

2017

City of Buckeye  
Construction & Contracting Division

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# PROCUREMENT POLICIES & PROCEDURES

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## **Procurement Policies and Procedures**

The Procurement Code, adopted by the City of Buckeye, is a statement of belief and expectations regarding matters affecting the procurement of goods, materials, supplies, services, construction and other necessities required to operate the City. They include, but are not limited to, obligations and responsibilities in matters of procurement. While the Procurement Code is developed by management and often includes employee input, final decision making is entrusted to the Mayor and City Council and enforcement is delegated to the City Manager and further delegated to the Manager, Construction and Contracting Division.

These procedures are developed to further define how the Procurement Code will be carried out. It provides guidance for daily administration by expanding, organizing, and clarifying procedures or other information instructive to carrying out the adopted procurement code.

All employees are responsible for familiarizing themselves with the Procurement Code, as well as other pertinent policy and procedure manuals or statements issued by the City. The City will make reasonable efforts to notify employees of any changes made to these documents, but it is the employee's responsibility to follow current ordinances, policies, and guidelines.

These Procurement Policies and Procedures became effective on July 1, 2014.

### **Hierarchy of Documents**

The Procurement Code and this document are designed to assist City employees in understanding the Procurement Code, Procurement Guidelines, and practices in effect in the City at the time of their adoption.

No member of City staff is authorized to enter into written or oral contracts unless given written authority by the City Manager. Moreover, any oral statements, representations, or promises that conflict with any term of the Procurement Code is not binding on the City.

### **Administration of the Procurement Code and Guidelines**

The administration of these documents shall be the responsibility of the Manager, Construction and Contracting Division. The City Manager has delegated this responsibility to the Manager, Construction and Contracting Division. Specifically, he is responsible for:

1. Administering the provisions of these documents, inclusive of the Procurement Code and any procurement guidance.
2. Preparing amendments to these documents.
3. Amending any procurement guidance (administrative function), as necessary.
4. Recommending City Manager approved amendments to the Procurement Code (policy function) to the Mayor and City Council for their consideration.

Any modifications to the Buckeye Procurement Code require approval by Mayor and City Council. However, administrative guidance can be amended by the City Manager or designee at any time.

## Section 1 - Arizona Revised Statutes Title 34 Requirements

### Purpose

The purpose of this guideline is to provide employees with the requirements of the Arizona Revised Statutes (ARS), Title 34. This section should be referenced for purchases involving construction. The City of Buckeye must follow the requirements of ARS Title 34.

### Guideline

#### A. ARS Title 34 Requirements – Construction

The Manager, Construction and Contracting Division, is responsible for consulting Title 34 of the ARS for purchases involving construction prior to the initiation of the City’s procurement process or work performed. The City shall follow Title 34 requirements and recommendations unless prior approval is obtained from the Division.

#### B. Direct Select

To Direct Select for construction, the division must first consult the table below to verify the project and consultant is eligible. The Construction and Contracting Division will determine if a project or consultant is eligible for direct selection. The Division may contact the City Attorney to determine if a project is approved for direct selection.

All questions regarding compliance with Title 34 shall go through the Construction and Contracting Division and the City Attorney may be contacted prior to bidding.

Below is a table showing the Title 34 requirements for the City:

DELIVERY METHOD	SELECTION PROCESS	ADVERTISING
<b>DESIGN</b> under < \$500,000 Engineer under < \$250,000 Architect	Can direct select in limited instances if approved by Purchasing	2 times in two consecutive weeks
<b>DESIGN</b> over > \$500,000 Engineer over > \$250,000 Architect	Qualification Based Selection	2 times in two consecutive weeks
<b>DESIGN/BUILD</b> Vertical	Qualification Based Selection	2 times in two consecutive weeks
<b>DESIGN/BUILD</b> Horizontal	Qualification Based Selection	2 times in two consecutive weeks
<b>CM @ RISK</b> Vertical	Qualification Based Selection	2 times in two consecutive weeks
<b>CM @ RISK</b> Horizontal	Qualification Based Selection	2 times in two consecutive weeks
<b>Job Order Contracting</b> Vertical	Qualification Based Selection	2 times in two consecutive weeks
<b>Job Order Contracting</b> Horizontal	Qualification Based Selection	2 times in two consecutive weeks
<b>Invitation for Bid (low bid)</b>	Straight Construction or Hard Bid	2 times in two consecutive weeks



## **Section 2 - Procurement and Disposition Responsibilities**

### **Purpose**

This guideline sets forth the standards and expectations governing City of Buckeye procurement and disposition responsibilities for the End User, the Manager, Construction and Contracting Division, and the City Manager as established by the City's Procurement Code.

### **Guideline**

#### **A. Delegation of Awarding Authority**

For purchases one hundred thousand dollars (\$100,000) or less in any one transaction the City Manager is designated as the awarding authority by the City of Buckeye Procurement Code; however, in an effort to maintain operational effectiveness and efficiency, the following levels of awarding authority are hereby established:

1. Manager, Construction and Contracting:
  - a. Any one transaction up to thirty five thousand dollars (\$1 - \$35,000).
2. Department Director:
  - a. Any one transaction five thousand dollars (\$5,000) or less and executed via the Director's P-Card.

#### **B. Waiver of the City's Procurement Code (Written Determination)**

In specific circumstances a need may arise where the adherence to the adopted Procurement Code would not be in the best interest of the City. The City Manager is granted the authority by the Mayor and City Council to waive the Procurement Code if a written determination is made substantiating that fact. The following reasons shall be considered when seeking waiver of the Procurement Code:

1. Following the procedures of the Procurement Code would not be likely to result in a lower price to the City.
2. Following the procedures of the Procurement Code would cause unnecessary expense or delay under the circumstances.
3. Following the procedures of the Procurement Code would not be in the best interest of the City.
4. The procurement is considered an emergency as described in the City's Procurement Code.

#### **C. Waiver of the Procurement Code (Process)**

1. A department must notify the Manager, Construction and Contracting Division in writing that a request to waive the Procurement Code is desired.
2. The Manager, Construction and Contracting Division will provide the requesting department with a template form to request a waiver. The requesting department must complete the form and forward it to the Manager, Construction and Contracting Division for initial evaluation.
3. The Manager, Construction and Contracting Division will review the request and place a recommendation on the form.
4. The Manager, Construction and Contracting Division may forward the waiver request to the City Manager for final consideration.
5. The City Manager will either approve or deny the request.

### Section 3 - Informal Competitive Bids or Proposals

#### Purpose

This guideline sets forth the standards and expectations governing City of Buckeye purchasing thresholds and requirements for direct purchases:

AMOUNT	DESCRIPTION
\$1 to \$4,999	No quotes are needed but encouraged. You may also use an Intergovernmental Agreement.
\$5,000 to \$14,999	Three or more documented <b>verbal quotes</b> . <b>Note:</b> Although the information is obtained verbally you need to write down the names of vendor contacted, telephone number and price quote received. You may also use an Intergovernmental Agreement.
\$15,000 to \$100,000	Three or more <b>written quotes</b> . You may also use an Intergovernmental Agreement.
Over \$100,000	Formal Bids- Invitation for Bid (IFB) or Request for Proposal (RFP) – requires advertising, public notice, posted on website, sealed submissions, public opening, etc. You may also use an Intergovernmental Agreement.
The City uses Intergovernmental Agreements and other Cooperative Agreements. It is also affiliated with various other Procurement Groups & Associations. These sources have already completed the formal bid process and can be used by the City to speed up the purchasing process in most cases.	

### Section 4 - Formal Competitive Bids

#### Purpose

This guideline sets forth the standards and expectations governing City of Buckeye purchasing requirements for purchases that exceed one hundred thousand dollars (\$100,000) using the Invitation for Bid (IFB) process.

#### Guideline

##### A. Purchases in Excess of \$100,000

1. Procurement of supplies and services, when the cost is expected to exceed one hundred thousand dollars (\$100,000), shall be made using either a formal written Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Qualifications (RFQ) except as otherwise provided in these guidelines or pursuant to Title 34, Arizona Revised Statutes. The Manager, Construction and Contracting Division shall determine which procurement method (IFB, RFP or RFQ) will be most practicable and advantageous to the City for the procurement of supplies and services.

2. No procurement activities covered in this section shall take place without the Manager, Construction and Contracting Division involvement. The Construction and Contracting Division will be the lead throughout the formal procurement process.

3. An IFB shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

#### **B. Formal Competitive Bidding Process**

1. In all competitive sealed bidding procurement, The Construction and Contracting Division shall issue the IFB on a form approved by the Manager, Construction and Contracting Division

2. The Manager, Construction and Contracting Division shall issue an invitation for bids at least fifteen (15) days before the offer due date and time.

3. The Manager, Construction and Contracting Division shall advertise the procurement in accordance with the City of Buckeye Procurement Code, state law and Federal laws.

4. The Manager, Construction and Contracting Division shall include specific information when completing the solicitation.

#### **C. Solicitation Amendment**

1. The Manager, Construction and Contracting Division shall issue a written solicitation amendment to do any or all of the following:

- a. Make changes in the solicitation.
- b. Correct defects or ambiguities.
- c. Provide additional information or instructions.
- d. Extend the offer due date and time if determines that an extension is in the best interest of the City.

2. If a solicitation is changed by a solicitation amendment, the Manager, Construction and Contracting Division shall post the solicitation amendment on the City's Internet website.

3. It is the responsibility of the offeror to obtain any solicitation amendments by checking the City's Internet website and to acknowledge receipt of an amendment in the manner specified in the solicitation or solicitation amendment on or before the offer due date and time.

#### **D. Invitation for Bid-Timeline**

The Invitation for Bid (IFB) process can take from eight to sixteen (8-16) weeks depending on the complexity of the project, timing of City Council calendar, project scope writing or development, and the amount of work needed to craft the final contract document. Although there are minimum requirements for advertising and scheduling items in advance for City Council consideration, allowing for bid protest time to expire, etc.; departments are encouraged to work with the Construction and Contracting Division and the Legal Department in developing the necessary documents prior to the kickoff of any project. This upfront work and coordination can lead to substantial reductions in the amount of time to complete an IFB.

### **Section 5 - Formal Competitive Proposals**

#### **Purpose**

This guideline sets forth the standards and expectations governing City of Buckeye purchasing requirements for purchases that exceed fifty thousand dollars (\$50,000) using the Request for Proposal process (RFP).

## **Guideline**

### **A. Purchases in Excess of \$100,000**

1. Procurement of supplies and services, when the cost is expected to exceed one hundred thousand dollars (\$100,000), shall be made using either formal written Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Qualifications (RFQ), except as otherwise provided in these guidelines or pursuant to Title 34, Arizona Revised Statutes. This section applies specifically to the RFP process. The Manager, Construction and Contracting Division shall determine which procurement method (IFB, RFP, or RFQ) will be most practicable and advantageous to the City for the procurement of supplies and services.

2. No procurement activities covered in this section shall take place without the Manager, Construction and Contracting Division involvement. The Manager, Construction and Contracting Division will be the lead throughout the formal procurement process.

3. A RFP shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

### **B. Formal Competitive Proposal Process**

1. Before soliciting for offers under this section, a Manager, Construction and Contracting Division shall determine in writing that an invitation for bid is not practicable or advantageous to the City. Competitive sealed bidding may not be practicable or advantageous if it is necessary to:

- a. Use a contract other than a fixed-price type.
- b. Negotiate with offerors concerning the technical and price aspects of their offers and any other aspects of their offer or the solicitation.
- c. Permit offerors to revise their offers.
- d. Compare the different price, quality, and contractual factors of the offers submitted.

2. In all competitive sealed proposal procurement, the Manager, Construction and Contracting Division shall issue the RFP on a form approved.

3. A Manager, Construction and Contracting Division shall issue a request for proposal at least fifteen (15) days before the offer due date and time.

4. The Manager, Construction and Contracting Division shall advertise in accordance with the City of Buckeye Procurement Code and state law .

5. The Manager, Construction and Contracting Division shall include instructions to offerors including:

- a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period.
- b. The deadline date for requesting a substitution or exception to the solicitation.
- c. The manner by which the offeror is required to acknowledge amendments.
- d. The minimum information required in the offer.
- e. The specific requirements for designating trade secrets and other proprietary information as confidential.

- f. Any specific responsibility or susceptibility criteria.
  - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer.
  - h. Evaluation factors and the relative order of importance.
  - i. A statement of where documents incorporated by reference are available for inspection and copying.
  - j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part.
  - k. Certification by the offeror that submission of the offer did not include collusion or other anticompetitive practices.
  - l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance.
  - m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.
  - n. Any offer security required.
  - o. The means required for submission of offer.
  - p. Any cost or pricing data required.
  - q. The type of contract to be used.
  - r. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award and that fall within the competitive range.
  - s. Any other offer requirements specific to the solicitation
6. The Manager, Construction and Contracting Division shall include specifications, including:
- a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements.
  - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for

### **C. Solicitation Amendment**

1. A Manager, Construction and Contracting Division shall issue a written solicitation amendment to do any or all of the following:
  - a. Make changes in the solicitation.
  - b. Correct defects or ambiguities.
  - c. Provide additional information or instructions.
  - d. Extend the offer due date and time if the Manager, Construction and Contracting Division determines that an extension is in the best interest of the City.
2. If a solicitation is changed by a written solicitation amendment, the Manager, Construction and Contracting Division shall post the solicitation amendment on the City's Internet website.

3. It is the responsibility of the offeror to obtain any solicitation amendments by checking the City's Internet website and to acknowledge receipt of an amendment in a manner specified in the solicitation amendment on or before the offer due date and time.

4. The Manager, Construction and Contracting Division shall include any additional information deemed appropriate.

#### **D. Request for Proposal-Timeline**

The Request for Proposal (RFP) process can take from nine to eighteen (9-18) weeks depending on the complexity of the project, timing of City Council calendar, project scope writing or development, and the amount of work needed to craft the final contract document. Although there are minimum requirements for advertising and scheduling items in advance for City Council consideration, allowing for bid protest time to expire, etc., departments are encouraged to work with the Manager, Construction and Contracting Division and the Legal Department in developing the necessary documents prior to the kick off of any project. This upfront work and coordination can lead to substantial reductions in the amount of time to complete a RFP.

### **Section 6 - Request For Qualifications**

#### **Purpose**

This guideline sets forth the standards and expectations governing City of Buckeye purchasing requirements for purchases that exceed one hundred thousand dollars (\$100,000) using the Request for Qualifications process (RFQ).

#### **Guideline**

##### **A. Purchases in Excess of \$100,000**

1. Procurement of supplies and services, when the cost is expected to exceed one hundred thousand dollars (\$100,000), shall be made using either formal written Invitation for Bid (IFB), Request for Proposal (RFP), or Request for Qualifications (RFQ), except as otherwise provided in these guidelines or pursuant to Title 34, Arizona Revised Statutes. The Manager, Construction and Contracting Division shall determine which procurement method (IFB, RFP, or RFQ) will be most practicable and advantageous to the City for the procurement of supplies and services.

##### **B. Formal Request for Qualification Process**

1. Before soliciting for offers under this section, a Manager, Construction and Contracting Division shall determine in writing that an IFB is not practicable or advantageous to the City. Competitive sealed bidding may not be practicable or advantageous if price is not a factor.

2. In all competitive sealed qualification based procurement, the Manager, Construction and Contracting Division shall issue the RFQ.

3. A Manager, Construction and Contracting Division, shall issue a request for qualifications at least fifteen (15) days before the due date and time.

4. The Manager, Construction and Contracting Division Manager, Construction and Contracting Division shall advertise in accordance with the City of Buckeye's Procurement Code and state law.

5. The Manager, Construction and Contracting Division shall include instructions to offerors including:

- a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period.
- b. The deadline date for requesting a substitution or exception to the solicitation.
- c. The manner by which the offeror is required to acknowledge amendments.
- d. The minimum information required in the offer.
- e. The specific requirements for designating trade secrets and other proprietary information as confidential.
- f. Any specific responsibility or susceptibility criteria.
- g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer.
- h. Evaluation factors and the relative order of importance.
- i. A statement of where documents incorporated by reference are available for inspection and copying.
- j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part.
- k. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance.
- l. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.
- m. Any offer security required.
- n. The means required for submission of offer.
- o. The type of contract to be used.
- p. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award.
- q. Any other offer requirements specific to the solicitation.

### **C. Solicitation Amendment(s)**

1. The Manager, Construction and Contracting Division shall issue a written solicitation amendment to do any or all of the following:
  - a. Make changes in the solicitation.
  - b. Correct defects or ambiguities.
  - c. Provide additional information or instructions.
  - d. Extend the offer due date and time if the Manager, Construction and Contracting Division determines that an extension is in the best interest of the City.
2. If a solicitation is changed by a written solicitation amendment, the Manager, Construction and Contracting Division shall post the solicitation amendment on the City's Internet website.
3. It is the responsibility of the offeror to obtain any solicitation amendments by checking the City's Internet website and to acknowledge receipt of an amendment in a manner specified in the solicitation amendment on or before the offer due date and time.

#### **D. Request for Qualification-Timeline**

1. The Request for Qualification (RFQ) process can take from nine to eighteen (9-18) weeks depending on the complexity of the project, timing of City Council calendar, project scope writing or development, and the amount of work needed to craft the final contract document.

2. Although there are minimum requirements for advertising and scheduling items in advance for City Council consideration, allowing for bid protest time to expire, etc., departments are encouraged to work with the Manager, Construction and Contracting Division and the Legal Department in developing the necessary documents prior to the kickoff of any project. This upfront work and coordination can lead to substantial reductions in the amount of time to complete a RFQ.

### **Section 7 - Competitive Bidding Requirements-Exemptions**

#### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye competitive bidding requirements and exemptions.

#### **A. Process**

1. The following procurements are exempt from the competitive bidding provisions:
  - a. Professional or specialized services as defined in the City's Procurement Code.
  - b. Emergency procurements, as defined in the Procurement Code.
  - c. Situations where solicitations of bids or proposals would for any reason be impractical, unavailing, or impossible.
  - d. Sole source procurements.
  - e. Insurance and bonds.
  - f. Procurements funded by grants, donations, or gifts when the special conditions attached to the grants, donations, or gifts require the procurement of particular goods and/or services.
  - g. Works of art, entertainment, or performance.
  - h. Intergovernmental payments, purchases, and agreements.
  - i. Membership dues, conventions, training, and travel arrangements.
  - j. Advertisements in magazines, newspapers, or other media.
  - k. Goods procured for resale to the public.
  - l. Cooperative procurements as defined the Procurement Code.
  - m. Agreements negotiated by the City Attorney or Risk Manager in settlement of a claim of litigation or threatened litigation are exempt from the provisions of this chapter.
  - n. Public utility purchases of water, power, and related services.
  - o. Development agreements, as defined in Arizona Revised Statutes Section 9-500.05 *"Development agreement" means an agreement between a municipality and a community facilities district pursuant to section 48-709, a landowner or any other person having an interest in real property that may specify or otherwise relate to any of the following:*
    - i. *The duration of the development agreement.*
    - ii. *The permitted uses of property subject to the development agreement.*
    - iii. *The density and intensity of uses and the maximum height and size of proposed buildings within such property.*



- iv. *Provisions for reservation or dedication of land for public purposes and provisions to protect environmentally sensitive lands.*
  - v. *Provisions for preservation and restoration of historic structures.*
  - vi. *The phasing or time of construction or development on property subject to the development agreement.*
  - vii. *Conditions, terms, restrictions and requirements for public infrastructure and the financing of public infrastructure and subsequent reimbursements over time.*
  - viii. *Conditions, terms, restrictions and requirements for annexation of property by the municipality and the phasing or timing of annexation of property by the municipality.*
  - ix. *Conditions, terms, restrictions and requirements of deannexation of property from one municipality to another municipality and the phasing or timing of deannexation of property from one municipality to another municipality.*
  - x. *Conditions, terms, restrictions and requirements relating to the governing body's intent to form a special taxing district pursuant to title 48.*
  - xi. *Any other matters relating to the development of the property.”*
- p. The purchase or sale of real property and ancillary services related thereto, such as title insurance, appraisals, or environmental assessments to the extent that they are negotiated as part of the contract for purchase or sale of real property.

2. Departments are required to follow the regular procurement process for the procurement of professional services. The Manager, Construction and Contracting Division must make the determination that the service is exempt from the competitive bidding requirements.

## **Section 8 - Formal Public Bidding Notices**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye purchasing Formal Public Bidding Notices.

### **A. Process**

1. Both Invitation for Bids (IFB) and Request for Proposals (RFP) shall be advertised on the City of Buckeye's Internet website, [www.buckeyeaz.com](http://www.buckeyeaz.com), and in [Procureaz.gov](http://Procureaz.gov) no later than fifteen (15) days prior to the offer due date/time. The Manager, Construction and Contracting Division shall post the advertisement on the City's website and [ProcureAZ](http://ProcureAZ).
2. Other publications or methods of advertising may be used upon the determination of the Manager, Construction and Contracting Division.
3. Proof of submittal and anticipated advertising dates shall be kept in the project file or folder as prescribed by the City's record retention policy.
4. The City is not responsible for the dissemination of any solicitation information to unregistered vendors.

## **Section 9 - Requirements to Correct or Withdraw Bids/Proposals or Offers**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Requirements to Correct or Withdraw Bids/Proposals or Offers.

### **A. Corrections and Withdrawal of Bids, Proposals, or Offers**

An offeror may modify or withdraw its offer, in writing, before the offer due date and time. The Manager, Construction and Contracting Division shall place the document submitted by the offeror in the procurement file as a record of the modification or withdrawal.

## **Section 10 - Receipt and Opening of Formal Competitive Bids or Proposals**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Receipt and Opening of Formal Competitive Bids or Proposals.

### **A. Process**

1. Each bid or proposal shall be time-stamped upon receipt and stored unopened in a secure place within the Construction and Contracting Division until the time and date set for bid opening.

2. Bids or proposals shall be opened publicly in the presence of one or more witnesses at the time, date, and location designated in the Invitation for Bids (IFB) or Request for Proposals (RFP). For IFBs, the name of each bidder, the bid price, and other information deemed appropriate by the Construction and Contracting Division shall be recorded on a bid abstract. The name of the required witness shall also be recorded. The bid abstract shall be available for public inspection. For RFPs, the name of the offeror shall be read aloud and shall be recorded on a proposal abstract. The name of the required witness shall also be recorded. The contents of the proposals shall not be disclosed to unauthorized persons. Proposals may be furnished to persons assisting the Construction and Contracting Division in the evaluation.

3. After contract award, the bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with the Procurement Code.

4. When the City participates in third party development of infrastructure, the process must follow ARS Title 34 for public works contracts. The bids must be advertised and sealed bids received.

5. If only one proposal is received in response to a RFP, the Manager, Construction and Contracting Division may either:

- a. Award the contract to the offeror and prepare a written determination that:
  - i. The price submitted is fair and reasonable.
  - ii. The offeror is responsible.
- b. Reject the offer and:
  - i. Resolicit for new offers.
  - ii. Cancel the procurement.
- c. Use a different source selection method authorized under the Procurement Code.

## **Section 11 - Formal Bid Evaluation (IFB)**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Formal Bid Evaluation.

### **A. Statement**

Bids shall be evaluated to determine which bidder offers the lowest cost to the City in accordance with the evaluation criteria set forth in the Invitation for Bids (IFB). Only objectively measurable criteria that are set forth in the IFBs shall be applied in determining the lowest bidder.

### **B. Process**

1. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the invitation for bids.
2. The amount of any applicable transaction privilege or use tax is not a factor in determining the lowest bidder.

## **Section 12 Formal Bid Evaluation (RFP)**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Formal Proposal Evaluation.

### **A. Statement**

Evaluation of the proposals shall be based on the evaluation factors set forth in the Request for Proposals (RFP). The Manager, Construction and Contracting Division shall not modify evaluation criteria or their relative order of importance after offer due date and time.

### **B. Process**

1. For the purpose of conducting discussions, the Manager, Construction and Contracting Division shall select for further consideration those proposals determined to be reasonably susceptible of being selected for award. If the Manager, Construction and Contracting Division determines that an offeror's proposal is not to be selected for award the offeror shall not be afforded the opportunity to amend its offer.
2. The Manager, Construction and Contracting Division may request clarifications from offerors at any time after receipt of offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.
3. The Manager, Construction and Contracting Division shall retain any clarifications in the contract file.

4. The Manager, Construction and Contracting Division shall establish procedures and schedules for conducting negotiations. The Manager, Construction and Contracting Division shall ensure there is no disclosure of one offeror's price or any information derived from competing offers to another offeror.

5. Negotiations may be conducted orally or in writing. If oral negotiations are conducted, the offeror shall confirm the negotiations in writing.

6. If negotiations are conducted, negotiations shall be conducted with all offerors determined to be in the competitive range for receiving an award. Offerors may revise offers based on negotiations provided that any revision is confirmed in writing.

7. A Manager, Construction and Contracting Division may conduct negotiations with responsible offerors to improve offers in such areas as cost, price, specifications, performance, or terms to achieve best value for the City based on the requirements and the evaluation factors set forth in the solicitation.

8. Responsible offerors determined to be susceptible for award, with which negotiations have been held may revise their offer in writing during negotiations.

9. An offeror may withdraw an offer at any time before the final proposal revision due date and time by submitting a written request to the Manager, Construction and Contracting Division.

10. A Manager, Construction and Contracting Division shall request written final proposal revisions from any offeror with whom negotiations have been conducted, unless the offeror has been determined not susceptible for award or non-responsible. The Manager, Construction and Contracting Division shall include in the written request:

- a. The date, time, and place for submission of final proposal revisions.
- b. A statement that if offerors do not submit a written notice of withdrawal or a written final proposal revision, their immediate previous written proposal revision will be accepted as their final proposal revision.

11. The Manager, Construction and Contracting Division shall request written final proposal revisions only once.

12. If an apparent mistake, relevant to the award determination, is discovered after opening of final proposal revisions, the Manager, Construction and Contracting Division shall contact the offeror for written confirmation. The Manager, Construction and Contracting Division shall designate a time-frame within which the offeror shall either:

- a. Confirm that no mistake was made and assert that the offer stands as submitted.
- b. Acknowledge that a mistake was made, and include the following in a written response:
  - i. Explanation of the mistake and any other relevant information
  - ii. A request for correction including the corrected offer or a request for withdrawal.

- iii. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the city.

13. An offeror who discovers a mistake in their final proposal revision may request withdrawal or correction in writing, and shall include the following in the written request:

- a. Explanation of the mistake and any other relevant information.
- b. A request for correction including the corrected offer or a request for withdrawal.
- c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the City.

14. The Manager, Construction and Contracting Division may appoint an evaluation committee to assist in the evaluation of offers. If offers are evaluated by an evaluation committee, the evaluation committee shall complete and submit all evaluation forms to the Manager, Construction and Contracting Division. The Manager, Construction and Contracting Division may:

- a. Accept or reject the findings of the evaluation committee;
- b. Request additional information from the evaluation committee;
- c. Replace the evaluation committee.

15. The Manager, Construction and Contracting Division shall prepare an award recommendation and place it, including any evaluation report or other supporting documentation, in the contract file.

## **Section 13 - Formal Request for Qualification Evaluation**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Formal Proposal Evaluation.

### **A. Statement**

Evaluation of the proposals shall be based on the evaluation factors set forth in the Request for Qualifications (RFQ). The Manager, Construction and Contracting Division shall not modify evaluation criteria or their relative order of importance after offer due date and time.

### **B. Process**

1. The offeror determined to be best qualified shall submit cost or pricing data to the Manager, Construction and Contracting Division.

2. The Manager, Construction and Contracting Division shall negotiate a contract with the best-qualified offeror at compensation determined in writing to be fair and reasonable.

3. If the Manager, Construction and Contracting Division and the best-qualified offeror fail to negotiate a contract, the Manager, Construction and Contracting Division shall notify the offeror in writing of the termination of negotiations. The Manager, Construction and Contracting Division may then enter into negotiations with the next most qualified offeror. If negotiations fail, they shall be terminated, the offeror given notice and negotiations commenced with the next most qualified offeror.

4. If the Manager, Construction and Contracting Division is unable to negotiate a contract with any of the offerors initially selected as the best qualified offerors, proposals may be resolicited or additional offerors may be selected based on original, acceptable proposals in the order of their qualification ranking. Negotiations may continue until a contract is awarded.

5. If a multiple award is to be made, the Manager, Construction and Contracting Division shall evaluate the proposals submitted, rank the most qualified offerors, and award contracts to as many offerors as is determined advantageous to the City. The basis for award shall be maintained in the procurement file.

6. A written record in a manner prescribed by the Manager, Construction and Contracting Division shall be maintained in the procurement file.

## **Section 14 - Cancellation of Solicitations**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye related to the cancellations of solicitations.

### **A. Statement**

1. Based on the best interest of the City, a Manager, Construction and Contracting Division may cancel a solicitation at any time prior to award.
2. Cancellation of a solicitation prior to due date.
  - a. The Manager, Construction and Contracting Division shall post notice on the City website of the cancellation.
3. Cancellation of a solicitation after due date.
  - a. The Manager, Construction and Contracting Division shall notify each offeror in writing as to the reason for the solicitation cancellation and the likelihood of any timely re-solicitation.

## **Section 15 - Bid Protests**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Protests.

### **A. Filing a Protest**

1. Protest of Intent to Award Contract
2. Any interested party may protest the intent to award a contract.
3. The interested party shall file the protest in writing with the Manager, Construction and Contracting Division with a copy to the City Attorney, and shall include the following information:
  - a. The name, address and telephone number of the interested party.

- b. The signature of the interested party(s) representative.
- c. Identification of the solicitation or contract number.
- d. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents.
- e. The form of relief requested.

4. The interested party shall file the protest within fourteen (14) days after notification of intent to award.

5. The Manager, Construction and Contracting Division shall immediately give notice of a protest to all offerors.

#### **B. Stay of Procurements During the Protest**

1. If a protest is filed within the fourteen (14) days required by section 2-349 of the Procurement Code, the Manager, Construction and Contracting Division shall stay all or part of the procurement if a stay is in the best interest of the City.

2. The Manager, Construction and Contracting Division shall provide the interested party, the City Attorney, and other interested parties with a copy of the written determination, if any, that the contract should precede.

#### **C. Resolution of Solicitation and Contract Award Protests**

1. The Manager, Construction and Contracting Division has the authority to resolve a protest.

2. The Manager, Construction and Contracting Division shall dismiss, upon written determination, an appeal in whole or in part before scheduling a hearing if:

- a. The appeal does not state a valid basis for protest.
- b. The appeal is untimely as prescribed under these Guidelines.
- c. The appeal attempts to raise issues not raised in the protest.

3. The Manager, Construction and Contracting Division shall notify all interested parties in writing of a determination to dismiss an appeal before hearing.

4. The Manager, Construction and Contracting Division shall issue a written decision within fourteen (14) days after a protest has been filed. The decision of the Manager, Construction and Contracting Division shall contain the basis for the decision and the appeal rights.

5. The Manager, Construction and Contracting Division shall furnish the decision to the interested party on the same date as the decision is issued by certified mail with return receipt requested or by any other method that provides evidence of receipt, with a copy to the City Attorney and City Manager.

6. Appeal: The Manager, Construction and Contracting Division 's decision may be appealed to the City Manager within five (5) days from the date of the decision. If the Manager, Construction and Contracting Division fails to issue a decision within the time limits set forth in this Guideline, the interested party may proceed as if the Manager, Construction and

Contracting Division had issued an adverse decision. If no decision is filed, then an appeal is due five (5) days after the fourteen (14) day deadline for the Manager, Construction and Contracting Division to respond.

#### **D. Remedies by the Manager, Construction and Contracting Division**

1. If the Manager, Construction and Contracting Division sustains a protest in whole or part and determines that a contract award does not comply with the procurement statutes and regulations, the Manager, Construction and Contracting Division shall implement an appropriate remedy.

2. In determining an appropriate remedy, the Manager, Construction and Contracting Division shall consider all the circumstances surrounding the procurement or proposed procurement including:

- a. The seriousness of the procurement deficiency.
- b. The degree of prejudice to other interested parties or to the integrity of the procurement system.
- c. The good faith of the parties.
- d. The extent of performance.
- e. The costs to the City.
- f. The urgency of the procurement.
- g. The impact on the agency's mission.
- h. Other relevant issues.

3. The Manager, Construction and Contracting Division may implement any of the following appropriate remedies:

- a. Decline to exercise an option to renew under the contract.
- b. Terminate the contract.
- c. Amend the solicitation.
- d. Issue a new solicitation.
- e. Award a contract consistent with the procurement code and guidelines.
- f. Render such other relief as determined necessary to ensure compliance with the procurement code and guidelines.

#### **E. Appeals to the City Manager**

1. An interested party may appeal the decision entered or deemed to be entered by the Manager, Construction and Contracting Division to the City Manager within the time limits set forth in the Procurement Code. The interested party shall file a copy of the appeal with the City Manager, the City Attorney, and the Manager, Construction and Contracting Division.

2. The interested party shall file the appeal in writing and shall include the following information:

- a. All information prescribed in the City of Buckeye Procurement Code.
- b. A copy of the decision of the Manager, Construction and Contracting Division.
- c. The precise factual or legal error in the decision of the Manager, Construction and Contracting Division from which an appeal is taken.



## **F. Procedures for Hearing.**

1. Prior to the hearing, the City may hold a telephonic pre-hearing conference to discuss and resolve matters such as the procedures to be followed, the issues to be considered, and the witnesses who will testify.

2. The parties have the right to be represented by counsel or to proceed without counsel, to submit evidence, and to cross-examine witnesses.

3. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the City Manager may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. The City Manager shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time, and protecting witnesses from harassment or undue embarrassment.

4. Hearings may be recorded. The City Manager shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding if requested by either party at least five (5) working days prior to the hearing. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

5. Unless otherwise provided by law, the following apply:

- a. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any City Manager administrative decision or order if the evidence supporting the decision or order is substantial, reliable, and probative.
- b. Copies of documentary evidence may be received at the discretion of the City Manager. On request, parties shall be given an opportunity to compare the copy with the original.
- c. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the City's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The City's experience, technical competence, and specialized knowledge may be used in the evaluation of the evidence.
- d. On application of a party or the City and for use as evidence, the City Manager may permit a deposition to be taken, in the manner and on the terms designated by the City Manager, of a witness who cannot be subpoenaed or who is unable to attend the hearing.
- e. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

6. Except as otherwise provided by law:
  - a. At a hearing the applicant has the burden of persuasion.

7. Although hearings ordinarily will be conducted at City Hall in Buckeye Arizona, hearings may, at the discretion of the City Manager, be conducted at other locations, or by telephone.

8. All parties participating in the protest shall be invited to attend the hearing. Others may be permitted to attend as observers and may participate as allowed by the City Manager. In order to prevent the improper disclosure of protected information at the hearing, the City Manager may restrict attendance during all or part of the proceeding.

## **Section 16 - Basis for Debarring Bidders and Suppliers**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Basis for Debarring bidders and suppliers.

### **A. Process for Debarring Bidders and Suppliers**

1. The Manager, Construction and Contracting Division may debar a person or company from selling or renting supplies, goods, or services to the City if it is determined that any of the following circumstances apply:

- a. The person or an authorized representative of the company has committed fraud or intentional misrepresentation in procuring or performing a contract with the city or in application for payment from the City within the last ten (10) years.
- b. The person or company has materially breached or failed to perform a contract with the City, whether or not terminated within the last three (3) years.
- c. The person or authorized representative of the company was convicted of a criminal offense committed in the course of obtaining or performing a public contract within the last ten (10) years.

2. The Manager, Construction and Contracting Division shall send written notice of the proposed debarment, including the grounds and the proposed period of debarment by certified mail to the address contained in the bid. The notice shall advise of the right to request a hearing on the matter before the Manager, Construction and Contracting Division. If a written request is received by the Manager, Construction and Contracting Division not more than ten (10) days after the date on which the individual was mailed notice, the Manager, Construction and Contracting Division shall conduct a hearing. At the hearing, each side shall have the opportunity to present evidence concerning the debarment. If the Manager, Construction and Contracting Division determines that debarment is justified under this section, the Manager, Construction and Contracting Division shall debar.

3. If debarment applies to a person, it shall apply to all businesses in which the debarred person holds a substantial interest or serves in a management or sales position.

## **Section 17 - Contracts: Service Agreement Requirements**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Contracts and Service Agreement Requirements.

### **Guideline**

#### **A. Service Agreements for less than \$5,000**

1. The procurement of most services requires a services agreement. As part of the normal procurement process, the Manager, Construction and Contracting Division will review requests for services in excess of five thousand dollars (\$5,000).

2. Services less than five thousand dollars (\$5,000) may not require review by the Manager, Construction and Contracting Division. All departments should use the service agreement form provided by the vendor when contracting for goods or services in an amount less than five thousand dollars (\$5,000.). If the department uses this form, without changes, no further legal or purchasing review will be required of the department. If changes are requested by the department or vendor, the Manager, Construction and Contracting Division should be consulted.

3. While departments may use this form for goods and services for less than five thousand dollars (\$5,000), there are contractual matters that may still need to be reviewed by the Manager, Construction and Contracting Division. These include, but are not limited to:

- a. Procurement of goods or services involving fireworks or explosive devices.
- b. Procurement of goods or services involving blood or the exposure of blood-borne pathogens.
- c. Procurement of goods or services in a manner that will require Council approval.
- d. Amendment of the terms of the form contract.

## **Section 18 - Contracts: Term Contracts**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Term Contracts.

### **Guideline**

#### **A. Process to Establish Term Contracts**

1. The City may enter into a multi-term contract for a period of time up to five years, provided that, such action is approved by the Manager, Construction and Contracting Division .

2. A multi-term contract for a period of time exceeding five years may be entered into, provided that, the action is approved by the awarding authority and authorized by law.

3. Multi-term contracts may be entered into by various procurement methods including but not limited to:

- a. Cooperative Linking Agreements.
- b. Formal Sealed Proposals.

- c. Informal Request for Quotes.
- d. Direct Select.

## **Section 19 - Contract Award**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Contract Awards.

### **Guideline**

#### **A. Invitation for Bids**

1. The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids (IFB).

2. A contract may not be awarded to a bidder submitting a higher quality item than that designated in the IFB unless the bidder is also the lowest bidder that meets minimum specifications. This regulation does not permit negotiations with any bidder.

3. If there are two or more low responsive offers from responsible offerors that are identical in price, the Manager, Construction and Contracting Division shall make the award by drawing lots. If time permits, the Manager, Construction and Contracting Division shall provide the offerors involved with an opportunity to attend the drawing. The Manager, Construction and Contracting Division shall ensure that the drawing is witnessed by at least one person from the Construction and Contracting Division. A record showing the basis for determining the successful bidder shall be retained in the procurement file.

4. A written notice of award shall be sent to the successful and unsuccessful bidders.

#### **B. Request for Proposals**

1. The Manager, Construction and Contracting Division shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the City for those procurements which do not exceed the limits for City Council approval. If it exceeds the limits, it will be recommended to City Council that award of a contract to the offeror whose proposal is determined in writing to be most advantageous to the City based on the factors set forth in the Request for Proposals (RFP). The determination shall explain the basis of the recommended award.

2. After contract award, or after rejection of all proposals, the proposals may be open for public inspection except to the extent that the withholding of information is permitted or required by law. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with the City's Procurement Code.

#### **C. Request for Qualifications**

1. The Manager, Construction and Contracting Division shall award a contract to the offeror best qualified based on the evaluation factors set forth in the Request for Qualifications (RFQ) and after making a written determination that the price is fair and reasonable for those

procurements which do not exceed the limits for City Council approval. If it exceeds the limits, it will be recommended to City Council that award of a contract to the offeror best qualified and whose proposal is determined in writing to be most advantageous to the City based on the factors set forth in the RFQ. The determination shall explain the basis of the recommended award.

2. After contract award, or after rejection of all proposals, the proposals may be open for public inspection except to the extent that the withholding of information is permitted or required by law. If the offeror designates a portion of its proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with the City's Procurement Code.

## **Section 20 - Emergency Procurement Process**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Emergency Procurement Process.

### **Guideline**

#### **A. Process and Reporting Requirements**

1. A department seeking an emergency procurement shall prepare a written request documenting the existence of an emergency condition and explaining the procurement need. The request shall be signed by the department head or other designee.

2. The request shall be submitted to the Manager, Construction and Contracting Division.

3. The Manager, Construction and Contracting Division shall determine in writing whether to grant the request. If the request is approved, except as noted, the determination shall state the manner in which the procurement is to be effected, whether procurement authority is delegated to the City Department and the limits of the determination.

4. A copy of each request and determination processed under these procedures shall be kept on file in the Construction and Contracting Division.

5. If the nature of the emergency does not permit submission of a written request, the Department may make a verbal request to the Manager, Construction and Contracting Division who may make a verbal determination and delegation. A written request shall be submitted to the Manager, Construction and Contracting Division within two (2) days of the verbal request.

6. The Manager, Construction and Contracting Division may approve a written request subsequent to the procurement if all of the following conditions are met:

- a. The emergency necessitated immediate response and it was impracticable to contact the Manager, Construction and Contracting Division.
- b. The procurement was made with as much competition as was practicable under the circumstances.
- c. The price paid was reasonable.
- d. A timely written request pursuant to this section was submitted.

## **Section 21 – Unauthorized Purchases**

### **Purpose**

This guideline sets forth the standards and expectations concerning Unauthorized Purchases and the ratifications of an Unauthorized Purchase

### **Guideline**

Unauthorized Purchase Definition: Purchase that commits the City financially, made by an individual or individuals who lack the written authority to do so or purchases made without following established City purchasing policies, procedures or the City of Buckeye Procurement Code

A purchase that is contrary to the rules and regulations established by the State and/or City of Buckeye Procurement Code shall be void and of no effect. Any employee of a city who willfully purchases or causes to be purchased any materials, supplies, equipment, construction or construction services contrary to the rules and regulations will be personally liable for the cost thereof.

Authority to enter into a contract, purchase order or other form of agreement which obligates city funds is established in the Chapter 24 of the City Code. Construction and Contracting Division is the only Department who has the authority to obligate funds outside of any limitations placed on individuals authorized to make small purchases via petty cash procedures, check request procedures, or as outlined in the p-card manual. If such a commitment is inadvertently made, Construction and Contracting Division cannot process a requisition, purchase order or invoice and there is no assurance such a purchase can be paid. The person who made the purchase, or the person who directed that it be made in an unauthorized manner, may be personally liable to settle the matter with the vendor. If an unauthorized purchase is submitted for payment or reimbursement, it will be reviewed by the Construction and Contracting Division and a case-basis determination will be made as to its disposition. The Department Director must complete a Unauthorized Purchase Form explaining the circumstances of the transaction and why the City purchasing procedures were not followed.

When an unauthorized purchase is identified, the department and employee making the purchase will be notified and appropriate actions may be taken to discipline the purchaser and recoup any funds expended in an improper manner. The purchaser will be required to submit an explanation of why proper purchasing policy and procedure were not followed along with an assurance that steps will be taken to avoid future violations of this nature. The explanation should include a description of the unauthorized purchase, why the unauthorized purchase occurred, evaluation of pricing, confirmation that the department has the available resources to pay for the unauthorized purchase and a description of preventive steps. If a purchase request/requisition has been submitted and the buyer ascertains that the purchase has already occurred or that work has commenced, the requisition may be subject to rejection and the purchaser required following unauthorized purchase procedures.

An unauthorized purchase may be ratified for payment if the following parameters are met:

1. The City will receive the full benefit of the unauthorized purchase;
2. The funds are available; and

3. The Manager, Construction and Contracting Division considers the price to be fair and reasonable.

## **Section 22 - Cooperative Agreements**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Cooperative Agreements.

### **Guideline**

#### **A. Cooperative Agreements**

1. In an effort to obtain more advantageous pricing and timing, it benefits the City to utilize a variety of other governmental entity contracts for the purchase of goods or services. These purchases are initiated in accordance with the City's Procurement Code.

2. The Manager, Construction and Contracting Division shall conduct research to see if it is advantageous to utilize a contract from another governmental agency. If it is advantageous to utilize a contract from another governmental agency, the Manager, Construction and Contracting Division:

- a. Provide written justification which establishes that the contractual terms and conditions benefit the City, and the procurement process meets the requirements of the Procurement Code.
- b. Obtain approval from other Governmental Agency, or be in possession of an Intergovernmental Agreement (IGA), to utilize their contract.
- c. Obtain a complete copy of solicitation and ALL contract documents issued by other Governmental Agency consisting of Bid Tab, Award Document, contract and all amendments, successful contractor's bid, and Certificates of Insurance (if required).
- d. Establish, in writing, whether the contractor is willing to extend a contract to the City with the same terms, conditions, and pricing.
- e. Reference on the Purchase Order or Notice of Award the applicable contract number of the soliciting entity.
- f. Obtain Certificate of Insurance identifying City of Buckeye as additional insured for service agreements.
- g. Utilize a linking agreement reviewed by the City Attorney's office for the use of contracts for services or term contracts. Complete the linking agreement with the details of the contract, including any negotiations or changes in terms as agreed by the contractor. Consult the Legal Department as necessary.

## **Section 23 - State or Federal Assistance**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye state or federal assistance.

### **Guideline**

#### **A. Federal Procurement Requirements.**

1. All Federal procurements must be adhered to at all times.

2. Procurement history files must include documents required by the state and/or Federal agency approving the funding sources or having jurisdiction over the contractual action.

## **Section 24 - Monitoring Contractor Performance**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye monitoring of contractor performance.

### **Guideline**

#### **A. Supplies, Goods, or Services.**

When a contractor fails to deliver supplies, goods, or services in the quality, quantity, manner, and time specified in the contract such supplies, goods, or services may be obtained from any source. If a greater price than that named in the contract is paid for such supplies, goods, or services, the excess price shall be charged to and collected from the contractor or the surety on the contractor's bond, if any.

#### **B. Irresponsible Contractor.**

Any contractor that fails to comply with the terms of its contract may be declared an irresponsible contractor after a due process hearing by a hearing officer appointed by the City Manager. Upon such determination the contractor shall not be permitted to act as a contractor on any City contract for a period of up to five years, as determined by the hearing officer. Appeal of a determination that a contractor is irresponsible may be made to the City Council. The contract may be cancelled, and in the event of cancellation, no recovery shall be had thereon.

## **Section 25 - Surplus or Obsolete Property**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Disposal of Surplus or Obsolete City Personal Property.

### **Guideline**

#### **A. Disposal Process**

**1. Disposal:** The City shall have the right to sell, lease, exchange, trade, or otherwise dispose of surplus or obsolete City personal property for the best interest of the City and in accordance with the procurement code. Except as otherwise provided, the City Manager shall determine the best interests of the City and such determination shall be final.

**2. Notice:** No sale, lease, exchange, trade, or other disposal action of surplus or obsolete City personal property shall be advertised in a commercially reasonable manner prior to the sale, lease, exchange, trade, or other disposal action.

**3. Proceeds of Sale:** Proceeds from the sale of personal property shall be deposited into the appropriate City fund. The Manager, Construction and Contracting Division shall work with the



Finance Department to assure the funds obtained are deposited in the appropriate City fund and to provide documentation of the sale.

**4. Execution of documents:** The Manager, Construction and Contracting Division or delegate shall have the power to execute any and all instruments pertaining to the sale, lease, exchange, trade, or disposal action of surplus or obsolete City personal property.

## **Section 26 - Identifying Conflict of Interest**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Identification of Conflicts of Interest and to provide some basic discussion, interpretations and guidance for consistency on ethics.

### **Statement:**

In the public procurement environment all City employees are confronted by the issues of ethics. It is the policy of the City of Buckeye, Construction and Contracting Division to maintain the highest ethical standard consistent with professional public procurement best practices and zero tolerance for unethical behavior. Additionally, ethical practices are paramount to fostering an environment of a fair, equitable, open, and completely transparent procurement process. The ultimate goal is to increase competition, thus insuring the “best value” procurement for the City and providing a “win- win” situation. “Gratuity” means a payment, loan, subscription, advance, and deposit of money, service or a promise of such given in return for a favor or in expectation of a favor. A gratuity may include any tangible and intangible benefit in the nature of gifts, favors, entertainment or discounts, and kickbacks. Also included are passes, transportation, accommodations, hospitality, or offers of employment in connection with any decision, approval, disapproval, recommendation, influence, investigating, auditing, rendering advice, request for ruling, determination, or claim. Gratuity by definition asserts that there is an implied obligation of further favorable action on the part of the person who receives a gratuity.

The concept of ethics and ethical behavior is difficult to define because it is predicated on individual interpretation of conduct, values, or codes. Trust, respect, fairness, integrity, and credibility are values that we expect of any business relationship.

### **Guideline**

#### **A. Conflicts of Interest**

1. Avoid the intent and appearance of an unethical or compromising practice in relationships, actions, and communications.

2. Never solicit or accept (gratuities) money, loans, credits or discounts, gifts, entertainment, favors, or services from present or potential suppliers which might influence, or appear to influence purchasing decisions.

3. Promote positive supplier relationships through impartiality in all phases of the purchasing cycle. Display the highest ideals and integrity in all relationships in order to merit respect and confidence in the City procurement process.

4. Any suspected violations by City personnel shall be addressed by notifying the department director or City Manager responsible for the department and the Human Resources Department

## **Section 27 - Public Infrastructure Reimbursement: Public Bid Requirements**

### **Purpose**

This guideline sets forth the standards and expectations governing the City of Buckeye Public Infrastructure Reimbursement: Public Bid Requirements.

The purpose of this guideline is to establish procedure of documentation for the developer to follow when requesting financial participation pursuant to a City Development Agreement and reimbursement for public improvements. City reimbursement for public infrastructure shall, in all cases, be subject to applicable statutory limits and the availability of City funds for this purpose. It is the developer's sole responsibility to provide documentation that clearly and specifically identifies the costs eligible for City reimbursement. The costs must be consistently represented in every contract, invoice, and payment. The City will not consider costs that cannot be validated due to incomplete documentation. Affidavits acknowledging the developer's responsibilities for public bidding are required. All submittals for reimbursement must follow the examples provided. Final payment to the developer will be made within sixty days (60) of the City's approval and acceptance, receipt of developer's invoices and lien releases. If no invoices and lien releases are received within one year of acceptance; the developer waives all rights to reimbursement.

### **Guideline:**

#### **A. Procedure for Documentation**

1. In conjunction with the private development of land, certain public infrastructure may be required that entails public infrastructure to meet regional as well as local needs.

**Pursuant to A.R.S. § 34-201, a contribution for the financing of public infrastructure made pursuant to a development agreement is exempt from the provisions of 34-201 if such City contribution for any single development does not exceed one hundred twelve thousand dollars (\$112,000). The developer shall be required to offer all public infrastructures through the public bidding process.**

2. Any commitment for City reimbursement must be formalized in a Development Agreement as prepared by City staff. Said Development Agreement shall include identification of all eligible public infrastructure, method of City payment, the City's specific obligations, developer's specific obligations, and affidavit acknowledging developer's responsibility for public bidding.

**In order to maintain eligibility for City reimbursement, said Development Agreement, including affidavit, must be fully and formally executed prior to the issuance of Right of Way permits for items for which City reimbursement is being requested.**

3. The formal execution of a Development Agreement for City reimbursement shall not be deemed as creating a joint venture, partnership, or any other cooperative or joint arrangement

between a developer and the City. Until the City accepts ownership of any public infrastructure, the City's sole responsibility shall be pursuant to the terms in the Development Agreement.

4. The developer is responsible for complying with all relevant and applicable federal, state, or local public bidding requirements, including Title 34 or Arizona Revised Statutes.

5. The City will not provide any official guidance or advice regarding legal compliance or processes for the public bidding process. Any guidance or advice that is received from any City employee is unofficial, not specifically authorized and not binding on either party.

6. Developer is not acting as an agent of the City.

7. The City will not formally participate in any part or process for the public bid, including any bid protests, except relevant departments will review a scope to ensure that any applicable City standards are met.

8. Developer is required to complete an affidavit and supply relevant invoices and lien releases prior to reimbursement from the City.