

CHAPTER 4

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CHAPTER 4 ADMINISTRATION

ARTICLE 4-1 OFFICERS IN GENERAL

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Section 4-1-1 Officers

A. There are hereby created the offices of town manager, town clerk, police marshal, town attorney and town magistrate who shall be appointed by the council and who shall serve at the pleasure of the council, with the exceptions provided in Section 4-2-6 and 4-2-5.

B. The town manager is authorized to act as the town clerk and treasurer.

Section 4-1-2 Additional Officers

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or state statute.

Section 4-1-3 Bond

The council may require each officer of the town to give bond for the due discharge of his or her duties in such sums and with such security as it may direct and approve as determined by resolution. The town shall pay the costs of such bond.

Section 4-1-4 Vacancies; Holding More Than One Office

Any vacancy that shall occur in any town office shall be filled by appointment by council, provided that one person may hold more than one office and that at the discretion by a deputy or another town official, or an otherwise qualified individual not holding office but employed at the pleasure of the council.

Section 4-1-5 Additional Powers and Duties

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the council through ordinance, resolution or order.

ARTICLE 4-2 OFFICERS

- 4-2-1 Town Manager
- 4-2-2 Town Clerk
- 4-2-3 Town Marshall
- 4-2-4 Town Attorney
- 4-2-5 Town Magistrate
- 4-2-6 Removal of Officers

Section 4-2-1 Town Manager

4-2-1.1 Appointment: The office of the town manager is hereby created and established. The town manager shall be appointed by the council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and at the pleasure of the council. The town manager may hold more than one town position simultaneously as directed by the council.

4-2-1.2 Bond: The town manager shall furnish a corporate surety bond to be approved by the council, and shall be conditioned upon the faithful performance of the duties imposed upon the manager as herein prescribed. Any premium for such bond be a proper charge against the town.

4-2-1.3 Compensation: The town manager shall receive such compensation as the council shall fix from time to time and shall accrue a vacation privilege as provided in the Personnel Policy Manual.

4-2-1.4 Removal Procedure: The town manager may be removed by a majority vote of the council, with or without cause. If the removal is for cause and if requested, the council shall grant the individual a public hearing within thirty days following notice of removal. If the removal is without cause, it shall become operative thirty days from the date of the notice of removal. During the interim the council may suspend the manager from duty, but shall continue his or her salary for three months following the removal date, provided however that the manager shall have been in the service of the town for at least one calendar year.

4-2-1.5 Powers and Duties: The town manager shall be the administrative head of the government of the town under the direction and control of the council except as otherwise provided in this chapter. He or she shall be responsible to the council for the proper administration of all affairs of the town. In addition to his or her general powers as administrative head and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following subsections.

Prepare the budget annually and submit it to the council together with a message describing the important features and be responsible for its administration after adoption.

Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the town of the preceding year.

Keep the council advised of the financial condition and future needs of the town and make such recommendations as he or she may deem desirable.

Recommend to the governing body a standard schedule of pay for each position in the town service, including minimum, intermediate and maximum rates. Authorize the payment of overtime pay for such employees as may work in excess of a normal work period. Such rates of pay and period of work shall be in conformity with wages and salaries enacted by the town council.

Recommend to the governing body from time to time adoption of such measure as he or she may deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.

The town manager shall have the supervisory authority over all departments and shall therefore have authority to direct the activities of and to hire and terminate all employees including department heads, with cause, after consultation with his immediate supervisor.

Attend all meetings of the council unless excused therefrom, and take a part in the discussion of all matters coming before the council. He or she shall be entitled to notice of all regular and special meetings of the council. In the event that the manager will not be able to attend a council meeting, he or she will give the mayor 24 hours notice and state the reason therefore.

Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of the town services for amounts up to and including two thousand dollars, receive sealed bids for purchases or contracts in excess of two thousand dollars and present them to the council for approval, and advise the council on the advantages or disadvantages of contract and bid proposals. No contract in excess of two thousand dollars and no contract for new construction shall be let except by the council. The manager may issue such rules governing purchasing procedures within the administrative organization as the council shall approve.

In case of accident, disaster or other circumstances creating a public emergency, the manager may award contracts and make purchases for the purpose of meeting said emergency; but he or she shall file promptly with the council certificate showing

such emergency and the necessity for such action, together with an itemized account of all expenditures.

Investigate the affairs of the town or any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the government by the town and in regard to service maintained by the public utilities in the town, and see that all franchises, permits and privileges granted by the town are faithfully observed.

Perform such other duties as may be required by the council, not inconsistent with state law or town ordinances.

See that all laws and ordinances are duly enforced.

Section 4-2-2 Town Clerk

A. Records: The clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the town or that the council directs. The clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, ordinances, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.

B. Public Inspection of Records: The clerk shall keep convenient for public inspection all public records and public documents under his or her control, as provided by the state statute.

C. Monthly Reports: The clerk shall prepare and collect from town officers and employees such monthly reports prepared in such manner and to include such information as may be directed by the council.

D. Minutes: The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy.

E. Ordinances, Resolutions, Budgets and Notices: The clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.

F. Duties As Treasurer: The clerk shall hold the office of town treasurer and receive and safely keep all moneys that shall come to the town and pay out the same when authorized by council and/or town manager. The town clerk shall be the primary signatory for all town accounts. The town manager and assistant town clerk (in that order) shall function as secondary signatories in his or her absence. He or she shall keep separate records and accounts of each different fund provided by the

council, apportion the moneys received among the different funds as prescribed by the council and keep a complete set of books showing: every money transaction of the town, the state of each fund, from what source the money in each fund was derived and for what purpose expended, and he or she shall make monthly reports to the council of all receipts and disbursements and the balance in each fund.

At the end of the fiscal year, he or she shall make a full and detailed statement of the receipts and expenditures of the town during the year, specifying the different sources of revenue and the amount received from each, all appropriations made by the mayor and council, and the object for which they were made, indebtedness issued, and what portion remains thereof outstanding, with the rate and amount of interest due thereon, and the amount of cash on hand.

G. Election Official: The clerk shall be the town election official and perform those duties required by state statute.

H. Licenses: The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.

I. Administrative Duties: The clerk shall perform those administrative responsibilities and duties that are conferred upon him or her by the council in addition to those specified in this code.

Section 4-2-3 Police Chief

The chief of police shall perform such duties as may be required of him or her by law and as the council may deem necessary. In the event the Town of Duncan does not have a marshal or police chief acting as a peace officer certified by the Arizona Peace Officer Standards and Training Board, the Greenlee County Sheriff's Department may assume the aforementioned duties through an intergovernmental agreement.

Section 4-2-4 Town Attorney

The attorney shall act as the legal counselor and advisor of the council and other town officials and, as such, shall give his or her opinion in writing when requested by the council. He or she shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. He or she shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the council. He or she shall return, within ten days, all ordinances and resolutions submitted to him or her for consideration by the council, with his or her approval or disapproval as to form noted thereon. He or she shall prosecute and defend all suits, actions or causes where the town is a party, and shall report to the council meetings at the request of the town manager.

Section 4-2-5 Town Magistrate

The town magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.

Section 4-2-6 Removal of Officers

Officers appointed by the council as set forth in Section 4-1-1 may be removed from office upon the majority vote of all members elected or appointed to the council.

Section 4-2-7 Contract for Services

The council may, by a two-thirds vote, elect to enter into a contract for services with any of its officers on such terms or conditions as may be agreed upon in the contract.

ARTICLE 4-3 PERSONNEL

4-3-1 Rules and Regulations

4-3-2 Political Contributions

Section 4-3-1 Rules and Regulations

The council may adopt by resolution personnel rules and regulations, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration.

Section 4-3-2 Political Contributions

No officer, official or employee of the town shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

ARTICLE 4-4 PURCHASING

Sections:

Article I. Generally

- 4-4-1 Generally**
- 4-4-2 Definitions**

Article II. Purchasing Policy

- 4-4-3 Council approval – When required.**
- 4-4-4 Purchasing director – Duties.**
- 4-4-5 Purchases in general.**
- 4-4-6 Exclusive service.**
- 4-4-7 Bidding procedure.**
- 4-4-8 Award of bid.**
- 4-4-9 Performance bond.**
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- 4-4-11 Forms.**
- 4-4-12 Professional and technical services.**
- 4-4-13 Local preference.**
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- 4-4-15 Expenditures; Signatures on Checks**
- 4-4-16 Cooperative purchasing.**
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Article III. Bid Protest – Procedures and Resolution

- 4-4-19 Protest procedure.**
- 4-4-20 Stay of purchase during protest.**
- 4-4-21 Resolution of solicitation and contract award protests.**
- 4-4-22 Remedies by the purchasing director.**

Article IV. Disposal of Surplus Property

- 4-4-23 Surplus supplies and equipment.**

Article I. Generally

4-4-1 Scope of article.

This article shall govern the purchase of supplies, materials and equipment at the lowest possible cost commensurate with the quality needed. All purchases shall be in accordance with appropriate standards and specifications as promulgated by the purchasing director in Town of Duncan purchasing policy.

4-4-2 Definitions.

“Lowest responsive bid or offer” shall mean the bid or offer that adheres to the established needs of the Town, as expressed in the solicitation for products or services, at the lowest net cost to the Town.

“Most advantageous bid or offer” shall mean the submitted proposal, offer or bid that conforms most favorably in terms of the requirements for price, delivery, quality or other evaluation criteria as set forth in the solicitation for products or services.

“Services” means any and all services, including, but not limited to, the repair or maintenance of equipment, machinery and other Town owned or operated property, and other technical services. The term does not include public works projects or services rendered by Town officers or employees, or professional services, as set forth in Section 4-4-12, and other contractual services which are in their nature unique or not subject to competition, as set forth in 4-4-6.

Article II. Purchasing Policy

4-4-3 Council approval – When required.

Council approval of the annual municipal budget shall be construed to include authority for the making of municipal expenditures as set forth in said budget except as may be otherwise provided by the Council by resolution. Town council approval shall be required for any purchase that exceeds \$50,000 (except for emergency purchases made in accordance with Section 4-4-10).

4-4-4 Purchasing director – Duties.

- A. The Town manager shall be designated as purchasing director.
- B. The purchasing director, or the purchasing director’s designee, shall:
 - 1. Maintain sufficient documentation of all purchase transactions to provide evidence of compliance with the requirements of state and federal law, and the provisions of this code;
 - 2. Approve or deny all purchase requests and shall report to the council on any purchase requiring council approval;

3. Have the authority to resolve solicitation and contract award protests.

C. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the Town, shall be made by the purchasing director, or any officer, employee or agent of the Town, except in the manner set forth in this article, and unless said purchase is in accordance with the adopted Town budget.

4-4-5 Purchases in general.

A. *Purchases under Ten Thousand Dollars (\$10,000).* Whenever any contemplated purchase or contract for services is for the sum of less than ten thousand dollars (\$10,000), the purchasing director, or the purchasing director's designee, may order the item as needed without further formality, subject to Section 4-4-14, if applicable.

B. *Purchases from Ten Thousand Dollars (\$10,000) to Fifty Thousand Dollars (\$50,000).* Whenever any contemplated purchase or contract for services is for the sum of at least ten thousand dollars (\$10,000) but not more than fifty thousand dollars (\$50,000), the purchasing director, or the purchasing director's designee, shall obtain at least three written quotes on vendor letterhead, if possible. The purchasing director may solicit quotes or advertise for quotes using the procedure provided in this article. Upon review of the quotes, the purchasing director shall award the purchase or contract to the most advantageous bidder.

C. *Purchases in Excess of Fifty Thousand Dollars (\$50,000).* No single purchase or contract in an amount in excess of fifty thousand dollars (\$50,000), where the purchase was not approved by council in the budget or as a separate item, shall be awarded without prior council approval. Unless otherwise exempted under this article, all such purchases shall be made in accordance with Section 4-4-7.

D. *Purchases of Utilities.* Purchases of water, sewer, electrical, and telephone services where the purchasing manager has determined that the services can only be obtained from one provider under Section 4-4-6 are exempt from the requirements of this section.

4-4-6 Exclusive service.

A. In the event that there is only one firm or company or individual capable of reasonably providing a particular service or commodity and such services or commodities cannot be secured from other persons or companies, the requirement of this article concerning bidding procedures shall not be applicable. The purchasing director shall make a determination of exclusive service following extensive research and shall maintain documentation of such determination.

B. The use of this article may be considered unreasonable if the purchasing director determines, after a good faith review of available resources, that there may be more than one source for the required good or service but:

1. The firm, company or individual is the single provider of goods or services which have unique characteristics essential to the operational needs of the Town and no other product or service will be suitable for use; or
2. The firm, company or individual has unique historical, institutional knowledge and experience which will provide a continuity of service, efficiency and cost effectiveness not available from any other vendor; or
3. The unique and specialized expertise of one source of services is unlikely to be obtained from any other source.

4-4-7 Bidding procedure.

Except as provided in Section 4-4-6, 4-4-12 and 4-4-16, the purchasing director shall follow the procedure set forth in this section for all purchases and contracts subject to the bidding process:

- A. A notice or solicitation for bids shall state the date, time and place of opening, and the place and time period within which bids shall be submitted.
- B. The notice shall state with particularity the goods or services required and shall state the place where specifications may be examined.
- C. Bids shall be submitted as designated in the notice or solicitation for bids. Any bid not received within the time period allowed shall be rejected.
- D. The purchasing director or the council shall have the right to reject any and all bids and parts of bids and to readvertise or resolicit for bids.

4-4-8 Award of bid.

Unless the council or the purchasing director, as appropriate, shall exercise the right of rejection, all goods and services in an amount in excess of fifty thousand dollars (\$50,000) shall be awarded to the lowest responsive bidder or most advantageous offeror. In determining the lowest responsive bidder or most advantageous offeror, the council or the purchasing director may consider:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required in a timely manner as specified in the scope of services.
- B. The quality of performance in previous contracts with the Town together with previous and existing compliance with the ordinances of the Town.
- C. The financial resources and ability of the bidder.

D. The quality, availability and adaptability of the goods or service.

E. Qualities and/or characteristics that the Town deems highly desirable which are (1) not offered by another lower bidder and (2) will result in advantages not previously realized and, therefore, not called out in the bid specification form.

4-4-9 Performance bond.

The purchasing director shall have the authority to require a performance bond, in such amount as it may find reasonably necessary to protect the interests of the Town, and the form and amount of such bond shall be specified in the notice inviting bids, or if none is specified in the notice inviting bids, the usual and customary form of bond for the contract to be awarded.

4-4-10 Emergency purchases.

In case of an emergency which requires immediate purchases of supplies, materials, equipment or services the Town manager may delegate the authority to secure, by informal procedure, at the lowest obtainable or advantageous price, any supplies, materials, equipment or services regardless of the amount of the expenditure. An emergency shall be deemed to exist if:

A. There is a great public calamity;

B. There is immediate need to prepare for national or local defense;

C. There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies or services to protect the public health, welfare and safety; or

D. An essential departmental operation affecting the public health, welfare and safety would be greatly hampered if the prescribed purchasing procedure would cause an undue delay in procurement of the needed item or service.

4-4-11 Forms.

The purchasing director shall prescribe and maintain such forms as may be necessary for the proper administration of this article, including but not limited to the following:

A. *Bid Specification Form.* The bid specification form shall state the specifications for the goods or service required and shall be available for inspection by prospective bidders as of the first publication of the notice of bid.

B. *Notice to Bidders.* The notice to bidders shall set forth the goods or services sought, the day, time and place when bids will be opened, the dates and times within which bids will be received, when

specifications may be reviewed and where available and such other information as may be required to secure the most advantageous bids.

4-4-12 Professional and technical services.

- A. The provisions of Section 4-4-7, unless required by law or contract, shall not apply to the procurement of professional or technical services, but the purchasing director, or the purchasing director's designee, shall determine the scope of the services required and may, at the purchasing director's option, require the submission of proposals prior to engaging such services. For the purposes of this article, "professional or technical services" means those services requiring specialized knowledge, education, skill or expertise and where the qualifications of the person(s) rendering the services are of primary importance. Professional and technical services shall include, but not be limited to, services provided by architects, attorneys, accountants, construction and project managers, dentists, design professionals, engineers, geologists, physicians, nurses, psychologists, teachers, veterinarians and health care providers, which provide a combination of professional and paraprofessional services or any other professions and services defined as professional services by state law.
- B. No person or firm practicing in a professional or technical field for which a license is required by state law shall be engaged by the Town unless possessing a current license in good standing.
- C. Upon engagement the Town shall enter into a written agreement or memorandum of understanding for the performance of the services for which engaged, setting forth the scope of services and the unit or total price therefor.
- D. Professional and technical services shall be procured in accordance with federal or state law whenever applicable.

4-4-13 Local preference.

- A. All purchases of supplies and equipment where the estimated value of the transaction does not exceed fifty thousand dollars (\$50,000) shall be evaluated under the local vendor preference criteria under this section. As used in this section, a "local vendor" shall be defined as a business that has an established physical location within the Town limits.
1. For purchases with a value between ten thousand dollars (\$10,000) and fifty thousand dollars (\$50,000) where the informal bidding procedure is followed, a local vendor shall be given a credit of one percent of its submitted bid in the determination of lowest responsible bidder.
 2. There shall be no local vendor preference for purchases where the formal bidding procedure is followed.
 3. To qualify for credit under this section, the local vendor must comply with all applicable provisions of this article, and the local vendor's price quote or informal bid must be found to be responsive.

4. The purchasing director, or the purchasing director's designee, shall make all reasonable efforts to solicit price quotations and informal bids from local vendors.

B. This preference shall not be used where state law or any applicable federal statute or regulation forbids the granting of such preference, or requires another method for competitive bidding. This section shall not apply to contracts for professional services pursuant to this article, nor to purchases made pursuant to Section 4-4-16.

4-4-14 Purchase orders.

A. *In General.* The purchasing director shall provide forms of purchase order which shall be used for the purchase of all goods and services for or on behalf of the Town. Any purchase order in an amount over \$10,000 shall require council approval.

B. *Open Purchase Orders.* An open purchase order shall be limited to a single source.

4-4-15 Expenditures; Signatures on Checks

A. Payments for purchases shall be made by check or credit card.

B. All checks for expenditures of Town monies shall bear two signatures:

1. A signature of the Town Clerk, or Town Manager; and
2. A signature of the Mayor or one Town Council member.

4-4-16 Cooperative purchasing.

This article shall not apply to purchases made by, through or with agencies of the United States Government, the state of Arizona or its political subdivisions. The Town may make purchases or award contracts for services without a formal bidding process whenever other governmental units have completed a formal bidding process, or updated the underlying contract, for the same item or service and if, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price for such items or services.

4-4-17 Promotion of maximum practicable competition.

A. *Maximum Competition Encouraged.* All specifications for bids or proposals shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs. Specifications shall not be unduly restrictive.

1. To the extent practicable and unless otherwise permitted by this section, all specifications shall

describe the Town's requirements in a manner that does not unnecessarily exclude a specific material, service or construction item.

2. To the extent practicable, the Town shall use accepted commercial specifications and shall procure standard commercial materials and, absent significant justification, avoid proprietary specifications.

B. *Brand Name or Approved Alternate.* Proprietary or brand name specifications shall not be used unless the purchasing director determines, in writing, that such specifications are required by demonstrable technological justification, that it is not practicable or advantageous to use a less restrictive specification, that the use of such a specification is in the best interests of the Town, and if the solicitation provides for the submission of equivalent products.

1. A brand name or approved alternate specification shall designate as many different brands as are practicable as "approved alternate" references.

2. A brand name or approved alternate specification shall include a description of the particular design, functional or performance characteristics that are required, unless the purchasing director determines, in writing, that the essential characteristics of the brand names designated in the specifications are commonly known.

3. A solicitation that uses a brand name or approved alternate specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.

4-4-18 Construction projects.

A. Provided the cost of the project exceeds the statutorily established amount, the procurement of both horizontal and vertical construction projects shall be governed by state law. The purchasing director shall consult and adhere to the Arizona Revised Statutes when procuring goods and services related to construction.

B. When the cost of a construction project falls below the statutorily established amount, the project shall be procured pursuant to the provisions of this code.

C. Alternative delivery methods, such as design bid build, construction manager at risk, design build, and job order contracting, may be utilized for applicable purchases. These purchases must be in compliance with Arizona Revised Statutes.

Article III. Bid Protest – Procedures and Resolution

4-4-19 Protest procedure.

- A. Any interested party may protest a determination of not susceptible for award or the award of a contract.
- B. The interested party shall file a protest in writing with the purchasing director including the following minimal information:
 - 1. The name, address and telephone number of the interested party;
 - 2. The signature of the interested party or the interested party's representative;
 - 3. Identification of the solicitation or contract number;
 - 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
 - 5. The form of relief requested.
- C. If the protest is based upon alleged improprieties in a solicitation that are apparent before the offer due date and time, the interested party shall file the protest before the offer due date and time.
- D. In cases other than those covered in subsection (C) of this section, the interested party shall file the protest within 10 days after the purchasing director makes the purchasing file available for public inspection.
- E. The interested party may submit a written request to the purchasing director for an extension of the time limit for protest filing set forth in subsection (D) of this section. The written request shall be submitted before the expiration of the time limit set forth in subsection (D) of this section and shall set forth good cause as to the specific action or inaction of the Town that resulted in the interested party being unable to submit the protest within the 10 days. The purchasing director shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.
- F. If the interested party shows good cause, the purchasing director may consider a protest that is not timely filed.
- G. The purchasing director shall immediately give notice of a protest to all offerors.

4-4-20 Stay of purchase during protest.

- A. If a protest is filed before the solicitation due date, before the award of a contract, or before performance of a contract has begun, and a stay is requested by an offeror the purchasing director shall make a written determination to either:
 - 1. Proceed with the award or contract performance; or
 - 2. Stay all or part of the procurement if there is a reasonable probability the protest will be upheld

or that a stay is in the best interest of the Town.

B. The purchasing director shall provide the protestor and other interested parties with a copy of the written determination.

4-4-21 Resolution of solicitation and contract award protests.

A. The purchasing director shall issue a written decision within 14 days after a protest has been filed under Section 4-4-19. The decision of the purchasing director shall contain the basis for the decision and a statement that the decision shall be final and binding on the parties.

1. Such decision shall be delivered to the appellant by certified U.S. Mail or by any other method that provides evidence of receipt.

B. If the purchasing director fails to issue a decision within the time limits set forth in this article, the interested party may proceed as if the purchasing director had issued an adverse decision.

4-4-22 Remedies by the purchasing director.

A. If the purchasing director sustains a protest in whole or part and determines that a solicitation, a determination of not susceptible for award, or contract award does not comply with state statutes, this code, or purchasing policies and procedures, the purchasing director shall implement an appropriate remedy.

B. In determining an appropriate remedy, the purchasing director shall consider all the circumstances surrounding the procurement or proposed procurement including:

1. The seriousness of the procurement deficiency;
2. The degree of prejudice to other interested parties or to the integrity of the purchasing system;
3. The good faith of the parties;
4. The extent of performance;
5. The costs to the Town;
6. The urgency of the purchase;
7. The impact on the Town's mission; and
8. Other relevant issues.

C. The purchasing director may implement any of the following appropriate remedies:

1. Decline to exercise an option to request a renewal of the contract;

2. Recommend that the Town council terminate the contract;
3. Amend the solicitation;
4. Issue a new solicitation;
5. Recommend the award of a contract consistent with this code; or
6. Render such other relief as determined necessary to ensure compliance with this code.

Article 4-5 Disposal of Surplus Property

4-4-23 Surplus supplies and equipment.

- A. All departments and offices shall submit to the purchasing director, at such time and in such form as shall be prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing director, or the purchasing director's designee, shall dispose of such supplies and equipment pursuant to the provisions of A.R.S. §9-402.
- B. Surplus supplies may be leased or donated pursuant to a written contract approved by the council; provided, that the Town receives adequate consideration for the surplus supplies, as determined by the purchasing director.
- C. The amount received for any property sold pursuant to this article shall be deposited in the general fund or other fund so designated by the purchasing director.
- D. Town officials or employees may purchase property only if it is sold through sealed bids or public auction.