

	COMPLIANCE FAQ
Title: Forced Labor of Ethnic Uyghurs Ban	Revision Date: 12-7-22
Document ID: FAQ SPO Form 205	Revision Number: 0

This Frequently Asked Questions (FAQ) document is provided as a resource to the procurement officers of the agencies, boards, and commissions of the State of Arizona. While the FAQ includes examples of legally compliant, procedurally efficient, and fiscally prudent processes, these are not the only such processes allowable under the Arizona Procurement Code (A.R.S. §§ 41-2501 et seq. and the rules thereunder, A.A.C. R2-7-101 et seq.) or A.R.S. § 35-394. Depending on the circumstances surrounding a given procurement, deviation from this FAQ may be necessary or preferable. In the event of a discrepancy between an answer listed in this FAQ and applicable statute and rule, statute and rule shall prevail.

PURPOSE

The State Procurement Office (SPO) published SPO Form 205 - Forced Labor of Ethnic Uyghurs Ban (Form 205) and SPO Form 205A - Annual Forced Labor of Ethnic Uyghurs Ban (Form 205A) to aid compliance with certification requirements under A.R.S. § 35-394. These forms have led to questions from state governmental units and procurement professionals throughout the State. As a courtesy, this document will provide answers to common questions. *This document is for informational purposes only and does not supplant or replace SPO Form 205 as the official standard form. This document may be revised at any time.* Please contact SPO Compliance at SPOCompliance@azdoa.gov, if you have additional questions that are not addressed by this document.

QUESTIONS AND ANSWERS

Question: The agency has a solicitation currently on the street. It was published prior to September 24, 2022, but it has not yet been awarded. Is Form 205 required?

Answer: Yes. Since the contract will be awarded after September 24, 2022, Form 205 is required per A.R.S. § 35-394(C).

Question: Form 205 was included as part of a solicitation that was awarded after September 24, 2022. Does the contractor need to sign the form with each contract extension?

Answer: No. The contractor is obligated to inform the State if their certification is no longer accurate at any point while the contract is in effect. See A.R.S. § 35-394(B). Seek legal assistance if a supplier withdraws their certification from a contract.

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Question: Is Form 205 required when contracts signed prior to September 24, 2022 are extended or renewed?

Answer: No, the form is required for contracts signed after September 24, 2022. See A.R.S. § 35-394(C) (“This section does not apply to a contract entered into before September 24, 2022.”).

Question: A requester entered an after-the-fact purchase order with a supplier that is not on contract. Is Form 205 required after work has been completed or materials delivered?

Answer: That depends on whether there was a contract formed. In a simple purchase, that does not include an agreement between the parties, Form 205 is not necessary. However, any agreement on contract or purchase order terms should include a Form 205 or Form 205A.

Question: Can an agency/supplier/other request to be exempt from filling out Form 205?

Answer: No. Only sole proprietorships, companies with fewer than ten (10) employees, and non-profit organizations are not included in the definition of “Company” under A.R.S. § 35-394(D)(1). These entities must fill out Form 205 or Form 205A when required to do so, but may simply certify that they are exempt in the form.

Question: Can Form 205 be signed by the supplier/contractor only once each year?

Answer:

For **off-contract purchase orders**, the supplier/contractor may sign Form 205A on an annual basis. The signature on this form will expire on June 30th following the date of the signature. A new Form 205A must be completed at the start of every fiscal year, for on-going orders, or as soon as a new order is entered in the new fiscal year. Alternatively, the supplier/contractor may sign Form 205 with each purchase order.

For **new solicitations and contracts**, Form 205 must be signed for each solicitation response or executed contract. Form 205 is specific to each contract and therefore must be signed individually; it does not certify the supplier/company as a whole.

Question: An offeror is not willing to sign Form 205. Can a contract or purchase order be awarded to this offeror?

Answer: No.

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Question: Is Form 205 required for off-contract purchase orders that are exempt under A.R.S. § 41-2501?

Answer: Yes, either Form 205 or Form 205A is required. These forms are required under A.R.S. Title 35 (Public Finances), not the Arizona Procurement Code (A.R.S. Title 41, Chapter 23). An exemption from the Arizona Procurement Code does not extend to requirements under other parts of Arizona law.

Question: The agency would like to enter into a participating addendum (PA) with a co-op organization. Is Form 205 required as part of the PA?

Answer: Yes.

Question: Is Form 205 required when entering into an ISA or IGA?

Answer: No. Government entities (the other party in an Interagency Service Agreement (ISA) or an Intergovernmental Agreement (IGA)) do not meet the definition of “Company” under A.R.S. § 35-394(D)(1).

Question: I am entering into a contract with a supplier. I can see that they have already signed Form 205 as part of a contract with another agency. Do I need to have them sign Form 205 again?

Answer: Yes. Form 205 is specific to each contract. It does not certify the supplier/company as a whole.

Question: How long is the signed form valid?

Answer: Form 205 is valid for the duration of the executed contract and does not need to be completed on an annual basis. However, Form 205A for off-contract purchase orders is only valid until June 30th after the date of the signature and a new form must be completed at the start of each fiscal year.

Question: Does this form need to be signed every time we enter into an off-contract transaction in the field with a PCard?

Answer: No. Transactional purchases with a PCard typically are not considered contracts.