

Pima County Procurement Code

Chapter 11.04

GENERAL PROVISIONS

11.04.010

Purpose.

The purpose of the Pima County Procurement Code is to:

- A. Simplify, clarify, and modernize the rules governing procurement by the county.
- B. Permit the continued development of county procurement policies and practices.
- C. Provide for a uniform system of control to enhance accountability and increase public confidence in the process followed in county procurement.
- D. Ensure full and equitable economic opportunities to persons or businesses that compete for business with Pima County government, including small, minority-owned, and woman-owned business enterprises.
- E. Provide increased economy in county procurement activities and maximize to the fullest extent practicable the purchasing value of public monies of the county.
- F. Foster effective broad-based competition within the free enterprise system.
- G. Provide safeguards for the maintenance of a procurement system of quality and integrity. (Ord. 1997-45 § 1, 1997)

11.04.020

Applicability.

- A. This title applies only to procurement initiated after adoption unless the parties agree to its application to procurement initiated before such dates.
- B. Unless otherwise specified, this title applies to expenditures of public monies by the county, notwithstanding the source of such monies. Nothing in this title shall prevent the county from complying with the terms and conditions of any grant, gift, bequest, or intergovernmental agreement.
- C. This title shall not apply to the procurement of experts to provide testimony or other professional services relating to pending or anticipated litigation or administrative proceedings.
- D. This title shall not apply to the procurement of services related to land titles, appraisals, real property acquisitions, relocation, or property management authorized under Arizona Revised Statutes Titles 11, 28, or 48. (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

11.04.030

Definitions.

In this title, unless the context otherwise requires:

- A. "Business" shall mean a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, professional association, or any other legal entity, operated for profit or nonprofit that is properly licensed or otherwise authorized to do business.
- B. "Certification" shall mean completion by a business enterprise of an application procedure as provided by the county Minority and Women Business Enterprise (MWBE) Ordinance.
- C. "Construction" shall mean all work subject to the requirements of Arizona Revised Statutes Titles 18 and 34 including building, improving, altering, repairing, maintaining or demolishing any public building, highway, bridge or other real property structure.
- D. "Contract" means all types of county agreements, regardless of what they may be called, for the procurement of materials, services or construction.
- E. "Contractor" means any person who receives a bid, proposal or contract in connection with a procurement. This term also includes any person who conducts business as an agent or representative of the contractor.
- F. "Day" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m. excluding holidays, as provided by law.
- G. "Department" means any office, division, or department or other entity of Pima County.
- H. "Designee" means a duly authorized representative.
- I. "Filed" means delivery to the location and by date and time designated in the solicitation or specified in this ordinance. A time and date stamp affixed to a document by the county shall be determinative of the time of delivery for purposes of filing.
- J. "Interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
- K. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the World Wide Web.
- L. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
- M. "Materials" means all property, including, but not limited to, equipment, supplies, insurance and leases of property, but does not include land, an interest in land, or leases of land or buildings.

N. "Multi-step sealed bidding" means a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the county and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

O. "On-line bidding" means a procurement process in which public agencies receive vendors' bids for goods and services, construction or information services electronically over the internet in a real-time, competitive bidding event.

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

Q. "Procurement officer" means any person to whom the procurement director has delegated procurement authority in writing.

R. "Professional services" are services involving specialized knowledge, skill and expertise provided by persons with advanced training and experience in a field that requires an extended course of specialized instruction and study.

S. "Request for proposals" means all documents whether attached or incorporated by reference, used for soliciting proposals through the competitive sealed proposals process.

T. "Request for quotations" means the documentation or method used in the process of competing for purchases that are lower than the dollar amount requiring submission of sealed bids or proposals.

U. "Responsible bidder or offeror" means a person who has the capability to perform the contract requirements and the reliability and integrity that will assure good faith performance.

V. "Responsive bidder or offeror" means a person who has submitted a bid or proposal that conforms with all material respects to the solicitation.

W. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports, plans, or documents and performance. The term includes professional services.

X. "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 by which the county invites a person to participate in a procurement.

Y. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service, or construction item for delivery. It includes statements or scopes of work often used in solicitations for professional services.

Z. "Subcontractor" means a company or person who contracts to perform work or render service to a contractor or as a sub-subcontractor as a part of a contract with the county. (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

Chapter 11.08 PROCUREMENT ORGANIZATION

11.08.010

Authority of the procurement director.

A. The procurement director shall be appointed by the county administrator to serve as the central purchasing agent of the county.

B. Unless otherwise provided in this title, the authority, duties and responsibilities of the procurement director shall be as follows:

1. Serve as the exclusive supervisor and manager of the county's procurement system.
2. Conduct procurement for all county departments except those conducted by departments to whom the procurement director has delegated procurement authority.
3. Prepare or monitor the use of specifications for materials and services required by the county.
4. Issue invitations for bids and requests for proposals for materials, services and construction for all county purchases.
5. Award and execute contracts in an amount up to \$100,000 per year for a maximum term of five years from the effective date of the contract, with the exception of settlement agreements related to lawful claims arising from litigation involving the County. Procurement requirements shall not be artificially divided to circumvent source selection procedures required by this Title. Contracts signed by the Procurement Director shall be reported to the Board.
6. Develop and maintain countywide procurement standards, procedure manuals and standard contract terms and conditions as necessary to carry out the terms of this title.
7. Delegate procurement authority to departments meeting the certification requirements established pursuant to this title.
8. Provide guidance and leadership on procurement matters to the board, the county administrator, departments, and procurement officers.
9. Authorize emergency, limited competition and sole source procurement as specified in this title.
10. Monitor sourcing decisions, procurement of materials and services contracts awarded and contract compliance and report these matters to the Board at a regularly scheduled Board Meeting at least quarterly.

11. Appoint procurement advisory committees to assist with specifications and procurement decisions. Anyone who participates in any aspect of a specific procurement as an advisory committee member shall not receive any benefits directly or indirectly from a contract resulting from such procurement.

12. In accordance with the county MWBE ordinance, develop and administer a program which encourages participation of small, minority, and woman-owned businesses and requires the certification of such businesses and the publication of annual reports reflecting the dollar participation of such businesses in the procurement of goods, services, and construction.

C. Delegation of Authority.

1. The procurement director may delegate or rescind procurement authority to a department except that the authority delegated to the procurement director under Subsection B.5 of this section may not be delegated to a department.

2. Departments having procurement authority shall comply with this chapter and all implementing procedures, forms and terms established by the procurement director.

3. The procurement director shall consider the following factors in making the decision to delegate or rescind procurement authority:

- a. The procurement expertise, specialized knowledge and past experience of the department;
- b. The impact of the delegation of the procurement on efficiency and effectiveness;
- c. Department adherence to the procurement code, standards, procedures and manuals.

4. The procurement director shall monitor contracts developed and administered by the departments with delegated procurement authority, and shall be available to provide technical assistance.

5. Notwithstanding the delegation of procurement authority the procurement director shall retain all other authority, responsibilities and duties relating to procurement (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

Chapter 11.12
SOURCE SELECTION: MATERIALS AND SERVICES
11.12.010
Competitive sealed bidding.

A. Conditions for Use. All contracts for materials and services shall be awarded by competitive sealed bidding except as otherwise provided in Sections 11.12.020 Competitive sealed proposals, 11.12.030 Professional Services, 11.12.040 Small purchases, 11.12.050 Sole source procurement, and 11.12.060 Emergency and other limited competition procurement.

B. Invitation for Bids. An invitation for bids shall be issued and shall set forth:

1. The specifications for materials and services,
2. The evaluation criteria, and
3. The bid bond requirements.

C. Public Notice. Adequate public notice of the invitation for bids shall be given as required by law or county policy.

D. Prebid Conference. A prebid conference may be conducted prior to bid opening for the purpose of explaining the bid requirements.

E. Late Bids. A bid is late if it is received at the location designated in the invitation for bids after the time and date set for bid opening. A late bid shall be rejected. A late bid shall be returned to the bidder and shall not be opened except for identification purposes.

F. Bid Opening. Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and other relevant information together with the name of each bidder shall be announced or recorded. This record shall be open to public inspection the first business day following bid opening.

G. Correction or Withdrawal of Bids; Cancellation of Awards. The procurement director is authorized to approve the correction or withdrawal of inadvertently erroneous bids before or after bid opening and recommend cancellation of awards or contracts based on bid mistakes, only as follows:

1. Mistakes discovered before bid opening may be corrected or the bid withdrawn by written notice received by the procurement department before the time set for bid opening.
2. After bid opening, and before bid award, a bidder may be permitted to withdraw its bid without penalty if the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

H. Multi-Step Sealed Bidding. When it is considered impractical or not advantageous to initially prepare a specification to support an award based on price, multi-step sealed bidding may be used. An invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation. Multi-step sealed bidding shall be conducted pursuant to written policies developed by the procurement director and approved by the county administrator.

I. Bid Evaluation and Award. Bids shall be evaluated to determine which bid is the most advantageous to the county concerning price, conformity to the specifications and other factors.

1. A product acceptability evaluation may be conducted according to the criteria and requirements specified in the invitation for bids to determine whether a bidder's product meets specifications and is acceptable. This evaluation is used to decide whether to accept or reject a bid and not to determine whether one bidder's product is superior to another.

2. A bid that does not meet specifications is not acceptable and shall be rejected as nonresponsive.

3. The board may reject all bids if rejection is in the public interest.

4. The contract shall be awarded to the responsible bidder whose bid is determined to be the most advantageous to the county concerning price, conformity to the specifications and other factors. Evaluation of price shall be made without regard to applicable taxes. (Ord. 1997-45 § 1, 1997)

11.12.020

Competitive Sealed Proposals.

A. Conditions for Use. The use of competitive sealed proposals is authorized when the use of competitive sealed bidding for materials or services as described in Section 11.12.010 is not advantageous to the county.

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

C. Public Notice. Adequate public notice of the request for proposals shall be given as required by law or county policy.

D. Preproposal Conference. A preproposal conference may be conducted prior to submission of proposals for the purpose of explaining the proposal requirements.

E. Receipt of Proposals. Proposals shall be opened so as to avoid disclosure of the contents of any proposal to competing offerors during the process of negotiation. Late proposals shall be handled in the same manner as provided in Section 11.12.010(E).

F. Evaluation Factors. The request for proposals shall state the relative importance of price and other evaluation factors.

G. Discussion with Responsible Offerors and Revisions to Proposals. As provided in the request for proposals and county procurement policies, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Any clarification of a proposal shall be in writing, as required in Subsection H of this section.

1. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

2. The procuring department shall keep a record of all discussions.

3. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

H. Best and Final Offers. If the original request for proposals indicates that a request for best

and final offers may be issued, and if discussions are conducted, a written request for best and final offers shall be issued. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless there is a written determination that it is advantageous to the county to conduct further discussions. The request for best and final offers shall inform offerors that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer. Other factors will not be considered. The procurement file shall contain the basis on which an award is made.

I. Proposal Evaluation and Award.

1. Proposals shall be evaluated according to the evaluation factors set forth in the request for proposals. Evaluation of price shall be made without regard to applicable taxes.
2. The board may reject all proposals if rejection is in the public interest.
3. The contract shall be awarded to the responsible and responsive offeror whose proposal is determined to be the most advantageous to the county taking into consideration the evaluation criteria set forth in the request for proposals. (Ord. 1997-45 § 1, 1997)

11.12.030

Professional Services.

A. Conditions for Use. Except as specified in this section, professional services expected to exceed \$35,000 shall be procured according to this title. Professional services expected not to exceed \$35,000 shall be procured in accordance with written procurement policy approved by the board.

B. Other Methods of Procurement. The county administrator, under appropriate circumstances, may develop contractor-selection processes in addition to those specified in this title where the county administrator, in consultation with the procurement director, has made a written determination that it is in the county's best interest to do so. Any process developed shall be based on the exercise of sound business judgment and have as its objective obtaining contracts that are the most advantageous to the county.

C. Architectural/Engineering Services. Architectural or engineering services for construction shall be procured in accordance with Title 34 of Arizona Revised Statutes and the applicable county policies and procedures. The county's procurement manual shall set forth the procedures for conducting this procurement.

D. Medical Services. Medical services and other professional services related to the administration of the county's health care functions shall be procured in accordance with written procurement policy approved by the board. (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

11.12.040

Small purchases.

A. Conditions for Use. This section applies to procurement of materials and all services costing \$35,000 or less, not including construction.

B. Purchases from \$15,000 to \$35,000. For purchases of materials and services expected to cost from \$15,000 to \$35,000, the procurement director shall issue a request for quotations and shall solicit a minimum of three written quotations, including quotations from at least one minority-owned and one woman-owned business appearing on the county vendor database, if available. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

C. Purchases from \$5,000 to \$14,999. For purchases of materials and services costing from \$5,000 to \$14,999, the procurement department shall solicit a minimum of three verbal quotations, including quotations from at least one minority-owned and one woman-owned business appearing on the county vendor database, if available. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

D. Purchases from \$1,000 to \$4,999. For purchases of materials and services costing from \$1,000 to \$4,999, the procuring department shall solicit a minimum of three verbal quotations including quotations from at least one minority-owned and one woman-owned business appearing on the vendor database, if available. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

E. Purchases less than \$1,000. For purchases costing less than \$1,000, the procuring department shall obtain as much competition as is practicable, including qualified and available minority- and woman-owned firms. However, no quotes will be required for these purchases.

F. Sole Source Procurement. All sole source procurement is subject to the procedures in Section 11.12.050.

G. Contracts. The procurement director shall establish simplified contract documents for use in procurement for services that do not exceed \$35,000. (Ord. 2000-75 § 2, 2000; Ord. 2000-24 § 2, 2000; Ord. 2000-23 § 2, 2000; Ord. 1997-45 § 1, 1997)

11.12.050

Sole source procurement.

A. Conditions for Use.

1. A procurement may be made for a material or service without competition if there is documented justification that only one source exists for the required material or service, or that no reasonable alternative source exists.

2. The procuring department shall submit a written request and justification for sole source procurement to the procurement director who shall either approve or deny the sole source procurement.

3. A record of sole source procurement shall be maintained as a public record.

B. Award. Sole source contracts shall be awarded upon the board's approval of the procurement director's written determination that only one source exists and that applicable procurement

procedures have been followed. (Ord. 1997-45 § 1, 1997)

11.12.060

Emergency and other limited competition procurement.

A. Conditions for Use.

1. Notwithstanding any other provisions of this code, upon the board's declaration of an emergency or by written approval of the county administrator, the procurement director may:
 - a. Make emergency procurement of materials or services if there exists a threat to public health, welfare, property or safety; or b. Formulate a limited competitive process if a situation exists which makes compliance with normal purchasing procedures impracticable or contrary to the public interest. The competition obtained shall be that appropriate under the particular circumstances.
2. A written justification of the basis of the emergency or limited competition procurement shall be included in the procurement file. In no event will failure to plan routine requirements be considered justification for the approval of an emergency or limited competition procurement.
3. Normal procurement practices may be waived in order to do all things necessary to meet the county's emergency needs. An emergency procurement shall be limited to those materials or services necessary to satisfy the emergency need.

B. Award. Contracts under this section shall be awarded based on the county administrator's written determination that the procurement is warranted and that the appropriate procurement procedures have been followed.

11.12.070

On-Line Bidding

A. Conditions for Use.

1. If the procurement director determines that electronic, on-line bidding is more advantageous than other procurement methods provided in this title, the procurement department may use on-line bidding to obtain bids electronically for the purchase of goods, services, construction and information services.

B. On-line bidding solicitation

1. An on-line bidding solicitation shall set forth the specifications and the evaluation criteria. The on-line solicitation shall designate an opening date and time.
2. The closing date and time for an on-line solicitation may be fixed or remain open depending on the structure of the item being bid online. Information regarding the closing date and time shall be included in the solicitation.
3. At the opening date and time, the procurement department shall begin accepting on-line bids and continue accepting bids until the bid is officially closed.
4. All on-line bids must be posted electronically and updated on a real-time basis.

C. Correction or Withdrawal of Bids. The procurement director is authorized to approve the correction or withdrawal of on-line bids as described in Section 11.12.010(G).

D. Bid Evaluation and Award. On-line bids shall be evaluated to determine which bid is the most advantageous to the county concerning price, conformity to the specifications and other factors.

1. An on-line bid that does not meet the specifications shall be rejected as nonresponsive.

2. The contract shall be awarded to the responsible bidder whose bid is determined to be the most advantageous to the county concerning price, conformity to the specifications and other factors. Evaluation of price shall be made without regard to applicable taxes.

E. Written Procedures. The procurement director shall develop written procedures for conducting on-line bidding.

1. The procedures may include requirements for bidders to register before the opening date and time and, as part of the registration, and for bidders to agree to any terms, conditions or other requirements of the solicitation.

2. The procedures may include requirements for bidders to be prequalified to submit bids on line. (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

Chapter 11.16 PROCUREMENT FOR CONSTRUCTION

11.16.010

Construction contracts.

A. Conditions for Use. Procurement for construction shall be conducted in accordance with Arizona Revised Statutes Titles 18 and 34. Provisions of this title and the procedures established pursuant thereto shall apply to construction-related procurement only to the extent these provisions are not inconsistent with state law.

B. Contracts. Contracts for construction projects shall be awarded by competitive sealed bidding as set forth in Arizona Revised Statutes Titles 18 and 34. Where available and appropriate, industry standard contract forms may be used, at the county's discretion.

C. Changes. Necessary changes in the scope of construction contracts shall be approved by the procurement director or the board as set forth in this section. These change order provisions apply to any contract line item or any new item of work for which there is no unit price. Any number of changes may occur but will be limited according to this subsection.

1. The procurement director, with the concurrence of the county administrator, has authority to approve individual change orders that will result in an increase of not more than 25 percent of the total contract value, or \$100,000 whichever is less. Unless specifically authorized by the board under the terms of the contract, the procurement director's change order authority shall not exceed a cumulative total of \$250,000 per contract. All changes approved by the procurement director shall be submitted to the board for ratification within thirty days of the date of approval. When changes are approved, the procurement director may extend the contract term, if necessary, by up to 25 percent of the contract time, or ninety days, whichever is greater.

2. Except as otherwise provided in this section, individual change orders that will result in an increase of the contract in excess of 25 percent or \$100,000 whichever is less, and all changes when the cumulative total changes on one contract exceed \$250,000 shall be submitted to the board for approval prior to the commencement of work; except that the procurement director is authorized to approve changes exceeding these limits in order to prevent substantial economic harm to the county, or on projects funded with federal monies. Such changes shall be submitted to the board for ratification within thirty days of approval.

D. Project Completion. Upon completion of a project, a final balancing change order identifying all contract changes will be prepared by the procurement officer. This report shall indicate final quantities and amounts of all pay items and reference all prior amendments which have affected the contract. This final document will be maintained in the procurement file as a public record. (Ord. 1997-45 § 1, 1997)

11.16.020

Outreach.

A. Conditions for Use. In selecting construction firms for projects involving less than the competitive bidding amounts established in Arizona Revised Statutes §§ 18-217 and 34-201, a procurement officer shall request price quotations from as many firms as is practicable, including available, certified MWBE firms. The names of firms submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.

B. Publication. As part of the project specifications, a procurement officer shall publish a listing of certified MWBE subcontracting firms that are available and willing to work on each individual project, and describe the portion of work that each MWBE is capable of performing. Such listing shall be accompanied by:

1. A request that the prime contractor obtain price quotes and consider entering into subcontracts with listed MWBE firms; and

2. A request that the prime contractor participate in a post-award conference in order to ascertain why listed MWBE firms received or failed to receive subcontracts.

C. Subcontractor Utilization. Procurement officers shall collect and maintain information regarding actual subcontractor utilization, including a description of firms utilized, work performed, and dollar participation of subcontractors. This information shall be forwarded to the procurement department at the end of each project for purposes of monitoring and reporting. (Ord. 1997-45 § 1, 1997)

Chapter 11.20

PROTESTS

11.20.010

Protests.

A. Applicability. This section applies to procurement of materials, general and professional services and construction. An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award.

B. Prebidding Protests. Protests regarding solicitation that are apparent before the bid opening

or before the time for receipt of proposals shall be filed before bid opening or before the time for receipt of proposals.

C. Notice of Recommendation for Award. The procurement director shall post notification of recommendation for awards of contracts, including bid awards, that exceed the amount of \$35,000. Notification shall be pursuant to written procurement policies.

D. Filing a Protest. A bidder or offeror may file a protest in writing with the procurement director. Protests filed more than five days after the protester knew or should have known of the recommendation for award, or after contract award shall be considered untimely. The protest shall include the following information:

1. The name, address and telephone number of the protester;
2. The signature of the protester;
3. Identification of the solicitation;
4. A statement of the factual grounds of the protest including copies of relevant documents; and
5. A description of the relief requested.

E. Dismissal Before Hearing. Within five days of receipt of the protest, the procurement director shall dismiss a protest, upon a written determination, if:

1. The protest does not state a valid basis for protest; or
2. The protest is untimely.

F. Protest Hearing.

1. If the county administrator or the procurement director determines that a hearing on a protest is appropriate, the procurement director shall set a hearing within ten days of receipt of the protest and notify the protestor of the time and place set for the hearing.

2. Notice of the hearing shall also be given to any other persons involved in the solicitation whose interests may be affected by the ruling. Any person whose interest is potentially affected may be permitted to participate in such hearing.

3. If a protester fails to appear and participate in the hearing, the official conducting the hearing may summarily rule upon the protest based upon information then available.

G. Hearings; Stay of Recommendation. Hearings conducted in accordance with this section shall be conducted by the procurement director or designee or a hearing officer designated by the county administrator, and shall be as informal or formal as may be reasonable and appropriate under the circumstances. Upon receiving notice of hearing, the county administrator shall stay the contract award pending the outcome of the hearing, unless the county administrator makes a written determination that the award of the contract without delay is

necessary to protect substantial interests of the county.

H. Protest Decision. The procurement director shall render a written decision on the protest. If there is a hearing on the protest and a hearing officer issues a recommended decision, the procurement director's decision may adopt or reject that recommendation. The procurement director shall send the decision to the protester and any other interested parties within five days after the protest is filed or the hearing is complete, whichever is applicable. The decision shall state that the protester and any other interested party who participated in the hearing may appeal the decision to the board by filing an appeal with the clerk of the board within five days of the date of the written decision.

I. Remedies. If the protest is sustained in whole or part, an appropriate remedy shall be implemented.

1. In determining an appropriate remedy, consideration shall be given to all the circumstances surrounding the procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, costs to the county, the urgency of the procurement and the impact of the relief on the department's mission.

2. An appropriate remedy may include the following:

- a. Withdraw staff recommendation and reissue the solicitation;
- b. Withdraw staff recommendation and issue a new solicitation;
- c. Withdraw staff recommendation and recommend award of contract consistent with this title; or
- d. Such other relief as is determined appropriate.

J. Appeal to the board of supervisors.

1. A protester or any other interested party who participated in the protest hearing may file a written appeal of the procurement director's decision specifying the reason for the appeal. The appeal shall be filed with the clerk of the board within five days of the date of the procurement director's decision.

2. The board shall consider the protest at a regularly scheduled meeting within thirty days of the procurement director's decision. The board may, with or without a hearing, either accept the decision of the procurement director, or determine an appropriate remedy. (Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)

Chapter 11.24
COOPERATIVE PROCUREMENT AUTHORIZED
11.24.010

Cooperative procurement authorized.

The procurement director, with the approval of the county administrator, may enter into a cooperative purchasing agreement to acquire materials and services under the contracts of other public entities, and may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of materials and services with one or more public entities. The procurement director shall determine, before entering into a cooperative agreement

under which another public entity undertakes procurement, that the public entity has conducted or will conduct procurement through competitive procedures reasonably similar to those set forth in this title. (Ord. 1997-45 § 1, 1997)

Chapter 11.25 MULTI-YEAR CONTRACT

A. Unless otherwise provided in this Title, contracts for materials or services shall be entered into for a period of up to one year with up to four one-year renewals. The contract term and conditions of renewal or extension, if any, shall be included in the solicitation, and monies shall be available for the first fiscal period at the time of contracting. A contract may be entered into for an initial term exceeding one year if the Director determines in writing that such a contract would be advantageous to Pima County. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

1. Before the execution of a contract exceeding one year it shall be determined in writing that:

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

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

2. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the multiple year contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring cost incurred at the County's request, but not amortized in the price of the materials or services delivered under the Contract, or which are otherwise not recoverable. The cost of the cancellation may be paid from any funds available for such purposes. (Ord. 2002-94 § 3)

Chapter 11.28 SUSPENSION AND DEBARMENT OF CONTRACTORS

11.28.010

Title.

The ordinance codified in this chapter is to be known as the Pima County "suspension and debarment of contractors ordinance." (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.020

Purpose.

This chapter is for the purpose of providing for the suspension and debarment of any person from consideration for awards of Pima County contracts, based upon certain types of criminal convictions, civil judgments or contract violations, or for any other cause deemed to affect responsibility as a Pima County contractor. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.030

Rules.

The rules for debarment and suspension of contractors set forth in Chapter 11.32 of this title shall apply to any debarment or suspension proceeding under this chapter. If there are reasonable grounds for debarment, any person may be suspended for a period of time not to exceed six months and may be debarred for a period of time not to exceed three years pursuant to Chapter 11.32 (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.040

Causes for debarment or suspension.

The causes for debarment or suspension include, but are not limited to, the following:

- A. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- B. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a Pima County contractor;
- C. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes;
- D. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, including, but not limited to, the following:
 - 1. Knowingly failing without good cause to perform in accordance with the specifications or within the time limits provided in one or more contracts,
 - 2. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- E. Any other cause deemed to affect responsibility as a Pima County contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause listed in this chapter or in Chapter 11.32;
- F. Indictment for a criminal offense may be considered as evidence for purposes of this chapter. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.050

Written determinations.

A written determination of debar or suspend shall be issued pursuant to Chapter 11.32. Such written determination shall:

- A. State the reasons for the action taken;

B. Inform any debarred or suspended person involved of the right to administrative review as provided in Chapter 11.32. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.060

Copies of determinations.

A copy to the decision under Section 11.28.050 shall be mailed or otherwise furnished to any debarred or suspended person and to any intervening party. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.070

Penalty.

Any violation of this chapter, or of Chapter 11.32, where it is known or reasonably should have been known that a person is debarred or suspended or otherwise excluded from consideration for an award of any Pima County contract pursuant to this chapter, may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.080

Judicial review

Any final decision of the county administrator under this chapter and Chapter 11.32 is subject to judicial review pursuant to A.R.S. Section 12-901 et seq., by any party to the proceeding before the county administrator. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

11.28.090

Exclusive remedy.

Notwithstanding any law to the contrary, including the provisions of A.R.S. Sections 12-821 et seq., and 12-1501, this chapter and Chapter 11.32 shall provide the exclusive procedures for asserting a claim against Pima County arising in relation to any procurement conducted under this chapter by Pima County. (Ord. 1997-45 § 2, 1997; Ord. 1991-101 § 1 (part), 1991)

Chapter 11.32

RULES FOR DEBARMENT AND SUSPENSION OF CONTRACTORS

11.32.010

Scope of rules.

These rules shall apply in all matters involving the suspension or debarment of any person from consideration for award of Pima County contracts pursuant to Chapter 11.28 of this title. (Ord. 1997-45 § 3 (part), 1997; Ord. 1991-102 § (part), 1991)

11.32.020

Definitions.

A. "Adequate evidence" means information sufficient to support the reasonable belief that a certain act or omission has occurred.

B. "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. It may also

include persons doing business under a variety of names or where there is a parent-subsidary relationship between persons.

C. "Construction" means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

D. "Contract" means all types of agreements, regardless of what they may be called, for the procurement of materials, services or construction or the disposal of materials.

E. "Contractor" means any person who submits proposals for, receives an award or subaward or performs services in connection with, or reasonably may be expected to be awarded or to perform services in connection with, a procurement. This term also includes any person who conducts business as an agent or representative of another contractor.

F. "Conviction" means the final judgment by any court of competent jurisdiction on a verdict or finding of guilty, a plea of guilty or a plea or nolo contendere to a criminal offense.

G. "Debarment" means an action taken by the county administrator under Chapter 11.28 and these rules to prohibit a person from participating in county procurements.

H. "Governing instruments" means those legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter and by-laws.

I. "Indictment" means an indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

J. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.

K. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals, however organized, including any subsidiary or affiliate of any of the foregoing.

L. "Preponderance of the evidence" means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; evidence which as a whole shows that the fact sought to be proved is more probable than not.

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

N. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor which

does not involve the delivery of a specific end product other than required reports and performance. Services does not include employment agreements or collective bargaining agreements.

O. "Subcontractor" means a person who contracts to perform work or render services to a contractor as defined by this section or to another subcontractor.

P. "Subsidiary" means any corporation, partnership, association or legal entity, however organized, which is owned or controlled by another person.

Q. "Suspension" means an action taken by the county administrator under Section 11.32.110 of these rules, temporarily disqualifying a person from participating in county procurements. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 §§ 1 (part), 1991)

11.32.030

Authority to debar or suspend.

The county administrator has the sole authority to debar or suspend a person from participating in county procurements. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.040

Initiation of debarment.

Upon receipt of information concerning a possible cause for debarment, the county administrator shall investigate the possible cause. If the county administrator has adequate evidence to believe that a cause for debarment exists, the county administrator may propose debarment under Section 11.32.060 of these rules. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.050

Period of debarment.

A. The period of time for a debarment shall not exceed three years from the date of the debarment determination.

B. If debarment is based solely upon debarment by another governmental agency, the period of debarment may run concurrently with the period established by that other debarring agency. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.060

Notice.

If the county administrator proposes debarment, the county administrator shall notify the person and affected affiliates in writing within seven days by certified mail, return receipt requested, of the proposed debarment and that a hearing shall be scheduled in accordance with these rules. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.070

Notice to affiliates.

A. If the county administrator proposes to debar an affiliate, the affiliate shall have a right to appear in any hearing on the proposed debarment to show mitigating circumstances.

B. The affiliate shall advise the county administrator in writing within thirty days of receipt of the

notice under Section 11.32.060 of these rules of its intention to appear under subsection A of this section. Failure to provide written notice of appearance within the thirty day period shall be a waiver of the right to appear in the hearing. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.080

Imputed conduct.

A. The improper conduct of a person or its affiliate or subsidiary, or a subcontractor, having a contract with a contractor may be imputed to the contractor for the 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.

B. The fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee, other individual, affiliate or subsidiary associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's, subsidiary's or affiliate's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be presumptive evidence of such knowledge, approval or acquiescence.

C. The fraudulent, criminal or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, other individual, affiliate or subsidiary associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.090

Reinstatement.

A. The county administrator may at any time after a final decision on a debarment reinstatement 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 county administrator supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.

C. The county administrator shall require a hearing on the request for reinstatement.

D. The decision on reinstatement shall be in writing, be made within seven days after the request for a hearing is filed and specify the factors on which it is based.

E. Decisions on reinstatement requests are not subject to judicial appeal. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.100

Limited participation and continuance of awards.

A. The county administrator may allow a debarred or suspended person to participate in county contracts on a limited basis during the debarment period upon a written determination that the debarred or suspended person constitutes the sole source of materials or services for the

county. The determination shall specify the factors on which it is based and define the extent of the limits imposed.

B. Notwithstanding the debarment or suspension of any person, the board of supervisors may continue agreements in existence at the time the person was suspended or debarred. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action. Said agreements shall not be renewed or extended. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.110

Suspension.

A. If adequate evidence exists in support of debarment, the county administrator may suspend a person from receiving any award in accordance with Sections 11.32.120 and 11.32.130 of these rules.

B. The county administrator shall not suspend a person pending debarment unless compelling reasons require suspension to protect county interests. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.120

Period and scope of suspension.

A. Unless otherwise agreed to by the parties, the period of suspension shall not be more than thirty days without satisfying the notice requirements of Section 11.32.130 of these rules.

B. For purposes of suspension, a person's conduct may be imputed to an affiliate or another person in accordance with Section 11.32.080 of these rules. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.130

Notice--Hearing--Determination and appeal.

A. The county administrator shall notify the person suspended by personal service or certified mail, return receipt requested.

B. The notice of suspension shall state:

1. The basis for suspension;
2. The period, including dates, of suspension;
3. That bids or proposals shall not be solicited or accepted from the person and, if received, 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 county administrator within seven days after receipt of the notice.

C. If a suspended party requests a hearing, the hearing officer shall arrange for a prompt hearing unless the county attorney determines that a hearing at such time is likely to jeopardize an investigation. In no case shall the hearing be delayed longer than six months after notice of suspension.

D. A hearing requested under this section shall be conducted, to the extent practicable, in accordance with these rules and the Arizona Administrative Procedure Act, A.R.S. Section 41-1001 et seq. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.140

Master list.

A. The county administrator shall maintain a master list of debarments and suspensions.

B. The master list shall show as a minimum the following information:

1. The names of those persons whom the county has debarred or suspended;
2. The basis of authority for the action;
3. The period of debarment or suspension, including the expiration date; and
4. The name of the debarring or suspending agency, if the county's debarment or suspension is based on debarment or suspension by another governmental agency. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.150

Hearing procedures.

A. If a hearing is required or permitted under these rules, the county administrator shall act as a hearing officer or appoint a hearing officer.

B. If a hearing is required or permitted under these rules, the hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing.

C. The hearing shall be conducted in an informal manner without formal rules of evidence or procedure.

D. The cause for debarment must be established by a preponderance of the evidence. This standard shall be deemed to have been met when the proposed debarment is based upon a conviction or civil judgment.

E. The hearing officer may:

1. Hold pre-hearing conferences to settle, simplify or identify the issues in a proceeding or to consider other matters that may aid in the expeditious disposition of the proceeding;
2. Require parties to state their positions concerning the various issues in the proceeding;
3. Require parties to produce for examination those relevant witnesses and documents under their control;
4. Rule on motions and other procedural items on matters pending before such officer;
5. Regulate the course of the hearing and conduct of participants;

6. Establish time limits for submission of motions or memoranda;
 7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
 - a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence,
 - b. Excluding all testimony of an unresponsive or evasive witness, and
 - c. Expelling persons from further participation in the hearing;
 8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
 9. Administer oaths or affirmations.
- F. A copy of the record of the hearing shall be made available at cost to the requesting party. (Ord 1997-45 § 3 part, 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.160

Recommendation by hearing officer.

- A. The hearing officer shall make a recommendation to the county administrator based on the evidence presented. The recommendation shall include findings of fact and conclusion of law.
- B. The county administrator may affirm, modify or reject the hearing officer's recommendation in whole or in part, may remand the matter to the hearing officer with instructions or may make any other appropriate disposition. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.170

Final decision by county administrator.

A decision by the county administrator shall be final. The decision shall be sent within twenty days after the conclusion of the hearing to all parties by personal service or certified mail, return receipt requested. The decision shall state that any party adversely affected may within ten days request a rehearing with the county administrator. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

11.32.180

Rehearing.

A. Any party, including a procurement officer, who is aggrieved by the county administrator's decision may file a written request for rehearing of the decision specifying the particular grounds.

1. The request for rehearing shall be filed with the county administrator within ten days after receipt of the decision and shall include any supporting affidavits.
2. The request shall be clearly designated as a "request for rehearing."
3. The county administrator shall within five days after the request is filed notify interested

parties of the request by personal service or certified mail, return receipt requested.

B. An interested party may within ten days after receipt of the notice file a response including opposing affidavits.

C. Any argument not raised in the request or in a response is waived.

D. The county administrator may require the filing of written briefs and may provide for oral argument.

E. A rehearing of the decision may be granted for any of the following causes:

1. Irregularity in the proceedings before the county administrator or an abuse of discretion by the county administrator, depriving the requesting party of a fair hearing;

2. Misconduct of the county administrator, his staff or the hearing officer or any party;

3. Accident or surprise that could not have been prevented by ordinary prudence;

4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;

5. Excessive or insufficient penalties;

6. Error in the admission or rejection of evidence or other error of law occurring at the hearing;

7. A showing that the decision is not justified by the evidence or is contrary to law.

F. The county administrator's decision concerning a request for rehearing shall be in writing and shall state the basis of the decision. A decision granting a rehearing shall be in writing and shall state the basis of the decision. A decision granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the date, time and place of the rehearing. The rehearing shall cover only those matters specified in the decision.

G. The county administrator, within the time for filing a request for rehearing under this section, may on his own initiative order a rehearing of his decision for any reason for which he might have granted a rehearing on request of a party. (Ord 1997-45 § 3 (part), 1997; Ord. 1991-102 § 1 (part), 1991)

Chapter 11.36
NONRETALIATION

11.36.010

Nonretaliation.

This title prohibits retaliation against anyone who participates or has participated in the hearing or study process related to the establishment of the Procurement Code or against anyone who initiates or assists in actions brought under this title. Such parties will not be adversely affected in the terms or conditions of conducting business. Any employee of Pima County who engages in retaliation action will be subject to discipline, up to and including termination. Any contractor

who engages in retaliation action due to the adoption of the ordinance shall be subject to the sanctions of this title, up to and including debarment. (Ord 1997-45 § 3 (part), 1997; Ord. 1997-45 § 3 (part), 1997)

CHAPTER 11.38 PIMA COUNTY LIVING WAGE

11.38.010

Conditions for use.

Employees of contractors entering into eligible contracts with Pima County for covered services shall be paid a living wage by said contractors for the hours expended providing services to the county as provided in this chapter. (Ord. 2002-1 § 1 (part), 2002)

11.38.020

Eligible contract.

An eligible contract shall be a contract awarded by the board of supervisors for covered services except for the following:

- A. Contracts under which federal or state regulations preclude the applicability of a living wage;
- B. Contracts involving programs where the county shares management authority with other jurisdictions, and intergovernmental and cooperative agreements;
- C. Contracts impacted by bond covenants, grant restrictions, governmental regulations; and
- D. Contracts for job training and youth or summer employment programs. (Ord. 2002-1 § 1 (part), 2002)

11.38.030

Covered services

Covered services are:

- A. Facility and building maintenance
- B. Refuse collection and recycling
- C. Temporary employee services
- D. Janitorial and custodial
- E. Landscape maintenance and weed control
- F. Pest control
- G. Security
- H. Moving services (Ord. 2002-1 § 1 (part), 2002)

11.38.040

Eligible employee

Any person employed by a contractor holding an eligible contract with the county who:

A. Is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation.

B. Expends chargeable time providing services to the county and on county property; and

C. Is at least sixteen (16) years of age. (Ord. 2002-1 § 1 (part), 2002)

11.38.050

Wages.

A. Eligible employees shall receive a wage of not less than nine dollars (\$9.00) per hour.

B. This rate shall be automatically adjusted each successive year based upon Consumer Price Index, Western Region.

C. If the contract is subject to a prevailing wage requirement or union agreement, the higher wage shall apply.

D. A contractor may request that it be allowed to pay its eligible employees a wage of no less than eight dollars (\$8.00) per hour if the contractor provides health benefits with a monthly value at least as high as the difference between a monthly wage based on nine dollars (\$9.00) per hour and the requested monthly wage of no less than eight dollars (\$8.00) per hour. Proof of said benefits shall be provided at the time of bid or proposal submission, or, as the county may require, in accordance with notification by the county of its intent to award a contract. (Ord. 2002-1 § 1 (part), 2002)

11.38.060

Compliance.

The county procurement director shall monitor compliance, including the investigation of claimed violations, and promulgate administrative rules and regulations to implement and enforce this article. In the event of any violation of the provisions set forth in this chapter, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and shall pay the eligible employee any amounts underpaid. The provisions in eligible contracts may allow any one or more of the following remedies in the event of a written determination of a noncompliance:

A. A penalty imposed by the county in the amount of \$50.00 for each incidence of a noncompliance for each day of noncompliance and/or each day it continues.

B. Suspension of further payments on the contract until the violation has ceased.

C. Suspension and/or termination of the contract for cause.

D. Debar or suspend the contractor or subcontractor from future county contracts pursuant to Chapter 11.28.

Protests or appeals of the remedies for noncompliance shall be handled under Chapter 11.20. (Ord. 2002-1 § 1 (part), 2002)

11.38.070**Records.**

A. The contractor or subcontractor shall make its records available for inspection, copying, or transcription by authorized representatives of the county procurement department, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or make them available, the county procurement director may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to Chapter 11.28.

B. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period for three years thereafter for all eligible employees. Such records shall contain the name, address, and social security number of each eligible employee, his or her correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

C. The contractor shall submit a payroll record for all eligible employees to the procurement director within seven days from the end of the payroll period. The payrolls submitted shall set out accurately and completely all the information required to be maintained under subparagraph (b) of this section. (Ord. 2002-1 § 1 (part), 2002)

11.38.080**Reporting.**

On or about December 1, 2002, and every year thereafter, the county procurement director shall file an annual report on compliance with the county administrator and the board of supervisors. (Ord. 2002-1 § 1 (part), 2002)