

Indiana State Board of Accounts

Public Purchases

Road Scholar Core Course #4

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Internal Controls



- ✓ **Public Purchases – Definitions & categories**
- ✓ **Special Purchasing Methods**
- ✓ **Purchasing Preferences**
- ✓ **Other Purchasing Considerations**
- ✓ **Forms**

ARTICLE 22. PUBLIC PURCHASING
Note: This version of IC 5-22 added by P.L. 49-1997, SEC. 1. A different version of IC 5-22, as added by P.L. 19-1007, SEC. 7, was repealed by P.L. 23-1997(a), SEC. 19, and removal of IC 5-24 by P.L. 23-1997(a), SEC. 40.

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- Ch. 10. Purchases From the Department of Correction
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- Ch. 13. Small Business Set-Aside Purchases
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- Ch. 15. Qualification and Order of Choice and Prospective Contractors
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- Ch. 18. Determinations
- Ch. 19. Identification and Termination of Contracts
- Ch. 20. Disposition of State Surplus Personal Property
- Ch. 21. Disposition of Surplus Personal Property by a Governmental Body
- Ch. 22. Telephone Calling Systems for Combined/Overlaid
- Ch. 23.

Chapter 1. Application

IC 5-22-1
 5-22-1-0.1 Application of certain amendments to chapter
 5-22-1-1 Applicability of article
 5-22-1-2 Nonapplicability of article
 5-22-1-3 Excluded items exemption

IC 5-22-1-0.1 Application of certain amendments to chapter
 Sec. 1. The amendments made to section 3 of this chapter in the 2005 regular session of the general assembly apply only to a contract entered into or renewed after May 6, 2005.
As added by P.L. 23-2011, SEC. 100. Amended by P.L. 13-2013, SEC. 18.

IC 5-22-1-1 Applicability of article
 Sec. 1. Except as provided in this chapter, this article applies to every expenditure of public funds by a governmental body.
As added by P.L. 49-1997, SEC. 1.

IC 5-22-1-2 Nonapplicability of article
 Sec. 2. Except as provided in this article, this article does not apply to the following:
 (1) The commission for higher education.
 (2) A state educational institution. However, IC 5-22-3-9 and IC 5-22-15 apply to a state educational institution.
 (3) Military officers and military and reserve boards of the state.

Indiana Code 2019



Public Purchases

Indiana Code (IC) 5-22

Definitions in IC 5-22



Purchase – to buy, procure, rent, lease, or otherwise acquire. [IC 5-22-2-24]

Supplies – equipment, goods, and materials. [IC 5-22-2-38]

Definitions in IC 5-22



Purchase Agency – the governmental body that is authorized to enter into contracts. [IC 5-22-2-25]

Purchasing Agent – the individual authorized by a purchasing agency to act as agent for the purchasing agency. [IC 5-22-2-26]

Introduction to IC 5-22

**IC 5-22-1-1:**

“Except as provided in this chapter, this article applies to every expenditure of public funds by a governmental body.”

Introduction to Ind. Code 5-22

**IC 5-22-3-3:**

“A governmental body may adopt rules to regulate purchases of the governmental body. A rule adopted under this subsection may:

- (1) supplement this article; and
- (2) not be inconsistent with this article

Introduction to Ind. Code 5-22

**IC 5-22-3-4**

- If notice or other material required to be sent by mail, material can be sent electronically as provided in:
 - rules adopted by the governmental body
 - written policies of the purchasing agency
 - a solicitation

Categories

**3 Categories:**

- Price > \$150,000
- Price at least \$50,000 and not more than \$150,000
- Price < \$50,000

Price > \$150,000



IC 5-22-7

- Purchasing Agent must issue an invitations for bids
- Invitation must include:
 - Purchase description
 - Contractual terms
 - Evaluation criteria
 - Time & place for opening
 - Certified check needed
 - Rejection conditions

Price > \$150,000



Notice of Invitation - IC 5-22-7-5

- In manner prescribed by IC 5-3-1
- IC 5-3-1-2(e) states:
 - “ . . . notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received. ”

Price > \$150,000



Bid Opening

- Opened publicly [IC 5-22-7-6]
- Accepted without alteration / evaluated using criteria in bid invitation. [IC 5-22-7-7]

Price > \$150,000



Awarding Contract

- Contract awarded to “lowest responsible and responsive bidder. [IC 5-22-7-8]
- Purchasing Agency must maintain:
 - name of each bidder
 - amount each bid
 - any other information required [IC 5-22-7-9]

Price > \$150,000



Other Considerations

- IC 5-22-18-1: additional notices
- IC 5-22-18-2: cancel if in unit's best interest
- IC 5-22-18-3: can delay opening if:
 - written determination best interest
 - required to announce new day/time



Categories



3 Categories:

- Price > \$150,000
- Price at least \$50,000 and not more than \$150,000
- Price < \$50,000

Price at least \$50,000 and < \$150,000



IC 5-22-8-3

- Purchasing Agent – invite 3 quotes from businesses known to deal in the lines or classes of supplies to be purchased.
- Invitation – mailed at least 7 days before deadline to receive quotes.

Price at least \$50,000 and < \$150,000



IC 5-22-8-3

- Satisfactory quote – purchasing agent shall award contract to lowest & responsible offeror.
- If satisfactory quote not received – make purchase under Special Purchasing Law – IC 5-22-10-10

Categories

**3 Categories:**

- Price > \$150,000
- Price at least \$50,000 and not more than \$150,000
- Price < \$50,000

Price < \$50,000

**IC 5-22-8-2**

- “Small purchases”
- Purchasing Agent can make purchase:
 - under small purchases policy established by purchasing agency, or
 - under rules adopted by the governing body



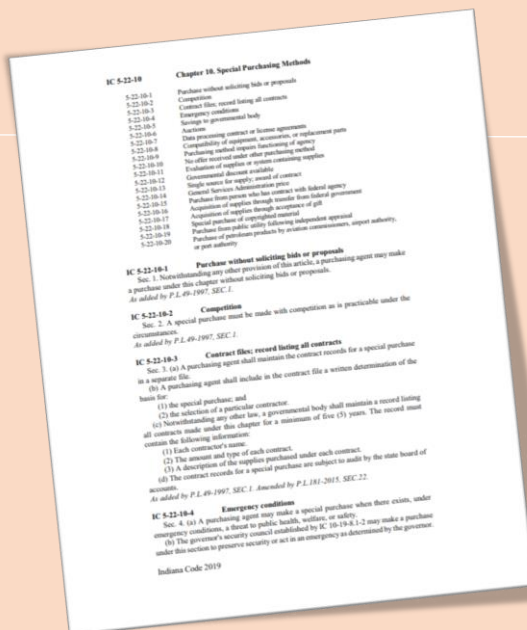
Price < \$50,000

IC 5-22-8-2 Purchases below \$50,000

Sec. 2. (a) This section applies only if the purchasing agent expects the purchase to be less than fifty thousand dollars (\$50,000).

(b) A purchasing agent may make a purchase under small purchase policies established by the purchasing agency or under rules adopted by the governmental body.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.2; P.L.195-2007, SEC.2.



Special Purchasing Methods

Indiana Code 5-22-10

Special Purchasing Methods

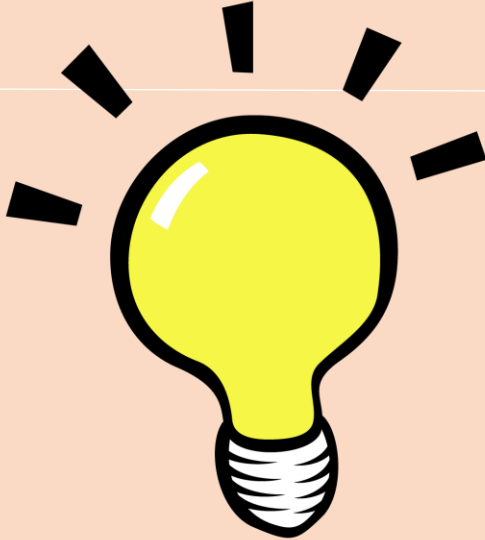
**IC 5-22-10:**

- Emergency conditions
- Substantial savings
- Auctions
- Data processing contract
- Comparability
- Functioning seriously impacted
- No other offer received
- Gov't discount available
- Single source of supply
- Gen Service Adm price
- Federal agency
- Supplies for gift

Special Purchasing Methods

**IC 5-22-10-3**

- Keep contract records in separate file
- Contract file – document basis for special purchase & basis for vendor selected
- File maintained for minimum 5 years and include:
 - each vendor's name
 - amount & type of contract
 - description of supplies purchases



Other Purchasing Considerations



Purchasing Organizations

IC 5-22-4-7

- Interlocal agreement under IC 36-1-7 to form a cooperative purchasing organization (CPO)
- CPO is the purchasing agency for the a governmental body

Purchasing Organizations



National Cooperatives

- Sourcewell
- Houston Galveston Area Council (HGAC)
- **Get a written legal opinion from an attorney that using a specific national cooperative would be compliant with Indiana purchasing statutes**



Other Considerations



- **Department of Corrections**
 - Supplies and services [IC 5-22-11]
- **Rehabilitation Center products** [IC 5-22-12]
- **Nonprofit agencies** [IC 5-22-13]
- **Small business set aside** [IC 5-22-14]

Other Considerations



IC 5-22-9 - Request for proposals

Solicitations must include:

- Factors/criteria used to evaluate
- Statement concerning relative importance of price
- If evidence of financial responsibility is required
- If discussions may be conducted

5-22-7.5 - Online reverse auctions

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Other Considerations



Purchase of Services - IC 5-22-6

- Any procedure considered appropriate

Duration of Contracts - IC 5-22-17-3

- Not to exceed 4 years
- Counties – can do more than 1 but not more than 5
- Subject to available appropriations

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Other Considerations

**Renewal of Contracts - IC 5-22-17-4**

- Containing escalation of price – renewed if escalation provided in contract.
- Subject to IC 5-22-17-5, renewed any number of times
- Term of renewed can't exceed length of original contract.

Fiscal Responsibility - IC 5-22-16-5**Forms**



Forms

Link to see forms:

<https://www.in.gov/sboa/files/CHAPTER7.pdf>
starting on page 7-36

Also:

www.in.gov/sboa
Political subdivisions
Counties (or cities or towns)
Presentations & Training Materials

Forms – Special Purchase Contract List



SPECIAL PURCHASE CONTRACT FILE LIST

Contract No.	Date of Contract	Contractor Name	Contract Amount	Type of Contract	Description of Supplies	IC Reference Basis for Special Purchase	Basis of Selection of Contractor

Source: IC 5-22-10-3

Register of Proposals

Date: _____

Supplies: _____

ATTACH A COPY OF THE REQUEST FOR PROPOSALS AND A LIST OF ALL PERSONS TO WHOM COPIES OF THE REQUEST FOR PROPOSALS WERE GIVEN

Please Type or Print Legibly

Name of Offeror	Address	Offer	Amount of

Source: IC 5-22-9-5

Successful Proposal:

Name of Offeror: _____

Amount of Offer: _____

Basis for Award: _____



Register of Proposals


INDEX TO SPECIFICATIONS

Date Specifications Adopted	Type of Supply	Requesting Department	Solicitation Type

Source: IC 5-22-5-4



Index to Specifications



Bid Record for Invitation for Bids

Date of Bid Opening: _____
 Supplies Requested: _____
 Requesting Agency: _____


Please Type or Print Legibly

Name	Address	Bid Amount	Other Information

Source: IC 5-22-7-9

Bid Record

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Checklist for Invitation for Bids

Type of Supply _____
 Requesting Agency _____

___ Purchase Description

___ Evaluation Criteria to Be Used (Circle Selections)

- ___ Inspection
- ___ Testing
- ___ Quality
- ___ Workmanship
- ___ Delivery
- ___ Requirements Imposed on Trusts

___ Applicable Contract Terms and Conditions

___ Time and Place for Opening Bid

___ Evidence of Financial Responsibility Required? (Circle Selection)

- ___ Certified Check
- ___ Bid Bond
- ___ Other _____ (specify)

___ Performance Bond Required?

___ Statement of Conditions Under Which Invitation May Be Canceled

___ Statement of Conditions Under Which Bid May Be Rejected in Whole or in Part

___ Notice of Invitation for Bids Published

- ___ First Date of Publication _____
- ___ Second Date of Publication _____

___ Form of Non-Collusion Affidavit

Source: IC 5-22-7-2

Bid Checklist

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NON-COLLUSION AFFIDAVIT

STATE OF INDIANA)
_____ COUNTY)

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

_____)
sample _____)
Offeror (Firm)

Signature of Offeror or Agent

Subscribed and sworn to before me this _____ day of _____, 1998.

My Commission Expired: _____)
County of Residence _____)
Notary Public

Source: IC 5-22-16-6

Non-collusion affidavit



Questions



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