

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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CHAPTER 145

HOUSE BILL 2321

AN ACT

AMENDING SECTIONS 41-741, 41-753, 41-1231, 41-1233.01, 41-2501, 41-2503, 41-2517 AND 41-2546, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA 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 41-741, Arizona Revised Statutes, is amended to
3 read:

4 41-741. Definitions

5 In this article and articles 5 and 6 of this chapter, unless the
6 context otherwise requires:

7 1. "Appointing authority" means the person or group of persons
8 authorized by law or delegated authority to make appointments to fill
9 positions.

10 2. "At will" means an employment relationship where either party to
11 the relationship may sever the relationship at any time for any reason other
12 than an unlawful reason.

13 3. "Break in service" means a separation from state employment,
14 regardless of the reason for separation.

15 4. "Change in assignment" means movement of an employee to a different
16 position in the same state agency or another state agency.

17 5. "Covered employee" means an employee who:

18 (a) Before September 29, 2012, is in the state service, is not
19 uncovered pursuant to section 41-742, subsection A and has remained in
20 covered status without a break in service since that date.

21 (b) Before September 29, 2012, is in the state service, is employed as
22 a correctional officer I, correctional officer II, correctional officer III
23 or community corrections officer and has remained in covered status without a
24 break in service since that date.

25 (c) Before September 29, 2012, is in the state service, is a full
26 authority peace officer as certified by the Arizona peace officer standards
27 and training board and has remained in that status without a break in service
28 since that date.

29 (d) On or after September 29, 2012, is a correctional officer I,
30 correctional officer II, correctional officer III or community corrections
31 officer and is appointed to a position in the covered service, but does not
32 include a position in any other class in the correctional officer class
33 series or the community correctional officer class series or in any other
34 correctional class series.

35 (e) On or after September 29, 2012, is a full authority peace officer
36 as certified by the Arizona peace officer standards and training board and is
37 appointed to a position that requires such a certification in the covered
38 service.

39 6. "Covered service" means that employment status conferring rights of
40 appeal as prescribed in sections 41-782 and 41-783 or section 41-1830.16, as
41 applicable.

42 7. "Director" means the director of the department of administration,
43 or the director's designee, who is responsible for administering the state
44 personnel system pursuant to applicable state and federal laws.

1 8. "Employee" means all officers and employees of this state, whether
2 in covered service or uncovered service, unless otherwise prescribed.

3 9. "Full authority peace officer" means a peace officer whose
4 authority to enforce the laws of this state is not limited by the rules
5 adopted by the Arizona peace officer standards and training board.

6 10. "Original probationary period" means the specified period following
7 initial appointment to covered service.

8 11. "Probationary period" means a working test period of employment in
9 a covered service position for evaluation of the employee's work.

10 12. "Promotional probation" means the specified period of employment
11 following promotion of a permanent status employee to another covered service
12 position that has a higher pay grade.

13 13. "Rules" means rules adopted by the department of administration,
14 human resources division.

15 14. "Significant procurement role":

16 (a) Means any role that includes any of the following duties:

17 ~~(a)~~ (i) Participating in the development of a procurement as defined
18 in section 41-2503.

19 ~~(b)~~ (ii) Participating in the development of an evaluation tool.

20 ~~(c)~~ (iii) Approving a procurement as defined in section 41-2503 or an
21 evaluation tool.

22 ~~(d)~~ (iv) Soliciting quotes greater than ten thousand dollars for the
23 provision of materials, services or construction.

24 ~~(e)~~ (v) Serving as a technical advisor or an evaluator who evaluates
25 a procurement as defined in section 41-2503.

26 ~~(f)~~ (vi) Recommending or selecting a vendor that will provide
27 materials, services or construction to this state.

28 ~~(g)~~ (vii) Serving as a decision maker or designee on a protest or an
29 appeal by a party regarding an agency procurement selection or decision.

30 (b) DOES NOT INCLUDE MAKING DECISIONS ON DEVELOPING SPECIFICATIONS AND
31 THE SCOPE OF WORK FOR A PROCUREMENT AS DEFINED IN SECTION 41-2503 IF THE
32 DECISION IS BASED ON THE APPLICATION OF COMMONLY ACCEPTED INDUSTRY STANDARDS
33 OR KNOWN PUBLISHED STANDARDS OF THE AGENCY AS APPLIED TO THE PROJECT,
34 SERVICES, GOODS OR MATERIALS.

35 15. "State agency" means a department, board, office, authority,
36 commission or other governmental budget unit of this state and includes an
37 agency assigned to a department for administrative purposes. State agency
38 does not include the legislative and judicial branches, the Arizona board of
39 regents, state universities, the Arizona state schools for the deaf and the
40 blind, the department of public safety, the Arizona peace officer standards
41 and training board, the cotton research and protection council or public
42 corporations.

43 16. "State personnel board" means the board established by section
44 41-781.

1 17. "State personnel system" means all state agencies and employees of
2 those agencies that are not exempted by this article.

3 18. "State service" means all offices and positions of employment in
4 state government that, before September 29, 2012, were subject to the
5 provisions of articles 5 and 6 of this chapter that were in effect before
6 September 29, 2012.

7 19. "Supervisor" means a state employee who has one or more other state
8 employees reporting directly to the person and, for those state employees,
9 typically has the authority to:

- 10 (a) Approve sick or annual leave.
- 11 (b) Recommend hiring, discipline or dismissal.
- 12 (c) Assign or schedule daily work.
- 13 (d) Complete a performance evaluation.

14 20. "Uncovered employee" means an employee in uncovered service.

15 21. "Uncovered service" means employment at will and includes all state
16 employees except those in covered service.

17 Sec. 2. Section 41-753, Arizona Revised Statutes, is amended to read:

18 41-753. Unlawful acts; violation; classification

19 A. A person shall not make any false statement, certificate, mark,
20 rating or report with regard to any test, certification or appointment made
21 under this article or in any manner commit any fraud preventing the impartial
22 execution of this article or rules adopted under this article.

23 B. A person shall not, directly or indirectly, give, render, pay,
24 offer, solicit or accept any money, service or other valuable consideration
25 for or on account of any appointment, proposed appointment, promotion or
26 proposed promotion to, or any advantage in, a position in the state personnel
27 system.

28 C. An employee of any state agency, examiner or other person shall not
29 obstruct any person in the person's right to examination, eligibility,
30 certification or appointment under this article, or furnish to any person any
31 special or secret information for the purpose of affecting the rights or
32 prospects of any person with respect to employment in the state personnel
33 system.

34 D. An employee of any agency as defined in section 41-1001, including
35 the office of the governor, who has a significant role in the procurement of
36 materials, services or construction shall not accept an offer of employment
37 from or have employment discussions with any person or entity lobbying for or
38 potentially responding to a solicitation during a period beginning on
39 signature of the first nondisclosure agreement pertaining to a particular
40 solicitation or at the time of request for a sole source procurement or
41 competition impracticable procurement AND ENDING AT THE TIME OF THE CONTRACT
42 AWARD. AN EMPLOYEE OF ANY AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING
43 THE OFFICE OF THE GOVERNOR, WHO HAS A SIGNIFICANT ROLE IN THE PROCUREMENT OF
44 MATERIALS, SERVICES OR CONSTRUCTION SHALL NOT ACCEPT AN OFFER OF EMPLOYMENT
45 FROM OR HAVE EMPLOYMENT DISCUSSIONS WITH THE SUCCESSFUL OFFEROR OR OFFERORS

1 AND THEIR LOBBYISTS DURING A PERIOD BEGINNING ON SIGNATURE OF THE FIRST
2 NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE
3 TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE
4 PROCUREMENT and ending one year after the purchased materials are delivered
5 or the purchase of services or construction begins. THE DIRECTOR OF THE
6 DEPARTMENT OF ADMINISTRATION MAY WAIVE ANY OR ALL OF THE WAITING PERIOD IN
7 EXCESS OF TWENTY-FOUR MONTHS FOR A PROCUREMENT OFFICER OR AN EMPLOYEE WITH A
8 SIGNIFICANT PROCUREMENT ROLE IF THE PERIOD OF TIME THAT FOLLOWS THE SIGNATURE
9 OF THE NONDISCLOSURE AGREEMENT EXCEEDS TWENTY-FOUR MONTHS. A PROCUREMENT
10 OFFICER OR AN EMPLOYEE SEEKING A WAIVER SHALL MAKE A WRITTEN REQUEST TO THE
11 OFFICER'S OR EMPLOYEE'S STATE AGENCY DIRECTOR, AND THE DIRECTOR OF THE STATE
12 AGENCY SHALL FORWARD THE REQUEST WITH A WRITTEN RECOMMENDATION TO THE
13 DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION. THE DIRECTOR OF THE DEPARTMENT
14 OF ADMINISTRATION SHALL PROVIDE A WRITTEN DECISION AND JUSTIFICATION WITHIN
15 FIFTEEN BUSINESS DAYS AFTER THE RECEIPT OF THE COMPLETE REQUEST. THE
16 DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY NOT APPROVE WAIVER REQUESTS
17 FOR MATTERS STILL IN EVALUATION OR WITHIN SIX MONTHS FOLLOWING THE CONTRACT
18 AWARD. IF THE REQUESTING PARTY IS THE DIRECTOR OR A DEPUTY DIRECTOR OF A
19 STATE AGENCY, THE REQUEST FOR A WAIVER AND ALL WRITTEN MATERIALS, INCLUDING A
20 DIRECTOR RECOMMENDATION, MUST BE FORWARDED TO THE GOVERNOR FOR A FINAL
21 DECISION, EXCEPT THAT THE DIRECTOR MAY NOT MAKE ANY RECOMMENDATION OR
22 DETERMINATION ON THE DIRECTOR'S OWN REQUEST. An agency as defined in section
23 41-1001, including the office of the governor, shall inform its employees
24 when the first nondisclosure agreement is signed on a particular
25 solicitation, and the agency shall notify the state procurement administrator
26 who shall post information regarding the date of the first nondisclosure
27 agreement pertaining to a particular procurement activity on the department
28 of administration's website. THIS SUBSECTION DOES NOT APPLY TO A PROCUREMENT
29 OFFICER OR AN EMPLOYEE WHO IN GOOD FAITH RELIES ON A DETERMINATION ISSUED BY
30 THE DIRECTOR PURSUANT TO SECTION 41-2517, SUBSECTION D THAT THE PROCUREMENT
31 OFFICER OR EMPLOYEE HAS NOT HAD A SIGNIFICANT PROCUREMENT ROLE.

32 E. Any person who knowingly violates subsection A, B, C or D of this
33 section is guilty of a class 2 misdemeanor.

34 F. An elected or appointed official shall not with corrupt intent use
35 the official's political influence or position to cause the firing, promotion
36 or demotion of any public employee or the hiring of or failure to hire any
37 applicant for public employment.

38 G. An elected or appointed official who knowingly and with corrupt
39 intent violates subsection F of this section is guilty of a class 2
40 misdemeanor.

41 H. Any person who is convicted of a class 2 misdemeanor under this
42 article, for a period of five years, is ineligible for appointment to or
43 employment in a position in the state personnel system and, if the person is
44 an employee of this state at the time of conviction, is subject to suspension
45 for not less than ninety days or dismissal.

1 I. A contact by an elected or appointed official with a public agency
2 regarding the qualifications of an applicant shall not be construed as
3 illegally using political influence or position.

4 Sec. 3. Section 41-1231, Arizona Revised Statutes, is amended to read:
5 41-1231. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Authorized lobbyist" means any person, other than a designated
8 lobbyist or lobbyist for compensation, who is employed by, retained by or
9 representing a principal, with or without compensation, for the purpose of
10 lobbying and who is listed as an authorized lobbyist by the principal in its
11 registration pursuant to section 41-1232.

12 2. "Authorized public lobbyist" means a person, other than a
13 designated public lobbyist, who is employed by, retained by or representing a
14 public body, with or without compensation, for the purpose of lobbying and
15 who is listed as an authorized public lobbyist by the public body in its
16 registration pursuant to section 41-1232.01.

17 3. "Designated lobbyist" means the person who is designated by a
18 principal as the single point of contact for the principal and who is listed
19 as the designated lobbyist by the principal in its registration pursuant to
20 section 41-1232.

21 4. "Designated public lobbyist" means the person who is designated by
22 a public body as the single point of contact for the public body and who is
23 listed as the designated public lobbyist by the public body in its
24 registration pursuant to section 41-1232.01.

25 5. "Entertainment" means the amount of any expenditure paid or
26 incurred for admission to any sporting or cultural event or for participation
27 in any sporting or cultural activity.

28 6. "Expenditure" means a payment, distribution, loan, advance, deposit
29 or gift of money or anything of value and includes a contract, promise or
30 agreement, whether or not legally enforceable, to make an expenditure that
31 provides a benefit to an individual state officer or state employee and that
32 is incurred by or on behalf of one or more principals, public bodies,
33 lobbyists, designated public lobbyists or authorized public lobbyists.

34 7. "Family gift" means a gift to a state officer or employee or a
35 member of the officer's or employee's household from a principal, lobbyist,
36 designated public lobbyist or authorized public lobbyist who is a relative of
37 the state officer or employee or a member of the household of the state
38 officer or employee if the donor is not acting as the agent or intermediary
39 for someone other than a person covered by this paragraph.

40 8. "Food or beverage" means the amount of any expenditure paid or
41 incurred for food or beverages for a state officer or employee provided at a
42 location at which the principal, public body, lobbyist, designated public
43 lobbyist or authorized public lobbyist who made the expenditure is present.

1 9. "Gift" means a payment, distribution, expenditure, advance, deposit
2 or donation of money, any intangible personal property or any kind of
3 tangible personal or real property. For the purposes of this article, gift
4 does not include:

5 (a) A gift, devise or inheritance from an individual's spouse, child,
6 parent, grandparent, grandchild, brother, sister, parent-in-law,
7 brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or
8 the spouse of any such individual if the donor is not acting as the agent or
9 intermediary for someone other than a person covered by this subdivision.

10 (b) Expenditures that are either properly reported or exempt from
11 reporting under this chapter for:

12 (i) A speaking engagement.

13 (ii) Food or beverages.

14 (iii) Travel and lodging.

15 (iv) Flowers.

16 (c) Salary, compensation or employer-reimbursed expenses lawfully paid
17 to a public official.

18 (d) The value, cost or price of professional or consulting services
19 that are not rendered to obtain a benefit for any registered principal,
20 public body, lobbyist, designated public lobbyist or authorized public
21 lobbyist or the clients of a principal or lobbyist.

22 (e) Expenses relating to a special event or function to which all
23 members of the legislature, either house of the legislature or any committee
24 of the legislature are invited.

25 (f) A plaque or other form of recognition similar to a plaque to a
26 state officer or state employee to signify the honorary recognition of a
27 service or other notable accomplishment.

28 (g) Informational material such as books, reports, pamphlets,
29 calendars or periodicals.

30 (h) An item that is not used and that is returned within fifteen days
31 of receipt to the donor or that is delivered within fifteen days of receipt
32 to a charitable organization and that is not claimed as a charitable
33 contribution for state or federal income tax purposes.

34 (i) A campaign contribution that is properly received and reported as
35 required by law.

36 (j) An item that is given to a state officer or employee if the state
37 officer or employee gives an item of approximately the same value to the
38 giver of the item at the same time that the item is given or on a similar
39 occasion as the one that prompted the original item to be given.

40 (k) Gifts of a personal nature that were customarily received by an
41 individual from the donor before the individual became a state officer or
42 employee.

43 (l) An item that is given to the general public at an event.

1 10. "Legislation" means bills, resolutions, memorials, amendments,
2 nominations and other matters that are pending or proposed in either house of
3 the legislature of this state.

4 11. "Lobbying":

5 (a) Means attempting to influence the passage or defeat of any
6 legislation by directly communicating with any legislator or attempting to
7 influence any formal ~~rule-making~~ RULEMAKING proceeding pursuant to chapter 6
8 of this title or ~~rule-making~~ RULEMAKING proceedings that are exempt from
9 chapter 6 of this title by directly communicating with any state officer or
10 employee.

11 (b) Includes, for a person who is otherwise required to be registered
12 as a lobbyist for compensation pursuant to this article, attempting to
13 influence the procurement of materials, services or construction by an agency
14 as defined in section 41-1001, including the office of the governor.

15 (c) Does not include:

16 (i) Interagency communications between state agency employees.

17 (ii) Communications between a public official or employee of a public
18 body, designated public lobbyist or authorized public lobbyist and any state
19 officer, except for a member of the legislature, or an employee of the
20 legislature.

21 (iii) Oral questions or comments made by a person to a state officer
22 or employee regarding a proposed rule and made in public at a meeting or
23 workshop that is open to the public and that is sponsored by a state agency,
24 board, commission, council or office.

25 (iv) Communications between a public body and a self-employed person
26 or person employed by a partnership or company regarding the procurement of
27 materials, services or construction unless the self-employed person or person
28 employed by a partnership or company is otherwise required to register
29 pursuant to this article or is employed by, supervised by at any level or
30 contracted ~~with~~ BY a person who is otherwise required to register AS A
31 LOBBYIST FOR COMPENSATION pursuant to this article.

32 12. "Lobbyist" means any person, other than a designated public
33 lobbyist or authorized public lobbyist, who is employed by, retained by or
34 representing a person other than himself, with or without compensation, for
35 the purpose of lobbying and who is listed as a lobbyist by the principal in
36 its registration pursuant to section 41-1232. Lobbyist includes a lobbyist
37 for compensation, designated lobbyist and authorized lobbyist.

38 13. "Lobbyist for compensation" means a lobbyist who is compensated for
39 the primary purpose of lobbying on behalf of a principal and who is listed by
40 the principal in its registration pursuant to section 41-1232.

41 14. "Person" means an individual, partnership, committee, association
42 or corporation and any other organization or group of persons, except
43 legislators and political parties qualified for representation on the ballot
44 pursuant to section 16-801 or 16-804.

1 15. "Personal hospitality" means hospitality, meals, beverages,
2 transportation or lodging furnished but not commercially provided by a person
3 on property or facilities owned or possessed by the person or the person's
4 family.

5 16. "Principal" means any person, other than a public body, that
6 employs, retains, engages or uses, with or without compensation, a lobbyist.
7 Principal includes any subsidiary of a corporation.

8 17. "Procurement" has the same meaning prescribed in section 41-2503.

9 18. "Public body" means the Arizona board of regents, a university
10 under the jurisdiction of the Arizona board of regents, the judicial
11 department, any state agency, board, commission or council, any county, any
12 county elected officer who elects to appoint a designated public lobbyist or
13 any city, town, district or other political subdivision of this state that
14 receives and uses tax revenues and that employs, retains, engages or uses,
15 with or without compensation, a designated public lobbyist or authorized
16 public lobbyist.

17 19. "Public official" means a person who is duly elected, appointed or
18 retained through election to an elected state, county or local office.

19 20. "Single expenditure" means an expenditure that provides a benefit
20 of more than twenty dollars to an individual state officer or state employee
21 and that is incurred by or on behalf of one or more principals, public
22 bodies, lobbyists, designated public lobbyists or authorized public
23 lobbyists.

24 21. "Speaking engagement":

25 (a) Means the amount of any expense paid or incurred for entrance
26 fees, lodging, food and beverage, entertainment, travel and other expenses
27 for the state officer's or employee's attendance at an event, committee,
28 meeting, conference or seminar, including meetings of state, regional or
29 national organizations or their committees concerned with legislative or
30 governmental activities if the state officer or employee participates in the
31 event as a speaker or panel participant by presenting information relating to
32 the state officer's or employee's legislative or official duties or by
33 performing a ceremonial function appropriate to the state officer's or
34 employee's position.

35 (b) Does not include expenditures for an honorarium or any other
36 similar fee paid to a speaker.

37 22. "State employee" means an employee of the legislature, a university
38 under the jurisdiction of the Arizona board of regents, the judicial
39 department or a state office, agency, board, commission or council.

40 23. "State officer" means a person who is duly elected, appointed or
41 retained through election to any state office, or a member of any state
42 board, commission or council, and includes a member of the legislature.

1 Sec. 4. Section 41-1233.01, Arizona Revised Statutes, is amended to
2 read:

3 41-1233.01. Disclosure

4 A person who is registered pursuant to this article or who is a
5 designated lobbyist, lobbyist for compensation, authorized lobbyist,
6 designated public lobbyist or authorized public lobbyist shall disclose that
7 fact to:

8 1. Any legislator the person is lobbying for the first time or on any
9 subsequent request of a legislator.

10 2. Any public official or employee of a public body EACH TIME that the
11 person is lobbying for the procurement of materials, services or
12 construction. THE PERSON ALSO SHALL DISCLOSE THE NAME OF THAT PERSON'S
13 CLIENT.

14 Sec. 5. Section 41-2501, Arizona Revised Statutes, is amended to read:
15 41-2501. Applicability

16 A. This chapter applies only to procurements initiated after
17 January 1, 1985 unless the parties agree to its application to procurements
18 initiated before that date.

19 B. This chapter applies to every expenditure of public monies,
20 including federal assistance monies except as otherwise specified in section
21 41-2637, by this state, acting through a state governmental unit as defined
22 in this chapter, under any contract, except that this chapter does not apply
23 to either grants as defined in this chapter, or contracts between this state
24 and its political subdivisions or other governments, except as provided in
25 chapter 24 of this title and in article 10 of this chapter. This chapter
26 also applies to the disposal of state materials. This chapter and rules
27 adopted under this chapter do not prevent any state governmental unit or
28 political subdivision from complying with the terms of any grant, gift,
29 bequest or cooperative agreement.

30 C. All political subdivisions and other local public agencies of this
31 state may adopt all or any part of this chapter and the rules adopted
32 pursuant to this chapter.

33 D. Notwithstanding any other law, ~~section~~ SECTIONS 41-2517 applies AND
34 41-2546 APPLY to any agency as defined in section 41-1001, including the
35 office of the governor.

36 E. The Arizona board of regents and the legislative and judicial
37 branches of state government are not subject to this chapter except as
38 prescribed in subsection F of this section.

39 F. The Arizona board of regents and the judicial branch shall adopt
40 rules prescribing procurement policies and procedures for themselves and
41 institutions under their jurisdiction. The rules must be substantially
42 equivalent to the policies and procedures prescribed in this chapter.

43 G. The Arizona state lottery commission is exempt from this chapter
44 for procurement relating to the design and operation of the lottery or
45 purchase of lottery equipment, tickets and related materials. The executive

1 director of the Arizona state lottery commission shall adopt rules
2 substantially equivalent to the policies and procedures in this chapter for
3 procurement relating to the design and operation of the lottery or purchase
4 of lottery equipment, tickets or related materials. All other procurement
5 shall be as prescribed by this chapter.

6 H. The Arizona health care cost containment system administration is
7 exempt from this chapter for provider contracts pursuant to section 36-2904,
8 subsection A and contracts for goods and services, including program
9 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All
10 other procurement, including contracts for the statewide administrator of the
11 program pursuant to section 36-2903, subsection B, shall be as prescribed by
12 this chapter.

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

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

23 K. The state transportation board and the director of the department
24 of transportation are exempt from this chapter other than section 41-2586 for
25 the procurement of construction or reconstruction, including engineering
26 services, of transportation facilities or highway facilities and any other
27 services that are directly related to land titles, appraisals, real property
28 acquisition, relocation, property management or building facility design and
29 construction for highway development and that are required pursuant to title
30 28, chapter 20.

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

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

40 N. This chapter is not applicable to contracts for professional
41 witnesses if the purpose of such contracts is to provide for professional
42 services or testimony relating to an existing or probable judicial proceeding
43 in which this state is or may become a party or to contract for special
44 investigative services for law enforcement purposes.

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

5 P. Agreements negotiated by legal counsel representing this state in
6 settlement of litigation or threatened litigation are exempt from this
7 chapter.

8 Q. This chapter is not applicable to contracts entered into by the
9 department of economic security:

10 1. With a provider licensed or certified by an agency of this state to
11 provide child day care services or with a provider of family foster care
12 pursuant to section 8-503 or 36-554.

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

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

17 4. With an eligible entity as defined by Public Law 105-285, section
18 673(1)(a)(i), as amended, for designated community services block grant
19 program monies and any other monies given to the eligible entity that
20 accomplishes the purpose of Public Law 105-285, section 672.

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

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

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

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

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

30 S. The department of health services is exempt from this chapter for
31 contracts for services of physicians at the Arizona state hospital.

32 T. Contracts for goods and services approved by the board of trustees
33 of the public safety personnel retirement system are exempt from this
34 chapter.

35 U. The Arizona department of agriculture is exempt from this chapter
36 with respect to contracts for private labor and equipment to effect cotton or
37 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
38 article 1.

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

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

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

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

9 Z. Notwithstanding section 41-2534, the director of the state
10 department of corrections may contract with local medical providers in
11 counties with a population of less than four hundred thousand persons
12 ~~according to the most recent United States decennial census~~ for the following
13 purposes:

14 1. To acquire hospital and professional medical services for inmates
15 who are incarcerated in state department of corrections facilities that are
16 located in those counties.

17 2. To ensure the availability of emergency medical services to inmates
18 in all counties by contracting with the closest medical facility that offers
19 emergency treatment and stabilization.

20 AA. The department of environmental quality is exempt from this
21 chapter for contracting for procurements relating to the water quality
22 assurance revolving fund program established pursuant to title 49, chapter 2,
23 article 5. The department shall engage in a source selection process that is
24 similar to the procedures prescribed by this chapter. The department may
25 contract for remedial actions with a single selection process. The exclusive
26 remedy for disputes or claims relating to contracting pursuant to this
27 subsection is as prescribed by article 9 of this chapter and the rules
28 adopted pursuant to that article. All other procurement by the department
29 shall be as prescribed by this chapter.

30 BB. The motor vehicle division of the department of transportation is
31 exempt from this chapter for third-party authorizations pursuant to title 28,
32 chapter 13, only if all of the following conditions exist:

33 1. The division does not pay any public monies to an authorized third
34 party.

35 2. Exclusivity is not granted to an authorized third party.

36 3. The director has complied with the requirements prescribed in title
37 28, chapter 13 in selecting an authorized third party.

38 CC. This section does not exempt third-party authorizations pursuant
39 to title 28, chapter 13 from any other applicable law.

40 DD. The state forester is exempt from this chapter for purchases and
41 contracts relating to wildland fire suppression and pre-positioning equipment
42 resources and for other activities related to combating wildland fires and
43 other unplanned risk activities, including fire, flood, earthquake, wind and
44 hazardous material responses. All other procurement by the state forester
45 shall be as prescribed by this chapter.

1 EE. The cotton research and protection council is exempt from this
2 chapter for procurements.

3 FF. Expenditures of monies in the Arizona agricultural protection fund
4 established by section 3-3304 are exempt from this chapter.

5 GG. The Arizona commerce authority is exempt from this chapter, except
6 article 10 for the purpose of cooperative purchases. The authority shall
7 adopt policies, procedures and practices, in consultation with the department
8 of administration, that are similar to and based on the policies and
9 procedures prescribed by this chapter for the purpose of increased public
10 confidence, fair and equitable treatment of all persons engaged in the
11 process and fostering broad competition while accomplishing flexibility to
12 achieve the authority's statutory requirements. The authority shall make its
13 policies, procedures and practices available to the public. The authority
14 may exempt specific expenditures from the policies, procedures and practices.

15 HH. The Arizona exposition and state fair board is exempt from this
16 chapter for contracts for professional entertainment.

17 II. This chapter does not apply to the purchase of water, gas or
18 electric utilities.

19 JJ. This chapter does not apply to professional certifications,
20 professional memberships and conference registrations.

21 KK. THE DEPARTMENT OF GAMING IS EXEMPT FROM THIS CHAPTER FOR PROBLEM
22 GAMBLING TREATMENT SERVICES CONTRACTS WITH LICENSED BEHAVIORAL HEALTH
23 PROFESSIONALS.

24 LL. THIS CHAPTER DOES NOT APPLY TO CONTRACTS FOR CREDIT REPORTING
25 SERVICES.

26 Sec. 6. Section 41-2503, Arizona Revised Statutes, is amended to read:

27 41-2503. Definitions

28 In this chapter, unless the context otherwise requires:

29 1. "Architect services" means those professional architect services
30 that are within the scope of architectural practice as provided in title 32,
31 chapter 1.

32 2. "Business" means any corporation, partnership, individual, sole
33 proprietorship, joint stock company, joint venture or other private legal
34 entity.

35 3. "Change order" means a written order that is signed by a
36 procurement officer and that directs the contractor to make changes that the
37 changes clause of the contract authorizes the procurement officer to order.

38 4. "Construction":

39 (a) Means the process of building, altering, repairing, improving or
40 demolishing any public structure or building or other public improvements of
41 any kind to any public real property.

42 (b) Does not include:

43 (i) The routine operation, routine repair or routine maintenance of
44 existing facilities, structures, buildings or real property.

1 (ii) The investigation, characterization, restoration or remediation
2 due to an environmental issue of existing facilities, structures, buildings
3 or real property.

4 5. "Construction-manager-at-risk" means a project delivery method in
5 which:

6 (a) There is a separate contract for design services and a separate
7 contract for construction services, except that instead of a single contract
8 for construction services, the purchasing agency may elect separate contracts
9 for preconstruction services during the design phase, for construction during
10 the construction phase and for any other construction services.

11 (b) The contract for construction services may be entered into at the
12 same time as the contract for design services or at a later time.

13 (c) Design and construction of the project may be either:

14 (i) Sequential with the entire design complete before construction
15 commences.

16 (ii) Concurrent with the design produced in two or more phases and
17 construction of some phases commencing before the entire design is complete.

18 (d) Finance services, maintenance services, operations services,
19 preconstruction services and other related services may be included.

20 6. "Construction services" means either of the following for
21 construction-manager-at-risk, design-build and job-order-contracting project
22 delivery methods:

23 (a) Construction, excluding services, through the
24 construction-manager-at-risk or job-order-contracting project delivery
25 methods.

26 (b) A combination of construction and, as elected by the purchasing
27 agency, one or more related services, such as finance services, maintenance
28 services, operations services, design services and preconstruction services,
29 as those services are authorized in the definitions of
30 construction-manager-at-risk, design-build or job-order-contracting in this
31 section.

32 7. "Contract" means all types of state agreements, regardless of what
33 they may be called, for the procurement of materials, services, construction,
34 construction services or the disposal of materials.

35 8. "Contract modification" means any written alteration in the terms
36 and conditions of any contract accomplished by mutual action of the parties
37 to the contract.

38 9. "Contractor" means any person who has a contract with a state
39 governmental unit.

40 10. "Data" means documented information, regardless of form or
41 characteristic.

42 11. "Department" means the department of administration.

43 12. "Design-bid-build" means a project delivery method in which:

44 (a) There is a sequential award of two separate contracts.

45 (b) The first contract is for design services.

- 1 (c) The second contract is for construction.
2 (d) Design and construction of the project are in sequential phases.
3 (e) Finance services, maintenance services and operations services are
4 not included.
- 5 13. "Design-build" means a project delivery method in which:
6 (a) There is a single contract for design services and construction
7 services, except that instead of a single contract for design services and
8 construction services, the purchasing agency may elect separate contracts for
9 preconstruction services and design services during the design phase, for
10 construction and design services during the construction phase and for any
11 other construction services.
12 (b) Design and construction of the project may be either:
13 (i) Sequential with the entire design complete before construction
14 commences.
15 (ii) Concurrent with the design produced in two or more phases and
16 construction of some phases commencing before the entire design is complete.
17 (c) Finance services, maintenance services, operations services,
18 preconstruction services and other related services may be included.
- 19 14. "Design professional" means an individual or firm that is
20 registered by the state board of technical registration pursuant to title 32,
21 chapter 1 to practice architecture, engineering, geology, landscape
22 architecture or land surveying or any combination of those professions and
23 any person employed by the registered individual or firm.
- 24 15. "Design requirements":
25 (a) Means at a minimum the purchasing agency's written description of
26 the project or service to be procured, including:
27 (i) The required features, functions, characteristics, qualities and
28 properties.
29 (ii) The anticipated schedule, including start, duration and
30 completion.
31 (iii) The estimated budgets applicable to the specific procurement for
32 design and construction and, if applicable, for operation and maintenance.
33 (b) May include:
34 (i) Drawings and other documents illustrating the scale and
35 relationship of the features, functions and characteristics of the project,
36 which shall all be prepared by a design professional who is registered
37 pursuant to section 32-121.
38 (ii) Additional design information or documents that the purchasing
39 agency elects to include.
- 40 16. "Design services" means architect services, engineer services or
41 landscape architect services.
- 42 17. "Designee" means a duly authorized representative of the director.
43 18. "Director" means the director of the department of administration.

1 19. "Employee" means an individual drawing a salary from a state
2 governmental unit, whether elected or not, and any noncompensated individual
3 performing personal services for any state governmental unit.

4 20. "Engineer services" means those professional engineer services that
5 are within the scope of engineering practice as provided in title 32,
6 chapter 1.

7 21. "Finance services" means financing for a construction services
8 project.

9 22. "General services administration contract" means contracts awarded
10 by the United States government general services administration.

11 23. "Grant" means the furnishing of financial or other assistance,
12 including state funds or federal grant funds, by any state governmental unit
13 to any person for the purpose of supporting or stimulating educational,
14 cultural, social or economic quality of life.

15 24. "Job-order-contracting" means a project delivery method in which:

16 (a) The contract is a requirements contract for indefinite quantities
17 of construction.

18 (b) The construction to be performed is specified in job orders issued
19 during the contract.

20 (c) Finance services, maintenance services, operations services,
21 preconstruction services, design services and other related services may be
22 included.

23 25. "Landscape architect services" means those professional landscape
24 architect services that are within the scope of landscape architectural
25 practice as provided in title 32, chapter 1.

26 26. "Maintenance services" means routine maintenance, repair and
27 replacement of existing facilities, structures, buildings or real property.

28 27. "Materials":

29 (a) Means all property, including equipment, supplies, printing,
30 insurance and leases of property.

31 (b) Does not include land, a permanent interest in land or real
32 property or leasing space.

33 28. "Operations services" means routine operation of existing
34 facilities, structures, buildings or real property.

35 29. "Owner" means a state purchasing agency or state governmental unit.

36 30. "Person" means any corporation, business, individual, union,
37 committee, club, other organization or group of individuals.

38 31. "Preconstruction services" means services and other activities
39 during the design phase.

40 32. "Procurement":

41 (a) Means buying, purchasing, renting, leasing or otherwise acquiring
42 any materials, services, construction or construction services.

43 (b) Includes all functions that pertain to obtaining any materials,
44 services, construction or construction services, including description of

1 requirements, selection and solicitation of sources, preparation and award of
2 contract, and all phases of contract administration.

3 33. "Procurement officer":

4 (a) Means any person duly authorized to enter into and administer
5 contracts and make written determinations with respect to the contracts.

6 (b) Includes an authorized representative acting within the limits of
7 the authorized representative's authority.

8 34. "Purchasing agency" means any state governmental unit that is
9 authorized by this chapter or rules adopted pursuant to this chapter, or by
10 way of delegation from the director, to enter into contracts.

11 35. "Services":

12 (a) Means the furnishing of labor, time or effort by a contractor or
13 subcontractor that does not involve the delivery of a specific end product
14 other than required reports and performance.

15 (b) Does not include employment agreements or collective bargaining
16 agreements.

17 36. "Significant procurement role":

18 (a) Means any role that includes any of the following duties:

19 ~~(a)~~ (i) Participating in the development of a procurement.

20 ~~(b)~~ (ii) Participating in the development of an evaluation tool.

21 ~~(c)~~ (iii) Approving a procurement or an evaluation tool.

22 ~~(d)~~ (iv) Soliciting quotes greater than ten thousand dollars for the
23 provision of materials, services or construction.

24 ~~(e)~~ (v) Serving as a technical advisor or an evaluator who evaluates
25 a procurement.

26 ~~(f)~~ (vi) Recommending or selecting a vendor that will provide
27 materials, services or construction to this state.

28 ~~(g)~~ (vii) Serving as a decision maker or designee on a protest or an
29 appeal by a party regarding an agency procurement selection or decision.

30 (b) DOES NOT INCLUDE MAKING DECISIONS ON DEVELOPING SPECIFICATIONS AND
31 THE SCOPE OF WORK FOR A PROCUREMENT IF THE DECISION IS BASED ON THE
32 APPLICATION OF COMMONLY ACCEPTED INDUSTRY STANDARDS OR KNOWN PUBLISHED
33 STANDARDS OF THE AGENCY AS APPLIED TO THE PROJECT, SERVICES, GOODS OR
34 MATERIALS.

35 37. "State governmental unit" means any department, commission,
36 council, board, bureau, committee, institution, agency, government
37 corporation or other establishment or official of the executive branch or
38 corporation commission of this state.

39 38. "Subcontractor" means a person who contracts to perform work or
40 render service to a contractor or to another subcontractor as a part of a
41 contract with a state governmental unit.

42 39. "Using agency" means any state governmental unit that uses any
43 materials, services or construction procured under this chapter.

1 Sec. 7. Section 41-2517, Arizona Revised Statutes, is amended to read:
2 41-2517. Procurement officers and procurement employees:
3 violation; classification; exception

4 A. It is unlawful for a procurement officer or an employee having a
5 significant procurement role to accept any position or have employment
6 discussions with a person or firm lobbying or potentially responding to the
7 solicitation beginning on signature of the first nondisclosure agreement
8 pertaining to a particular solicitation or at the time of request for a sole
9 source procurement or competition impracticable procurement AND ENDING AT THE
10 TIME OF CONTRACT AWARD. IT IS UNLAWFUL FOR A PROCUREMENT OFFICER OR AN
11 EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO ACCEPT ANY POSITION OR HAVE
12 EMPLOYMENT DISCUSSIONS WITH THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR
13 LOBBYISTS BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT
14 PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE
15 SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT and ending one
16 year after the purchased materials are delivered or the purchase of services
17 or construction begins, if the procurement officer or employee had a
18 significant procurement role in the particular procurement.

19 B. It is unlawful for a procurement officer or an employee having a
20 significant procurement role to solicit an employment opportunity, regardless
21 of who would receive such an opportunity, from any person or firm lobbying or
22 potentially responding to a solicitation for the procurement of materials,
23 services or construction beginning on signature of the first nondisclosure
24 agreement pertaining to a particular solicitation or at the time of request
25 for a sole source procurement or competition impracticable procurement AND
26 ENDING AT THE TIME OF CONTRACT AWARD. IT IS UNLAWFUL FOR A PROCUREMENT
27 OFFICER OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO SOLICIT AN
28 EMPLOYMENT OPPORTUNITY, REGARDLESS OF WHO WOULD RECEIVE SUCH AN OPPORTUNITY,
29 FROM THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR LOBBYISTS BEGINNING ON
30 SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR
31 SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR
32 COMPETITION IMPRACTICABLE PROCUREMENT and ending one year after the purchased
33 materials are delivered or the purchase of services or construction begins,
34 if the procurement officer or employee had a significant role in the
35 particular procurement.

36 C. It is unlawful for a person or firm lobbying or potentially
37 responding to a solicitation for the procurement of materials, services or
38 construction to offer employment to a procurement officer, a procurement
39 employee or an employee having a significant procurement role beginning on
40 signature of the first nondisclosure agreement pertaining to a particular
41 solicitation or at the time of request for a sole source procurement or
42 competition impracticable procurement AND ENDING AT THE TIME OF CONTRACT
43 AWARD. IT IS UNLAWFUL FOR THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR
44 LOBBYISTS TO OFFER EMPLOYMENT TO A PROCUREMENT OFFICER, A PROCUREMENT
45 EMPLOYEE OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE BEGINNING ON

1 SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR
2 SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR
3 COMPETITION IMPRACTICABLE PROCUREMENT and ending one year after the purchased
4 materials are delivered or the purchase of services or construction begins,
5 if the procurement officer or employee had a significant role in the
6 particular procurement.

7 D. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY WAIVE ANY OR
8 ALL OF THE WAITING PERIOD REQUIRED PURSUANT TO SUBSECTIONS A, B AND C OF THIS
9 SECTION IN EXCESS OF TWENTY-FOUR MONTHS FOR A PROCUREMENT OFFICER OR AN
10 EMPLOYEE WITH A SIGNIFICANT PROCUREMENT ROLE IF THE PERIOD OF TIME THAT
11 FOLLOWS THE SIGNATURE OF THE NONDISCLOSURE AGREEMENT EXCEEDS TWENTY-FOUR
12 MONTHS. A PROCUREMENT OFFICER OR AN EMPLOYEE SEEKING A WAIVER SHALL MAKE A
13 WRITTEN REQUEST TO THE OFFICER'S OR EMPLOYEE'S STATE GOVERNMENTAL UNIT
14 DIRECTOR, AND THE DIRECTOR OF THE STATE GOVERNMENTAL UNIT SHALL FORWARD THE
15 REQUEST WITH A WRITTEN RECOMMENDATION TO THE DIRECTOR OF THE DEPARTMENT OF
16 ADMINISTRATION. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL
17 PROVIDE A WRITTEN DECISION AND JUSTIFICATION WITHIN FIFTEEN BUSINESS DAYS
18 AFTER THE RECEIPT OF THE COMPLETE REQUEST. THE DIRECTOR OF THE DEPARTMENT OF
19 ADMINISTRATION MAY NOT APPROVE WAIVER REQUESTS FOR MATTERS STILL IN
20 EVALUATION OR WITHIN SIX MONTHS FOLLOWING THE CONTRACT AWARD. IF THE
21 REQUESTING PARTY IS THE DIRECTOR OR A DEPUTY DIRECTOR OF A STATE GOVERNMENTAL
22 UNIT, THE REQUEST FOR A WAIVER AND ALL WRITTEN MATERIALS, INCLUDING A
23 DIRECTOR RECOMMENDATION, MUST BE FORWARDED TO THE GOVERNOR FOR A FINAL
24 DECISION, EXCEPT THAT THE DIRECTOR MAY NOT MAKE ANY RECOMMENDATION OR
25 DETERMINATION ON THE DIRECTOR'S OWN REQUEST.

26 ~~D.~~ E. In response to a written request from an employee seeking
27 clarification on whether the employee has played a significant role in a
28 procurement, the director shall issue a determination in writing within
29 fifteen days after receiving the request. The director may make a
30 determination in writing that this section and section 41-753, subsection D
31 do not apply if a particular solicitation, sole source procurement or
32 competition impracticable procurement has been canceled or is associated with
33 the privatization of existing state services that would result in the
34 elimination of the position in state service of an employee with a
35 significant procurement role. The director may delegate the authority to
36 make determinations pursuant to this subsection to a director of a state
37 agency. An agency director or agency deputy director may request a
38 determination from the office of the governor regarding whether the agency
39 director or agency deputy director played a significant role in a particular
40 procurement for the purposes of the one-year employment restriction, and the
41 office of the governor shall make a determination within thirty days after
42 the receipt of the written request.

43 ~~E.~~ F. It is unlawful for a procurement officer or an employee who was
44 previously employed by a person or firm responding to a solicitation to serve

1 in a significant procurement role for a period of one year following the
2 person's previous employment.

3 G. BEGINNING OCTOBER 1, 2014, IF AN AGENCY USES A QUALIFIED VENDOR
4 LIST OF PERSONS OR ENTITIES THAT ARE ELIGIBLE TO BE SELECTED TO DESIGN,
5 DEVELOP, IMPLEMENT OR CONSTRUCT ANY FORM OF PROJECT ASSOCIATED WITH THE LIST,
6 ANY PROCUREMENT OFFICER WHO WAS ASSIGNED TO WORK EVALUATING OR APPROVING THE
7 VENDOR LIST OR ANY EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE IN
8 DEVELOPING THE VENDOR LIST SHALL NOT ACCEPT AN OFFER OF EMPLOYMENT FROM OR
9 HAVE EMPLOYMENT DISCUSSIONS WITH A VENDOR ON THE LIST WITHIN ONE YEAR AFTER
10 THE INITIAL PUBLICATION OF THE LIST OR ACCEPT AN OFFER OF EMPLOYMENT FROM OR
11 HAVE EMPLOYMENT DISCUSSIONS WITH A NEWLY ADDED VENDOR WITHIN ONE YEAR AFTER
12 THE VENDOR IS ADDED TO THE ORIGINAL LIST. IF A VENDOR FROM AN APPROVED LIST
13 OF QUALIFIED VENDORS IS AWARDED A CONTRACT THAT IS ASSOCIATED WITH THE LIST,
14 A PROCUREMENT OFFICER INVOLVED IN SELECTING THE VENDOR OR AN EMPLOYEE HAVING
15 A SIGNIFICANT PROCUREMENT ROLE IN SELECTING THE VENDOR SHALL NOT ACCEPT AN
16 OFFER OF EMPLOYMENT FROM OR HAVE EMPLOYMENT DISCUSSIONS WITH THAT VENDOR
17 WITHIN ONE YEAR AFTER THAT VENDOR IS AWARDED THE CONTRACT.

18 ~~F.~~ H. On signature of a nondisclosure agreement pertaining to a
19 particular solicitation, or at the time of a request for a sole source or
20 competition impracticable procurement, a procurement officer or an employee
21 having a significant role in the procurement shall provide written disclosure
22 of any financial interest the officer or employee, or the spouse of the
23 officer or employee, may hold.

24 ~~G.~~ I. A person who knowingly violates this section is guilty of a
25 class 2 misdemeanor. On conviction the person is ineligible for appointment
26 to or employment in a position in the state personnel system for a period of
27 five years and, if the person is an employee of this state at the time of
28 conviction, is subject to suspension for not less than ninety days or
29 dismissal.

30 J. THIS SECTION DOES NOT APPLY TO A PROCUREMENT OFFICER OR EMPLOYEE
31 WHO IN GOOD FAITH RELIES ON A DETERMINATION ISSUED BY THE DIRECTOR PURSUANT
32 TO SUBSECTION D OF THIS SECTION THAT THE PROCUREMENT OFFICER OR EMPLOYEE HAS
33 NOT HAD A SIGNIFICANT PROCUREMENT ROLE:

34 Sec. 8. Section 41-2546, Arizona Revised Statutes, is amended to read:
35 41-2546. Multiterm contracts

36 A. Unless otherwise provided by law, a contract for materials or
37 services may be entered into for a period of time up to five years and a
38 contract for job-order-contracting construction services may also be entered
39 into for a period of time up to five years, as deemed to be in the best
40 interest of this state, if the term of the contract and conditions of renewal
41 or extension, if any, are included in the solicitation and monies are
42 available for the first fiscal period at the time of contracting.
43 NOTWITHSTANDING ANY OTHER LAW, a contract, INCLUDING CONTRACTS NOT OTHERWISE
44 SUBJECT TO THIS CHAPTER, may be entered into for materials or services for a
45 period of time exceeding five years if, under rules adopted pursuant to this

1 chapter, the director determines in writing that such a contract would be
2 advantageous to this state. Payment and performance obligations for
3 succeeding fiscal periods are subject to the availability and appropriation
4 of monies.

5 B. Before the use of a multiterm contract, it shall be determined in
6 writing that:

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

9 2. Such a contract will serve the best interests of this state by
10 encouraging effective competition or otherwise promoting economies in state
11 procurement.

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

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.

Passed the House March 10, 2014

Passed the Senate April 16, 2014

by the following vote: 57 Ayes,

by the following vote: 28 Ayes,

0 Nays, 3 Not Voting

0 Nays, 2 Not Voting

[Signature]

Speaker of the House

[Signature]

President of the Senate

[Signature]

Chief Clerk of the House

[Signature]

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2321

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 17, 2014,

by the following vote: _____ Ayes,

_____ Nays, _____ Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2014,

at 2:35 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 22nd day of

April, 2014,

at 2:06 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2321

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23rd day of April, 2014,

at 9:40 o'clock a M.

[Signature]
Secretary of State