



2 A.A.C. 7

Supp. 22-3

TITLE 2. ADMINISTRATION

CHAPTER 7. DEPARTMENT OF ADMINISTRATION - STATE PROCUREMENT OFFICE

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The release of this Chapter in Supp. 22-3 replaces Supp. 17-2, 1-42 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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Administrative Rules Division
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TITLE 2. ADMINISTRATION

CHAPTER 7. DEPARTMENT OF ADMINISTRATION - STATE PROCUREMENT OFFICE

Authority: A.R.S. §§ 41-703(6), 41-2511, and 41-2514

Supp. 22-3

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TITLE 2. ADMINISTRATION

CHAPTER 7. DEPARTMENT OF ADMINISTRATION - STATE PROCUREMENT OFFICE

ARTICLE 1. GENERAL PROVISIONS

R2-7-101. Definitions

In this Chapter, unless the context otherwise requires:

1. "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.
2. "Agency chief procurement officer" means the procurement officer within a state governmental unit, who is acting under specific, written authority from the state procurement administrator in accordance with R2-7-202 or any person delegated that authority, in writing, under R2-7-203. The term does not include any other person within a state governmental unit who does not have this written delegation of authority.
3. "Aggregate dollar amount" means purchase price, including taxes and delivery charges, for the term of the contract and accounting for all allowable extensions and options.
4. "Alternate project delivery methods" means design-build, construction-management-at-risk, and job-order-contracting construction services.
5. "Arizona Procurement Code" means A.R.S. Title 41, Chapter 23 and this Chapter.
6. "Arizona state contract" means a contract established or authorized by the state procurement administrator for use by state governmental units and eligible procurement units.
7. "Award" means a determination by the state that it is entering into a contract with one or more offerors.
8. "Best and Final Offer" means a revision to an offer submitted after negotiations are completed that contain the offeror's most favorable terms for price, service, and products to be delivered.
9. "Bid" means an offer in response to solicitation.
10. "Bidder" means "offeror" as defined in R2-7-101(35).
11. "Brand name or equivalent specification" means a written description that uses one or more manufacturers' product name or catalog item, to describe the standard of quality, performance, and other characteristics that meet state requirements and provides for submission of equivalent products or services.
12. "Brand name specification" means a written description limited to a list of one or more items by manufacturers' product name or catalog item to describe the standard of quality, performance, and other characteristics that meet state requirements.
13. "Clergy" includes the same persons described in A.R.S. § 32-3271(A)(3).
14. "Component" means a part of a manufactured product.
15. "Contract amendment" means a written modification of a contract under A.R.S. § 41-2503(8) or a unilateral exercise of a right contained in the contract.
16. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been incurred or will be incurred by the offeror or contractor in performing the contract.
17. "Cost-plus-a-percentage-of-cost contract" means the parties to a contract agree that the fee will be a predetermined percentage of the cost of work performed and the contract does not limit the cost and fee before authorization of performance.
18. "Day" means a calendar day and time is computed under A.R.S. § 1-243, unless otherwise specified in the solicitation or contract.
19. "Debarment" means an action taken by the director under R2-7-C901 that prohibits a person from participating in the state procurement process.
20. "Defective data" means data that is inaccurate, incomplete, or outdated.
21. "Dentist" means a person licensed under A.R.S. Title 32, Chapter 11.
22. "Descriptive literature" means information available in the ordinary course of business that shows the characteristics, construction, or operation of an item or service offered.
23. "Eligible procurement unit" means a local public procurement unit, any other state or agency of the United States, or a nonprofit educational or public health institution, including any certified non-profit agency that serves individuals with disabilities as defined in A.R.S. § 41-2636, that is eligible under a cooperative agreement to use Arizona state contracts.
24. "eProcurement System" means the State's official electronic procurement system as authorized by the state procurement administrator under R2-7-201.
25. "Filed" means delivery to an agency chief procurement officer or to the director, whichever is applicable, in a manner specified by the Arizona Procurement Code or a solicitation.
26. "Finished goods" means units of a manufactured product awaiting sale.
27. "Force account" as used in A.R.S. § 41-2572, means work performed by the state's regularly employed personnel.
28. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, by-laws, or similar documents.
29. "In writing" has the same meaning as "written" or "writing" in A.R.S. § 47-1201, which includes printing, type-writing, electronic transmission, facsimile, or any other intentional reduction to tangible form.
30. "Interested party" means an offeror or prospective offeror whose economic interest is affected substantially and directly by issuance of a solicitation, an award or loss of an award. Whether an offeror or prospective offeror has an economic interest depends upon the circumstances of each case.
31. "Legal counsel" means a person licensed as an attorney by the Arizona Supreme Court.
32. "May" means something is permissive.
33. "Negotiation" means an exchange or series of exchanges between the state and an offeror or contractor that allows the state or the offeror or contractor to revise an offer or contract, unless revision is specifically prohibited by this Chapter.
34. "Offer" means a response to a solicitation.
35. "Offeror" means a person who responds to a solicitation.
36. "Physician" means a person licensed under A.R.S. Title 32, Chapters 7, 8, 13, 14, 15.1, 16, or 17.
37. "Price data" means information concerning prices, including profit, for materials, services, or construction substantially similar to the materials, services, or con-

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struction to be procured under a contract or subcontract. In this definition, “prices” refers to offered selling prices, historical selling prices, or current selling prices of the items to be purchased.

38. “Procurement file” means the official records file of the director whether located in the office of the director, at a public procurement unit, or in the eProcurement System. The procurement file shall include (electronic or paper) the following:
 - a. List of notified vendors,
 - b. Final solicitation,
 - c. Solicitation amendments,
 - d. Bids and offers,
 - e. Offer revisions and best and final offers,
 - f. Discussions,
 - g. Clarifications,
 - h. Final evaluation reports, and
 - i. Additional information, if requested by the agency chief procurement officer and approved by the state procurement administrator.
39. “Procurement request” means the document that initiates a procurement.
40. “Proposal” means an offer submitted in response to a solicitation.
41. “Prospective offeror” means a person that expresses an interest in a specific solicitation.
42. “Raw materials” means goods, excluding equipment and machinery, purchased for use in manufacturing a product.
43. “Reverse auction” means a procurement method in which offerors are invited to bid on specified goods or services through online bidding and real-time electronic bidding. During an electronic bidding process, offerors’ prices or relative ranking are available to competing offerors and offerors may modify their offer prices until the closing date and time.
44. “Shall” means something is mandatory.
45. “Small business” means a for-profit or not-for-profit organization, including its affiliates, with fewer than 100 full-time employees or gross annual receipts of less than \$4 million for the last complete fiscal year.
46. “Solicitation” means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request issued by the purchasing agency to invite a person to submit an offer.
47. “Source selection method” means a process that is approved by an agency chief procurement officer and used to select a person to enter into a contract for procurement.
48. “State procurement administrator” means the individual appointed by the director as a chief procurement officer for the state, or a state procurement administrator’s authorized designee. A different title may be used for this position.
49. “State procurement office” means an office that acts under the authority delegated to the state procurement administrator.
50. “Suspension” means an action taken by the director under R2-7-C901 that temporarily disqualifies a person from participating in a state procurement process.
51. “Trade secret” means information, including a formula, pattern, device, compilation, program, method, technique, or process, that is the subject of reasonable efforts to maintain its secrecy and that derives independent eco-

nomie value, actual or potential, as a result of not being generally known to and not being readily ascertainable by legal means.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-102. Written Determinations

- A. If a written determination is required under applicable law, an agency chief procurement officer shall include the basis for the action taken in the written determination.
- B. The agency chief procurement officer shall place the written determination into the purchasing agency’s procurement file.
- C. A procurement file located at a state agency is considered the official records file of the director as required by A.R.S. § 41-2502, if the file is maintained by an agency chief procurement officer.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-103. Confidential Information

- A. If a person wants to assert that a person’s offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term “confidential”. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.
- C. Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:
 1. The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;
 2. The designated information is not confidential; or
 3. Additional information is required before a final confidentiality determination can be made.
- D. If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall

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include a time period for requesting a review of the determination by the state procurement administrator.

- E. An agency chief procurement officer may release information designated as confidential under subsection (A) if:
1. A request for review is not received by the state procurement administrator within the time period specified in the notice; or
 2. The state procurement administrator, after review, makes a written determination that the designated information is not confidential.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-104. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-105. Repealed**Historical Note**

Adopted effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 2. PROCUREMENT ORGANIZATION**R2-7-201. State Procurement Administrator: Duties and Qualifications**

- A. The director shall hire a state procurement administrator with executive and organizational skills and relevant, recent experience in public procurement.
- B. The state procurement administrator shall:
1. Administer the procurement of materials, services, and construction needed by the state;
 2. Establish procurement policy and procedure;
 3. Establish procurement training standards;
 4. Designate if an Arizona state contract is mandatory;
 5. Delegate procurement authority under R2-7-202; and
 6. Monitor compliance of state governmental units with state procurement laws.
- C. The state procurement administrator shall maintain a record of each contract awarded under A.R.S. §§ 41-2536 (sole source procurement) and 41-2537 (emergency procurement) that exceeds the amount prescribed in A.R.S. § 41-2535(A). The record shall be maintained for a minimum of five years. The state procurement administrator shall ensure that the record is available for public inspection and contains all of the following:
1. Each contractor's name;
 2. The estimated amount of each contract; and
 3. A description of the item or service procured.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp.

84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-202. Delegation of Procurement Authority to State Governmental Units

- A. The state procurement administrator shall delegate procurement authority to a state governmental unit based upon the following criteria:
1. The procurement expertise, knowledge, experience, and performance of the state governmental unit's agency chief procurement officer, as identified by the state governmental unit; and
 2. The impact of the delegation on procurement efficiency and effectiveness.
- B. The state procurement administrator shall delegate procurement authority in a written document that specifies all of the following:
1. The agency chief procurement officer,
 2. The specific authority delegated,
 3. Any limits or restrictions upon the delegated authority,
 4. Whether the authority may be further delegated, and
 5. The duration of the delegation.
- C. The head of a purchasing agency shall immediately report any significant change regarding the criteria considered under subsection (A) to the state procurement administrator.
- D. A purchasing agency shall exercise delegated authority according to A.R.S. Title 41, Chapter 23 and A.A.C. Title 2, Chapter 7.
- E. An agency chief procurement officer shall submit to the state procurement administrator any procurement that exceeds the agency's delegated authority.
- F. The state procurement administrator may revoke, suspend, or modify delegated authority for failure to comply with A.R.S. Title 41, Chapter 23 or A.A.C. Title 2, Chapter 7, or a significant change regarding the criteria considered under subsection (A).
- G. The state procurement administrator retains all authorities and duties delegated to an agency chief procurement officer at a state governmental unit.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-203. Agency Chief Procurement Officer

- A. An agency chief procurement officer may further delegate procurement authority within the purchasing agency, within the limits specified by the state procurement administrator.
- B. The agency chief procurement officer shall notify the state procurement administrator in writing of employees who have delegated procurement authority.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section

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made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-204. State Employee or Public Officer Use of State Contracts

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

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-205. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1757, effective May 9, 2017 (Supp. 17-2).

R2-7-206. Authorized Procurement Officers

A procurement officer shall perform all procurement duties in accordance with the Arizona Procurement Code and within the authority delegated to the procurement officer in accordance with this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-207. Resolution of Intra-agency Procurement Disputes

Procurement disputes between a purchasing agency and its agency chief procurement officer shall be resolved by the state procurement administrator.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-208. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1757, effective May 9, 2017 (Supp. 17-2).

R2-7-209. Prospective Suppliers List

- A. The state procurement administrator shall compile and maintain a prospective suppliers list. To be included on the prospective suppliers list, a person shall register with the state procurement office.
- B. The state procurement administrator may remove suppliers from the prospective suppliers list if a notice sent to the supplier is returned. The state procurement administrator shall maintain a record of the date and reason for removal of a supplier from the prospective suppliers list.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 3. SOURCE SELECTION AND CONTRACT FORMATION**R2-7-301. Repealed****Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Amended effective July 6, 1994 (Supp. 94-3). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-302. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-303. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-304. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-305. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-306. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-307. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final

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tive April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-321. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-322. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-323. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-324. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-325. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-326. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-327. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-328. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section heading amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-329. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-330. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-331. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-332. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-333. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp.

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84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-334. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-335. Repealed**Historical Note**

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-336. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Amended effective July 6, 1994 (Supp. 94-3). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-337. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-338. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-339. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-340. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-341. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-342. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-343. Repealed

The Request for Proposals shall be in accordance with R2-7-326. The Requests for Proposals shall also be distributed to persons who have submitted statements of qualifications under R2-7-342 for the particular services sought.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-344. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-345. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-346. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp.

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84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-360. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-361. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-362. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-363. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-364. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-365. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-366. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-367. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-368. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-369. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-370. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

PART A. GENERAL PROVISIONS

R2-7-A301. Source Selection Method: Determination Factors

- A. A state governmental unit shall use any existing Arizona state contract designated as mandatory to satisfy requirements for those materials and services covered by such contracts.
- B. If a state governmental unit believes that an Arizona state contract, designated as mandatory, does not satisfy its requirements, the state governmental unit may only procure the material or service from another source with the written approval of the state procurement administrator and in conformance with the applicable source selection method.
- C. The agency chief procurement officer shall determine the applicable source selection method for a procurement, estimating the aggregate dollar amount of the contract and ensuring that the procurement is not artificially divided, fragmented, or combined to circumvent the Arizona Procurement Code.
- D. The agency chief procurement officer shall not award a contract or incur an obligation on behalf of the state unless suffi-

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cient funds are available for the procurement, consistent with A.R.S. § 35-154. If it is reasonable to believe that sufficient funds will become available for a procurement, the agency chief procurement officer may issue a notice with the solicitation indicating that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

PART B. COMPETITIVE SEALED BIDDING**R2-7-B301. Solicitation**

- A.** An agency chief procurement officer shall issue an invitation for bids at least 14 days before the offer due date and time, unless the agency chief procurement officer determines a shorter time is necessary for a particular procurement. If a shorter time is necessary, the agency chief procurement officer shall document the specific reasons in the procurement file.
- B.** An agency chief procurement officer shall:
1. Advertise the procurement in accordance with A.R.S. § 41-2533(C); and
 2. At a minimum, provide written notice to the prospective suppliers that have registered with the state procurement office for the specific material, service, or construction solicited.
- C.** An agency chief procurement officer shall include the following in the solicitation:
1. Instruction to offerors, including:
 - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers or other documents will be received, and the offer acceptance period;
 - b. The deadline date for requesting a substitution or exception to the solicitation;
 - c. The manner by which the offeror is required to acknowledge amendments;
 - d. The minimum required information in the offer;
 - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
 - f. Any specific responsibility criteria;
 - g. Whether the offeror is required to submit samples, descriptive literature, or technical data with the offer;
 - h. Any evaluation criteria;
 - i. A statement of where documents incorporated by reference are available for inspection and copying;
 - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
 - k. Certification by the offeror that submission of the offer did not involve collusion or other anticompetitive practices;
 - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
 - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;

- n. Any bid security required;
 - o. The means required for submission of an offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
 - p. Any designation of the specific bid items and amounts to be recorded at offer opening; and
 - q. Any other offer submission requirements;
2. Specifications, including:
- a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
 - b. If a brand name or equivalent specification is used, instructions 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 the brands designated qualify for consideration; and
 - c. Any other specification requirements;
3. Terms and Conditions, including:
- a. Whether the contract will include an option for extension; and
 - b. Any other contract terms and conditions.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-B302. Pre-offer Conferences

An agency chief procurement officer may conduct one or more pre-offer conferences. If a pre-offer conference is conducted, it shall be a reasonably sufficient time prior to the offer due date and time. Statements made during a pre-offer conference are not amendments to the solicitation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-B303. Solicitation Amendment

- A.** An agency chief procurement officer shall issue a solicitation amendment to do any or all of the following:
1. Make changes in the solicitation;
 2. Correct defects or ambiguities;
 3. Provide additional information or instructions; or
 4. Extend the offer due date and time if the agency chief procurement officer determines that an extension is in the best interest of the state.
- B.** If a solicitation is changed by a solicitation amendment, the agency chief procurement officer shall notify suppliers to whom the agency chief procurement officer distributed the solicitation.
- C.** It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in the manner specified in the solicitation or solicitation amendment on or before the offer due date and time.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

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R2-7-B304. Modification or Withdrawal of Offer Before Offer Due Date and Time

- A. An offeror may modify or withdraw its offer, in writing, before the offer due date and time.
- B. The agency chief procurement officer shall place the document submitted by the offeror in the procurement file as a record of the modification or withdrawal.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B305. Cancellation of a Solicitation Before Offer Due Date and Time

- A. Based on the best interest of the state, an agency chief procurement officer may cancel a solicitation before the offer due date and time.
- B. The agency chief procurement officer shall notify suppliers to whom the agency chief procurement officer distributed the solicitation.
- C. The agency chief procurement officer shall not open offers after cancellation. The agency chief procurement officer may discard the offer after 30 days from notice of solicitation cancellation, unless the offeror requests the offer be returned.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B306. Receipt, Opening, and Recording of Offers

- A. An agency chief procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The agency chief procurement officer shall store each unopened offer in a secure place until the offer due date and time. When practical, an agency chief procurement officer should use the eProcurement system for this process.
- B. A purchasing agency may open an offer to identify the offeror. If this occurs, the agency chief procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The agency chief procurement officer shall secure the offer and retain it for public opening.
- C. The agency chief procurement officer shall open offers after the offer due date and time. The agency chief procurement officer shall record the name of each offeror, the amount of each offer, and any other relevant information as determined by the agency chief procurement officer. The agency chief procurement officer shall make the record of offers available for public viewing.
- D. Except for the information identified in subsection (C), the agency chief procurement officer shall ensure that information contained in the offer remains confidential until contract award and is shown only to those persons assisting in the evaluation process.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-B307. Late Offers, Modifications, Withdrawals

- A. If an offer, modification, or withdrawal is received after the due date and time, at the location designated in the solicitation

(which may be the eProcurement system), an agency chief procurement officer shall determine the offer, modification, or withdrawal as late. If the eProcurement system is the designated location for the offer, modification, or withdrawal, prospective offerors are responsible for allowing sufficient time to ensure that their submission is properly filed in the eProcurement system by the appropriate due date and time.

- B. The agency chief procurement officer shall reject a late offer, modification, or withdrawal unless:
 1. The document is received before the contract award at the location designated in the solicitation; and
 2. The document would have been received by the offer due date and time, but for the action or inaction of personnel directly serving the purchasing agency.
- C. Upon receiving a late offer, modification, or withdrawal, the agency chief procurement officer shall:
 1. If the document is hand delivered, refuse to accept delivery; or
 2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the offeror. The agency chief procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- D. The agency chief procurement officer shall document a refusal under subsection (C)(1) and place the document or a copy of the notice required in subsection (C)(2) in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-B308. Cancellation of Solicitation After Receipt of Offers and Before Award

- A. Based on the best interest of the state, an agency chief procurement officer may cancel a solicitation after offer due date and time. The agency chief procurement officer shall prepare a written justification for cancellation and place it in the procurement file.
- B. The agency chief procurement officer shall notify offerors of the cancellation in writing.
- C. The agency chief procurement officer shall retain offers received under the canceled solicitation in the procurement file. If the purchasing agency intends to issue another solicitation within six months after cancellation of the procurement, the agency chief procurement officer shall withhold the offers from public inspection. After award of a contract under the subsequent solicitation, the agency chief procurement officer shall make offers submitted in response to the canceled solicitation available for public inspection except for information determined to be confidential pursuant to R2-7-103.
- D. In the event of cancellation, the agency chief procurement officer shall promptly return any bid security provided by an offeror.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B309. One Offer Received

If only one offer is received in response to a solicitation, the agency chief procurement officer shall review the offer and either:

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1. Award the contract to the offeror and prepare a written determination that:
 - a. The price submitted is fair and reasonable under R2-7-702,
 - b. The offer is responsive, and
 - c. The offeror is responsible, or
2. Reject the offer and:
 - a. Resolicit for new offers,
 - b. Cancel the procurement, or
 - c. Use a different source selection method authorized under the Arizona Procurement Code.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

R2-7-B310. Offer Mistakes Discovered After Offer Opening and Before Award

- A. If an apparent mistake in an offer, relevant to the award determination, is discovered after opening and before award, an agency chief procurement officer shall contact the offeror for written confirmation of the offer. The agency chief procurement officer shall designate a time-frame within which the offeror shall either:
 1. Confirm that no mistake was made and assert that the offer stands as submitted; or
 2. Acknowledge that a mistake was made, and include all of the following in a written response:
 - a. Explanation of the mistake and any other relevant information;
 - b. A request for correction including the corrected offer or a request for withdrawal; and
 - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- B. An offeror who discovers a mistake in its offer may request correction or withdrawal in writing and shall include all of the following in the written request:
 1. Explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected offer or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- C. An agency chief procurement officer may permit an offeror to correct a mistake if the mistake and the intended offer are evident in the uncorrected offer; for example, an error in the extension of unit prices. The agency chief procurement officer shall not permit a correction that is prejudicial to the state or fair competition.
- D. An agency chief procurement officer shall permit an offeror to furnish information called for in the solicitation but not supplied if the intended offer is evident and submittal of the information is not prejudicial to other offerors.
- E. An agency chief procurement officer shall make a written determination of whether correction or withdrawal is permitted, based on whether the action is consistent with fair competition and in the best interest of the state.
- F. If the offeror fails to act under subsection (A) the offeror is considered nonresponsive and the agency chief procurement officer shall place a written determination that the offeror is nonresponsive in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B311. Extension of Offer Acceptance Period

- A. To extend the offer acceptance period, an agency chief procurement officer shall notify all offerors in writing of an extension and request written concurrence from each offeror.
- B. To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The agency chief procurement officer shall reject an offer as nonresponsive if written concurrence is not provided as requested.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B312. Bid Evaluation

- A. An agency chief procurement officer shall evaluate offers to determine which offer provides the lowest cost to the state in accordance with any objectively measurable factors set forth in the solicitation.
- B. An agency chief procurement officer shall consider total life cycle costs including residual value when evaluating offers for the procurement of materials or services identified in A.R.S. § 41-2554.
- C. An agency chief procurement officer shall conduct an evaluation to determine whether an offeror is responsive, based upon the requirements set forth in the solicitation. The agency chief procurement officer shall reject as nonresponsive any offer that does not meet the solicitation requirements.
- D. If there are two or more low, responsive offers from responsible offerors that are identical in price, the agency chief procurement officer shall make the award by drawing lots. If time permits, the agency chief procurement officer shall provide the offerors involved an opportunity to attend the drawing. The agency chief procurement officer shall ensure that the drawing is witnessed by at least one person other than the agency chief procurement officer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-B313. Responsibility Determinations

- A. The agency chief procurement officer shall determine before an award whether an offeror is responsible or nonresponsive.
- B. The agency chief procurement officer shall consider the following factors before determining that an offeror is responsible or nonresponsive:
 1. The offeror's financial, business, personnel, or other resources, such as subcontractors;
 2. The offeror's record of performance and integrity;
 3. Whether the offeror has been debarred or suspended;
 4. Whether the offeror is legally qualified to contract with the state;
 5. Whether the offeror promptly supplied all requested information concerning its responsibility; and
 6. Whether the offeror meets the responsibility criteria specified in the solicitation.
- C. If the agency chief procurement officer determines an offeror is nonresponsive, the agency chief procurement officer shall promptly send a determination to the offeror stating the basis for the determination. The agency chief procurement officer shall file a copy of the determination in the procurement file.

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- D. The agency chief procurement officer shall only disclose responsibility information furnished by an offeror in accordance with A.R.S. § 41-2540.
- E. For the offeror awarded a contract, the agency chief procurement officer's signature on the contract constitutes a determination that the offeror is responsible.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B314. Contract Award

- A. An agency chief procurement officer shall award the contract to the lowest responsible and responsive offeror whose offer conforms in all material respects to the requirements and criteria set forth in the solicitation. Unless otherwise provided in the solicitation, an award may be made for an individual line item, any group of line items, or all line items.
- B. The agency chief procurement officer shall keep a record showing the basis for determining the successful offeror or offerors in the procurement file.
- C. The agency chief procurement officer shall notify all offerors of an award.
- D. After a contract is awarded, the agency chief procurement officer shall return any bid security provided by the offeror.
- E. Within 3 days after a contract is awarded, the agency chief procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R2-7-103.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-B315. Mistakes Discovered After Award

- A. If a mistake in the offer is discovered after the award, the offeror may request withdrawal or correction in writing and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected offer or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- B. Based on the considerations of fair competition and the best interest of the state, the agency chief procurement officer may:
1. Allow correction of the mistake, if the resulting dollar amount of the correction is less than the next lowest offer;
 2. Cancel all or part of the award; or
 3. Deny correction or withdrawal.
- C. After cancellation of all or part of an award, the agency chief procurement officer may award all or part of the contract to the next lowest responsible and responsive offeror, within 120 days from the date of award, based on the considerations of fair competition and the best interest of the state.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-B316. Multistep Sealed Bidding

- A. Multi-step sealed bidding is initiated by the issuance of an invitation to submit technical offers. An agency chief procure-

ment officer shall issue an invitation to submit technical offers that contains all of the following information:

1. Notice that the procurement is conducted in two phases. In phase one unpriced technical offers are considered and selected. In phase two there is competitive bidding by offerors whose offers were selected in phase one;
 2. The best description of the material or service solicited;
 3. The requirements for each technical offer, such as drawings and descriptive literature;
 4. The criteria for evaluating each technical offer;
 5. The closing date and time for receipt of technical offers and the location where offers should be delivered or mailed; and
 6. A statement that negotiations may be held regarding the unpriced technical offer.
- B. An agency chief procurement officer may conduct a pre-offer conference within a reasonably sufficient time before offer due date and time to discuss the procurement requirements and solicit comments from prospective offerors. Amendments to the solicitation may be issued, if necessary, in accordance with R2-7-B303.
- C. An agency chief procurement officer may amend an invitation to submit technical offers before or after submission of unpriced technical offers. The agency chief procurement officer shall notify all suppliers who received the solicitation of the amendment and specify a revised offer due date and time. These suppliers may submit new offers or revise existing offers. It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in the manner specified in the solicitation or solicitation amendment on or before the offer due date and time.
- D. Unpriced technical offers shall not be opened publicly but shall be opened in the presence of two or more procurement officials. Late technical offers are not considered except under the circumstances set forth in R2-7-B307(B). The agency chief procurement officer shall not disclose the contents of an unpriced technical offer to unauthorized persons.
- E. Each unpriced technical offer shall be evaluated in accordance with the criteria in the invitation to submit technical offers to determine whether the offer is acceptable, potentially acceptable, or unacceptable. If the offer is unacceptable, the agency chief procurement officer shall issue a written determination that the offer is unacceptable, state the basis for the determination, and place the determination in the procurement file. If the agency chief procurement officer determines that an offeror's unpriced technical offer is unacceptable, the agency chief procurement officer shall notify that offeror in writing of the determination and indicate in the notice that the offeror is not afforded an opportunity to amend a technical offer.
- F. An agency chief procurement officer may conduct negotiations with any offeror that submits an acceptable or potentially acceptable technical offer. During negotiations, the agency chief procurement officer shall not disclose any information obtained from an unpriced technical offer to any other offeror. After negotiations, the agency chief procurement officer shall establish a closing date for receipt of final technical offers and provide written notice of the closing date to offerors that submitted acceptable or potentially acceptable offers. The agency chief procurement officer shall maintain a record of all negotiations.
- G. After receipt of final technical offers, an agency chief procurement officer shall determine which technical offers are acceptable for consideration in phase two. The agency chief

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procurement officer shall notify in writing each offeror whose technical offer was determined unacceptable.

- H. At any time during phase one, an offeror may withdraw an offer.
- I. Upon completion of phase one, an agency chief procurement officer shall issue a solicitation and conduct phase two as prescribed under R2-7-B301 through R2-7-B315 as a competitive sealed bidding procurement, except that the solicitation shall be issued only to offerors that submitted acceptable technical offers in phase one.
- J. An agency chief procurement officer shall ensure that unpriced technical offers of unsuccessful offerors are available for public inspection except to the extent that the offer is confidential under R2-7-B306.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

PART C. COMPETITIVE SEALED PROPOSALS

R2-7-C301. Solicitation

- A. An agency chief procurement officer shall issue a request for proposal at least 14 days before the offer due date and time, unless the agency chief procurement officer determines a shorter time is necessary for a particular procurement. If a shorter time is necessary, the agency chief procurement officer shall document the specific reasons in the procurement file.
- B. The agency chief procurement officer shall:
 - 1. Advertise in accordance with A.R.S. § 41-2534(C); and
 - 2. At a minimum, provide written notice to prospective suppliers that have registered with the state procurement office for the specific material, service, or construction solicited.
- C. The agency chief procurement officer shall include the following in the solicitation:
 - 1. Instructions to offerors, including:
 - a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period;
 - b. The deadline date for requesting a substitution or exception to the solicitation;
 - c. The manner by which the offeror is required to acknowledge amendments;
 - d. The minimum information required in the offer;
 - e. The specific requirements for designating trade secrets and other proprietary information as confidential;
 - f. Any specific responsibility or susceptibility criteria;
 - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer;
 - h. Evaluation factors and the relative order of importance;
 - i. A statement of where documents incorporated by reference are available for inspection and copying;
 - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
 - k. Certification by the offeror that submission of the offer did not include collusion or other anticompetitive practices;
 - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or infor-

mation technology products, services, or maintenance;

- m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - n. Any offer security required;
 - o. The means required for submission of offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
 - p. Any cost or pricing data required;
 - q. The type of contract to be used;
 - r. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award; and
 - s. Any other offer requirements specific to the solicitation.
- 2. Specifications, including:
 - a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
 - b. If a brand name or equivalent specification is used, instructions 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; and
 - c. Any other specification requirements specific to the solicitation.
 - 3. Terms and Conditions, including:
 - a. Whether the contract is to include an extension option; and
 - b. Any other contract terms and conditions.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-C302. Pre-offer Conferences

An agency chief procurement officer may conduct one or more pre-offer conferences within a reasonable time before offer due date and time to discuss the procurement requirements and solicit comments from prospective offerors. Amendments to the solicitation may be issued, if necessary, in accordance with R2-7-C303.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-C303. Solicitation Amendment

- A. An agency chief procurement officer shall issue a solicitation amendment to do any or all of the following:
 - 1. Make changes in the solicitation;
 - 2. Correct defects or ambiguities;
 - 3. Provide additional information or instructions; or

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4. Extend the offer due date and time if the agency chief procurement officer determines that an extension is in the best interest of the state.
- B. If a solicitation is changed by a written solicitation amendment, the agency chief procurement officer shall notify suppliers to whom the agency chief procurement officer distributed the solicitation.
- C. It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in a manner specified in the solicitation amendment on or before the offer due date and time.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C304. Modification or Withdrawal of Offer Before Offer Due Date and Time

- A. An offeror may modify or withdraw their offer at any time, in writing, before the offer due date and time.
- B. The agency chief procurement officer shall place the document submitted in the procurement file as a record of the modification or withdrawal.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C305. Cancellation of Solicitation Before Offer Due Date and Time

- A. Based on the best interest of the state, an agency chief procurement officer may cancel a solicitation before the offer due date and time.
- B. The agency chief procurement officer shall notify suppliers to whom the agency chief procurement officer distributed the solicitation.
- C. The agency chief procurement officer shall not open offers after cancellation. The agency chief procurement officer may discard the offer after 30 days from notice of solicitation cancellation unless the offeror requests the offer be returned.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C306. Receipt, Opening, and Recording of Offers

- A. An agency chief procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The agency chief procurement officer shall store each unopened offer in a secure place until the offer due date and time. When practical, an agency chief procurement officer should use the eProcurement system for this process.
- B. A purchasing agency may open an offer to identify the offeror. If this occurs, the agency chief procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The agency chief procurement officer shall secure the offer and retain it for public opening.
- C. The agency chief procurement officer shall open offers after the offer due date and time. The agency chief procurement officer shall record the name of each offeror and any other relevant information as determined by the agency chief procurement officer. The agency chief procurement officer shall make the record of offers available for public viewing.
- D. Except for the information identified in subsection (C), the agency chief procurement officer shall ensure that information

contained in the offer remains confidential until contract award and is shown only to those persons assisting in the evaluation process.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-C307. Late Offers, Modifications, and Withdrawals Before Offer Due Date and Time

- A. If an offer, modification or withdrawal is not received by the offer due date and time, at the location designated in the solicitation (which may be the eProcurement system), an agency chief procurement officer shall determine the offer, modification, or withdrawal as late. If the eProcurement system is the designated location for the offer, modification, or withdrawal, prospective offerors are responsible for allowing sufficient time to ensure that their submission is properly filed in the eProcurement system by the appropriate due date and time. This rule does not apply to revision or withdrawal of offers as described in R2-7-C314.
- B. The agency chief procurement officer shall reject a late offer, modification, or withdrawal unless:
 1. The document is received before contract award at the location designated in the solicitation; and
 2. The document would have been received by the offer due date and time, but for the action or inaction of personnel directly serving the purchasing agency.
- C. Upon receiving a late offer, modification, or withdrawal, the agency chief procurement officer shall:
 1. If the document is hand delivered, refuse to accept the delivery; or
 2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the offeror. The agency chief procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- D. The agency chief procurement officer shall document a refusal under (C)(1) and place the document or a copy of the notice required in (C)(2) in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-C308. Cancellation of Solicitation After Offer Opening and Before Award

- A. Based on the best interest of the state, an agency chief procurement officer may cancel a solicitation after offer due date and time. The agency chief procurement officer shall prepare a written justification for cancellation and place it in the procurement file.
- B. The agency chief procurement officer shall notify offerors of the cancellation in writing.
- C. The agency chief procurement officer shall retain offers received under the canceled solicitation in the procurement file. If the purchasing agency intends to issue another solicitation within six months after cancellation of the procurement,

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the agency chief procurement officer may withhold the offers from public inspection. After award of a contract under the subsequent solicitation, the agency chief procurement officer shall make offers submitted in response to the cancelled solicitation open for public inspection except for information determined to be confidential pursuant to R2-7-103.

- D. In the event of cancellation, the agency chief procurement officer shall promptly return any offer security provided by an offeror.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C309. Only One Offer Received

If only one offer is received in response to a solicitation, the agency chief procurement officer shall review the offer and either:

1. Award the contract to the offeror and prepare a written determination that:
 - a. The price submitted is fair and reasonable pursuant to R2-7-702; and
 - b. The offeror is responsive; and
 - c. The offeror is responsible; or
2. Reject the offer and:
 - a. Resolicit for new offers;
 - b. Cancel the procurement; or
 - c. Use a different source selection method authorized under the Arizona Procurement Code.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

R2-7-C310. Extension of Offer Acceptance Period

- A. To extend the offer acceptance period, an agency chief procurement officer shall notify offerors in writing of an extension and request written concurrence from all offerors.
- B. To be eligible for a contract award, an offeror shall submit written concurrence to the extension. The agency chief procurement officer shall not consider the offer from an offeror who fails to respond to the notice of extension.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C311. Determination of Not Susceptible for Award

- A. An agency chief procurement officer may determine at any time during the evaluation period and before award that an offer is not susceptible for award. The agency chief procurement officer shall place a written determination, based on one or more of the following, in the procurement file:
 1. The offer fails to substantially meet one or more of the mandatory requirements of the solicitation;
 2. The offer fails to comply with any susceptibility criteria identified in the solicitation; or
 3. The offer is not susceptible for award in comparison to other offers based on the criteria set forth in the solicitation. When there is doubt as to whether an offer is susceptible for award, the offer should be included for further consideration.
- B. The agency chief procurement officer shall promptly notify the offeror in writing of the final determination that the offer is not susceptible for award, unless the agency chief procurement

officer determines notification to the offeror would compromise the state's ability to negotiate with other offerors.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-C312. Responsibility Determinations

- A. An agency chief procurement officer shall determine, at any time during the evaluation period and before award, that an offeror is responsible or nonresponsible.
- B. The agency chief procurement officer may consider the following factors before determining that an offeror is responsible or nonresponsible:
 1. The offeror's financial, business, personnel, or other resources, including subcontractors;
 2. The offeror's record of performance and integrity;
 3. Whether the offeror has been debarred or suspended;
 4. Whether the offeror is legally qualified to contract with the state;
 5. Whether the offeror promptly supplied all requested information concerning its responsibility; and
 6. Whether the offeror meets any responsibility criteria specified in the solicitation.
- C. The agency chief procurement officer shall promptly notify the offeror in writing of the final determination that the offer is nonresponsible unless the agency chief procurement officer determines notification to the offeror would compromise the state's ability to negotiate with other offerors. The agency chief procurement office shall file a copy of the determination in the procurement file.
- D. The agency chief procurement officer shall only disclose responsibility information furnished by an offeror in accordance with A.R.S. § 41-2540(B).
- E. For the offeror awarded a contract, the agency chief procurement officer's signature on the contract constitutes a determination that the offeror is responsible.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C313. Clarification of Offers

- A. The purpose for clarifications is to provide for a greater mutual understanding of the offer. Clarifications are not negotiations and material changes to the request for proposal or offer shall not be made by clarification.
- B. The agency chief procurement officer may request clarifications from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.
- C. The agency chief procurement officer shall retain any clarifications in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C314. Negotiations with Responsible Offerors and Revisions of Offers

- A. An agency chief procurement officer shall establish procedures and schedules for conducting negotiations. The agency

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chief procurement officer shall ensure there is no disclosure of one offeror's price or any information derived from competing offers to another offeror.

- B. Negotiations may be conducted orally or in writing. If oral negotiations are conducted, the agency chief procurement officer shall confirm the negotiations in writing and provide to the offeror.
- C. If negotiations are conducted, negotiations shall be conducted with all offerors determined to be reasonably susceptible for award. Offerors may revise offers based on negotiations provided that any revision is confirmed in writing.
- D. An agency chief procurement officer may conduct negotiations with responsible offerors to improve offers in such areas as cost, price, specifications, performance, or terms, to achieve best value for the state based on the requirements and the evaluation factors set forth in the solicitation.
- E. Responsible offerors determined to be susceptible for award, with which negotiations have been held, may revise their offer in writing during negotiations.
- F. An offeror may withdraw an offer at any time before the best and final offer due date and time by submitting a written request to the agency chief procurement officer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-C315. Offer Revisions and Best and Final Offers

- A. An agency chief procurement officer may request one or more written revisions to an offer. The agency chief procurement officer shall include in the written request:
 1. The date, time, and place for submission of offer revisions; and
 2. statement that if offerors do not submit a written notice of withdrawal or a written offer revision, their immediate previous written offer will be accepted as their final offer.
- B. An agency chief procurement officer shall request best and final offers from any offeror with whom negotiations have been conducted. The agency chief procurement officer shall include in the written request:
 1. The date, time, and place for submission of best and final offer; and
 2. A statement that if offerors do not submit a written best and final offer, their immediate previous written offer will be accepted as their best and final offer.
- C. If an apparent mistake, relevant to the award determination, is discovered after opening of best and final offers, the agency chief procurement officer shall contact the offeror for written confirmation. The agency chief procurement officer shall designate a time-frame within which the offeror shall either:
 1. Confirm that no mistake was made and assert that the offer stands as submitted; or
 2. Acknowledge that a mistake was made, and include the following in a written response:
 - a. Explanation of the mistake and any other relevant information,
 - b. A request for correction including the corrected offer or a request for withdrawal, and
 - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.

- D. An offeror who discovers a mistake in their best and final offer may request withdrawal or correction in writing, and shall include the following in the written request:
 1. Explanation of the mistake and any other relevant information,
 2. A request for correction including the corrected offer or a request for withdrawal, and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- E. In response to a request made under subsections (C) or (D), the agency chief procurement officer shall make a written determination of whether correction or withdrawal will be allowed based on whether the action is consistent with fair competition and in the best interest of the state. If an offeror does not provide written confirmation of the best and final offer, the agency chief procurement officer shall make a written determination that the most recent written best and final offer submitted is the final best and final offer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-C316. Evaluation of Offers

- A. An agency chief procurement officer shall evaluate offers and best and final offers based on the evaluation criteria contained in the request for proposals. The agency chief procurement officer shall not modify evaluation criteria or their relative order of importance after offer due date and time.
- B. An agency chief procurement officer may appoint an evaluation committee to assist in the evaluation of offers. If offers are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the agency chief procurement officer. The evaluation report shall supersede all previous draft evaluations or evaluation reports. The agency chief procurement officer may:
 1. Accept or reject the findings of the evaluation committee,
 2. Request additional information from the evaluation committee, or
 3. Replace the evaluation committee.
- C. The agency chief procurement officer shall prepare an award determination and place the determination, including any evaluation report or other supporting documentation, in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-C317. Contract Award

- A. An agency chief procurement officer shall award the contract to the responsible offeror whose offer is determined to be most advantageous to the state based on the evaluation factors set forth in the solicitation. The agency chief procurement officer shall make a written determination explaining the basis for the award and place it in the procurement file.

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- B. The agency chief procurement officer shall notify all offerors of an award.
- C. After contract award, the agency chief procurement officer shall return any offer security provided by the offeror.
- D. Within 3 days after contract award the agency chief procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R2-7-103.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-C318. Mistakes Discovered After Award

- A. If a mistake in the offer is discovered after the award, the offeror may request correction or withdrawal in writing, and shall include all of the following in their written request:
 1. Explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected offer or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- B. Based on the considerations of fair competition and the best interest of the state, the agency chief procurement officer may:
 1. Allow correction of the mistake;
 2. Cancel all or part of the award; or
 3. Deny correction or withdrawal.
- C. After cancellation of all or part of an award, the agency chief procurement officer may award all or part of the contract to the next responsible offeror, within 120 days of contract award, whose offer is determined to be the next most advantageous to the state according to the evaluation factors contained in the solicitation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

PART D. PROCUREMENTS NOT EXCEEDING THE AMOUNT PRESCRIBED IN A.R.S. § 41-2535**R2-7-D301. Applicability**

For purchases not exceeding the amount prescribed in A.R.S. § 41-2535, including construction, the agency chief procurement officer shall issue a request for quotation under R2-7-D302 unless any of the following apply:

1. The purchase can be made from a state or agency contract;
2. The purchase can be made from a set-aside organization as established in Article 10;
3. The purchase is not expected to exceed \$10,000.00;
4. The agency chief procurement officer makes a written determination that competition is not practicable under the circumstances. The purchase shall be made with as much competition as is practicable under the circumstances.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final

rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-D302. Solicitation – Request for Quotation

- A. A request for quotation shall be issued for purchases estimated to exceed \$10,000 but less than that specified in A.R.S. § 41-2535. The agency chief procurement officer shall include the following in the solicitation:
 1. Offer submission requirements, including offer due date and time, where offers will be received, and offer acceptance period;
 2. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
 3. The minimum information that the offer shall contain;
 4. Any evaluation factors;
 5. Whether negotiations may be held;
 6. Any contract options including renewal or extension;
 7. The uniform terms and conditions by text or reference; and
 8. Any other terms, conditions, or instructions specific to the procurement.
- B. The agency chief procurement officer shall issue the request for quotation by distributing the request for quotation to a minimum of three small businesses registered on the prospective suppliers list.
- C. The request for quotation shall include a statement that only a small business, as defined in R2-7-101, shall be awarded a contract, unless any of the following apply:
 1. The purchase has been unsuccessfully competed under Subsection (B) of this Section, including failure to obtain fair and reasonable prices;
 2. The agency chief procurement officer has made a written determination that less than three small businesses are registered on the prospective suppliers list; or
 3. The agency chief procurement officer has made a written determination prior to issuing a request for quotation that restricting the procurement to small business is not practical under the circumstances.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-D303. Contract Award

- A. If only one responsive offer is received, the agency chief procurement officer shall determine if the price is fair and reasonable, and in the best interest of the state to award a contract and place the determination in the procurement file. If time permits, the agency chief procurement officer may initiate a second request for quotation if it is reasonable to believe that additional responses will be received.
- B. The agency chief procurement officer shall award a contract to the small business determined to be most advantageous to the state in accordance with any evaluation factors identified in the request for quotation. If award is pursuant to R2-7-D302(C), the agency chief procurement officer shall award a contract to the offeror determined to be most advantageous to the state in accordance with any evaluation factors identified in the request for quotation.
- C. The agency chief procurement officer shall place the written basis for the award in the procurement file.
- D. The agency chief procurement officer shall make the procurement file available to the public on the date of contract award,

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except for those items considered confidential under R2-7-103.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (12-4). Section R2-7-D303 repealed; new Section R2-7-D303 renumbered from R2-7-D304 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-D304. Purchases of \$10,000 and Less

The agency chief procurement officer shall use reasonable judgment in awarding contracts of \$10,000 and less that are advantageous to the state. The agency chief procurement officer may but is not required to request quotations.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-D304 renumbered to R2-7-D303; new Section R2-7-D304 renumbered from R2-7-D305 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-D305. Renumbered**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-D305 renumbered to R2-7-D304 by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

PART E. LIMITED COMPETITION FOR PROCUREMENTS EXCEEDING THE AMOUNT PRESCRIBED IN A.R.S. § 41-2535

R2-7-E301. Sole Source Procurements

- A.** For the purposes of this Section, the term “sole-source procurement” means a material or service procured without competition when:
1. There is only a single source for the material or service, or
 2. No reasonable alternative source exists.
- B.** This Section applies to only sole source procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535.
- C.** The state procurement administrator may delegate this authority to the agency chief procurement officer in accordance with R2-7-202. If not delegated to the agency chief procurement officer, the agency chief procurement officer shall submit a written request for approval to procure from a sole source to the state procurement administrator before proceeding. The request shall include the following information:
1. A description of the procurement need and the reason why there is only a single source available or no reasonable alternative exists,
 2. The name of the proposed supplier,
 3. The duration and estimated total dollar value of the proposed procurement,
 4. Documentation that the price submitted is fair and reasonable pursuant to R2-7-702, and
 5. A description of efforts made to seek other sources.
- D.** The state procurement administrator shall send notice to registered vendors on the electronic system to invite comments on the sole-source request for three working days. Following this period, the state procurement administrator shall either:

1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request if input or information received shows that more than one source is available or a reasonable alternative source exists for the procurement need.
- E.** If the sole-source procurement is authorized or approved, the agency chief procurement officer shall negotiate a contract advantageous to the state.
- F.** The agency chief procurement officer shall keep a record of all sole-source procurements pursuant to A.R.S. § 41-2551.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-E302. Emergency Procurements

- A.** For the purposes of Section, the term “emergency” means any condition creating an immediate and serious need for materials, services, or construction in which the state’s best interests are not met through the use of other source-selection methods. The condition must seriously threaten the functioning of state government, the preservation or protection of property, or the health or safety of a person.
- B.** This Section applies to only emergency procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535. The agency chief procurement officer may procure a material or service without competition when there is an emergency by complying with this Section.
- C.** The state procurement administrator may delegate this authority to the agency chief procurement officer in accordance with R2-7-202. If not delegated to the agency chief procurement officer, the agency chief procurement officer shall submit the written request for, or notification of, the emergency procurement to the state procurement administrator. The request shall include the following information:
1. A description of the procurement need and the reason for the emergency;
 2. The name of the supplier;
 3. The duration and estimated total dollar value of the procurement; and
 4. Documentation that the price submitted is fair and reasonable pursuant to R2-7-702.
- D.** The agency chief procurement officer shall obtain approval from the state procurement administrator before proceeding with an emergency procurement. The state procurement administrator shall either:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.
- E.** An employee acting within the authority of a using agency may proceed with an emergency procurement without approval from the state procurement administrator if the emergency necessitates immediate response and it is impracticable to contact the state procurement administrator. The agency chief procurement officer shall submit a written confirmation of the emergency procurement to the state procurement administrator within five working days of the emergency.

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- F. A using agency making an emergency procurement shall limit the procurement to such actions necessary to address the emergency.
- G. A using agency making an emergency procurement shall employ maximum competition, given the circumstances, to protect the interests of the state.
- H. The agency chief procurement officer shall keep a record of all emergency procurements pursuant to A.R.S. § 41-2551.
- A. The agency chief procurement officer may request that persons desiring to provide the services specified in A.R.S. § 41-2513 submit statements of qualifications on a prescribed form which shall include, but not be limited to the following information:

1. Technical education and training;
2. General or special experience, certifications, licenses, and memberships in professional associations, societies, or boards; and
3. Any other relevant information requested by the purchasing agency.

- B. Persons who have submitted statement of qualifications may submit additional information or change information that was previously submitted at any time.
- C. The agency chief procurement officer may, in lieu of subsection (A), incorporate the statement of qualifications as part of the solicitation pursuant to R2-7-F302.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-E303. Competition Impracticable Procurements

- A. For the purposes of this Section, "competition impracticable" means a procurement requirement exists which makes compliance with A.R.S. §§ 41-2533, 41-2534, 41-2538, or 41-2578 impracticable, unnecessary, or contrary to the public interest, but which is not an emergency under R2-7-E302. Procurements with a documented lack of available vendors in the marketplace and which require an open and continuous availability of offerors may be procured by this method.
- B. An agency chief procurement officer seeking a competition impracticable procurement shall obtain the approval of the state procurement administrator before proceeding. The state procurement administrator may delegate this authority to the agency chief procurement officer in accordance with R2-7-202.
- C. The agency chief procurement officer shall submit a written request for approval containing the following:
1. An explanation of the competition impracticable need and the unusual or unique situation that makes compliance with A.R.S. §§ 41-2533, 41-2534, 41-2538, or 41-2578 impracticable, unnecessary, or contrary to the public interest;
 2. A definition of the proposed procurement process to be utilized and an explanation of how this process will foster as much competition as is practicable;
 3. An explanation of why the proposed procurement process is advantageous to the state; and
 4. The scope, duration, and estimated total dollar value of the procurement need.
- D. The state procurement administrator shall:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.
- E. Before modifying the scope, duration, or cost of an approved competition impracticable procurement, the agency chief procurement officer shall request approval for the modifications in writing from the state procurement administrator.
- F. The agency chief procurement officer shall keep a record of all competition impracticable procurements as required by A.R.S. § 41-2551.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (12-4).

PART F. COMPETITIVE SELECTION PROCESS FOR SERVICES OF CLERGY, PHYSICIANS, DENTISTS, LEGAL COUNSEL, OR CERTIFIED PUBLIC ACCOUNTANTS

R2-7-F301. Statement of Qualifications**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F302. Solicitation

- A. For procurements not exceeding the amount prescribed in A.R.S. § 41-2535, except as authorized under A.R.S. § 41-2536, the agency chief procurement officer shall comply with Part D of this Article.
- B. For procurements exceeding the amount prescribed in A.R.S. § 41-2535, the agency chief procurement officer shall follow the procedures below, except as authorized under A.R.S. §§ 41-2536 or 41-2537:
1. The agency chief procurement officer shall issue a request for proposal providing adequate notice based on the circumstances.
 2. The agency chief procurement officer shall provide notice to prospective suppliers registered at the state procurement office for the specific service and, if R2-7-F301 has been implemented, to persons who have submitted statements of qualifications for the particular services solicited, or both.
 3. The agency chief procurement officer shall include the following in the solicitation:
 - a. A specific offer due date and time, or that offers will be accepted on an open and continuous basis. If offers are accepted on an open and continuous basis, the designated, continuous day and time in which offers will be opened;
 - b. The location where offers will be received;
 - c. The offer acceptance period;
 - d. The manner by which the offeror is required to acknowledge amendments;
 - e. A description of the services needed;
 - f. The type of qualifications, experience, licensing, or other information required;
 - g. The minimum information in the offer;
 - h. Any evaluation criteria;
 - i. Any applicable contract terms and conditions;
 - j. A statement that negotiations may be conducted to determine the offeror's qualifications for further consideration;
 - k. Any cost or pricing data required;
 - l. The type of contract to be used;

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- m. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
 - n. Certification by the offeror that submission of the offer did not involve collusion or other anticompetitive practices; and
 - o. A statement of whether the services shall be retained for a stated or ongoing period of time and whether the contract is to include any option for renewal or extension.
- B. A purchasing agency may open an offer to identify the offeror. If this occurs, the agency chief procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The agency chief procurement officer shall secure the offer and retain it for public opening.
 - C. The agency chief procurement officer shall open offers after the offer due date and time. The agency chief procurement officer shall announce and record the name of each offeror and any other relevant information as determined by the agency chief procurement officer. The agency chief procurement officer shall make the record of offers available for public viewing.
 - D. Except for the information identified in R2-7-C306(C), the agency chief procurement officer shall ensure that information contained in the offer remains confidential until contract award and is shown only to those persons assisting in the evaluation process.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F303. Solicitation Amendment

- A. The agency chief procurement officer shall issue a solicitation amendment to do any or all of the following:
 1. Make changes in the solicitation;
 2. Correct defects or ambiguities;
 3. Provide additional information or instructions; or
 4. Extend the offer due date and time if the agency chief procurement officer determines that an extension is in the best interest of the state.
- B. If a solicitation is changed by a written solicitation amendment, the agency chief procurement officer shall notify suppliers to whom the agency chief procurement officer distributed the solicitation.
- C. It is the responsibility of the offeror to obtain any solicitation amendments. An offeror shall acknowledge receipt of an amendment in a manner specified in the solicitation amendment on or before the offer due date and time.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F304. Cancellation of Solicitation

- A. Based on the best interest of the state, the agency chief procurement officer may cancel a solicitation at any time before award.
- B. Based on the best interest of the state, the agency chief procurement officer may cancel an open and continuous solicitation at any time during the active period of the solicitation. Contracts that have already been awarded in accordance with the solicitation shall not be affected by the cancellation.
- C. The agency chief procurement officer shall notify offerors of the cancellation in writing.
- D. The agency chief procurement officer shall return any offers received to the offerors.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F305. Receipt, Opening, and Recording of Offers

- A. The agency chief procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The agency chief procurement officer shall store each unopened offer in a secure place until the offer due date and time.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F306. Timely and Late Modifications or Withdrawals of Offer

- A. An authorized representative of an offeror may withdraw an offer in writing if the written request for withdrawal is received by the agency chief procurement officer before the designated offer due date and time or the designated, continuous offer due day and time.
- B. An offeror may withdraw or modify an offer at any time before the due date and time or designated, continuous day and time for offer opening and before contract award by submitting a written request to the agency chief procurement officer.
- C. If a modification or a withdrawal is not received by the designated offer due date and time or the designated, continuous day and time for offer opening, the agency chief procurement officer shall determine the modification or withdrawal as late. The agency chief procurement officer shall reject a late modification or withdrawal unless:
 1. The document is received before the contract award; and
 2. The document would have been received by the designated offer due date and time or the designated, continuous day and time for offer opening but for the action or inaction of state personnel directly serving the purchasing agency.
- D. Upon receiving a late modification or withdrawal, the procurement officer shall:
 1. If the document is hand delivered, refuse to accept delivery; or
 2. If the document is not hand delivered, record the time and date of receipt, and promptly send written notice of late receipt to the offeror. The agency chief procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- E. The agency chief procurement officer shall document a refusal under (D)(1) and place this document or a copy of the notice required in (D)(2) in the procurement file.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final

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rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F307. Late Offers

- A. If a specific offer due date and time has been identified in the solicitation, the agency chief procurement officer shall reject any offer received after the specified offer due date and time unless:
1. It was transmitted through an eProcurement system designated in the solicitation, and the offer has a submitted status in the system prior to the offer due date and time; or
 2. There is evidence to establish that the hand-delivered offer was received before contract award at the location designated in the solicitation and would have been received by the offer due date and time but for the failure of state personnel directly serving the purchasing agency.
- B. Upon receiving a late offer, the agency chief procurement officer shall:
1. If the document is hand delivered, refuse to accept the delivery; or
 2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the offeror. The agency chief procurement officer may discard the document within 30 days after the date on the notice unless the offeror requests the document be returned.
- C. The agency chief procurement officer shall document a late offer in the procurement file; with as much information as available.
- D. If the solicitation has a designated, continuous day and time for offer opening and an offer is received after the day and time for offer opening, the agency chief procurement officer shall accept and log in the offer for the next scheduled day and time for offer opening.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F308. Negotiations with Offerors

- A. The agency chief procurement officer may conduct negotiations with any or none of the offerors.
- B. The agency chief procurement officer may conduct negotiations to improve offers in such areas as cost, price, specifications, performance, or terms and conditions, and to achieve best value for the state.
- C. The agency chief procurement officer shall document the results of negotiations in writing by requesting a best and final offer as defined in R2-7-C315.
- D. The agency chief procurement officer shall ensure that negotiations do not disclose any information derived from other offers.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F309. Contract Award

- A. The agency chief procurement officer shall award the contract to the offeror best qualified based on the evaluation factors set forth in the request for proposal and after making a written

determination that the price is fair and reasonable. The agency chief procurement officer shall not award a contract based solely on price.

- B. The agency chief procurement officer shall make a written determination explaining the basis for the award and place it in the procurement file.
- C. The agency chief procurement officer shall award contracts pursuant to A.R.S. § 41-2513(B) through (D) where applicable.
- D. Within 3 days after contract award the agency chief procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R2-7-103.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-F310. Mistakes Discovered After Award

- A. If a mistake in the offer is discovered after the award, the offeror may request correction or withdrawal in writing, and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected offer or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- B. Based on the considerations of fair competition and the best interest of the state, the agency chief procurement officer may:
1. Allow correction of the mistake;
 2. Cancel all or part of the award; or
 3. Deny correction or withdrawal.
- C. After cancellation of all or part of an award, the agency chief procurement officer may award all or part of the contract to the next responsible offeror, within 120 days of contract award, based on whose offer is determined to be the next most advantageous to the state according to the evaluation factors contained in the solicitation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

PART G. OTHER SOURCE SELECTION

R2-7-G301. Request for Information

An agency chief procurement officer may issue a request for information to obtain price, delivery, technical information or capabilities for planning purposes.

1. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
2. 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 unless authorized by the state procurement administrator.
3. There is no required format to be used for requests for information.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final

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rulemaking at 18 A.A.R. 3118, effective January 7, 2013
(12-4).

R2-7-G302. Demonstration Projects

- A. An agency chief procurement officer shall submit a written request to the state procurement administrator to award a contract for a demonstration project. The written request shall contain the following:
1. Name of the agency or agencies;
 2. Name of the contractor;
 3. Description of the project, including unique and innovative features of the project;
 4. Statement and explanation that the project is in best interest of the state;
 5. Duration of the project; and
 6. Proposed contract terms and conditions.
- B. The agency chief procurement officer shall obtain approval from the state procurement administrator before proceeding with a demonstration project. The state procurement administrator shall either:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.
- C. Demonstration projects shall be provided by the contractor at no cost, and the state shall not be obligated to purchase or lease the services or materials from the contractor.
- D. The agency chief procurement officer may submit a written request to the state procurement administrator to purchase or lease from the demonstration contractor. The written request shall be submitted within 12 months after the demonstration project begins or within 12 months after the demonstration project ends and contain the following:
1. Name of the agency or agencies;
 2. Name of the contractor;
 3. Description of the project, including unique and innovative features of the project;
 4. Statement and explanation that lease or purchase is in best interest of the state;
 5. Cost to the state;
 6. Duration of the proposed contract; and
 7. Proposed contract terms and conditions.
- E. The agency chief procurement officer shall obtain approval from the state procurement administrator before proceeding with purchasing or leasing from the demonstration contractor. The state procurement administrator shall:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.
- F. The term of the contract resulting from a demonstration project shall not exceed two years.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-G303. Unsolicited Proposals

- A. An unsolicited proposal shall be a proposal that is submitted at the initiative of the offeror, and not in response to a solicitation.
- B. An unsolicited proposal shall be submitted in writing and in sufficient detail for the agency chief procurement officer to understand the proposal.

- C. An unsolicited proposal shall not be an advance offer to a known state requirement.
- D. An agency chief procurement officer shall submit a written request to the state procurement administrator to award a contract resulting from an unsolicited proposal. The written request shall contain the following:
1. Name of the agency or agencies;
 2. Name of the contractor;
 3. Description of the project, including unique and innovative features of the project;
 4. Statement and explanation that project is in best interest of the state;
 5. Duration of the project; and
 6. Proposed contract terms and conditions.
- E. The agency chief procurement officer shall obtain approval from the state procurement administrator before proceeding with an unsolicited proposal. The state procurement administrator shall:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-G304. General Services Administration Contracts

- A. An agency chief procurement officer may purchase products or services using General Services Administration (GSA) schedules or contracts under the following conditions:
1. Use of the GSA contract or schedule is cost effective and in the best interest of the state;
 2. Price is equal to or less than the contractor's current GSA price;
 3. Price is fair and reasonable;
 4. Contractor is willing to offer GSA pricing and terms to the state;
 5. Comparable products or services are not available under a state or agency contract;
 6. Comparable products or services are not restricted under a set-aside contract; and
 7. Contractor accepts required state contract terms and conditions.
- B. An agency chief procurement officer shall make a written determination that use of the GSA contract or schedule is in the best interest of the state. The determination shall contain the following:
1. Name of the contractor;
 2. GSA contract or schedule number;
 3. Procurement description;
 4. Analysis of price, quality, and other relevant factors; and
 5. Statement that the price is fair and reasonable.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-G305. Public-Private Partnership Contracts

- A. As referenced in this Article, a public-private partnership contract is a government contract and not a partnership. The government shall not jointly own or share property with the contractor and the government shall not be responsible for the contractor's liabilities.

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- B.** An agency chief procurement officer shall submit a written request to the state procurement administrator to enter into a public-private partnership contract. The written request shall contain the following:
1. Name of the agency or agencies;
 2. Name of the contractor;
 3. Description of the public-private partnership, including obligations of the agency and the contractor;
 4. Statement and explanation that the project is in best interest of the state;
 5. Proposed contract price and assessment of the proposed value;
 6. Description of the proposed performance measurement criteria and methods;
 7. Duration of the project; and
 8. Proposed contract terms and conditions.
- C.** The agency chief procurement officer shall obtain approval from the state procurement administrator before proceeding with a public-private partnership. The state procurement administrator shall either:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the agency chief procurement officer; or
 3. Deny the request.
- D.** If the request is approved, the contract shall be awarded in accordance with A.R.S. §§ 41-2533, 41-2534, 41-2535, 41-2536, or 41-2537.
- E.** The using agency is responsible for obtaining all necessary approvals, including approvals from the Government Information Technology Agency and Joint Legislative Budget Committee, before entering into a public-private partnership contract.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 4. SPECIFICATIONS**R2-7-401. Preparation of Specifications**

- A.** State governmental units may prepare and utilize specifications only under the authority delegated by the state procurement administrator under R2-7-202.
- B.** An agency chief procurement officer delegated the authority to prepare and utilize specifications shall comply with the requirements of A.R.S. § 41-2561 through A.R.S. § 41-2568 and ensure specifications used support maximum practical competition.
- C.** The agency chief procurement officer may contract for the preparation of specifications with persons other than state personnel.
- D.** Notwithstanding the provisions of this Section, the state procurement administrator retains the authority to prepare, issue, revise, and monitor all specifications and plans.
- E.** If a mandatory specification has been designated by the state procurement administrator for a particular material, service, or construction item, it shall be used unless the state procurement administrator makes a written determination that its use is not advantageous to the state and that another specification may be used.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective

April 3, 1985 (Supp. 85-2). Definitions placed in alphabetical order (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-402. Utilization of Specifications

The agency chief procurement officer may use any type of specification that describes the procurement requirement and promotes competition, except that the agency chief procurement officer shall not use proprietary or restrictive specifications without the prior written approval of the state procurement administrator.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-403. Determination for Use of Brand Name Type Specifications

- A.** The state procurement administrator may authorize the use of a brand name only specification if the state procurement administrator makes a written determination that only the identified brand name item will satisfy the state's needs.
- B.** The agency chief 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 practical competition.
- C.** The agency chief procurement officer may use a brand name or equivalent specification when the agency chief procurement officer determines this type of specification is in the best interest of the state.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Amended by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-404. Conflict of Interest

- A.** No person preparing or assisting in the preparation of specifications, plans or scopes of work shall receive any direct benefit from the utilization of those specifications, plans or scopes of work.
- B.** The state procurement administrator may waive the restriction set forth in subsection (A) of this Section if the state procurement administrator determines in writing that the rule's application would not be in the state's best interest. The determination shall state the specific reasons that the restriction in subsection (A) of this Section has been waived.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). New Section made by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

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R2-7-405. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-406. Reserved**R2-7-407. Repealed****Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-408. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-409. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-410. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-411. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 5. PROCUREMENT OF CONSTRUCTION AND SPECIFIC PROFESSIONAL SERVICES**R2-7-501. Repealed****Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). New Section made by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Repealed by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-502. Compliance with the Department

A purchasing agency shall comply with the procurement and contract administration requirements of the Department as required by A.R.S. § 41-790 et seq.

Historical Note

Adopted effective April 2, 1993 (Supp. 93-2). Amended by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-503. Procurement of Construction Using Alternate Project Delivery Method

The agency chief procurement officer may use an alternate project delivery method if it is in the best interest of the state pursuant to A.R.S. §§ 41-2578 and 41-2579, based on the following factors:

1. Cost and cost control method,
2. Value engineering,
3. Market conditions,
4. Schedule,
5. Required specialized expertise,
6. Technical complexity of the project, or
7. Project management.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-504. Notice

- A. The agency chief procurement officer shall provide a copy of a solicitation for specified professional services or construction services to any person who requests a copy of the solicitation.
- B. For procurements not estimated to exceed the amount prescribed in A.R.S. § 41-2535, the agency chief procurement officer shall provide notice of the procurement in accordance with Part D of Article 3 of this Chapter, unless otherwise authorized pursuant to A.R.S. §§ 41-2536 or 41-2537.
- C. For procurements estimated to exceed the amount prescribed in A.R.S. § 41-2535:
 1. The agency chief procurement officer shall make the solicitation available to prospective offerors registered at

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the State Procurement Office for the specific material, service, or construction being solicited; and

2. The agency chief procurement officer shall advertise at least once in a general circulation or industry trade publication. If practicable, the date of the advertisement shall be at least 14 days before the offer due date.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

R2-7-505. Selection Committee

- A. The agency chief procurement officer shall appoint a selection committee when required under A.R.S. §§ 41-2578, 41-2579, or 41-2581.
- B. For the procurement of specified professional services not estimated to exceed the amount prescribed in A.R.S. § 41-2581, the selection committee shall meet the requirements of A.R.S. § 41-2578(C)(1) and shall consist of three to five members who are appropriately qualified including the agency chief procurement officer as chair.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-506. Bid Security

- A. The agency chief procurement officer shall include the bid security requirements of A.R.S. § 41-2573 in the solicitation.
- B. If an offeror fails to submit the bid security required by A.R.S. § 41-2573 with the offer, the agency chief procurement officer shall reject the offer.
- C. The offeror shall submit bid security in one of the following forms:
 1. An annual or one-time surety bond executed solely by a surety company authorized to transact surety business in this state, issued by the Director of the Department of Insurance under A.R.S. Title 20, Chapter 2, Article 1, and in a format prescribed by A.R.S. § 41-2573 and this Section; or
 2. A certified or cashier check.
- D. The state procurement administrator or, in the case of construction on state property, the Assistant Director of General Services, may issue a written determination to accept the bid security if the bid security fails to comply in a nonsubstantial manner when:
 1. Only one offer is received and there is not sufficient time to re-solicit;
 2. The amount of the bid security submitted, although less than the amount required by the solicitation, is equal to or

greater than the difference between the apparent low offer and the next higher acceptable offer; or

3. The bid security is inadequate as a result of correcting or modifying an offer in accordance with R2-7-B310, if the offeror increases the amount of the security to required limits within two days after notification.
- E. The state procurement administrator or, in the case of construction on state property, the Assistant Director of General Services, shall determine if the bid security may be released without penalty under § 41-2573(E).

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Amended by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-507. Offer Mistakes Discovered After Offer Opening and Before Award

- A. If an apparent mistake, relevant to the award determination is discovered after offer opening and before award, the agency chief procurement officer shall contact the offeror for written confirmation of the offer. The agency chief procurement officer shall designate a time-frame within which the offeror shall either:
 1. Confirm that no mistake was made and assert that the offer stands as submitted; or
 2. Acknowledge that a mistake was made, and include all of the following in a written response:
 - a. Explanation of the mistake and any other relevant information;
 - b. A request for correction including the corrected offer or a request for withdrawal; and
 - c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- B. An offeror who discovers a mistake in its offer may request correction or withdrawal in writing, and shall include all of the following in the written request:
 1. Explanation of the mistake and any other relevant information;
 2. A request for correction including the corrected offer or a request for withdrawal; and
 3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the state.
- C. An agency chief procurement officer may permit an offeror to correct a mistake if the mistake and the intended offer are evident in the uncorrected offer; for example, an error in the extension of unit prices. The agency chief procurement officer shall not permit a correction that is prejudicial to the state or fair competition.
- D. An agency chief procurement officer shall permit an offeror to furnish information called for in the solicitation but not supplied if the intended offer is evident and submittal of the information is not prejudicial to other offerors.
- E. An agency chief procurement officer shall make a written determination of whether correction or withdrawal is permitted, based on whether the action is consistent with fair competition and in the best interest of the state.
- F. If the offeror fails to act under subsection (A), the offeror is considered nonresponsive and the agency chief procurement officer shall place a written determination that the offeror is nonresponsive in the procurement file.

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Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective January 13, 1987 (Supp. 87-1). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-508. Performance and Payment Bonds

- A.** The agency chief procurement officer shall ensure that performance and payment bonds are executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the Department of Insurance under A.R.S. Title 20, Chapter 2, Article 1 and in a format prescribed by A.R.S. § 41-2574.
- B.** The contractor shall submit to the state the performance bond and the payment bond upon request of the agency chief procurement officer. If a contractor fails to deliver the required performance bond or payment bond by the designated date, the contractor's offer shall be rejected, its bid security shall be enforced, and award of the contract shall be made as prescribed in this Chapter.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Repealed effective April 2, 1993 (Supp. 93-2). New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-509. Conditions for Use of Substitute Security in Lieu of Retention

A contractor may submit substitute security to replace contract payment retention if:

1. The contractor requests the use of substitute security before the first progress payment;
2. The contractor submits an invoice with each progress payment in an amount of no less than 10% of the progress payment, or the contractor submits an invoice once at the beginning of the project in an amount no less than 5% of the total contract amount;
3. The interest earned on the security shall accrue to the benefit of the contractor but shall be retained by the contractor until the agency chief procurement officer has approved completion and acceptance of all work to be performed under the contract; and
4. The contractor ensures that the date of maturity of the security is after the estimated contract completion date, but no later than one year after the estimated contract completion date.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-510. The Form of Substitute Security in Lieu of Retention

If the conditions identified under R2-7-506 are met, the agency chief procurement officer shall accept a substitute security from a contractor in the form of one of the following:

1. An assignment of a time certificate of deposit by a financial institution licensed by this state;
2. Share certificates of a financial institution or credit union authorized to transact business in this state; or
3. Security issued or guaranteed as to principal and interest by:
 - a. The United States;
 - b. The state; or
 - c. Counties, municipalities, and school districts within this state.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-511. Individual Job Order Contracting

- A.** The state procurement administrator may award or authorize an agency chief procurement officer to award job order contracts for construction, construction services or professional services to a single contractor or multiple contractors.
- B.** Contracts shall be awarded based on scoring of technical proposals, followed by scoring of price proposals.
- C.** Price proposals shall be based on an adjustment factor or factors applied to a catalog of construction tasks.
- D.** Individual job orders issued under a job order contract shall not exceed \$2,000,000.00, unless authorized by the state procurement administrator.
- E.** All individual job orders exceeding \$1,000,000 shall obtain authorization from the chief procurement officer of the General Services Division.
- F.** Individual job orders shall include an itemized list of each construction task required to complete the work with the task's associated unit price and applied adjustment factor.
- G.** The agency chief procurement officer may request cost proposals from multiple job order contractors or negotiate with a single job order contractor.
- H.** The agency chief procurement officer may authorize contract change orders or amendments that result in the individual job order cost exceeding \$2,000,000 only with authorization from the state procurement administrator.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-512. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective

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tive April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-513. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-514. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-515. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 6. CONTRACT CLAUSES**R2-7-601. Contract Clauses**

The agency chief procurement officer shall include in solicitations and contracts all contract clauses necessary to ensure the state's interests are addressed.

Historical Note

Adopted effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-602. Assignment of Rights and Duties

A contractor shall not assign or transfer the rights or duties of a state contract without the written consent of the agency chief procurement officer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-603. Change of Name

If a contractor requests to change the name in which it holds a state contract, the agency chief 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.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-604. Contract Change Orders and Amendments

- A. The agency chief procurement officer may extend or authorize options in a contract provided the price of the extension or option was evaluated under the contractor's original offer.
- B. Any contract change order or amendment or aggregate change orders or amendments of a contract not covered under subsection (A) that exceeds 25% of the original contract amount may be executed only if the state procurement administrator or, in the case of construction on state property, the Assistant Director of General Services, determines in writing that the change order or amendment is advantageous to the state and the price is determined fair and reasonable pursuant to R2-7-702.
- C. The agency chief procurement officer may, in situations in which time or economic consideration preclude re-solicitation, negotiate a reduction to the contract, including scope, price, and contract requirements under A.R.S. § 41-2537.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-605. Multi-term Contracts

- A. The agency chief procurement officer may enter into a contract for materials or services for a period exceeding the time identified in A.R.S. § 41-2546(A), if a written approval from the state procurement administrator is issued prior to offer due date and time.
- B. The agency chief procurement officer shall submit a request to the state procurement administrator in writing indicating:
 1. The time period requested for the contract;
 2. Documentation that the estimated requirements are reasonable and continuing;
 3. Documentation to demonstrate why more frequent competition is not practicable and that such a contract will serve the best interests of the state.
- C. The agency chief procurement officer shall include in all multi-term contracts a clause specifying that the contract shall be cancelled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year. If the contract is cancelled under this Section, 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.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-606. Terms and Conditions

- A. The state procurement administrator may publish uniform terms and conditions for use in solicitations and contracts issued by a state governmental unit.
- B. Prior to offer due date and time, the state procurement administrator may authorize an agency chief procurement officer to make changes to uniform terms and conditions.
- C. After offer due date and time, an agency chief procurement officer may negotiate the uniform terms and conditions, as appropriate.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final

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rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-607. Mandatory Statewide Contracts

State governmental units shall use existing Arizona state contracts to satisfy their needs for those materials and services covered under such contracts, unless authorized by the state procurement administrator.

Historical Note

New Section made by final rulemaking, 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-608. Multiple Source Contracts

Multiple award contracts shall be limited to the least number of suppliers necessary to meet the requirements of the state or the cooperative procurement members, unless authorized by the state procurement administrator.

Historical Note

New Section made by final rulemaking, 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

ARTICLE 7. COST PRINCIPLES**R2-7-701. Expired****Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Amended by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1757, effective May 9, 2017 (Supp. 17-2).

R2-7-702. Determination of Fair and Reasonable Price

- A.** For contracts or contract modifications that exceed \$100,000, the agency chief procurement officer shall determine in writing that the price is fair and reasonable only when one of the following requirements is met:
1. The contract or modification is based on adequate price competition;
 2. Price is supported by an established catalog or market prices;
 3. Price is set by law or rule; or
 4. Price is supported by relevant, historical price data.
- B.** The agency chief procurement officer shall request the submission of cost or pricing data from the offeror or contractor when:
1. The agency chief procurement officer cannot determine the price is fair and reasonable based on the criteria in subsection (A); or
 2. The agency chief procurement officer determines in writing that it is in the best interest of the state regardless of the amount of the contract or contract modification.
- C.** The agency chief procurement officer shall submit a request to the state procurement administrator to waive the requirement for submission of cost or pricing data to the state procurement administrator if the proposed contract or contract modification exceeds \$100,000. The request shall be in writing and state the reasons for the waiver.
- D.** The state procurement administrator shall either:
1. Issue written approval of the request for waiver;

2. Request additional information from the agency chief procurement officer upon which to base a decision; or
3. Deny the request.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-703. Submission and Certification of Cost or Pricing Data

- A.** The offeror or contractor shall submit certified cost or pricing data in the manner, and within the time-frames, prescribed by the agency chief procurement officer.
- B.** The offeror or contractor shall keep all cost or pricing data submitted current until the negotiations are concluded.
- C.** The offeror or contractor shall certify cost or pricing data by including a signed statement with the submission that all data is accurate, complete, and current to the best of the offeror's or contractor's knowledge and belief as of a date mutually determined with the agency chief procurement officer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-704. Refusal to Submit Cost or Pricing Data

- A.** If an offeror fails to submit cost or pricing data in the required form and within the time-frames required, the agency chief procurement officer may reject the offer.
- B.** If a contractor fails to submit data to support a contract modification in the form required and within the time-frames required, the agency chief procurement officer may:
1. Reject the contract modification; or
 2. Set the amount of the contract modification subject to the contractor's rights under Article 9 of the Arizona Procurement Code.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-705. Defective Cost or Pricing Data

- A.** The agency chief procurement officer may reduce the contract price if, upon written determination, the cost or pricing data is defective.
- B.** The agency chief procurement officer shall reduce the contract price in the amount of the defect plus related overhead and profit or fee, if the defective data was used in awarding the contract or contract modification.
- C.** The offeror or contractor may appeal any dispute regarding the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data as a contract claim under Article 9 of this Chapter. The price, as adjusted by the agency chief procurement officer, shall remain in effect until any claim is settled or resolved under Article 9 of this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 8. TRANSFERRED

Article 8, consisting of Sections R2-7-801 through R2-7-810, transferred to Title 2, Chapter 15, Article 3, Sections R2-15-301 through R2-15-210, Department of Administration, General Services Division.

R2-7-801. Transferred

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Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-801 (Supp. 91-3).

R2-7-802. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-802 (Supp. 91-3).

R2-7-803. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-803 (Supp. 91-3).

R2-7-804. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-804 (Supp. 91-3).

R2-7-805. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-805 (Supp. 91-3).

R2-7-806. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-806 (Supp. 91-3).

R2-7-807. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-807 (Supp. 91-3).

R2-7-808. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-808 (Supp. 91-3).

R2-7-809. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-809 (Supp. 91-3).

R2-7-810. Transferred**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Transferred to R2-15-810 (Supp. 91-3).

ARTICLE 9. LEGAL AND CONTRACTUAL REMEDIES**R2-7-901. Repealed****Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-902. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-903. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-904. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-905. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

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R2-7-919. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-920. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-921. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-922. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-923. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-924. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-925. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final

rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-926. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-927. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-928. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-929. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-930. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-931. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-932. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final

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rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-933. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-934. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-935. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-936. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-937. Repealed**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

PART A. PROTEST OF SOLICITATIONS AND CONTRACT AWARDS

R2-7-A901. Protest of Solicitations and Contract Awards

- A. Any interested party may protest a solicitation, a determination of not susceptible for award, or the award of a contract.
- B. The interested party shall file the protest in writing with the agency chief procurement officer, with a copy to the state procurement administrator, and shall include the following information:
 1. The name, address and telephone number of the interested party;
 2. The signature of the interested party or the interested party's representative;
 3. Identification of the purchasing agency and the solicitation or contract number;

4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
5. The form of relief requested.

- C. If the protest is based upon alleged improprieties in a solicitation that are apparent before the offer due date and time, the interested party shall file the protest before the offer due date and time.
- D. In cases other than those covered in subsection (C), the interested party shall file the protest within 10 days after the agency chief procurement officer makes the procurement file available for public inspection.
- E. The interested party may submit a written request to the agency chief procurement officer for an extension of the time limit for protest filing set forth in subsection (D). The written request shall be submitted before the expiration of the time limit set forth in subsection (D) and shall set forth good cause as to the specific action or inaction of the purchasing agency that resulted in the interested party being unable to submit the protest within the 10 days. The agency chief procurement officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted set forth a new date for submission of the filing.
- F. If the interested party shows good cause, the agency chief procurement officer may consider a protest that is not timely filed.
- G. The agency chief procurement officer shall immediately give notice of a protest to all offerors.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A902. Stay of Procurements During the Protest

- A. If a protest is filed before the solicitation due date, before the award of a contract, or before performance of a contract has begun, the agency chief procurement officer shall make a written determination to either:
 1. Proceed with the award or contract performance, or
 2. Stay all or part of the procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the state.
- B. The agency chief procurement officer shall provide the interested party, state procurement administrator, and other interested parties with a copy of the written determination.
- C. The agency chief procurement officer may stay all or part of the procurement if it is determined that there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the state. Determination of the stay decision shall be issued no later than the time of issuance of a procurement officer's decision in accordance with R2-7-A903.
- D. Should the stay request be denied by the agency chief procurement officer the protestant may request a procurement stay from the state procurement administrator. Such requests for a procurement stay shall be submitted within 10 days of notification of the stay denial by the agency chief procurement officer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

R2-7-A903. Resolution of Solicitation and Contract Award Protests

- A. The agency chief procurement officer has the authority to resolve a protest.

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- B. The agency chief procurement officer shall issue a written decision within 14 days after a protest has been filed under R2-7-A901. The decision of the agency chief procurement officer shall contain the basis for the decision and a statement that the decision may be appealed to the Director within 30 days from receipt of the decision.
- C. The agency chief procurement officer shall furnish the decision to the interested party, by certified mail, return receipt requested, or by any other method that provides evidence of receipt, with a copy to the state procurement administrator and the director.
- D. The agency chief procurement officer may submit a written request to the director for an extension of the time limit for decisions under subsection (B). The director shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the decision, not to exceed an additional 30 days. The director shall notify the agency chief procurement officer, the interested party, and the state procurement administrator in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- E. If the agency chief procurement officer fails to issue a decision within the time limits set forth in this Article, the interested party may proceed as if the agency chief procurement officer had issued an adverse decision.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A904. Remedies by the Agency Chief Procurement Officer

- A. If the agency chief procurement officer sustains a protest in whole or part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with the procurement statutes and regulations, the agency chief procurement officer shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the agency chief procurement officer shall consider all the circumstances surrounding the procurement or proposed procurement including:
 1. The seriousness of the procurement deficiency;
 2. The degree of prejudice to other interested parties or to the integrity of the procurement system;
 3. The good faith of the parties;
 4. The extent of performance;
 5. The costs to the state;
 6. The urgency of the procurement;
 7. The impact on the agency's mission; and
 8. Other relevant issues.
- C. An agency chief procurement officer may implement any of the following appropriate remedies:
 1. Decline to exercise an option to renew under the contract;
 2. Terminate the contract;
 3. Amend the solicitation;
 4. Issue a new solicitation;
 5. Award a contract consistent with procurement statutes and regulations; or
 6. Render such other relief as determined necessary to ensure compliance with procurement statutes and regulations.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A905. Appeals to the Director

- A. An interested party may appeal the decision entered or deemed to be entered by the agency chief procurement officer to the director within 30 days after the date the decision is received or deemed received under R2-7-A903. The interested party shall file a copy of the appeal with the director, the agency chief procurement officer, and the state procurement administrator.
- B. The interested party shall file the appeal in writing and shall include the following information:
 1. The information prescribed in R2-7-A901(B) including the identification of confidential information under R2-7-103;
 2. A copy of the decision of the agency chief procurement officer; and
 3. The precise factual or legal error in the decision of the agency chief procurement officer from which an appeal is taken.
- C. The director may consider any appeal that is not filed timely if:
 1. The interested party shows good cause; or
 2. The director finds there is good cause.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A906. Notice of Appeal to the Director

- A. The agency chief procurement officer shall promptly give notice of the appeal to all offerors.
- B. The director shall, upon request, furnish copies of the appeal to all offerors subject to the provisions of R2-7-103.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A907. Stay of Procurement During Appeal to Director

- A. If a stay is issued under R2-7-A902, the filing of an appeal shall automatically continue the stay, unless the Director makes a written determination that the award of the contract or a notice to proceed with contract performance is necessary to protect the substantial interests of the state.
- B. Following a review of the agency chief procurement officer's or the state procurement officer's decision and the interested party's appeal, the director may stay the procurement if the director determines that there is a reasonable probability the protest will be upheld or that a stay is in the best interests of the state.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-A908. Agency Report

- A. The agency chief procurement officer shall file a complete report on the appeal with the director and the state procurement administrator within 21 days after the date the appeal is filed, at the same time furnishing a copy of the report to the interested party. The agency chief procurement officer shall also provide a copy of the report to any interested parties who request a copy, at their cost. The report shall contain copies of:
 1. The appeal;
 2. The offer submitted by the interested party;
 3. The offer of the firm that is being considered for award;
 4. The solicitation, including the specifications or portions relevant to the appeal;
 5. The abstract of offers or relevant portions;

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6. Any other documents that are relevant to the protest; and
 7. A statement by the agency chief procurement officer setting forth findings, actions, recommendations and any additional evidence or information necessary to determine the validity of the appeal.
- B.** The agency chief procurement officer may submit a written request to the director for an extension of the time period for filing the report as prescribed in subsection (A), identifying the reason for extension. The director shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of the report. The director shall notify the agency chief procurement officer, the state procurement administrator, and the interested party in writing that the time for the submission of the report is extended, providing the date on which the report must be submitted.
- C.** The interested party shall file comments on the agency report with the director within 10 days after receipt of the report. The interested party shall provide copies of the comments to the agency chief procurement officer, the state procurement administrator, and other interested parties.
- D.** The interested party may submit a written request to the director for an extension of the period for submission of comments, identifying the reasons for the extension. The director shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The director shall notify the agency chief procurement officer and the state procurement administrator of any extension.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).

R2-7-A909. Remedies by the Director

If the Director sustains the appeal in whole or part and determines that a solicitation, a not susceptible for award determination, or an award does not comply with procurement statutes and regulations, the director shall implement remedies as provided in R2-7-A904 or R2-7-A910.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-A910. Informal Settlement Conference

In any protest, claim or debarment proceeding, the Director may request to hold an informal settlement conference with all interested parties. The conference may be held at any time prior to a final administrative decision. If an informal settlement conference is held, a person with the authority to act on behalf of the interested party must be present. The agency chief procurement officer shall notify the interested parties in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative or judicial hearing. Should any interested party choose not to participate in an informal settlement conference, the Director, or the Director's designee, in his or her discretion, may conduct the conference with those interested parties that appear, or reschedule the conference, or terminate the conference. If the informal settlement conference results in a full settlement agreement between all interested parties,

that agreement shall be reduced to writing, signed by the interested parties, and entered as the final administrative decision in the proceeding. If the interested parties do not reach agreement on all matters at issue in the proceedings, but do agree to resolve one or some of the issues, that partial agreement shall be reduced to writing, be signed by the interested parties, and bind the interested parties through the remainder of the proceedings. If the Director, or the Director's designee, participates in an informal settlement conference, the Director, or the Director's designee, may not participate in or attempt to influence the outcome of the final administrative decision. Further, in making a final administrative decision, the Director shall not give any weight to whether or not an informal settlement conference has been held, or to any consideration of the perceived success or failure of the informal settlement conference.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). R2-7-A910 renumbered to R2-7-A911; new Section R2-7-A910 made by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-A911. Dismissal Before Hearing

- A.** The Director may dismiss, upon written determination, an appeal in whole or in part before scheduling a hearing if:
1. The appeal does not state a valid basis for protest;
 2. The appeal is untimely as prescribed under R2-7-A905; or
 3. The appeal attempts to raise issues not raised in the protest.
- B.** The Director shall notify the interested party, the agency chief procurement officer, and the state procurement administrator in writing of a determination to dismiss an appeal before hearing.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). R2-7-A911 renumbered to R2-7-A912; new Section R2-7-A911 renumbered from R2-7-A910 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-A912. Hearing

The Director shall resolve appeals of solicitation or contract award decisions as contested cases under A.R.S. § 41-1092.07.

Historical Note

New Section R2-7-A912 renumbered from R2-7-A911 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

PART B. CONTRACT CLAIMS

R2-7-B901. Controversies Involving Contract Claims Against the State

- A.** A claimant shall file a contract claim with the agency chief procurement officer, with a copy to the state procurement administrator, within 180 days after the claim arises. A claim filed after 180 days of the date on which the claim arose shall be considered untimely and rejected. The claim shall include the following:
1. The name, address, and telephone number of the claimant;
 2. The signature of the claimant or claimant's representative;
 3. Identification of the purchasing agency and the solicitation or contract number;

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4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
5. The form and dollar amount of the relief requested.

- B.** The agency chief procurement officer shall have the authority to settle and resolve contract claims, except that the agency chief procurement officer shall receive prior written approval of the state procurement administrator for the settlement or resolution of a claim in excess of the amount prescribed in A.R.S. § 41-2535.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-B902. Agency Chief Procurement Officer's Decision

- A.** The agency chief procurement officer shall take reasonable steps to work with the parties to a claim to resolve all or some of the issues in the claim through either discussions or an informal settlement conference under R2-7-A910.
- B.** The parties to a claim shall have 60 days to resolve the claim, unless this period is modified by the agency chief procurement officer as described in this subsection. The agency chief procurement officer may end the 60-day period early, if the agency chief procurement officer determines that the claim cannot be resolved by the parties. The agency chief procurement officer may also allow additional time for the parties to resolve the claim, upon request by all parties to the claim.
- C.** If any issues in the claim are not resolved by a mutual agreement between the parties to the claim as described in subsections (A) and (B), then the agency chief procurement officer shall issue a decision within 60 days of the end of the time period for discussions or settlement described in subsection (B). Before issuing a decision, the agency chief procurement officer shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors. Upon a showing of good cause, the director may grant the agency chief procurement officer up to 30 additional days to issue this decision.
- D.** The agency chief procurement officer shall furnish the decision to the claimant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt, with a copy to the state procurement administrator. The decision shall include:
1. A description of the claim;
 2. A reference to the pertinent contract provision;
 3. A statement of the factual areas of agreement or disagreement;
 4. A statement of the agency chief procurement officer's decision, with supporting rationale; and
 5. A paragraph which substantially states: "This is the final decision of the agency chief procurement officer. This decision may be appealed to the director of the Department of Administration. If you appeal, you must file a written notice of appeal containing the information required in R2-7-B904(B) with the director within 30 days from the date you receive this decision."

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-B903. Issuance of a Timely Decision

If the agency chief procurement officer fails to issue a decision within the appropriate time period as described in R2-7-B902, the claimant may proceed as if the agency chief procurement officer had issued an adverse decision.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Amended by final expedited rulemaking at 28 A.A.R. 2117 (August 26, 2022), with an immediate effective date of August 12, 2022 (Supp. 22-3).

R2-7-B904. Appeals and Reports to the Director

- A.** The claimant may appeal the final decision of the agency chief procurement officer to the director within 30 days from the date the decision is received. The claimant shall file a copy of the appeal with the director, the agency chief procurement officer, and the state procurement administrator.
- B.** The claimant shall file the appeal in writing and shall include the following:
1. A copy of the decision of the agency chief procurement officer;
 2. A statement of the factual areas of agreement or disagreement; and
 3. The precise factual or legal error in the decision of the agency chief procurement officer from which an appeal is taken.
- C.** The agency chief procurement officer shall file a complete report on the appeal with the director and the state procurement administrator within 14 days from the date the appeal is filed, providing a copy to the claimant at that time by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The report shall include a copy of the claim, a copy of the agency chief procurement officer's decision, if applicable, and any other documents that are relevant to the claim.
- D.** The director shall resolve appeals on claim decisions as contested cases under A.R.S. § 41-1092.07.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-B905. Controversies Involving State Claims Against the Contractor

If the agency chief procurement officer is unable to resolve, by mutual agreement, a claim asserted by the state against a contractor, the agency chief procurement officer shall promptly refer the matter in writing to the director for resolution under A.R.S. § 41-1092.07. The agency chief procurement officer shall furnish a copy of the claim to the state procurement administrator.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

PART C. DEBARMENTS AND SUSPENSIONS

R2-7-C901. Authority to Debar or Suspend

The director has the sole authority to debar or suspend a person from participating in state procurements under A.R.S. § 41-2613.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C902. Initiation of Debarment

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Upon receipt of information concerning a possible cause for debarment, the director shall investigate the possible cause. If the director has a reasonable basis to believe that a cause for debarment exists, the director may propose debarment under R2-7-C904.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C903. Period of Debarment

- A. The director shall not establish the period of time for a debarment that exceeds three years from the date of the debarment determination.
- B. If debarment is based solely upon debarment by another governmental agency, the director may establish that the period of debarment is to run concurrently with the period established by the other debarring agency.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C904. Notice of Debarment and Hearing

- A. If debarment is proposed, the director shall notify the person and affected affiliates in writing within seven days by certified mail, return receipt requested, or any other method that provides evidence of receipt. The notice shall state that the person and affected affiliates have the right to a hearing to contest the proposed debarment.
- B. The person proposed for debarment and any affected affiliates shall file a written request for a hearing within 10 days of receipt of the director's notice of proposed debarment.
- C. The hearing shall be conducted as a contested case under A.R.S. §§ 41-1092.07 and 41-2613.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C905. Imputed Knowledge

- A. The director may attribute improper conduct to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.
- B. The director may attribute improper conduct of a person or its affiliate having a contract with a contractor to the contractor for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C906. Reinstatement

- A. The director may at any time after a final decision on a debarment reinstate a debarred person or rescind the debarment upon a determination that the cause upon which the debarment is based no longer exists.
- B. Any debarred person may request reinstatement by submitting a petition to the director supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
- C. The director may require a hearing on the request for reinstatement.
- D. The director shall make a written decision on reinstatement within 30 days after the request is filed and specify the factors on which it is based.

- E. Reinstatement decisions by the director are not subject to administrative review.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C907. Limited Participation

The director may allow a debarred person to participate in state contracts on a limited basis during the debarment period upon a written determination that participation is advantageous to the state. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C908. Suspension

- A. If the director determines that reasonable grounds for debarment exist, the director may suspend a person from receiving any award under R2-7-C910.
- B. For purposes of suspension, a person's conduct may be attributed to an affiliate or another person under R2-7-C905.
- C. The director shall not suspend a person pending debarment unless compelling reasons require suspension to protect state interests.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C909. Period and Scope of Suspension

Unless otherwise agreed to by the parties, the director shall not implement a period of suspension of more than 35 days without satisfying the notice requirements of R2-7-C910.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C910. Notice, Hearing, Determination, and Appeal

- A. The director shall notify the person suspended by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
- B. The notice of suspension shall state:
 1. The basis for suspension;
 2. The period, including dates, of the suspension;
 3. That offers received from the person will not be considered; and
 4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing with the director within 30 days after receipt of the notice.
- C. Within 30 days receipt of the notice of suspension, the suspended party may file a written request for hearing with the director. The appeal shall include the following information:
 1. A copy of the decision of the director; and
 2. The precise factual or legal error in the decision from which the appeal is taken.
- D. The suspension shall be resolved as an appealable agency action under A.R.S. §§ 41-1092.03 and 41-2613.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-C911. Master List

- A. The director shall maintain a master list of debarments, suspensions, and voluntary exclusions under this Article.

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- B.** The master list shall show at a minimum, the following information:
1. The names and vendor numbers of those persons whom the state has debarred or suspended under this Article;
 2. The statutory authority for the action;
 3. The period of debarment or suspension, including the expiration date;
 4. The name of the debarring or suspending agency, if the state's debarment or suspension is based on debarment or suspension by another governmental agency; and
 5. A separate section listing persons voluntarily excluded from participation in state contracts.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

PART D. HEARING PROCEDURES

R2-7-D901. Hearings

If a hearing is required or permitted under this Chapter, the director shall refer the matter to the Office of Administrative Hearings for findings of fact, conclusions of law, and a recommended decision. The director may also direct the parties to engage in settlement negotiations or alternative dispute resolution procedures before referring the matter for a hearing.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-D902. Rehearing of Director's Decision

- A.** Any person, including an agency chief procurement officer, who is aggrieved by the director's decision may file a written request for rehearing of the decision under A.R.S. § 41-1092.09.
- B.** The director, within the time for filing a request for rehearing under this rule, may upon the director's own initiative, order a rehearing for any reason for which a rehearing may have been granted on request of a party.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

ARTICLE 10. INTERGOVERNMENTAL PROCUREMENT

R2-7-1001. Approval to Enter into a Cooperative Purchasing Agreement

- A.** Agency chief procurement officers may use Arizona state contracts without a cooperative purchasing agreement.
- B.** Agency chief procurement officers shall submit a written request to the state procurement administrator before participating in a cooperative purchasing agreement with another public procurement unit or group of public procurement units. The written request for approval shall specify the manner which the administering public procurement unit complies with A.R.S. § 41-2634.
- C.** The state procurement administrator shall either:
1. Issue written approval, with any conditions or restrictions;
 2. Request additional information from the state government unit; or
 3. Deny the request.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective

April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-1002. Cooperative Purchasing Agreement Administered by an Agency Chief Procurement Officer

- A.** An agency chief procurement officer shall ensure that any cooperative purchasing agreement administered for use by other eligible procurement units under A.R.S. § 41-2632 provides that:
1. Payment for materials or services and inspection and acceptance of materials or services are the responsibility of the using eligible procurement unit;
 2. Failure of an eligible procurement unit 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 rights or remedies;
 3. The exercise of any rights or remedies by the eligible procurement unit shall be the exclusive obligation of that unit. The state, as the contract administrator and without subjecting itself to any liability, may join in the resolution of any controversy;
 4. The eligible procurement unit shall not use an Arizona state contract as a method for obtaining additional concessions or reduced prices for similar material or services; and
 5. An agency chief procurement officer may terminate without notice any cooperative purchasing agreement if the eligible procurement unit fails to comply with the terms of the contract.
- B.** The state procurement administrator may authorize a state governmental unit to establish an Arizona state contract which may be used by designated eligible procurement units.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1).

R2-7-1003. Purchasing from a Cooperative Contract

- A.** The agency chief procurement officer shall not procure materials, services, professional services, construction or construction services from any cooperative contracts available under an existing Arizona state contract, unless authorized by the state procurement administrator.
- B.** If it is in the best interest of the state and at the discretion of the agency chief procurement officer, a cooperative contract may be used if the following criteria, at a minimum, are met:
1. The cooperative contract was awarded through the competitive process and documentation is available to substantiate the award, including:
 - a. Bidder's list,
 - b. Solicitation included evaluation factors,
 - c. Multiple offers received,
 - d. Bid tabulation and evaluation offers, and
 - e. Basis for cooperative contract award with established evaluation factors.
 2. Cost analysis to determine price is fair and reasonable as prescribed by R2-7-702;
 3. Review of cooperative contract terms and conditions; and
 4. Vendor's willingness to extend cooperative contract to the state.

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- C. Purchases under a cooperative contract as permitted by this subsection shall not, in the aggregate, exceed 25% of the initial value, or estimated value for term contracts, of the cooperative contract or \$500,000, whichever is lesser, unless the state procurement administrator determines in writing that the purchase is in the best interest to the state and the price is determined fair and reasonable pursuant to R2-7-702.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1003 renumbered to R2-7-1004; new Section R2-7-1003 made by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1004. Establishment of a Committee as Required by A.R.S. § 41-2636

- A. The Director shall appoint a committee as required by A.R.S. § 41-2636.
- B. The committee shall be comprised of at least seven members, including the committee chair, representing:
1. Arizona Correctional Industries (“ACI”);
 2. Arizona Industries for the Blind (“AIB”);
 3. Certified nonprofit agency that serves individuals with disabilities (CNAID) as defined in A.R.S. § 41-2636(G);
 4. Other public procurement units.
- C. The state procurement administrator or the state procurement administrator’s designee shall chair the committee.
- D. The committee chair may appoint sub-committees to assist in the evaluation of materials and services under consideration by the committee as a set-aside.
- E. The committee shall meet at least once each fiscal year quarter to report compliance with A.R.S. § 41-2636(F).

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1004 renumbered from R2-7-1005; new Section R2-7-1004 renumbered from R2-7-1003 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1005. Certification as Non-Profit Agency for Disabled Individuals

- A. A non-profit organization may request written approval from the committee for certified status as a non-profit agency for disabled individuals for the purpose of being eligible for set-aside contracts by submitting information that satisfies the criteria identified in A.R.S. § 41-2636(A) and 41-2636(G).
- B. The committee shall review the information submitted and respond to the requestor in writing by:
1. Approving the request for certification;
 2. Denying the request for certification; or
 3. Requesting more information.

Historical Note

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp.

84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1005 renumbered from R2-7-1006; new Section R2-7-1005 renumbered from R2-7-1004 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1006. Application for Approval as Required by A.R.S. § 41-2636 to Become a Certified Non-Profit Agency for Disabled Individuals

- A. A non-profit organization requesting certification by the committee as a non-profit agency for disabled individuals shall submit the following written information to the State Procurement Office, attention of the committee chair:
1. Name of organization, address, contact name, and contact information;
 2. Description of the non-profit activity center;
 3. Evidence of the organization’s non-profit status;
 4. A statement that the business is operated in accordance with A.R.S. § 41-2636(G);
 5. A statement of Occupational Safety and Health Administration compliance; and
 6. The signature and title of the responsible party within the applicant’s organization.
- B. The committee shall review the submitted application at the next scheduled committee meeting and may do any of the following:
1. Approve the organization as a certified non-profit agency for disabled individuals;
 2. Table the application and request additional information; or
 3. Decline the application.

Historical Note

Former Section R2-7-1006 adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section repealed, new Section R2-7-1006 renumbered from R2-7-1007 and amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1006 renumbered to R2-7-1007; new Section R2-7-1006 renumbered from R2-7-1005 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1007. Approval of Specific Materials or Services for Set-aside Use

- A. ACI, AIB, CNAID shall submit information to the committee to request approval of the material or service for mandatory set-aside use. The applicant shall include the following information:
1. A description of the specific material or service;
 2. The pricing offered;
 3. Documentation that the pricing offered is fair market pricing; and
 4. Information regarding availability.
- B. The committee shall evaluate each offered material or service to determine:
1. The existence and extent of a need within state governmental units for the material or service;

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2. The ability to produce and deliver the material or service to meet the reasonable requirements of the state governmental units; and
 3. Whether the offered price for the material or service is reasonable.
- C. The committee may:
1. Approve the requested material or service for use as a mandatory set-aside contract;
 2. Establish a sub-committee to study and make a recommendation on the request;
 3. Request additional information;
 4. Deny the request; or
 5. Designate the material or service as available for optional use by a state governmental unit or local public procurement unit under A.R.S. §41-2636(E).

Historical Note

Former Section R2-7-1007 adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Section renumbered to R2-7-1006, new Section R2-7-1007 adopted effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1007 renumbered to R2-7-1008; new Section R2-7-1007 renumbered from R2-7-1006 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1008. Expired**Historical Note**

Adopted as an emergency effective January 1, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Permanent rule adopted effective April 3, 1985 (Supp. 85-2). Former Section R2-7-1008 renumbered to R2-7-1009, new Section R2-7-1008 adopted effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1008 renumbered to R2-7-1009; new Section R2-7-1008 renumbered from R2-7-1007 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 1757, effective May 9, 2017 (Supp. 17-2).

R2-7-1009. Contract Awards Initiated by an Agency Chief Procurement Officer or Local Public Procurement Unit

- A. Competition is not required under A.R.S. § 41-2636(D) to enter into a contract for a material or service that is offered from a set-aside agency, but may be used at the discretion of the agency chief procurement officer or local public procurement unit. If competition is used, an agency chief procurement officer may either:
1. Seek competition only from applicable set-aside agencies; or
 2. Seek competition under A.R.S. §§ 41-2533, 41-2534, or 2535.
- B. Contracts awarded under this Section, shall not exceed five years, including any renewal options.

Historical Note

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. Emergency rule re-adopted without change effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired, text rescinded. Former Section R2-7-1009 renumbered to R2-7-1010, new Section R2-7-1009 renumbered from R2-7-1008 and amended effective April 2, 1993 (Supp. 93-2). Section repealed; new Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Section R2-7-1009 renumbered to R2-7-1010; new Section R2-7-1009 renumbered from R2-7-1008 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

R2-7-1010. Set-aside Application Dispute Process

- A. Any interested party may dispute any committee decision.
- B. An interested party shall submit the dispute of a committee decision to the committee chair in writing and shall include:
1. Name, address, and telephone number of the person submitting the dispute;
 2. Signature of the person or the person's representative;
 3. Identification of the set-aside application disputed;
 4. A detailed statement of the legal and factual grounds for the dispute including copies of relevant documents; and
 5. The form of relief requested.
- C. A dispute of a set-aside application shall be filed with the committee chair through the State Procurement Office within 14 days after the person who submits the dispute knows or should have known the basis of the dispute.
- D. The committee chair shall promptly give written notice of the dispute to the set-aside applicant and the committee.
- E. The committee chair shall resolve the dispute. The committee chair shall issue a written decision within 14 days after the date the dispute has been filed. If the committee chair fails to issue a decision within 14 days, the person who submits the dispute may proceed as if the dispute has been denied.
- F. An appeal of the decision of the committee chair shall be made to the director under R2-7-A905, substituting "committee chair" for "agency procurement officer."

Historical Note

Former Section R2-7-1009 renumbered to R2-7-1010 effective April 2, 1993 (Supp. 93-2). New Section R2-7-1010 renumbered from R2-7-1009 and amended by final rulemaking at 20 A.A.R. 3510, effective February 2, 2015 (Supp. 14-4).

ARTICLE 11. RESERVED**ARTICLE 12. RESERVED****ARTICLE 13. REPEALED****R2-7-1301. Repealed****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 508, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 18 A.A.R. 3118, effective January 7, 2013 (Supp. 12-4).