House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 182

SENATE BILL 1235

AN ACT

AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES; RELATING TO THE PROCUREMENT CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-2501, Arizona Revised Statutes, is amended to
3 read:
4 41-2501. Applicability
5 A. This chapter applies only to procurements initiated after January
6 1, 1985 unless the parties agree to its application to procurements initiated
7 before that date.
8 B. This chapter applies to every expenditure of public monies,
9 including federal assistance monies except as otherwise specified in section
10 41-2637, by this state, acting through a state governmental unit as defined
11 in this chapter, under any contract, except that this chapter does not apply
12 to either grants as defined in this chapter, or contracts between this state
13 and its political subdivisions or other governments, except as provided in
14 chapter 24 of this title and in article 10 of this chapter. This chapter
15 also applies to the disposal of state materials. This chapter and rules
16 adopted under this chapter do not prevent any state governmental unit or
17 political subdivision from complying with the terms of any grant, gift,
18 bequest or cooperative agreement.
19 C. All political subdivisions and other local public agencies of this
20 state may adopt all or any part of this chapter and the rules adopted
21 pursuant to this chapter.
22 D. The Arizona board of regents, the legislative and judicial branches
23 of state government and the state compensation fund are not subject to the
24 provisions of this chapter except as prescribed in subsection E of this
25 section.
26 E. The Arizona board of regents and the judicial branch shall adopt
27 rules prescribing procurement policies and procedures for themselves and
28 institutions under their jurisdiction. The rules must be substantially
29 equivalent to the policies and procedures prescribed in this chapter.
30 F. The Arizona state lottery commission is exempt from the provisions
31 of this chapter for procurement relating to the design and operation of the
32 lottery or purchase of lottery equipment, tickets and related materials. The
33 executive director of the Arizona state lottery commission shall adopt rules
34 substantially equivalent to the policies and procedures in this chapter for
35 procurement relating to the design and operation of the lottery or purchase
36 of lottery equipment, tickets or related materials. All other procurement
37 shall be as prescribed by this chapter.
38 G. The Arizona health care cost containment system administration is
39 exempt from the provisions of this chapter for provider contracts pursuant
40 to section 36-2904, subsection A and contracts for goods and services
41 including program contractor contracts pursuant to title 36, chapter 29,
42 articles 2 and 3. All other procurement, including contracts for the
43 statewide administrator of the program pursuant to section 36-2903,
44 subsection B, shall be as prescribed by this chapter.

H. Arizona industries for the blind is exempt from the provisions of this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from the provisions of this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from the provisions of this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

K. The Arizona highways magazine is exempt from the provisions of this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from the provisions of this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. The provisions of this chapter are not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from the provisions of this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from the provisions of this chapter.

P. The provisions of this chapter are not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554. ~~, to contracts entered into~~

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ee). ~~or to contracts~~

3. For services pursuant to title 36, chapter 29, article 2.

4. WITH AN ELIGIBLE ENTITY AS DEFINED BY PUBLIC LAW 105-285, SECTION 673(1)(a)(i), AS AMENDED, FOR DESIGNATED COMMUNITY SERVICES BLOCK GRANT PROGRAM MONIES AND ANY OTHER MONIES GIVEN TO THE ELIGIBLE ENTITY THAT ACCOMPLISHES THE PURPOSE OF PUBLIC LAW 105-285, SECTION 672.

Q. The department of health services may not require that persons with whom it contracts follow the provisions of this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

R. The department of health services is exempt from the provisions of this chapter for contracts for services of physicians at the Arizona state hospital.

S. Contracts for goods and services approved by the fund manager of the public safety personnel retirement system are exempt from the provisions of this chapter.

T. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1. On or before September 1 OF each year, the director of the Arizona department of agriculture shall establish and announce costs for each acre of cotton or cotton stubble to be abated by private contractors.

U. The Arizona state parks board is exempt from the provisions of this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

V. The Arizona state parks board is exempt from the provisions of this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

W. The Arizona state schools for the deaf and the blind are exempt from the provisions of this chapter when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

X. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from the provisions of this chapter.

1 Y. The state department of corrections is exempt from the provisions
2 of this chapter for purchases of food commodities to be used in the
3 preparation of meals for inmates and for the purchase of inmate store goods.
4 All other procurement shall be as prescribed by this chapter.
5 Z. Notwithstanding section 41-2534, the director of the state
6 department of corrections may contract with local medical providers in
7 counties with a population of less than four hundred thousand persons
8 according to the most recent United States decennial census for the following
9 purposes:
10 1. To acquire hospital and professional medical services for inmates
11 who are incarcerated in state department of corrections facilities that are
12 located in those counties.
13 2. To ensure the availability of emergency medical services to inmates
14 in all counties by contracting with the closest medical facility that offers
15 emergency treatment and stabilization.
16 AA. The department of environmental quality is exempt from the
17 provisions of this chapter for contracting for procurements relating to the
18 water quality assurance revolving fund program established pursuant to title
19 49, chapter 2, article 5. The department shall engage in a source selection
20 process that is similar to the procedures prescribed by this chapter. The
21 department may contract for remedial actions with a single selection
22 process. The exclusive remedy for disputes or claims relating to contracting
23 pursuant to this subsection is as prescribed by article 9 of this chapter and
24 the rules adopted pursuant to that article. All other procurement by the
25 department shall be as prescribed by this chapter.
26 BB. The motor vehicle division of the department of transportation is
27 exempt from the provisions of this chapter for third party authorizations
28 pursuant to title 28, chapter 13, only if all of the following conditions
29 exist:
30 1. The division does not pay any public monies to an authorized third
31 party.
32 2. Exclusivity is not granted to an authorized third party.
33 3. The director has complied with the requirements prescribed in title
34 28, chapter 13 in selecting an authorized third party.
35 CC. This section does not exempt third party authorizations pursuant
36 to title 28, chapter 13 from any other applicable law.
37 DD. The state forester is exempt from the provisions of this chapter
38 for purchases and contracts relating to wild land fire suppression and
39 pre-positioning equipment resources and for other activities related to
40 combating wild land fires and other unplanned risk activities, including
41 fire, flood, earthquake, wind and hazardous material responses. All other
42 procurement by the state forester shall be as prescribed by this chapter.

1 EE. The cotton research and protection council is exempt from the
2 provisions of this chapter for procurements relating to its aflatoxin control
3 program and for contracts for research programs related to cotton production
4 or protection.
5 FF. Expenditures of monies in the Arizona agricultural protection fund
6 established by section 3-3304 are exempt from this chapter.

APPROVED BY THE GOVERNOR MAY 9, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2003.

ON RECONSIDERATION

Passed the House April 17, 2003

by the following vote: 35 Ayes,

22 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

Passed the Senate _____, 20___,

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20___,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20___,

at _____ o'clock _____ M.

Secretary of State

S.B. 1235

FAILED
~~Passed~~ the House April 14, 20 03,

by the following vote: 27 Ayes,

33 Nays, 0 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

Passed the Senate February 27, 20 03,

by the following vote: 23 Ayes,

7 Nays, 0 Not Voting

Ken Bennett

President of the Senate

Nama Chastain

Asst.

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1235

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 5, 2003,

by the following vote: 17 Ayes,

12 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of May, 2003

at 2:20 o'clock P M.

Secretary to the Governor

Approved this 9 day of

May, 2003,

at 2:45 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of May, 2003,

at 4:13 o'clock P M.

Secretary of State

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