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ARTICLE 12. REPEALED

Article 12, consisting of Section R7-2-1201, repealed effective February 20, 1997 (Supp. 97-1).
R7-2-809. Repealed

**Historical Note**


**ARTICLE 9. SCHOOL DISTRICT BUDGET AND ACCOUNTING**

R7-2-901. Teacher experience index provisions

A. General purpose. These guidelines are provided for local governing boards to assist in development of policies identifying activities which contribute to the instructional programs at the local school level. The policies will define what constitutes a full-time vs. a part-time teacher position for the purpose of developing a school district’s Teacher Experience Index.

B. Local governing boards may include the following activities in their policies as those which contribute toward an instructional program. This listing is not intended to be exclusive, and districts may utilize additional activities:

1. Classroom related:
   a. Classroom instruction,
   b. Preparation time,
   c. Supervision,
   d. Evaluation,
   e. Curriculum development,
   f. Housekeeping chores, i.e., daily reports, blackboard preparation, etc.

2. School related:
   a. Teacher conferences,
   b. Parent conferences,
   c. Professional association activities,
   d. Professional days,
   e. District directed reports,
   f. Participation in activities related to education scheduled by county, state, or federal agencies.

Professional association activities must be, in the opinion of the local governing board, for a public purpose and must not be for the sole benefit of the professional association.

3. Other district related:
   a. Special assignments,
   b. School board approved leave,
   c. Home visitation,
   d. Home instruction,
   e. Off-site instruction,
   f. Research,
   g. In-service training.

In-service training activities are those approved by the local governing board and intended to promote the educational advancement of the youth of the district. These activities may be conducted either during the regular school day or at other times.

C. A local governing board may exercise its option to contract with certified personnel on a less than full-time basis in order to meet local district needs.

D. In those instances where a district may contract with certified personnel, and the responsibilities specified within the contract include activities not related to instruction, then the district must define in terms of “full-time equivalencies” that portion which is instruction-related.

**Historical Note**

Adopted as an emergency effective May 21, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted without change effective October 7, 1980 (Supp. 80-5).

R7-2-902. Independent accounting responsibilities

The governing board of a school district applying to operate with full independence from the county school superintendent as provided in Laws 1987, Chapter 132, shall submit a plan for accounting responsibility to the State Board of Education no later than January 1, 1988, which documents the following:

1. Administrative and internal accounting controls designed to achieve compliance with the Uniform System of Financial Records and the following objectives:
   a. Procedures for approving, preparing and signing vouchers and warrants;
   b. Procedures to ensure verification of administrators’ and teachers’ certification records with the Department of Education for all classroom and administrative personnel required to hold a certificate by the State Board pursuant to A.R.S. § 15-203, before issuing warrants for their services;
   c. Procedures to account for all revenues, including allocation of certain revenues to funds as provided in Section III-C of the February 1986 Uniform Accounting Manual for Arizona School Superintendents, incorporated herein by reference and on file with the Office of the Secretary of State;
   d. Procedures for reconciling the accounting records monthly to the county treasurer as provided in Section III-G of the February 1986 Uniform Accounting Manual for Arizona County School Superintendents, incorporated herein by reference and on file with the Office of the Secretary of State.

2. No amendments or additions to Sections III-C and G of the February 1986 Uniform Accounting Manual for Arizona County School Superintendents made after the effective date of this rule are included in these procedures. Copies of Sections III-C and G are available at the State Board office and from the Arizona Auditor General.

3. A compilation of resources required to implement accounting responsibility, including personnel, training and equipment, and a comprehensive analysis of the budgetary implications of accounting responsibility for the school district and the county treasurer.

**Historical Note**

Adopted effective February 4, 1988 (Supp. 88-1).

**ARTICLE 10. SCHOOL DISTRICT PROCUREMENT**

**IN GENERAL**

R7-2-1001. Definitions

In this Article, unless the context otherwise requires:

1. “Advantageous to the school district” means in the best interest of the school district; does not necessarily mean lowest bid/cost.

2. “Affiliate” means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It also may include persons doing business under a variety of names, or where there is a parent-subsidiary relationship between persons.

3. “Application benefit” means a quantified assessment of the benefits to be achieved in school district program and support areas by the information systems or telecommunications systems proposed by the vendor, including rea-
sonably projected reductions in program costs and increases in productivity of school district personnel.

4. "Architect services,” “engineer services,” “land surveying services,” “assayer services,” “geologist services” and “landscape architect services” means those professional services within the scope of the practice of those services as provided in A.R.S. Title 32, Chapter 1, Article 1.

5. “Bid sample” means an item furnished by a bidder to show the characteristics of the item offered in the bid.

6. “Bidder prequalification” means determining in accordance with this Article that a prospective bidder or offeror satisfies the criteria for being included on the bidders’ list.

7. "Brand name or equal specification” means a specification that uses one or more manufacturers’ names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet school district requirements, and that provides for the submission of equivalent products.

8. “Brand name specification” means a specification limited to one or more items by manufacturers’ names or catalogue numbers.

9. “Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

10. “Capability” means capability at the time of contract award.

11. “Change order” means a written order which directs the contractor to make changes that the changes clause of the contract authorizes the governing board to order.


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

14. “Contract” means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement of materials, services or construction or the disposal of materials.

15. “Contract modification” means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.

16. “Contractor” means any person who has a contract with a school district.

17. “Cooperative purchasing” means procurement conducted by, or on behalf of, more than one public procurement unit.

18. “Cost” means the aggregate cost of all materials and services, including labor performed by force account.

19. “Cost analysis” means the evaluation of cost data.

20. “Cost data” means information concerning the actual or estimated cost of labor, material, overhead and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.

21. “Cost-plus-a-percentage-of-cost contract” means a contract that, prior to completion of the work, the parties agree that the fee will be a predetermined percentage of the total cost of the work.

22. “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are reasonable, allowable and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.

23. “Data” means documented information, regardless of form or characteristic.

24. “Days” means calendar days and shall be computed pursuant to A.R.S. § 1-243.

25. “Debarment” means an action taken under R7-2-1161 et seq., to prohibit a person from participating in school district procurements.

26. “Defective data” means data that is inaccurate, incomplete or noncurrent.

27. “Designee” means the governing board member or school district employee who has been delegated procurement authority by the governing board as specified by board action.


29. “District representative” shall be a district employee who has been most closely involved in the procurement being protested or shall be the governing board. There may be more than one appointed for different purposes and different procurements.

30. “Earth-moving, material-handling, road maintenance and construction equipment” means a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader having a published manufacturer’s minimum unit list price of $50,000 or more and a minimum expected life cycle of three years.

31. “Employee” means an individual drawing a salary from a school district or its hearing officer, whichever is applicable.

32. “Exempt materials” means any materials which have a remaining useful life but which are no longer required by the school district in possession of the materials.

33. “Expendable materials” means all tangible materials other than nonexpendable materials.

34. “Fair market value” means the price at which sales have been consummated for assets of like type, quality, and quantity in a particular market at the time of acquisition.

35. “Finished goods” means units of manufactured product awaiting sale.

36. “Force account” means work performed by the school district’s regularly employed personnel.

37. “Government board” has the meaning defined in A.R.S. § 15-101(7).
43. “Incremental award” means an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
44. “Information systems” means a system of hardware, software or vendor support costing more than $100,000 that processes information or data by electronic data processing methods and devices.
45. “Interested party” means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
46. “Invitation for bids” means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R7-2-1024.
47. “Legal counsel” means a person licensed as an attorney pursuant to rules of the Arizona Supreme Court, Vol. 17A, A.R.S.
48. “Life cycle” means the useful life of the information systems, telecommunications systems or equipment to the original using school district to perform the application for which it was initially procured.
49. “Local public procurement unit” means any political subdivision and any agency, board, department, or other instrumentality of such political subdivision.
50. “Materials” means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.
51. “May” denotes the permissive.
52. “Minor informality” means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery or other contractual terms and the waiver or correction of such mistake does not prejudice other bidders or offerors.
53. “Multiple award” means an award of an indefinite quantity contract for one or more similar materials or services to more than one bidder or offeror.
54. “Multistep sealed bidding” means a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the school district and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
55. “Nonexpendable materials” means all tangible materials which have an original acquisition cost over an amount set by regulation and a probable useful life of more than one year.
56. “Nonprofit educational or public health institution” means any educational or public health institution, no part of the income of which is distributable to its members, directors, or officers.
57. “Outright purchase” means the initial cost to the school district for the earth-moving, material-handling, road maintenance and construction equipment or any other equipment, including all vendor charges and financing costs.
58. “Paper” means newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulotic material containing not more than 10% by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
59. “Paper product” means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulotic products containing not more than 10% by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
60. “Person” means any corporation, business, individual, union, committee, club, other organization or group of individuals.
61. “Physician” means a person licensed pursuant to A.R.S. Title 32, Chapter 13 or 17.
62. “Post-consumer material” means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does not include discards from industrial or manufacturing processes.
63. “Posted prices” means the sale price determined by the school district to be fair market value.
64. “Price analysis” means the evaluation of price data.
65. “Price data” means information concerning prices, including profit, for materials, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, “prices” refers to offered or proposed selling prices, historical selling prices or current selling prices of the items being purchased.
66. “Procurement” means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
67. “Proprietary specification” means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.
68. “Public procurement unit” means either a local public procurement unit, the Arizona Department of Administration, or any other state or an agency of the United States.
69. “Purchase description” means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.
70. “Purchase request” or “purchase requisition” means that document, or electronic transmission, whereby a school district requests that a contract be entered into for a specific need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested source of supply and information supplied for the making of any written determination required by this Article.
71. “Qualified products list” means an approved list of materials described by model or catalogue numbers that, prior to competitive solicitation, the governing board has determined will meet the applicable specification requirement.
72. “Recycled paper” means paper products which have been manufactured from materials otherwise destined for the waste stream and which contain at least 40% recovered wastepaper with 10% of that being post-consumer material.
73. “Request for proposals” means all documents, whether attached or incorporated by reference, which are used for
soliciting proposals in accordance with procedures prescribed in R7-2-1042.
74. “Residual value” means the guaranteed minimum market value of the earth-moving, material-handling, road maintenance and construction equipment or any other equipment at the end of the life cycle of the equipment being procured, as determined by a guaranteed minimum value offered by the vendor or other parties in its bid.
75. “Responsive bidder or offeror” means a person who has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.
76. “Responsive bidder or offeror” means a person who submits a bid which conforms in all material respects to the invitation for bids or request for proposals.
77. “School district” has the meaning defined in A.R.S. § 15-101(15), whose authority is exercised by the governing board or its designee.
78. “Shall” denotes the imperative.
79. “Services” means the furnishing of labor, time or effort by a contractor which does not involve the delivery of a specific end product other than required reports and performance. “Services” does not include employment agreements or collective bargaining agreements.
80. “Solicitation” means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations or any other invitation or request by which the school district invites a person to participate in a procurement.
81. “Specification” means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
82. “Specification for a common or general use item” means a specification that has been developed and approved for repeated use in procurements pursuant to R7-2-1102(A).
83. “Specified professional services” means services of an architect, engineer, land surveyor, assayer, geologist and landscape architect.
84. “Standard commercial material” means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.
85. “Surplus materials” means any materials that no longer have any use to the school district or materials acquired from the United States government. This includes obsolete materials, scrap materials and nonexpendable materials that have completed their useful life cycle.
86. “Suspension” means an action taken by the governing board under R7-2-1168 temporarily disqualifying a person from participating in school district procurements.
87. “Technical offer” means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications and its terms and conditions.
88. “Telecommunications systems” means systems costing more than $100,000, including but not limited to all instrumentalities, facilities, apparatus and services, for the transmission and reception of messages, impressions, signs, signals, pictures, sounds or any other symbols by wire, radio, optical cable, electromagnetic or other similar means.
89. “Total cost” means total cost as defined in A.R.S. § 15-213(F).
90. “Total life cycle cost” means vendor costs, total school district costs and financing costs throughout the life cycle of the information systems or telecommunications systems being purchased or any other equipment purchased less residual value.
91. “Total school district costs” means costs to the school district for the information systems or telecommunications systems including energy, facilities, repair costs, present value of monies, vendor charges, personnel costs and all other identifiable school district costs.
92. “Vendor charges” means costs of all vendor support, materials, transportation and all other identifiable costs associated with the vendor’s proposal or bid.
93. “Vendor support” means services provided by the vendor for items such as consulting, education, training, management of the information systems or telecommunications systems or any other systems purchased, systems planning, development, integration and maintenance and training.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended effective October 22, 1992 (Supp. 92-4).

R7-2-1002. Applicability
A. This Article applies to every expenditure of public monies, including federal assistance monies, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds the maximum amount specified in A.R.S. § 15-213(A)(1), as adjusted by the State Board of Education by April 1 of each year, in accordance with A.R.S. § 15-213(F). If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in this Article. This Article does not apply to agreements pursuant to A.R.S. § 15-789 or grants or contracts between governing boards, except as provided in Sections R7-2-1191 through R7-2-1195. This Article also applies to the disposal of school district materials regardless of value. Nothing in this Article shall prevent any governing board from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. (A.R.S. § 15-271(C)(3) requires the Auditor General in the Uniform System of Financial Records to prescribe guidelines applicable to procurement practices for use by school districts for amounts less than those prescribed in A.R.S. § 15-213(A) and (F), as described in this subsection.)
B. The provisions of this Article are not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial or administrative proceeding in which the school district is or may become a party.
C. Agreements negotiated by legal counsel representing the school district in settlement of litigation or threatened litigation are exempt from the provisions of this Article.
D. Unless displaced by the particular provisions of this Article, the principles of law and equity, including the Uniform Com-
E. Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved, are exempt from this Article.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended effective March 6, 1997 (Supp. 97-1).
Amended effective December 4, 1998 (Supp. 98-4).

R7-2-1003. General provisions
A. A school district shall not award a contract or incur an obligation if sufficient funds are not available for budgeting.
B. Any bid or proposal that is conditioned upon award to the bidder or offeror of both the particular contract being solicited and another school district contract shall be deemed nonresponsive or unacceptable.
C. Except by mutual consent of the parties to the contract, no rule in this Article may change any commitment, right or obligation of a school district or of a contractor under a contract in existence on the effective date of the rule.
D. Rights and duties arising from a school district contract may only be transferred, waived or assigned upon the express written consent of both parties.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).

R7-2-1004. Written determinations
A. Written determinations required by this Article shall be retained by the school district and shall specify the reasons for the determination.
B. The school district is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1005. Confidential information
A. If a person believes that a bid, proposal, offer, specification, or protest contains trade secrets or other proprietary data that should remain confidential and should not be disclosed as otherwise required by A.R.S. § 39-121, a statement advising the school district of this fact shall accompany the submission and the information shall be so identified wherever it appears.
B. The information identified by the person as confidential shall not be disclosed until the school district makes a determination, as provided in subsection (C) of this Section.
C. The school district shall review the statement and information and shall determine prior to the contract award, whether the information shall be withheld.
D. If the school district determines to disclose the information, the school district shall inform the bidder in writing of such determination.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1006. Delegation of procurement authority
A. The governing board may, in a public meeting held in conformity with A.R.S. Title 38, Article 3.1, delegate procurement authority to a designee. Any delegation shall be accomplished by adopting a governing board policy for this purpose.
B. Any delegation shall specify:
1. The title of the employee or employees of the school district to whom authority is delegated;
2. The activity or function authorized;
3. Any limits or restrictions on the exercise of the delegated authority, including the maximum total cost of any procurement;
4. Whether the authority may be further delegated;
5. The duration of the delegation; and
6. The conditions and procedures for revocation and modification of the delegation.
C. No person delegated such authority may participate in any aspect of a specific procurement if he would receive any benefit directly or indirectly from a contract for such procurement. Violation of this prohibition may result in termination or other disciplinary action.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).

R7-2-1007. Procurement advisors
A. The school district may appoint an advisor or advisors to assist with respect to specifications or procurement in specific areas.
B. Advisors are not eligible to receive compensation but are eligible for reimbursement of expenses consistent with A.R.S. Title 38, Chapter 4, Article 2.
C. A procurement advisor who participates in any aspect of a specific procurement shall be prohibited from receiving any benefit directly or indirectly from a contract for such procurement. For the purpose of this Section a vendor who provides a set of specifications is not an advisor.
D. Specifications prepared by a procurement advisor shall comply with Sections R7-2-1101 through R7-2-1105.
E. The school district shall not delegate to a procurement advisor the authority for the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1008. Change order percentage
A change order which increases the contract amount in excess of $15,000 or 5% of the contract amount, whichever is greater, may be executed if the governing board determines in writing that the change order is advantageous to the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1009. Proprietary specifications
The school district shall not use specifications in any way proprietary to one supplier unless the specification includes a statement of the reasons why no other specification is practicable, a description of the essential characteristics of the specified product and a statement specifically permitting an acceptable alternative product to be supplied.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1010. Recycled Products Use
A. If the price of a recycled paper product which conforms to specifications is within 5% of a low bid product which is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product.
B. Specifications shall emphasize functional or performance criteria which, to the extent practicable, do not discriminate against the use of recycled materials.
R7-2-1021. Method of Source Selection
Unless otherwise authorized by law, or as specified in A.R.S. § 15-213(A)(1) exempting the requirement to competitively bid the decision to participate in programs pursuant to A.R.S. § 15-382 for purchase of health and accident insurance and related employee benefits when such programs comply with bidding requirements for the subsequent purchase of reinsurance or the joint purchase of insurance or reinsurance, all school district contracts shall be awarded by competitive sealed bidding as provided in Sections R7-2-1021 through R7-2-1032, except as provided in Sections R7-2-1041 through R7-2-1068 and Sections R7-2-1117 through R7-2-1125.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1022. Notice of competitive sealed bidding
A. Adequate public notice of the invitation for bids shall be given as provided in subsection (B) of this rule or in R7-2-1024(C). If notice is given pursuant to R7-2-1024(C), notice also may be given as provided in subsection (B). In the event there are four or fewer prospective bidders on the bidders’ list, then notice also shall be given as provided in subsection (B). If the invitation for bids is for the procurement of services other than those described in Sections R7-2-1061 through R7-2-1068 and R7-2-1117 through R7-2-1123. Specified Professional Services, notice also shall be given as provided in subsection (B).

B. In the event there are four or fewer prospective bidders on the bidders’ list, the notice shall include publication in the official newspaper of the county as defined in A.R.S. § 11-255 within which the school district is located for two publications which are not less than six nor more than 10 days apart. The second publication shall not be less than two weeks before bid opening. The time of publication may be altered if deemed necessary pursuant to R7-2-1024(A).

C. In addition to the notice provided in subsections (A) and (B), the school district may give such additional notice as the school district deems appropriate.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1023. Prospective bidders’ lists
A. The school district shall compile and maintain a prospective bidders’ list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a district contract.

B. Persons desiring to be included on the prospective bidders’ list shall notify the school district. Upon notification, the school district shall mail or otherwise provide the person with the school district procedures for inclusion on the bidders’ list. Within 30 days after receiving the required information, the school district shall add the person to the prospective bidders’ list unless the school district makes a determination that inclusion is not advantageous to the school district.

C. Persons who fail to respond to invitations for bids for two consecutive procurements of similar items may be removed from the applicable bidders’ list after mailing a notice to the person. This notice shall not be required if the two invitations for bids which were not responded to both contained the notice that bidders’ names may be removed from the bidders’ list if they fail to respond to invitations for bids for two consecutive procurements of similar items. Persons may be reinstated upon request.

D. Prospective bidders’ lists shall be available for public inspection, unless the school district makes a written determination that it is in the best interest of the school district that they should be confidential or private and should not be open for inspection pursuant to A.R.S. § 39-121.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1024. Invitation for Bids
A. Invitation for bids shall be issued at least 14 days before the time and date set for bid opening in the invitation for bids unless a shorter time is deemed necessary for a particular procurement as determined by the school district.

B. Content.
1. The invitation for bids shall include the following:
   a. Notice that all information and bids submitted by bidders will be made available for public inspection following the award of the contract;
   b. Instructions and information to bidders concerning the bid submission requirements, including the time and date set for bid opening, the address of the office at which bids are to be received, the period during which bids shall be accepted, and any other special information;
   c. Procurement of information systems and telecommunications systems shall include as price evaluation criteria the total life cycle cost and application benefits of the information systems or telecommunications systems.
   d. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment.
   e. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
   f. The factors to be used in bid evaluations;
   g. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable; and
   h. The name of the district representative or district representatives.
   2. If the invitation for bids incorporates documents by reference, the invitation for bids shall specify where such documents may be obtained.
   3. An invitation for bids may require the submission of bid samples, descriptive literature and technical data and may require inspection or testing of a product before award.
   4. The school district shall mail or otherwise furnish invitation for bids or notices of the availability of invitation for bids to all prospective bidders registered with the school district for the specific material, service or construction being bid.
   5. A copy of the invitation for bids shall be made available for public inspection at the school district office.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).

R7-2-1025. Pre-bid conferences
The school district may conduct a pre-bid conference to explain the procurement requirements within a reasonable time before bid opening.
R7-2-1026. Amendments to invitation for bids
A. An amendment to an invitation for bids shall be issued if necessary to:
   1. Make changes in the invitation for bids;
   2. Correct defects or ambiguities; or
   3. Furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of the information will prejudice the other bidders.
B. Amendments to invitation for bids shall be so identified and shall be distributed to all persons to whom the original invitation for bids was distributed by the school district.
C. Amendments to invitation for bids shall be issued within a reasonable time before bid opening to allow prospective bidders to consider them in preparing their bids. If the school district determines that the time and date set for bid opening does not permit sufficient time for bid preparation, the time and date for bid opening shall be extended in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1027. Pre-opening modification or withdrawal of bids
A. A bidder may modify or withdraw his bid at any time before bid opening if the modification or withdrawal is received before the time and date set for bid opening at the location designated in the invitation for bids for receipt of bids.
B. All documents concerning a modification or withdrawal of a bid shall be retained in the official records of the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1028. Late bids, late withdrawals and late modifications
A. A bid, modification or withdrawal is late if it is received at the location designated in the invitation for bids for receipt of bids after the time and date set for bid opening.
B. A late bid, late modification, or late withdrawal shall be rejected, unless the bid, modification, or withdrawal would have been timely received but for the action or inaction of school district personnel and is received before contract award.
C. Bidders submitting bids, modifications or withdrawals that are rejected as late shall be so notified as soon as practicable.
D. All documents concerning acceptance of a late bid, late modification, or late withdrawal shall be retained in the official records of the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1029. Receipt, opening and recording of bids
A. Each bid and modification shall be time and date stamped upon receipt and stored unopened in a secure place until the time and date set for bid opening.
B. Bids and modifications shall be opened publicly at the date, time and place designated in the invitation for bids and in the presence of one or more witnesses. The name of each bidder, the amount of each bid, and other relevant information deemed appropriate by the school district shall be recorded. The record shall be available for public inspection.
C. After contract award, the bids shall be available for public inspection, except that any portion of a bid that was designated as confidential pursuant to R7-2-1005 shall remain confidential from and after the time of bid opening.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1030. Mistakes in bids
A. After bid opening, a bid mistake based on an error in judgment may not be corrected or withdrawn. Other bid mistakes may be corrected or withdrawn pursuant to subsections (B) through (E) of this Section.
B. After bid opening, the school district shall either waive minor informalities in a bid or allow the bidder to correct them if correction is advantageous to the school district.
C. After bid opening, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.
D. After bid opening, the school district may permit a bidder to withdraw a bid if:
   1. A nonjudgmental mistake is evident on the face of the bid but the intended bid is not evident; or
   2. The bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.
E. Mistakes shall not be corrected after award of the contract except where the school district makes a written determination that it would be unconscionable not to allow the mistake to be corrected.
F. If correction or withdrawal of a bid after bid opening is permitted or denied under subsections (C) and (D) of this Section, the school district shall prepare a written determination showing that the relief was permitted or denied under this Article.
G. Notwithstanding other provisions of this Section, after bid opening, no corrections in bid prices or other provisions of bids prejudicial to the interest of the school district or fair competition shall be permitted.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1031. Bid Evaluation and Award
A. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder, if a competing bidder located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state.
B. Awards for procurement of information systems and telecommunications systems shall include as evaluation factors the total life cycle cost and application benefits of the information systems or telecommunications systems.
C. Awards for procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as evaluation factors the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment.
D. If all bids for a construction project exceed available monies as certified by the school district, and the low responsive and responsible bid does not exceed such monies by more than 5%, the school district may in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies.
E. A product acceptability evaluation shall be conducted solely to determine whether a bidder’s product is acceptable as set forth in the invitation for bids and not whether one bidder’s product is superior to another bidder’s product. Any bidder’s offering that does not meet the acceptability requirements shall be rejected as nonresponsive.

F. Bids shall be evaluated to determine which bidder offers the lowest cost to the school district in accordance with the evaluation criteria set forth in the invitation for bids. Only objectively measurable criteria that are set forth in the invitation for bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs or life cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the governing board has available concerning future use.

G. A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids unless the bidder is also the lowest bidder as determined under subsection (D) of this Section. This Section does not permit negotiations with any bidder, except as provided in subsection (B).

H. If there are two or more low responsive bids from responsible bidders that are identical in price and that meet all the requirements and criteria set forth in the invitation for bids, award may be made by drawing lots.

I. A record showing the basis for determining the successful bidder shall be retained in the official records of the school district.

J. A written notice of award shall be sent to the successful bidder. Unsuccessful bidders may be notified in writing of the award. Notice of award shall be made available to the public.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).

R7-2-1032. Only One bid received
If only one responsive bid is received in response to an invitation for bids, an award may be made to the single bidder if the school district determines that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid may be rejected in whole or in part as may be specified in the solicitation if it is advantageous to the school district. The reasons for cancellation or rejection shall be made part of the procurement file and:

1. New bids may be solicited; or
2. The proposed procurement may be canceled; or
3. If the school district determines that the need for the material or service continues and the acceptance of the one bid is not advantageous to the school district, the procurement may then be conducted as follows:
   a. The school district may follow the sole source procurement procedure if R7-2-1053 applies.
   b. Notwithstanding any other provision of this Article, the school district may make emergency procurements pursuant to R7-2-1056 and R7-2-1057 if an emergency condition exists pursuant to R7-2-1056.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1033. Simplified School Construction Procurement Program
A. The Simplified School Construction Procurement Program is applicable to construction projects which do not exceed the maximum amount specified in A.R.S. § 15-213(A)(2).

B. To participate in the Simplified School Construction Procurement Program:
1. Each county school superintendent must maintain a list of persons who desire to receive solicitations to bid on construction projects within the county, and additions to the list shall be permitted throughout the year;
2. The list of persons developed pursuant to subsection (B)(1) shall be available for public inspection;
3. A performance bond and a payment bond, as required by A.R.S. § 34-222, shall be provided for contracts for construction by contractors;
4. All bids for construction shall be opened at a public opening and the bids shall remain confidential until the public opening;
5. All persons desiring to submit bids shall be treated equitably and the information related to each project shall be available to all eligible persons; and
6. Competition for construction projects under the Simplified School Construction Procurement Program shall be encouraged to the maximum extent possible. School districts shall submit information on each project to all persons listed with the county school superintendent by any school district within that county.

Historical Note
Adopted effective December 4, 1998 (Supp. 98-4).

MULTISTEP SEALED BIDDING

R7-2-1035. Multistep sealed bidding
A. The multistep sealed bidding method may be used if the governing board determines that:
1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each bidder and the school district;
2. Definite criteria exist for evaluation of technical offers;
3. More than one technically qualified source is expected to submit technical offers;
4. A fixed-price contract will be used.

B. The school district may hold a conference with bidders before submission or at any time during the evaluation of the unpriced technical offers.

C. The multistep sealed bidding method may not be used for construction contracts.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1036. Phase 1 of multistep sealed bidding
A. Multistep sealed bidding shall be initiated by the issuance of an invitation to submit technical offers. The invitation to submit technical offers shall be issued according to R7-2-1024(A).

B. Content. The invitation to submit technical offers shall include the following information:
1. Notice that the procurement shall be conducted in two phases;
2. The best description of the material or services desired;
3. A statement that unpriced technical offers only shall be considered in phase 1;
4. The requirements for the technical offers, such as drawings and descriptive literature;
5. The criteria for evaluating technical offers;
6. The closing date and time for receipt of technical offers and the location where offers should be delivered or mailed;
7. A statement that discussions may be held;
8. A statement that only bids based on technical offers determined to be acceptable in phase 1 shall be considered for award; and
9. The name of the district representative or district representatives.

C. The invitation to submit technical offers may be amended after the submission of the unpriced technical offers.
1. The amendment shall be so identified and distributed to those persons notified pursuant to R7-2-1023 and to other persons who requested the original invitation to submit technical offers, all of whom shall be permitted to submit new unpriced technical offers or to amend the offers already submitted.
2. Amendments shall be issued within a reasonable time before bid opening to allow prospective bidders to consider them in preparing their bids. If the school district determines that the time and date set for bid opening does not permit sufficient time for bid preparation, the time and date for bid opening shall be extended in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

D. Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of two or more district officials designated by the school district. The contents of unpriced technical offers shall not be disclosed to unauthorized persons.

E. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical offer is unacceptable shall be in writing, state the basis of the determination and be retained in the procurement file. If the school district determines a bidder’s unpriced technical offer is unacceptable, the school district shall notify that bidder of the determination and that the bidder shall not be afforded an opportunity to amend its technical offer.

F. The school district may conduct discussions with any bidder who submits an acceptable or potentially acceptable technical offer. During discussions, the school district shall not disclose any information derived from one unpriced technical offer to any other bidder. After discussions, the school district shall establish a closing date for receipt of final technical offers and shall notify, in writing, bidders submitting acceptable or potentially acceptable offers of the closing date. The school district shall keep a detailed record of all discussions.

G. At any time during phase 1, offers may be withdrawn.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1037. Phase 2 of multistep sealed bidding
A. Upon completion of phase 1, the school district shall issue an invitation for bids and conduct phase 2 under Sections R7-2-1024 through R7-2-1032 as a competitive sealed bidding procurement, except that the invitation for bids shall be issued only to bidders whose technical offers were determined to be acceptable in phase 1.
B. Unpriced technical offers of unsuccessful bidders shall be open to public inspection except to the extent set forth in R7-2-1029(C).

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

COMPETITIVE SEALED PROPOSALS

R7-2-1041. Competitive sealed proposals
A. If, under this Section, the governing board determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the school district, a contract may be entered into by competitive sealed proposals. The governing board may make a class determination that it is either not practicable or not advantageous to the school district to procure specified types of materials or services by competitive sealed bidding. The competitive sealed proposal method may not be used for construction contracts. The governing board may modify or revoke a class determination at any time.
B. If competitive sealed bidding is neither practicable or advantageous, then competitive sealed proposals may be used if it is necessary to:
1. Use a contract other than a fixed-price type;
2. Conduct oral or written discussions with offerors concerning technical and price aspects of their proposals;
3. Afford offerors an opportunity to revise their proposals;
4. Compare the different price, quality, and contractual factors of the proposals submitted; or
5. Award a contract in which price is not the determining factor.

Historical Note

R7-2-1042. Request for Proposals
A. Competitive sealed proposals shall be solicited through a request for proposals. A request for proposals shall set forth those factors listed in R7-2-1024(B) that are applicable and shall also state:
1. The type of services required and a description of the work involved;
2. The type of contract to be used;
3. An estimated duration that the service will be required;
4. That cost or pricing data is required;
5. That offerors may designate as proprietary portions of the proposals;
6. That discussions may be conducted with offerors who submit proposals determined to be reasonably susceptive of being selected for award;
7. The minimum information that the proposal shall contain;
8. The closing date and time of receipt of proposals; and
9. The relative importance of price and other evaluation factors.
10. Procurement of information systems and telecommunications systems shall include, as criteria in the request for proposal, evaluation factors of the total life cycle cost and application benefits of the information systems or telecommunication systems.
11. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include, as criteria in the request for proposal, evaluation factors of the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment.
B. A request for proposals shall be issued at least 14 days before the closing date and time for receipt of proposals unless a shorter time is determined necessary by the school district.
C. Notice of the request for proposals shall be issued in accordance with R7-2-1022.
D. Before submission of initial proposals, amendments to requests for proposals shall be made in accordance with R7-2-1026. After submission of proposals, amendments may be made in accordance with R7-2-1036(C).
R7-2-1043. Pre-proposal conferences
Pre-proposal conferences may be convened in accordance with R7-2-1025.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).

**R7-2-1044. Late proposals, modifications or withdrawals**

A. A proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B). A best and final offer received after the closing date and time for receipt of best and final offers is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).

B. A modification of a proposal received after the closing date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).

C. A modification of a proposal resulting from an amendment issued after the closing date and time for receipt of proposals or a modification or a proposal resulting from discussions during negotiations shall be considered if received by the closing date and time set forth in the amendment or by the closing date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances set forth in R7-2-1028(B).

D. A proposal may be withdrawn at any time before the closing date and time for receipt of best and final offers. Withdrawal of a proposal after submission of best and final offers is permissible only in accordance with R7-2-1049.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1045. Receipt of proposals**

A. Each proposal received shall be stamped with the time and date received and retained in a secure place until the closing date and time for receipt of proposals.

B. Proposals shall be opened publicly at the time and place designated in the request for proposals in the presence of witnesses. The name of each offeror shall be publicly read and recorded, which record shall be retained by the school district. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. Proposals and modifications shall be shown only to school district personnel having a legitimate interest in them or persons assisting the school district in evaluation.

C. If only one proposal is received in response to a request for proposals, the school district shall follow R7-2-1032.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1046. Evaluation of proposals**

A. Proposals shall be based on the evaluation factors set forth in the request for proposals. Specific numerical weighting can be used.

B. For the purpose of conducting discussions, the school district shall determine that proposals are either acceptable for further consideration or unacceptable. A determination that a proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the procurement file. If the school district determines an offeror’s proposal is unacceptable, the school district shall notify that offeror of the determination and that the offeror shall not be afforded an opportunity to amend its offer.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1047. Discussions with individual offerors**

Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and before award for the purpose of obtaining best and final offers. The school district shall establish procedures and schedules for conducting discussions. Disclosure of one offeror’s price to another and any information derived from competing proposals is prohibited. Any clarification of a proposal by the offeror shall be in writing. The school district shall keep a detailed record of all discussions.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1048. Best and final offers**

If discussions are conducted pursuant to R7-2-1047, the school district shall issue a written request for best and final offers. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the school district makes a determination that it is advantageous to the school district to conduct further discussions or change the school district’s requirements. The request for best and final offers shall inform offerors that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1049. Mistakes in proposals**

A. Prior to the time and date set for receipt of best and final offers, any offeror may withdraw the proposal or correct any mistake by modifying the proposal.

B. After receipt of best and final offers, an offeror may withdraw a proposal or correct a mistake in accordance with R7-2-1030(A) through R7-2-1030(F).

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1050. Contract Award**

A. The school district shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the school district based on the factors set forth in the request for proposals. No other factors or criteria may be used in the evaluation. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal if a competing offeror located outside this state is not subject to a transaction privilege or use tax of a political subdivision of this state. The procurement file shall contain the basis on which the award is made.

B. Awards for procurement of information systems and telecommunications systems shall include as evaluation factors the total life cycle cost and application benefits of the information systems or telecommunications systems.

C. Awards for procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as
evaluation factors the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment.

D. Unsuccessful offerors may be notified in writing of the award.

E. After contract award the proposals shall 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 R7-2-1005.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).

### SOLE SOURCE PROCUREMENTS

**R7-2-1053. Sole source procurements**

A. A contract may be awarded for a material, service or construction item without competition if the governing board determines in writing that there is only one source for the required material, service or construction item. The school district may require the submission of cost or pricing data in connection with an award under this Section. Sole source procurement shall be avoided, except when no reasonable alternative source exists. A copy of the written evidence and determination of the basis for the sole source procurement shall be retained in the procurement file by the school district.

B. The school district shall, to the extent practicable, negotiate with the single supplier a contract advantageous to the school district.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

### EMERGENCY PROCUREMENTS

**R7-2-1056. Emergency procurements**

A. An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and seriously threatens the functioning of the school district, the preservation or protection of property or the public health, welfare or safety. Some examples of emergency conditions are floods, epidemics, or other natural disasters, riots, fire or equipment failures.

B. An emergency procurement shall be limited to the materials, services, or construction necessary to satisfy the emergency need.

C. The governing board shall designate a board member or members or school district official or officials authorized to make emergency procurements, and may prescribe limiting factors including maximum spending limits with regard to emergency procurements.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1057. Emergency procurement procedure**

A. A school district initiating emergency procurement shall prepare a written statement documenting the basis for the emergency and the basis for the selection of the particular contractor. The statement shall be signed by the designated district official authorized to initiate emergency procurements.

B. The designated board member or district official who makes an emergency procurement shall, at the first scheduled governing board meeting following the procurement, provide to the governing board a report concerning the emergency procurement including the following information:

1. The basis for the emergency which necessitated the emergency procurement, and why it was impracticable to convene a meeting of the governing board;
2. The basis for the selection of the particular contractor, including an explanation of how the procurement was made with as much competition as was practicable under the circumstances; and
3. Why the price paid was reasonable.

C. The information and documentation required in this Section shall be included in the procurement file.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

### SERVICES OF CLERGY, CERTIFIED PUBLIC ACCOUNTANTS, PHYSICIANS, DENTISTS AND LEGAL COUNSEL

**R7-2-1061. Competitive election procedures for clergy, certified public accountants, physicians, dentists and legal counsel**

A. The services of clergy, certified public accountants, physicians, dentists, or legal counsel shall be procured in accordance with Sections R7-2-1061 through R7-2-1068, except as authorized pursuant to R7-2-1002, R7-2-1053 or R7-2-1056.

B. Price shall be an evaluation factor in the procurements of the services specified in subsection (A) unless the school district determines that price as an evaluation factor is either not practicable or not advantageous to the school district.

[A.R.S. § 15-914(B) requires that contracts for financial and compliance audits and completed audits shall be approved by the Auditor General as provided in A.R.S. § 41-1279(21)].

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1062. Statement of qualifications**

A. If the services specified in R7-2-1061 are needed on a recurring basis, persons may submit and the school district may solicit persons engaged in providing the services to submit annual statements of qualifications on a prescribed form that shall include the following information:

1. Technical education and training;
2. General or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
3. An expression of interest in providing a particular service; and
4. Any other pertinent information requested by the school district.

B. Persons who have submitted statements of qualifications may amend those statements at any time by filing a new statement.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1063. Request for proposals**

Adequate notice of the need for services specified in R7-2-1061 shall be given by the school district through a request for proposals. The request for proposals shall be in accordance with Sections R7-2-1061 through R7-2-1068, except as authorized pursuant to R7-2-1042. The requests for proposals also shall be distributed to persons who have submitted statements of qualifications on a prescribed form that shall include the following information:

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1064. Receipt of proposals**

Proposals shall be received and opened in accordance with R7-2-1045. Late proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044.
Proposals shall be evaluated in accordance with R7-2-1046.

R7-2-1065. Evaluation of proposals
Proposals shall be evaluated in accordance with R7-2-1046.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1066. Discussions with individual offerors
The school district may conduct discussions with any offeror to determine the offeror's qualifications for further consideration. Discussions shall be conducted in accordance with R7-2-1047.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1067. Evaluation and contract award where price is an evaluation factor
If price is one of the evaluation factors for contract award set forth in the request for proposals, the school district shall evaluate proposals and award the contract in accordance with Sections R7-2-1048 through R7-2-1050, and after the school district makes a written determination that the compensation is fair and reasonable. If price is one of the evaluation factors, no contract may be awarded solely on the basis of price.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1068. Selection and contract award where price is not an evaluation factor
A. If price is not a factor, the school district shall evaluate the proposal submitted. After evaluation, the school district shall determine in writing the acceptable proposals and rank the three most qualified offerors.

B. The offeror determined to be best qualified shall submit cost or pricing data to the school district.

C. The school district shall negotiate a contract with the best qualified offeror at compensation determined in writing to be fair and reasonable.

D. If the school district and the best qualified offeror fail to negotiate a contract, the school district shall notify the offeror in writing of the termination of negotiations. The school district 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.

E. If the school district 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.

F. A written record of the ranking, a detailed record of the negotiations and related activities shall be retained by the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1072. Cancellation of solicitations; rejection of bids and proposals
Each solicitation issued by the school district shall state that the solicitation may be canceled or bids or proposals rejected if it is advantageous to the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1073. Cancellation of solicitation before receipt of bids and proposals
Before receipt of bids or proposals, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation or rejection shall be made part of the procurement file.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1074. Cancellation of solicitation after receipt of bids and proposals
After receipt of bids or proposals but before award, a solicitation may be canceled and all bids or proposals may be rejected in whole or in part if the school district determines that cancellation and rejection are advantageous to the school district. The reasons for the cancellation or rejection shall be made part of the procurement file.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1075. Rejection of individual bids and proposals
A. A written determination of nonresponsibility of a bidder or offeror shall be made by the school district if:
1. The bidder is determined to be nonresponsible pursuant to R7-2-1076; or
2. The bid is nonresponsive in accordance with R7-2-1003(B), R7-2-1031 or R7-2-1046. A finding of nonresponsibility shall not be construed as a violation of the rights of any person.

B. A proposal or quotation may be rejected if:
1. The person responding to the solicitation is determined to be nonresponsible pursuant to R7-2-1076; or
2. It is unacceptable;
3. The proposed price is unreasonable; or
4. It is otherwise not advantageous to the school district.

C. Bidders or offerors whose bids or proposals are rejected shall be notified. A record of the rejection shall be retained by the school district.

D. If a solicitation is canceled after receipt of bids or proposals, the bids or proposals that have been opened shall be retained. Unopened bids or proposals shall be returned to bidders or offerors upon request.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1076. Responsibility of bidders and offerors
A. The school district shall make a determination that a bidder or offeror is responsible before awarding a contract to that bidder or offeror.

B. Factors to be considered in determining if a prospective contractor is responsible may include:
1. The proposed contractor’s financial, material, personnel or other resources, including subcontracts;
2. The proposed contractor’s record of performance and integrity;
3. Whether the proposed contractor is qualified legally to contract with the school district; and
4. Whether the proposed contractor supplied all necessary information concerning its responsibility.

C. The school district may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the solicitation.

D. As required by A.R.S. § 41-2540(B), information furnished by a bidder or offeror pursuant to this Section which results in a written determination of nonresponsibility of a bidder or offeror shall not be disclosed outside of the office of the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
district without prior written consent by the bidder or offeror except to law enforcement agencies.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1077. Prequalification of contractors for materials, services and construction**

A. Prospective contractors may be prequalified for particular types of materials, services and construction. Prospective contractors have a continuing duty to provide the school district with information on any material change affecting the basis of prequalification. Solicitation mailing lists of potential contractors shall include the prequalified contractors.

B. A prospective contractor need not be prequalified to be awarded a contract. Prequalification does not represent a determination of responsibility.

C. The existence of a qualified product list pursuant to R7-2-1102(D), does not constitute prequalification of any prospective supplier of that product.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1078. Bid and contract security**

A. Bid and performance bonds or other security may be required for material or service contracts to guarantee faithful bid and contract performance if the governing board determines that such requirement is advantageous. In determining the amount and type of security required for each contract, the governing board shall consider the nature of the performance and the need for future protection to the school district. The requirement for bonds or other security shall be included in the solicitation.

B. Bid or performance bonds shall not be used as a substitute for a determination of bidder responsibility.

C. If a bid is withdrawn at any time before bid opening, any bid security shall be returned to the bidder.

D. After the bid is awarded, any bid security shall be returned to the unsuccessful bidders.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1079. Cost or pricing data**

A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis or the proposed price is essential to determine that the price is reasonable and fair. A contractor shall, except as provided in subsection (C), submit current cost or pricing data and shall certify that, to the best of the contractor’s knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually determined specified date before the date of either:

1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed an amount of $100,000.
2. The pricing of any change order or contract modification which is expected to increase the total contract price which will then exceed an amount of $100,000.

B. Any contract, change order or contract modification under which a certificate is required shall contain a provision that the price to the school district shall be adjusted to exclude any significant amounts by which the school district finds that the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the school district may include profit or fee. The school district may reduce the contract price pursuant to R7-2-1081.

C. The requirements of this Section may be waived if any of the following apply:

1. The contract price is based on adequate price competition.
2. The contract price is based on established catalogue prices or market prices.
3. Contract prices are set by law or regulation.
4. It is determined in writing by the school district that the waiver is advantageous to the school district. The determination shall include the reasons why the waiver is advantageous to the school district.

D. The solicitation shall include a notice that certified cost or pricing data must be submitted.

E. In an emergency, cost or pricing data may be submitted at a reasonable time after the contract is awarded.

F. A copy of all determinations by the school district that pertain to the submission of cost or pricing data shall be retained.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1080. Refusal to submit cost or pricing data**

A. If the offeror fails to submit cost or pricing data in the required form, the school district may reject the offer.

B. If a contractor fails to submit data to support a price adjustment in the form required, the school district may:

1. Reject the price adjustment; or
2. Set the amount of the price adjustment subject to the contractor’s rights under Sections R7-2-1141 through R7-2-1185.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1081. Defective cost or pricing data**

A. The school district may reduce the contract price if, upon determination, the cost or pricing data are defective.

B. The contract price shall be reduced in the amount of the defect plus related overhead and profit or fee if the school district relied upon the defective data in awarding the contract.

C. Any dispute as to the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data may be appealed as a contract controversy under Sections R7-2-1141 through R7-2-1185. Pending appeal, the adjusted contract price shall remain in effect.

D. If certification of either current cost or pricing data is required, the awarded contract shall include notice of the right of the school district to a reduction in price if certified cost or pricing data are subsequently determined to be defective.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1082. Right to inspect plant**

The school district may at reasonable times inspect the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the school district.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1083. Right to audit records**

A. The school district may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in R7-2-1079 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification for
which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the governing board.

B. The school district is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the governing board.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

#### R7-2-1084. Anticompetitive practices

**A.** If for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice or the relevant facts shall be transmitted to the governing board and the attorney general. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the school district.

**B.** Upon submitting a bid or offer, the bidder or offeror must certify on a form prescribed by the school district that the submission of the bid or offer did not involve collusion or other anticompetitive practices.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

#### R7-2-1085. Retention of procurement records

All procurement records shall be retained and disposed of in accordance with records retention requirements prescribed in the Uniform System of Financial Records.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

#### R7-2-1086. Record of procurement actions

**A.** The school district shall maintain a record listing all contracts made under R7-2-1053. Sole source procurements, or R7-2-1056. Emergency procurements, for a minimum of five years. The record shall contain:
1. Each contractor’s name.
2. The amount and type of each contract.
3. A listing of the materials, services or construction procured under each contract.

**B.** The record shall be available for public inspection.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

### Article 11. School District Procurement

#### CONTRACT TYPES

#### R7-2-1091. Authority to use contract types

**A.** Subject to the limitations of this Section, any type of contract which will promote the best interests of the school district may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

**B.** A cost-reimbursement contract may be used only if the school district determines in writing prior to solicitation that such contract is likely to be less costly to the school district than any other type or that it is impracticable to obtain the materials, services or construction required except under such a contract.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

#### R7-2-1092. Approval of accounting system

Before the award of any contract, except a firm fixed-price contract, the school district shall determine in writing that the proposed contractor’s accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated and is adequate to allocate costs pursuant to R7-2-1125. Such determinations may be made through a contractor’s certification in the proposed contractor’s response to a solicitation, that the proposed contractor’s accounting system complies with this Section.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

#### R7-2-1093. Multiterm contracts

**A.** Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time up to five years, as deemed to be advantageous to the school district, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

**B.** Before the use of a multiterm contract, it shall be determined in writing by the governing board that:
1. Estimated requirements cover the period of the contract and are reasonable and continuing.
2. Such a contract will serve the best interests of the school district by encouraging effective competition or otherwise promoting economies in school district procurement.
3. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations available for such purposes.

### Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
with R7-2-1102(D) for a particular material, service, or construction item, it shall be used unless the school district makes a written determination that its use is not advantageous to the school district and that another specification shall be used.

4. To the extent practicable, specifications shall emphasize functional or performance criteria. To facilitate the use of such criteria, the school district shall use reasonable efforts to include the principle functional or performance requirements as a part of their purchase requisitions.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1102. Types of specifications**

A. Specification for common or general use items. To the extent practicable, a specification for common or general use item shall be prepared and utilized when:

1. A material, service or construction item is used repeatedly by the school district, and the characteristics of the material, service, or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant;
2. The school district’s recurring needs require uniquely designed or specially produced items; or
3. The school district finds it to be advantageous to the school district.

B. Brand name or equal specification. A brand name or equal specification may be used when the school district determines that use of a brand name or equal specification is advantageous to the school district.

C. Brand name specification. A brand name specification may be prepared and utilized only if the school district makes a determination that only the identified brand name item will satisfy the school district’s needs. If only one source can supply the requirement, the procurement shall be made pursuant to R7-2-1053.

D. Qualified products list. A qualified products list may be prepared and utilized when:

1. The school district determines that testing or examination of the materials or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the school district’s requirements.
2. The school district shall solicit as many potential suppliers as practicable to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.
3. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with requirements established by the school district.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1103. Confidentiality**

A. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to A.R.S. § 39-121, except to the extent that the withholding of such information is permitted or required by law.

B. If the supplier believes that the specifications contain trade secrets, test data, or similar information that should be kept confidential, a statement advising the school district of this fact must accompany the specification in accordance with R7-2-1005.

C. Qualified products lists test results shall be made available in a manner to protect the identity of the supplier.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1104. Maximum practicable competition**

A. All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the school district’s needs and shall not be unduly restrictive.

B. Unless otherwise permitted by Sections R7-2-1101 through R7-2-1105, all specifications shall describe the school district’s requirements in a manner that does not unreasonably exclude a material, service, or construction item. Proprietary specifications shall be used only as provided in R7-2-1009.

C. To the extent practicable, the school district shall use accepted commercial specifications and shall procure standard commercial materials.

D. Contracts for the preparation of specifications by persons other than the school district shall require the specification writer to adhere to Sections R7-2-1101 through R7-2-1105.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1105. Conflict of interest**

A. No person preparing specifications pursuant to R7-2-1104 shall receive any direct or indirect benefit from the utilization of such specifications.

B. The governing board may contract for the preparation of specifications with persons, including, but not limited to, consultants, architects, engineers, designers, and other draftsmen of specifications.

C. If a person prepares a specification pursuant to subsection (B) of this Section, such person shall comply with the requirements of Sections R7-2-1101 through R7-2-1105.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

PROCUREMENT OF CONSTRUCTION

**R7-2-1109. Notice of Competitive Sealed Bidding for Construction**

The school district shall issue notice of competitive sealed bidding for a construction contract to all vendors registered for such work on the school district’s prospective bidders list. Such notice shall be issued in accordance with R7-2-1024 or R7-2-1022 if required, or if not required but the district so chooses.

**Historical Note**
New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1).

**R7-2-1110. Qualified Select Bidders List**

As an alternative to R7-2-1109, the school district may use the qualified select bidders list method to determine the vendors who receive the notice of competitive sealed bidding for a construction contract. The qualified select bidders list shall be determined in accordance with this subsection.

A. Definitions

1. “Prospective proposer” means a prime contractor or construction materials supplier who submits a proposal in response to a Request for Qualifications under a Qualified Select Bidders List process.
2. “Qualified Select Bidders List” means a selection process for establishing a list of best-qualified prime contractors
and/or construction material suppliers for a specific, single project. The selection process is based upon listed evaluation criteria and conducted through a Request for Qualifications. Once the selection process is complete, the qualified bidders are invited to submit a sealed competitive bid based upon architectural/engineering plans and specifications or material specifications.

**B. Sealed prime contractor or construction materials supplier qualifications proposals shall be solicited through “Requests for Qualifications.”**

1. Requests for Qualifications shall be issued at least 21 days before the time and date set for submission.
2. Use of the qualified select bidders list shall be restricted to the specific project(s) identified in the request for qualifications.
3. The qualified select bidders list must consist of at least three prime contractors when a contractor is solicited or three construction material suppliers when material suppliers are solicited.
4. The qualified select bidders list for any specific project(s) is valid for one year but may be extended for an additional year, at the option of the school district.

**C. The Request for Qualifications**

1. The Request for Qualifications shall include the following:
   a. Notice that all information and qualifications submittals by the prospective proposers will be made available for public inspection following the establishment of a qualified select bidders list.
   b. Instructions and information to prospective proposers concerning the qualifications submittal requirements, including the time and date set for submittal deadline, the address of the office at which the submittals are to be received, the period during which the submittals shall be accepted, and any other special information.
   c. The anticipated evaluation period and selection of a qualified select bidders list.
   d. General information on the project site(s), scope of work, schedule, selection criteria, project design and construction budget, or life-cycle budget for a procurement that includes maintenance, operations, and finance services.
   e. The weight prescribed by the school district for each of the criteria to be used in making the evaluation.
   f. The criteria to be used in making the evaluation, which shall include at a minimum:
      i. Firm’s capabilities and qualifications for performing the scope of work;
      ii. Contractors’ or materials suppliers’ project team, and key members’ education, training and qualifications;
      iii. Method of Approach, including subcontractor plan, safety plan;
      iv. Safety record and worker’s compensation rate;
      v. Projected construction schedule;
      vi. Current workload;
      vii. Five most recent representative examples of similar work along with references for each example;
      viii. Current bonding availability and capacity;
      ix. Any judgment or liens against the prospective proposer within the last three years;
      x. Any current unresolved bond claims against the prospective proposer;
   xi. Any deficiency orders issued against the prime contractor by the Arizona Registrar of Contractors within the last three years;
   xii. Any filing under the United States Bankruptcy Code, assignments for the benefit of creditors, or other measures taken for the protection against creditors during the last three years.
   g. The type of contract to be used.
   h. The name of the district representative(s).
   i. The expiration date of the qualified select bidders list if less than one year.
   j. The district reserves the right to conduct interviews as part of the evaluation process.

**D. Pre-Proposal Conferences.** The school district may conduct a pre-proposal conference not less than 14 days prior to the qualifications submittal date for the purposes of explaining the requirements of the request for qualifications.

**E. Amendments to Request For Qualifications**

1. An amendment to a request for qualifications shall be issued if necessary to do any of the following:
   a. Make changes in the Request for Qualifications;
   b. Correct defects or ambiguities; or
   c. Furnish to prospective proposers information given to any other prospective proposer, if the information will assist the prospective proposers in submitting their qualifications proposal or if the lack of the information will prejudice the prospective proposers.
2. Amendments to request for qualifications shall be so identified and shall be distributed to all persons to whom the original request for qualifications was distributed by the school district.
3. Amendments to request for qualifications shall be issued within a reasonable time before the submittal date to allow prospective proposers to consider them in preparing their qualification proposals. If the school district determines that the time and date set forth in the request for qualifications does not permit sufficient time for proposal preparation, the time and date for the submittal shall be extended in the amendment or, if necessary, by telegram, telephone, or electronic communication and confirmed in the amendment.

**F. Pre-submittal Modification or Withdrawal of Qualifications Proposals**

1. A prospective proposer may modify or withdraw its proposal at any time before the prescribed submittal deadline if the modification or withdrawal is received before the time and date set for the submittal at the location designated in the request for qualifications.
2. All documents concerning a modification or withdrawal of a proposal shall be retained in the official records of the school district.

**G. Late Submittals, Late Withdrawals and Late Modifications**

1. A submittal, modification or withdrawal is late if it is received at the location designated in the request for qualifications after the time and date set for the submittal.
2. A late qualification proposal, late modification, or late withdrawal shall be rejected, unless the qualifications proposal, modification or withdrawal would have been timely received but for the action or inaction of school district personnel and is received before the qualified select bidders list is established.
3. Prospective proposers submitting qualifications proposals, modifications, or withdrawals that are rejected as late shall be so notified as soon as practicable.
4. All documents concerning acceptance of a late qualifications proposal, late modification, or late withdrawal shall be retained in the official records of the school district.

H. Receipt, Opening and Recording Qualifications Proposals
   1. Each qualifications proposal and modification shall be time and date stamped upon receipt and stored unopened in a secure place until the date and time set forth in the request for qualifications.
   2. Qualifications proposals and modifications shall be opened publicly at the date and time designated in the request for qualifications and in the presence of one or more witnesses. The name of each proposer and any other relevant information deemed appropriate by the school district shall be recorded. The record shall be available for public inspection.
   3. After the qualified select bidders list is established, the qualification proposals shall be available for public inspection, except that portion of a qualifications proposal that was designated as confidential pursuant to R7-2-1005 shall remain confidential from and after the time of the submittal deadline.

I. Establishing the Qualified Select Bidders List
   1. The qualified select bidders list shall be established by determining the highest rated proposers from the qualification proposals received. This will be a minimum of three and a maximum of five.
   2. The determinations of the highest rated proposers shall be accomplished by having each member of the evaluation committee rate each proposal as to the established criteria for evaluation.
   3. For each qualified select bidders list process there will be established by the school district an evaluation committee composed of five members. These members shall include the project designer(s) or construction material specifier(s), one member from the prime contracting/construction material supplier community that performs commensurate level work and is disinterested in this project, a school district facilities representative and two other members as designated by the school district.
   4. The evaluation committee shall review and rate each proposal received according to the established evaluation criteria. The committee members shall make written notes as appropriate and submit those notes and their evaluation scores to the school district procurement agent. The school district procurement agent shall add the evaluation committee’s scores for each qualification proposal and shall sign, date and submit those results to the evaluation committee for final determination of the three to five highest rated proposers, which will then constitute the qualified select bidders list. A one-year eligibility period for the qualified select bidders list shall begin on the date the school district procurement agent signs the evaluation results, and may be extended one year at the option of the school district.
   5. Once the qualified select bidders list is established, a written notice of the selected proposers will be sent to all the proposers.
   6. After the establishment of the qualified select bidders list, a written record showing the basis for determining the qualified select bidders list shall be prepared by the school district procurement agent, retained in the official records of the school, and made available to the public for review.
   7. The qualified select bidders shall then be provided an invitation for bid, which shall follow the established School District Procurement Rules, Arizona Administrative Code, Article 10, R7-2-1024 to R7-2-1032. For any projects not identified in the Requests for Qualifications, the district may not solicit bids on those projects under the qualified select bidders list either in the initial one-year period or the one-year extension period.

J. Less Than Three Proposals Are Received
   1. In the event that less than three qualifications proposals are received, this procurement process will cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
   2. In the event that less than three proposers are identified by the selection committee as being the most highly qualified, this procurement process will cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.

K. School districts that use the qualified select bidders list method to procure construction services shall adhere to the reporting requirements in R7-2-1116(O).

Historical Note
New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1).

R7-2-1111. Bid security
A. Bid security shall be required for all competitive sealed bidding for construction contracts if the price is estimated by the school district to exceed the amount established by A.R.S. § 15-213(A).
B. Invitations for bid on school district construction contracts shall require the submission of bid security in an amount equal to at least 10% of the bid, at the time the bid is submitted. If a bidder fails to submit the required bid security with the bid, the bid shall be rejected except as provided by R7-2-1111(D).
C. Acceptable bid security shall be limited to:
   1. An annual or one-time bid bond underwritten by a surety company licensed to issue bid bonds in this state;
   2. A certified or cashier’s check.
D. The school district may determine that compliance with bid security may be waived if:
   1. Only one bid is received and there is not sufficient time to rebid;
   2. The amount of the bid security submitted, although less than the amount required by the invitation for bids, is equal to or greater than the difference between the apparent low bid and the next higher acceptable bid; or
3. The bid security is inadequate as a result of modifying or correcting a bid in accordance with R7-2-1027 or R7-2-1030, if the bidder increases the amount of security to required limits within two days after notification.

E. After the bids are opened, they are irrevocable for the period specified in the invitation for bids, except as provided in R7-2-1030. If a bidder is permitted to withdraw its bid before award, no action may be had against the bidder or the bid security.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1112. Contract performance and payment bonds

A. The following bonds or security are required and become binding on the parties on the execution of the contract if the value of a construction award exceeds the amount established by A.R.S. § 15-213(A):

1. A performance bond satisfactory to the school district, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the school district, in an amount equal to 100% of the price specified in the contract.

2. A payment bond satisfactory to the school district, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the school district, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.

B. The performance bond and the payment bond shall be delivered by the contractor to the school district at the time the contract is executed. If a contractor fails to deliver the required performance bond or payment bond, the contractor’s bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made pursuant to this Title.

C. This Section shall not be construed to limit the authority of the school district to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (A) of this Section.

D. Any person who furnishes labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this Section, and who has not been paid in full within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made has the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due the person. However, any person who has a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, has a right of action on the payment bond on giving the contractor, only, a written preliminary 20-day notice as provided for in A.R.S. § 33-992.01, subsection (C)(1), (2), (3), and (4) and subsections (D), (E), and (I), and upon giving written notice to the contractor within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made. The person shall state in the notice the amount claimed and the name of the party for whom the labor was performed or to whom the material was supplied. The notice shall be personally served or sent by registered mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1113. Bond forms

Bid bonds, performance bonds, and labor and material payment bonds required by this Article shall be executed on forms substantially equivalent to SPO 301, SPO 302, and SPO 303, respectively, which are attached to this Article, marked as Exhibits A, B and C.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1114. Contract Payment Retention and Substitute Security

A. Contract payment retention. Ten percent of all construction contract payments shall be retained by the school district as insurance of proper performance of the contract or, at the option of the contractor, a substitute security may be provided by the contractor pursuant to this Section. The contractor is entitled to all interest from any such substitute security. When the contract is 50% completed, 1/2 of the amount retained or securities substituted pursuant to this Section shall be paid to the contractor upon the contractor’s request provided the contractor is making satisfactory progress on the contract and there is no specific cause or claim requiring a greater amount to be retained. After the contract is 50% completed, no more than 5% of the amount of any subsequent progress payments made under the contract shall be retained providing the contractor is making satisfactory progress on the project, except if at any time the governing board determines satisfactory progress is not being made, 10% retention shall be reinstated for all progress payments made under the contract subsequent to the determination.

B. The form of substitute security. The form of substitute security is limited to the following:

1. An assignment of time certificates of deposit by financial institutions licensed by this state;

2. Share certificate of a savings and loan institution or credit union authorized to transact business in this state; or

3. Security issued or guaranteed as to principal and interest by:
   a. The United States;
   b. The state;
   c. Counties, municipalities and school districts within this state.

C. Conditions for use of substitute security.

1. A contractor may submit substitute security to replace contract payment retention if:
   a. The use of substitute security is requested of the school district or designee for work performed under the contract. The contractor shall have the option of submitting the substitute security:
      i. Prior to each progress payment in an amount of no less than 10% of each progress payment; or
      ii. Once, prior to the first progress payment in an amount no less than 10% of the total contract amount.
   b. The interest earned on such security shall accrue to the benefit of the contractor, but shall be retained until the school district has approved completion and acceptance of all work to be performed under the contract;
   c. The term of such security shall not mature until after the estimated contract completion date; and
   d. The security shall mature no later than one year after the estimated contract completion date.

2. The substitute security shall not be released without written approval by the school district.

3. A contractor may submit a single substitute security for more than one project provided that:
R7-2-1115. Progress Payments

A. Progress payments may be made by the school district to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding month if the contractor agrees to adhere to the provisions of A.R.S. § 41-2577(B), (D), and (F). Payment shall be made within 30 days after receipt of the estimate of the work performed, except that a percentage of all estimates shall be retained as provided in R7-2-1114. The estimate of the work shall be deemed received by the school district on submission of the estimate of the work to the school district or a person designated by the school district for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this Section shall be considered approved and certified after seven days from the date of submission unless before that time the school district or designee prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract. The school district may withhold an amount from the progress payment sufficient to pay the expenses the school district reasonably expects to incur in correcting the deficiency set forth in the written finding. No contract for construction may materially alter the rights of any contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this Section. On completion and acceptance of separate divisions of the contract on which the price is stated separately in the contract, payment may be made in full including retained percentages, less deductions, unless a substitute security has been provided pursuant to R7-2-1114.

B. A subcontractor may notify the school district, in writing, requesting that the subcontractor be notified by the school district in writing within five working days from payment of each progress payment made to the contractor. The subcontractor’s request remains in effect for the duration of the subcontractor’s work on the project.

C. If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of 1% per month, or a fraction of a month, on such unpaid balance as may be due.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended effective October 22, 1992 (Supp. 92-4).

R7-2-1116. Procurement of Construction Using Alternative Project Delivery Methods

A. Definitions.


2. “Coefficient” means the contractor’s price adjustment to the unit price in a job order contract. Several coefficients may apply to the unit price book.

3. “Construction-Manager-At-Risk” shall be used in this Section consistent with the definition in A.R.S. § 41-2503(5).

4. “Design-Bid-Build” shall be used in this Section consistent with the definition in A.R.S. § 41-2503(12).

5. “Design-Build” shall be used in this Section consistent with the definition in A.R.S. § 41-2503(13).

6. “Factors” means the conditions a school district governing board shall consider before making a decision to use an alternative project delivery method for construction. The factors shall address such things as industry practices, surveys, trends, past experiences, evaluations of completed projects, and related information regarding the expected benefits and drawbacks of particular alternative project delivery methods. To the extent practicable, such factors shall relate back to the specific characteristics of the project or projects at issue. Specific factors to be addressed are specified in R7-2-1116(B)(2).

7. “Job-Order-Contracting” shall be used in this Section consistent with the definition in A.R.S. § 41-2503(23).

8. “Life-cycle costs” means all relevant cost over time of a project. These include first costs, such as capital investment costs, purchase, and installation costs; future costs, such as energy costs, operating costs, maintenance costs, capital replacement costs, financing costs; and any resale, salvage, or disposal cost, over the life-time of the project.

9. “Prime contractor” means a general contractor, who contracts with a property owner and, in turn, employs a subcontractor, or subcontractors, to perform some or all of the work.

10. “Specific, single project” shall be used in this Section consistent with the definition in A.R.S. § 41-2503(35).

11. “Unit price” means the price published in the Unit Price Book for a specific construction or construction related task. Each unit price is comprised of labor, equipment, or material costs to accomplish a specific task, and shall be consistent with the definition in A.R.S. § 41-2503(23).

12. “Unit price book” means a comprehensive listing of specific construction related tasks together with a specific unit of measurement and a unit price.

B. Use of Alternative Project Delivery Methods

1. Alternative project delivery methods for construction services shall be procured as provided in this Section, except as authorized by R7-2-1024, R7-2-1033, R7-2-1053, R7-2-1056, and R7-2-1111 through R7-2-1115.

2. The school district’s governing board shall consider, as applicable, the factors in R7-2-1116(A)(6) and below and make a written determination that the use of a specific
alternative project delivery method is in the best interest of the district.

a. Cost control – Lack of definition and many options on a project require a project delivery process where the designer, contractor, and school district work together to produce a best value design solution for a given budget. This is accomplished through contractor and designer value engineering efforts making trade-offs of different design solutions with the school district.

b. Value engineering – The advantages provided by early involvement of the contractor in the design phase of the project. Value engineering includes constructability reviews, materials reviews, and design consultation. These services should result in increased project quality and lower lifetime costs associated with the project.

c. Market conditions – Local and national economic conditions and the availability of various materials and services in the local construction market.

d. Schedule – Critical timing of construction that may have to be phased or may need to be tailored to educational schedules.

e. Specialized expertise – Unique features or functional requirements of the project that may make past experience with similar situations or detailed knowledge critical to project success.

f. Technical complexity – Any unusual or particularly technically-sensitive aspects of the project that require specific skills or experience. This may also include the district’s need to have the construction-manager-at-risk or design-build firm provide financing for the project as well as operations and maintenance services.

g. Project management – An evaluation of the district’s ability to manage the project, in terms of experience, manpower, and the understanding and implementation of partnering and teambuilding concepts. These factors may indicate that an alternate or additional source of project management is warranted.

3. Each project under a design-build construction services contract or a construction-manager-at-risk construction services contract shall be a specific, single project. No additional project may be added to the scope of work that was not defined in the Request for Qualifications or request for proposals for such projects. This requirement shall not limit a school district’s ability to issue valid change orders for a design-build construction services contract or a construction-manager-at-risk construction services contract.

C. Selection Committee. A selection committee shall be established and utilized when a school district governing board approves using one of the following alternative project delivery methods of construction: construction-manager-at-risk, design-build, or job-order-contracting.

1. The school district shall establish a qualified selection committee for each construction-manager-at-risk, design-build, and job-order-contracting procurement. The selection committee shall consist of not less than five and no more than seven members and shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or engineer who is registered pursuant to A.R.S. § 32-121. Members of the selection committee may be employees of the school district or outside consultants.

a. Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may reimburse them for travel, lodging, and other expenses incurred in connection with service on a selection committee.

b. A person who is a member of a selection committee shall not be a contractor under a construction-manager-at-risk, design-build, or job-order-contracting contract awarded under the procurement or provide construction, construction services, materials, or other services under the contract.

2. The selection committee shall be responsible for performing the following:

a. Evaluation of the statements of qualifications and performance data that are submitted in response to the school district’s Request for Qualifications.

b. If determined by the school district and included in the Request for Qualifications, conducting interviews with at least three but not more than five persons or firms as specified in the Request for Qualifications regarding the professional services or construction services, and the relative methods of approach for furnishing the required construction services. Except that if multiple contracts are being procured under a single Request for Qualifications, the number to be interviewed shall be at least three and not more than the number of contracts plus two.

c. Selecting a final list for each contract of three of the persons or firms, in order of preference and based on the criteria and the weighting of the criteria included in the Request for Qualifications, the selection committee deems to be the most qualified to provide the professional services or construction services. The district shall retain documentation detailing the basis for the selection of the persons or firms on the final list.

i. The selection of the final list and order of preference on the final list shall be based solely on demonstrated competence, including a subcontractor selection plan or procedures to implement the subcontractor selection plan. Selection shall not include consideration of fees, price, staff hours, or any other cost information at any point in the selection process under this Section, including the selection of the persons or firms to be interviewed, the selection of the persons or firms to be on the final list, in determining the order of preference of persons or firms on the final list, or for any other purpose in the selection process. If the Request for Qualifications solicited multiple contracts, the selection committee shall select a separate final list for each contract, except that if multiple contracts are being procured and if the Request for Qualifications specified that all of the multiple contracts will be awarded to a single contractor, the selection committee may select a single final list for all of the multiple contracts.

ii. Selection criteria shall require that the person or firm selected to perform the construction services select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone. A qualifi-
cations and price selection may be a one-step selection based on a combination of qualifications and price or a two-step selection. In a two-step selection, the first step shall be based on qualifications alone and the second step may be based on a combination of qualifications and price or on price alone. The selection committee shall use this information as part of the basis of selection and the school district shall incorporate this plan, in part or in whole, into the contract as the school district so decides.

iii. If only two responsible and responsive persons or firms respond to the Request for Qualifications or if persons or firms withdraw from the procurement process so that there are only two responsible and responsive persons or firms remaining in the procurement process, the school district shall elect to have the selection committee proceed with the procurement, including interviews and the final list, with those two persons or firms or the school district may readvertise pursuant to this subsection as the school district deems necessary or appropriate. If only one responsive and responsible person or firm responds to the Request for Qualifications, or if persons or firms withdraw from the procurement process for a contract or multiple contracts to be negotiated under the one-step process so that only one responsive and responsible person or firm remains in the procurement process, the school district may elect to proceed with only one person or firm in the procurement process and may award the contract or contracts to a single person or firm if the school district determines in writing that the fee negotiated pursuant to the one-step process is fair and reasonable and either other prospective persons or firms had a reasonable opportunity to respond or there is not adequate time for a resolicitation. If a person or firm on the final list withdraws or is removed from the procurement process and the selection committee determines that it is in the best interest of the school district, the selection committee may replace that person or firm with another person or firm that submitted qualifications and that is selected by the selection committee as the next most qualified.

D. The Request for Qualifications

1. The Request for Qualifications shall include the following:
   a. Instructions and information to prospective proposers concerning the qualifications submittal requirements, including the time and date set for submittal deadline, the address of the office at which the submittals are to be received, the period during which the submittals shall be accepted, and any other special information.
   b. The anticipated evaluation period before selection of a final list.
   c. General information on the project site, scope of work, schedule, selection criteria, project design and construction budget, or life-cycle budget for a procurement that includes maintenance, operations, and finance services.
   d. The weight prescribed by the school district for each of the criteria to be used in making the evaluation.
   e. The criteria to be used in making the evaluation, which shall include at a minimum:
      i. Firm’s capabilities and qualifications for performing the scope of work;
      ii. Contractors’ or materials suppliers’ project team, and key members’ education, training and qualifications;
      iii. Method of Approach, including subcontractor plan, safety plan;
      iv. Safety record and worker’s compensation rate;
      v. Projected construction schedule;
      vi. Current workload;
      vii. Five most recent representative examples of similar work along with references for each example;
      viii. Current bonding availability and capacity;
      ix. Any judgment or lien against the prospective proposer within the last three years;
      x. Any current unresolved bond claims against the prospective proposer;
      xi. Any deficiency orders issued against the prime contractor by the Arizona Registrar of Contractors within the last three years.
      xii. Any filing under the United States Bankruptcy Code, assignments for the benefit of creditors, or other measures taken for the protection against creditors during the last three years.
   f. The type of contract to be used.
   g. The name of the district representative(s).
   h. If applicable, the district shall state that it will conduct interviews as part of the evaluation process.

E. Receipt and opening of statements of qualifications, technical proposals and price proposals for design build and job order contracting.

1. Statements of qualifications, technical proposals and price proposals shall be received and opened in accordance with R7-2-1045(A) and (B). Late statements and proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.

2. A school district may cancel a request for qualifications or a request for proposals or reject in whole or in part any or all submissions of qualifications or proposals as specified in the solicitation if it is in the best interest of the school district. The school district shall make the reasons for cancellation or rejection part of the procurement file.

F. Contract Awards

1. The school district shall award a contract for construction-manager-at-risk, design-build, and job-order-contracting alternative project delivery methods of construction services to one of the persons or firms on the final list for that contract. An exception may be made if only two of the persons or firms that the selection committee determines are qualified respond to the request for proposals or if one of the three persons or firms on the final list drops out of the procurement process so that only two persons or firms remain on the final list. In the case of an exception, the school district may elect to proceed with the procurement process with the two persons or firms or elect to readvertise. The decision to proceed or readvertise shall be made by the school district, as determined in its best interests. If only one responsive and responsible person or firm responds to the request for qualifications for a contract or multiple contracts to be negotiated under subsection (E) of this Section or if per-
sons or firms withdraw from the procurement process so that only one responsive and responsible person or firm remains in the procurement process, the school district may award the contract or contracts to a single person or firm if the school district determines in writing that the fee negotiated pursuant to subsection (E) of this Section is fair and reasonable and either other prospective persons or firms had a reasonable opportunity to respond or there is not adequate time for a resolicitation.

2. Contract awards shall be made through a one-step or two-step process as follows:

a. A one-step selection process may be used for any of the alternative project delivery methods for construction. This process consists of:

i. The school district issuing a Request for Qualifications to all vendors registered for construction or construction services on the school district’s prospective bidders list, pursuant to R7-2-1023 and R7-2-1024(A),(C), and (D); or R7-2-1022 if required, or if not required but the district so chooses.

ii. Evaluation of the statements of qualifications and performance data as outlined in R7-2-1116(C)(2) by the school district.

iii. Pending completion of subsections (i) and (ii) of this Section, the school district shall enter into separate negotiations for the contract with the highest qualified person or firm on the final list, for the construction services. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable. In making this determination, the school district shall take into account the estimated value, scope, complexity and nature of the construction services to be rendered.

iv. If the school district is unable to negotiate a satisfactory contract, including compensation and other contract terms determined to be fair and reasonable to the school district, with the person or firm considered to be the highest qualified person or firm on the final list, the school district shall formally terminate negotiations with that person or firm. After terminating negotiations with the highest qualified person or firm, the school district may then undertake negotiations with the next most qualified person or firm on the final list in sequence until an agreement is reached or a determination is made to reject all persons or firms on the final list.

v. If a contract for construction services is entered into pursuant to this subsection, construction shall not commence until the school district and contractor agree in writing on either a fixed price that the school district will pay for the construction or a guaranteed maximum price for the construction to be commenced. Once the school district enters into a contract for preconstruction or construction services, the procurement process is closed. Once closed, the school district shall not reopen a procurement process.

vi. The Request for Qualifications, statements of qualifications, and performance data shall be open to public inspection after the contract is awarded and the school district has executed the contract. To the extent that the offeror designates and the school district concurs, trade secrets and other proprietary data contained in a proposal shall remain confidential.

b. A two-step selection process may be used for the design-build and job order contracting delivery methods. This process consists of:

i. The school district issuing a Request for Qualifications to all vendors registered for construction or construction services on the school district’s bidders list, pursuant to R7-2-1023 and R7-2-1024(A),(C), and (D); or R7-2-1022 if required, or if not required but the district so chooses.

ii. Evaluation of the statements of qualifications and performance data as outlined in R7-2-1116(C)(2) by the school district.

iii. Pending completion of subsection (i) and (ii) of this Section, the school district shall issue a request for proposals to the persons or firms on the final list for that contract. A request for proposals shall be issued at least 14 days before the closing date and time for receipt of proposals unless a shorter time is determined necessary by the school district.

iv. Notice of the request for proposals shall be issued in accordance with R7-2-1022.

v. If included by the school district in the request for proposals in subsection (G), the selection committee shall conduct discussions with all persons or firms that submit preliminary technical proposals. Discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the owner.

vi. Revision of preliminary technical proposals shall be permitted after submission of preliminary technical proposals and before award for the purpose of obtaining best and final proposals. Best and final proposals shall be obtained in accordance with R7-2-1048. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.

vii. After completion of any discussions pursuant to subsection (v) or if no discussions are held, each offeror shall submit separately its final technical proposal and its price proposal.

viii. Before opening any price proposal, the selection committee shall open and evaluate the final technical proposals and score the final technical proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.

ix. After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open, evaluate and score the price proposals, and complete the scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.

x. The school district shall award the contract or contracts to the responsive and responsible offerors.
3. When using the two-step selection process, and if so stated in the request for proposals, no other factors or criteria may be used in evaluation and award.

xi. The procurement file shall contain the combined tabulations signed by all members of the selection committee and the written basis on which the selection is made in the first step, and the award is made in the second step, including price competition evaluation in step two.

xii. The Request for Qualifications, statements of qualifications, and performance data, and technical/price proposals shall be open to public inspection after the contract is awarded and the school district has executed the contract. To the extent that the offeror designates and the school district concurs, trade secrets and other proprietary data contained in a proposal shall remain confidential.

xiii. For design-build construction services only, the school district shall award a stipulated fee equal to a percentage of the school district’s project final design and construction budget, as prescribed in the request for proposals, but not less than two-tenths of one percent of the school district’s project final design and construction budget, to each final list offeror who provides, a responsive, but unsuccessful, proposal. If the procurement officer does not award a contract, all responsive final list offerors shall receive the stipulated fee based on the school district’s estimate of the project final design and construction budget as included in the request for proposals.

xiv. The procurement officer shall pay the stipulated fee to each offeror within 90 days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the procurement officer may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful offerors.

xv. Notwithstanding the other provisions of this subsection, an unsuccessful final list offeror may elect to waive the stipulated fee. If an unsuccessful final list offeror elects to waive the stipulated fee, the school district may not use ideas and information contained in the offeror’s proposal, except that this restriction does not prevent the school district from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.

3. When using the two-step selection process, and if so stated in the request for proposals, the school district may award multiple contracts for job-order-contracting, if such awards are determined to be in the best interests of the school district.

4. The contract requirements for construction-manager-at-risk and design-build may be written in multiple parts, or individual contracts prepared that separate any pre-construction services, design services, maintenance services, operations services, and finance services from construction services.

5. The school district shall award the construction-manager-at-risk contract at the conceptual stage of the project prior to schematic design being completed. However, if unusual circumstances warrant awarding the construction-manager-at-risk contract after schematic design, the district governing board shall approve the justification for such an award.

6. The school district shall perform a detailed review of the estimate that supports the guaranteed maximum price. If deemed necessary, the school district may consider using an architect, engineer, or professional consultant to assist the school district, if the review is outside the school district’s expertise. That architect, engineer, or professional consultant shall be independent of the architect or engineer that was hired to prepare the construction documents for the project. In no case shall the school district award the construction phase of a construction-manager-at-risk or design-build project if the presented guaranteed maximum price is greater than the school district’s budget for the project. The budget is the sum of the authorizing state agency funds plus school district funds.

7. During negotiations for the construction-manager-at-risk contract, the school district shall determine that the pre-construction services, general conditions, schedule, construction contingency, and construction fees are reasonable and justified, and these shall be approved by the school district’s governing board.

G. Request for Proposals. The request for proposals in a two-step selection process shall include the following:

1. A general description of the project site, scope, schedule, selection criteria, and project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.

2. A statement that the contract or contracts will be awarded to the person or firm whose proposal receives the highest number of points under the scoring method specified in the solicitation.

3. A description of the scoring method, including a list of the factors and the number of points allocated to each factor. The factors in the scoring method shall include:
   a. Offeror qualifications.
   b. Offeror financial capacity.
   c. Ability to comply with the school district’s project schedule.
   d. An offeror quality management plan.
   e. A subcontractor management plan that contains information as to how the firm proposes to manage the subcontracting of the project or the job orders.
   f. For design-build construction services, if the request for proposals does not contain the specifications prescribed in subsection (h)(iii) and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.
   g. Other evaluation factors as determined by the school district.
   h. For design-build construction services only:
      i. Demonstrated compliance with the design requirements.
      ii. The design requirements.
      iii. Compliance of the offeror’s price, or life cycle cost, for procurements that include maintenance services, operations services or finance services, with the school district’s budget as
prescribed in the request for proposals, if the request for proposals specifies that the school district will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget.

d. An offeror quality management plan.
e. A subcontractor management plan that contains information as to how the firm proposes to manage the subcontracting of the project or the job orders.
f. For design-build construction services, if the request for proposals does not contain the specifications prescribed in subsection (h)(iii) and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.
g. Other evaluation factors as determined by the school district.
h. For design-build construction services only:
   i. Demonstrated compliance with the design requirements.
   ii. The design requirements.
   iii. Compliance of the offeror’s price, or life cycle cost, for procurements that include maintenance services, operations services or finance services, with the school district’s budget as prescribed in the request for proposals, if the request for proposals specifies that the school district will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget.

4. A requirement that each offeror submit separately a technical proposal and a price proposal and that the offeror’s entire proposal is responsive to the requirements in the request for proposals. For design-build construction services, the price in the price proposal shall be a fixed price or a guaranteed maximum price.

5. A statement that in applying the scoring method, the selection committee will separately evaluate and score the technical proposal before opening, evaluating, and scoring the price proposal.

6. If the school district desires to conduct discussions with offerors, a statement that discussions may be held and a requirement that each offeror submit a preliminary technical proposal before the discussions are held.

7. Type of contract to be used.

8. That offerors may designate as proprietary portions of the proposal.

9. Notice that all information and bids submitted by bidders, except as stated in subsection (8) above, will be made available for public inspection following the award of the contract.

10. Instructions and information to bidders concerning the bid submission requirements including the time and date set for opening the proposals, the address of office at which proposals are to be received, the period during which proposals shall be accepted, and any other special information.

11. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

12. The name of the district representative(s).

13. If the request for proposals incorporates documents by reference, the request for proposals shall specify where such documents may be obtained.

14. A request for proposals may require the submission of bid samples, descriptive literature, and technical data, and may require inspection or testing of a product before award.

15. For design-build construction services, the school district shall stipulate a fee equal to a percentage of the school district’s project final design and construction budget, but not less than two-tenths of one percent of the project final design and construction budget, to be paid to each final list offeror who provides, a responsive, but unsuccessful, proposal.

16. For job-order-contracting, if it is the intent of the school district to award multiple contracts, it shall state that intention in the request for proposals.

H. Contractor Licenses

1. The contractor for design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to Arizona Revised Statute, Title 32, Chapter 1 if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.

2. The contractor for construction-manager-at-risk, design-build or job-order-contracting construction services shall be licensed to perform construction pursuant to Arizona Revised Statute, Title 32, Chapter 10.

I. Contract and Performance Requirements

1. The school district shall procure design, engineering, and other specified professional services relating to a construction-manager-at-risk construction services project pursuant to R7-2-1117 through R7-2-1123.

2. The school district shall negotiate pre-construction services, general conditions, schedules, construction contingency, and construction fees for construction-manager-at-risk and design-build projects that are reasonable and justified. Such fees shall be part of the construction-manager-at-risk or one-step design-build contract. For two-step design-build contracts, the fees shall be included in the vendor’s proposal and shall become part of the awarded contract.

3. For job-order-contracting construction services projects, if the school district does not include design, engineering and other specified professional services in the job-order-contracting construction services contract, the school district shall procure such services pursuant to R7-2-1117 through R7-2-1123.

4. The school district shall ensure that no job order exceeds the maximum dollar amount determined pursuant to A.R.S. § 41-2578(J)(1). Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.

5. If the contractor subcontracts or intends to subcontract part or all of the work under a job order, the contractor shall make the subcontractor aware of job order pricing using standard task descriptions, applicable unit prices, and the quantity of standard tasks.

a. The contractor shall promptly deliver the following to each subcontractor invited to bid a coefficient to the contractor to do all or part of the work under a job order:
   i. Descriptions of all standard individual tasks on which the subcontractor is invited to bid.
   ii. Standard unit prices for the individual tasks on which the subcontractor is invited to bid.

b. If the contractor has already priced the job order, the contractor shall promptly deliver the following to each subcontractor invited or agreeing to do any of the work included in the job order:
i. Descriptions of all standard individual tasks on which the subcontractor is invited to perform.

ii. The estimated number of units of each standard individual task that is included in the work that the subcontractor is invited to perform.

iii. The standard unit price for each standard individual task that is included in the work that the subcontractor is invited to perform.

6. For job-order-contracting job orders, the school district shall set administrative limits to assure each job order does not exceed the limit set in subsection (H)(4). When a job order is being estimated without a pre-agreed upon unit price book, the school district shall determine the appropriateness of the job order costs. This determination shall be documented. When job-order-contracting job orders are accomplished under a guaranteed maximum price type construction without a unit price book, the process shall be open book.

J. Prohibitions

1. Notwithstanding anything to the contrary in this Section or this Article, a school district shall not:

2. Enter into a contract as contractor to provide construction-manager-at-risk construction services, design-build construction services, or job-order-contracting construction services.

3. Contract with itself, with another school district, with this state, or with any other governmental unit of this state, or the federal government for the school district to provide construction-manager-at-risk construction services, design-build construction services, or job-order-contracting construction services.

4. The prohibitions prescribed in subsections a. and b. of this Section do not prohibit a school district from providing construction for itself as provided by law.

K. The procurement officer shall include in each contract for construction services the full street or physical address of each separate location at which the construction will be performed and a requirement that the contractor and each subcontractor at any level include in each of its subcontracts the same address information. The contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

L. Bid Security

1. Bid security executed in accordance with R7-2-1111(C), shall be provided for construction-manager-at-risk, design-build, and job-order-contracting procurements, if the school district estimates that the budget for construction, excluding the cost of any finance services, maintenance services, operations services, pre-construction services, or other related services included in the contract, will be more than the amount established pursuant to A.R.S. § 15-213(A)(1).

a. For construction-manager-at-risk or design-build construction services: 10% of the school district’s construction budget for the project as described in the request for proposals, excluding finance services, maintenance services, operations services, design services, pre-construction services, or any other related services included in the contract.

b. Job-order-contracting construction services: The amount prescribed by the school district in the request for proposals when using the two-step procurement process, but not more than 10% of the school district’s reasonably estimated budget for construction that the school district believes is likely to actually be done during the first year under the contract, excluding any finance services, maintenance services, operations services, design services, pre-construction services, or other related services included in the contract.

2. Nothing in this Section prevents the school district from requiring such bid security in relation to any construction services contract.

M. Contract Performance and Payment Bonds

1. Contract performance and payment bonds executed in accordance with R7-2-1112 shall be provided for construction-manager-at-risk, design-build, and job-order-contracting contracts, if the school district estimates that the budget for construction, excluding the cost of any finance services, maintenance services, operations services, design services, pre-construction services, or other related services included in the contract, will be more than the amount established pursuant to A.R.S. § 15-213(A)(1).

2. Performance and payment bonds for construction-manager-at-risk or design-build contracts shall be in an amount equal to 100% of the amount of construction services in the contract. The amount of the bonds shall not include the cost of any design services, pre-construction services, finance services, maintenance services, operations services, and other related services included in the contract.

3. Performance and payment bonds for job-order-contracting contracts shall be in an amount equal to 100% of the amount of construction services in the contract. The amount of the bonds shall not include any design services, pre-construction services, finance services, maintenance services, operations services, and other related services included in the contract.

N. Payment and Retention

1. The school district shall examine and verify the accuracy of all construction-manager-at-risk, design-build, and job-order-contracting pay applications and supporting documents prior to paying the contractor.

2. There shall be no retention for job-order-contracting construction services contracts. The school district may elect to have no retention for construction-manager-at-risk and design-build construction services contracts. If the school district elects to have retention, then payment retention for construction-manager-at-risk and design-build contracts shall be in accordance with R7-2-1114.

3. Retention applies only to amounts payable for construction and does not apply to amounts payable for design services, pre-construction services, finance services, maintenance services, operations services, or any other related services included in the contract.

O. School districts that use construction-manager-at-risk, design build, qualified select bidders list or job-order-contracting to procure construction services shall submit, on or before January 15 of each year, a report to the Secretary of State on the benefits associated with the use of such procurement methods.
The report shall include the number of projects completed in the preceding calendar year using that procurement method, the cost and description of each project and an estimate of any cost savings or other benefits realized through the use of that procurement method.

**Historical Note**
New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1).

**PROCUREMENT OF SPECIFIED PROFESSIONAL SERVICES**

**R7-2-1117. Procurement of specified professional services**

A. Specified professional services, which is defined in R7-2-1001(22), as an architect, engineer, land surveyor, assayer, geologist and landscape architect, shall be procured as provided in Sections R7-2-1117 through R7-2-1123, except as authorized in R7-2-1053 and R7-2-1056. The two methods of award of a contract for specified professional services are the single negotiated fee method of award and the multiple fee proposal method of award.

B. Contracts for specified professional services shall be awarded on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices.

C. Annual statement of qualifications and performance data. Firms desiring to be on the bidders’ list to provide specified professional services to the school district may submit annually to the school district a statement of qualifications and performance data which shall include, but not be limited to, the following:

1. The education, training, and qualifications of members of the firm and key employees;  
2. An executed United States General Services Administration Standard Form 254 which is attached to this Article and marked as Exhibit D; and  
3. Any other pertinent information requested by the school district.

D. Firms may amend statements of qualifications and performance by filing a new statement.

E. An annual statement and its amendments shall be deleted from the file if the annual statement or its amendments have not been amended pursuant to the preceding subsection for over 13 months.

**R7-2-1118. Public notice of specified professional services**

A. Prior to public notice of the need for specified professional services, the school district shall determine that the services to be acquired are specified professional services and may recommend that the services be obtained pursuant to R7-2-1122 or R7-2-1123.

B. Notice of need for specified professional services shall be given by the school district pursuant to R7-2-1022, R7-2-1024(C) and R7-2-1117. Such notice shall be issued not less than 14 days in advance of when responses must be received. The notice shall contain a statement of the services required that adequately describes the project and specifies how a solicitation containing specific information on the project may be obtained.

C. A request for proposals or request for supplemental statements that describes the school district’s project requirements, shall be issued to all firms responding to the public notice. Notice of any pre-proposal conference and the criteria to be used in selecting firms shall be included in the request.

**R7-2-1119. Specified professional services selection committee**

A. If a contract for specified professional services is expected to exceed the amount established by A.R.S. § 15-213(A), the school district shall designate a selection committee to assist in selecting the most qualified person or firm. The selection committee may consist of one person. The governing board may either accept or reject the recommendations of the selection committee.

B. The selection committee shall evaluate:

1. Annual statement of qualifications and performance data on file with the school district and those of other firms responding to the request; and  
2. Proposals or supplemental statements.

C. No person participating in any way in the selection of a person or firm shall receive any direct or indirect benefit from the project under consideration.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1120. Cancellation or rejection of the solicitation**

The solicitation may be canceled or proposals rejected in accordance with Sections R7-2-1072 through R7-2-1075.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1121. Committee evaluation and selection**

A. To the extent possible, the selection committee shall when using the single negotiated fee method pursuant to R7-2-1122 conduct discussions with and select no fewer than three firms; or when using the multiple fee proposals method pursuant to R7-2-1123, conduct discussions with and select no fewer than five firms as being professionally and technically qualified. These firms shall be evaluated to determine each firm’s:

1. Capabilities and qualifications for performing the contract; and  
2. Methods of approach. The firms shall be ranked by the selection committee.

B. The selection committee shall prepare and provide to the governing board a memorandum which indicates how the evaluation criteria were applied to determine the ranking of the most qualified firms selected pursuant to subsection (A).

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1122. Single negotiated fee method of award**

A. The school district shall negotiate a contract with the highest qualified firm for the required services at compensation determined in writing to be fair and reasonable to the school district. Contract negotiations shall be directed toward:

1. Making certain that the firm has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;  
2. Determining that the firm will be available the necessary personnel and facilities to perform the services within the required time; and  
3. Agreeing upon compensation that is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services.

B. The firm selected for award shall submit and certify cost and pricing data pursuant to R7-2-1079.

C. Failure to negotiate with the highest qualified firm.

1. If fair and reasonable compensation, contract requirements, and contract documents cannot be agreed upon
with the highest qualified firm, the school district shall advise the firm in writing of the termination of negotiations.

2. The school district shall negotiate with the next highest qualified firm in sequence until an agreement is reached or a determination is made to reject all proposals in accordance with Sections R7-2-1072 through R7-2-1075.

D. Written notice of the governing board’s award shall be sent to the firm with whom the contract is successfully negotiated. Each firm with whom discussions were held shall be notified of the award. Notice of award shall be made available to the public.

E. At the time of the award of the contract, a memorandum setting forth the principal elements of the negotiation shall be prepared by the school district. Such memorandum shall contain sufficient detail to reflect the significant considerations controlling price and the other terms of the contract. Such memorandum shall be retained and be available to the public upon request.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1123. Multiple fee proposal method of award

A. The school district shall determine in writing if it is practicable to develop a scope of services and if the consideration of a fee proposal is advantageous to the school district.

B. The school district shall select a professional architect, engineer, land surveyor, landscape architect, assayer or geologist, as appropriate, licensed to practice in accordance with Title 32, Chapter 1, Arizona Revised Statutes, who shall prepare and seal a scope of services.

C. After determination of the firms deemed to be the most highly qualified, pursuant to Sections R7-2-1117 through R7-2-1121, the selection committee shall issue a request for the fee proposal to such firms.

D. Firms shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The school district shall establish procedures and schedules for conducting discussions. If during discussions there is a need for any substantial clarification or change in the request for proposals, the request for proposals shall be amended to incorporate such clarification or change. Disclosure of any information derived from competing proposals is prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror. The school district shall keep a detailed record of such meetings.

E. The school district shall establish a common date and time for the submission of final offers. Final offers shall be submitted only once, unless the school district makes a determination that it is advantageous to the school district to conduct additional discussions or change the school district’s requirements and require another submission of final offers. Otherwise, no discussions of or changes in the final offers shall be allowed prior to selection for award. Firms also shall be informed that if they do not submit a notice of withdrawal or another final offer, their immediate previous offer will be construed as their final offer.

F. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the school district taking into consideration the evaluation factors set forth in the request for proposals and fee. No other factors or criteria may be used in the evaluation. No contract may be awarded solely on the basis of price. The contract file shall contain the basis on which the award is made.

G. Notice of award shall be made in accordance with R7-2-1122(D) and (E).

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**COST PRINCIPLES**

R7-2-1125. Cost principles

The cost principles set forth in the Code of Federal Regulations, Title 48, Chapter 1, Subchapter E, Part 31, as of January 1, 1987 which is incorporated herein by reference and on file with the Office of the Secretary of State and incorporated herein by this reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs.

**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4).

**MATERIALS MANAGEMENT**

R7-2-1131. Material Management and Disposition

A. The school district shall ascertain or verify that materials, services, or construction items procured by the school district conform to specifications as set forth in the solicitation.

B. The school district shall determine the fair market value of excess and surplus property.

C. Disposition of surplus materials.

1. Except as provided in A.R.S. § 15-342(7) related to sales or leases to the state, county or city, and A.R.S. § 15-342(18) related to the disposition of surplus outdated learning materials, surplus materials, regardless of value, shall be offered through competitive sealed bids, public auction, established markets, trade in, posted prices or state surplus property. If unusual circumstances render the above methods impractical, the school district may employ other disposition methods, including appraisal or barter, provided the school district makes a determination that such procedure is advantageous to the school district. Only United States Postal Money Orders, certified checks, cashiers’ checks or cash shall be accepted for sales of surplus property unless otherwise approved by the school district or for sales of less than $100.

2. Competitive sealed bidding.

a. Notice for sale bids shall be publicly available from the school district at least 10 days before the date set for opening bids. Notice of the sale bids shall be mailed to prospective bidders, including those bidders on lists maintained by the school district pursuant to rule R7-2-1023. The notice for sale bids shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening. Bids shall be opened publicly pursuant to the requirements of R7-2-1029.

b. The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the school district. If the school district determines that the bids is not advantageous to the school district, the school district may reject the bids in whole or in part and may resolicit bids or the school district may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder’s price.

3. Auctions shall be advertised at least two times prior to the auction date in a newspaper of the county as defined in A.R.S. § 11-255. Advertisements must be at least seven days apart. All the terms and conditions of any sale shall
The governing board may enter into an agreement with the
A. The governing board may acquire surplus materials from the
B. The governing board may secure the transfer of surplus materials and obligate its
C. Notwithstanding any provision of law to the contrary, the governing board may transfer the surplus materials to a
D. Any employee of the school district or a governing board
E. An employee of the school district or a governing board member shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee or board member is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.
F. State surplus property manager. Except as provided in A.R.S. § 15-342(7), the school district may enter into an agreement with the State Surplus Property Manager for the disposition of property pursuant to Article 8 of the Arizona Procurement Code (A.R.S. § 41-2601 et seq.) and the rules adopted thereunder.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).
Amended effective October 22, 1992 (Supp. 92-4).

R7-2-1132. State and federal surplus materials program
A. The governing board may acquire surplus materials from the state and the United States government.
B. The governing board may enter into an agreement with the State Surplus Property Manager for the purpose of acquiring surplus materials from the United States government pursuant to A.R.S. § 41-2603 and the rules adopted thereunder.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1).

R7-2-1133. Authority for transfer of material
Notwithstanding any provision of law to the contrary, the governing board may secure the transfer of surplus materials and obligate its monies to the extent necessary to comply with the laws and conditions of such transfers.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

BID PROTESTS

R7-2-1141. Resolution of bid protests
A. Informal resolution of bid protests. Nothing in this Article is intended to eliminate the informal resolution of problems by school district personnel.
B. Formal resolution of bid protests. The governing board pursuant to R7-2-1006 shall designate a district representative, as defined in R7-2-1001(30), to resolve bid protests. All bids issued by the school district shall include the name of the district representative and shall indicate that any bid protest must be filed with the district representative. Appeal from the decision of the district representative may be made to the hearing officer pursuant to R7-2-1147 and R7-2-1181.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1142. Filing of a protest
A. Any interested party may protest a solicitation issued by the school district, or the proposed award or the award of a school district contract.
B. Content of protest. The protest shall be in writing and shall include the following information:
1. The name, address and telephone number of the protester;
2. The name of the protestor or the protestor’s representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
5. The form of relief requested.
C. The protester shall supply promptly any other information requested by the district representative.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1143. Time for filing protests
A. Protests concerning improprieties in a solicitation.
1. Protests based upon alleged improprieties in a solicitation that are apparent before the bid opening shall be filed before bid opening. Protests based upon alleged improprieties in a solicitation that are apparent before the closing date for receipt of initial proposals shall be filed before the closing date for receipt of initial proposals.
2. In procurements requesting proposals, protests concerning improprieties that do not exist in the initial solicitation but that are subsequently incorporated into the solicitation shall be filed by the next closing date for receipt of proposals following the incorporation.
B. In cases other than those covered in subsection (A) of this Section, protests shall be filed within 10 days after the protestor knows or should have known the basis of the protest, whichever is earlier.
C. Protests shall be filed with the district representative.
D. If the protestor shows good cause and it is in the best interests of the school district, the district representative may consider any protest that is not filed timely.
E. The district representative shall immediately give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties.
F. At any time the district representative or hearing officer may refer the protest to the governing board for resolution in accordance with R7-2-1152.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1144. Stay of procurements during the protest
If a protest is filed before the award of a contract the award may be made, unless the district representative makes a determination that the award of the contract is contrary to the best interests of the school district.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1145. Decision by the district representative
A. The district representative shall issue a written decision within 14 days after a protest has been filed pursuant to R7-2-1142. The decision shall include:
1. A statement of the decision of the district representative with supporting rationale; and
2. A paragraph substantially as follows:
   “This is the decision of the district representative of the _____________ School District. The decision may be appealed to the governing board of this school district. If you appeal, you must file a written notice of appeal with the district representative within 10 days from the date of this decision.”
B. The district representative shall furnish a copy of the decision to the protestor by any method that provides evidence of receipt.
C. The time limit for decisions set forth in subsection (A) of this Section may be extended by the district representative for good cause for a reasonable time not to exceed 30 days. The district representative shall notify the protestor in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

D. If the district representative fails to issue a decision within the time limits set forth in subsections (A) or (C) of this Section, the protestor may proceed as if the district representative had issued an adverse decision.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1146. Remedies**

A. If the district representative sustains the protest in whole or part and determines that a solicitation, proposed contract award, or contract award does not comply with this Article, the school district shall implement an appropriate remedy.

B. In determining an appropriate remedy, the district representative shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the school district, the urgency of the procurement and the impact of the relief on the mission of the school district.

C. An appropriate remedy may include one or more of the following:
   1. Decline to exercise an option to renew under the contract;
   2. Terminate the contract;
   3. Reissue the solicitation;
   4. Issue a new solicitation;
   5. Award a contract consistent with procurement statutes and regulations; or
   6. Such other relief as is determined necessary to ensure compliance with this Article.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1147. Appeals to the governing board**

A. An appeal from a decision entered or deemed to be entered by the district representative shall be filed with the district representative within 10 days from the date of decision.

B. Content of appeal. The appeal shall contain:
   1. The information set forth in R7-2-1142(B); and
   2. The precise factual or legal error in the decision of the district representative from which an appeal is taken.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1148. Notice of appeal**
The district representative shall within three working days give notice of the filing of the appeal to the governing board and the successful contractor is award has been made.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1149. Stay of procurement during appeal**
If an appeal is filed before an award of contract and the award of the contract was stayed by the district representative pursuant to R7-2-1144, the filing of an appeal shall automatically continue the stay unless the hearing officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the school district.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1150. District representative’s response**
The district representative shall file a complete response to the appeal with the hearing officer within seven days from the date the appeal is filed. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1151. Dismissal before hearing**
The hearing officer shall dismiss, upon a written determination, an appeal before scheduling a hearing if:
   1. The appeal does not state a valid basis for protest; or
   2. The appeal is untimely pursuant to R7-2-1147(A).

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1152. Hearing**
Hearings on appeals of bid protest decisions shall be conducted pursuant to R7-2-1181 and the Arizona Administrative Procedure Act (Article 1, Chapter 6, Title 41, Arizona Revised Statutes).

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1153. Remedies**
If the governing board sustains the appeal in whole or part and determines that a solicitation, proposed award, or award does not comply with procurement statutes and regulations, remedies shall be implemented pursuant to R7-2-1146.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1155. Resolution of contract claims and controversies**
The district representative shall have the authority granted to the district representative by the governing board to settle and resolve contract claims and controversies including claims relating to assignees of the contractor. Appeals from decisions of the district representative may be made to the hearing officer pursuant to R7-2-1158.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1156. District representative’s decision**

A. If a controversy cannot be resolved by mutual agreement, the district representative shall issue a written decision within no more than 60 days from receipt of the contractor’s written request for a decision.

B. In the case of construction contracts which provide that the architect shall resolve disputes, no protest may be filed under subsection (A) of this Section until the architect makes a decision.

C. Decision of the district representative. The district representative shall furnish a copy of the decision to the contractor by any method that provides evidence of receipt. The decision shall include:
   1. A statement of the district representative’s decision, with supporting rationale; and
   2. A paragraph substantially as follows:
      “This is the decision of the district representative of the School District. This decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the dis-
trict representative within 10 days from the date of decision."

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4).

**R7-2-1157. Issuance of a timely decision**
A. A time limit for decisions set forth in R7-2-1156(A) may be extended for good cause for a reasonable time not to exceed 30 days. The district representative shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
B. If the district representative fails to issue a decision within 30 days after the request is filed or within the time prescribed under subsection (A) of this Section, the contractor may proceed as if the district representative had issued an adverse decision.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1158. Appeals to a hearing officer**
A. An appeal from a decision entered or deemed to be entered by the district representative on a contract claim or controversy shall be filed with the district representative within 10 days from the date of decision.
B. Content of appeal. The appeal shall contain the basis for the precise factual or legal error in the decision of the district representative from which an appeal is taken.
C. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing.
D. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
E. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but must do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4).

**R7-2-1159. Hearing**
Hearings on appeals of contract claim and controversy decisions shall be conducted pursuant to R7-2-1181 and the Arizona Administrative Procedure Act (Article 1, Chapter 6, Title 41, Arizona Revised Statutes).

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**DEBARMENT AND SUSPENSION**

**R7-2-1161. Authority to debar or suspend**
A. The governing board has the authority to debar or suspend a person from participating in school district procurements.
B. The causes for debarment or suspension include the following:
   1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
   2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a school district contractor.
   3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
   4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:
      a. Knowingly fails without good cause to perform in accordance with the specification or within the time limit provided in the contract.
      b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance cause by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
   5. Any other cause deemed to affect responsibility as a school district contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1162. Initiation of debarment**
Upon receipt of information concerning a possible cause for debarment, the school district shall investigate the possible cause. If the school district has a reasonable basis to believe that a cause for debarment exists, the school district may propose debarment under R7-2-1164.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**R7-2-1163. Period of debarment**
A. The period of time for a debarment shall not exceed three years from the date of the debarment determination.
R7-2-1164. Notice
If the school district proposes debarment, the school district shall notify the person and affected affiliates in writing within seven days of the proposed debarment by any means evidencing receipt, which notice shall indicate that a hearing shall be scheduled, if requested, in accordance with R7-2-1181.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1165. Notice to affiliates
A. If the school district proposes to debar an affiliate, the affiliate shall have a right to appear in any hearing on the proposed debarment to show mitigating circumstances.
B. The affiliate shall in writing advise the school district within 30 days of receipt of the notice under R7-2-1164 of its intention to appear under subsection (A) of this Section. Failure to provide written notice of appearance within the 30-day period shall be a waiver of the right to appear in the hearing.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1166. Imputed knowledge
A. Improper conduct may be imputed to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate’s duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.
B. The improper conduct of a person or its affiliate having a contract with a contractor may be imputed to the contractor for purposes of debarment where the impropriety occurred in connection with the person’s duties for or on behalf of, or with the actual or constructive knowledge, approval, or acquiescence of, the contractor.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1167. Reinstatement
A. The governing board may at any time after a decision on a debarment reinstate a debarred person or rescind the debarment upon a determination that the cause upon which the debarment is based no longer exists.
B. Any debarred person may request reinstatement by submitting a petition to the school district supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
C. The school district may require a hearing on the request for reinstatement.
D. The decision on reinstatement shall be in writing and specify the factors on which it is based.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1168. Suspension
A. If adequate grounds for debarment exist, the governing board may suspend a person from receiving any award in accordance with the procedures in R7-2-1170.
B. The governing board shall not suspend a person pending debarment unless compelling reasons require suspension to protect school district interests.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1169. Period and scope of suspension
A. Unless otherwise agreed to by the parties, the period of suspension shall not exceed 30 days without satisfying the notice requirements of R7-2-1170. If the notice requirements are satisfied the period of suspension shall not exceed six months.
B. For purpose of suspension, a person’s conduct may be imputed to an affiliate or another person in accordance with R7-2-1166.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1170. Notice and hearing
A. The school district shall notify the person suspended by any means evidencing receipt.
B. The notice of suspension shall state:
   1. The basis for suspension;
   2. The period, including dates, of the suspension;
   3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
   4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing with a designated district representative within seven days after receipt of the notice.
C. A hearing requested under this Section shall be conducted pursuant to R7-2-1181.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1171. List of debarments, suspensions and voluntary exclusions
The school district shall maintain a list of debarment, suspensions, and voluntary exclusions. It is recommended that the school district provide notice of any debarments, suspensions and voluntary exclusions to the state purchasing office.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).

HEARING PROCEDURES

R7-2-1181. Hearing procedures
A. If a hearing is required or permitted under this Article, this Section shall apply. Hearing officers shall be selected pursuant to R7-2-1158.
B. The Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) shall apply where the Act is not inconsistent with this Article.
C. The hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing.
D. The hearing officer may:
   1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
   2. Require parties to state their positions concerning the various issues in the proceeding;
   3. Require parties to produce for examination those relevant witnesses and documents under their control;
   4. Rule on motions and other procedural items on matters pending before such officer;
   5. Regulate the course of the hearing and conduct of participants;
   6. Establish time limits for submission of motions or memoranda;
7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
   a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
   b. Excluding all testimony of an unresponsive or evasive witness; and
   c. Expelling person from further participation in the hearing;
8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
9. Administer oaths or affirmations.

E. A transcribed record of the hearing shall be made available at cost to any requesting party.

F. A decision of the hearing officer may be reviewed by the hearing officer. A decision by the hearing officer shall be served within 30 days after the conclusion of the hearing to all parties by any means evidencing receipt. A decision shall contain:
   1. A statement of facts;
   2. A statement of the decision with supporting rationale; and
   3. A statement that the parties may file a motion for rehearing within 15 days from the date a copy of this decision is served upon the party.

Historical Note
Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4).

R7-2-1182. Rehearing of decisions

A. Procedure; grounds. A decision of the hearing officer may be vacated and new hearing granted on motion of the aggrieved party for any of the following causes materially affecting his rights:
   1. Irregularity in the proceedings of the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
   2. Misconduct of the prevailing party.
   3. Accident or surprise which could not have been prevented by ordinary prudence.
   4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing.
   5. Excessive or insufficient damages or penalties.
   6. Error of law occurring at the hearing of the progress or the proceeding.
   7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

B. Scope. A rehearing may be granted to all or any of the parties and on all or part of the issues in the proceeding for any of the reasons for which rehearings are authorized by law or rule of court. On a motion for a rehearing, the hearing officer may open the decision, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new decision.

C. Contents of motion; amendment; rulings reviewable.
   1. The motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the hearing officer.
   2. Upon the general ground that the hearing officer erred in admitting or rejecting evidence, the hearing officer shall review all rulings during the hearing upon objections to evidence.

3. Upon the general ground that the findings of fact or decision are not justified by the evidence, the hearing officer shall review the sufficiency of the evidence.

D. Time for motion for rehearing. A motion for rehearing shall be filed not later than 15 days after service of the decision upon the party.

E. Time for serving affidavits. When a motion for rehearing is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the hearing officer for good cause shown or by the parties by written stipulation. The hearing officer may permit reply affidavits.

F. On initiative of hearing officer. Not later than 15 days after the date of the decision, the hearing officer may order a rehearing for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for a rehearing, timely served, for a reason not stated in the motion. In either case, the hearing officer shall specify in the order the grounds therefor.

G. Questions to be considered in rehearing. A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. If a rehearing is ordered because the damages or penalties are excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the damages or penalties, and shall stand in all other respects.

H. Motion on ground of excessive or inadequate damages. When a motion for rehearing is made upon the ground that the damages or penalties awarded are either excessive or insufficient, the hearing officer may grant the rehearing conditionally upon the filing within a fixed period of time, not to exceed 15 days, of a statement by the party adversely affected by reduction or increase of damages or penalties accepting that amount of damages or penalties which the hearing officer shall designate. If such a statement is filed with the prescribed time, the motion for rehearing shall be regarded as denied as of the date of such filing. If no statement is filed, the motion for rehearing shall be regarded as granted as of the date of the expiration of the time period within which a statement could have been filed. No further written order shall be required to make an order granting or denying the rehearing final. If the conditional order of the hearing officer requires a reduction of or increase in damages or penalties, then the rehearing will be granted in respect of the damages or penalties only and the decision shall stand in all other respects.

I. Number of motions for rehearing. Not more than two motions for rehearing shall be granted to any party in the same action.

J. Specifications of grounds of rehearing in order. An order granting a motion for rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.

K. Final decision.
   1. If a motion for rehearing is denied, the final decision denying the motion for rehearing shall be sent within five days after the denial to all parties by any means evidencing receipt. A final decision shall contain a paragraph substantially as follows:
      “This is the final decision of the hearing officer in the matter of
      [Title]”.
   2. If the motion for rehearing was granted, after the rehearsing is completed, a final decision shall be made and shall be sent within five days after the conclusion of the rehearing to all parties as required in subsection (K)(1). A final decision shall contain:
Any final decision made as a result of a hearing held pursuant to R7-2-1183. Judicial review

This Article (R7-2-1001 et seq.) provides the exclusive procedure for asserting a cause against the school district and its governing board arising in relation to any procurement conducted under this Article.

R7-2-1184. Exclusive remedy

A cooperative purchasing agreement may:
1. Commonly use or share warehousing facilities, capital equipment and other facilities.
2. Cooperatively use materials or services.
3. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
4. On request, make available to other public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

The activities described in subsections (1) through (5) do not limit what parties may do under a cooperative purchasing agreement.

R7-2-1192. Contract provisions in a cooperative purchasing agreement

Any contract entered pursuant to R7-2-1191 shall provide that:
1. Sponsor, conduct, or administer a cooperative agreement for the procurement or disposal of any materials, services or construction.
2. Cooperatively use materials or services.
3. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
4. On request, make available to other public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

The activities described in subsections (1) through (5) do not limit what parties may do under a cooperative purchasing agreement.

R7-2-1193. Use of payments received by a supplying public procurement unit

R7-2-1194. Public procurement units in compliance with Article requirements

A school district may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction with one or more public procurement units in accordance with an agreement entered into between the participants. An agreement entered into as provided in Sections R7-2-1191 through R7-2-1195 is exempt from A.R.S. § 11-952, subsections (D), (E) and (F). Parties under a cooperative purchasing agreement may:
R7-2-1195. Contract controversies
A. Under a cooperative purchasing agreement in which a school district is a party, controversies arising between an administering public procurement unit and its bidders, offerors or contractors shall be resolved in accordance with this Article.
B. Any local public procurement unit which is not subject to R7-2-1181 and R7-2-1182 may enter into an agreement with a school district to establish procedures or use such school district’s existing procedures to resolve controversies with contractors, whether or not such controversy arose from a cooperative purchasing agreement.

**Historical Note**
Adopted effective December 17, 1987 (Supp. 87-4).

**ARTICLE 12. REPEALED**

R7-2-1201. Repealed

**Historical Note**

**ARTICLE 13. CONDUCT**

R7-2-1301. Definitions

In this Article, unless the context otherwise specifies:
1. “Alleging party” means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or other agency who completes a statement alleging immoral or unprofessional conduct against a certificated individual.
2. “Applicant” means a person who has submitted an application to the Department requesting an evaluation of the requirements set forth in R7-2-601 et seq., requesting issuance of a certificate pursuant to R7-2-601 et seq., or requesting renewal of a previously held certificate issued pursuant to R7-2-601 et seq.
3. “Board” means the State Board of Education.
4. “Certificated individual” means an individual who holds an Arizona certificate issued pursuant to R7-2-601 et seq.
5. “Complaint” means the filing of a charge by the Board against a certificated individual alleging immoral or unprofessional conduct.
6. “Hearing” means an adjudicative proceeding held pursuant to Title 41, Chapter 6 and R7-2-701 et seq.
7. “PPAC” means the Professional Practices Advisory Committee established pursuant to R7-2-205.

**Historical Note**
Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).

R7-2-1303. Complaint
A. Upon completion of an investigation resulting from a statement of allegations, the Board may file a complaint against a certificated individual.
B. The Board may, at its own discretion, investigate any matter and file a complaint against a certificated individual upon receiving any information, from any source, indicating immoral or unprofessional conduct has occurred.
C. A hearing shall be held on a complaint before the PPAC.

**Historical Note**
Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1303 renumbered from R7-2-1304 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).

R7-2-1304. Notification; Investigation

The certificated individual shall have 15 days from receipt of the complaint to file a response with the Board.

**Historical Note**
Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1304 renumbered to R7-2-1303; new Section R7-2-1303 renumbered from R7-2-1304 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).

R7-2-1305. Conviction of Criminal Offenses; Investigation
A. Applicants shall certify on forms that are provided by the Board whether they are awaiting trial on, or have ever been convicted of, or have admitted in open court or pursuant to a plea agreement committing any offense listed in A.R.S. § 15-534. Applicants for certification shall not be required to disclose information regarding misdemeanor offenses other than those listed in A.R.S. § 15-534.
B. Upon receipt of notification that an applicant or certificated individual has been convicted of or admitted in open court or pursuant to a plea agreement committing any criminal offense specified in A.R.S. § 15-534, the Board shall initiate an investigation.
C. Applicants and certificated individuals who are alleged to have been convicted of a criminal offense specified in A.R.S. § 15-534 shall provide the Board with copies of court records or reports pertaining to the conviction.

**Historical Note**
Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).