

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

**CHAPTER 145**  
**HOUSE BILL 2321**

AN ACT

AMENDING SECTIONS 41-741, 41-753, 41-1231, 41-1233.01, 41-2501, 41-2503, 41-2517 AND 41-2546, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA 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 41-741, Arizona Revised Statutes, is amended to  
3 read:

4 41-741. Definitions

5 In this article and articles 5 and 6 of this chapter, unless the  
6 context otherwise requires:

7 1. "Appointing authority" means the person or group of persons  
8 authorized by law or delegated authority to make appointments to fill  
9 positions.

10 2. "At will" means an employment relationship where either party to  
11 the relationship may sever the relationship at any time for any reason other  
12 than an unlawful reason.

13 3. "Break in service" means a separation from state employment,  
14 regardless of the reason for separation.

15 4. "Change in assignment" means movement of an employee to a different  
16 position in the same state agency or another state agency.

17 5. "Covered employee" means an employee who:

18 (a) Before September 29, 2012, is in the state service, is not  
19 uncovered pursuant to section 41-742, subsection A and has remained in  
20 covered status without a break in service since that date.

21 (b) Before September 29, 2012, is in the state service, is employed as  
22 a correctional officer I, correctional officer II, correctional officer III  
23 or community corrections officer and has remained in covered status without a  
24 break in service since that date.

25 (c) Before September 29, 2012, is in the state service, is a full  
26 authority peace officer as certified by the Arizona peace officer standards  
27 and training board and has remained in that status without a break in service  
28 since that date.

29 (d) On or after September 29, 2012, is a correctional officer I,  
30 correctional officer II, correctional officer III or community corrections  
31 officer and is appointed to a position in the covered service, but does not  
32 include a position in any other class in the correctional officer class  
33 series or the community correctional officer class series or in any other  
34 correctional class series.

35 (e) On or after September 29, 2012, is a full authority peace officer  
36 as certified by the Arizona peace officer standards and training board and is  
37 appointed to a position that requires such a certification in the covered  
38 service.

39 6. "Covered service" means that employment status conferring rights of  
40 appeal as prescribed in sections 41-782 and 41-783 or section 41-1830.16, as  
41 applicable.

42 7. "Director" means the director of the department of administration,  
43 or the director's designee, who is responsible for administering the state  
44 personnel system pursuant to applicable state and federal laws.

45 8. "Employee" means all officers and employees of this state, whether  
46 in covered service or uncovered service, unless otherwise prescribed.

1           9. "Full authority peace officer" means a peace officer whose  
2 authority to enforce the laws of this state is not limited by the rules  
3 adopted by the Arizona peace officer standards and training board.

4           10. "Original probationary period" means the specified period following  
5 initial appointment to covered service.

6           11. "Probationary period" means a working test period of employment in  
7 a covered service position for evaluation of the employee's work.

8           12. "Promotional probation" means the specified period of employment  
9 following promotion of a permanent status employee to another covered service  
10 position that has a higher pay grade.

11           13. "Rules" means rules adopted by the department of administration,  
12 human resources division.

13           14. "Significant procurement role":

14           (a) Means any role that includes any of the following duties:

15           ~~(a)~~ (i) Participating in the development of a procurement as defined  
16 in section 41-2503.

17           ~~(b)~~ (ii) Participating in the development of an evaluation tool.

18           ~~(c)~~ (iii) Approving a procurement as defined in section 41-2503 or an  
19 evaluation tool.

20           ~~(d)~~ (iv) Soliciting quotes greater than ten thousand dollars for the  
21 provision of materials, services or construction.

22           ~~(e)~~ (v) Serving as a technical advisor or an evaluator who evaluates  
23 a procurement as defined in section 41-2503.

24           ~~(f)~~ (vi) Recommending or selecting a vendor that will provide  
25 materials, services or construction to this state.

26           ~~(g)~~ (vii) Serving as a decision maker or designee on a protest or an  
27 appeal by a party regarding an agency procurement selection or decision.

28           (b) DOES NOT INCLUDE MAKING DECISIONS ON DEVELOPING SPECIFICATIONS AND  
29 THE SCOPE OF WORK FOR A PROCUREMENT AS DEFINED IN SECTION 41-2503 IF THE  
30 DECISION IS BASED ON THE APPLICATION OF COMMONLY ACCEPTED INDUSTRY STANDARDS  
31 OR KNOWN PUBLISHED STANDARDS OF THE AGENCY AS APPLIED TO THE PROJECT,  
32 SERVICES, GOODS OR MATERIALS.

33           15. "State agency" means a department, board, office, authority,  
34 commission or other governmental budget unit of this state and includes an  
35 agency assigned to a department for administrative purposes. State agency  
36 does not include the legislative and judicial branches, the Arizona board of  
37 regents, state universities, the Arizona state schools for the deaf and the  
38 blind, the department of public safety, the Arizona peace officer standards  
39 and training board, the cotton research and protection council or public  
40 corporations.

41           16. "State personnel board" means the board established by section  
42 41-781.

43           17. "State personnel system" means all state agencies and employees of  
44 those agencies that are not exempted by this article.

45           18. "State service" means all offices and positions of employment in  
46 state government that, before September 29, 2012, were subject to the

1 provisions of articles 5 and 6 of this chapter that were in effect before  
2 September 29, 2012.

3 19. "Supervisor" means a state employee who has one or more other state  
4 employees reporting directly to the person and, for those state employees,  
5 typically has the authority to:

- 6 (a) Approve sick or annual leave.
- 7 (b) Recommend hiring, discipline or dismissal.
- 8 (c) Assign or schedule daily work.
- 9 (d) Complete a performance evaluation.

10 20. "Uncovered employee" means an employee in uncovered service.

11 21. "Uncovered service" means employment at will and includes all state  
12 employees except those in covered service.

13 Sec. 2. Section 41-753, Arizona Revised Statutes, is amended to read:

14 41-753. Unlawful acts; violation; classification

15 A. A person shall not make any false statement, certificate, mark,  
16 rating or report with regard to any test, certification or appointment made  
17 under this article or in any manner commit any fraud preventing the impartial  
18 execution of this article or rules adopted under this article.

19 B. A person shall not, directly or indirectly, give, render, pay,  
20 offer, solicit or accept any money, service or other valuable consideration  
21 for or on account of any appointment, proposed appointment, promotion or  
22 proposed promotion to, or any advantage in, a position in the state personnel  
23 system.

24 C. An employee of any state agency, examiner or other person shall not  
25 obstruct any person in the person's right to examination, eligibility,  
26 certification or appointment under this article, or furnish to any person any  
27 special or secret information for the purpose of affecting the rights or  
28 prospects of any person with respect to employment in the state personnel  
29 system.

30 D. An employee of any agency as defined in section 41-1001, including  
31 the office of the governor, who has a significant role in the procurement of  
32 materials, services or construction shall not accept an offer of employment  
33 from or have employment discussions with any person or entity lobbying for or  
34 potentially responding to a solicitation during a period beginning on  
35 signature of the first nondisclosure agreement pertaining to a particular  
36 solicitation or at the time of request for a sole source procurement or  
37 competition impracticable procurement AND ENDING AT THE TIME OF THE CONTRACT  
38 AWARD. AN EMPLOYEE OF ANY AGENCY AS DEFINED IN SECTION 41-1001, INCLUDING  
39 THE OFFICE OF THE GOVERNOR, WHO HAS A SIGNIFICANT ROLE IN THE PROCUREMENT OF  
40 MATERIALS, SERVICES OR CONSTRUCTION SHALL NOT ACCEPT AN OFFER OF EMPLOYMENT  
41 FROM OR HAVE EMPLOYMENT DISCUSSIONS WITH THE SUCCESSFUL OFFEROR OR OFFERORS  
42 AND THEIR LOBBYISTS DURING A PERIOD BEGINNING ON SIGNATURE OF THE FIRST  
43 NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR SOLICITATION OR AT THE  
44 TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE  
45 PROCUREMENT and ending one year after the purchased materials are delivered  
46 or the purchase of services or construction begins. THE DIRECTOR OF THE

1 DEPARTMENT OF ADMINISTRATION MAY WAIVE ANY OR ALL OF THE WAITING PERIOD IN  
2 EXCESS OF TWENTY-FOUR MONTHS FOR A PROCUREMENT OFFICER OR AN EMPLOYEE WITH A  
3 SIGNIFICANT PROCUREMENT ROLE IF THE PERIOD OF TIME THAT FOLLOWS THE SIGNATURE  
4 OF THE NONDISCLOSURE AGREEMENT EXCEEDS TWENTY-FOUR MONTHS. A PROCUREMENT  
5 OFFICER OR AN EMPLOYEE SEEKING A WAIVER SHALL MAKE A WRITTEN REQUEST TO THE  
6 OFFICER'S OR EMPLOYEE'S STATE AGENCY DIRECTOR, AND THE DIRECTOR OF THE STATE  
7 AGENCY SHALL FORWARD THE REQUEST WITH A WRITTEN RECOMMENDATION TO THE  
8 DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION. THE DIRECTOR OF THE DEPARTMENT  
9 OF ADMINISTRATION SHALL PROVIDE A WRITTEN DECISION AND JUSTIFICATION WITHIN  
10 FIFTEEN BUSINESS DAYS AFTER THE RECEIPT OF THE COMPLETE REQUEST. THE  
11 DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY NOT APPROVE WAIVER REQUESTS  
12 FOR MATTERS STILL IN EVALUATION OR WITHIN SIX MONTHS FOLLOWING THE CONTRACT  
13 AWARD. IF THE REQUESTING PARTY IS THE DIRECTOR OR A DEPUTY DIRECTOR OF A  
14 STATE AGENCY, THE REQUEST FOR A WAIVER AND ALL WRITTEN MATERIALS, INCLUDING A  
15 DIRECTOR RECOMMENDATION, MUST BE FORWARDED TO THE GOVERNOR FOR A FINAL  
16 DECISION, EXCEPT THAT THE DIRECTOR MAY NOT MAKE ANY RECOMMENDATION OR  
17 DETERMINATION ON THE DIRECTOR'S OWN REQUEST. An agency as defined in section  
18 41-1001, including the office of the governor, shall inform its employees  
19 when the first nondisclosure agreement is signed on a particular  
20 solicitation, and the agency shall notify the state procurement administrator  
21 who shall post information regarding the date of the first nondisclosure  
22 agreement pertaining to a particular procurement activity on the department  
23 of administration's website. THIS SUBSECTION DOES NOT APPLY TO A PROCUREMENT  
24 OFFICER OR AN EMPLOYEE WHO IN GOOD FAITH RELIES ON A DETERMINATION ISSUED BY  
25 THE DIRECTOR PURSUANT TO SECTION 41-2517, SUBSECTION D THAT THE PROCUREMENT  
26 OFFICER OR EMPLOYEE HAS NOT HAD A SIGNIFICANT PROCUREMENT ROLE.

27 E. Any person who knowingly violates subsection A, B, C or D of this  
28 section is guilty of a class 2 misdemeanor.

29 F. An elected or appointed official shall not with corrupt intent use  
30 the official's political influence or position to cause the firing, promotion  
31 or demotion of any public employee or the hiring of or failure to hire any  
32 applicant for public employment.

33 G. An elected or appointed official who knowingly and with corrupt  
34 intent violates subsection F of this section is guilty of a class 2  
35 misdemeanor.

36 H. Any person who is convicted of a class 2 misdemeanor under this  
37 article, for a period of five years, is ineligible for appointment to or  
38 employment in a position in the state personnel system and, if the person is  
39 an employee of this state at the time of conviction, is subject to suspension  
40 for not less than ninety days or dismissal.

41 I. A contact by an elected or appointed official with a public agency  
42 regarding the qualifications of an applicant shall not be construed as  
43 illegally using political influence or position.

44 Sec. 3. Section 41-1231, Arizona Revised Statutes, is amended to read:  
45 41-1231. Definitions

46 In this article, unless the context otherwise requires:

1           1. "Authorized lobbyist" means any person, other than a designated  
2 lobbyist or lobbyist for compensation, who is employed by, retained by or  
3 representing a principal, with or without compensation, for the purpose of  
4 lobbying and who is listed as an authorized lobbyist by the principal in its  
5 registration pursuant to section 41-1232.

6           2. "Authorized public lobbyist" means a person, other than a  
7 designated public lobbyist, who is employed by, retained by or representing a  
8 public body, with or without compensation, for the purpose of lobbying and  
9 who is listed as an authorized public lobbyist by the public body in its  
10 registration pursuant to section 41-1232.01.

11           3. "Designated lobbyist" means the person who is designated by a  
12 principal as the single point of contact for the principal and who is listed  
13 as the designated lobbyist by the principal in its registration pursuant to  
14 section 41-1232.

15           4. "Designated public lobbyist" means the person who is designated by  
16 a public body as the single point of contact for the public body and who is  
17 listed as the designated public lobbyist by the public body in its  
18 registration pursuant to section 41-1232.01.

19           5. "Entertainment" means the amount of any expenditure paid or  
20 incurred for admission to any sporting or cultural event or for participation  
21 in any sporting or cultural activity.

22           6. "Expenditure" means a payment, distribution, loan, advance, deposit  
23 or gift of money or anything of value and includes a contract, promise or  
24 agreement, whether or not legally enforceable, to make an expenditure that  
25 provides a benefit to an individual state officer or state employee and that  
26 is incurred by or on behalf of one or more principals, public bodies,  
27 lobbyists, designated public lobbyists or authorized public lobbyists.

28           7. "Family gift" means a gift to a state officer or employee or a  
29 member of the officer's or employee's household from a principal, lobbyist,  
30 designated public lobbyist or authorized public lobbyist who is a relative of  
31 the state officer or employee or a member of the household of the state  
32 officer or employee if the donor is not acting as the agent or intermediary  
33 for someone other than a person covered by this paragraph.

34           8. "Food or beverage" means the amount of any expenditure paid or  
35 incurred for food or beverages for a state officer or employee provided at a  
36 location at which the principal, public body, lobbyist, designated public  
37 lobbyist or authorized public lobbyist who made the expenditure is present.

38           9. "Gift" means a payment, distribution, expenditure, advance, deposit  
39 or donation of money, any intangible personal property or any kind of  
40 tangible personal or real property. For the purposes of this article, gift  
41 does not include:

42           (a) A gift, devise or inheritance from an individual's spouse, child,  
43 parent, grandparent, grandchild, brother, sister, parent-in-law,  
44 brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or  
45 the spouse of any such individual if the donor is not acting as the agent or  
46 intermediary for someone other than a person covered by this subdivision.

- 1 (b) Expenditures that are either properly reported or exempt from  
2 reporting under this chapter for:
- 3 (i) A speaking engagement.  
4 (ii) Food or beverages.  
5 (iii) Travel and lodging.  
6 (iv) Flowers.
- 7 (c) Salary, compensation or employer-reimbursed expenses lawfully paid  
8 to a public official.
- 9 (d) The value, cost or price of professional or consulting services  
10 that are not rendered to obtain a benefit for any registered principal,  
11 public body, lobbyist, designated public lobbyist or authorized public  
12 lobbyist or the clients of a principal or lobbyist.
- 13 (e) Expenses relating to a special event or function to which all  
14 members of the legislature, either house of the legislature or any committee  
15 of the legislature ~~are~~ IS invited.
- 16 (f) A plaque or other form of recognition similar to a plaque to a  
17 state officer or state employee to signify the honorary recognition of a  
18 service or other notable accomplishment.
- 19 (g) Informational material such as books, reports, pamphlets,  
20 calendars or periodicals.
- 21 (h) An item that is not used and that is returned within fifteen days  
22 of receipt to the donor or that is delivered within fifteen days of receipt  
23 to a charitable organization and that is not claimed as a charitable  
24 contribution for state or federal income tax purposes.
- 25 (i) A campaign contribution that is properly received and reported as  
26 required by law.
- 27 (j) An item that is given to a state officer or employee if the state  
28 officer or employee gives an item of approximately the same value to the  
29 giver of the item at the same time that the item is given or on a similar  
30 occasion as the one that prompted the original item to be given.
- 31 (k) Gifts of a personal nature that were customarily received by an  
32 individual from the donor before the individual became a state officer or  
33 employee.
- 34 (l) An item that is given to the general public at an event.
- 35 10. "Legislation" means bills, resolutions, memorials, amendments,  
36 nominations and other matters that are pending or proposed in either house of  
37 the legislature of this state.
- 38 11. "Lobbying":
- 39 (a) Means attempting to influence the passage or defeat of any  
40 legislation by directly communicating with any legislator or attempting to  
41 influence any formal ~~rule-making~~ RULEMAKING proceeding pursuant to chapter 6  
42 of this title or ~~rule-making~~ RULEMAKING proceedings that are exempt from  
43 chapter 6 of this title by directly communicating with any state officer or  
44 employee.
- 45 (b) Includes, for a person who is otherwise required to be registered  
46 as a lobbyist for compensation pursuant to this article, attempting to

1 influence the procurement of materials, services or construction by an agency  
2 as defined in section 41-1001, including the office of the governor.

3 (c) Does not include:

4 (i) Interagency communications between state agency employees.

5 (ii) Communications between a public official or employee of a public  
6 body, designated public lobbyist or authorized public lobbyist and any state  
7 officer, except for a member of the legislature, or an employee of the  
8 legislature.

9 (iii) Oral questions or comments made by a person to a state officer  
10 or employee regarding a proposed rule and made in public at a meeting or  
11 workshop that is open to the public and that is sponsored by a state agency,  
12 board, commission, council or office.

13 (iv) Communications between a public body and a self-employed person  
14 or person employed by a partnership or company regarding the procurement of  
15 materials, services or construction unless the self-employed person or person  
16 employed by a partnership or company is otherwise required to register  
17 pursuant to this article or is employed by, supervised by at any level or  
18 contracted ~~with~~ BY a person who is otherwise required to register AS A  
19 LOBBYIST FOR COMPENSATION pursuant to this article.

20 12. "Lobbyist" means any person, other than a designated public  
21 lobbyist or authorized public lobbyist, who is employed by, retained by or  
22 representing a person other than himself, with or without compensation, for  
23 the purpose of lobbying and who is listed as a lobbyist by the principal in  
24 its registration pursuant to section 41-1232. Lobbyist includes a lobbyist  
25 for compensation, designated lobbyist and authorized lobbyist.

26 13. "Lobbyist for compensation" means a lobbyist who is compensated for  
27 the primary purpose of lobbying on behalf of a principal and who is listed by  
28 the principal in its registration pursuant to section 41-1232.

29 14. "Person" means an individual, partnership, committee, association  
30 or corporation and any other organization or group of persons, except  
31 legislators and political parties qualified for representation on the ballot  
32 pursuant to section 16-801 or 16-804.

33 15. "Personal hospitality" means hospitality, meals, beverages,  
34 transportation or lodging furnished but not commercially provided by a person  
35 on property or facilities owned or possessed by the person or the person's  
36 family.

37 16. "Principal" means any person, other than a public body, that  
38 employs, retains, engages or uses, with or without compensation, a lobbyist.  
39 Principal includes any subsidiary of a corporation.

40 17. "Procurement" has the same meaning prescribed in section 41-2503.

41 18. "Public body" means the Arizona board of regents, a university  
42 under the jurisdiction of the Arizona board of regents, the judicial  
43 department, any state agency, board, commission or council, any county, any  
44 county elected officer who elects to appoint a designated public lobbyist or  
45 any city, town, district or other political subdivision of this state that  
46 receives and uses tax revenues and that employs, retains, engages or uses,



1 with or without compensation, a designated public lobbyist or authorized  
2 public lobbyist.

3 19. "Public official" means a person who is duly elected, appointed or  
4 retained through election to an elected state, county or local office.

5 20. "Single expenditure" means an expenditure that provides a benefit  
6 of more than twenty dollars to an individual state officer or state employee  
7 and that is incurred by or on behalf of one or more principals, public  
8 bodies, lobbyists, designated public lobbyists or authorized public  
9 lobbyists.

10 21. "Speaking engagement":

11 (a) Means the amount of any expense paid or incurred for entrance  
12 fees, lodging, food and beverage, entertainment, travel and other expenses  
13 for the state officer's or employee's attendance at an event, committee,  
14 meeting, conference or seminar, including meetings of state, regional or  
15 national organizations or their committees concerned with legislative or  
16 governmental activities if the state officer or employee participates in the  
17 event as a speaker or panel participant by presenting information relating to  
18 the state officer's or employee's legislative or official duties or by  
19 performing a ceremonial function appropriate to the state officer's or  
20 employee's position.

21 (b) Does not include expenditures for an honorarium or any other  
22 similar fee paid to a speaker.

23 22. "State employee" means an employee of the legislature, a university  
24 under the jurisdiction of the Arizona board of regents, the judicial  
25 department or a state office, agency, board, commission or council.

26 23. "State officer" means a person who is duly elected, appointed or  
27 retained through election to any state office, or a member of any state  
28 board, commission or council, and includes a member of the legislature.

29 Sec. 4. Section 41-1233.01, Arizona Revised Statutes, is amended to  
30 read:

31 41-1233.01. Disclosure

32 A person who is registered pursuant to this article or who is a  
33 designated lobbyist, lobbyist for compensation, authorized lobbyist,  
34 designated public lobbyist or authorized public lobbyist shall disclose that  
35 fact to:

36 1. Any legislator the person is lobbying for the first time or on any  
37 subsequent request of a legislator.

38 2. Any public official or employee of a public body EACH TIME that the  
39 person is lobbying for the procurement of materials, services or  
40 construction. THE PERSON ALSO SHALL DISCLOSE THE NAME OF THAT PERSON'S  
41 CLIENT.

42 Sec. 5. Section 41-2501, Arizona Revised Statutes, is amended to read:

43 41-2501. Applicability

44 A. This chapter applies only to procurements initiated after  
45 January 1, 1985 unless the parties agree to its application to procurements  
46 initiated before that date.

1           B. This chapter applies to every expenditure of public monies,  
2 including federal assistance monies except as otherwise specified in section  
3 41-2637, by this state, acting through a state governmental unit as defined  
4 in this chapter, under any contract, except that this chapter does not apply  
5 to either grants as defined in this chapter, or contracts between this state  
6 and its political subdivisions or other governments, except as provided in  
7 chapter 24 of this title and in article 10 of this chapter. This chapter  
8 also applies to the disposal of state materials. This chapter and rules  
9 adopted under this chapter do not prevent any state governmental unit or  
10 political subdivision from complying with the terms of any grant, gift,  
11 bequest or cooperative agreement.

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

15           D. Notwithstanding any other law, ~~section~~ SECTIONS 41-2517 ~~applies~~ AND  
16 41-2546 APPLY to any agency as defined in section 41-1001, including the  
17 office of the governor.

18           E. The Arizona board of regents and the legislative and judicial  
19 branches of state government are not subject to this chapter except as  
20 prescribed in subsection F of this section.

21           F. The Arizona board of regents and the judicial branch shall adopt  
22 rules prescribing procurement policies and procedures for themselves and  
23 institutions under their jurisdiction. The rules must be substantially  
24 equivalent to the policies and procedures prescribed in this chapter.

25           G. The Arizona state lottery commission is exempt from this chapter  
26 for procurement relating to the design and operation of the lottery or  
27 purchase of lottery equipment, tickets and related materials. The executive  
28 director of the Arizona state lottery commission shall adopt rules  
29 substantially equivalent to the policies and procedures in this chapter for  
30 procurement relating to the design and operation of the lottery or purchase  
31 of lottery equipment, tickets or related materials. All other procurement  
32 shall be as prescribed by this chapter.

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

40           I. Arizona industries for the blind is exempt from this chapter for  
41 purchases of finished goods from members of national industries for the blind  
42 and for purchases of raw materials for use in the manufacture of products for  
43 sale pursuant to section 41-1972. All other procurement shall be as  
44 prescribed by this chapter.

45           J. Arizona correctional industries is exempt from this chapter for  
46 purchases of raw materials, components and supplies that are used in the

1 manufacture or production of goods or services for sale entered into pursuant  
2 to section 41-1622. All other procurement shall be as prescribed by this  
3 chapter.

4 K. The state transportation board and the director of the department  
5 of transportation are exempt from this chapter other than section 41-2586 for  
6 the procurement of construction or reconstruction, including engineering  
7 services, of transportation facilities or highway facilities and any other  
8 services that are directly related to land titles, appraisals, real property  
9 acquisition, relocation, property management or building facility design and  
10 construction for highway development and that are required pursuant to title  
11 28, chapter 20.

12 L. The Arizona highways magazine is exempt from this chapter for  
13 contracts for the production, promotion, distribution and sale of the  
14 magazine and related products and for contracts for sole source creative  
15 works entered into pursuant to section 28-7314, subsection A, paragraph 5.  
16 All other procurement shall be as prescribed by this chapter.

17 M. The secretary of state is exempt from this chapter for contracts  
18 entered into pursuant to section 41-1012 to publish and sell the  
19 administrative code. All other procurement shall be as prescribed by this  
20 chapter.

21 N. This chapter is not applicable to contracts for professional  
22 witnesses if the purpose of such contracts is to provide for professional  
23 services or testimony relating to an existing or probable judicial proceeding  
24 in which this state is or may become a party or to contract for special  
25 investigative services for law enforcement purposes.

26 O. The head of any state governmental unit, in relation to any  
27 contract exempted by this section from this chapter, has the same authority  
28 to adopt rules, procedures or policies as is delegated to the director  
29 pursuant to this chapter.

30 P. Agreements negotiated by legal counsel representing this state in  
31 settlement of litigation or threatened litigation are exempt from this  
32 chapter.

33 Q. This chapter is not applicable to contracts entered into by the  
34 department of economic security:

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

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

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

42 4. With an eligible entity as defined by Public Law 105-285, section  
43 673(1)(a)(i), as amended, for designated community services block grant  
44 program monies and any other monies given to the eligible entity that  
45 accomplishes the purpose of Public Law 105-285, section 672.

1 R. The department of health services may not require that persons with  
2 whom it contracts follow this chapter for the purposes of subcontracts  
3 entered into for the provision of the following:

- 4 1. Mental health services pursuant to section 36-189, subsection B.
- 5 2. Services for the seriously mentally ill pursuant to title 36,  
6 chapter 5, article 10.
- 7 3. Drug and alcohol services pursuant to section 36-141.
- 8 4. Domestic violence services pursuant to title 36, chapter 30,  
9 article 1.

10 S. The department of health services is exempt from this chapter for  
11 contracts for services of physicians at the Arizona state hospital.

12 T. Contracts for goods and services approved by the board of trustees  
13 of the public safety personnel retirement system are exempt from this  
14 chapter.

15 U. The Arizona department of agriculture is exempt from this chapter  
16 with respect to contracts for private labor and equipment to effect cotton or  
17 cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,  
18 article 1.

19 V. The Arizona state parks board is exempt from this chapter for  
20 purchases of guest supplies and items for resale such as food, linens, gift  
21 items, sundries, furniture, china, glassware and utensils for the facilities  
22 located in the Tonto natural bridge state park.

23 W. The Arizona state parks board is exempt from this chapter for the  
24 purchase, production, promotion, distribution and sale of publications,  
25 souvenirs and sundry items obtained and produced for resale.

26 X. The Arizona state schools for the deaf and the blind are exempt  
27 from this chapter for the purchase of textbooks and when purchasing products  
28 through a cooperative that is organized and operates in accordance with state  
29 law if such products are not available on a statewide contract and are  
30 related to the operation of the schools or are products for which special  
31 discounts are offered for educational institutions.

32 Y. Expenditures of monies in the morale, welfare and recreational fund  
33 established by section 26-153 are exempt from this chapter.

34 Z. Notwithstanding section 41-2534, the director of the state  
35 department of corrections may contract with local medical providers in  
36 counties with a population of less than four hundred thousand persons  
37 ~~according to the most recent United States decennial census~~ for the following  
38 purposes:

- 39 1. To acquire hospital and professional medical services for inmates  
40 who are incarcerated in state department of corrections facilities that are  
41 located in those counties.
- 42 2. To ensure the availability of emergency medical services to inmates  
43 in all counties by contracting with the closest medical facility that offers  
44 emergency treatment and stabilization.

45 AA. The department of environmental quality is exempt from this  
46 chapter for contracting for procurements relating to the water quality

1 assurance revolving fund program established pursuant to title 49, chapter 2,  
2 article 5. The department shall engage in a source selection process that is  
3 similar to the procedures prescribed by this chapter. The department may  
4 contract for remedial actions with a single selection process. The exclusive  
5 remedy for disputes or claims relating to contracting pursuant to this  
6 subsection is as prescribed by article 9 of this chapter and the rules  
7 adopted pursuant to that article. All other procurement by the department  
8 shall be as prescribed by this chapter.

9 BB. The motor vehicle division of the department of transportation is  
10 exempt from this chapter for third-party authorizations pursuant to title 28,  
11 chapter 13, only if all of the following conditions exist:

12 1. The division does not pay any public monies to an authorized third  
13 party.

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

15 3. The director has complied with the requirements prescribed in title  
16 28, chapter 13 in selecting an authorized third party.

17 CC. This section does not exempt third-party authorizations pursuant  
18 to title 28, chapter 13 from any other applicable law.

19 DD. The state forester is exempt from this chapter for purchases and  
20 contracts relating to wildland fire suppression and pre-positioning equipment  
21 resources and for other activities related to combating wildland fires and  
22 other unplanned risk activities, including fire, flood, earthquake, wind and  
23 hazardous material responses. All other procurement by the state forester  
24 shall be as prescribed by this chapter.

25 EE. The cotton research and protection council is exempt from this  
26 chapter for procurements.

27 FF. Expenditures of monies in the Arizona agricultural protection fund  
28 established by section 3-3304 are exempt from this chapter.

29 GG. The Arizona commerce authority is exempt from this chapter, except  
30 article 10 for the purpose of cooperative purchases. The authority shall  
31 adopt policies, procedures and practices, in consultation with the department  
32 of administration, that are similar to and based on the policies and  
33 procedures prescribed by this chapter for the purpose of increased public  
34 confidence, fair and equitable treatment of all persons engaged in the  
35 process and fostering broad competition while accomplishing flexibility to  
36 achieve the authority's statutory requirements. The authority shall make its  
37 policies, procedures and practices available to the public. The authority  
38 may exempt specific expenditures from the policies, procedures and practices.

39 HH. The Arizona exposition and state fair board is exempt from this  
40 chapter for contracts for professional entertainment.

41 II. This chapter does not apply to the purchase of water, gas or  
42 electric utilities.

43 JJ. This chapter does not apply to professional certifications,  
44 professional memberships and conference registrations.

1           KK. THE DEPARTMENT OF GAMING IS EXEMPT FROM THIS CHAPTER FOR PROBLEM  
2 GAMBLING TREATMENT SERVICES CONTRACTS WITH LICENSED BEHAVIORAL HEALTH  
3 PROFESSIONALS.

4           LL. THIS CHAPTER DOES NOT APPLY TO CONTRACTS FOR CREDIT REPORTING  
5 SERVICES.

6           Sec. 6. Section 41-2503, Arizona Revised Statutes, is amended to read:  
7 41-2503. Definitions

8           In this chapter, unless the context otherwise requires:

9           1. "Architect services" means those professional architect services  
10 that are within the scope of architectural practice as provided in title 32,  
11 chapter 1.

12           2. "Business" means any corporation, partnership, individual, sole  
13 proprietorship, joint stock company, joint venture or other private legal  
14 entity.

15           3. "Change order" means a written order that is signed by a  
16 procurement officer and that directs the contractor to make changes that the  
17 changes clause of the contract authorizes the procurement officer to order.

18           4. "Construction":

19           (a) Means the process of building, altering, repairing, improving or  
20 demolishing any public structure or building or other public improvements of  
21 any kind to any public real property.

22           (b) Does not include:

23           (i) The routine operation, routine repair or routine maintenance of  
24 existing facilities, structures, buildings or real property.

25           (ii) The investigation, characterization, restoration or remediation  
26 due to an environmental issue of existing facilities, structures, buildings  
27 or real property.

28           5. "Construction-manager-at-risk" means a project delivery method in  
29 which:

30           (a) There is a separate contract for design services and a separate  
31 contract for construction services, except that instead of a single contract  
32 for construction services, the purchasing agency may elect separate contracts  
33 for preconstruction services during the design phase, for construction during  
34 the construction phase and for any other construction services.

35           (b) The contract for construction services may be entered into at the  
36 same time as the contract for design services or at a later time.

37           (c) Design and construction of the project may be either:

38           (i) Sequential with the entire design complete before construction  
39 commences.

40           (ii) Concurrent with the design produced in two or more phases and  
41 construction of some phases commencing before the entire design is complete.

42           (d) Finance services, maintenance services, operations services,  
43 preconstruction services and other related services may be included.

44           6. "Construction services" means either of the following for  
45 construction-manager-at-risk, design-build and job-order-contracting project  
46 delivery methods:

1 (a) Construction, excluding services, through the  
2 construction-manager-at-risk or job-order-contracting project delivery  
3 methods.

4 (b) A combination of construction and, as elected by the purchasing  
5 agency, one or more related services, such as finance services, maintenance  
6 services, operations services, design services and preconstruction services,  
7 as those services are authorized in the definitions of  
8 construction-manager-at-risk, design-build or job-order-contracting in this  
9 section.

10 7. "Contract" means all types of state agreements, regardless of what  
11 they may be called, for the procurement of materials, services, construction,  
12 construction services or the disposal of materials.

13 8. "Contract modification" means any written alteration in the terms  
14 and conditions of any contract accomplished by mutual action of the parties  
15 to the contract.

16 9. "Contractor" means any person who has a contract with a state  
17 governmental unit.

18 10. "Data" means documented information, regardless of form or  
19 characteristic.

20 11. "Department" means the department of administration.

21 12. "Design-bid-build" means a project delivery method in which:

22 (a) There is a sequential award of two separate contracts.

23 (b) The first contract is for design services.

24 (c) The second contract is for construction.

25 (d) Design and construction of the project are in sequential phases.

26 (e) Finance services, maintenance services and operations services are  
27 not included.

28 13. "Design-build" means a project delivery method in which:

29 (a) There is a single contract for design services and construction  
30 services, except that instead of a single contract for design services and  
31 construction services, the purchasing agency may elect separate contracts for  
32 preconstruction services and design services during the design phase, for  
33 construction and design services during the construction phase and for any  
34 other construction services.

35 (b) Design and construction of the project may be either:

36 (i) Sequential with the entire design complete before construction  
37 commences.

38 (ii) Concurrent with the design produced in two or more phases and  
39 construction of some phases commencing before the entire design is complete.

40 (c) Finance services, maintenance services, operations services,  
41 preconstruction services and other related services may be included.

42 14. "Design professional" means an individual or firm that is  
43 registered by the state board of technical registration pursuant to title 32,  
44 chapter 1 to practice architecture, engineering, geology, landscape  
45 architecture or land surveying or any combination of those professions and  
46 any person employed by the registered individual or firm.

- 1           15. "Design requirements":  
2           (a) Means at a minimum the purchasing agency's written description of  
3 the project or service to be procured, including:  
4           (i) The required features, functions, characteristics, qualities and  
5 properties.  
6           (ii) The anticipated schedule, including start, duration and  
7 completion.  
8           (iii) The estimated budgets applicable to the specific procurement for  
9 design and construction and, if applicable, for operation and maintenance.  
10          (b) May include:  
11          (i) Drawings and other documents illustrating the scale and  
12 relationship of the features, functions and characteristics of the project,  
13 which shall all be prepared by a design professional who is registered  
14 pursuant to section 32-121.  
15          (ii) Additional design information or documents that the purchasing  
16 agency elects to include.  
17          16. "Design services" means architect services, engineer services or  
18 landscape architect services.  
19          17. "Designee" means a duly authorized representative of the director.  
20          18. "Director" means the director of the department of administration.  
21          19. "Employee" means an individual drawing a salary from a state  
22 governmental unit, whether elected or not, and any noncompensated individual  
23 performing personal services for any state governmental unit.  
24          20. "Engineer services" means those professional engineer services that  
25 are within the scope of engineering practice as provided in title 32,  
26 chapter 1.  
27          21. "Finance services" means financing for a construction services  
28 project.  
29          22. "General services administration contract" means contracts awarded  
30 by the United States government general services administration.  
31          23. "Grant" means the furnishing of financial or other assistance,  
32 including state funds or federal grant funds, by any state governmental unit  
33 to any person for the purpose of supporting or stimulating educational,  
34 cultural, social or economic quality of life.  
35          24. "Job-order-contracting" means a project delivery method in which:  
36          (a) The contract is a requirements contract for indefinite quantities  
37 of construction.  
38          (b) The construction to be performed is specified in job orders issued  
39 during the contract.  
40          (c) Finance services, maintenance services, operations services,  
41 preconstruction services, design services and other related services may be  
42 included.  
43          25. "Landscape architect services" means those professional landscape  
44 architect services that are within the scope of landscape architectural  
45 practice as provided in title 32, chapter 1.



- 1           26. "Maintenance services" means routine maintenance, repair and  
2 replacement of existing facilities, structures, buildings or real property.  
3           27. "Materials":  
4           (a) Means all property, including equipment, supplies, printing,  
5 insurance and leases of property.  
6           (b) Does not include land, a permanent interest in land or real  
7 property or leasing space.  
8           28. "Operations services" means routine operation of existing  
9 facilities, structures, buildings or real property.  
10           29. "Owner" means a state purchasing agency or state governmental unit.  
11           30. "Person" means any corporation, business, individual, union,  
12 committee, club, other organization or group of individuals.  
13           31. "Preconstruction services" means services and other activities  
14 during the design phase.  
15           32. "Procurement":  
16           (a) Means buying, purchasing, renting, leasing or otherwise acquiring  
17 any materials, services, construction or construction services.  
18           (b) Includes all functions that pertain to obtaining any materials,  
19 services, construction or construction services, including description of  
20 requirements, selection and solicitation of sources, preparation and award of  
21 contract, and all phases of contract administration.  
22           33. "Procurement officer":  
23           (a) Means any person duly authorized to enter into and administer  
24 contracts and make written determinations with respect to the contracts.  
25           (b) Includes an authorized representative acting within the limits of  
26 the authorized representative's authority.  
27           34. "Purchasing agency" means any state governmental unit that is  
28 authorized by this chapter or rules adopted pursuant to this chapter, or by  
29 way of delegation from the director, to enter into contracts.  
30           35. "Services":  
31           (a) Means the furnishing of labor, time or effort by a contractor or  
32 subcontractor that does not involve the delivery of a specific end product  
33 other than required reports and performance.  
34           (b) Does not include employment agreements or collective bargaining  
35 agreements.  
36           36. "Significant procurement role":  
37           (a) Means any role that includes any of the following duties:  
38           ~~(a)~~ (i) Participating in the development of a procurement.  
39           ~~(b)~~ (ii) Participating in the development of an evaluation tool.  
40           ~~(c)~~ (iii) Approving a procurement or an evaluation tool.  
41           ~~(d)~~ (iv) Soliciting quotes greater than ten thousand dollars for the  
42 provision of materials, services or construction.  
43           ~~(e)~~ (v) Serving as a technical advisor or an evaluator who evaluates  
44 a procurement.  
45           ~~(f)~~ (vi) Recommending or selecting a vendor that will provide  
46 materials, services or construction to this state.

1           ~~(g)~~ (vii) Serving as a decision maker or designee on a protest or an  
2 appeal by a party regarding an agency procurement selection or decision.

3           (b) DOES NOT INCLUDE MAKING DECISIONS ON DEVELOPING SPECIFICATIONS AND  
4 THE SCOPE OF WORK FOR A PROCUREMENT IF THE DECISION IS BASED ON THE  
5 APPLICATION OF COMMONLY ACCEPTED INDUSTRY STANDARDS OR KNOWN PUBLISHED  
6 STANDARDS OF THE AGENCY AS APPLIED TO THE PROJECT, SERVICES, GOODS OR  
7 MATERIALS.

8           37. "State governmental unit" means any department, commission,  
9 council, board, bureau, committee, institution, agency, government  
10 corporation or other establishment or official of the executive branch or  
11 corporation commission of this state.

12           38. "Subcontractor" means a person who contracts to perform work or  
13 render service to a contractor or to another subcontractor as a part of a  
14 contract with a state governmental unit.

15           39. "Using agency" means any state governmental unit that uses any  
16 materials, services or construction procured under this chapter.

17           Sec. 7. Section 41-2517, Arizona Revised Statutes, is amended to read:  
18 41-2517. Procurement officers and procurement employees;  
19 violation; classification; exception

20           A. It is unlawful for a procurement officer or an employee having a  
21 significant procurement role to accept any position or have employment  
22 discussions with a person or firm lobbying or potentially responding to the  
23 solicitation beginning on signature of the first nondisclosure agreement  
24 pertaining to a particular solicitation or at the time of request for a sole  
25 source procurement or competition impracticable procurement AND ENDING AT THE  
26 TIME OF CONTRACT AWARD. IT IS UNLAWFUL FOR A PROCUREMENT OFFICER OR AN  
27 EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO ACCEPT ANY POSITION OR HAVE  
28 EMPLOYMENT DISCUSSIONS WITH THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR  
29 LOBBYISTS BEGINNING ON SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT  
30 PERTAINING TO A PARTICULAR SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE  
31 SOURCE PROCUREMENT OR COMPETITION IMPRACTICABLE PROCUREMENT and ending one  
32 year after the purchased materials are delivered or the purchase of services  
33 or construction begins, if the procurement officer or employee had a  
34 significant procurement role in the particular procurement.

35           B. It is unlawful for a procurement officer or an employee having a  
36 significant procurement role to solicit an employment opportunity, regardless  
37 of who would receive such an opportunity, from any person or firm lobbying or  
38 potentially responding to a solicitation for the procurement of materials,  
39 services or construction beginning on signature of the first nondisclosure  
40 agreement pertaining to a particular solicitation or at the time of request  
41 for a sole source procurement or competition impracticable procurement AND  
42 ENDING AT THE TIME OF CONTRACT AWARD. IT IS UNLAWFUL FOR A PROCUREMENT  
43 OFFICER OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE TO SOLICIT AN  
44 EMPLOYMENT OPPORTUNITY, REGARDLESS OF WHO WOULD RECEIVE SUCH AN OPPORTUNITY,  
45 FROM THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR LOBBYISTS BEGINNING ON  
46 SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR

1 SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR  
2 COMPETITION IMPRACTICABLE PROCUREMENT and ending one year after the purchased  
3 materials are delivered or the purchase of services or construction begins,  
4 if the procurement officer or employee had a significant role in the  
5 particular procurement.

6 C. It is unlawful for a person or firm lobbying or potentially  
7 responding to a solicitation for the procurement of materials, services or  
8 construction to offer employment to a procurement officer, a procurement  
9 employee or an employee having a significant procurement role beginning on  
10 signature of the first nondisclosure agreement pertaining to a particular  
11 solicitation or at the time of request for a sole source procurement or  
12 competition impracticable procurement AND ENDING AT THE TIME OF CONTRACT  
13 AWARD. IT IS UNLAWFUL FOR THE SUCCESSFUL OFFEROR OR OFFERORS AND THEIR  
14 LOBBYISTS TO OFFER EMPLOYMENT TO A PROCUREMENT OFFICER, A PROCUREMENT  
15 EMPLOYEE OR AN EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE BEGINNING ON  
16 SIGNATURE OF THE FIRST NONDISCLOSURE AGREEMENT PERTAINING TO A PARTICULAR  
17 SOLICITATION OR AT THE TIME OF REQUEST FOR A SOLE SOURCE PROCUREMENT OR  
18 COMPETITION IMPRACTICABLE PROCUREMENT and ending one year after the purchased  
19 materials are delivered or the purchase of services or construction begins,  
20 if the procurement officer or employee had a significant role in the  
21 particular procurement.

22 D. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY WAIVE ANY OR  
23 ALL OF THE WAITING PERIOD REQUIRED PURSUANT TO SUBSECTIONS A, B AND C OF THIS  
24 SECTION IN EXCESS OF TWENTY-FOUR MONTHS FOR A PROCUREMENT OFFICER OR AN  
25 EMPLOYEE WITH A SIGNIFICANT PROCUREMENT ROLE IF THE PERIOD OF TIME THAT  
26 FOLLOWS THE SIGNATURE OF THE NONDISCLOSURE AGREEMENT EXCEEDS TWENTY-FOUR  
27 MONTHS. A PROCUREMENT OFFICER OR AN EMPLOYEE SEEKING A WAIVER SHALL MAKE A  
28 WRITTEN REQUEST TO THE OFFICER'S OR EMPLOYEE'S STATE GOVERNMENTAL UNIT  
29 DIRECTOR, AND THE DIRECTOR OF THE STATE GOVERNMENTAL UNIT SHALL FORWARD THE  
30 REQUEST WITH A WRITTEN RECOMMENDATION TO THE DIRECTOR OF THE DEPARTMENT OF  
31 ADMINISTRATION. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL  
32 PROVIDE A WRITTEN DECISION AND JUSTIFICATION WITHIN FIFTEEN BUSINESS DAYS  
33 AFTER THE RECEIPT OF THE COMPLETE REQUEST. THE DIRECTOR OF THE DEPARTMENT OF  
34 ADMINISTRATION MAY NOT APPROVE WAIVER REQUESTS FOR MATTERS STILL IN  
35 EVALUATION OR WITHIN SIX MONTHS FOLLOWING THE CONTRACT AWARD. IF THE  
36 REQUESTING PARTY IS THE DIRECTOR OR A DEPUTY DIRECTOR OF A STATE GOVERNMENTAL  
37 UNIT, THE REQUEST FOR A WAIVER AND ALL WRITTEN MATERIALS, INCLUDING A  
38 DIRECTOR RECOMMENDATION, MUST BE FORWARDED TO THE GOVERNOR FOR A FINAL  
39 DECISION, EXCEPT THAT THE DIRECTOR MAY NOT MAKE ANY RECOMMENDATION OR  
40 DETERMINATION ON THE DIRECTOR'S OWN REQUEST.

41 ~~D.~~ E. In response to a written request from an employee seeking  
42 clarification on whether the employee has played a significant role in a  
43 procurement, the director shall issue a determination in writing within  
44 fifteen days after receiving the request. The director may make a  
45 determination in writing that this section and section 41-753, subsection D  
46 do not apply if a particular solicitation, sole source procurement or

1 competition impracticable procurement has been canceled or is associated with  
2 the privatization of existing state services that would result in the  
3 elimination of the position in state service of an employee with a  
4 significant procurement role. The director may delegate the authority to  
5 make determinations pursuant to this subsection to a director of a state  
6 agency. An agency director or agency deputy director may request a  
7 determination from the office of the governor regarding whether the agency  
8 director or agency deputy director played a significant role in a particular  
9 procurement for the purposes of the one-year employment restriction, and the  
10 office of the governor shall make a determination within thirty days after  
11 the receipt of the written request.

12 ~~E.~~ F. It is unlawful for a procurement officer or an employee who was  
13 previously employed by a person or firm responding to a solicitation to serve  
14 in a significant procurement role for a period of one year following the  
15 person's previous employment.

16 G. BEGINNING OCTOBER 1, 2014, IF AN AGENCY USES A QUALIFIED VENDOR  
17 LIST OF PERSONS OR ENTITIES THAT ARE ELIGIBLE TO BE SELECTED TO DESIGN,  
18 DEVELOP, IMPLEMENT OR CONSTRUCT ANY FORM OF PROJECT ASSOCIATED WITH THE LIST,  
19 ANY PROCUREMENT OFFICER WHO WAS ASSIGNED TO WORK EVALUATING OR APPROVING THE  
20 VENDOR LIST OR ANY EMPLOYEE HAVING A SIGNIFICANT PROCUREMENT ROLE IN  
21 DEVELOPING THE VENDOR LIST SHALL NOT ACCEPT AN OFFER OF EMPLOYMENT FROM OR  
22 HAVE EMPLOYMENT DISCUSSIONS WITH A VENDOR ON THE LIST WITHIN ONE YEAR AFTER  
23 THE INITIAL PUBLICATION OF THE LIST OR ACCEPT AN OFFER OF EMPLOYMENT FROM OR  
24 HAVE EMPLOYMENT DISCUSSIONS WITH A NEWLY ADDED VENDOR WITHIN ONE YEAR AFTER  
25 THE VENDOR IS ADDED TO THE ORIGINAL LIST. IF A VENDOR FROM AN APPROVED LIST  
26 OF QUALIFIED VENDORS IS AWARDED A CONTRACT THAT IS ASSOCIATED WITH THE LIST,  
27 A PROCUREMENT OFFICER INVOLVED IN SELECTING THE VENDOR OR AN EMPLOYEE HAVING  
28 A SIGNIFICANT PROCUREMENT ROLE IN SELECTING THE VENDOR SHALL NOT ACCEPT AN  
29 OFFER OF EMPLOYMENT FROM OR HAVE EMPLOYMENT DISCUSSIONS WITH THAT VENDOR  
30 WITHIN ONE YEAR AFTER THAT VENDOR IS AWARDED THE CONTRACT.

31 ~~F.~~ H. On signature of a nondisclosure agreement pertaining to a  
32 particular solicitation, or at the time of a request for a sole source or  
33 competition impracticable procurement, a procurement officer or an employee  
34 having a significant role in the procurement shall provide written disclosure  
35 of any financial interest the officer or employee, or the spouse of the  
36 officer or employee, may hold.

37 ~~G.~~ I. A person who knowingly violates this section is guilty of a  
38 class 2 misdemeanor. On conviction the person is ineligible for appointment  
39 to or employment in a position in the state personnel system for a period of  
40 five years and, if the person is an employee of this state at the time of  
41 conviction, is subject to suspension for not less than ninety days or  
42 dismissal.

43 J. THIS SECTION DOES NOT APPLY TO A PROCUREMENT OFFICER OR EMPLOYEE  
44 WHO IN GOOD FAITH RELIES ON A DETERMINATION ISSUED BY THE DIRECTOR PURSUANT  
45 TO SUBSECTION D OF THIS SECTION THAT THE PROCUREMENT OFFICER OR EMPLOYEE HAS  
46 NOT HAD A SIGNIFICANT PROCUREMENT ROLE.

1           Sec. 8. Section 41-2546, Arizona Revised Statutes, is amended to read:  
2           41-2546. Multiterm contracts

3           A. Unless otherwise provided by law, a contract for materials or  
4 services may be entered into for a period of time up to five years and a  
5 contract for job-order-contracting construction services may also be entered  
6 into for a period of time up to five years, as deemed to be in the best  
7 interest of this state, if the term of the contract and conditions of renewal  
8 or extension, if any, are included in the solicitation and monies are  
9 available for the first fiscal period at the time of contracting.  
10 **NOTWITHSTANDING ANY OTHER LAW, a contract, INCLUDING CONTRACTS NOT OTHERWISE**  
11 **SUBJECT TO THIS CHAPTER,** may be entered into for materials or services for a  
12 period of time exceeding five years if, under rules adopted pursuant to this  
13 chapter, the director determines in writing that such a contract would be  
14 advantageous to this state. Payment and performance obligations for  
15 succeeding fiscal periods are subject to the availability and appropriation  
16 of monies.

17           B. Before the use of a multiterm contract, it shall be determined in  
18 writing that:

19           1. Estimated requirements cover the period of the contract and are  
20 reasonable and continuing.

21           2. Such a contract will serve the best interests of this state by  
22 encouraging effective competition or otherwise promoting economies in state  
23 procurement.

24           C. If monies are not appropriated or otherwise made available to  
25 support continuation of performance in a subsequent fiscal period, the  
26 contract shall be cancelled and the contractor may only be reimbursed for the  
27 reasonable value of any nonrecurring costs incurred but not amortized in the  
28 price of the materials or services delivered under the contract or which are  
29 otherwise not recoverable. The cost of cancellation may be paid from any  
30 appropriations available for such purposes.

APPROVED BY THE GOVERNOR APRIL 22, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2014.