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MC1-300 APPLICABILITY

Article 3 of the Maricopa County Procurement Code applies to Procurements and contracting activities associated with the Solicitation of all Services and Commodities for County use which are not an integrated part of the design, Construction, reconstruction and remodel of County facilities which fall under Article 5.

MC1-301 SOLICITATION PROHIBITIONS

Any Bid or Proposal that is conditioned upon Award to the Respondent of both the particular Contract being solicited and another Maricopa County Contract shall be deemed nonresponsive or unacceptable.

MC1-302 TYPES OF CONTRACTS

Subject to the limitations of this Article, any type of Contract that is Advantageous to Maricopa County may be used, except the use of a Cost-Plus-A-Percentage-Of-Cost-Contract is prohibited.

MC1-303 AUTHORITY TO USE CONTRACT TYPES

- A. The following Contract types may be used by the Procurement Officer:
 - 1. Fixed Price-Contract, except fixed Price Cost incentive Contract;
 - 2. Lease; and
 - 3. Lease with purchase option.
- B. Any other type of Contract may be used only if the Purchasing Agency determines in writing prior to Solicitation that the use of that Contract type is permitted by law and is Advantageous to Maricopa County.

MC1-304 FIXED PRICE-CONTRACT

- A. A Fixed Price-Contract may be used if:
 - 1. The extent and type of work necessary to meet County requirements can be reasonably specified; and
 - 2. The Cost can be reasonably estimated.
- B. A firm Fixed Price-Contract may be used if Prices Advantageous to Maricopa County can

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be established at the outset of the Contract.

- C. Fixed Price-Contract with Price adjustment may be used if:
 - 1. The Solicitation for a Fixed Price-Contract with Price adjustment and the Contract specifies the basis for determining the Price adjustment; and
 - 2. The notice of Price adjustment is given by the Contractor in the manner and within the time specified in the Contract.

MC1-305 LEASE AND LEASE-PURCHASE CONTRACTS (EXCEPTING LEASE OF REAL PROPERTY)

- A. A lease or lease-purchase Contract may be entered into only after the Procurement Officer determines in writing that:
 - 1. A lease or lease-purchase is Advantageous to Maricopa County; and
 - 2. All conditions for renewal and Pricing Data are set forth in the lease or lease-purchase.
- B. All leases shall be signed by the Chairman of the Board of Supervisors.
- C. A purchase option in a lease may be exercised only if the lease containing the purchase option was Awarded pursuant to this Code and after the Procurement Officer determines in writing that the exercise of the purchase option is Advantageous to Maricopa County based upon estimated Costs and benefits of alternative methods of procuring comparable Commodities.

MC1-306 COST-REIMBURSEMENT AND COST INCENTIVE CONTRACTS

A Cost-Reimbursement or Cost incentive type Contract may be used only when the Purchasing Agency determines in writing that the use of such Contract is Advantageous to Maricopa County

MC1-307 TIME AND MATERIALS CONTRACTS AND LABOR HOUR CONTRACTS

- A. Time and Materials and labor hour Contracts shall, to the extent possible, contain a stated ceiling or an estimate of a contractual amount that shall not be exceeded without prior written approval of the Purchasing Agency.
- B. A time and Materials or labor hour Contract may be used if the Purchasing Agency determines in writing that:

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1. Personnel have been assigned to closely monitor the performance of the work; and
2. It is Advantageous to Maricopa County to use such Contract; and
3. No other Contract type is practicable.

MC1-308 OPTION PROVISIONS

- A. If the Procurement Officer determines that a Contract is to include an option for renewal, extension, or purchase, the applicable option provisions shall be included in the Solicitation.
- B. Before exercising any option for renewal, extension, or purchase the Chief Procurement Officer shall determine in writing that a new Solicitation is not more Advantageous to Maricopa County than the exercise of the particular option. The written extension justification document shall be retained in the appropriate Procurement file.

MC1-309 PURCHASE REQUESTS

- A. If a Using Agency determines the need for a Commodity or Service, it shall submit a Purchase Request.
- B. Upon receipt of a Purchase Request from a Using Agency, the Procurement Officer is authorized to determine the form and manner in which the Procurement shall be solicited.
- C. The Procurement Officer shall reject a Purchase Request if, after consultation with the requesting Using Agency, the Procurement Officer determines that it is not Advantageous to Maricopa County.
- D. Disagreements between a Using Agency and the Procurement Officer concerning actions taken under Subsection B or C, shall be brought to the Chief Procurement Officer for final resolution.

MC1-310 ASSIGNMENT OF THE RIGHTS AND DUTIES

The rights and duties of a Maricopa County Contract are not transferable or otherwise assignable without the written consent of the Procurement Officer.

MC1-311 CHANGE OF NAME

If a Contractor requests to change the name in which it holds a Maricopa County

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Contract, the Procurement Officer shall, upon receipt of a document indicating name change, enter into a written amendment with the Contractor to effect the name change. The amendment shall provide that no other terms and conditions of the Contract are changed.

MC1-312 INSTALLMENT PURCHASES

Installment purchases may be used when Advantageous to Maricopa County. If an installment purchase is used, provisions for installment purchase payments shall be included in the Solicitation document.

MC1-313 MULTIPLE-SOURCE CONTRACTING

- A. If the Procurement Officer anticipates that any of the Awards described in B through D of this section will be made, the Solicitation shall include a notification of the right of Maricopa County to make such an Award and the criteria upon which such an Award will be based.
- B. An Incremental Award may be made only if the Procurement Officer determines in writing that such an Award is necessary to obtain the required quantity or delivery.
- C. A Multiple Award shall be made only if the Procurement Officer determines in writing that a single Award is not Advantageous to Maricopa County. A Multiple Award shall be limited to the least number of suppliers necessary to meet the requirements of the Using Agency.
- D. A Regional Award may be made only if the Commodity or Service is required at widely scattered locations or a particular requirement is of a local nature.
- E. All Written Determinations of the Procurement Officer pertaining to any type of multiple source contracting shall be included in the appropriate Procurement file.

MC1-314 METHOD OF SOURCE SELECTION

Unless otherwise authorized by law, all Maricopa County Contracts shall be Awarded by Competitive Sealed Bidding as provided in MC1-315 through 324, MC1-325 through 327, MC1-328 through 339, MC1-340 through ~~344~~345, MC1-374 through 379, and MC1-503 or as otherwise provided in this Code.

MC1-315 COMPETITIVE SEALED BIDDING

- A. Contracts shall be Awarded by Competitive Sealed Bidding except as otherwise provided in MC1-345, MC1-346 through 349, MC1-350 through 352, MC1-353 and 354, MC1-355

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through 379, and MC1-504.

- B. An Invitation For Bids shall be issued and shall include a Purchase Description and all contractual terms and conditions applicable to the Procurement.
- C. Advertisements made for Bids shall comply with statutory requirements. The advertisement shall state where sealed Bids will be delivered, the date Bids must be received and the date and time Bids are to be opened.
- D. Bids shall be opened publicly at the time and place designated in the Invitation For Bids. Bid information shall be open to public inspection in the manner prescribed by MC1-321.
- E. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based on the requirements set forth in the Invitation For Bids, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery ~~and~~ suitability for a particular purpose, as prescribed in this Code. ~~The Invitation For Bids shall set forth the evaluation criteria to be used.~~ No criteria may be used in Bid ~~evaluation that are~~evaluation that is not set forth in the Invitation For Bids.
- F. Clarifications may be requested from any Respondent.

MC1-316 INVITATION FOR BIDS

- A. In all Competitive Sealed Bidding for Supplies, Commodities, equipment and contractual Services, the Chief Procurement Officer shall issue the Invitation For Bids.
- B. In all Competitive Sealed Bidding for Construction, the Chief Procurement Officer, shall issue the Invitation For Bids.
- C. Invitation For Bids shall be issued in sufficient time before the date and time set for Bid closing to permit free competition, unless a shorter time is deemed necessary for a particular Procurement as determined in writing, by the Chief Procurement Officer.
- D. Content
 - 1. The Invitation For Bids shall include the following:
 - a. Instructions and information to Respondents concerning the Bid submission requirements, including the time and date set for Bid closing, the address of the office to which Bids are to be received, the period that the Bid shall remain open, and any other special information;

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- b. The Purchase Description, Specifications, evaluation criteria, delivery or performance schedule, and inspection and acceptance requirements; and
 - c. The Contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
2. If the Invitation For Bids incorporates documents by reference, the Invitation For Bids shall specify where such documents may be obtained.
 3. Responding to an Invitation For Bids shall serve as acknowledgment by the Respondent of the receipt of all addenda issued.
 4. An Invitation For Bids may require the submission of Bid samples, Descriptive Literature, technical Data and may require a demonstration, inspection or testing of a product before Award.

E. The Chief Procurement Officer shall make available to all prospective Respondents the Invitation For Bids or notices of the availability of Invitation For Bids ~~to all prospective Respondents.~~

F. A record shall be maintained of prospective Respondents notified of Invitations for Bid.

MC1-317 PRE-BID CONFERENCES

A Procurement Officer may conduct a pre-bid conference within a reasonable time, at least seven days prior to Bid closing, to explain the Procurement requirements. Statements made during the pre-bid conference shall not be considered an addendum to the Invitation For Bids unless a written addendum is issued pursuant to MC1-318.

MC1-318 ADDENDUM TO INVITATIONS FOR BIDS

A. An addendum 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 Respondents information given to one Respondent, if the information will assist the other Respondents in submitting Bids or if the lack of the information will prejudice the other Respondents.

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B. An addendum to Invitations for Bid shall be so identified and be made available to all prospective Respondents.

~~DC.~~ Addendums shall be issued within a reasonable time before Bid closing to allow prospective Respondents to consider them in preparing their Bids. If the time and date set for Bid closing does not permit sufficient time for Bid preparation, the time and date for Bid closing shall be extended by addendum.

MC1-319 PRE-CLOSING MODIFICATION OR WITHDRAWAL OF BIDS

A. A Respondent may modify or withdraw its Bid at any time before Bid closing if the modification or withdrawal is received before the date and time set for Bid closing in the location designated in the Invitation For Bids for receipt of Bids.

B. A document concerning a modification or withdrawal of a Bid shall be retained in the appropriate Procurement file.

MC1-320 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 date and time set for Bid closing.

B. A late Bid, late modification or late withdrawal shall be rejected.

MC1-321 RECEIPT, OPENING, AND RECORDING OF BIDS

A. The time and date of each Bid and modification received shall be recorded upon receipt and be secured until the time and date set for Bid closing.

B. A document received that is not identified as a response to a Solicitation or does not identify the Respondent or Solicitation may be opened solely for the purpose of identification. A Record shall be made of the reason for opening it, the date and time it was opened, the Solicitation to which the Bid responded and the signature of the person who opened the Document. The record shall be retained in the appropriate Procurement file.

C. Bids shall be opened publicly at the time, date and location as designated in the Invitation For Bids. The name of each Respondent, the Bid Price, and other information deemed appropriate by the Procurement Officer shall be read aloud. A Bid Abstract shall be available for public inspection as soon as practicable.

D. The Bids shall not be opened for public inspection until after a Contract has been Awarded. After Contract Award, the Bids shall be available for public inspection, except

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to the extent that the withholding of information is permitted or required by law or is determined to be confidential pursuant to MC1-104.

MC1-322 MISTAKES IN BIDS

- A. A Respondent may correct mistakes discovered before the date and time set for Bid closing by withdrawing or correcting the Bid as provided in MC1-319.
- B. After Bid closing, a Bid mistake based on an error in judgment may not be corrected or withdrawn.
- C. After Bid closing, the Procurement Officer can waive Minor Informalities in a Bid if Advantageous to Maricopa County. Any waiver must be in writing and retained in the appropriate Procurement file.
- D. After Bid closing, the Chief Procurement Officer may permit a Respondent to correct or withdraw a Bid without penalty if a mistake is clearly evident on the face of the Bid.
- E. After Bid closing, the Bid may not be withdrawn and may be corrected to the intended Bid if a Bid mistake and the intended Bid are evident on the face of the Bid.
- F. If correction or withdrawal of a Bid after Bid closing is permitted under this section, a Written Determination shall be prepared and placed in the procurement file showing that the relief was permitted.

MC1-323 BID EVALUATION AND AWARD

- A. The Contract shall be Awarded to the lowest Responsive and Responsible Respondent whose Bid meets the requirements and the evaluation criteria set forth in the Invitation For Bids. Unless otherwise provided in the Invitation For Bids, Award may be made by individual line item, by group of line items, or for the aggregate total of all line items.
- B. A product evaluation may be conducted to determine whether a Respondent's product is acceptable as set forth in the Invitation For Bids but not to determine whether one Respondent's product is superior to another Respondent's product. Any Respondent's Offer that does not meet the acceptability requirements shall be rejected as nonresponsive.
- C. Bids shall be evaluated to determine which Respondent Offers the lowest Cost to Maricopa County 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 Respondent. Examples of such criteria include, but are not limited to, transportation Cost, energy Cost, ownership Cost, and other

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identifiable Costs or Total Life Cycle Cost formula. 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 Procurement Officer has available concerning future use.

- D. A Contract may not be Awarded to a Respondent submitting a higher quality item than that designated in the Invitation For Bids unless the Respondent is also the lowest Respondent as determined under Subsection C of this Section. The Procurement Officer may seek written Clarification of a Bid but this does not permit Negotiations with any Respondent.
- E. If there are two or more low Responsive Bids from Responsible Respondents 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 or any random chance manner that will resolve the tie. If time permits, the Respondents involved shall be given an opportunity to attend the drawing or other random chance manner selected to resolve the tie. The drawing or other random chance manner selected shall be witnessed by at least one person other than the Procurement Officer.
- F. A record showing the basis for determining the successful Respondent shall be retained in the Procurement file.
- G. A written notice of Award shall be sent to the successful Respondent. The notice of Award shall be made available to the public.

MC1-324 ONLY ONE RESPONSE RECEIVED

If only one response is received to a Solicitation, an Award may be made to the single Respondent if the Procurement Officer determines in writing that the Price submitted is fair and reasonable, and that either other prospective Respondents had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the response may be rejected pursuant to the provisions of MC1-359 and:

- 1. A new Solicitation may be issued. If a new Solicitation is issue, the single response to the previous Solicitation shall be remain confidential until Award or cancellation of the new Solicitation; or
- 2. The proposed Procurement may be canceled; or
- 3. If the Procurement Officer determines in writing that the need for the Commodity or Service continues and the acceptance of the one response is not Advantageous to Maricopa County, the Procurement may then be conducted in a manner determined by the Chief Procurement Officer to be most Advantageous

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to the County.

MC1-325 MULTI-STEP SEALED BIDDING

- A. The multi-step sealed bidding method may be used if the Procurement Officer determines ~~in writing~~ that:
1. Available specifications or Purchase Descriptions are not sufficiently complete to permit full competition without technical evaluations and Negotiations to ensure mutual understanding between each Respondent and Maricopa County;
 2. Definite criteria exist for evaluation of Technical Proposals;
 3. More than one technically qualified source is expected to be available; and
 4. A Fixed Price-Contract will be used.
- B. The Procurement Officer may hold a conference with Respondents before submission or at any time during the evaluation of the unpriced Technical Proposals.

MC1-326 PHASE ONE OF MULTI-STEP BIDDING

- A. Multi-Step sealed bidding shall be initiated by the issuance of an invitation to submit Technical Proposals. The invitation to submit Technical Proposals shall be issued according to MC1-316 and shall contain the following information:
1. Notice that the Procurement shall be conducted in two phases and that Priced Bids will be considered only in the second phase and only from those Respondents ~~whose~~who's unpriced Technical Proposals are found acceptable in the first phase;
 2. The best description of the Commodities or Services desired;
 3. The requirements for the Technical Proposals, such as drawings and Descriptive Literature;
 4. The criteria for evaluating Technical Proposals;
 5. The closing date and time for receipt of Technical Proposals and the location where Proposals should be delivered or mailed; and
 6. A statement that Negotiations may be held.

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- B. The Request For Technical Proposal may be amended after the submission of the unpriced Technical Proposals. The amendment shall be distributed only to Respondents who submitted unpriced Technical Proposals, and those Respondents shall be permitted to submit new unpriced Technical Proposals or to amend the Proposals already submitted. If an amendment materially changes the Procurement, the Request For Technical Proposals shall be canceled or reissued.
- C. Unpriced Technical Proposals shall not be opened publicly, but shall be opened in the presence of two or more Procurement officials. The contents of unpriced Technical Proposals shall not be disclosed to unauthorized persons.
- D. Unpriced Technical Proposals shall be evaluated solely in accordance with the criteria set forth in the Request For Technical Proposal and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced Technical Proposal is unacceptable shall be in writing, state the basis of the determination and be retained in the Procurement file.
- E. The Procurement Officer may conduct Negotiations with any Respondent who submits an acceptable Technical Proposal. During Negotiations, the Procurement Officer shall not disclose any information derived from one unpriced Technical Proposal to any other Respondent. After Negotiations, the Procurement Officer shall establish a closing date for receipt of final Technical Proposals and shall notify in writing Respondents submitting acceptable Proposals of the closing date. The Procurement Officer shall keep a record of all Negotiations.
- F. After receipt of final Technical Proposals, the Procurement Officer shall determine whether the Technical Proposals are acceptable for consideration in phase two or unacceptable. If the Procurement Officer determines a Respondent's unpriced Technical Proposal is unacceptable, the Procurement Officer shall notify that Respondent of the determination and the Respondent shall not be afforded an opportunity to amend its Technical Proposal.
- G. At any time during phase one, Proposals may be withdrawn or Clarifications may be requested from Respondents.

MC1-327 PHASE TWO OF MULTI-STEP SEALED BIDDING

- A. Upon completion of phase one, the Procurement Officer shall issue an Invitation For Bids and conduct phase two under MC1-316 through MC1-323 as a Competitive Sealed Bidding Procurement, except that the Invitation For Bids shall be issued only to Respondents whose final Technical Proposals were determined to be acceptable in phase one.

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- B. Unpriced Technical Proposals of unsuccessful Respondents shall be open to public inspection to the extent set forth in MC1-321.

MC1-328 COMPETITIVE SEALED PROPOSALS

- A. If ~~the Chief Procurement Officer and Procurement Officer~~ it is determined in writing that the use of Competitive Sealed Bidding is either not practicable or not Advantageous to Maricopa County, a Contract may be entered into by Competitive Sealed Proposals. The Chief Procurement Officer may determine that it is either not practicable or not Advantageous to Maricopa County to procure specified types of Commodities or Services by Competitive Sealed Bidding, except that the Competitive Sealed Proposal method shall not be used for Construction Contracts.
- B. Proposals shall be solicited through a Request For Proposals.
- C. Public notice of the Request For Proposals shall be given in the same manner as provided in MC1-315.
- D. Proposals shall be opened publicly at the time and place designated in the Request For Proposals. Only the name of each Respondent shall be publicly read and recorded. All other information contained in the Proposals shall be deemed confidential until Award or cancellation of the Solicitation. All information contained in the Proposals shall be open for public inspection after Contract Award or cancellation of the Solicitation, except those portions deemed confidential in accordance with MC1-104.
- E. The Request For Proposals shall list the evaluation criteria in the order of their importance, except that one or more of the criteria may be given equal weight. Specific numerical weighting is not required.
- F. Clarifications may be requested from Respondents.
- G. Negotiations may be conducted with Responsible Respondents who submit Proposals determined to be reasonably susceptible of being selected for Award. Revisions may be permitted after submissions and before Award for the purpose of obtaining best and final Offers. In conducting Negotiations, there shall be no disclosure of any information derived from Proposals submitted by competing Respondents.
- H. The Award shall be made to the Responsible Respondent whose Proposal is determined in writing to be the most Advantageous to Maricopa County taking into consideration the evaluation factors set forth in the Request For Proposals. No other factors or criteria may be used in the evaluation. The Contract file shall contain a Written Determination of the basis for the Award.

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MC1-329 COMPETITIVE SEALED PROPOSAL DETERMINATION

- A. The Chief Procurement Officer may make a determination that it is either not practicable or not Advantageous to Maricopa County to procure specified types of Commodities or Services by Competitive Sealed Bidding. The Chief Procurement Officer may modify or revoke a determination at any time.
- B. Competitive Sealed Bidding may not be practicable or Advantageous if it is necessary to:
 - 1. Use other than a Fixed-Price Contract; or
 - 2. Conduct oral or written Negotiations with Respondents concerning aspects of their Proposals; or
 - 3. Afford Respondents an opportunity to revise their Proposals; or
 - 4. Compare the different Price, quality, and contractual factors of the Proposals submitted; or
 - 5. Conduct Negotiations with one or more of the Respondents to the Solicitation.
 - 6. Award a Contract in which Price is not the determining factor.

MC1-330 REQUEST FOR PROPOSALS

- A. A Request For Proposals shall set forth those factors listed in MC1-316.D that are applicable and shall also state:
 - 1. Type of Services or Commodities required and a description of the work involved;
 - 2. Type of Contract to be used;
 - 3. Contract duration;
 - 4. Whether Cost or Price Data is required;
 - 5. That Respondents may designate portions of the Proposal as confidential in accordance with MC1-104;
 - 6. The Minimum information that the Proposal shall contain; and
 - 7. The closing date and time for receipt of Proposals.

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- B. A Request For Proposals shall be issued at least ten days before the closing date and time for receipt of Proposals unless a shorter time is determined necessary in writing by the Chief Procurement Officer.
- C. Request For Proposal forms shall be approved by the Chief Procurement Officer.
- D. Addenda to Requests For Proposals shall be made in accordance with MC1-318.

MC1-331 PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be convened in accordance with MC1-317.

MC1-332 LATE PROPOSALS, MODIFICATIONS, MISTAKES OR WITHDRAWALS

- A. A Proposal received after the closing date and time for receipt of Proposals is late and shall not be considered. 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.
- B. A modification of a Proposal received after the closing date and time for receipt of Proposals is late and shall not be considered.
- C. A modification of a Proposal resulting from an addendum issued after the closing date and time for receipt of Proposals shall be considered if received by the closing date and time set forth in the addendum or by the closing date and time for submission of best and final Offers, whichever is applicable. A modification of a Proposal resulting from Negotiations shall be considered if received by the closing date and time set forth in the addendum, 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 the Subsection, the modifications are late and shall not be considered.
- D. A Proposal may be withdrawn at any time before the closing date and time set forth in the solicitation or for receipt of best and final Offers.
- E. Prior to the date and time set for receipt of best and final Offers, any Respondent with whom Negotiations have been held may withdraw its Proposal or correct any mistake by modifying the Proposal.
- F. After receipt of best and final Offers, a Respondent may withdraw a Proposal or correct a mistake in accordance with MC1-322.B through E.

MC1-333 RECEIPT OF PROPOSALS

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- A. Each Proposal received shall be time stamped and retained in a secure place until the closing date and time for receipt of Proposals. A register of Proposals shall be prepared and shall set forth the name of each Respondent and the identity of the Request For Proposals for which the Proposal was submitted.
- B. Proposals shall be opened in the presence of a witness at the time, date and location, specified in the Solicitation. Proposals shall be shown only to Maricopa County personnel having a legitimate interest in them or persons assisting Maricopa County in evaluation.
- C. If only one Proposal is received in response to a Request For Proposals, the Procurement Officer may either recommend an Award in accordance with MC1-324, cancel the Solicitation, or, resolicit. If a new Solicitation is issue, the single response to the previous solicitation shall be remain confidential until Award or cancellation of the new Solicitation

MC1-334 **EVALUATION OF PROPOSALS**

- A. The Chief Procurement Officer shall select and appoint a selection committee to evaluate the proposals and make a recommendation based on the criteria set forth in the request for proposals. No member of the Board of Supervisors or their district staff shall participate in the evaluation of Proposals.
- B. Proposals shall be evaluated on the factors set forth in the Request For Proposals. No other factors or criteria may be used in the evaluation.
- C. For the purpose of Negotiations, the Procurement Officer shall determine that Proposals are either reasonably susceptible of being selected for Award 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.

MC1-335 **NEGOTIATIONS WITH INDIVIDUAL RESPONDENTS**

The Procurement Officer shall establish procedures and schedules for conducting Negotiations. Disclosure of one Respondent's Price or any information derived from competing Proposals is prohibited. Any Response to a Procurement Officer's request for Clarification of a Proposal shall be in writing. The Procurement Officer shall keep a record of all Negotiations.

For the purposes of conducting Negotiations with Respondent's, the Procurement Officer is authorized to use either of the following methods which, in his/her judgment, best meets the unique requirements of each Solicitation process.

- A. Concurrent Negotiations. Negotiations may be conducted concurrently with Responsible Respondents for the purpose of determining source selection and/or Contract Award.

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- B. Exclusive Negotiations. A determination may be made by the Chief Procurement Officer to enter into exclusive Negotiations with the Responsible Respondent whose Proposal is determined in the selection process to be most Advantageous to the County. Exclusive Negotiations may be conducted subsequent to concurrent Negotiations or may be conducted without requiring previous concurrent Negotiations. A determination to conduct exclusive Negotiations shall not constitute a Contract Award nor shall it confer any property rights to the successful Respondent. If exclusive Negotiations are conducted and an agreement is not reached, the County may enter into exclusive Negotiations with the next highest ranked Respondent without the need to repeat the formal Solicitation process.

MC1-336 BEST AND FINAL OFFERS

The Procurement Officer may 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 Chief Procurement Officer makes a Written Determination that it is Advantageous to the County to request additional best and final Offers. The request for best and final Offers shall inform Respondents 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.

MC1-337 EXTENSION OF ACCEPTANCE TIME

After receipt of Bids or Proposals, if the Procurement Officer determines that a Contract cannot be Awarded within the time limits stated in the Solicitation, a written extension may be requested from the Respondent to allow additional time to Award the Contract.

MC1-338 CONTRACT NEGOTIATIONS

After the Respondent who is determined to be most Advantageous to the County has been selected through the source selection process, Negotiations may be conducted for the purpose of developing a recommended Contract for Award.

MC1-339 CONTRACT AWARD

- A. The Procurement Officer shall recommend, to the Board of Supervisors, Award of a Contract to the Respondent whose Proposal is determined in writing to be most Advantageous to Maricopa County based on the factors set forth in the Request For Proposals. The determination shall explain the basis of the Award.
- B. After final Contract execution, 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

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Respondent designates a portion of its Proposal as confidential, it shall isolate and identify in writing the confidential portions in accordance with MC1-104.

MC1-340 MULTI-STEP COMPETITIVE SEALED PROPOSALS

- A. If the Chief Procurement Officer and Procurement Officer determine in writing that the use of Competitive Sealed Bidding is either not practicable or not Advantageous to Maricopa County, a Contract may be entered into using Multi-Step Competitive Sealed Proposals. The Chief Procurement Officer may determine that it is either not practicable or not Advantageous to Maricopa County to procure specified types of Commodities or Services by Competitive Sealed Bidding, except that the Multi-Step Competitive Sealed Proposal method shall not be used for Construction Contracts.
- B. Proposals shall be solicited through a two step Request For Proposals process composed of requesting unpriced Technical Proposals from Respondents followed by a second phase composed of inviting Respondents determined to have submitted acceptable technical Offers to submit pricing Offers.
- C. Public notice of the Multi-Step Request For Proposals shall be given in the same manner as provided in MC1-315.
- D. Pre-proposal conferences may be convened in accordance with MC1-317.
- E. Late, modifications, mistakes or withdrawals of Proposals will be conducted in accordance with MC1-332.
- F. Proposals shall be received and opened in the same manner as provided in MC1-333.
- G. Proposals shall be evaluated in the same manner as provided in MC1-334.
- H. Clarifications may be requested from Respondents.
- I. Negotiations with Responsible Respondents in the same manner as provided in MC1-335 and MC1-338.
- J. Requests for best and final Offers shall be conducted in the same manner as provided in MC1-336.
- L. Requests for extension of acceptance time shall be conducted in the same manner as provided in MC1-337.
- M. The Award shall be made to the Responsible Respondent in the same manner as provided in MC1-339.

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MC1-341 MULTI-STEP COMPETITIVE SEALED PROPOSAL DETERMINATION

- A. The Chief Procurement Officer may make a determination that it is either not practicable or not Advantageous to Maricopa County to procure specified types of Commodities or Services by Competitive Sealed Bidding. The Chief Procurement Officer may modify or revoke a determination at any time.
- B. Competitive Sealed Bidding may not be practicable or Advantageous if it is necessary to:
1. Use other than a Fixed-Price Contract; or
 2. Conduct oral or written Negotiations with Respondents concerning aspects of their Offers; or
 3. Afford Respondents an opportunity to revise their Offers; or
 4. Compare the different Price, quality, and contractual factors of the Offers submitted; or
 5. Conduct Negotiations with one or more of the Respondents to the Solicitation.
 6. Award a Contract in which Price is not the determining factor.

MC1-342 PHASE ONE OF MULTI-STEP REQUEST FOR PROPOSALS

- A. Multi-Step Request For Proposals shall be initiated by issuance of an invitation to submit unpriced Technical Proposals. The invitation to submit Technical Proposals shall set forth those factors listed in MC1-316.D that are applicable and shall also state:
1. Type of Services or Commodities required and a description of the work involved;
 2. Type of Contract to be used;
 3. Contract duration;
 4. A statement Negotiations may be held to discuss Technical Proposals;
 5. That Respondents may designate portions of the Proposal as confidential in accordance with MC1-104;
 6. The Minimum information that the Proposal shall contain, such as drawing Descriptive Literature; and

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7. The closing date and time for receipt of Proposals.

- B. Multi-Step Request For Proposals shall be issued at least ten days before the closing date and time for receipt of Proposals unless a shorter time is determined necessary in writing by the Chief Procurement Officer.
- C. Multi-Step Request For Proposal forms shall be approved by the Chief Procurement Officer.
- D. Addenda issued prior to the closing date and time for receipt of Multi-Step Requests For Proposals Technical Offers shall be made in accordance with MC1-318.
- E. Technical Proposals may be amended after submission. The addenda requesting amendments after the closing date and time for receipt to Technical Proposals shall be distributed only to Respondents who submitted unpriced Technical Proposals, and those Respondents shall be permitted to submit new unpriced Technical Proposals or to amend the Proposals already submitted. If an amendment materially changes the Procurement, the Request for Technical Proposals shall be canceled or reissued.

MC1-343 PHASE TWO OF MULTI-STEP REQUEST FOR PROPOSALS

- A. Upon completion of phase one, the Procurement Officer shall issue an request for Pricing Proposals only to Respondents whose final Technical Proposals were determined to be acceptable in phase one.
- B. Negotiations may be conducted with Responsible Respondents who submit Pricing Proposals determined to be reasonably susceptible to being selected for Award. Revisions may be permitted after submissions and before Award for the purpose of obtaining best and final Offers. In conducting Negotiations, there shall be no disclosure of any information derived from Proposals submitted by competing Respondents.
- C. The Award shall be made to the Responsible Respondent whose Proposal is determined in writing to be the most Advantageous to Maricopa County taking into consideration the evaluation factors set forth in the Request For Technical Proposals and the submitted Pricing Proposals. The Contract file shall contain a Written Determination of the basis for the Award.

MC1-344 EVALUATION OF MULTIPLE STEP PROPOSALS

- A. The Director shall select and appoint a selection committee to evaluate the proposals and make a recommendation based on the criteria set forth in the request for proposals. No member of the Board of Supervisors shall participate in the evaluation of Proposals.

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- B. Proposals shall be evaluated on the factors set forth in the Request for Technical Proposals. No other factors or criteria may be used in the evaluation.
- C. For the purpose of Negotiations, the Procurement Officer shall determine that Proposals are either reasonably susceptible of being selected for Award 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.
- D. Concurrent Negotiations. Negotiations may be conducted concurrently with Responsible Respondents for the purpose of determining source selection and/or Contract Award.
- ~~GE.~~ Exclusive Negotiations. A determination may be made by the Chief Procurement Officer to enter into exclusive Negotiations with the Responsible Respondent whose Proposal is determined in the selection process to be most Advantageous to the County. Exclusive Negotiations may be conducted subsequent to concurrent Negotiations or may be conducted without requiring previous concurrent Negotiations. A determination to conduct exclusive Negotiations shall not constitute a Contract Award nor shall it confer any property rights to the successful Respondent. If exclusive Negotiations are conducted and an agreement is not reached, the County may enter into exclusive Negotiations with the next highest ranked Respondent without the need to repeat the formal Solicitation process.

MC1-345 INVITATION TO NEGOTIATE

- A. If the Chief Procurement Officer and Procurement Officer determine in writing that the use of Competitive Sealed Bidding or Competitive Sealed Proposals are not practicable, Advantageous or do not Offer the Best Value to Maricopa County, a Contract may be entered into through an Invitation to Negotiate. The Chief Procurement Officer may make a determine that it is neither practicable, nor Advantageous to Maricopa County to procure specified types of unique Commodities or Services by Competitive Sealed Bidding or Competitive Sealed Proposals, except that the Invitation to Negotiate method shall not be used for Construction Contracts.
- B. Offers shall be solicited through an Invitation to Negotiate.
- C. Public notice of the Invitation to Negotiate shall be given in the same manner as provided in MC1-315.
- D. Offers shall be opened publicly at the time and place designated in the Invitation to Negotiate. Only the name of each Respondent shall be publicly read and recorded. All other information contained in the Offers shall be deemed confidential until Award or cancellation of the Solicitation. All information contained in the Offers shall be open for public inspection after Contract Award or cancellation of the Solicitation, except those

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portions deemed confidential in accordance with MC1-104.

- E. The Procurement Officer shall evaluate and determine if an Offer is acceptable. The Procurement Officer shall select one or more Respondents with which to begin Negotiations. After Negotiations are conducted, the Contract shall be Awarded to the Responsible and Responsive Respondent determined to provide the Best Value to Maricopa County. The Contract file must contain a short concise statement that explains the basis for Respondents selection and that sets forth the Respondent's deliverables and Price, pursuant to the Contract, along with a determination in writing explanation of how these deliverables and Price provide the Best Value to Maricopa County.

MC1-346 PROCUREMENT NOT EXCEEDING AN AGGREGATE AMOUNT OF ~~FIFTY ONE~~ HUNDRED THOUSAND DOLLARS

- A. Any Procurement other than a Procurement under Article 5, which does not exceed an aggregate dollar amount of ~~\$50100~~,000 may be made in accordance with the following procedures except that the Procurement shall be made with such competition as is practicable under the circumstances. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by MC1-315 through 324, MC1-325 through 327, MC1-328 through 339, MC1-340 through 344, or MC1-352.D.3.
- B. If practical, purchases estimated to Cost ~~\$350~~,000 or more, but not exceeding ~~\$50100~~,000, shall be made in accordance with the following procedures:
 1. The Procurement Officer shall solicit written quotations by issuing a Request For Quotations to at least five vendors, if possible.
 2. Respondents shall submit quotations on a form approved by the Chief Procurement Officer and the quotations shall be recorded and placed in the Procurement file.
 3. The Award is made to the Respondent in accordance with the procedures for the Solicitation method chosen in MC1-346.A.
 4. If only one responsive quotation is received, the purchase may be made based on that quotation upon a determination that the Price is fair and reasonable. A statement shall be included in the Contract file setting forth the basis for determining that the Contract is fair and reasonable. This determination may be based on a comparison of the proposed Price with Prices found reasonable on previous purchases or current Price lists.
 5. Pricing on written quotations is to remain confidential until the transaction is

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complete, i.e., the purchase order is issued.

C. If practical, purchases estimated to Cost \$~~4525~~,000 or more, but less than \$~~350~~,000, shall be made in accordance with the following procedures:

1. The Procurement Officer shall solicit written quotations by issuing a Request For Quotations to at least three vendors, if possible.
2. Respondents shall submit quotations on a form approved by the Chief Procurement Officer and the quotations shall be recorded and placed in the Procurement file.
3. The Award is made to the Respondent in accordance with the procedures for the Solicitation method chosen in MC1-346.A.
4. If only one responsive quotation is received, the purchase may be made based on that quotation upon a determination that the Price is fair and reasonable. A statement shall be included in the Contract file setting forth the basis determining that the Price is fair and reasonable. This determination may be based on a comparison of the proposed Price with Prices found reasonable on previous purchases or current Price lists.
5. Pricing on written quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued.

D. If practical, purchases estimated to Cost \$5,000 or more, but less than \$~~4525~~,000, shall be made in accordance with the following procedures:

1. The Procurement Officer shall solicit oral quotations from at least three vendors, if possible.
2. Quotations received shall be recorded and placed in the Procurement file.
3. The Award shall be made to the Respondent in accordance with the procedures for the Solicitation method chosen in MC1-346.A.
4. If only one responsive quotation is received, the purchase may be made based on that quotation upon a determination that the Price is fair and reasonable. A statement shall be included in the Contract file setting forth the basis for determining that the Contract is fair and reasonable. This determination may be based on a comparison of the proposed Price with Prices found reasonable on previous purchases or current Price lists.

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5. Pricing on oral quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued.

E. For purchases of less than \$5,000 the Procurement Officer shall utilize procedures established by the Chief Procurement Officer providing for adequate and reasonable competition and for making records to facilitate auditing including the following:

1. Purchases less than \$5,000 may utilize a single selection process based on vendor experience, stock availability and delivery requirements.
2. Pricing on telephone and written quotations is to remain confidential until the transaction is complete, i.e., the purchase order is issued.

MC1-347 SOLE SOURCE NOT EXCEEDING AN AGGREGATE AMOUNT OF ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS

The Chief Procurement Officer may make the determination that the sole source method set forth in MC1-349 shall be used if a Commodity or Service is available from only one vendor, and the purchase is estimated to Cost no more than \$~~50100~~,000. This section does not apply to Procurements described in MC1-346.E. The written documentation of the basis for the sole source Procurement shall be included in the Contract file.

MC1-348 SOLE SOURCE PROCUREMENT EXCEEDING AN AGGREGATE AMOUNT OF ~~FIFTY ONE HUNDRED~~ THOUSAND DOLLARS

The Board of Supervisors may Award a contract for a Commodity or Service without competition by the Board of Supervisors based on written documentation submitted by the Using Agency that there is only one source for the required Commodity or Service. Sole source Procurement shall be avoided, except when no reasonable alternative source exists. The written documentation of the basis for the sole source Procurement shall be included in the Contract file.

MC1-349 SOLE SOURCE PROCUREMENT PROCEDURE

A. Except as provided in MC1-347, the County Using Agency shall submit justification in writing to the Board of Supervisors that a sole source Procurement is required. Sole source Procurement shall not be used unless there is clear and convincing evidence that there is only one source. Any request by a Using Agency that a Procurement be restricted to one potential Contractor shall be accompanied by an explanation as to why no other would be suitable or acceptable to meet the need. The Using Agency requesting sole source Procurement shall provide written evidence to support a sole source determination. A requirement for a particular proprietary item does not alone justify a sole source Procurement if there is more than one potential Respondent for that item.

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- B. Upon prior approval of the Board of Supervisors, the Procurement Officer shall negotiate with the single supplier, to the extent practicable, a Contract Advantageous to Maricopa County.
- C. The provisions of this Code apply to all sole source Procurements unless emergency conditions exist as defined in MC1-353.
- D. Examples of sole source Procurements include but are not limited to:
 1. Where compatibility of equipment, accessories, systems, technology, or replacement parts is a paramount consideration; or
 2. Where an item is required for trial use or testing.

MC1-350 COMPETITION IMPRACTICABLE PROCUREMENT NOT EXCEEDING AN AGGREGATE AMOUNT OF ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS

The Chief Procurement Officer may make a Written Determination that the competition impracticable method set forth in MC1-352 shall be used if a Commodity or Service is available from more than one vendor, however, because of standardization, warranty, or other factors approved by the Chief Procurement Officer a competitive Procurement is deemed impractical and the purchase is estimated to Cost no more than \$~~50~~100,000. This section does not apply to Procurements described in MC1-346.E, MCI 347 and MC1-348. The written documentation supporting the competition impracticable Procurement shall be included in the Contract file.

MCI-351 COMPETITION IMPRACTICABLE PROCUREMENT EXCEEDING AN AGGREGATE AMOUNT OF ~~FIFTY-ONE HUNDRED~~ THOUSAND DOLLARS

The Board of Supervisors may Award a Contract for a Commodity or Service that is available from more than one vendor without competition based on written documentation submitted by the Using Agency that while the Commodity or Service is available from other sources, competition is impractical because of standardization, warranty, or other factors as approved by the Board of Supervisors. The written documentation supporting the competition impracticable Procurement shall be included in the Contract file.

MC1-352 SINGLE SOURCE PROCUREMENT PROCEDURE

- A. Except as provided in MC1-350 the County Using Agency shall submit Written Justification that a competition impracticable Procurement is required. Competition impracticable Procurement shall not be used unless there is clear and convincing evidence that competition is impractical. Any request by a Using Agency that a

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Procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other would be suitable or acceptable to meet the need. The Using Agency requesting a competition impracticable Procurement shall provide written evidence to support a competition impracticable determination containing the following:

1. An explanation of the need and the unusual or unique situation that makes compliance with MC1-315 through 324, MC1-325 through 327, MC1-328 through 339, or MC1-340 through 344 impracticable, unnecessary or contrary to the public interest;
 2. A definition of the proposed procurement process to be utilized and an explanation of how this process will foster as much competition as is practicable;
 3. An explanation of why the proposed procurement process is Advantageous to the County; and
 4. The scope, duration, and estimated total dollar value of the procurement.
- B. Upon prior approval, the Procurement Officer shall negotiate with the single supplier, to the extent practical, a Contract Advantageous to Maricopa County.
- C. The provisions of this Code apply to all competition impracticable Procurements unless emergency conditions exist as defined in MC1-353.
- D. Examples of competition impracticable Procurements include but are not limited to:
1. In the case of new facility Construction or remodels where systems are installed as part of the Construction project that have warranty terms that require additional modifications, programming changes or other items outside of normal warranty related items during the warranty period be completed by original installing vendor or the warranty is voided. These systems may include elevators, security systems, etc.
 2. Items or services approved as a County-wide standard.

MC1-353 **EMERGENCY PROCUREMENT**

- A. Notwithstanding any other provisions of this Code, upon declaration of an emergency or other approval as required under MC1-354, the Chief Procurement Officer may make or authorize others to make emergency Procurements if there exists a threat to public health, welfare, property or safety or if a situation exists which makes compliance with MC1-315 through 324, MC1-325 through 327, MC1-328 through 339, or MC1-340 through 344 impracticable, unnecessary or contrary to the public interest. Such emergency Procurements shall be made with such competition that is practicable under the circumstances. A Written Determination of the basis for the emergency and for the selection of the particular Contractor shall be included in the Contract file.

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- B. Emergency conditions may arise from, but are not limited to, floods, epidemics, riots or equipment failures. An emergency condition creates an immediate and serious need for Commodities, Services or Construction that cannot be met through normal Procurement methods and that seriously threatens the functioning of Maricopa County Government, the preservation of property or the public health or safety.
- C. An emergency Procurement shall be limited in time and quantity to those Commodities, Services or Construction necessary to satisfy the emergency need. Emergency approvals by the County Manager or Chief Procurement Officer are limited to one year in duration. Emergencies based upon an emergency declaration are valid for the duration of the declared emergency.

MC1-354 EMERGENCY PROCUREMENT PROCEDURE

- A. A Using Agency seeking an emergency Procurement shall prepare a requisition documenting the existence of an emergency condition, how it arose and explaining the extent of Procurement needed. The requisition shall be approved by the elected official, department head or other designated official of the Using Agency.
- B. Emergency Procurements based on a declared emergency are to include a copy of the emergency resolution with the requisition. All other emergency Procurements ~~in excess with a value~~ of \$50100,000 ~~or greater~~ must be approved by the County Manager. ~~These e~~Emergency Procurements ~~not exceeding less than~~ \$50100,000 must be approved by the Chief Procurement Officer.
- C. The County Manager shall determine in writing whether to grant the request. If the request is approved by the County Manager, it shall be forwarded to the Office of Procurement Services for expeditious processing. The County Manager shall submit to the Board of Supervisors by the last business day of each month and for successive months, as applicable, a report providing a status of the emergency until the situation has been satisfactorily resolved.
- D. A copy of each requisition processed under this procedure shall be kept on file in the Using Agency requesting the emergency Procurement and the ~~Maricopa County Materials Management Department~~Office of Procurement Services.
- E. If the nature of the emergency does not permit submission of a timely requisition, the Elected Official or Department Head may make an oral request to the County Manager who may make an oral determination and delegation. The requisition required under Subsection A shall be submitted to the County Manager for formal approval.

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- F. The County Manager may approve a written request subsequent to the Procurement if:
1. The emergency necessitated immediate response and it was impracticable to contact the County Manager.
 2. The Procurement was made with as much competition as was practicable under the circumstances.
 3. The Price paid was reasonable under the emergency circumstances.
 4. The request required under Subsection A was submitted to the County Manager.

MC1-355 COMPETITIVE SELECTION PROCEDURES FOR PROFESSIONAL SERVICES

- A. Competitive Sealed Bidding may not be Advantageous if it is necessary to:
1. Use a Contract other than a Fixed-Price type; or
 2. Conduct oral or written Negotiations with Respondents concerning technical and Price aspects of their Proposals; or
 3. Afford Respondents an opportunity to revise their Response; or
 4. Compare the different Price, quality, and contractual factors of the Response submitted; or
 5. Award a Contract in which Price is not the only determining factor.
- B. If the Purchasing Agency determines in writing that the use of Competitive Sealed Bidding is not Advantageous, the Services specified in MC1-203 may be negotiated using one of the alternative methods as set forth in subsection D.
- C. Procedures for selection of A/E Consultant Services for planning and design of Construction projects are contained in Article 5 of this Code.
- D. After determining that Competitive Sealed Bidding is not Advantageous, the Purchasing Agency may select one of the following Procurement procedures:
1. Competitive Sealed Proposal procedure pursuant to MC1-328; or

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2. Multiple stepped bidding pursuant to MC1-325; or
 3. Review Of Qualifications of Persons interested in contracting for particular Professional Service. If this Procurement procedure is selected, it shall be conducted by a selection committee of three or more representatives of Maricopa County. One of the representatives shall be a peer of the Persons being reviewed. The selection board may select one or more qualified Persons for Contract Award at a fair and reasonable Price after reviewing:
 - a. The qualifications of at least three Persons from a list maintained by a Purchasing Agency and updated annually. Each Purchasing Agency is to establish procedures for maintaining and updating a list of prospective Persons who have indicated by submission a Letter of Interest in being considered for future Contracts within the scope of their professional qualifications.
 - b. The qualifications of all Persons submitting a Letter of Interest and a statement of qualifications in response to a public advertisement which includes the closing date for Letters of Interest and statements of qualifications.
 - c. Persons referred by a qualified outside professional organization that shall attest in writing to such Persons qualification and suitability to perform the Service.
 - d. All information other than the name of the Respondent shall remain confidential until after the Award.
- E. If one of the alternative methods is used the Procurement file must contain a written statement describing why the use of Competitive Sealed Bidding was determined to be not Advantageous.

MC1-356 CANCELLATION OR REJECTION OF SOLICITATIONS FOR BIDS OR REQUEST FOR PROPOSALS

An Invitation For Bids, a Request For Proposals or other Solicitation may be canceled or any or all Bids or Proposals may be rejected in whole or in part as may be specified in the Solicitation if it is Advantageous to Maricopa County. The reasons for the cancellation or rejection shall be made part of the Procurement file.

MC1-357 CANCELLATION OF SOLICITATION BEFORE DATE AND TIME FOR RECEIPT OF RESPONSE

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- A. Before the date and time that receipt of Responses are due, a Solicitation may be canceled in whole or in part if the Procurement Officer determines in writing that cancellation is Advantageous to the County
- B. If a Solicitation is canceled before the date and time that Responses are due, notice of cancellation shall be issued.
- C. Any Responses received shall be returned unopened.

MC1-358 CANCELLATION OF SOLICITATION AFTER THE DATE AND TIME SET FOR RECEIPT OF RESPONSES

- A. After receipt of Responses but before Award, a Solicitation may be canceled and all Responses may be rejected in whole or in part if the Procurement Officer determines in writing that cancellation and rejection are Advantageous to Maricopa County.
- B. A notice of cancellation and/or rejection shall be issued to all Respondents.
- C. Responses received under the canceled Solicitation shall be retained in the Procurement file. If the Purchasing Agency intends to issue another Solicitation within a reasonable time after cancellation for the same Commodities, Services or Construction as under the canceled Solicitation, the Purchasing Agency may withhold from public inspection Responses submitted under the canceled Solicitation if the Procurement Officer makes a Written Determination that such action is Advantageous to Maricopa County. After Award of a Contract under a subsequent Solicitation, Responses submitted in response to the canceled Solicitation shall be open for public inspection unless non-disclosure is required under MC1-104.
- D. The determination to cancel a Solicitation and reject Responses shall be made a part of the Procurement file and shall be available for public inspection.

MC1-359 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS

- A. A Bid may be rejected if:
 - 1. The Respondent is determined to be nonresponsible pursuant to MC1-360; or
 - 2. The Bid is nonresponsive in accordance with MC1-323.
- B. A Response may be rejected if:
 - 1. The Respondent is determined to be nonresponsible pursuant to MC1-360; or

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2. The Respondent is determined nonresponsive in accordance with MC1-323; or
3. The proposed Price is unreasonable; or
4. It is otherwise not Advantageous to Maricopa County.

C. Respondents whose Responses are rejected under subsection A or B of this Section shall be notified in writing of the rejection. Record of the rejection shall be made part of the Procurement file.

MC1-360 RESPONSIBILITY OF RESPONDENTS

- A. A Written Determination of nonresponsibility of a Respondent shall be made in accordance with this Code. The unreasonable failure of a Respondent to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with of the Respondent. A finding of nonresponsibility shall not be construed as a violation of the rights of any Person.
- B. To the extent permitted by law, information furnished by a Respondent pursuant to this Section shall be confidential.
- C. A Procurement Officer shall determine the Respondent is responsible before recommending an Award of the Contract to that Respondent.
- D. Factors to be considered in determining if a Respondent is responsible include, but are not limited to:
 1. The proposed Contractor's financial, physical, personnel or other resources, including subcontracts;
 2. The Respondent's length and record of performance and integrity;
 3. Whether the Respondent is legally qualified to Contract with Maricopa County; and
 4. Whether the Respondent supplied all necessary information concerning its responsibility.
- E. The Procurement Officer may establish specific responsibility criteria for a particular Procurement. Any specific responsibility criteria shall be set forth in the Solicitation.
- F. If a Procurement Officer determines that a Respondent is nonresponsive, the determination shall be in writing and set forth the basis for the determination. A copy of

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the determination shall be promptly sent to the nonresponsible Respondent. The final determination shall be made part of the Procurement file.

MC1-361 BID AND CONTRACT SECURITY

The Chief Procurement Officer may require, in accordance with this Code, the submission of security to guarantee faithful Bid and Contract performance. In determining the amount and type of security required for each Contract, the nature of the performance and the need for future protection to Maricopa County shall be considered. The requirement for security must be included in the Solicitation.

MC1-362 BID AND PERFORMANCE BONDS FOR COMMODITY OR SERVICE CONTRACTS

- A. Bid Bonds, Performance Bonds and/or, Payment Bonds and/or other security may be required for Commodity or Service Contracts if the Procurement Officer determines that such requirement is Advantageous to Maricopa County. The requirement for any such bond shall be included in the Solicitation.
- B. Bid or Performance Bonds shall not be used as a substitute for a determination of Respondent responsibility.
- C. If a Bid is withdrawn at any time before Bid closing, any Bid security shall be returned to the Respondent.
- D. Submission of Bid and Contract security shall comply with the requirements of section MC1-510.

MC1-363 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 of the proposed Price is essential to determine that the Price is reasonable or fair. A Respondent shall, except as provided in Subsection C, submit current Cost or Pricing Data and shall certify that, to the best of the Respondent'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 on any Contract Awarded by a Solicitation or pursuant to the sole source Procurement authority, if the Contract Price is expected to exceed an amount established by the County Using Agency.
 - 2. The pricing of any Change Order or Contract modification which is expected to exceed an amount established by the Procurement Officer.

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- B. Any Contract, Change Order or Contract modification shall contain a provision that the Price to Maricopa County shall be adjusted to exclude any significant amounts by which Maricopa County finds that the Price was increased because the Respondent-furnished Cost or Price Data was incorrect, incomplete or not current as of the date agreed on between the parties. Such adjustment by Maricopa County may include profit or fee.
- C. The requirements of this Section need not be applied to Contracts:
1. If the Contract Price is based on adequate Price competition; or
 2. If the Contract Price is based on established catalog Prices or market Prices; or
 3. If Contract Prices are set by law or regulation; or
 4. If it is determined in writing in accordance with this Code that the requirements of this Section may be waived, and the reasons for the waiver are stated in writing.
- D. A Change Order exceeding an amount or percentage established by this Code shall only be executed after it is determined in writing that the Change Order is Advantageous to Maricopa County.

MC1-364 SUBMISSION OF COST OR PRICING DATA

- A. Cost or Pricing Data may be requested if the Procurement Officer determines in writing that:
1. The amount of an original or adjusted Price of a Contract to be Awarded by Competitive Sealed Proposals, emergency Procurement or sole source Procurement may exceed \$100,000; or
 2. The Price adjustment of a Contract Awarded by Competitive Sealed Bidding will result in an increase in Cost in excess of \$100,000; or
 3. If submission of Cost or Pricing Data is otherwise Advantageous to Maricopa County.
- B. Cost or Pricing Data shall be submitted to the Procurement Officer prior to the commencement of Price Negotiations at the time and in the manner prescribed by the Procurement Officer.
- C. In an emergency, Cost or Pricing Data may be submitted at a reasonable time after the Contract is Awarded.

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- D. The Respondent shall keep all Cost or Price Data submitted current until the Negotiations are concluded.
- E. The requirement that Cost or Pricing Data be submitted may be waived if a determination is made in writing that the waiver is Advantageous to Maricopa County.
- F. A copy of all determinations that pertain to the submission of Cost or Pricing Data shall be maintained in the Contract file.

MC1-365 REFUSAL TO SUBMIT COST OR PRICING DATA

- A. If the Respondent fails to submit Cost or Pricing Data in the required form, the Procurement Officer may reject the Proposal.
- B. If a Respondent fails to submit Data to support a Price adjustment in the form required, the Procurement Officer may reject the requested Price adjustment and set the amount.

MC1-366 DEFECTIVE COST OR PRICING DATA

- A. The Procurement Officer may reduce the Contract Price if, upon a Written Determination, the Cost or Price Data is found to be defective.
- B. The Contract Price shall be reduced in the amount of the defect plus related overhead and profit or fee if the Procurement Officer relied upon the defective Data in recommending Award of the Contract.
- C. If current Cost or Pricing Data is required, the Awarded Contract shall include notice of the right of Maricopa County to a reduction in Price if Cost or Pricing Data is subsequently determined to be defective.

MC1-367 PRICE OR COST ANALYSIS

The Procurement Officer shall conduct a Price or Cost analysis if submission of Price or Cost Data is required.

MC1-368 APPROVAL OF ACCOUNTING SYSTEM

- A. Except with respect to firm Fixed-Price Contracts, no Contract type may be used unless it is determined in writing by the Purchasing Agency that the proposed Contractor's accounting system is adequate to document and allocate Costs.
- B. Before the Award of any Contract, except a firm Fixed-Price Contract, the Procurement Officer may determine in writing that the proposed Respondent's accounting system will

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permit timely development of all necessary Cost Data in the form required by the specific Contract type contemplated and is adequate to allocate Costs.

MC1-369 MULTI-TERM CONTRACTS

- A. Unless otherwise provided by law, a Contract for Commodities or Services may be entered into for a period of time up to five years (including base term and renewals), as deemed to be in the best interest of Maricopa County, 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. A Contract may be entered into for a period of time exceeding five years in accordance with this Code, if the Chief Procurement Officer determines in writing that such a Contract would be Advantageous to Maricopa County. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.
- B. Before the use of a multi-term Contract, it shall be determined in writing that:
 - 1. Estimated requirements cover the period of the Contract and are reasonable and continuing.
 - 2. Such a Contract will serve the best interest of Maricopa County by encouraging effective competition or otherwise promoting economies in Maricopa County Procurement.
- C. 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 Respondent may only be reimbursed for the reasonable value of any nonrecurring Costs incurred at the request of Maricopa County, but not amortized in the Price of the Commodities or Services delivered under the Contract or which are otherwise not recoverable. The Cost of cancellation may be paid from any funds available for such purposes.

MC1-370 RIGHT TO INSPECT PLANT

The County may inspect the part of the plant or place of business of a Contractor or subcontractor which is related to the performance of any Contract Awarded or to be Awarded by Maricopa County.

MC1-371 RIGHT TO AUDIT RECORDS

- A. The County may, at reasonable times and places, audit the financial books, records and back-up documentation of any Person who is Awarded a Contract by Maricopa County. Any Person who receives a Contract, change order or Contract amendment, revision or

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renewal shall maintain the books, records, accounts, statements, reports, files, and other records and back-up documentation that relate to the Contract for six (6) years from the date of final payment under the Contract, or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest.

- B. The County is entitled to audit the books, records, accounts, statements, reports, files, and other records and back-up documentation of any Person or any subcontractor under any Contract or subcontract to the extent that the books, records and back-up documentation relate to the performance of the Contract or subcontract. The books, records, accounts, statements, reports, files, and other records shall be maintained by the Person for a period of six (6) years from the date of final payment under the prime Contract and by the subcontractors for a period of six (6) years from the date of final payment under subcontract, or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest.

MC1-372 REPORTING OF ANTICOMPETITIVE PRACTICES

- A. If for any reason collusion or other anticompetitive practices are suspected among any Respondents, a notice of the relevant facts shall be transmitted to the Chief Procurement Officer and to the State Attorney General. This section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Chief Procurement Officer.
- B. Upon submitting a Response to a Solicitation, Respondent must certify that its submission did not involve collusion or other anticompetitive practices.

MC1-373 RETENTION OF PROCUREMENT RECORDS

All Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the State of Arizona Department of Library, Archives, and Public Records.

MC1-374 PROCUREMENT OF INFORMATION SYSTEMS AND TELECOMMUNICATION SYSTEMS

- A. Notwithstanding the criteria for Contract Award prescribed in MC1-315 through 324 and MC1-325 through 327, a Contract for Information Systems or Telecommunication Systems shall be Awarded to the lowest Responsible and Responsive Respondent whose Solicitation conforms in all material respects to the requirements and criteria set forth in the Invitation For Bids, which shall include as Price evaluation criteria the Total Life Cycle Cost and Application Benefits of the Information Systems or Telecommunication Systems to the Using Agency. No factors or criteria, other than those set forth in the Solicitation, may be used in the evaluation of Bids for Information Systems or Telecommunication

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systems. Procedures for awarding Contracts for Information Systems or Telecommunications Systems pursuant to this subsection shall be the same as those prescribed in MC1-315 through 324 and MC1-325 through 327.

- B. Notwithstanding the criteria for Contract Award prescribed in MC1-328 through 339 and MC1-340 through 344, a Contract for Information Systems or Telecommunications Systems shall be Awarded to the Responsible Respondent whose Proposal is determined in writing to be the most Advantageous to Maricopa County, taking into consideration the evaluation factors set forth in the Request For Proposals, which shall include as evaluation factors the Total Life Cycle Cost and Application Benefit of each Proposal. No factors or criteria, other than those set forth in the Solicitation, may be used in the evaluation of Proposals for Information Systems or Telecommunications Systems. Procedures for awarding a Contract for Information Systems or Telecommunication Systems pursuant to this subsection shall be the same as those prescribed in MC1-328 through 339 and MC1-340 through 344.
- C. Notwithstanding subsections A and B of this section, when utilizing an existing requirements Contract for one or more similar systems under this section that is awarded to more than one Respondent for Information or Telecommunications Systems, before a Using Agency acquires such a system, it shall take into account the Total Life Cycle Cost and Application Benefit of the systems in the manner that the Total Life Cycle Cost and Application Benefit are taken into account under Subsections A and B.
- D. The Procurement Officer need not use all of the above referenced evaluation criteria if the Procurement Officer makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interest of the County.

MC1-375 PROCUREMENT OF EARTH MOVING, MATERIAL HANDLING, ROAD MAINTENANCE AND CONSTRUCTION EQUIPMENT: DEFINITIONS

- A. Notwithstanding the criteria for Contract Award prescribed in MC1-315 through 324 and MC1-325 through 327, a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment shall be awarded to the lowest Responsible and Responsive Respondent whose Bid conforms in all material respects to the requirements and criteria set forth in the Solicitation, which 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 and such other additional evaluation factors set forth in the Solicitation. No factors or criteria may be used in the evaluation of Solicitations for Earth Moving, Material Handling, Road Maintenance and Construction Equipment, other than those specified in the Solicitation. The Solicitation shall include, to the extent practicable, outright purchase. The Contract Award shall be based on the Price evaluation criteria deemed by Maricopa County to be the most Advantageous. Procedures

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for Awarding Contracts for Earth Moving, Material Handling, Road Maintenance and Construction Equipment pursuant to this subsection shall be the same as those prescribed in MC1-315 through 324 and MC1-325 through 327.

- B. Notwithstanding the criteria for Contract Award prescribed in MC1-328 through 339 and MC1-340 through 344, a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment shall be awarded to the responsible Respondent whose Proposal is determined in writing to be the most Advantageous to Maricopa County. The evaluation factors set forth in the Solicitation shall include the Total Life Cycle Cost including residual value and such other additional evaluation factors set forth in the Solicitation. No factors or criteria may be used in the evaluation of Proposals for Earth Moving, Material Handling, Road Maintenance and Construction Equipment, other than those specified in the Solicitation. Additional evaluation factors set forth in the Solicitation shall include, to the extent practicable, outright purchase. The Contract Award shall be based on the Price evaluation criteria deemed by Maricopa County to be most Advantageous. Procedures for awarding a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment pursuant to this Subsection shall be the same as those prescribed in MC1-328 through 339 and MC1-340 through 344.
- C. The Procurement officer may issue a Request for Information to obtain data about Services or Commodity available to meet a specific need. Adequate public notice shall be given as specified in MC1-315.C.
- D. The Procurement Officer need not use all of the above referenced evaluation criteria if the Procurement Officer makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interest of the County.

MC1-376 COMPETITIVE SELECTION PROCEDURES FOR TRAVEL AND TRAVEL RELATED SERVICES

- A. The following travel and travel related services are exempt from the competitive Procurement procedures as provided in MC1-315 through 324, MC1-325 through 327, MC1-328 through 339 and MC1-340 through 344.
 - 1. Airline Tickets
 - 2. Automobile Rental
 - 3. Hotel/Motel Accommodations
- B. Travel and travel related services defined above shall be procured using the Internet to

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obtain the lowest available fare/rate meeting the Using Agency requirements. User Agencies must use adequate and reasonable competition and must document the basis for their selection to facilitate auditing of expenditures.

MC1-377 CONFERENCE FACILITIES AND SERVICES UNDER \$10,000

Conference facilities and services will be the least expensive available in the geographic area selected taking into consideration meeting room size, accommodations, related services and other requirements. User Agencies must use adequate and reasonable competition and must document the basis for their selection to facilitate auditing of expenditures.

MC1-378 PUBLIC-PRIVATE PARTNERSHIP CONTRACTS

- A. A Purchasing Agency may enter into public-private partnership Contracts to finance the technology needs of the Purchasing Agency. The funding for Services under a public-private partnership Contract entered into pursuant to this section shall be contingent on and computed according to established performance standards and shall be attributable to the successful implementation of the technology program for the period specified in the Contract. A Purchasing Agency may issue Requests For Information and Requests For Proposals to solicit private partners that are interested in providing programs under this Contract enter into pursuant to this section.
- B. Each Request For Proposals issues pursuant to this section shall require each private partner to propose specific performance improvements and measurement approaches to be used to measure the value delivered by the vendor technology solution. The Purchasing Agency shall include an assessment of the proposed value of the vendor technology solution in its evaluation criteria to select the best value solution for the Purchasing Agency.
- C. A Contract entered into between a Purchasing Agency and an automated systems vendor shall provide for payment of fees on a contractually specified amount based on the achievement of measured performance improvements that are mutually agreed to by the Contractor and the Purchasing Agency. The following are subject to review and approval by the Chief Procurement Officer:
 - 1. The terms of Contracts entered into pursuant to this section related to the measurement of the performance improvement attributable to the vendor technology program.
 - 2. Payment of fees based on achievement of the established performance measures.

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MC1-379 GRANT MANDATED ~~OR SPECIAL PROGRAM~~ INCENTIVES AND FOOD FOR NON-COUNTY EMPLOYEES

- A. Retail store incentives purchased from retail stores for distribution to non-County employees for their participation in grant ~~or non-grant~~ funded public health ~~or~~ social service education ~~or~~ wellness ~~or school related~~ programs are exempt from the competitive Procurement requirements of this Code. The exemption is specific to ~~the~~ purchases of incentives required to meet the requirements of County approved programs or grants received by Maricopa County where the purpose is to promote wellness and/or education for targeted groups.
- B. Food purchased for consumption by non-County employees ~~for to~~ encourage their participation in grant ~~or non-grant~~ funded public health ~~or~~ social services education ~~or~~ wellness ~~or school related~~ programs are exempt from the competitive requirements of this Code. The exemption is specific to purchases of food items required to meet the requirements of County approved programs or grants received by Maricopa County where the purpose is to promote wellness and/or education for targeted groups and is limited to \$1,000.00 per event.