



## **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

**Requested Board Meeting Date:** December 4, 2018

**Title:** Ordinances Amending Pima County Code Title 11, Procurement and Board of Supervisors Policy, Series D 29.1, Procurement

### **Introduction/Background:**

On March 6, 2012, the Board of Supervisors passed and adopted Ordinance Number 2012-10 to amend Title 11 of the Pima County Code to establish a preference for local, small Architectural and Engineering firms in the award of County Architectural and Engineering contracts. This Ordinance was adopted as a temporary remedy to the economic recession occurring at that time. The economy has since rebounded, and it is recommended that Title 11 of the Pima County Code be amended to remove the small, local preference. The opportunity to make clarifying and formatting changes was taken while content changes are being proposed. A summary of the proposed changes are presented in the Discussion section.

### **Discussion:**

#### **Title 11, Pima County Procurement Code**

Previous code change had included the small, local preference in 11.12.030 - Professional services. This version deletes the small, local preference in 11.12.030 - Professional services and the reference to local small businesses in 11.04.010 - Purpose.

11.14 - Procurement for Architectural and Engineering Services, has been added to clarify the authority for procuring architectural and engineering services contracts that was inadvertently excluded from the Code and to distinguish this A.R.S. Title 34 Professional Service from A.R.S. Title 11 Professional Services.

#### **Board of Supervisors Policy D29.1**

##### **D29.1**

- Deleted reference to Ordinance Number 2012-10 establishing a preference for small, local architectural and engineering firms in the award of County architectural and engineering contracts.
- Deleted duplicative definition for Alternative Project Delivery Methods (APDM).
- Deleted Local Office definition.
- Removed local office as a determinant in the ranking of firms when the evaluation scores of two or more respondents are tied.
- Edited the Professional Services definition to delete use of the GSA Standard Form 330 in the evaluation of architectural and engineering firms.
- Increased the threshold for the selection process for architectural services from \$250,000 to \$500,000 to match the current statutory threshold for the selection process for engineering services.
- Included necessary clarifications and formatting for proper application of policy.

Attachments: Title 11 Ordinance and Board of Supervisors Policy D29.1

### **Conclusion:**

Based on a comprehensive review, the proposed Code Ordinances and Policy changes provide increased clarification and consistency across Arizona Revised Statute, Pima County Code, and Board of Supervisors Policy. Pursuant to A.R.S. §38-431.02, the proposed ordinances are scheduled to be advertised on November 19, 2018.

NOV 15 10:02 AM 2018

**Recommendation:**

Staff recommends the Board adopt the Ordinance amending the Pima County Procurement Code, Chapters 11.04, 11.12, and adding Chapter 11.14; and adopt the changes to Board of Supervisors Policy D 29.1, Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34.

**Fiscal Impact:**

None.

**Board of Supervisor District:**

☐ 1      ☐ 2      ☐ 3      ☐ 4      ☐ 5      ☒ All

Department: Procurement

Telephone: 724-8161

Contact: Mary Jo Furphy

Telephone: 724-8198

Department Director Signature/Date: Mary Jo Furphy 11/15/18

Deputy County Administrator Signature/Date: John Burk 11-15-18

County Administrator Signature/Date: C. D. Hickey 11/16/18

**ORDINANCE 2018 - \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO PROCUREMENT OF GOODS AND SERVICES; AMENDING THE PIMA COUNTY PROCUREMENT CODE, CHAPTERS 11.04 AND 11.12, AND ADDING A NEW CHAPTER 11.14, PROCUREMENT FOR ARCHITECTUAL AND ENGINEERING SERVICES.**

**The Board of Supervisors of Pima County Arizona finds that:**

1. On June 22, 1997, The Pima County Board of Supervisors adopted Ordinance No. 1997-45, recorded in Book 25, Page 1276 in the Office of the Pima County Recorder, adding Title 11 to the Pima County Code and creating the Pima County Procurement Code.
2. It is in the best interest of the County to amend certain provisions of the Pima County Procurement Code to remove the existing preference for small local architectural and engineering firms in the award of architectural and engineering contracts, which was adopted per Ordinance 2012-10 as a temporary remedy to the economic recession at that time, and to provide for the evaluation and selection procedure for the procurement of architectural and engineering services in a new chapter to the Procurement Code.

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:**

**Section 1.** The Pima County Code, Title 11, Chapter 11.04, Section 11.04.010(D) is hereby amended to read:

**CHAPTER 11.04  
GENERAL PROVISIONS**

**11.04.010 – Purpose.**

....

- D. Ensure full and equitable economic opportunities to persons or businesses that compete for business with Pima County government, including local and small business enterprises.

...

**Section 2.** The Pima County Code, Title 11, Chapter 11.12, Section 11.12.030, is hereby amended to read:

**CHAPTER 11.12  
SOURCE SELECTION: MATERIALS AND SERVICES**

**11.12.030 – Professional services.**

...

- A. Conditions for Use. Except as specified in this section, professional services expected to exceed the bid threshold determined by A.R.S. § 41-2535 will be procured according to Section 11.12.020. Professional services expected not to exceed the bid threshold determined by

A.R.S. § 41-2535 will 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 must 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. Medical Services. Medical services and other professional services related to the administration of the county's health care functions shall will be procured in accordance with written procurement policy approved by the board.
- D. ~~Architectural/Engineering Services. Architectural or engineering services will be procured in accordance with Title 34 of Arizona Revised Statutes, except that a preference will be given for small local firms as follows, and the applicable County policies and procedures, unless precluded by Federal participation.~~
  - a. ~~An architectural or engineering firm with fewer than one hundred employees in Pima County and headquartered in Pima County will be deemed an "A" firm and will receive a preference in the amount of five percent of the total points available in the evaluation.~~
  - b. ~~An architectural or engineering firm with fewer than one hundred employees in Pima County, headquartered elsewhere, that has maintained an office in Pima County for a minimum of two years and the majority of whose employees reside in Pima County shall be deemed an "B" firm and will receive a preference in the amount of three percent of the total points available in the evaluation.~~
  - c. ~~Preference points shall be computed and assigned separately for each step in the evaluation.~~
  - d. ~~The preference points under this section shall be cumulative and in addition to any other preference points to which a firm may be entitled.~~

**Section 3.** The Pima County Code, Title 11 is hereby amended to add a new Chapter 11.14 to read as follows:

**CHAPTER 11.14**  
**PROCUREMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES**

**11.14.010 – Architectural and Engineering Services contracts.**

- A. Conditions for Use. Procurement for architectural or engineering services will be conducted in accordance with Arizona Revised Statutes Title 34, unless precluded by Federal participation.
- B. Contracts. Contracts for architectural and engineering services will be awarded using the procedures set forth in Arizona Revised Statutes Title 34 and county policy D29.1. Where available and appropriate, industry standard contract forms may be used at the county's discretion.

**Section 4.** All other provisions of Chapters 11.04 and 11.12 of the Pima County Code not specifically amended hereby remain in full force and effect.

**Section 5.** This Ordinance takes effect January 4, 2019.

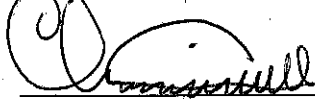
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Chairman, Pima County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM

  
\_\_\_\_\_  
Deputy County Attorney



**PIMA COUNTY, ARIZONA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b>  <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	<b>Policy Number</b>	<b>Page</b>
	D 29.1	1 of 13

**Purpose**

This policy defines Pima County's process for the selection and contracting of architectural and engineering-related professional services and alternative project delivery methods for all departments. Nothing in this policy will prevent the County from complying with the terms and conditions of any grant, gift, bequest or intergovernmental agreement.

**Policy**

This Policy defines the qualifications-based evaluation process to be used in the acquisition of architectural and engineering (A&E) services.

This Policy sets forth the process for the creation and use of Qualified Consultants Lists (QCL) for A&E professional services ~~categories-disciplines~~. Consultants on these lists may receive contracts for professional services not to exceed \$250,000 per project and \$500,000 per year. Qualified consultants may be on more than one QCL and may enter into more than one contract with the County.

This Policy provides separate processes for acquiring professional services exceeding \$250,000 per project and for ~~categories-disciplines~~ of work not included in the QCL.

This Policy provides procedures to be used in procuring Alternative Project Delivery Method (APDM) construction services under Chapter 6 of Arizona Revised Statutes (A.R.S.) Title 34.

~~This Policy implements Ordinance Number 2012-10 which establishes a preference for small, local architectural and engineering firms in the award of County architectural and engineering contracts, unless precluded by Federal participation.~~

This Policy provides a performance evaluation process which is intended to provide an incentive for Consultants and Contractors to enhance the quality, timeliness, responsiveness, and cost effectiveness of consulting and non-consulting services provided to the County. The performance evaluation completed by the individual departments will be used Countywide in the performance evaluation process.

**Definitions**

Administering Department – The department requesting professional or APDM services as defined by this policy and responsible for the day-to-day administration of the contract.

Alternative Project Delivery Methods (APDM) – ~~For the purpose of this Policy, the term "alternative project delivery methods" includes design-build, construction manager at risk, and job order contracting as defined in A.R.S. Title 34.~~

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	2 of 13

~~Local Office~~—For purposes of this Policy, “local office” means a permanent office located within County for at least two years that employs at least one professional that is a current Arizona Registrant in the discipline proposed and capable of performing the required professional services.

Professional Services – For purposes of this Policy, professional services are consulting services falling within the scope of architectural and/or engineering disciplines covered performed by “Standard Form 330” (GSA SF 330, available from the United States General Services Administration Forms Library at [www.gsa.gov/forms](http://www.gsa.gov/forms)), technical registrants as defined in A.R.S. Title 32 and the Rules of the Board of Technical Registration, and additional categories disciplines defined by the Procurement Director.

### **General Provisions**

Emergency acquisition of professional services must be made in accordance with Procurement Code § 11.12.060 and A.R.S. § 34-606.

- Amendments and contracts must be processed in accordance with the Board of Supervisors Policy D 29.4.
- Protests must be handled in accordance with Pima County Procurement Code § 11.20.010.
- The solicitation and award of multiple contracts under a single solicitation issued pursuant to this policy must comply with the requirements of A.R.S. §§ 34-102 and 34-604.
- In certain unique circumstances, projects may require the selection of a consultant in a manner outside the provisions of this policy. With the written approval of the Procurement Director, selection of such consultants will be in accordance with State Law.

### **Section A: Qualifications-Based Selection Procedure**

#### **I. General**

All solicitations and procurements of Architectural and Engineering A&E Services and Alternative Project Delivery Method APDM contracts must comply with the requirements of A.R.S. Title 34.

#### **II. Advertisement**

The Procurement Department will place a Solicitation for Qualifications (SFQ) advertisement in the official legal newspaper of Pima County, briefly describing the project or projects and specifying the closing date for receipt of the required Statement of Qualifications (SOQ) in accordance with the Publication Requirements Procurement Procedure. The Internet may also be used to notice and distribute documents intended to initiate the procurement process for services. Federally-funded solicitations must also be advertised in accordance with the Publication Requirements Procurement Procedure.

#### **III. The Solicitation**

- A. The SFQ will include a request for a Statement of Qualifications (SOQ) consisting of:

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	3 of 13

1. ~~Standard Form 330, Architect-Engineer Qualifications, or~~
  21. A qualifications statement based on a questionnaire specifically developed by the requesting department(s), or
  32. Narratives responsive to evaluation criteria or questions stated in the SFQ, or
  43. Any combination of the above.
- B. The SFQ must include a description of the project and scope of work, the number (or maximum number) of firms that the County intends to award, instructions on how to respond, and clearly identify any necessary certifications or other documents that must accompany the response. The SFQ may include an estimated price range for the services. Administrative requirements, such as the number of copies, page limits and related items must be specified.
- C. The SFQ must state a definite location, date and time for submission of SOQ's after which submissions will not be accepted. Inadvertently accepted late submissions will be returned unopened, unless it is necessary to open the submission to identify the respondent.
- D. The SFQ must clearly identify the evaluation criteria and their relative weight. Subcriteria with relative weights may be used to further clarify main criteria. Subcriteria stated without relative weights are presumed to be equal in value and must be applied in that manner.

#### **IV. Selection Procedure**

- A. Selection will be based on an evaluation of the SOQ using the evaluation criteria published in the SFQ and may include interviews. The selection process for professional A&E services, ~~other than architectural services, not exceeding \$500,000, or for professional architect services not exceeding \$250,000,~~ may include the evaluation of interviews with the competing consultants if the solicitation provided for interviews. Interviews are required for professional A&E services projects over \$500,000, ~~and for architect services in excess of \$250,000,~~ but may be waived with the approval of the Procurement Director. The evaluation criteria and relative weights must be stated in the solicitation.
- B. 1. A competent evaluation committee must be established in accordance with this Policy and the Evaluation Committee Selection and Administration Procurement Procedure. For contracts expected to exceed \$2,000,000 in value, the evaluation committee will, if practicable, have seven (7) members comprised of four (4) members nominated by the department director, two (2) members from other departments or jurisdictions, and one (1) member from a qualified professional services firm. For APDM, the private sector representative on the committee must be a senior management official from a licensed contractor.
2. For QCL, the evaluation committee will have at least three (3) members (not including the Chair), including, if practicable, at least one (1) member from a qualified professional services firm not participating in the procurement. Additional representatives from qualified professional services firms may be added to committees or substituted for department or other public members, subject to the limitation that an evaluation committee for APDM may not exceed seven members unless in compliance with A.R.S. §§ 34-603(C)(3) and 34-604(C)(3).



<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	4 of 13

3. All committee members must possess the technical qualifications, experience and competence necessary for the evaluation, such determination to be at the sole discretion of the Procurement Director. Direct supervisor-employee relationships between or among evaluation committee members are not allowable unless approved in writing by the Procurement Director. All committee members must execute a no-conflict and confidentiality statement before serving on a committee according to the Evaluation Committee Selection and Administration Procurement Procedure.
4. Appointees from outside Pima County will not receive compensation for performing this service; however, the Administering Department may elect to reimburse outside appointees for travel and lodging expenses incurred in connection with service on the evaluation committee. The Procurement Director will appoint the evaluation committee members, and a Procurement Department representative ~~Commodity/Contracts Officer (CCO)~~ must serve as the non-scoring chair of the committee. No individual employed by any of the competitors within the twelve (12) months preceding the beginning of the selection process may participate as an evaluator for Pima County.

Evaluation criteria points may include Small Business Enterprise (SBE) points as set forth in Pima County Code Chapter 20.04.030 and 20.20.010 and ~~Small Local Business preference points as set forth in Pima County Code Chapter 11.12.030.D~~, for architectural and engineering A&E services procurements. Notice of the preference(s) evaluation criteria must be included prominently in the SFQ.

- C. For A&E projects that require a Disadvantaged Business Enterprise (DBE) or other goal pursuant to federal law, the County shall follow the requirements of the relevant federal or state agency.
- D. ~~Neither SBE nor Small Local Business preference evaluation points may not be applied in a Federally-funded competitive solicitation for a contract that exceeds or will exceed the Federal simplified acquisition threshold (SAT) defined in subpart 2.1 of the Federal Acquisition Regulation, 48 C.F.R. § 2.101. With the approval of the granting agency, SBE and Small Local Business preference evaluation points may be applied in a Federally-funded competitive qualifications-based procurement for a contract that will not exceed the SAT.~~
- E. SOQs must be assessed for compliance with the administrative requirements of the solicitation (responsive and responsible, debarment verification, addenda acknowledgment, contract acceptance, signature, etc.) before being transmitted to the selection committee for evaluation. Responses that do not conform to the administrative requirements must be rejected and not evaluated.
- F. Evaluation committee members will independently score the SOQs using only the criteria stated in the solicitation. The scores must be in whole numbers and must be accompanied by explanatory comments supporting the score. The evaluation committee members will provide their scores and comments to the committee Chair who will collate the scores. If no interviews are held, the rank order of the respondents will be determined by the average of their evaluation scores on the written submission, with the firm having the highest average score (including applicable SBE and ~~Small Local Business preference evaluation points~~) being the highest ranked. ~~To avoid the loss of information in the case of close scores, Average scores will be computed to two decimal places.~~

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	5 of 13

- G. If interviews are to be held, the Procurement Department Director will extend the invitation for interviews to respondents in accordance with A.R.S. §§ 34-603 and 34-604(C)(2)(c)(i). Firms to be interviewed must be provided with specific questions, issues or topics to address in the interview and advised of the specific criteria applicable to the interviews in the invitation, unless the criteria are stated in the solicitation. ~~The number of firms specified in the solicitation receiving the highest scores on the evaluation of the Statements of Qualifications will be invited to participate.~~ Interviews must be scored based only on the applicable criteria and relative weight. Scores must be in whole numbers and must be accompanied by explanatory comments supporting the score. The interview score and written score may be differently weighted in determining final rank order, with the respondent with the highest average score (including applicable SBE and ~~Small Local Business preference~~ evaluation points) being the highest ranked. ~~To avoid the loss of information in the case of close scores,~~ Average scores will be computed to two decimal places.
- H. If the difference between the scores of respondents intended for award is less than one percent (1%) of the total available points, the evaluation will be presented to the Procurement Director for approval and/or direction.
- I. If the scores for two (2) or more respondents are tied, and ~~one respondent maintains a local office, the respondent maintaining the local office will be ranked higher. If both firms maintain local offices and one of the firms is a local Tucson firm not affiliated with a national firm, then the latter will be higher ranked. If both firms maintain local offices and are not affiliated with a national firm,~~ committee consensus or the use of the Procurement Department Tie-breaker Procedure may be used to determine final award.
- J. After the evaluation team selects the final list, negotiations may be initiated with the highest-ranked firm, subject to the Procurement Director's prior approval of the selection of the final list if required under "G" above. If an agreement cannot be reached with the highest-ranked firm, the Procurement Department will terminate negotiations with that firm and proceed to negotiate with the next ranked firm until the final list is exhausted. If an agreement is reached, the completed contract must be presented to the Board of Supervisors or Procurement Director for Award. Once negotiations are terminated with any firm, that firm may no longer be considered, nor may negotiations be reopened with that firm.
- K. In accordance with A.R.S. §§ 34-603(H) and 604(H) only the names of the firms on the final list may be disclosed until award of the contract. The disclosure of procurement information after award will be in accordance with the applicable cited section. Additional disclosure may be provided in support of the protest process.
- L. The County may cancel a ~~Request for Qualifications SFQ or a Request for Proposals~~ or reject in whole or in part any or all proposals as specified in the solicitation if it is in the best interests of the County. The County must make the reasons for cancellation or rejection part of the procurement file.

**Section B: Contracts with Consultants on Qualified Consultant Lists for Professional Services Not Exceeding \$250,000 Per Project**

**I. Creation of Qualified Consultants List(s)**

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	6 of 13

- A. The County desires to introduce competition into the direct selection of consultants under A.R.S. § 34-103 for small projects to ensure that only qualified consultants are retained for County projects. Therefore, the Procurement Director may establish, using the following procedures, lists by discipline of the most qualified consultants from among respondents to openly competitive qualifications-based solicitations in accordance with Section A that will be known as "Qualified Consultants Lists" (QCL).
- B. Using the ~~list of work categories in Standard Form 330, A&E disciplines performed by~~ technical registrants as defined in A.R.S. Title 32 and the Rules of the Board of Technical Registration, or other ~~categories-disciplines~~ approved by the Procurement Director, each Administering Department will identify the ~~categories of work disciplines~~ for which professional services will be retained, estimate the annual dollar amount for each ~~work-category discipline~~ identified and submit the information to the Procurement Department.
- C. On such schedule as the Procurement Director determines appropriate, the Procurement Department will advertise and post the SFQ according to Section A(II) herein requesting SOQs from consultants in one or more disciplines. Unless earlier disestablished, an individual QCL will expire five (5) years from the its inception ~~date of its most recent competition for a replacement list.~~
- D. The SFQ must state the number (or maximum number) of firms that the County intends to place on the qualified list for each category covered by the SFQ.
- E. QCL lists will be reviewed at least annually to ascertain the extent of use. Lists that are not used or rarely used may be disestablished upon written determination by the Procurement Director that they are no longer needed. For years in which there is sufficient growth in anticipated workload to support a reasonable expectation that additional firms might be assigned work, or in which one or more firms have been eliminated from a specific list for any reason, the Procurement Director may provide a competitive opportunity for additional firms to be added to the list. Individual QCL lists need not be refreshed in this manner for any year in which little or no additional work is expected.

## **II. Competitive Selection Process and Assignment of Consultants to QCL**

- A. There will be a QCL for each ~~category of work or required A&E~~ discipline for which professional services will be retained in sufficient amount to offset participation in the competitive procurement. A solicitation will be issued for each ~~category of work discipline~~, and an evaluation committee will be convened to evaluate the responses submitted for each ~~category of work discipline~~.
- B. The evaluation committee will be established in accordance with this Policy and the Evaluation Committee Selection and Administration Procurement Procedure. Each Administering Department director or designee will appoint at least one qualified senior staff member to the evaluation committee. The Procurement Department ~~CGO representative~~ must serve as the non-scoring chair of the committee. No member of the evaluation committee may have a pecuniary interest in the outcome of the consultant selection process, or be an employee or agent in any capacity to any consultant whose qualifications will be evaluated by the committee.
  1. Statements of Qualifications submitted in response to the SFQ will be evaluated in accordance with the provisions of Section A: Qualifications-Based Selection Procedure above. Firms will be placed on the qualified list in rank order, up to the number specified in the SFQ.

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	7 of 13

2. Evaluation criteria points may include SBE points as set forth in Pima County Code Chapters 20.04.030 and 20.20.010 and ~~Small Local Business preference points as provided in Chapter 11.12.030 (D).~~
  3. The CCO Procurement Department will submit the evaluation results and copies of the recommended QCL to the Procurement Director who will review the list and confirm that each consultant meets the County's requirements. Once approved by the Procurement Director, the QCL are is available to be used by the Administering Departments in the consultant selection process.
- C. The information considered and documents generated by the evaluation committee are confidential during the evaluation period. After the QCL has been approved by the Procurement Director, all information considered and documents generated during the evaluation process will be maintained by the Procurement Department as public records.
  - D. The Procurement Department will send the list of Qualified Consultants to each consultant that submitted a ~~qualifications statement~~ SOQ and each Administering Department. Consultants that submitted ~~qualifications statement~~ SOQ may file a protest regarding any aspect of this consultant selection process pursuant to Procurement Code Title 20, Chapter 11.20.010 ~~within five (5) business days after the consultant knew or should have known of the establishment of the QCL.~~
  - E. To simplify the contracting process, the Procurement Department may, whenever appropriate, establish an agreement on terms and conditions that incorporates the terms under which services may be ordered, the terms and conditions applicable to such services, and the Consultant's agreed rates. An Administering Department may establish a contract for services by issuing a Delivery Order (DO) that incorporates the previously agreed terms and conditions, plus scope and fee for the specific services to be rendered.
  - F. The County cannot guarantee that consultants on the QCL will be assigned projects. The County reserves the right to use any approved consultant selection process for any project.

The County may set a maximum fee schedule for professional services.

### **III. Selection of Consultants for QCL Projects Not to Exceed \$250,000.**

- A. As the need arises, the Administering Department will prepare a draft scope of work and an estimated budget for the contract. The Administering Department will set forth the reasons in writing for selection of the particular consultant. Those reasons may include, but not necessarily be limited to, the highest qualified firm for the ~~category~~ discipline or ~~categories~~ disciplines of work required, satisfactory performance on similar projects, special skills or experience, or SBE participation. The QCL may be used for federally-funded projects up to the Federal simplified acquisition threshold defined in subpart 2.1 of the Federal Acquisition Regulation, 48 C.F.R. § 2.101, with the approval of the granting agency. For Federally-funded projects, the highest-ranked firm will be selected unless the granting agency approves otherwise.
- B. The selected consultant will be given an opportunity to review the scope of work and prepare a fee estimate. The Administering Department's project manager and the consultant will negotiate a final

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	8 of 13

scope of work and fee. Fees will be as consistent as possible across the consultants on the QCL. If the selected consultant is not available to perform the work within the County's cost and time requirements, the Administering Department may terminate negotiations and initiate negotiations with another consultant on the QCL. The Administering Department may not return to or reopen negotiations with a firm after it has terminated negotiations with that firm.

- C. After agreement on the scope of work and fee, the Administering Department will establish a contract for the work by issuing a Delivery Order DO under the applicable Master Agreement. The Scope of Work, Fee Agreement, and written explanation for selection of the consultant will be attached to the Delivery Order DO.
- D. No consultant will be awarded more than \$500,000 per twelve-month period per QCL.
- E. No individual contract may exceed \$250,000. Projects may not be split to avoid the \$250,000 limit on individual QCL Delivery Order DOs.
- F. Final approval of the contract DO will be in the Procurement Department.

#### **IV. QCL Delivery Order Term and Value**

Each QCL Delivery Order DO must be awarded for a term not to exceed one year. The Procurement Director DO may be extended the Delivery Order for up to two additional one-year periods to complete the project, but the total Delivery Order DO must not exceed \$250,000.

### **Section C: Direct Selection for Professional Services**

#### **I. Use of Direct Selection Authority under A.R.S. § 34-103**

In certain instances, projects may require a consulting specialty that a consultant on a QCL cannot reasonably provide, there may be exigent circumstances, or there may be a consultant available that is possesses of such particular expertise or experience necessary for a particular project that their direct selection would be in the public interest. In this situation, the Administering Department may request the Board of Supervisors or the Procurement Director's approval to direct select the recommended consultant. The request must set forth the basis for the recommendation. The selection must be in accordance with State Law.

#### **II. Limitations on Use of Authority**

This authority may only be used for projects that do not exceed the dollar limits for the direct selection of Architects and Engineers in A.R.S. § 34-103.

### **Section D: Selection of Procurement Method**

- A. The QCL will be the preferred method for the procurement of consulting services for all projects up to \$250,000.
- B. The Qualifications-Based Selection Process in Section A is the preferred method for the procurement of consulting services for all projects in excess of \$250,000.

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	9 of 13

- C. Subject to the dollar limitations in A.R.S. § 34-103, Direct Selection may be used in lieu of either A or B above where its use will benefit the County.

## **Section E: Performance Evaluation**

### **I. Non-Design Consulting Contracts**

During the initial phases of a capital or other type of project, Consultants may be retained to perform any number of tasks, such as cultural or geotechnical analyses or biological or environmental assessments that are important to the initiation of a project. Upon completion of any of these non-design consulting tasks that exceed \$50,000, the department's project manager will evaluate the consultant's performance by completing a Department of Defense Form 2631 (DD Form 2631) available on the Procurement intranet site. The project manager will send the completed evaluation form to the Procurement Department Design and Construction Division within 10 business days of the completion of the design or consulting task. The Procurement Department will send a copy of the form to the consultant who will have ten (10) business days from date of receipt to provide any comments, rebuttals or additional information. If the Consultant does not provide comments within the prescribed time period, the evaluation will be considered final.

The final evaluation form and the Consultant's response will be maintained in the Procurement Department to document the consultant's performance on Pima County projects. This information will be applied in accordance with this policy.

APDM (CMAR and Design Build) Contractor performance must be evaluated by the Department according to this Section by completing a Department of Defense Form 2626 available on the Procurement intranet site after completion (or termination) of each APDM project. Upon completion, the form must be sent to the Procurement Department and attached to the procurement record.

Job Order Contractor performance must be evaluated by the Department according to this Section by completing a Department of Defense Form 2626 available on the Procurement intranet site after completion (or termination) of each job order of \$100,000 or more. Upon completion, the form must be sent to the Procurement Department and attached to the job order record.

### **II. Design Consultants**

- A. Upon completion of a design exceeding \$100,000 associated with a capital project, the department's project manager will evaluate the consultant's performance by completing a DD2631 and following the process for Non-Design Consulting Tasks-Contracts.
- B. During construction and other post-design activities, the Department's Project Manager will track the impact the design has on the work and conduct a final evaluation at the end of construction that takes into account the impact on construction of design errors or omissions, owner requested changes, and changed conditions, including consideration of disruption or delays in construction, the number of change orders and additional costs attributable to each, and the consultant's response to design errors and omissions. The Project Manager will complete a DD Form 2631 in conjunction with project closeout and send a copy to the Procurement Department.

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	10 of 13

### III. Using Consultant Evaluations

Completed consultant evaluations will provide an additional source of past performance information in qualifications-based selections and may also be considered as one factor in the selection of Consultants from the QCL. All other factors being equal, the Consultant with the better performance history will be higher-ranked. So as not to penalize Consultants that have no prior experience with Pima County in qualifications-based selections, performance evaluations will be given no greater weight than past performance information from other sources, such as references.

## Section F: Alternative Project Delivery Methods (APDM) for Construction Contracts – Contracts for Design Build and Construction Manager at Risk Projects and Job Order Contracting

### I. Purpose

This Policy adds Pima County-specific requirements to the provisions in A.R.S. Title 34, for APDM procurement and contracts.

### II. SBE

- A. APDM Contracts are subject to the requirements of Title 20 of the Pima County Small Business Enterprise Code. The Procurement Director will establish an appropriate goal and procedure for each APDM Contract, unless precluded by Federal participation.
- B. It must be a requirement in each solicitation for an APDM contract for which a subcontractor selection plan is required under A.R.S. §§ 34-603 and 34-604 that the subcontractor selection plan address how the respondent will meet any applicable SBE goal.

### III. Applicable Procedures

#### A. Initiating APDM Procurements

1. Departments desiring to establish an APDM Contract will submit a requisition to the Procurement Department requesting the establishment of an APDM contract. The request must be accompanied by the proposed scope of work and must identify ~~the applicable center and fund numbers~~ accounting information if applicable. The request must identify and explain the basis for the selection of the project delivery method or demonstrate that the delivery method was approved through an ~~Exit a Gate 1-1 Project Meeting proceeding~~. For Job-Order-Contracts, the request may also propose a maximum amount for individual Job Orders for approval by the Procurement Director.
2. The procurement of a Design-Build ADPM contract may obligate the County to pay a stipend, fee, or any other form of compensation for proposal preparation or design to any unsuccessful competitor, Pursuant to A.R.S. § 34-603(F)(11).

#### B. Procurement Procedures

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	11 of 13

The Procurement Department will follow the procedures and adhere to the requirements of A.R.S. Title 34 in all respects in the procurement of APDM contracts. Nothing in this Policy will be deemed to authorize deviation from the requirements of A.R.S. Title 34.

#### C. Evaluations

1. The Procurement ~~Director~~ Department and the Administering Department will agree upon a weighting of the scores to be assigned to each evaluation criterion. The evaluation criteria and relative weights must be stated in the solicitation. The evaluation must be conducted under the procedures in Section A: Qualifications-Based Selection Procedure of this Policy.
2. The number and qualifications of the members of the evaluation committee will be in accordance with the requirements of A.R.S. Title 34, the Evaluation Committee Selection and Administration Procurement Procedure and this Policy. The Administering Department will nominate qualified members to the Evaluation Committee who are subject to approval and appointment by the Procurement Director. An employee of the Procurement Department will serve as the non-scoring chair of the evaluation committee.
3. For each APDM solicitation for which a subcontractor selection plan is required under A.R.S. § 34-603 or 604, the subcontractor selection plan must be evaluated separately by the Procurement Department representative ~~Contracts Officer, a representative from the SBE Program the Business Enterprise Program Coordinator~~, and the Department Program/Project Manager. The score from the subcontractor selection plan evaluation must be added to the technical SOQ evaluation score ~~from the evaluation of proposals~~ to arrive at the total evaluation score.

#### D. Recommendation for Award

The Procurement Department will compile and verify the results of the evaluation. Based on the results of the evaluation, the Procurement Director will prepare the recommendation for award of the contract(s) for APDM construction services.

#### E. Contracts for APDM Construction Services

To the extent practicable, contracts for APDM construction services will be based on approved County standard construction contracts. Contracts for APDM construction services must comply in all respects with the requirements of A.R.S. Title 34.

### IV. Job Order Contracts

#### A. Job Order Contract Type

Job Order Contracts (JOC) will normally be multiple-awards with provision for the Job Order Contractors to compete for job orders that exceed the threshold established in the contract. Other structures, such as single or multi-awards with price book are available with the approval of the Procurement Director.

#### B. Responsibility



<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	12 of 13

The Director of the Administering Department is responsible for ensuring that the (JOC) is properly administered and not misused. For example:

- Job orders may not exceed the limit for individual job orders in the contract.
- Jobs may not be split or divided between two (or more) job orders to stay under the job order limit.
- Job orders may not be used to purchase or otherwise acquire equipment or materials of any nature that are not to be used in a construction project performed under the same job order.

Departments desiring to use any (JOC) administered by another department must make arrangements for doing so through the Director of the Administering Department.

#### C. Bonding

All job orders must be 100% covered by performance and payment bonds issued in the form prescribed in A.R.S. Title 34. The Department Director is responsible for ensuring that each job order has adequate bonding coverage before work begins under the job order. If a JOC Contractor bonds on a job order by job order basis, bonds will be scanned and attached to the ~~Delivery Order~~ DO for the job order to which they pertain. Hardcopy bonds must be retained in the Administering Department's job order file.

#### D. Issuing Job Orders

A.R.S. Title 34 requires agreement on price before any work begins. A final negotiated ~~Delivery Order~~ DO authorizing the scope and the not-to-exceed job order cost must be issued from the County enterprise business system before any work takes place under the job order.

#### E. Job Order Contents

The objective of the job order documents is to provide the contractual basis for the work and payment and ensure transparency, accountability and an auditable transaction. Specifications, bonds, schedules, and other documents or information describing the work and the obligations of the parties must be scanned and linked to the ~~Delivery Order~~ DO in the procurement file so that the documents will provide a complete description of the job order. If the documents are too voluminous for scanning and electronic storage, the physical file must be identified in the record. In the case of a job order awarded under a multiple-award job order contract, the documents should contain evidence of the competition conducted to award the job order. Administering Departments are responsible for maintaining job order documents.

#### F. Application of Job Order Limits

The amount that can be awarded in a single job order is limited to either one-million dollars (\$1,000,000) or a lesser amount stated in the (JOC). These limits are strictly enforced. The Project Manager must assess the risk of changes in a job and limit any associated job order to an amount that will provide reasonable room for changes. Jobs must not be split to avoid the dollar limitation

<b>Subject:</b> <b>Contracting for Architectural and Engineering Related Professional Services and Alternative Project Delivery Methods Under A.R.S. Title 34</b>	Policy Number	Page
	D 29.1	13 of 13

on job orders or to bring a job within the job order limits to avoid the requirement for competition outside the ~~Job Order Contract~~ JOC.

#### G. Projects Identified in Advance

Where projects are known sufficiently in advance of the required completion date to allow for use of the design-bid-build method of project delivery, departments must consider use of that method. Departments must periodically bid potential job order projects to provide a basis for comparison with job order contractor pricing and performance. The department must have a basis for comparison to establish the reasonableness of the JOC's pricing before recommending contract renewal.

#### H. Renewals

Requests to renew JOC contracts must be supported by assurances that the job order contractor has performed satisfactorily and that the job order contractor's work is reasonably priced. The Contractor's performance and pricing must be a consideration in determining whether to renew the JOC. The Procurement Department may request and review the supporting evidence underlying the assurances.

#### I. Review

Departmental use of JOCs is subject to review by the Procurement Department. Departments must cooperate fully with all such reviews. The Procurement Director, with the approval of the County Administrator, may withdraw, modify or curtail the authority of any department or any staff member of any department that has been determined on the basis of such review to have misapplied, abused or misused a JOC.

### **Implementation**

This Policy applies to all solicitations for ~~architectural and engineering~~ A&E-related professional services and ~~alternative project delivery method~~ APDM contracts advertised after the revision date below.

The performance evaluation requirements of this Policy are effective on the revision date for all existing and future A&E or APDM contracts ~~for A&E or APDM~~.

Adoption Date:	September 25, 1990
Revised Date:	May 5, 1998
	November 24, 1998
	October 1, 2002
	March 18, 2003
	April x, 2003
	July 11, 2006
	June 15, 2010
	April 1, 2011
	November 19, 2013
	July 7, 2015
	September 5, 2017
	October 1, 2017
Effective Date:	<u>January 4, 2019</u>