

REFERENCE TITLE: procurement code; exemption

State of Arizona
House of Representatives
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2007

HB 2220

Introduced by
Representatives McClure, Alvarez, Hershberger, Lopez, Meza, Senators Bee,
Garcia: Representatives Campbell CH, Clark, Farley, Nelson, Prezelski,
Rios P, Saradnik, Senators Arzberger, Blendu, Harper, McCune Davis

AN ACT

AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES; RELATING TO THE
PROCUREMENT CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-2501, Arizona Revised Statutes, is amended to
3 read:

4 41-2501. Applicability

5 A. This chapter applies only to procurements initiated after January
6 1, 1985 unless the parties agree to its application to procurements initiated
7 before that date.

8 B. This chapter applies to every expenditure of public monies,
9 including federal assistance monies except as otherwise specified in section
10 41-2637, by this state, acting through a state governmental unit as defined
11 in this chapter, under any contract, except that this chapter does not apply
12 to either grants as defined in this chapter, or contracts between this state
13 and its political subdivisions or other governments, except as provided in
14 chapter 24 of this title and in article 10 of this chapter. This chapter
15 also applies to the disposal of state materials. This chapter and rules
16 adopted under this chapter do not prevent any state governmental unit or
17 political subdivision from complying with the terms of any grant, gift,
18 bequest or cooperative agreement.

19 C. All political subdivisions and other local public agencies of this
20 state may adopt all or any part of this chapter and the rules adopted
21 pursuant to this chapter.

22 D. The Arizona board of regents, the legislative and judicial branches
23 of state government and the state compensation fund are not subject to the
24 provisions of this chapter except as prescribed in subsection E of this
25 section.

26 E. The Arizona board of regents and the judicial branch shall adopt
27 rules prescribing procurement policies and procedures for themselves and
28 institutions under their jurisdiction. The rules must be substantially
29 equivalent to the policies and procedures prescribed in this chapter.

30 F. The Arizona state lottery commission is exempt from the provisions
31 of this chapter for procurement relating to the design and operation of the
32 lottery or purchase of lottery equipment, tickets and related materials. The
33 executive director of the Arizona state lottery commission shall adopt rules
34 substantially equivalent to the policies and procedures in this chapter for
35 procurement relating to the design and operation of the lottery or purchase
36 of lottery equipment, tickets or related materials. All other procurement
37 shall be as prescribed by this chapter.

38 G. The Arizona health care cost containment system administration is
39 exempt from the provisions of this chapter for provider contracts pursuant to
40 section 36-2904, subsection A and contracts for goods and services including
41 program contractor contracts pursuant to title 36, chapter 29, articles 2 and
42 3. All other procurement, including contracts for the statewide
43 administrator of the program pursuant to section 36-2903, subsection B, shall
44 be as prescribed by this chapter.

1 H. Arizona industries for the blind is exempt from the provisions of
2 this chapter for purchases of finished goods from members of national
3 industries for the blind and for purchases of raw materials for use in the
4 manufacture of products for sale pursuant to section 41-1972. All other
5 procurement shall be as prescribed by this chapter.

6 I. Arizona correctional industries is exempt from the provisions of
7 this chapter for purchases of raw materials, components and supplies that are
8 used in the manufacture or production of goods or services for sale entered
9 into pursuant to section 41-1622. All other procurement shall be as
10 prescribed by this chapter.

11 J. The state transportation board and the director of the department
12 of transportation are exempt from the provisions of this chapter other than
13 section 41-2586 for the procurement of construction or reconstruction,
14 including engineering services, of transportation facilities or highway
15 facilities and any other services that are directly related to land titles,
16 appraisals, real property acquisition, relocation, property management or
17 building facility design and construction for highway development and that
18 are required pursuant to title 28, chapter 20.

19 K. The Arizona highways magazine is exempt from the provisions of this
20 chapter for contracts for the production, promotion, distribution and sale of
21 the magazine and related products and for contracts for sole source creative
22 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
23 All other procurement shall be as prescribed by this chapter.

24 L. The secretary of state is exempt from the provisions of this
25 chapter for contracts entered into pursuant to section 41-1012 to publish and
26 sell the administrative code. All other procurement shall be as prescribed
27 by this chapter.

28 M. The provisions of this chapter are not applicable to contracts for
29 professional witnesses if the purpose of such contracts is to provide for
30 professional services or testimony relating to an existing or probable
31 judicial proceeding in which this state is or may become a party or to
32 contract for special investigative services for law enforcement purposes.

33 N. The head of any state governmental unit, in relation to any
34 contract exempted by this section from the provisions of this chapter, has
35 the same authority to adopt rules, procedures or policies as is delegated to
36 the director pursuant to this chapter.

37 O. Agreements negotiated by legal counsel representing this state in
38 settlement of litigation or threatened litigation are exempt from the
39 provisions of this chapter.

40 P. The provisions of this chapter are not applicable to contracts
41 entered into by the department of economic security:

42 1. With a provider licensed or certified by an agency of this state to
43 provide child day care services or with a provider of family foster care
44 pursuant to section 8-503 or 36-554.

1 2. With area agencies on aging created pursuant to the older Americans
2 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
3 through 3058ee).

4 3. For services pursuant to title 36, chapter 29, article 2.

5 4. With an eligible entity as defined by Public Law 105-285, section
6 673(1)(a)(i), as amended, for designated community services block grant
7 program monies and any other monies given to the eligible entity that
8 accomplishes the purpose of Public Law 105-285, section 672.

9 Q. The department of health services may not require that persons with
10 whom it contracts follow the provisions of this chapter for the purposes of
11 subcontracts entered into for the provision of the following:

12 1. Mental health services pursuant to section 36-189, subsection B.
13 2. Services for the seriously mentally ill pursuant to title 36,
14 chapter 5, article 10.

15 3. Drug and alcohol services pursuant to section 36-141.

16 4. Domestic violence services pursuant to title 36, chapter 30,
17 article 1.

18 R. The department of health services is exempt from the provisions of
19 this chapter for contracts for services of physicians at the Arizona state
20 hospital.

21 S. Contracts for goods and services approved by the fund manager of
22 the public safety personnel retirement system are exempt from the provisions
23 of this chapter.

24 T. The Arizona department of agriculture is exempt from this chapter
25 with respect to contracts for private labor and equipment to effect cotton or
26 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
27 article 1. On or before September 1 of each year, the director of the
28 Arizona department of agriculture shall establish and announce costs for each
29 acre of cotton or cotton stubble to be abated by private contractors.

30 U. The Arizona state parks board is exempt from the provisions of this
31 chapter for purchases of guest supplies and items for resale such as food,
32 linens, gift items, sundries, furniture, china, glassware and utensils for
33 the facilities located in the Tonto natural bridge state park.

34 V. The Arizona state parks board is exempt from the provisions of this
35 chapter for the purchase, production, promotion, distribution and sale of
36 publications, souvenirs and sundry items obtained and produced for resale.

37 W. The Arizona state schools for the deaf and the blind are exempt
38 from the provisions of this chapter when purchasing products through a
39 cooperative that is organized and operates in accordance with state law if
40 such products are not available on a statewide contract and are related to
41 the operation of the schools or are products for which special discounts are
42 offered for educational institutions.

1 X. Expenditures of monies in the morale, welfare and recreational fund
2 established by section 26-153 are exempt from the provisions of this chapter.

3 Y. Notwithstanding section 41-2534, the director of the state
4 department of corrections may contract with local medical providers in
5 counties with a population of less than four hundred thousand persons
6 according to the most recent United States decennial census for the following
7 purposes:

8 1. To acquire hospital and professional medical services for inmates
9 who are incarcerated in state department of corrections facilities that are
10 located in those counties.

11 2. To ensure the availability of emergency medical services to inmates
12 in all counties by contracting with the closest medical facility that offers
13 emergency treatment and stabilization.

14 Z. The department of environmental quality is exempt from the
15 provisions of this chapter for contracting for procurements relating to the
16 water quality assurance revolving fund program established pursuant to title
17 49, chapter 2, article 5. The department shall engage in a source selection
18 process that is similar to the procedures prescribed by this chapter. The
19 department may contract for remedial actions with a single selection
20 process. The exclusive remedy for disputes or claims relating to contracting
21 pursuant to this subsection is as prescribed by article 9 of this chapter and
22 the rules adopted pursuant to that article. All other procurement by the
23 department shall be as prescribed by this chapter.

24 AA. The motor vehicle division of the department of transportation is
25 exempt from the provisions of this chapter for third party authorizations
26 pursuant to title 28, chapter 13, only if all of the following conditions
27 exist:

28 1. The division does not pay any public monies to an authorized third
29 party.

30 2. Exclusivity is not granted to an authorized third party.

31 3. The director has complied with the requirements prescribed in title
32 28, chapter 13 in selecting an authorized third party.

33 BB. This section does not exempt third party authorizations pursuant
34 to title 28, chapter 13 from any other applicable law.

35 CC. The state forester is exempt from the provisions of this chapter
36 for purchases and contracts relating to wild land fire suppression and
37 pre-positioning equipment resources and for other activities related to
38 combating wild land fires and other unplanned risk activities, including
39 fire, flood, earthquake, wind and hazardous material responses. All other
40 procurement by the state forester shall be as prescribed by this chapter.

41 DD. The cotton research and protection council is exempt from the
42 provisions of this chapter for procurements relating to its aflatoxin control
43 program and for contracts for research programs related to cotton production
44 or protection.

1 EE. Expenditures of monies in the Arizona agricultural protection fund
2 established by section 3-3304 are exempt from this chapter.

3 FF. THE ARIZONA HISTORICAL SOCIETY IS EXEMPT FROM THE PROVISIONS OF
4 THIS CHAPTER FOR THE PURCHASE, PRODUCTION, PROMOTION, DISTRIBUTION AND SALE
5 OF PUBLICATIONS, SOUVENIRS AND SUNDRY ITEMS THAT ARE OBTAINED AND PRODUCED
6 FOR RESALE.