

**SUBJECT:** Presentation, discussion and consideration to initiate rulemaking procedures for proposed amendments to Article 10 and Article 11 of Board rule related to school district procurement, consisting of proposed rules R7-2-1001 through R7-2-1008; R7-2-1010 through R7-2-1016; R7-2-1018; R7-2-1021 through R7-2-1033; R7-2-1035 through R7-2-1037; R7-2-1041 through R7-2-1042; R7-2-1044 through R7-2-1050; R7-2-1053; R7-2-1055 through R7-2-1056; R7-2-1058; R7-2-1061 through R7-2-1063; R7-2-1066 through R7-2-1070; R7-2-1073 through R7-2-1081; R7-2-1083 through R7-2-1087; R7-2-1092 through R7-2-1093; R7-2-1100 through R7-2-1115; R7-2-1117 through R7-2-1123; R7-2-1125; R7-2-1131; R7-2-1141 through R7-2-1153; R7-2-1155 through R7-2-1159; R7-2-1161; R7-2-1164 through R7-2-1165; R7-2-1167 through R7-2-1170; R7-2-1181 through R7-2-1185; R7-2-1191 through R7-2-1192; and R7-2-1194 through R7-2-1196, and the proposed repeal of rules R7-2-1009, R7-2-1057, R7-2-1091, and R7-2-1116.

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**SUBMITTED BY:** Christine M. Thompson, Executive Director  
Michael Stelpstra, Office of the Auditor General

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**MANAGEMENT TEAM REVIEW:** January 9, 2014

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#### **BACKGROUND INFORMATION:**

ARS §15-213 requires the Board to adopt rules prescribing procurement practices, consistent with those prescribed for state government, for all school districts in this state. The Board has adopted these rules in Articles 10 and 11.

In an effort to update the Board rules to be consistent with changes in statute, address areas in need of clarification, and to modernize codified practices, school districts, working with State Board staff and procurement experts from the Department, the Office of the Attorney General, and the Office of the Auditor General, worked for over a year to develop the attached proposed amendments.

Newly proposed language is underlined, and language proposed to be removed is ~~stricken~~. Please note that the package includes proposals to “renumber” some rules – to move current rule language to a different place in the rules. Such proposed “renumbered” rules must be shown as language being removed from its current location and as new language in its newly proposed location.

Below is the table of contents for Arizona Administrative Code, Title 7, Chapter 2, Articles 10 and 11. Items without notations in the table of contents include modifications within the attached proposed rules; notations are included for those rules proposed to be repealed, moved to a new location, or which remain unchanged in the attached proposal.

**ARIZONA ADMINISTRATIVE CODE  
TITLE 7. EDUCATION  
CHAPTER 2. STATE BOARD OF EDUCATION  
ARTICLE 10. SCHOOL DISTRICT PROCUREMENT**

**IN GENERAL**

- R7-2-1001. Definitions
- R7-2-1002. Applicability
- R7-2-1003. General provisions
- R7-2-1004. Written determinations
- R7-2-1005. ~~Confidential information~~ Change orders and contract modifications  
*[FORMERLY R7-2-1008]*
- R7-2-1006. ~~Delegation of procurement authority~~ Confidential information *[FORMERLY R7-2-1005]*
- R7-2-1007. ~~Procurement advisors~~ Delegation of procurement authority *[FORMERLY R7-2-1006]*
- R7-2-1008. ~~Change order percentage~~ Procurement consultants and procurement advisory groups *[FORMERLY R7-2-1007]*
- R7-2-1009. ~~Proprietary specifications~~ *[REPEALED]*

**SPECIFICATIONS**

- R7-2-1010. ~~Recycled Products Use~~ Preparation of specifications *[FORMERLY R7-2-1101]*
- R7-2-1011. Types of specifications *[FORMERLY R7-2-1102]*
- R7-2-1012. Proprietary specifications *[FORMERLY R7-2-1009]*
- R7-2-1013. Recycled products use *[FORMERLY R7-2-1010]*
- R7-2-1014. Maximum practicable competition *[FORMERLY R7-2-1104]*
- R7-2-1015. Conflict of interest *[FORMERLY R7-2-1105]*
- R7-2-1016. Confidentiality *[FORMERLY R7-2-1103]*

**REVERSE AUCTIONS**

- R7-2-1018. Reverse auctions

**COMPETITIVE SEALED BIDDING**

- R7-2-1021. Method of source selection
- R7-2-1022. Notice of competitive sealed bidding
- R7-2-1023. Prospective bidders' ~~bidders'~~ bidders lists
- R7-2-1024. Invitation for bids
- R7-2-1025. Pre-bid conferences
- R7-2-1026. Amendments to invitation for bids
- R7-2-1027. Pre-opening modification or withdrawal of bids
- R7-2-1028. Late bids, late withdrawals and late modifications
- R7-2-1029. Receipt, opening and recording of bids
- R7-2-1030. Mistakes in bids
- R7-2-1031. Bid evaluation and award
- R7-2-1032. Only one bid received
- R7-2-1033. Simplified school construction procurement program

## MULTISTEP SEALED BIDDING

- R7-2-1035. Multistep sealed bidding
- R7-2-1036. Phase 1 of multistep sealed bidding
- R7-2-1037. Phase 2 of multistep sealed bidding

## COMPETITIVE SEALED PROPOSALS

- R7-2-1041. Competitive sealed proposals
- R7-2-1042. Request for proposals
- R7-2-1043. Pre-proposal conferences [*NOTE: No changes proposed*]
- R7-2-1044. Late proposals, modifications or withdrawals
- R7-2-1045. Receipt, opening and recording of proposals
- R7-2-1046. Evaluation of proposals
- R7-2-1047. Discussions with individual offerors
- R7-2-1048. Best and final offers
- R7-2-1049. Mistakes in proposals
- R7-2-1050. Contract award

## SOLE SOURCE PROCUREMENTS

- R7-2-1053. Sole source procurements

## EMERGENCY PROCUREMENTS

- R7-2-1055. Emergency procurement procedure [*FORMERLY R7-2-1056*]
- R7-2-1056. ~~Emergency procurements~~ Emergency procurement reporting [*FORMERLY R7-2-1057*]
- R7-2-1057. ~~Emergency procurement procedure~~ [*REPEAL*]

## REQUEST FOR INFORMATION

- R7-2-1058. Request for information

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

- R7-2-1061. Competitive selection procedures for clergy, certified public accountants, physicians, dentists and legal council
- R7-2-1062. Statement of qualifications
- R7-2-1063. Request for proposals
- R7-2-1064. Receipt of proposals [*NOTE: No changes proposed*]
- R7-2-1065. Evaluation of proposals [*NOTE: No changes proposed*]
- R7-2-1066. Discussions with individual offerors
- R7-2-1067. ~~Evaluation and contract award where price is an evaluation factor~~ Mistakes in proposals
- R7-2-1068. ~~Selection and contract where price is not an evaluation factor~~ Contract award

## GUARANTEED ENERGY CONTRACTS

- R7-2-1069. Guaranteed energy cost savings contracts
- R7-2-1070. Guaranteed energy production contracts

## GENERAL CONTRACT REQUIREMENTS

- R7-2-1071. Reserved [*NOTE: No changes proposed*]

- R7-2-1072. Cancellation of solicitations; rejection of bids and proposals [*NOTE: No changes proposed*]
- R7-2-1073. Cancellation of solicitation before receipt of bids and proposals the due date and time
- R7-2-1074. Cancellation of solicitation after receipt of bids and proposals bid or proposal opening and before award
- R7-2-1075. Rejection of individual bids and proposals
- R7-2-1076. Responsibility of bidders and offerors
- R7-2-1077. Prequalification of contractors for materials, services and construction
- R7-2-1078. Bid and contract security
- R7-2-1079. Cost or pricing data
- R7-2-1080. Refusal to submit cost or pricing data
- R7-2-1081. Defective cost or pricing data
- R7-2-1082. Right to inspect plant [*NOTE: No changes proposed*]
- R7-2-1083. Right to audit records
- R7-2-1084. Anticompetitive practices
- R7-2-1085. Retention of procurement records
- R7-2-1086. Record of procurement actions
- R7-2-1087. Contract clauses

CONTRACT TYPES

- R7-2-1091. ~~Authority to use contract types~~ [*REPEAL*]
- R7-2-1092. ~~Approval of accounting system~~ Authority to use contract types [*FORMERLY R7-2-1091*]
- R7-2-1093. Multiterm contracts

**ARTICLE 11. SCHOOL DISTRICT PROCUREMENT CONTINUED**

SPECIFICATIONSPROCUREMENT OF CONSTRUCTION

- R7-2-1100. Construction project delivery methods
- R7-2-1101. ~~Preparation of specifications~~ Qualified select bidders list [*FORMERLY R7-2-1110*]
- R7-2-1102. ~~Types of specifications~~ Bid security [*FORMERLY R7-2-1111*]
- R7-2-1103. ~~Confidentiality~~ Contract performance and payment bonds [*FORMERLY R7-2-1112*]
- R7-2-1104. ~~Maximum practicable competition~~ Contract payment retention and substitute security [*FORMERLY R7-2-1114*]
- R7-2-1105. ~~Conflict of interest~~ Progress payments [*FORMERLY R7-2-1115*]
- R7-2-1106. Procurement of construction using alternative project delivery methods
- R7-2-1107. Selection committee
- R7-2-1108. Request for qualifications

PROCUREMENT OF CONSTRUCTION

- R7-2-1109. ~~Notice of Competitive Sealed Bidding for Construction~~ Receipt and opening of statements of qualifications, technical proposals and price proposals for design-build and job-order-contracting
- R7-2-1110. ~~Qualified Select Bidders List~~ Committee evaluation and contract award
- R7-2-1111. ~~Bid security~~ Alternative procedure for design-build or job-order-contracting construction services
- R7-2-1112. ~~Contract performance and payment bonds~~ Contractor licenses, contract and performance requirements
- R7-2-1113. ~~Bond forms~~ Prohibitions

- R7-2-1114. ~~Contract Payment Retention and Substitute Security~~ Bid security, contract performance and payment bonds, and payment and retention
- R7-2-1115. ~~Progress Payments~~ Procurement file contents and review
- R7-2-1116. ~~Procurement of Construction Using Alternative Project Delivery Methods~~ *[REPEAL]*

#### PROCUREMENT OF SPECIFIED PROFESSIONAL SERVICES

- R7-2-1117. Procurement of specified professional services
- R7-2-1118. Public notice of specified professional services
- R7-2-1119. ~~Specified professional services selection committee~~ Cancellation or rejection of the solicitation *[FORMERLY R7-2-1120]*
- R7-2-1120. ~~Cancellation or rejection of the solicitation~~ Specified professional services selection committee *[FORMERLY R7-2-1119]*
- R7-2-1121. Committee evaluation and selection
- R7-2-1122. ~~Single negotiated fee method of award~~ Specified professional services contracts not exceeding certain amounts
- R7-2-1123. ~~Multiple fee proposal method of award~~ Procurement file contents and review for procurements conducted under R7-2-1117 through R7-2-1121

#### COST PRINCIPLES

- R7-2-1125. Cost principles

#### MATERIALS MANAGEMENT

- R7-2-1131. Material management and disposition
- R7-2-1132. State and federal surplus materials program *[NOTE: No changes proposed]*
- R7-2-1133. Authority for transfer of material *[NOTE: No changes proposed]*

#### BID PROTESTS

- R7-2-1141. Resolution of bid protests
- R7-2-1142. Filing of a protest
- R7-2-1143. Time for filing protests
- R7-2-1144. Stay of procurements during the protest
- R7-2-1145. Decision by the district representative
- R7-2-1146. Remedies
- R7-2-1147. Appeals to ~~the governing board~~ a hearing officer
- R7-2-1148. Notice of appeal
- R7-2-1149. Stay of procurement during appeal
- R7-2-1150. District representative's response
- R7-2-1151. Dismissal before hearing
- R7-2-1152. Hearing
- R7-2-1153. Remedies

#### CONTRACT CLAIMS AND CONTROVERSIES

- R7-2-1155. Resolution of contract claims and controversies
- R7-2-1156. District representative's decision
- R7-2-1157. Issuance of a timely decision
- R7-2-1158. Appeals to a hearing officer
- R7-2-1159. Hearing

## DEBARMENT AND SUSPENSION

- R7-2-1161. Authority to debar or suspend
- R7-2-1162. Initiation of debarment *[NOTE: No changes proposed]*
- R7-2-1163. Period of debarment *[NOTE: No changes proposed]*
- R7-2-1164. Notice
- R7-2-1165. Notice to affiliates
- R7-2-1166. Imputed knowledge *[NOTE: No changes proposed]*
- R7-2-1167. Reinstatement
- R7-2-1168. Suspension
- R7-2-1169. Period and scope of suspension
- R7-2-1170. Notice and hearing
- R7-2-1171. List of debarments, suspensions and voluntary exclusions *[NOTE: No changes proposed]*

## HEARING PROCEDURES

- R7-2-1181. Hearing procedures
- R7-2-1182. Rehearing of decisions
- R7-2-1183. Judicial review
- R7-2-1184. Exclusive remedy
- R7-2-1185. Qualifications for hearing officers

## INTERGOVERNMENTAL PROCUREMENTS

- R7-2-1191. Cooperative purchasing authorized
- R7-2-1192. Contract provisions in a cooperative purchasing agreement
- R7-2-1193. Use of payments received by a supplying public procurement unit *[NOTE: No changes proposed]*
- R7-2-1194. Public procurement units in compliance with Article requirements
- R7-2-1195. Contract controversies
- R7-2-1196. General Services Administration contracts

## **BOARD ACTION REQUESTED: [ ] INFORMATION [X] ACTION/DESCRIBED BELOW:**

The Board initiate rulemaking procedures for proposed amendments to Article 10 and Article 11 of Board rule related to school district procurement, consisting of proposed rules R7-2-1001 through R7-2-1008; R7-2-1010 through R7-2-1016; R7-2-1018; R7-2-1021 through R7-2-1033; R7-2-1035 through R7-2-1037; R7-2-1041 through R7-2-1042; R7-2-1044 through R7-2-1050; R7-2-1053; R7-2-1055 through R7-2-1056; R7-2-1058; R7-2-1061 through R7-2-1063; R7-2-1066 through R7-2-1070; R7-2-1073 through R7-2-1081; R7-2-1083 through R7-2-1087; R7-2-1092 through R7-2-1093; R7-2-1100 through R7-2-1115; R7-2-1117 through R7-2-1123; R7-2-1125; R7-2-1131; R7-2-1141 through R7-2-1153; R7-2-1155 through R7-2-1159; R7-2-1161; R7-2-1164 through R7-2-1165; R7-2-1167 through R7-2-1170; R7-2-1181 through R7-2-1185; R7-2-1191 through R7-2-1192; and R7-2-1194 through R7-2-1196, and the proposed repeal of rules R7-2-1009, R7-2-1057, R7-2-1091, and R7-2-1116.

**ATTACHMENTS: YES [X] NO [ ]**