for Proposals, an Invitation to Negotiate, a Request for Quotations, or any other invitation or request by which Pinal County invites a person to participate in a procurement.

111. “SOLICITATION CLOSING” means the date and time set forth in the solicitation after which no bid, proposal or other solicitation will be considered.

112. “SPECIFICATION” means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service or construction item for delivery.

113. “SPECIFICATION FOR A COMMON OR GENERAL USE ITEM” means a specification that has been developed and approved for repeated use in procurement pursuant to PC1-404.A.

114. “STANDARD COMMERCIAL MATERIAL” means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.

115. “SURPLUS MATERIALS” means any materials or fixed assets that no longer have any use to Pinal County. This includes obsolete and scrap materials.

116. “SUSPENSION” means an action taken by the Director under PC1-902 temporarily disqualifying a person from participating in Pinal County procurements.

117. “TECHNICAL PROPOSAL” means un-priced written information from a respondent stating the manner in which the respondent intends to perform certain work, its qualifications, and its terms and conditions as set forth in PC1-325 and PC1-339.

118. “TELECOMMUNICATIONS SYSTEMS” means a system with a price of more than $100,000 including but not limited to all instrumentalities, facilities, apparatus and services, for the transmission and reception of messages, impressions, signs, signals, pictures, sounds or any other symbols by wire, radio, optical cable, electromagnetic or other similar means.

119. “TOTAL COUNTY COST” means costs to Pinal County for commodities, equipment, systems or services. Costs which maybe included are maintenance costs, present value of monies, vendor charges, energy, facilities, personnel, finance costs or other identifiable Pinal County costs.

120. “TOTAL LIFE CYCLE COST” means vendor charges, total County costs and financing costs throughout the life cycle of the commodities, equipment or systems being purchased less any applicable residual value.

121. “TWO-STEP COMPETITIVE NEGOTIATION” means the solicitation procedure as set forth in PC1-355.D 2.

122. “UNIT PRICE” means a price under which the contractor is paid a price for the selected unit for goods or service (e.g. pound, ton, hours).

123. “UNIT PRICE CONTRACTS” means a contract which establishes the basis for payment as a cost per unit. A unit price contract may incorporate a number of items each with a different unit cost. Unit price contracts are normally bid based upon an estimated quantity of work or units for each specified bid item. Actual payment is based on the total of actual units produced and delivered multiplied by the contract unit price.

124. “URGENT NEED” means requiring immediate attention.

125. “USING DEPARTMENT” means any County governmental unit which utilizes any goods, services or construction procured under this Code.

126. “VENDOR CHARGES” means costs of all vendor support, commodities, transportation and all other identifiable costs associated with the response to a solicitation.

127. “VENDOR SUPPORT” means services provided by the vendor for items such as consulting, education, maintenance, training, management of the information systems or telecommunications systems, systems planning, development and integration.

128. “WRITTEN DETERMINATION” means a written decision resolving a question or controversy, or finalizing a position within the limits of authority under this Code.

PC1-102 APPLICABILITY

A. This code applies to every expenditure of public monies, including federal assistance monies, except as otherwise specified in Article 10, by this County, acting through a County governmental unit under any contract, except that this Code does not apply to contracts between this County and other political subdivisions or other governments, except as provided in Article 10 of this Code.This Code also applies to the inventory and disposal of County commodities. Nothing in this Code or in regulations or policies and procedures adopted under this Code shall prevent any County governmental unit from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

B. The provisions of this Code are not applicable to contracts for professional witnesses or experts, if the purpose of such contract is to provide testimony or advice relating to an existing or probable litigation in which this County is or may become a party or for contracts of special investigative services.

C. The provision of this Code are not applicable when Pinal County is the recipient of funds from another entity (public or private), and when as a condition of the receipt of such funds, all or a portion of the funds are sub-contracted out to a prior designated person, the resulting sub-contract(s) shall not be subject to any of the competitive procurement requirements of this Code.

D. Agreements negotiated by legal counsel representing this County in settlement of existing or probable litigation are exempt from the provisions of this Code.

E. Revenue contracts shall be procured with such competition as practical.

PC1-103 WRITTEN DETERMINATIONS

A. Each written determination shall specify the reasons for the determination.

B. The Director is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

C. Each written determination shall be filed in the applicable solicitation or contract file, and the timing of such filing shall be determined by the Procurement Officer.

PC1-104 CONFIDENTIAL INFORMATION

A. If a respondent believes that a bid, proposal, offer, specification, or protest contains information that should be withheld from public disclosure, a detailed statement advising the Procurement Officer that explains and supports the respondent's claim shall accompany the submission and the statement shall specifically identify everywhere this information appears. The respondent's claim shall include the period of time the information will remain confidential.

B. The Director shall make a written determination, within a reasonable time, whether the respondent's claim shall be honored.

C. If the Director determines to reject the respondent's claim, the Director shall inform the respondent in writing of such determination.

PC1-105 CONTRACTING REQUIREMENTS

A. The County Manager, or the Director, are authorized to: (1) settle and compromise lawful claims against or in favor of Pinal County, its boards, commissions, agencies, departments, officers or other related County entities in amounts not to exceed $50,000 and to (2) execute and sign binding contracts on behalf of the County without prior Board of Supervisor approval in amounts not to exceed $250,000 and each settlement and compromise or each contract authorized hereby shall be presented to the Board by the County Manager or Director and be reflected in its records as its next regularly scheduled meeting when such is possible or the next regularly scheduled meeting thereafter.

B. Except as provided in provision “A” above or specifically authorized elsewhere in this Code, all contracts must be approved by the Board of Supervisors.

C. All purchases of goods and services, including professional services, must be requested through the Purchasing Division of the Finance Department. The only exceptions are for the following non-biddable goods and services in which a payment request shall be requested from the Pinal County Accounts Payable department:

1. Subscriptions/Dues
2. Cellular Phone Bills (not equipment)
3. Conference/Seminar/Training Registrations
4. Jury/ Witness fees and transcripts
5. Public Health professional service providers
6. Per Diem Advance
7. Travel Reimbursements
8. Permit Refunds
9. Phone Service Bills
10. Postage (not for postage meters)
11. Procurement Card Expenditures
12. Public Fiduciary payments
13. Salaries and wages
14. Tuition Reimbursement
15. Utilities (does not include non-city garbage pickup or bottled water)
16. Cable/Satellite and Internet Service

Other exceptions for non-procurement purchases may be determined by the Director.

D. A Procurement Officer shall not incur an obligation on behalf of Pinal County if sufficient funds are not available.

E. In addition to any other approval required, the following purchases must have the approval stipulated below:

1. Director of Fleet Services must approval all vehicle and radio specifications.

2. Director of Information Technology Department must approve all computer-related specifications.

3. Director of Facilities Management must approve all repairs to or maintenance of buildings and other facilities.

PC1-106 COUNTY EMPLOYEES OR PUBLIC OFFICER USE OF COUNTY CONTRACTS

County employees and public officers shall not purchase materials or services for their own personal use from contracts entered into by the County unless authorized in writing by the Director. The determination shall state how the purchase will further the interests of the County.

PC1-201 AUTHORITY OF THE DIRECTOR OF FINANCE

A. The Director of Finance shall serve as the Chief Procurement Officer for Pinal County.

B. It shall be the Director of Finance's responsibility to perform, delegate, or supervise the following:

1. Procure all commodities, and services for all using agencies.

2. Prepare and issue solicitations and insure that the selection process is in compliance with this Code.

3. Facilitate the issuance of purchase orders for commodities, services and construction.

C. The Director of Finance may adopt policies and procedures, consistent with this Code, governing the procurement and management of all commodities and services procured by Pinal County.

D. The Director may delegate authority to a qualified Procurement Officer within any County governmental department as follows:

1. In making the decision to delegate procurement authority, the Director shall consider:

a. The procurement expertise, specialized knowledge, past experience, and performance of the prospective Procurement Officer or other designated individual within any County governmental department;

b. The impact of the delegation on procurement efficiency and effectiveness; and,

c. The long term abilities and resources of the prospective Procurement Officer or other designated individual within any of the County governmental departments to exercise the authority.

2. Delegation or any modification of authority shall be in writing and shall specify:

a. The scope and type of authority delegated or modified;

b. Any limits or restrictions on the exercise of the delegated authority;

c. The duration of the delegation subject to PC1-202.

3. Authority delegated by the Director may be suspended, revoked, or modified by the Director.

4. The Procurement Officer and County governmental unit receiving delegation of authority shall exercise that authority according to the Pinal County Procurement Code, and applicable Pinal County policies and procedures, and the terms of the delegation. Delegation of procurement authority to a Procurement Officer or other designated individual within any using department shall not be further delegated.

E. The Director shall have the authority to approve all requests to contract with Pinal County employees for commodities or services outside the scope of their assigned work responsibilities and work hours. Contracting directly with individuals currently employed by Pinal County shall be avoided to the extent possible and only considered when no other reasonable alternative is available. All requirements for commodities or services shall be fulfilled using the appropriate solicitation method specified in the Pinal County Procurement Code. Solicitations shall be issued to interested vendors contained in the County's vendor list and any other vendors identified by the requesting using agency. Only after this requirement has been satisfied and determined to be unsuccessful will consideration be given to entering into a contract with an employee of Pinal County. Once it has been determined that no other reasonable alternative exists, the following reviews and approvals must be obtained.

1. The using agency will prepare written justification substantiating why it is advantageous to Pinal County to contract with an employee. This justification will include the following information:

   a. A summary of the commodities or services required.

   b. An explanation as to why none of the responses to the solicitation, if any, cannot fulfill the requirements and why it is advantageous for Pinal County to contract with an employee.

   c. Name, work title, hourly rate and job description of the employee being considered for a contract.

   d. How work activities of the employee will be monitored and documented to provide a detailed record to strictly differentiate between employment and contract activities.

   e. The proposed hourly pay rate or project price for commodities or services identified in the contract.

2. The using agency shall forward the written justification to the applicable elected official or County Manager for review and approval.

3. If approved, the written justification shall be forwarded to the Director for consideration. The request will be returned to the using agency indicating either approved or disapproved.

4. If approved, the Procurement Officer will negotiate the final contract award, obtain any required legal review, and process the final contract award.

PC1-202 VIOLATION OF DELEGATED PROCUREMENT AUTHORITY

Unless the Director specifies, the delegation of procurement authority is for one (1) fiscal year or the balance of the fiscal year for which delegation is approved and is annually renewable per criteria outlined in PC1-201.D. The Director reserves the right to suspend and/or revoke delegation subject to formal written notification stating that procurement procedures have not been adhered to therefore constituting a violation of authorized County Board of Supervisors procurement policy and procedures.

PC1-203 AUTHORITY TO CONTRACT FOR PROFESSIONAL SERVICES

A. Professional services are defined as services requiring special knowledge, education, certification or training. The primary criteria in the selection will be the qualifications of the vendors.

B. Procedures for negotiating professional service contracts are described in detail in PC1- 355 or PC1-504.D.

C. For purposes of this code, professional services as determined by the Board of Supervisors are:

Appraisers	Archaeologists	Landscape Architects
Naturopathy	Hydrologist	Dispensing Opticians
Dentists	Optometrists	Respiratory Therapists
Attorneys	Arbitrators	Physician's Assistants
Podiatrists	Pharmacists	Occupational Therapists
Mediators	Architects	Physical Therapists
Teachers	Engineers	Veterinarians
Psychologists	Nurses	Certified Planners
Lobbyists	Geologists	Dialysis Centers
Clergy	Assayers	Speech Therapists
Morticians	Psychiatrists	Certified Public Accountants
Chiropractors	Hospitals	Physicians: Medical, Surgical
Economists	Health Care facilities that provide a combination of professional and/or para-professional services.	

For purpose of the Pinal County Procurement Code, services not specifically included in the above list of professional services shall be considered contractual services and shall be procured in accordance with Section PC1-328 through 338, PC1-339 through PC343 or PC1-344 of the Code.

PC1-204 COUNTY PROCUREMENT POLICY AND PROCEDURES

A. The Director may issue policies and procedures to carry out the purposes of this Code as necessary.

B. The Director may issue standard forms and guidelines in compliance with the Code to facilitate and standardize County-wide application of the Code.

PC1-205 COLLECTION OF DATA CONCERNING PUBLIC PROCUREMENT

All using agencies shall furnish such reports as the Director may require concerning usage, needs and stocks on hand, and the Director may prescribe forms for use by the using agencies in requisitioning, ordering and reporting of commodities and services.

PC1-206 PROCUREMENT COMMITTEES

A. Committees may be appointed as necessary to carry out the purposes of this Code, including evaluation committees, standards committees, and advisory committees, to assist with respect to any procurement or areas within the authority of the Director. A committee member who participates in any aspect of a specific procurement shall be prohibited from receiving any benefits directly or indirectly from a contract for such procurement.

B. Specifications prepared by a procurement committee shall comply with Article 4 of the Pinal County Procurement Code.

PC1-300 APPLICABILITY

Article 3 of the Pinal County Procurement Code applies to procurements and contracting activities associated with the solicitation of all services and commodities for County use which are not an integrated part of the design, construction, reconstruction and remodel of County facilities which fall under Article 5.

PC1-301 SOLICITATION PROHIBITIONS

A. Except as provided in PC1-366 for multi-term contracts, a Procurement Officer shall neither award a contract nor incur an obligation on behalf of the County unless the using department has determined that sufficient funds are available for the specific procurement.

B. Any bid or proposal that is conditioned upon award to the respondent of both the particular contract being solicited and another Pinal County contract shall be deemed nonresponsive or unacceptable.

PC1-302 TYPES OF CONTRACTS

Subject to the limitations of this Article, any type of contract that will promote the best interests of Pinal County may be used, except the use of a cost-plus-a-percentage-of-cost-contract is prohibited.

PC1-303 AUTHORITY TO USE CONTRACT TYPES

A. The following contract types may be used by the Procurement Officer:

1. Fixed price contract, except fixed price cost incentive contract;

2. Lease; and

3. Lease with purchase option.

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

PC1-304 FIXED PRICE CONTRACT

A. A fixed price contract may be used if:
1. The extent and type of work necessary to meet County requirements can be reasonably specified; and

2. The cost can be reasonably estimated.

B. A firm fixed price contract may be used if prices advantageous to Pinal County can be established at the outset of the contract.

C. Fixed price contract with price adjustment may be used if:

1. The solicitation for a fixed price contract with price adjustment and the contract specifies the basis for determining the price adjustment; and

2. The notice of price adjustment is given by the contractor in the manner and within the time specified in the contract.

PC1-305 LEASE AND LEASE-PURCHASE CONTRACTS (EXCEPTING LEASE OF REAL PROPERTY)

A. A lease or lease-purchase contract may be entered into only after the Procurement Officer determines in writing that:

1. A lease or lease-purchase is advantageous to Pinal County; and

2. All conditions for renewal and pricing data are set forth in the lease or lease purchase.

B. Unless otherwise authorized by this Code (i.e. PC1-105), all leases shall be signed by the Chairman of the Board of Supervisors.

C. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded pursuant to this Code and after the Procurement Officer and using department determines in writing that the exercise of the purchase option is advantageous to Pinal County based upon estimated costs and benefits of alternative methods of procuring comparable commodities.

PC1-306 COST-REIMBURSEMENT AND COST INCENTIVE CONTRACTS

A cost-reimbursement or cost incentive type contract may be used only when the Purchasing Department determines in writing that the use of such contract is advantageous to Pinal County.

PC1-307 TIME AND MATERIALS CONTRACTS AND LABOR HOUR CONTRACTS

A. Time and materials and labor hour contracts shall, to the extent possible, contain a stated ceiling or an estimate of a contractual amount that shall not be exceeded without prior written approval of the Purchasing Department.

B. A time and materials or labor hour contract may be used if the Purchasing Department determines in writing that:

1. Personnel have been assigned to closely monitor the performance of the work; and

2. It is advantageous to Pinal County to use such contract; and

3. No other contract type is practicable.

PC1-308 OPTION PROVISIONS

A. If the Procurement Officer determines that a contract is to include an option for renewal, extension, or purchase, the applicable option provisions shall be included in the solicitation.

B. Before exercising any option for renewal, extension, or purchase the Procurement Officer shall determine that a new solicitation is not more advantageous to Pinal County than the exercise of the particular option.

PC1-309 PURCHASE REQUESTS

A. If a using department determines the need for a commodity or service, it shall submit a purchase request.

B. Upon receipt of a purchase request from a using department, the Procurement Officer is authorized to determine the form and manner in which the procurement shall be solicited.

C. The Procurement Officer shall reject a purchase request if, after consultation with the requesting using department, the Procurement Officer determines that it is not advantageous to Pinal County.

D. Disagreements between a using department and the Procurement Officer concerning actions taken under subsection B or C, shall be brought to the Director for resolution.

PC1-310 ASSIGNMENT OF THE RIGHTS AND DUTIES

The rights and duties of a Pinal County contract are not transferable or otherwise assignable without the written consent of the Procurement Officer.

PC1-311 CHANGE OF NAME

If a contractor requests to change the name in which it conducts business with Pinal County, the Procurement Officer may, upon receipt of a document indicating name change, enter into a written amendment with the contractor to effect the name change. The amendment shall provide that no other terms and conditions of the contract are changed.

PC1-312 INSTALLMENT PURCHASES

Installment purchases may be used when advantageous to Pinal County. If an installment purchase is used, provisions for installment purchase payments shall be included in the solicitation document.

PC1-313 MULTIPLE-SOURCE CONTRACTING

A. If the Procurement Officer anticipates that any of the awards described in B through D of this section will be made, the solicitation shall include a notification of the right of Pinal County to make such an award and the criteria upon which such an award will be based.

B. An incremental award may be made only if the Procurement Officer determines in writing that such an award is necessary to obtain the required quantity or delivery.

C. A multiple award shall be made only if the Procurement Officer determines in writing that a single award is not advantageous to Pinal County. A multiple award shall be limited to the least number of suppliers necessary to meet the requirements of the using department.

D. A regional award may be made only if commodity or service is required to widely scattered locations or a particular requirement is of a local nature.

E. All written determinations of the Procurement Officer pertaining to any type of multiple source contracting shall be included in the appropriate procurement file.

PC1-314 METHOD OF SOURCE SELECTION

Unless otherwise authorized by law, all Pinal County contracts shall be awarded by competitive sealed bidding as provided in PC1-315, except as provided in PC1-328 through 355, PC1-371 through 377, and PC1-504 or as otherwise provided in this Code.

PC1-315 COMPETITIVE SEALED BIDDING

A. Contracts shall be awarded by competitive sealed bidding except as otherwise provided in PC1-314.

B. An Invitation for Bids (IFB) shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

C. Advertisements made for bids shall comply with statutory requirements. The advertisement shall state where sealed bids will be delivered, the date bids must be received and the date and time bids are to be opened.

D. Bids shall be opened publicly at the time and place designated in the Invitation for Bids. The amount of each bid, and such other relevant information as may be specified by this Code, together with the name of each respondent shall be recorded. The bids shall not be open for public inspection until after a contract is awarded. To the extent the respondent designates and the County concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential in accordance with PC1-104.

E. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, as prescribed in this Code. The Invitation for Bids shall set forth the evaluation criteria to be used.

F. Clarifications may be requested from any respondent.

PC1-316 INVITATION FOR BIDS

A. In all competitive sealed bidding for supplies, commodities, equipment, services and construction, the Purchasing Division of the Finance Department shall issue the Invitation for Bids.

B. Invitation for Bids shall be issued in sufficient time before the date and time for bid closing to permit free competition, unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Procurement Officer.

C. Content

1. The Invitation for Bids shall include the following:

a. Instructions and information to respondents concerning the bid submission requirements, including the bid time and date set for bid opening, the address of the office to which bids are to be received, the period that the bid shall remain open, and any other special information;

b. The purchase description, specifications, evaluation criteria, delivery or performance schedule, and inspection and acceptance requirements; and

c. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

2. If the Invitation for Bids incorporates documents by reference, the Invitation for Bids shall specify where such documents may be obtained.

3. The Invitation for Bids shall require the acknowledgment by the respondent of the receipt of all addenda issued.

4. An Invitation for Bids may require the submission of bid samples, descriptive literature, technical data and may require a demonstration, inspection or testing of a product before Award.

D. The Procurement Officer shall make available to all prospective respondents the Invitation for Bids or notices of the availability of Invitation for Bids.

E. A copy of the Invitation for Bids shall be made available for public inspection at the Procurement Officer's office.

PC1-317 PRE-BID CONFERENCES

A Procurement Officer may conduct a pre-bid conference within a reasonable time but not less than seven days before the bid opening to explain the procurement requirements. Statements made at the pre-bid conference shall not be considered an addendum to the Invitation for Bids unless a written addendum is issued pursuant to PC1-318.

PC1-318 ADDENDA TO INVITATIONS FOR BIDS

A. An addendum to an Invitation for Bid shall be issued if necessary to:

1. Make changes in the Invitation for Bids;

2. Correct defects or ambiguities; or

3. Furnish to other Respondents information given to one, if the information will assist the other in submitting bids or if the lack of the information will prejudice the other.

B. Addenda to Invitations for Bids shall be so identified and be made available to all prospective respondents.

C. Addenda shall be issued within a reasonable time before bid closing to allow prospective respondents to consider them in preparing their bids. If the time and date set for bid closing does not permit sufficient time for bid preparation, the time and date set for bid closing shall be extended by addendum.

PC1-319 PRE-CLOSING MODIFICATION OR WITHDRAWAL OF BIDS

A. A respondent may modify or withdraw its bid at any time before the bid closing if the modification or withdrawal is received in writing before the time and date set for bid closing in the location designated in the Invitation for Bids for receipt of bids. A respondent or the respondent's authorized representative may withdraw the bid in person if, before the time and date set for bid closing, the identity of the person requesting withdrawal is established and that person signs a receipt for the bid.

B. Documentation concerning a modification or withdrawal of a bid shall be retained in the appropriate procurement file.

PC1-320 LATE BIDS, LATE WITHDRAWALS, AND LATE MODIFICATIONS

If a bid, modification, or withdrawal is received after the submission closing date and time, at the location designated in the solicitation, the Procurement Officer shall deem the proposal, modification, or withdrawal as late and shall reject it, unless the documents would have been received by the submission closing date and time, but for the action or inaction of personnel employed by the finance department.

PC1-321 RECEIPT, OPENING, AND RECORDING OF BIDS

A. Except as provided in subsection (B) of this Code, each bid and modification shall be time-stamped upon receipt and stored unopened in a secure place until the time and date set for bid opening.

B. An envelope that is not marked as a bid or does not identify the respondent or solicitation may be opened solely for the purpose of identification. A record shall be made of the reason for opening it, the date and time it was opened, the solicitation to which the bid responded and the signature of the person who opened the envelope. The envelope shall be resealed and retained in the procurement file.

B. Bids and modifications shall be opened publicly at the time, date and location as designated in the Invitation for Bids. The name of each respondent, the bid price, and other information deemed appropriate by the Procurement Officer shall be read aloud and recorded on a bid abstract. The name of the required witness shall also be recorded. The bid abstract shall be available for public inspection.

D. Bids shall not be available for public inspection before contract award. After contract award, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the respondent designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with PC1-104.

PC1-322 MISTAKES IN BIDS

A. A respondent may correct mistakes discovered before the date and time set for bid closing by withdrawing or correcting the bid as provided in PC1-319.

B. After bid closing, a bid mistake based on an error in judgment may not be corrected or withdrawn.

C. After bid closing, the Procurement Officer can waive minor informalities in a bid if advantageous to Pinal County. Any waiver must be in writing and retained in the appropriate procurement file.

D. After bid closing, the Director may permit a respondent to correct or withdraw a bid without penalty if a mistake is clearly evident on the face of the bid.

E. If correction or withdrawal of a bid after bid closing is permitted under this section, a written determination shall be prepared and placed in the procurement file showing that the relief was permitted.

PC1-323 BID EVALUATION AND AWARD

A. The contract shall be awarded to the lowest responsive and responsible respondent whose bid meets the requirements and the evaluation criteria set forth in the Invitation for Bids. Unless otherwise provided in the Invitation for Bids, award may be made by individual line item, by group of line items, or for the aggregate total of all line items.

B. A product evaluation may be conducted to determine whether a respondent's product is acceptable as set forth in the Invitation for Bids but not to determine whether one respondent's product is superior to another respondent's product. Any respondent's offer that does not meet the acceptability requirements shall be rejected as nonresponsive.

C. Bids shall be evaluated to determine which respondent offers the lowest cost to Pinal County in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest respondent. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost, and other identifiable costs or total life cycle cost formula. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the Procurement Officer has available concerning future use.

D. A contract may not be awarded to a respondent submitting a higher quality item than that designated in the Invitation for Bids unless the respondent is also the lowest respondent as determined under subsection (C) of this section. The Procurement Officer may seek written clarification of a bid but this does not permit negotiations with any respondent.

E. If there are two or more low responsive bids from responsible respondents that are identical in price and that meet all the requirements and criteria set forth in the Invitation for Bids, award shall be made by drawing lots. If time permits, the respondent involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least one person other than the Procurement Officer supervising the drawing.

F. A record showing the basis for determining the successful respondent shall be retained in the procurement file.

G. A written notice of award shall be sent to the successful respondent. The notice of award shall be made available to the public.

PC1-324 ONLY ONE BID IS RECEIVED

If only one bid is received in response to a solicitation, the Procurement Officer shall either:

A. Award the contract to the respondent and prepare a written determination that:

1. The price submitted is fair and reasonable;

2. The bid is responsive (see definition); and

3. The respondent is responsible (see definition) ; or

B. Reject the offer and:

1. Re-solicit for new bids;

2. Cancel the procurement; or

3. Use a different source selection method authorized under the Pinal County Procurement Code.

PC1-325 MULTI-STEP SEALED BIDDING

A. The multi-step sealed bidding method may be used if the Procurement Officer determines in writing that:

1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and negotiations to ensure mutual understanding between each respondent and Pinal County;

2. Definite criteria exist for evaluation of technical proposals;

3. More than one technically qualified source is expected to be available; and

4. A fixed price-contract will be used.

B. The Procurement Officer may hold a conference with respondents before submission or at any time during the evaluation of the un-priced technical proposals.

PC1-326 PHASE ONE OF MULTI-STEP BIDDING

A. Multi-Step sealed bidding shall be initiated by the issuance of a Request for Technical Proposals. The Request for Technical Proposals shall be issued according to PC1-316 and shall contain the following information:

1. Notice that the procurement shall be conducted in two phases and that priced bids will be considered only in the second phase and only from those respondents whose un-priced technical proposals are found acceptable in the first phase;

2. The best description of the commodities or services desired;

3. The requirements for the technical proposals, such as drawings and descriptive literature;

4. The criteria for evaluating technical proposals;

5. The closing date and time for receipt of technical proposals and the location where offers should be delivered or mailed; and

6. A statement that negotiations may be held.

B. The Request for Technical Proposal may be amended after the submission of the un-priced technical proposals. The addendum shall be distributed only to respondents who submitted un-priced technical proposals, and those respondents shall be permitted to submit new un-priced technical proposals or to amend the proposals already submitted. If an amendment materially changes the procurement, the Request for Technical Proposals shall be canceled or reissued.

C. Un-priced technical proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The contents of un-priced technical proposals shall not be disclosed to unauthorized persons.

D. Un-priced technical proposals shall be evaluated solely in accordance with the criteria set forth in the Request for Technical Proposals and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an un-priced technical proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the procurement file.

E. The Procurement Officer may conduct negotiations with any respondent who submits an acceptable or potentially acceptable technical proposal. During negotiations, the Procurement Officer shall not disclose any information derived from one un-priced technical proposal to any other respondent. After negotiations, the Procurement Officer shall establish a closing date for receipt of final technical proposals and shall notify respondents submitting acceptable proposals of the closing date in writing. The Procurement Officer shall keep a record of all negotiations.

F. After receipt of final technical proposals, the Procurement Officer shall determine whether the technical proposals are acceptable for consideration in phase two or unacceptable. If the Procurement Officer determines a respondent's un-priced technical proposal is unacceptable, the Procurement Officer shall notify the respondent of the determination and the respondent shall not be afforded an opportunity to amend its technical proposal

G. At any time during phase one, proposals may be withdrawn or clarifications may be requested from respondents.

PC1-327 PHASE TWO OF MULTI-STEP SEALED BIDDING

A. Upon completion of phase one, the Procurement Officer shall issue an Invitation for Bids and conduct phase two under PC1-315 through PC1-322 as a competitive sealed

bidding procurement, except that the Invitation for Bids shall be issued only to respondents whose technical proposals were determined to be acceptable in phase one.

B. Un-priced technical proposals of unsuccessful respondents shall be open to public inspection to the extent set forth in PC1-321.

PC1-328 COMPETITIVE SEALED PROPOSALS

A. If it is determined that the use of competitive sealed bidding is either not practicable or not advantageous to Pinal County, a contract may be entered into by competitive sealed proposals. The Director shall approve the recommendation that it is either not practicable or not advantageous to Pinal County to procure specified types of commodities or services by competitive sealed bidding, except that the competitive sealed proposal method shall not be used for construction contracts.

B. Proposals shall be solicited through a Request for Proposals.

C. Adequate public notice of the Request for Proposals shall be given in the same manner as provided in PC1-315.

D. Proposals shall be opened publicly at the time and place designated in the Request for Proposals. The name of each respondent and such other relevant information as is provided by the code, shall be publicly read and recorded. All other information contained in the proposal shall be confidential so as to avoid disclosure of contents prejudicial to competing respondents during the process of negotiation. All information contained in the proposal shall be open for public inspection after contract award or cancellation of the solicitation, except those portions deemed confidential in accordance with PC1-104.

E. The Request for Proposals shall list the evaluation criteria in the order of their importance, except that one or more criteria may be given equal weight. Specific numerical weighting is not required.

F. Clarifications may be requested from respondents.

G. Negotiations may be conducted with responsible respondents who submit proposals determined to be reasonably susceptible of being selected for award. Revisions may be permitted after submissions and before award for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information derived from proposals submitted by competing respondents.

H. The award shall be made to the responsible respondent whose proposal is determined in writing to be the most advantageous to Pinal County taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria may be used in the evaluation. The contract file shall contain a written determination of the basis for the award.

PC1-329 COMPETITIVE SEALED PROPOSAL DETERMINATION

A. The Procurement Officer may make a determination that it is either not practicable or not advantageous to Pinal County to procure specified types of commodities or services by competitive sealed bidding. The Director may modify or revoke a determination at any time.

B. Competitive sealed bidding may not be practicable or advantageous if it is necessary to:

1. Use other than a fixed-price contract; or

2. Conduct oral or written negotiations with respondents concerning technical and price aspects of their proposals; or

3. Afford respondents an opportunity to revise their proposals; or

4. Compare the different price, quality, and contractual factors of the proposals submitted; or

5. Conduct negotiations with one or more of the respondents to the solicitation.

6. Award a contract in which price is not the determining factor.

PC1-330 REQUEST FOR PROPOSALS

A. A Request for Proposals shall set forth those applicable factors listed in PC1-316.C and shall also state:

1. The type of services or commodities required and a description of the work involved;

2. The type of contract to be used;

3. Whether cost or pricing data is required;

4. That respondents may designate portions of the proposal as confidential in accordance with PC1-104.;

5. That discussions may be conducted with respondents who submit proposals determined to be reasonable susceptible of being selected for award;

6. The minimum information that the proposal shall contain; and

7. The closing date and time for receipt of proposals.

B. A Request for Proposal shall be issued at least ten days before the closing date and time for receipt of proposals unless a shorter time is determined necessary by the Purchasing Manager or Director.

C. Addenda to Requests for Proposals shall be made in accordance with PC1-318.

PC1-331 PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be convened in accordance with PC1-317.

PC1-332 LATE PROPOSALS, MODIFICATIONS, MISTAKES OR WITHDRAWALS

A. If a proposal, modification, best and final offer, or withdrawal is received after the submission closing date and time, at the location designated in the solicitation, the Procurement Officer shall reject it as late, unless the documents would have been received by the submission closing date and time, but for the action or inaction of personnel employed by the finance department.

B. After receipt of best and final offers, a respondent may withdraw a proposal or correct a mistake in accordance with PC1-322.B through D.

C. A modification of a proposal resulting from an amendment issued after the closing date and time for receipt of proposals shall be considered if received by the closing date and time set forth in the amendment or by the closing date and time for submission of best and final offers, whichever is applicable. A modification of a proposal resulting from negotiations shall be considered if received by the closing date and time set forth in the amendment, or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in the subsection, the modifications are late and shall not be considered.

D. A proposal may be withdrawn at any time before the closing date and time set forth in the solicitation or for receipt of best and final offers.

PC1-333 RECEIPT OF PROPOSALS

A. Each proposal received shall be date and time stamped and retained in a secure place until the closing date and time for receipt of proposals. A register of proposals shall be prepared and shall set forth the name of each respondent and the identity of the Request for Proposals for which the proposal was submitted.

B. Proposals shall be opened in the presence of a witness. The name of each respondent shall be publicly read and recorded. Before contract award, proposals and modifications shall be shown only to Pinal County personnel having a legitimate interest in them, or persons assisting Pinal County in the evaluation.

C. If only one proposal is received in response to a Request for Proposals, the Procurement Officer may recommend an award in accordance with PC1-324, cancel the solicitation or, re-solicit. If a new solicitation is issued, the single response to the previous solicitation shall remain confidential until the award or cancellation of the new solicitation.

PC1-334 EVALUATION OF PROPOSALS

A. The Procurement Officer shall select and appoint an evaluation committee to evaluate the proposals and make a recommendation based on the criteria set forth in the Request for Proposals. No member of the Board of Supervisors or their staff shall participate in the evaluation of proposals.

B. Proposals shall be evaluated on the factors set forth in the Request for Proposals.

C. For the purpose of negotiations, the Procurement Officer shall determine that proposals are either acceptable for further consideration or unacceptable. A

determination that a proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the procurement file.

PC1-335 NEGOTIATIONS WITH INDIVIDUAL RESPONDENTS

The Procurement Officer shall establish procedures and schedules for conducting negotiations. Disclosure of one respondent's price or any information derived from competing proposals is prohibited. Any response to a Procurement Officer's request for clarification of a proposal shall be in writing. The Procurement Officer shall keep a record of all negotiations.

For the purposes of conducting negotiations with respondents the Procurement Officer is authorized to use either of the following methods which, in his/her judgment, best meets the unique requirements of each solicitation process.

A. Concurrent Negotiations. Negotiations may be conducted concurrently with any number of respondents for the purpose of determining contract award.

B. Exclusive Negotiations. After the respondent who is determined to be most advantageous to the County has been selected through the evaluation process, exclusive negotiations may be conducted for the purpose of developing a recommended contract for award. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. A determination to conduct exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful respondent. If exclusive negotiations are conducted and an agreement is not reached, the County may enter into exclusive negotiations with the next highest ranked respondent without the need to repeat the formal solicitation process.

C. After a contract has been negotiated the Procurement Officer may request the respondent to document negotiated changes as an addendum to their proposal and submit a signed final offer and acceptance form.

PC1-336 BEST AND FINAL OFFERS

The Procurement Officer may issue a written request for best and final offers from one or more respondents. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the Director makes a written determination that it is advantageous to the County to conduct further discussions or change the County's requirements. The request for best and final offers shall inform respondents that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.

PC1-337 EXTENSION OF ACCEPTANCE TIME

After receipt of bids or proposals, if the Procurement Officer determines that a contract cannot be awarded within the time limits stated in the solicitation, a written extension may be requested from the respondent to allow additional time to award the contract.

PC1-338 CONTRACT AWARD

A. The Procurement Officer shall recommend to the Board of Supervisors, award of a contract to the respondent whose proposal is determined in writing to be most advantageous to Pinal County based on the factors set forth in the Request for Proposals. The determination shall explain the basis of the award.

B. After contract award, proposals shall be open for public inspection except to the extent that the withholding of information is permitted or required by law. If a respondent designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with PC1-104.

PC1-339 MULTI-STEP COMPETITIVE SEALED PROPOSALS

A. If the Procurement Officer determines that it is either not practicable or not advantageous to Pinal County to procure specified types of commodities or services by competitive sealed bidding, a contract may be entered into using multi-step competitive sealed proposals, except that the multi-step competitive sealed proposal method shall not be used for construction contracts.

B. Proposals shall be solicited through a two-step Request for Proposals process composed of requesting un-priced technical proposals from respondents followed by a second phase composed of inviting respondents determined to have submitted acceptable technical offers to submit pricing offers.

C. Public notice of the multi-step Request for Proposals shall be given in the same manner as provided in PC1-315.

D. Pre-proposal conferences may be convened in accordance with PC1-317.

E. Late, modifications, mistakes or withdrawals of proposals will be conducted in accordance with PC1-332.

F. Proposals shall be received and opened in the same manner as provided in PC1-333.

G. Proposals shall be evaluated in the same manner as provided in PC1-334.

H. Clarifications may be requested from respondents.

I. Negotiations with responsible respondents shall be conducted in the same manner as provided in PC1-335.

J. Requests for best and final offers shall be conducted in the same manner as provided in PC1-336.

K. Requests for extension of acceptance time shall be conducted in the same manner as provided in PC1-337.

L. The award shall be made to the responsible respondent in the same manner as provided in PC1-338.

PC1-340 MULTI-STEP COMPETITIVE SEALED PROPOSAL DETERMINATION

A. The Procurement Officer may make a determination that it is either not practicable or not advantageous to Pinal County to procure specified types of commodities or services by competitive sealed bidding. The Director may modify or revoke a determination at any time.

B. Competitive sealed bidding may not be practicable or advantageous if it is necessary to:

1. Use other than a fixed-price contract; or

2. Conduct oral or written negotiations with respondents concerning aspects of their proposals; or

3. Afford respondents an opportunity to revise their proposals; or

4. Compare the different price, quality, and contractual factors of the proposals submitted; or

5. Conduct negotiations with one or more of the respondents to the solicitation.

6. Award a contract in which price is not the determining factor.

PC1-341 PHASE ONE OF MULTI-STEP REQUEST FOR PROPOSALS

A. Multi-step Request for Proposals shall be initiated by issuance of an unpriced Request for Technical Proposals. The request for un-priced technical proposals shall set forth those factors listed in PC1-316.C that are applicable and shall also state:

1. Type of services or commodities required and a description of the work involved;

2. Type of contract to be used;

3. Contract duration;

4. A statement that negotiations may be held to discuss technical proposals;

5. That respondents may designate portions of the proposal as confidential in accordance with PC1-104;

6. The minimum information that the proposal shall contain, such as drawing descriptive literature; and

7. The closing date and time for receipt of proposals.

B. Multi-step Request for Proposals shall be issued at least ten days before the closing date and time for receipt of proposals unless a shorter time is determined necessary by the Purchasing Manager or Director.

C. Addenda issued prior to the closing date and time for receipt of multi-step Requests for Proposals technical offers shall be made in accordance with PC1-318.

D. Technical proposals may be amended after submission. The addenda requesting amendments after the closing date and time for receipt to technical proposals shall be distributed only to respondents who submitted un-priced technical proposals, and

those respondents shall be permitted to submit new un-priced technical proposals or to amend the proposals already submitted. If an amendment materially changes the procurement, the Request for Technical Proposals shall be canceled or reissued.

PC1-342 PHASE TWO OF MULTI-STEP REQUEST FOR PROPOSALS

A. Upon completion of phase one, the Procurement Officer shall issue a request for pricing proposals only to respondents whose final unpriced technical proposals were determined to be acceptable in phase one.

B. Negotiations may be conducted with responsible respondents who submit pricing proposals determined to be reasonably susceptible to being selected for award. Revisions may be permitted after submissions and before award for the purpose of obtaining final offers. In conducting negotiations, there shall be no disclosure of any information derived from proposals submitted by competing respondents.

C. The award shall be made to the responsible respondent whose proposal is determined in writing to be the most advantageous to Pinal County taking into consideration the evaluation factors set forth in the Request for Technical Proposals and the submitted pricing proposals. The contract file shall contain a written determination of the basis for the award.

PC1-343 EVALUATION OF MULTIPLE STEP PROPOSALS

A. The Procurement Officer shall select and appoint an evaluation committee to evaluate the proposals and make a recommendation based on the criteria set forth in the Request for Proposals. No member of the Board of Supervisors shall participate in the evaluation of proposals.

B. Proposals shall be evaluated on the factors set forth in the Request for Proposals. No other factors or criteria may be used in the evaluation.

C. For the purpose of negotiations, the Procurement Officer shall determine that proposals are either reasonably susceptible of being selected for award or unacceptable. A determination that a proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the procurement file.

D. The Procurement Officer shall establish procedures and schedules for conducting negotiations. Disclosure of one respondent's price or any information derived from competing proposals is prohibited. Any response to a Procurement Officer's request for clarification of a proposal shall be in writing. The Procurement Officer shall keep a record of all negotiations.

For the purposes of conducting negotiations with respondents the Procurement Officer is authorized to use either of the following methods which, in his/her judgment, best meets the unique requirements of each solicitation process.

1. Concurrent Negotiations. Negotiations may be conducted concurrently with any number of respondents for the purpose of determining contract award.

2. Exclusive Negotiations. After the respondent who is determined to be most advantageous to the County has been selected through the evaluation process, exclusive negotiations may be conducted for the purpose of developing a recommended contract for award. Exclusive negotiations may be conducted

subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. A determination to conduct exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful respondent. If exclusive negotiations are conducted and an agreement is not reached, the County may enter into exclusive negotiations with the next highest ranked respondent without the need to repeat the formal solicitation process.

3. After a contract has been negotiated the Procurement Officer may request the respondent to document negotiated changes as an addendum to their proposal and submit a signed final offer and acceptance form.

PC1-344 INVITATION TO NEGOTIATE

A. If the Purchasing Manager and Procurement Officer determine that the use of competitive sealed bidding or competitive sealed proposals are not practicable, advantageous or do not offer the best value to Pinal County to procure specified types of unique commodities or services, a contract may be entered into through an Invitation to Negotiate, except that the Invitation to Negotiate method shall not be used for construction contracts.

B. Proposals shall be solicited through an Invitation to Negotiate.

C. Public notice of the Invitation to Negotiate shall be given in the same manner as provided in PC1-315.

D. Proposals shall be opened publicly at the time and place designated in the Invitation to Negotiate. Only the name of each respondent shall be publicly read and recorded. All other information contained in the proposals shall be deemed confidential until award or cancellation of the solicitation. All information contained in the proposals shall be open for public inspection after contract award or cancellation of the solicitation, except those portions deemed confidential in accordance with PC1-104.

E. The Procurement Officer shall evaluate and determine if an offer is acceptable. The Procurement Officer shall select one or more respondents with which to begin negotiations. After negotiations are conducted, the contract shall be awarded to the responsible and responsive respondent determined to provide the best value to Pinal County. The contract file must contain a short concise statement that explains the basis for respondent's selection and that sets forth the respondent's deliverables and price, pursuant to the contract, along with a determination in writing explaining how these deliverables and price provide the best value to Pinal County.

PC1-345 PROCUREMENT NOT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS

A. Any procurement other than a Procurement under Article 5, which does not exceed an aggregate dollar amount of $100,000 may be made in accordance with the following procedures except that the procurement shall be made with such competition as is practicable under the circumstances. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by PC1-315 through PC1-344.

B. If practical, purchases estimated to cost $50,000 or more, not exceeding $100,000, shall be made in accordance with the following procedures:

1. The Procurement Officer shall solicit written quotations by issuing a Request for Quotation to at least five vendors, if possible.

2. Respondents shall submit quotations on an approved form and the quotations shall be recorded and placed in the procurement file.

3. The award shall be made to the respondent whose quotation is determined to be the most advantageous to the County based on the factors set forth in the Request for Quotation..

4. If less than five responsive quotations are received, the purchase may be made based on quotations received upon a determination that the price is fair and reasonable and shall be recorded. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases or current price lists.

5. Pricing on written quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued.

C. If practical, purchases estimated to cost $5,000 or more, but less than $50,000, shall be made in accordance with the following procedures:

1. The Procurement Officer shall solicit written quotations by issuing a Request for Quotations to at least three vendors, if possible.

2. Respondents shall submit quotations on an approved form and the quotations shall be recorded and placed in the procurement file.

3. The award shall be made to the respondent whose quotation is determined to be the most advantageous to the County based on the factors set forth in the Request for Quotation.

4. If less than three responsive quotations are received, the purchase may be made based on quotations received upon a determination that the price is fair and reasonable and shall be recorded. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases or current price lists.

5. Pricing on written quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued.

D. For purchases less than $5,000 the Procurement Officer shall utilize procedures established by the Director providing for adequate and reasonable competition and for making records to facilitate auditing including the following:

1. Purchases less than $5,000 may utilize a single selection process based on vendor contract, stock availability and delivery requirements.

2. Pricing on written quotations is to remain confidential until the transaction is complete i.e., the purchase order is issued.

PC1-346 SOLE SOURCE PROCUREMENT NOT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS

The Director may make the determination that the sole source procedure set forth in PC1-348 shall be used if a commodity or service is available from only one vendor, and the purchase is estimated to cost not more than $100,000. This section does not apply to procurements described in PC1-345.D. The written documentation of the basis for the sole source procurement shall be included in the procurement file.

PC1-347 SOLE SOURCE PROCUREMENT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS

The Board of Supervisors may award a contract for a commodity or service without competition based on written documentation submitted by the Procurement Officer that there is only one source for the required commodity or service. Submission of cost or pricing data in connection with contracts and awards under this section may be required. Sole source procurement shall be avoided, except when no reasonable alternative source exists. The written documentation of the basis for the sole source procurement shall be included in the contract file.

PC1-348 SOLE SOURCE PROCUREMENT PROCEDURE

A. Except as provided in PC1-346, the Procurement Officer shall submit justification, provided by the using department, in writing to the Board of Supervisors that sole source procurement is required. Sole source procurement shall not be used unless there is clear and convincing evidence that there is only one source. Any request by a Procurement Officer that procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other would be suitable or acceptable to meet the need. A requirement for a particular proprietary item does not alone justify sole source procurement if there is more than one potential respondent for that item.

B. The Procurement Officer shall negotiate with the single supplier, to the extent practicable, a procurement advantageous to Pinal County.

C. The provisions of this Code apply to all sole source procurement unless emergency conditions exist as defined in PC1-352.

PC1-349 COMPETITION IMPRACTICABLE PROCUREMENT NOT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS

The Director or Purchasing Manager may make a determination that the competition impracticable procedure set forth in PC1-351 shall be used if a commodity or service is available from more than one vendor, however, because of standardization, warranty, or other factors approved by the Director or Purchasing Manager, a competitive procurement is deemed impractical and the purchase is estimated to cost more no more than $100,000. This section does not apply to procurements described in PC1-345.D, PC1-346 and PC1-347. The written documentation supporting the competition impracticable procurement shall be included in the procurement file.

PC1-350 COMPETITION IMPRACTICABLE PROCUREMENT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS

The Board of Supervisors may award a contract for a commodity or service that is available from more than one vendor without competition based on written documentation submitted by the using department that while the commodity or service is available from other sources, competition is impractical because of standardization, warranty, or other factors as approved by the Board of Supervisors. The written documentation supporting the competition impractical procurement shall be included in the procurement file.

PC1-351 COMPETITION IMPRACTICABLE (SINGLE SOURCE) PROCUREMENT PROCEDURE

A. Except as provided in PC1-349, the Procurement Officer shall submit written justification, provided by the using department, that a competition impracticable procurement is required. Competition impracticable procurement shall not be used unless there is clear and convincing evidence that competition is impractical. Any request by a using department that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor would be suitable or acceptable to meet the need. The using department requesting a competition impracticable procurement shall provide written evidence to support a competition impracticable determination containing the following:

    1. An explanation of the need and the unusual or unique situation that makes compliance with PC1-315 through 324, PC1-325 through 327, PC1-328 through 338, PC1-339 through 343, or PC1-344 impracticable, unnecessary or contrary to the public interest;

    2. An explanation of why the proposed procurement process is advantageous to the County; and

    3. The scope, duration, and estimated total dollar value of the procurement.

B. Subsequent to approval, the Procurement Officer shall negotiate with the single supplier, to the extent practical, a procurement advantageous to Pinal County.

C. The provisions of this Code apply to all competition impracticable procurements unless emergency conditions exist as defined in PC1-352.

D. Examples of competition impracticable procurements include but are not limited to:

    1. Items or services determined as a County-wide standard, i.e. particular IT software or hardware solutions.

    2. Upgrades or additions of goods or services already in place to ensure uniformity where costs to manage variations would be prohibitive.

    3. Use of “certified” or specifically approved vendors to service equipment is required to maintain warranty of equipment.

    4. Specifications of particular good or service is such that there is not a comparable product on the market that could provide similar results or quality.

PC1-352 EMERGENCY PROCUREMENT

A. Notwithstanding any other provisions of this Code, upon declaration of an emergency or other approval as required under PC1-353, the Director may make or authorize others to make emergency procurements if there exists a threat to public health, welfare, property or safety or if a situation exists which makes compliance with PC1-315 through 324, PC1-325 through 327, PC1-328 through 338, PC1-339 through 343, or PC1-344 impracticable, unnecessary or contrary to the public interest. Such emergency procurements shall be made with such competition that is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement file.

B. Emergency conditions may arise from, but are not limited to, floods, epidemics, riots or equipment failures. An emergency condition creates an immediate and serious need for commodities, services or construction that cannot be met through normal procurement methods and that seriously threatens the functioning of Pinal County Government, the preservation of property or the public health or safety.

C. An emergency procurement shall be limited in time and quantity to those commodities, services or construction necessary to satisfy the emergency need.

PC1-353 EMERGENCY PROCUREMENT PROCEDURE

A. A using department seeking an emergency procurement shall prepare a requisition documenting the existence of an emergency condition, how it arose and explaining the extent of procurement needed. The requisition shall be approved by the elected official, department head or other designated official of the using department.

B. All emergency procurements in excess of $100,000 must be approved by the County Manager or designee. Those emergency procurements not exceeding $100,000 may be approved by the Director.

C. The County Manager shall determine in writing whether to grant the request. If the requisition is approved by the County Manager, it shall be forwarded to the Purchasing Division of the Finance Department for expeditious processing.

D. A copy of each requisition processed under this procedure shall be kept on file in the using department requesting the emergency procurement and the Pinal County Purchasing Division of the Finance Department.

E. If the nature of the emergency does not permit submission of a timely requisition, the Elected Official or Department Head may make an oral request to the County Manager who may make an oral determination and delegation. The requisition required under Subsection A shall be submitted to the County Manager for formal approval.

F. The County Manager may approve a written request subsequent to the procurement if:

1. The emergency necessitated immediate response and it was impracticable to contact the County Manager.

2. The procurement was made with as much competition as was practicable under the circumstances.

3. The price paid was reasonable under the emergency circumstances.

4. The request required under Subsection A was submitted to the County Manager.

PC1-354 USED EQUIPMENT, FURNITURE, VEHICLES OR MATERIALS

A. The Director may make the written determination that used equipment, furniture, vehicles or materials may be purchased without competition if the following criteria are met and the purchase is in the best interest of the County:

   A. The same or similar article(s) are not available from more than one source.

   B. Aggregate amount of the purchase does not exceed $50,000.

   C. The pricing and proposed supplier must be justified as competitive in the market based upon market research to include:

      1. A statement of the price of like goods if purchased new and why the purchase of new goods is not practical.

      2. Plan for maintenance and repair of equipment including all associated costs.

      3. Documentation by the using department detailing the condition of the item.

      4. Information detailing the item and price along with at least one (1) independent source for determining fair market value. Acceptable documentation may include:

         A. Guidebook publications.

         B. Price guides.

         C. Web Search appraisals.

         D. Appraisals from sources not associated with the seller or purchaser. Appraisals should indicate whether a physical inspection of the used equipment was conducted and whether the price is competitive with the market for comparable equipment.

PC1-355 COMPETITIVE SELECTION PROCEDURES FOR PROFESSIONAL SERVICES

A. Competitive sealed bidding may not be advantageous if it is necessary to:

   1. Use a contract other than a fixed-price type (excluding indigent representation legal services); or

   2. Conduct oral or written discussions with respondents concerning technical and price aspects of their proposals; or

   3. Afford respondents an opportunity to revise their response; or

   4. Compare the different price, quality, and contractual factors of the response submitted; or

   5. Award a contract in which price is not the only determining factor.

B. If the Procurement Officer determines in writing that the use of competitive sealed bidding is not advantageous, the services specified in PC1-203 may be negotiated using one of the alternative methods as set forth in subsection D.

C. Procedures for selection of A/E consultant services for planning and design of construction projects are contained in Article 5 of this Code.

D. After determining that competitive sealed bidding is not advantageous, the purchasing department may select one of the following procurement procedures:

1. Competitive sealed proposal procedure pursuant to PC1-328; or

2. Multiple stepped bidding pursuant to PC1-325; or

3. Review of qualifications of persons interested in contracting for particular professional service. If this procurement procedure is selected, it shall be conducted by a selection committee of three or more representatives of Pinal County. One of the members shall be of the same professional service(s) considered for selection being reviewed. For indigent representation legal services, one member shall be from the indigent representation legal services county staffed office, and for non-criminal civil legal services, one member shall b an attorney from the County Attorney's Office. The selection board may select one or more qualified persons for contract award at a fair and reasonable price after reviewing:

   a. The qualifications of at least three persons from a list maintained by a purchasing department and updated annually. Each purchasing department is to establish procedures for maintaining and updating a list of prospective persons who have indicated by submission of a letter of interest in being considered for future contracts within the scope of their professional qualifications.

   b. The qualifications of all persons submitting a letter of interest and a statement of qualifications in response to a public advertisement.

   c. Persons referred by a qualified outside professional organization that shall attest in writing to such person's qualification and suitability to perform the service.

   d. All information other than the name of the respondent shall remain confidential until after the award.

E. If one of the alternative methods is used, the procurement file must contain a written statement describing why the use of competitive sealed bidding was determined to be not advantageous.

PC1-356 CANCELLATION OR REJECTION OF SOLICITATIONS

An Invitation for Bids, a Request for Proposal or other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation if it is advantageous to Pinal County. The reasons for the cancellation or rejection shall be made part of the contract file.

A. Before the date and time that receipt of bids or proposals are due, a solicitation may be canceled in whole or in part if the Procurement Officer determines in writing that cancellation is advantageous to the County.

1. If a solicitation is canceled before the date and time in which responses are due, notice of cancellation shall be issued.

2. Any responses received shall be returned unopened.

B. After receipt of responses but before award, a solicitation may be canceled and all responses may be rejected in whole or in part if the Procurement Officer determines in writing that cancellation and rejection are advantageous to Pinal County.

1. A notice of cancellation and/or rejection shall be issued to all respondents.

2. Responses received under the canceled solicitation shall be retained in the procurement file. If the purchasing department intends to issue another solicitation within a reasonable time after cancellation for the same commodities, services or construction as under the canceled solicitation, the purchasing department may withhold from public inspection responses submitted under the canceled solicitation if the Procurement Officer makes a written determination that such action is advantageous to Pinal County. After award of a contract under a subsequent solicitation, responses submitted in response to the canceled solicitation shall be open for public inspection unless non-disclosure is required under PC1-104.

C. The determination to cancel a solicitation and reject responses shall be made a part of the procurement file and shall be available for public inspection.

PC1-357 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS

A. A bid may be rejected if:

1. Respondent is determined to be non-responsible pursuant to PC1-358; or

2. The bid is nonresponsive in accordance with PC1-323.

B. A proposal or quotation may be rejected if:

1. The respondent is determined to be non-responsible pursuant to PC1-358; or

2. The respondent is determined to be non-responsive in accordance with PC1-323; or
3. The proposed price is unreasonable; or

4. It is otherwise not advantageous to Pinal County.

C. Respondents whose responses are rejected under subsection A or B of this section shall be notified in writing of the rejection. Record of the rejection shall be made part of the procurement file.

PC1-358 RESPONSIBILITY OF RESPONDENTS

A. A written determination of non-responsibility shall be made in accordance with this Code. The unreasonable failure of a respondent to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of non-responsibility with respect to the respondent. A finding of non-responsibility shall not be construed as a violation of the rights of any person.

B. To the extent permitted by law, information furnished by a respondent pursuant to this section shall be confidential.

C. A Procurement Officer shall determine the respondent is responsible before recommending an award of the contract to that respondent.

D. Factors to be considered in determining if a respondent is responsible include, but are not limited to:

1. The respondent's financial, physical, personnel or other resources, including subcontracts;

2. The respondent's record of performance and integrity;

3. Whether the respondent is legally qualified to contract with Pinal County; and

4. Whether the respondent supplied all necessary information concerning its responsibility.

E. The Procurement Officer may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.

F. If a Procurement Officer determines that a respondent is non-responsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the non-responsible respondent. The final determination shall be made part of the procurement file.

PC1-359 BID AND CONTRACT SECURITY

The Director may require, in accordance with this Code, the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the nature of the performance and the need for future protection to Pinal County shall be considered. The requirement for security must be included in the solicitation.

PC1-360 BID AND PERFORMANCE BONDS FOR COMMODITY OR SERVICE CONTRACTS

A. Bid bonds, performance bonds, payment bonds and/or other security may be required for commodity or service contracts if the Procurement Officer determines that such requirement is advantageous to Pinal County. The requirement for any such bond shall be included in the solicitation.

B. Bid or performance bonds shall not be used as a substitute for a determination of respondent responsibility.

C. If a bid is withdrawn at any time before bid opening, any bid security shall be returned to the respondent.

D. Submission of bid and contract security shall comply with the requirements of section PC1-511.

PC1-361 COST OR PRICING DATA

A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable or fair. A contractor shall, except as provided in subsection C, submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually determined specified date before the date of either:
   1. The pricing on any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the contract price is expected to exceed an amount established by the County using department.

   2. The pricing of any change order or contract modification which is expected to exceed an amount established by the Procurement Officer.

B. Any contract, change order or contract modification shall contain a provision that the price to Pinal County shall be adjusted to exclude any significant amounts by which Pinal County finds that the price was increased because the respondent-furnished cost or pricing data was incorrect, incomplete or not current as of the date agreed on between the parties. Such adjustment by Pinal County may include profit or fee.

C. The requirements of this section need not be applied to contracts:

   1. If the contract price is based on adequate price competition.

   2. If the contract price is based on established catalog prices or market prices.

   3. If contract prices are set by law or regulation.

   4. If it is determined in writing in accordance with this Code that the requirements of this section may be waived.

D. A change order exceeding an amount or percentage established by this Code shall only be executed after it is determined in writing that the change order is advantageous to Pinal County.

PC1-362 SUBMISSION OF COST OR PRICING DATA

A. Cost or pricing data may be requested if the Procurement Officer determines in writing that:

   1. The amount of an original or adjusted price of a contract to be awarded by competitive sealed proposals, emergency procurement or sole source procurement may exceed $100,000; or

   2. The price adjustment of a contract awarded by competitive sealed bidding will result in an increase in cost in excess of $100,000; or

3. If submission of cost or pricing data is otherwise advantageous to Pinal County.

B. Cost or pricing data shall be submitted to the Procurement Officer prior to the commencement of price negotiations at the time and in the manner prescribed by the Procurement Officer.

C. In an emergency, cost or pricing data may be submitted at a reasonable time after the contact is awarded.

D. The respondent shall keep all cost or pricing data submitted current until the negotiations are concluded.

E. The requirement that cost or pricing data be submitted may be waived if a determination is made in writing that the waiver is advantageous to Pinal County.

F. A copy of all determinations by the Procurement Officer or the Director that pertain to the submission of cost or pricing data shall be maintained in the contract file.

PC1-363 REFUSAL TO SUBMIT COST OR PRICING DATA

A. If the respondent fails to submit cost or pricing data in the required form, the Procurement Officer may reject the offer.

B. If a respondent fails to submit data to support a price adjustment in the form required, the Procurement Officer may reject the requested price adjustment and set the amount.

PC1-364 DEFECTIVE COST OR PRICING DATA

A. The Procurement Officer may reduce the contract price if, upon a written determination, the cost or pricing data is found to be defective.

B. The contract price shall be reduced in the amount of the defect plus related overhead and profit or fee if the Procurement Officer relied upon the defective data in recommending award of the contract.

C. If current cost or pricing data is required, the awarded contract shall include notice of the right of Pinal County to a reduction in price if certified cost or pricing data is subsequently determined to be defective.

PC1-365 PRICE OR COST ANALYSIS

The Procurement Officer shall conduct a price or cost analysis if submission of price or cost data is required.

PC1-366 MULTI-TERM CONTRACTS

A. Unless otherwise provided by law, a contract for commodities or services may be entered into for a period of time up to five (5) years (including base and renewals), as deemed to be in the best interest of Pinal County, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation, and monies are available for the first fiscal period at the time of contracting. A contract may be

entered into for a period of time exceeding five years in accordance with this Code, if the Director determines in writing that such a contract would be advantageous to Pinal County. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

B. Before the use of a multi-term contract, it shall be determined in writing that:

1. Estimated requirements cover the period of the contract and are reasonable and continuing.

2. Such a contract will serve the best interest of Pinal County by encouraging effective competition or otherwise promoting economies in Pinal County procurement.

C. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any funds available for such purposes.

PC1-367 RIGHT TO INSPECT PLANT

The County may inspect the part of the plant or place of business of a contractor or subcontractor which is related to the performance of any contract awarded or to be awarded by Pinal County.

PC1-368 RIGHT TO AUDIT RECORDS

A. The County may, at reasonable times and places, audit the financial books, records and back-up documentation of any person who submits cost or pricing data or is awarded a contract by Pinal County. Any person who receives a contract, change order or contract modification shall maintain the books, records, accounts, statements, reports, files, and other records and back-up documentation that relate to the contract for six (6) years from the date of final payment under the contract, or until after the resolution of any audit questions which could be more than six (6) years, whichever is later.

B. The County is entitled to audit the books, records, accounts, statements, reports, files, and other records and back-up documentation of any person or any subcontractor under any contract or subcontract to the extent that the books, records and back-up documentation relate to the performance of the contract or subcontract. The books, records, accounts, statements, reports, files, and other records shall be maintained by the person for a period of six (6) years from the date of final payment under the prime contract and by the subcontractors for a period of six (6) years from the date of final payment under the subcontract, or until after the resolution of any audit questions which could be more than six (6) years, whichever is later.

PC1-369 REPORTING OF ANTICOMPETITIVE PRACTICES

A. If for any reason collusion or other anticompetitive practices are suspected among any respondents, a notice of the relevant facts shall be transmitted to the Director and to the State Attorney General. This section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Director.

B. Upon submitting a bid or proposal, the respondent must certify that its submission did not involve collusion or other anticompetitive practices.

PC1-370 RETENTION OF PROCUREMENT RECORDS

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the State of Arizona Department of Library, Archives, and Public Records.

PC1-371 PROCUREMENT OF INFORMATION SYSTEMS AND TELECOMMUNICATION SYSTEMS

A. Notwithstanding the criteria for contract award prescribed in PC1-315 through 324 and PC1-325 through 327, a contract for information systems or telecommunication systems shall be awarded to the lowest responsible and responsive respondent whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids, which shall include as price evaluation criteria the total life cycle cost and application benefits of the information systems or telecommunication systems to the using department. No factors or criteria, other than those set forth in the Invitation for Bids may be used in the evaluation of bids for information systems or telecommunication systems. Procedures for awarding contracts for information systems or telecommunications systems pursuant to this subsection shall be the same as those prescribed in PC1-315 through 324 and PC1-325 through 327.

B. Notwithstanding the criteria for contract award prescribed in PC1-328 through 338, PC1-339 through 344, a contract for information systems or telecommunications systems shall be awarded to the responsible respondent whose proposal is determined in writing to be the most advantageous to Pinal County, taking into consideration the evaluation factors set forth in the Request for Proposals, which shall include as evaluation factors the total life cycle cost and application benefit of each proposal. No factors or criteria, other than those set forth in the Request for Proposals, may be used in the evaluation of proposals for information systems or telecommunications systems. Procedures for awarding a contract for information systems or telecommunication systems pursuant to this subsection shall be the same as those prescribed in PC1-328 through 338 and PC1-339 through 344.

C. Notwithstanding subsections A and B of this section, when utilizing an existing requirements contract for one or more similar systems under this section that is awarded to more than one respondent for information or telecommunications systems, before a using department acquires such a system, it shall take into account the total life cycle cost and application benefit of the systems in the manner that the total life cycle cost and application benefit are taken into account under subsections A and B.

D. The Procurement Officer need not use all of the above referenced evaluation criteria if the Procurement Officer makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interest of the County.

PC1-372 PROCUREMENT OF EARTH MOVING, MATERIAL HANDLING, ROAD MAINTENANCE AND CONSTRUCTION EQUIPMENT: DEFINITIONS

A. Notwithstanding the criteria for contract award prescribed in PC1-315 through 324 and PC1-325 through 327, a contract for earth moving, material handling, road maintenance and construction equipment shall be awarded to the lowest responsible and responsive respondent whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids which shall include as price evaluation criteria the total life cycle cost including residual value of the earth moving, material handling, road maintenance and construction equipment and such other additional evaluation factors set forth in the Invitation for Bids. No factors or criteria may be used in the evaluation of Invitation for Bids for earth moving, material handling, road maintenance and construction equipment, other than those specified in the Invitation for Bid. Additional evaluation factors shall include, to the extent practicable, outright purchase. The contract award shall be based on the price evaluation criteria deemed by Pinal County to be most advantageous to the County. Procedures for awarding contracts for earth moving, material handling, road maintenance and construction equipment pursuant to this subsection shall be the same as those prescribed in PC1-315 through 324 and PC1-325 through 327.

B. Notwithstanding the criteria for contract award prescribed in PC1-328 through 338 and PC1-339 through 344, a contract for earth moving, material handling, road maintenance and construction equipment shall be awarded to the responsible respondent whose proposal is determined in writing to the most advantageous to Pinal County. The evaluation factors set forth in the Request for Proposals shall include the total life cycle cost including residual value and such other additional evaluation factors set forth in the Request for Proposals. No factors or criteria may be used in the evaluation of proposals for earth moving, material handling, road maintenance and construction equipment, other than those specified in the Request for Proposal. Additional evaluation factors set forth in the Request for Proposals shall include, to the extent practicable, outright purchase. The contract award shall be based on the price evaluation criteria deemed by Pinal County to be most advantageous. Procedures for awarding a contract for earth moving, material handling, road maintenance and construction equipment pursuant to this subsection shall be the same as those prescribed in PC1-328 through 338 and PC1-339 through 344.

C. The Procurement Officer may issue a Request for Information to obtain data about services or commodity available to meet a specific need. Adequate public notice shall be given as specified in PC1-315.C.

D. The Procurement Officer need not use all of the above referenced evaluation criteria if the Procurement Officer makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interest of the County.

PC1-373 REQUEST FOR INFORMATION

A Procurement Officer may issue a Request for Information to obtain price, delivery, technical information or capabilities for planning purposes.

A. Responses to a request for information are not offers and cannot be accepted to form a binding contract.

B. Information contained in a response to a request for information shall be considered confidential until the procurement process is concluded or two years, whichever occurs first.

C. There is no required format to be used for requests for information.

PC1-374 CONFERENCE FACILITIES AND SERVICES UNDER $10,000

Conference facilities and services will be the least expensive available in the geographic area selected taking into consideration meeting room size, accommodations, related services and other requirements. Using departments must use adequate and reasonable competition and must document the basis for their selection to facilitate auditing of expenditures.

PC1-375 PUBLIC-PRIVATE PARTNERSHIP CONTRACTS

A. The County may enter into public-private partnership contracts to finance the technology needs of a using department or transportation projects. The funding for services under a public- private partnership contract entered into pursuant to this section shall be contingent on and computed according to established performance standards and shall be attributable to the successful implementation of the technology program for the period specified in the contract. The Procurement Officer may issue Requests for Information and Requests for Proposals to solicit private partners that are interested in providing programs under this contract enter into pursuant to this section.

B. Each Request for Proposal issued pursuant to this section shall require each private partner to propose specific performance improvements and measurement approaches to be used to measure the value delivered by the vendor's solution. The solicitation shall include an assessment of the proposed value of the vendor's solution in its evaluation criteria to select the best value solution for the County.

C. A contract entered into between the County and an automated systems vendor shall provide for payment of fees on a contractually specified amount based on the achievement of measured performance improvements that are mutually agreed to by the contractor and the County. The following are subject to review and approval by the Director as applicable:

1. The terms of contracts entered into pursuant to this section related to the measurement of the performance improvement attributable to the vendor technology program.

2. Payment of fees based on achievement of the established performance measures.

3. Authorize the using department or private partner to establish and collect user charges, tolls, fares, rents, advertising and sponsorship charges, service charges or similar charges, including provisions that:

    a. Specify technology to be used in the facility.

    b. Establish circumstances under which the department may receive all or a share of revenues from such charges.

c. Govern enforcement of tolls, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the private partner access to relevant databases for enforcement purposes. Misuse of the data contained in the databases, including negligence in securing the data properly, shall result in a civil penalty of $10,000 for each violation. Civil penalties collected pursuant to this subdivision shall be deposited in the County general fund.

d. Authorize the department to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

4. Allow for payments to be made by the County to the private partner, including availability payments or performance based payments.

5. Allow the department to accept payments of monies and share revenues with the private partner.

6. Address how the partners will share management of the risks of the project.

7. Specify how the partners will share the costs of development of the project.

8. Allocate financial responsibility for cost overruns.

9. Establish the damages to be assessed for nonperformance.

10. Establish performance criteria or incentives, or both.

11. Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in ARS § 28-6701. Pinal County shall not relinquish its power of eminent domain authority to the private partner.

12. Establish recordkeeping, accounting and auditing standards to be used for the project.

13. For a project that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable government standards on reversion of the facility to the County.

14. Provide for patrolling and law enforcement on public facilities.

15. Identify any department specifications that must be satisfied, including provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a showing satisfactory to the department.

16. Require a private partner to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security or a combination of any of these, the penal sum or amount of which may be less than one hundred (100) percent of the value of the contract involved based on the department's determination, made on a facility-by-facility basis, of what is required to adequately protect the County.

17. Authorize the private partner in any concession agreement to establish and collect user charges, tolls, fares, rents, advertising and sponsorship charges,

service charges or similar charges to cover its costs and provide for a reasonable rate of return on the private partner's investment, including provisions such as the following:

a. The charges may be collected directly by the private partner or by a third party engaged for that purpose.

b. A formula for the adjustment of user charges, tolls, fares, rents, advertising and sponsorship charges, service charges or similar charges during the term of the agreement.

c. For an agreement that does not include a formula described in subdivision (ii) of this paragraph, provisions regulating the private partner's return on investment.

d. A maximum multiplier that may be applied to the difference between passenger and commercial vehicle user charges, tolls, fares or similar charges.

e. A variety of traffic management strategies, including:
   i. General purpose toll lanes.

   ii. High occupancy vehicle lanes where single or low occupancy vehicles may use higher occupancy vehicle lanes by paying a toll.

   iii. Lanes or facilities in which the tolls may vary during the course of the day or week or according to levels of congestion anticipated or experienced.

   iv. Combinations of, or variations on, items (i), (ii) and (iii) of this subdivision, or other strategies the department determines are appropriate on a facility-by-facility basis.

   v. Mechanisms for notice to drivers of an upcoming facility and options to pay user charges, tolls, fares or similar charges at the facility location.

18. Specify remedies available and dispute resolution procedures, including the right of the private partner to institute legal proceedings to obtain an enforceable judgment or award against the department in the event of a default by the department and procedures for use of dispute review boards, mediation, facilitated negotiation, arbitration and other alternative dispute resolution procedures.

19. Allow the department to acquire real property that is needed for and related to eligible facilities, including acquisition by exchange for other real property that is owned by the department.

D. Notwithstanding any other law, the department may enter into agreements, whether a concession agreement or other form of agreement, with any private partner that includes provisions described in subsection C of this section. Agreements may be for a term not to exceed fifty (50) years but may be extended for additional terms.

E. The department may approve any request from another unit of government to develop an eligible facility in a manner similar to that used by the department under this

chapter.

F. Notwithstanding any other law, agreements under this chapter that are properly developed, operated by a private partner under a concession agreement pursuant to this chapter are exempt from all state and local ad valorem and property taxes that otherwise might be applicable.

G. The agreement shall contain a provision by which the private partner expressly agrees that it is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the department or any jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the private partner would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the private partner for the adverse effect on toll revenues or other user fee revenues resulting from development, construction and maintenance of an unplanned revenue impacting facility.

H. The agreement shall contain a provision that prohibits photo traffic enforcement of ARS title 28, chapter 3, article 6 on toll lanes.

I. Any foreign private entity that enters into an agreement with the department pursuant to this section must provide satisfactory evidence to the board that the foreign entity is in compliance with the requirements of ARS title 10, chapter 38.

J. The agreement shall contain a provision that all public-private partnerships are subject to ARS title 28, chapter 20, article 3.

K. The department shall award a stipulated fee equal to four-tenths of one percent of the department's estimated cost of design and construction to each short list responsible proposer that provides a responsive, but unsuccessful proposal. If the department does not award a contract, all responsive proposers shall receive the stipulated fee. If the department cancels the contract before reviewing the technical proposals, the department shall award each design-builder on the short list a stipulated fee equal to four-tenths of one percent of the department's estimated cost of design and construction. The department shall pay the stipulated fee to each proposer within ninety (90) days after the award of the contract or the decision not to award a contract. In consideration for paying the stipulated fee, the department may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers. Notwithstanding the other provisions of this subsection, an unsuccessful short list proposer may elect to waive the stipulated fee. If an unsuccessful short list proposer elects to waive the stipulated fee, the department may not use ideas and information contained in the proposer's proposal, except that this restriction does not prevent the department from using any idea or information if the idea or information is also included in a proposal of a short list proposer that accepts the stipulated fee.

PC1-376 <u>COMPETITIVE SELECTION PROCEDURES FOR TRAVEL AND TRAVEL RELATED SERVICES.</u>

A. The following travel and travel related services are exempt from the competitive procurement procedures as provided in PC1-315 through 324, PC1-325 through 327, PC1-328 through 338, and PC1-339 through 344.

1. Airline Tickets

2. Automobile Rental

3. Hotel/Motel Accommodations

B. Travel and travel related services defined above shall be procured in accordance with County travel policy to obtain the lowest available fare/rate meeting the using department requirements. User agencies must use adequate and reasonable competition and must document the basis for their selection to facilitate auditing of expenditures.

PC1-377 GRANT MANDATED OR SPECIAL PROGRAM INCENTIVES AND FOOD FOR NON-COUNTY EMPLOYEES

A. Retail store incentives purchased from retail stores for distribution to non-County employees for their participation in grant or non-grant funded public health, social service education, wellness or school related programs are exempt from the competitive procurement requirements of this Code. The exemption is specific to the purchase of incentives required to meet the requirements of County approved programs or grants received by Pinal County where the purpose is to promote wellness and/or education for targeted groups.

B. Food purchased for consumption by non-County employees to encourage their participation in grant or non-grant funded public health, social services education, wellness or school related programs are exempt from the competitive requirements of this Code. The exemption is specific to purchases of food items required to meet the requirements of County approved programs or grants received by Pinal County where the purpose is to promote wellness and/or education for targeted groups and is limited to $1,000.00 per event.

PC1-401 DUTIES OF THE DIRECTOR

In Pinal County, the Director of Finance also serves as the Chief Procurement Officer. The Director should establish guidelines governing the preparation, maintenance and content of specifications for materials and services; and in the case of construction, the construction agency should establish guidelines governing the preparation, maintenance and content of specifications for construction required by Pinal County.

PC1-402 PREPARATION OF SPECIFICATIONS

A. Procurement Officers shall ensure specifications used support maximum practical competition.

B. Procurement Officers may contract for the preparation of specifications with persons other than County personnel.

C. Notwithstanding the provisions of this Article, the Director retains the authority to prepare, issue, revise, and monitor all specifications for materials and services; and in the case of construction, the Public Works Director retains the authority to prepare, issue, revise, and monitor all specifications for construction.

D. If a mandatory specification has been designated by the Director for a particular material, service, or construction item, it shall be used unless the Director or the Public Works Director for construction makes a written determination that its use is advantageous to the County and that another specification may be used.

PC1-403 UTILIZATION OF SPECIFICATIONS

Procurement Officers may use any type of specification that describes the procurement requirement and promotes competition, except that the Procurement Officer shall not use proprietary or restrictive specifications without the prior written approval of the Director.

PC1-404 TYPES OF SPECIFICATIONS

A. Specifications for common or general use items.

1. To the extent practicable, a specification for common or general use item shall be prepared and utilized when:

a. A commodity, service or construction item is used in common by several using departments or used repeatedly by one using department, and the characteristics of the commodity, service or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant.

b. Pinal County's recurring needs may require uniquely designed or specially produced items.

B. Brand Name or Equal Specifications.

1. A brand name or equal specification may be used when the Procurement Officer determines that use of a brand name or equal specification is advantageous to Pinal County and that:

a. No specification for a common or general use item or qualified products list is available;

b. Time does not permit the preparation of another form of specification, other than a brand name or equal specification; or

c. The nature of the product or Pinal County's requirements makes use of a brand name or equal specification suitable for the procurement.

2. Such determination may be made for categories of commodities, services or construction items or, in appropriate circumstances, for an entire procurement action even though a number of different items are being procured.

3. A brand name or equal specification shall designate as many different brands as are practicable as "or equal" references.

4. A brand name or equal specification shall include a description of the particular design, functional, or performance characteristics that are required unless the Procurement Officer determines that the essential characteristics of the brand names designated in the specifications are commonly known.

5. A solicitation that uses a brand name or equal specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.

C. Brand Name Specifications.

1. A brand name specification may be prepared and utilized only if the Procurement Officer makes a written determination that only the identified brand name item will satisfy Pinal County's needs.

2. If a brand name specification is utilized the Procurement Officer shall, to the extent practicable, identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve the maximum practicable competition. If only one source can supply the requirement, the procurement shall be made under PC1-346.

D. A qualified products list may be prepared and utilized when:

1. A Procurement Officer determines that testing or examination of the commodities or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy Pinal County's requirements.

2. Inclusion is based on results of tests or examinations conducted in accordance with requirements published by the Purchasing Department.

3. Qualified products lists' test results shall be made available in a manner to protect the identity of the supplier.

PC1-405 MAXIMUM PRACTICABLE COMPETITION

All specifications shall seek to promote overall economy for the purpose intended and encourage competition in satisfying Pinal County's needs and shall not be unduly restrictive.

PC1-406 REQUIREMENTS OF NON-RESTRICTIVE PROCUREMENT

A. Nonexclusive Specifications:

1. To the extent practicable and unless otherwise permitted by this code, all specifications shall describe Pinal County's requirements in a manner that does not unnecessarily exclude a commodity, service or construction item.

2. Proprietary specifications shall not be used unless the using department submits written justification which requires approval by the Director that such specifications are required by demonstrable technological justification and that it is not practicable or advantageous to use a less restrictive specification. Past success in the commodity's performance, traditional purchasing practices, or inconvenience of preparing specifications do not justify the use of proprietary specifications.

B. To the extent practicable, Pinal County shall use accepted commercial specifications and shall procure standard commercial commodities

PC1-407 PREPARATION OF SPECIFICATIONS BY PERSONS OTHER THAN PINAL COUNTY PERSONNEL

A. The requirements of this article shall apply to all specifications prepared by other than Pinal County employee. Contracts for the preparation of specifications by other than County personnel shall require the specification writer to adhere to such requirements.

B. If specifications are prepared by other than Pinal County employee, the person preparing the specifications shall be prohibited from responding to any resulting solicitation unless the Director determines in writing that permitting the person who prepared the specifications to respond is advantageous to Pinal County and this person does not have an unfair advantage.

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.

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.

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 December 31, 2030, in accordance with § 34-605.G.1.

      3) Contracts for construction services under Title 28 have a sunset date of December 31, 2030, in accordance with § 28-7367.I.3.

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.

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.

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 to initiation of this process, vertical construction projects require the approval of the Facilities Management Director. Horizontal and flood control projects require prior approval of the County Engineer.

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 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 $3,000,000 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 $8,000,000. 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.

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.

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.

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 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.
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.

PC1-601 CONTRACT CLAUSES

A. The Director may promulgate procedures permitting or requiring the inclusion of clauses providing for appropriate remedies, adjustments in prices, time of performance or other contract provisions.

B. The Director may modify the clauses promulgated under this article for inclusion in any Pinal County contract, provided that any variation is stated in the solicitation.

C. All contract clauses shall be consistent with the provisions of this Code.

This Article intentionally left blank.

PC1-801 MANAGEMENT OF MATERIALS

A. The Procurement Officer shall ascertain or verify that materials and services procured conform to specifications as set forth in the solicitation. The Procurement Officer may establish inspection and testing facilities, employ inspection personnel, enter into arrangements for the joint or cooperative use of laboratories and inspection and testing facilities, and contract with others for inspection or testing work as needed. The Procurement Officer may delegate authority for inspection and testing.

B. Each using department shall exercise general supervision of any receiving, storage, and distribution facilities they maintain. All warehouses and storage areas shall be inventoried at least annually.

PC1-802 DISPOSITION

A. The Board of Supervisors acts in all matters pertaining to the disposition of surplus materials.

B. The authority to act on behalf of the Board of Supervisors in surplus property disposition matters is delegated to the County Manager or Director of Finance and is limited to disposition matters less than $100,000 and with the exception of all matters related to the disposition of County owned land and buildings.

C. Transfer of excess or surplus materials to surplus property or between other Pinal County using departments is the responsibility of the using department.

D. Disposition of Surplus Materials:

1. Surplus materials shall be disposed of as provided by law. Only certified funds or cash shall be accepted for sales of surplus materials.

2. Auctions shall be advertised in accordance with statutory provisions. When making sales by auction, the solicitation shall specify all the terms and conditions of any sale.

3. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the Director shall approve such disposal.

E. Without a public auction, by unanimous approval of the Board of Supervisors, surplus material may be sold or leased to any other duly constituted governmental entity including the state, cities, towns, other counties; or County property may be sold or leased, for a specific use, to any solely charitable, social or benevolent nonprofit organization incorporated in or operating in this State (A.R.S. § 11-251.9 and 11-251.55).

F. Pinal County may sell property which the Board of Supervisors or designee deems no longer useful and designates as surplus. Items deemed to have minimal value by the Director may be disposed of without sale when the costs of the sale will outweigh the benefits received.

PC1-803 FIXED ASSET INVENTORY RECORDS

Using departments shall submit to the Finance Department verification by a physical count of fixed assets as provided from the Finance Department at the end of the fiscal year and at the change of department head.

PC1-804 LOST, STOLEN OR DESTROYED MATERIALS

The loss, theft or destruction of materials shall be immediately reported to the appropriate law enforcement agency and/or Risk Management office.

PC1-805 FEDERAL AND STATE SURPLUS MATERIALS PROGRAM

A using department may acquire federal surplus property or state surplus property materials as may be usable and necessary for public purposes by a using department upon approval by the Director.

PC1-806 AUTHORITY FOR TRANSFER OF MATERIALS

Notwithstanding any provision of law to the contrary, the Board of Supervisors or designee may confer on any officer or employee thereof continuing authority to secure the transfer of federal and state surplus materials and to obligate the County's monies to the extent necessary to comply with the laws and conditions of such transfers.

PC1-807 ALLOCATION OF PROCEEDS FROM SALES, TRANSFERS OR DISPOSAL OF SURPLUS MATERIALS

Proceeds from the disposition of assets shall be placed in a general "capital replacement fund" with the exception of RICO, GIITEM, and Grant property dispositions.

PC1-901 RULES OF PROCEDURE

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

PC1-902 DEBARMENT AND SUSPENSION OF CONTRACTORS

A. The County Manager, 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 (6) months and a debarment may not exceed more than three (3) years for each offense measured from the time when the County Manager validates the contractor's corrective action plan has been completed.

   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 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 and scope of work requirements 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.

B. An administrative review shall be held by the County Manager or designee of any person or entity considered for debarment or suspension. A written notice to the person or entity considered for debarment or suspension shall be mailed at least fourteen (14) 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. Statement to the person or entity that they may attend and offer information on their behalf.

C. After a decision has been determined, a written notice shall be sent to the person or entity citing the:

1. Action taken and the effective date and length of time the action shall be in effect and corrective measures that need to be implemented.

2. Reasons for the action taken.

D. Upon completion of both the specified suspension or debarment timeframe and the acceptance by the County Manager that corrective action measures have been implemented, the suspension or debarment will be terminated.

PC1-903 JUDICIAL REVIEW

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

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.

B. A person who intentionally or knowingly contracts for or purchases any material, services or construction pursuant to a scheme or artifice to avoid the requirements of this Code is guilty of a class 4 felony.

C. The Pinal County Attorney on behalf of Pinal County shall enforce the provisions of this Code.

PC1-905 PROTESTS AND APPEALS OF SOLICITATIONS AND CONTRACT AWARDS

Any participating respondent or contractor may file a protest of a solicitation or contract award issued by Pinal County or the award of a Pinal County contract with the Procurement Officer. Any participating respondent or contractor may appeal a protest decision of the Procurement Officer to the Director of Finance.

A. Filing.

1. Protests are to be filed with the Procurement Officer issuing the solicitation or contract. A written decision will be made within fourteen (14) days after the protest has been filed. The decision shall contain an explanation of the basis of the decision.

2. Appeals are to be filed with Director within seven (7) days from receipt of the Procurement Officer's decision. A written decision will be made within fourteen (14) days after the appeal has been filed. The decision shall contain an explanation of the basis of the decision and shall be the County's final determination.

B. Time for filing protests:

1. Protests based upon alleged improprieties in a solicitation that are apparent before the deadline for submission of a response to the solicitation shall be filed before the deadline or within fourteen (14) days after the protestor knows or should have known of the alleged impropriety, whichever is earlier.

2. In cases where the alleged improprieties are not apparent before the deadline for submission of a response to the solicitation, protests shall be filed within fourteen (14) days after the protester knows or should have known the basis of the protest, and no later than the award of the solicitation.

3. In all cases not covered by sections PC1-905.B (1) and (2), the protest shall be filed within fourteen (14) days after contract award.

4. If the protester shows good cause, the Procurement Officer may consider any protest that is not filed timely.

5. Notice of protesting action shall be given the successful contractor if the award has been made or, if no award has been made, to the recommended contractor.

6. If a 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. The Procurement Officer shall notify contractor(s) or recommended contractor of the stay in writing.

7. 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.

8. The time limit for decisions set forth in subsection A (1) may be extended by the Director for good cause for a reasonable time not to exceed 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.

C. The following administrative process details the procedure to be followed for protests and appeals of contract awards. Any participating respondent or contractor may protest the proposed award or the award of a Pinal County contract or any dispute related to their contract. The content of the protest, appeal or dispute shall be in writing and shall include the following information:

1. The name, address and telephone number or the protestor;

2. The signature of the protestor or their representative;

3. Identification of the Purchasing Department and the solicitation or contract number;

4. A detailed statement of the legal and/or factual grounds including copies of relevant documents; and

5. The form of relief requested.

D. Remedies.

An appropriate remedy may include one or more of the following:

1. Decline to exercise an option to renew under the contract;

2. Terminate the contract;

4. Amend the solicitation;

5. Issue a new solicitation;

5. Reject and re-issue the solicitation;

6. Award a contract consistent with this Code;

7. Such other relief as is determined necessary to ensure compliance with this Code.

PC1-1001 APPLICABILITY

Cooperative purchasing agreements entered into pursuant to this Article shall be limited to the areas of procurement, warehousing or materials management.

PC1-1002 PROCUREMENT AGREEMENT APPROVAL

All cooperative purchasing agreements entered into pursuant to this Article by Pinal County shall be approved by the Board of Supervisors or the Finance Director in accordance with delegated authority provisions.

PC1-1003 COOPERATIVE PURCHASING AUTHORIZED

The County may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials or services with one or more public procurement units in accordance with an agreement entered into between the participants. Parties under a cooperative purchasing agreement may:

A. Sponsor, conduct or administer a cooperative agreement for the procurement of any materials or services.

B. Cooperatively use materials or services.

C. Commonly use or share warehousing facilities, capital equipment and other facilities.

D. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.

E. On request, make available to other public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

F. The activities described in paragraphs A through E above do not limit what parties may do under a cooperative purchasing agreement.

PC1-1004 COOPERATIVE STATE PURCHASING AGREEMENT IN FORM OF A REQUIREMENTS CONTRACT

Any use of a state requirement contract with the Pinal County Purchasing Department shall provide that:

A. Payment for materials or services and inspection and acceptance of materials or services ordered by Pinal County under state contracts shall be the exclusive obligation of Pinal County;

B. The exercise of any rights or remedies by Pinal County shall be the exclusive obligation of Pinal County;

C. Failure of Pinal County to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require the state to exercise its own rights or remedies; and

D. Pinal County shall not use a state contract as a method for obtaining additional concessions or reduced prices for similar material or services.

PC1-1005 CONTRACT CONTROVERSIES

A. Under a cooperative purchasing agreement in which Pinal County is a party, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved in accordance with Article 9 of this Code.

B. Any local public procurement unit which is not subject to Article 9 of this Code may enter into an agreement with a public procurement unit to establish procedures or use such units existing procedures to resolve controversies with contractors, whether or not such controversy arose from a cooperative purchasing agreement.

PC1-1006 COMPLIANCE WITH FEDERAL PROCUREMENT

If a procurement involves the expenditure of federal assistance or contract monies, the Director or using department shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in this Code.

PC1-1007 USE OF PAYMENTS RECEIVED BY A SUPPLYING PUBLIC PROCUREMENT UNIT

All payments received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit to defray the costs of the cooperative program.

This Article intentionally left blank.

PC1-1201 EMPLOYEE ETHICS

A. Pinal County employment is a public trust. It is the policy of Pinal County for employees to maintain high standards of honesty, integrity, impartiality, courtesy and conduct. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering County service.

B. Pinal County employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors and to avoid the appearance of impropriety. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of Pinal County's procurement operation.

C. To achieve the purpose of this Article, it is essential that those doing business with Pinal County also observe the ethical standards prescribed herein.

PC1-1202 INFLUENCE

A. Any attempt to realize personal gain through Pinal County employment by conduct inconsistent with the proper discharge of the employee's duty is a breach of public trust.

B. Any effort to influence any Pinal County employee or agent to breach the standards of ethical conduct, maybe grounds for disbarment or suspension under PC1-902.

PC1-1203 CONFLICT OF INTEREST

It shall be a breach of ethical standards for any employee or agent acting on behalf of Pinal County to directly or indirectly participate in or benefit from a procurement when the employee, agent or his immediate family has a financial interest in the business or organization, or has a potential for financial gain as a direct result of their actions, unless an exception has been previously granted by the Director. The Director shall review requests for exceptions on a case by case basis and issue a written determination to support the decision.

PC1-1204 ETHICAL STANDARDS

A. No person shall offer, give or agree to give, any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing content of any specification or procurement standard, rendering of advice, investigation, auditing or in any advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement of a contract or subcontract, or to any solicitation or proposal thereof.

B. It shall be a breach of ethical standards relating to conflict of interest for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

PC-1205 CONTINGENT FEES

Contingency fee procurements may only be executed with approval of the Director. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Pinal County contract upon an agreement or understanding for a commission, percentages, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

PC-1206 EMPLOYMENT OF PRESENT AND FORMER EMPLOYEES

In order to maintain the integrity of the procurement process, it is a breach of ethical standards for any employee or former employee to be employed by a Contracted company or a company under consideration of a contract with Pinal County for a period of 6 months after leaving County employment.

PC1-1207 CONFIDENTIAL INFORMATION

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

PC1-1208 USE OF NAME OR PHYSICAL LIKENESS

No County employee or elected official shall imprint their name or physical likeness on any goods procured under this Code excluding consumable products, such as business cards or letterhead.

PC1-1301 ON-LINE BIDDING

A. Pursuant to A.R.S. § 41-2672, if a Procurement Officer determines that electronic, on-line bidding is more advantageous than other procurement methods, a Procurement Officer may use on-line bidding to obtain bids electronically for the purchase of goods, services, construction and information services.

B. An on-line bidding solicitation must designate an opening date and time.

C. The closing date and time for an on-line solicitation may be fixed or remain open depending on the structure of the item being bid on line. Information regarding the closing date and time must be included in the solicitation. At the opening date and time, the Purchasing Department must begin accepting on-line bids and must continue accepting bids until the bid is officially closed.

D. All on-line bids must be posted electronically and updated on a real-time basis.

E. The Purchasing Department may:

1. Require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation.

2. Prequalify bidders and allow only those bidders who are prequalified to submit bids on line.

F. The Purchasing Department retains its existing authority to determine the criteria that will be used as a basis for making awards.

G. PC1-315 and PC1-328 do not apply to solicitations issued pursuant to this section, except that:

1. All bids submitted electronically through an on-line bidding process are public information and are subject to the same public disclosure laws that govern bids received through the sealed bid process.

2. All remedies available to the Purchasing Department and to bidders through the sealed bid process under this chapter are also available to the Purchasing Department and bidders in an on-line bidding process.