

## ARTICLE 8. PROCUREMENT OF SERVICES AND SUPPLIES

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### Rule 1. General Provisions

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#### 80 IAC 8-1-1 Purpose; construction

Authority: [IC 15-13-2-9](#)  
Affected: [IC 15-13-2](#)

Sec. 1. The purpose of this article is to establish rules to govern the procurement of supplies and services utilized by the commission and to ensure fair competition among persons competing in the procurement process. (*State Fair Commission; 80 IAC 8-1-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### 80 IAC 8-1-2 Application

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)  
Affected: [IC 15-13-2](#)

Sec. 2. (a) This article applies to the following:

- (1) Contracts for services as defined in 80 IAC 7-1-40.
- (2) Contracts for supplies.
- (3) Contracts for insurance and administrative services for insurance.

(b) A written contract is required for all services and any expenditure of fifty thousand dollars (\$50,000) or more with one (1) person for supplies over the term of the contract. (*State Fair Commission; 80 IAC 8-1-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### 80 IAC 8-1-3 Application exceptions

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)  
Affected: [IC 15-13-2](#)

Sec. 3. This article applies to every expenditure of public funds by the commission, regardless of their source, for the procurement of services, insurance, or supplies except for the following:

- (1) Collective bargaining agreements between the commission and its employees.
- (2) Employment agreements.
- (3) Investment of public funds.
- (4) Contracts between governmental bodies and bodies corporate and politic.
- (5) Contracts regarding real property of the commission.
- (6) Contracts regarding entertainment.

(*State Fair Commission; 80 IAC 8-1-3; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

## 80 IAC 8-1-4 Grants, gifts, bequests, and other cooperative agreements; conflicting provisions

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 4. Notwithstanding the provisions of this article, the commission shall comply with the terms and conditions of any grant, gift, bequest, or other cooperative agreement if noncompliance with those terms and conditions would invalidate the grant, gift, bequest, or other cooperative agreement. (*State Fair Commission; 80 IAC 8-1-4; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

## Rule 2. Purchasing Organization

[80 IAC 8-2-1](#)

Contracts and purchasing departments

[80 IAC 8-2-2](#)

Duties; specifications

[80 IAC 8-2-3](#)

Purchasing preferences

### 80 IAC 8-2-1 Contracts and purchasing departments

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 1. (a) There is established within the commission a contracts department and a purchasing department in conformance with this article.

(b) All procurement functions shall be conducted in conformance with this article by the contracts or purchasing department, or both.

(c) The contracts and purchasing departments may enter into agreements with the procurement division of the state of Indiana to make procurements through an established quantity procurement agreement and the federal General Services Agency processes or directly enter into quantity purchase agreements for the commission, where applicable and cost effective. (*State Fair Commission; 80 IAC 8-2-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### 80 IAC 8-2-2 Duties; specifications

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 2. (a) The contracts and purchasing departments shall prepare, issue, revise, maintain, and monitor the use of specifications for supplies.

(b) Specifications must:

(1) promote overall economy for the purposes intended; and

(2) encourage competition in satisfying the commission's needs.

(*State Fair Commission; 80 IAC 8-2-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### 80 IAC 8-2-3 Purchasing preferences

Authority: [IC 15-13-2-9](#)

Affected: [IC 5-22-15](#); [IC 15-13-2](#)

Sec. 3. The contracts and purchasing departments shall ensure that requests for quotations and bid packages comply with [IC 5-22-15](#) concerning purchasing preferences. (*State Fair Commission; 80 IAC 8-2-3; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

## Rule 3. Methods of Source Selection and Contract Formation

[80 IAC 8-3-1](#)

Methods of source selection; contracts

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## PROCUREMENT OF SERVICES AND SUPPLIES

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### **80 IAC 8-3-1 Methods of source selection; contracts**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 4-13-1-17](#); [IC 15-13-2](#)

Sec. 1. (a) Contracts for:

- (1) purchased services;
- (2) supplies exceeding fifty thousand dollars (\$50,000); or
- (3) administrative services for group insurance or insurance authorized under [IC 4-13-1-17](#) (if the annual premium exceeds five thousand dollars (\$5,000));

must be awarded by the contracts department under section 2, 4, 5, 6 or 7 of this rule unless another method is authorized under this rule.

- (b) Contracts for professional or personal services may be procured using any procedure appropriate.
- (c) The contracts or purchasing department shall determine which method shall be used under this rule.
- (d) The purchase of supplies that do not exceed fifty thousand dollars (\$50,000) does not require a contract.
- (e) The purchase of:
  - (1) services; and
  - (2) supplies that exceed fifty thousand dollars (\$50,000);

requires a contract. (*State Fair Commission*; 80 IAC 8-3-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); errata filed Nov 21, 2016, 12:02 p.m.: [20161207-IR-080160210ACA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#))

### **80 IAC 8-3-2 Request for information**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 2. (a) When the commission and its staff are not fully knowledgeable of the exact service or services or supplies needed and require more information from prospective vendors to complete an invitation to bid or request for proposal, the contracts or purchasing department may issue a request for information using the procedure provided by this section.

(b) The request for information must contain full details of the product requirements, specifications, purchase options, and any other criteria where the commission is in need of additional information.

(c) Responders will be asked to outline or submit, or both, recommendations that best fit the commission and an explanation why.

(d) The contracts or purchasing department shall issue the request for information to known vendors who provide services or supplies related to the subject matter of the request for information.

(e) Submissions may be reviewed, evaluated, and ranked by an internal team at the commission. The commission may elect to proceed with negotiating a final contract with the prevailing respondent.

(f) If a contract is not entered into by the commission under subsection (e), the commission may issue a solicitation as outlined in this rule based on the information received from respondents.

(g) The commission shall have the right to cancel the request for information as specified under section 9 of this rule. (*State*

*Fair Commission; 80 IAC 8-3-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*

**80 IAC 8-3-3 Small purchases; quotes**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 3. (a) Small purchases, as described under subdivisions (1) and (2), shall be processed under the following provisions:

(1) Purchases of five thousand dollars (\$5,000) or less as follows:

(A) A procurement with an estimated cost not exceeding five thousand dollars (\$5,000) may be made under the procedure outlined in this section.

(B) The purchasing department shall invite quotes from at least one (1) person known to deal in the supplies or purchased services to be procured.

(C) The purchase description and date that quotes are due shall be communicated to the person invited to submit the quote. Means of communication may include mail, telephone, electronic mail, or facsimile machine.

(D) The purchasing department may consider an advertised price in a catalog, newspaper advertisement, radio commercial, television commercial, online, or other media communication to be a quote received by the commission. The commission must know of the advertised price at the time quotes are due.

(E) If a responsive quote is received, the purchasing department shall procure the item from the lowest responsive and responsible contractor.

(F) If no responsive quote is received from a responsible contractor, the purchasing department is authorized to procure the item on the open market without further invitations for quotes.

(2) Purchases of five thousand dollars and one cent (\$5,000.01) to fifty thousand dollars (\$50,000) as follows:

(A) A procurement with an estimated cost between five thousand dollars and one cent (\$5,000.01) and fifty thousand dollars (\$50,000) may be made under the procedure outlined in this section.

(B) Quotes shall be invited from at least three (3) persons known to deal in the supplies or purchased services to be procured.

(C) The purchase description and the date that quotes are due shall be communicated to the person invited to submit the quote. Means of communication may include mail, telephone, electronic mail, or facsimile machine.

(D) The purchasing department may consider an advertised price in a catalog, newspaper advertisement, radio commercial, television commercial, online, or other media communication to be a quote received by the commission. The commission must know of the advertised price at the time quotes are due.

(E) If responsive quotes are received, a contract shall be awarded to the lowest responsive and responsible contractor.

(F) If no responsive quote is received from a responsible contractor, the commission reserves the right to repeat the process described in this section or make a special procurement under section 7(a)(7) of this rule.

(b) Procurement requirements and purchases may not be artificially divided so as to constitute a small purchase under this section.

(c) When two (2) or more quotes are equal, the commission shall ensure that any applicable purchasing preferences that have been claimed by the person submitting the quote as set forth in 80 IAC 8-2-3 have been included in the evaluation of the quotes.

(d) If, after review under subsection (c), the quotes remain equal, the award shall be made by utilizing the following preferences:

(1) An Indiana business.

(2) An Indiana small business.

(3) An Indiana farm product.

(4) A past positive working relationship with the commission.

*(State Fair Commission; 80 IAC 8-3-3; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#))*

**80 IAC 8-3-4 Sealed bidding (invitation to bid)**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 4. (a) The following procedures shall be followed by the contracts department in awarding contracts by sealed bidding:

(1) An invitation to bid shall be issued and must include the following:

(A) A purchase description.

(B) All contractual terms and conditions applicable to the procurement.

(C) A statement of criteria to be used, including, but not limited to, any of the following:

(i) Inspection, testing, quality, workmanship, delivery, previous contractual relationship with the commission, and suitability for a particular purpose.

(ii) Any requirement imposed under section 11 of this rule.

(D) The time, date, and place for the opening of bids.

(E) A statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility.

(F) A statement concerning the conditions under which a bid proposal may be canceled or rejected in whole or in part as specified under section 9 of this rule.

(2) Public notice shall be given in the manner required under section 10 of this rule.

(3) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time, date, and place designated in the invitation to bid.

(4) Bids shall be:

(A) unconditionally accepted without alteration or correction, except as provided in subsections (e) through (g); and

(B) evaluated based on the requirements set forth in the invitation for bids.

(5) A contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid.

(b) Those criteria that will affect the bid price and be considered in the evaluation for an award must be objectively measurable, such as discounts, transportation costs, and total or life cycle costs.

(c) The only criteria that may be used in bid evaluation are those specified in the invitation to bid.

(d) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such mistakes, shall be permitted at the discretion of the executive director. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the commission or fair competition shall not be permitted.

(e) If a bidder inserts contract terms or bids on items not specified in the invitation to bid, the contracts department shall treat the additional material as a proposal for addition to the contract and may:

(1) find the bidder to be nonresponsive;

(2) permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria set forth in the invitation to bid; or

(3) accept any of the proposed additions to the contract that are not prejudicial to the interests of the commission or fair competition.

(f) When two (2) or more bids are equal, the commission shall ensure that any applicable purchasing preferences that have been claimed by the person submitting the bid as set forth in 80 IAC 8-2-3 have been included in the evaluation of the bids.

(g) If, after review under subsection (f), the quotes remain equal, the award shall be made by utilizing the following preferences:

(1) An Indiana business.

(2) An Indiana small business.

(3) An Indiana farm product.

(4) A past positive working relationship with the commission. (f) The commission shall have the right to withdraw the bid at any time in the process prior to contracting upon notification to all known vendors in receipt of the solicitation. If such action is taken by the commission, no vendor will have claim for recompense.

(State Fair Commission; 80 IAC 8-3-4; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#))

### **80 IAC 8-3-5 Request for proposals**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 5. (a) When the contracts or purchasing department determines that the use of competitive sealed bidding is either not practicable or not advantageous to the commission, a contract may be awarded using the procedure provided by this section.

(b) The contracts department shall solicit proposals, which must include the following:

(1) A statement concerning the relative importance of price and the other evaluation factors.

(2) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.

(c) Public notice shall be given in the manner required under section 10 of this rule.

(d) Proposals shall be opened at the date and time specified in the request for proposals.

(e) The contracts department may conduct discussions with persons submitting proposals for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. Persons submitting proposals must be accorded fair and equal treatment with respect to the opportunity for discussion and revision of proposals. In conducting discussions, the department shall not disclose information derived from proposals submitted by competing persons.

(f) After identification of the responsible offer or whose proposal appears to be the most advantageous to the commission, the commission will enter into contract preparation activities with the offeror. If at any time the contract preparation activities are judged to be ineffective, the commission may cease all activities with that offeror and begin contract preparation activities with the next highest ranked offeror, and the process may continue until a contract is executed. The commission reserves the right to cease all contract preparation activities at any time and to reject all proposals, if such action is determined to be in the best interest of the commission.

(g) When two (2) or more proposals are equal, the award shall go to the offeror with the highest cost score (lowest price). (*State Fair Commission; 80 IAC 8-3-5; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### **80 IAC 8-3-6 Sole source procurement**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 6. A contract may be awarded for a service or supply without competition when the executive director or his or her designated representative has determined that there is only one (1) source for the required service or supply. A copy of such determination shall be made a part of the contract file. Any such proposed contract having an expenditure value exceeding one hundred thousand dollars (\$100,000), along with a copy of the executive director's determination, shall be presented to the commission under section 8(c) of this rule. (*State Fair Commission; 80 IAC 8-3-6; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### **80 IAC 8-3-7 Special procurements**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 4-13-1-17](#); [IC 15-13-2](#)

Sec. 7. (a) Notwithstanding any other provision of this article, the executive director or his or her designated representative may make or authorize the contracts or purchasing department to make special procurements:

(1) when there exists, under emergency conditions, a threat to public health, welfare, or safety;

(2) when there exists a unique opportunity to obtain supplies at a substantial savings to the commission;

(3) for the procurement of data processing contracts or license agreements for:

(A) software programs; or

(B) supplies, when only one (1) source meets the commission's reasonable requirements;

(4) for contracts for insurance authorized under [IC 4-13-1-17](#) if the annual premium does not exceed five thousand dollars (\$5,000);



(5) when:

(A) the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the procurement; and

(B) only one (1) source meets the using department's reasonable requirements;

(6) when procurement of the required supplies under another section of this rule would seriously impair the function of the using department;

(7) when the contracts or purchasing department has:

(A) solicited for a procurement under another section of this rule; and

(B) not received a responsive offer;

(8) when the time periods for performance as determined by the executive director or his or her designated representative would be seriously impaired by bidding, so long as at least two (2) price quotes are obtained; or

(9) when a current contract has expired and the commission has recently tested the market within the previous eight (8) to ten (10) years with a request for proposals or invitation to bid.

(b) Special procurements must be made with such competition as is practicable under the circumstances. In the case of an emergency procurement under subsection (a)(1), a written request to the executive director must be submitted within twenty-four (24) business hours after the purchase.

(c) A written determination of the basis for the special procurement and for the selection of the particular contractor must be included in the contract file. (*State Fair Commission; 80 IAC 8-3-7; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-3-8 Approval of contracts, amendments, and renewals**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 8. (a) The executive director, on behalf of the commission, shall approve contracts that are:

(1) less than one hundred thousand dollars (\$100,000); or

(2) special procurements meeting the terms of section 7(a)(1) or 7(a)(6) of this rule, where expediency and timeliness are essential.

(b) Contracts that have a value of at least fifty thousand dollars (\$50,000) over the term of the contract are subject to the review and approval of the office of attorney general as to form and legality.

(c) The commission shall approve contracts that have a value of at least one hundred thousand dollars (\$100,000) over the term of the contract.

(d) Contract amendments or modifications may be entered into by the commission, and the approval requirements under this section shall apply.

(e) The commission may enter into contract renewals so long as such renewal is provided for in the contract. Renewals that do not contain any amendments or modifications do not require approval by the commission as described in subsection (c) or the office of the attorney general. (*State Fair Commission; 80 IAC 8-3-8; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-3-9 Cancellation or rejection of solicitation; procedures**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 9. (a) Prior to opening, a solicitation may be canceled, in whole or in part, when the executive director determines, in writing, that such action is in the best interest of the commission for reasons including, but not limited to, the following:

(1) The commission no longer requires the services or supplies.

(2) The commission no longer can reasonably expect to fund the procurement.

(3) Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

(b) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that have received a solicitation. The notice of cancellation shall identify the solicitation and cite the reason for cancellation. The reason for cancellation

shall be made a part of the procurement file and shall be available for public inspection.

(c) After opening but prior to award, all bids or proposals may be rejected, in whole or in part, when the executive director determines, in writing, that such action is in the best interest of the commission for reasons including, but not limited to, the following:

- (1) The services or supplies being procured are no longer required.
- (2) Ambiguous or otherwise inadequate specifications were part of the solicitation.
- (3) Prices exceed available funds, and it would not be appropriate to adjust quantities to come within available funds.
- (4) All otherwise acceptable bids or proposals received are at clearly unreasonable prices.
- (5) There is reason to believe that the bids or proposals:
  - (A) may not have been independently arrived at in open competition;
  - (B) may have been collusive; or
  - (C) may have been submitted in bad faith.

A notice of rejection shall be sent to all businesses that submitted bids or proposals. The reason for rejection shall be made a part of the procurement file and shall be made available for public inspection.

(d) After opening but prior to award, individual bids or proposals may be formally rejected when the executive director makes a written determination that:

- (1) the business that submitted the bid is determined to be not responsible under 80 IAC 8-4-1;
- (2) the bid is not responsive in that it does not conform in all material respects to the requirements of the solicitation; and
- (3) the services or supplies offered are unacceptable by reason of their failure to meet the requirements of the specifications or permissible alternatives or other acceptability criteria set forth in the solicitation.

The determination shall be made a part of the procurement file. (*State Fair Commission; 80 IAC 8-3-9; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-3-10 Public notice**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 10. (a) Whenever public notice is required by applicable sections of this rule, the notice shall be given in the manner prescribed by this section.

(b) When services or supplies are procured under section 4 or 5 of this rule, notice shall be published once a week for two (2) consecutive weeks.

(c) Whenever publication of notice is required by this section, the notice shall be published in one (1) newspaper of general circulation in Marion County, Indiana.

(d) The contracts department shall post notices:

- (1) on a public bulletin board in or outside the contracts department office; and
- (2) on the commission's website.

(e) The contracts department shall schedule all notices given under this section so as to provide a reasonable amount of time for preparation and submission of responses after notification. The period between the:

- (1) last publication, mailing, or posting of notices; and
- (2) final date set for submitting bids, offers, or proposals;

may not be less than five (5) business days, excluding holidays.

(f) The contracts department shall cause issuance of notices, invitations to bid, requests for offers, or requests for proposals by mail or e-mail to prospective bidders or offerors known to or made known to him or her. However, failure to give personal notice to a particular bidder or offeror does not invalidate a procurement under this rule. (*State Fair Commission; 80 IAC 8-3-10; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-3-11 Solicitation for procurement; separate contracts; fixed unit prices**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#)

Sec. 11. (a) A solicitation for a procurement under this rule may provide that offers will be received and contracts will be



awarded in whole or in part or for any combination of a line or class of services or supplies contained in the solicitation. If the solicitation is silent about awarding the solicitation in whole or in part, the commission may award separate contracts under this section to different offerors only if the executive director makes a determination showing that the award of separate contracts is in the interest of efficiency or economy.

(b) A solicitation for a procurement under this rule may provide that the contracts department will award a contract for the procurement of supplies for an unspecified number of items at a fixed price per unit. Such a contract may include a formula or a method for escalation of the unit price. (*State Fair Commission; 80 IAC 8-3-11; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-3-12 Identification of each beneficiary and empowered settlor**

Authority: [IC 15-13-2-9](#); [IC 15-13-3-8](#)

Affected: [IC 15-13-2](#); [IC 30-4-1-1](#)

Sec. 12. (a) This section applies whenever a contract is awarded by sealed bidding or acceptance of proposals.

(b) A bid or proposal submitted by a trust (as defined in [IC 30-4-1-1](#)(a)) must identify each of the following:

(1) Beneficiary of the trust.

(2) Settlor empowered to revoke or modify the trust.

(*State Fair Commission; 80 IAC 8-3-12; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### **Rule 4. Qualifications and Duties of Bidders, Offerors, and Prospective Contractors**

[80 IAC 8-4-1](#)

Determination of nonresponsibility

[80 IAC 8-4-2](#)

Foreign corporations; bids and offers; necessity of registration

#### **80 IAC 8-4-1 Determination of nonresponsibility**

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 1. (a) If a bidder or offeror fails to provide information required by the solicitation or the commission concerning a determination of whether that bidder or offeror is a responsible bidder or offeror, that bidder or offeror may not be considered a responsible bidder or offeror for the purposes of this rule.

(b) If a bidder or offeror is not a responsible bidder or offeror, that determination shall be made in writing by the procurement officer. (*State Fair Commission; 80 IAC 8-4-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

#### **80 IAC 8-4-2 Foreign corporations; bids and offers; necessity of registration**

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 2. A bidder or offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible, unless the activity required by the contract is exempt pursuant to [IC 23-1-49-1](#) [*IC 23-1-49 was repealed by P.L.118-2017, SECTION 22, effective January 1, 2018.*]. (*State Fair Commission; 80 IAC 8-4-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### **Rule 5. Types of Contracts**

[80 IAC 8-5-1](#)

Prohibited contracts

[80 IAC 8-5-2](#)

Permissible contract types

## 80 IAC 8-5-1 Prohibited contracts

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 1. Any type of contract not otherwise prohibited by law, except a cost plus a percentage of cost contract, may be used; however, a firm fixed price contract is preferred. Any other type of contract may be used only when the executive director determines that it is in the commission's best interest. (*State Fair Commission; 80 IAC 8-5-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

## 80 IAC 8-5-2 Permissible contract types

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 2. (a) Contracts for a firm fixed price are permissible. All contracts that are not for a firm fixed price must meet the conditions of subsection (b).

(b) A contract type other than a firm fixed price contract may be used only if the executive director determines in writing, the following:

(1) The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated.

(2) The proposed contractor's accounting system is adequate to allocate costs in accordance with the generally accepted accounting principles.

(c) In addition to the requirements of subsection (b), a cost reimbursement contract may be used if the executive director determines in writing that the contract is likely to be less costly to the commission than any other type, or that it is impracticable to obtain the supplies or services required except under such a contract. (*State Fair Commission; 80 IAC 8-5-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

## Rule 6. Determinations, Records, and Reports of the Contracts and Purchasing Departments

[80 IAC 8-6-1](#)

Anticompetitive practices; reporting

[80 IAC 8-6-2](#)

Retention of procurement records; contracts

### 80 IAC 8-6-1 Anticompetitive practices; reporting

Authority: [IC 15-13-2-9](#)

Affected: [IC 15-13-2](#)

Sec. 1. When, for any reason, collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general. (*State Fair Commission; 80 IAC 8-6-1; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

### 80 IAC 8-6-2 Retention of procurement records; contracts

Authority: [IC 15-13-2-9](#)

Affected: [IC 5-15-5.1](#); [IC 15-13-2](#)

Sec. 2. All procurement records and contracts shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Indiana archives and records administration under [IC 5-15-5.1](#). (*State Fair Commission; 80 IAC 8-6-2; filed Nov 7, 2016, 3:46 p.m.: [20161207-IR-080160210FRA](#); readopted filed Nov 15, 2022, 10:12 a.m.: [20221214-IR-080220291RFA](#)*)

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