

34-201. Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance

A. Except as provided in subsections B through G and L of this section, every agent shall, upon acceptance and approval of the working drawings and specifications, publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if it is a weekly newspaper or for two publications that are at least six but no more than ten days apart if it is a daily newspaper. The notice shall state:

1. The nature of the work required, the type, purpose and location of the proposed building, and where the plans, specifications and full information as to the proposed work may be obtained.

2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment. The return of such plans and specifications shall be guaranteed by a deposit of a designated amount which shall be refunded on return of the plans and specifications in good order.

3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for ten per cent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Notwithstanding the provisions of any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the department of insurance pursuant to title 20, chapter 2, article 1. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of section 7-101 are satisfied. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted, and to the successful contractor upon the execution of a satisfactory bond and contract as provided in this article. The conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the following form:

Now, therefore, if the obligee accepts the proposal of the principal and the principal enters into a contract with the obligee in accordance with the terms of the proposal and gives the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the principal to enter into the contract and give the bonds and certificates of insurance, if the principal pays to the obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of section 34-201, Arizona Revised Statutes, and all liabilities on this bond shall be

determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

4. That the right is reserved to reject any or all proposals or to withhold the award for any reason the agent determines.

B. If the agent believes that any construction, building addition or alteration contemplated at a public institution can be advantageously done by the inmates of the public institution and regularly employed help, the agent may cause the work to be done without advertising for bids.

C. Any building, structure, addition or alteration may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids provided that the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed:

1. In fiscal year 1994-1995, fourteen thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

D. Notwithstanding the provisions of subsection C of this section, any street, road, bridge, water or sewer work, other than a water or sewer treatment plant or building, may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids provided that the total cost of the work does not exceed:

1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

E. For the purposes of subsection D of this section, the total cost of water or sewer work does not include services provided by volunteers or donations made for the water or sewer project.

F. Notwithstanding the provisions of this section, an agent may:

1. Construct, reconstruct, install or repair a natural gas or electric utility and distribution system, owned or operated by such agent, with regularly employed personnel of the agent without advertising for bids, unless otherwise prohibited by charter or ordinance.

2. Construct recreational projects, including trails, playgrounds, ballparks and other similar facilities and excluding buildings, structures, building additions and alterations to buildings, structures and building additions, with volunteer workers or workers provided

by a nonprofit organization without advertising for bids for labor and materials provided that the total cost of the work does not exceed:

(a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

(b) In fiscal year 2002-2003 and each fiscal year thereafter, the amount provided in subdivision (a) of this paragraph adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

G. A contribution by an agent for the financing of public infrastructure made pursuant to a development agreement is exempt from the provisions of this section if such contribution for any single development does not exceed:

1. In fiscal year 1994-1995, one hundred thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

H. In addition to other state or local requirements relating to the publication of bids, each agent shall provide at least one set of all plans and specifications to any construction news reporting service that files an annual request with the agent. For the purposes of this subsection, "construction news reporting service" means a service that researches, gathers and disseminates news and reports either in print or electronically, on at least a weekly basis for building projects, construction bids, the purchasing of materials, supplies or services and other construction bidding or planned activity to the allied construction industry. The allied construction industry includes both general and specialty contractors, builders, material and service suppliers, architects and engineers, owners, developers and government agencies.

I. Any construction by a county under this section shall comply with the uniform accounting system prescribed for counties by the auditor general under section 41-1279.21. Any construction by a city or town under this section shall comply with generally accepted accounting principles.

J. Any construction, building addition or alteration project which is financed by monies of this state or its political subdivisions shall not use endangered wood species unless an exemption is granted by the director of the department of administration. The director shall only grant an exemption if the use of endangered wood species is deemed necessary for historical restoration or to repair existing facilities and the use of any substitute material is not practical. Any lease-purchase agreement entered into by this state or its political subdivisions for construction shall specify that no endangered wood species may be used in the construction unless an exemption is granted by the director. As used in this subsection, "endangered wood species" includes those listed in appendix I of the convention on international trade in endangered species of wild flora and fauna.

K. All bonds given by a contractor and surety pursuant to the provisions of this article, regardless of their actual form, will be deemed by law to be the form required and set forth in this article and no other.

L. Any building, structure, addition or alteration may be constructed without complying with this article if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection, building does not include police, fire, school, library, or other public buildings.

M. Notwithstanding section 34-221, any agent may enter into a guaranteed energy cost savings contract with a qualified provider, as those terms are defined in section 15-213.01, for the purchase of energy cost savings measures without complying with this article and may procure a guaranteed energy cost savings contract through the competitive sealed proposal process prescribed in title 41, chapter 23, article 3 or any similar competitive proposal process adopted by the agent as long as the agent follows any additional requirements set forth in section 15-213.01.