

PURCHASING AND DISPOSAL OF
PROPERTY

INDIANA STATE BOARD OF ACCOUNTS

This slide features a grey background. In the top right corner is the Seal of the State of Indiana, which is circular and contains a landscape with a sun, a river, and a person plowing. The text 'SEAL OF THE STATE OF INDIANA' is around the top and '1816' is at the bottom. Below the seal is a white rectangular box with a thin orange border. Inside this box, the text 'PURCHASING AND DISPOSAL OF PROPERTY' is centered in a serif font. Below this text is an orange horizontal bar with the text 'INDIANA STATE BOARD OF ACCOUNTS' in white, sans-serif font. To the right of the white box is a vertical grey bar.

PURCHASING REAL
PROPERTY

INDIANA STATE BOARD OF ACCOUNTS

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PURCHASING REAL PROPERTY

- IC 36-1-10.5

Chapter 10.5. Purchase of Land or Structures

- Applies to all political subdivisions
- Does not, however, apply to:
 - *Real property having a total price < \$25,000*
 - *Airport land*
 - *Land acquired for road or street R.O.W. for federal project funded under 23 U.S.C 101*
 - *Purchases for redevelopment commissions or authorities*

PURCHASING REAL PROPERTY

IC 36-1-10.5-3:

"Purchasing agent" defined

Sec. 3. As used in this chapter, "purchasing agent" means the board or officer of a political subdivision or agency with the power to purchase land or structures.

As added by P.L.336-1987, SEC.1.

PURCHASING REAL PROPERTY

A purchasing agent shall purchase land only after compliance with the following:

- *Fiscal body shall pass resolution*
- *Purchasing agent shall appoint 2 appraisers to appraise fair market value of land or structure*
- *Appraisers must be professionally engaged in making appraisals or trained as appraiser & licensed as broker*
- *Appraisers return appraisals within 30 days of appointment*
- *Purchasing agent gives copy to fiscal body*

[IC 36-1-10.5-5]

PURCHASING REAL PROPERTY

IC 36-1-10.5-6 – Purchase price

“A purchasing agent may not purchase any land or structure for a price greater than the average of the two (2) appraisals received under section 5 of this chapter.”

Example:

- Appraiser #1 – FMV of land = \$60,000
- Appraiser #2 – FMV of land = \$90,000

Average = $(\$60,000 + \$90,000) / 2 = \$75,000$

Purchase price can't exceed \$75,000

PURCHASING REAL PROPERTY



During an audit, SBOA will need to see:

- *Resolution – fiscal body is interested in buying land*
- *Documentation of the appraisers appointed*
- *The separate appraisals*
- *Documentation associated with the actual purchase.*

DISPOSING OF REAL PROPERTY

INDIANA STATE BOARD OF ACCOUNTS

DISPOSING OF REAL PROPERTY

IC 36-1-11

- Applies to all Political Subdivisions
- Certain transactions are exempted from the requirements, as found in IC 36-1-11-1(b).
- "Property" means all fixtures and real property to be included in a disposal and does not include personal property unless otherwise noted in the particular statute.
- "Disposing Agent" means the board or officer having the power to award contracts for which public notice is required, with respect to property of the city or town.

DISPOSING OF REAL PROPERTY

Other statutory definitions:

Disposal	IC 36-1-11-2(1)
Disposing Agent	IC 36-1-11-2(2)
Key Number	IC 36-1-11-2(3)
Operating Agreement	IC 36-1-11-2(4)
Person	IC 36-1-11-2(5)
Property	IC 36-1-11-2(6)
Tract	IC 36-1-11-2(7)
Abutting Landowner	IC 36-1-11-5(a)
Offering Price	IC 36-1-11-5(b)
Real Property acquired by Tax Default	IC 36-1-11-5.9(b)

DISPOSING OF REAL PROPERTY

IC 36-1-11-16 Ineligible Persons

The following persons may not purchase, receive, or lease a tract that is offered in a sale, exchange, or lease under IC 36-1-11:

(1) A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under IC 6-1.1-24-1.

(2) A person who is an agent of the person described in subdivision (1).

DISPOSING OF REAL PROPERTY

IC 36-1-11-3 Approval Process

- Executive or Fiscal Body Approval
- Designation of Board
- Public Notice under IC 5-3-1
- Public Hearing must be conducted

DISPOSING OF REAL PROPERTY

Fiscal Body Approval - the fiscal body of a unit must approve:

- Every sale of real property having an appraised value of fifty thousand dollars (\$50,000) or more;
- Every lease of real property for which the total annual rental payments will be twenty-five thousand dollars (\$25,000) or more; and
- Every transfer of real property originally gifted to the city or town.

IC 36-1-11-3 does **not** apply to sales of property appraised at less than **\$15,000** or to **an exchange of property with another governmental unit.**

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 General Procedures

- Appraisal
 - Two appraisers
- Determination of Minimum Bid
 - Disposing agent determines the minimum bid

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 General Procedures (*continued*)

- Public Notice:
 - In accordance with IC 5-3-1 - published two times, at least one week apart, with the second publication made at least seven days before the event.
- Required Information:
 - Minimum Bid, and other conditions and terms as applicable
 - Bids will be received beginning on a specific date.
 - The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.
 - The property may not be sold to a person who is ineligible under section 16.
 - A bid submitted by a trust [as defined in IC 30-4-1-1(a)] must identify each beneficiary of the trust and settlor empowered to revoke or modify the trust.

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 General Procedures (*continued*)

- Public Inspection:
 - Bids are open to the public
 - A bidder may raise the bidder's bid
 - The raise in bid takes effect after the board has given written notice of the raise to other bidders.
- Award or Rejection of Bids:
 - Award to highest & best bidder
 - Reject all bids
 - If Disposing Agent rejects all bids, a written determination to reject all bids with explanation must be made.

DISPOSING OF REAL PROPERTY

IC 36-1-11-4

Other Provisions



Engagement of
Broker or Auctioneer

Electronic Sales



DISPOSING OF REAL PROPERTY

IC 36-1-11-4 Other Provisions

- Engagement of Broker or Auctioneer
 - If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so
 - Compensation of the broker or auctioneer may be paid out of the gross proceeds of the sale.
 - The Disposing Agent may hire one of the appraisers as the broker or auctioneer.

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 Other Provisions (*continued*)

▪ Auctioneer

- Licensed under IC 25-6.1 to conduct a sale by public auction.
- The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale.
- The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 Other Provisions (*continued*)

▪ Broker

- A disposing agent may hire a broker to sell real property directly rather than using the bid process under subsections if:
 - the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and
 - the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received.

Additional provisions in IC 36-1-11-1(h) apply to property sold through a broker.

DISPOSING OF REAL PROPERTY

IC 36-1-11-4 Other Provisions (*continued*)

- Electronic Sale
 - May conduct a public auction by electronic means and receive electronic payments.
 - Establish policies necessary to secure the payments in a timely fashion.
 - May not charge an additional fee for conducting an electronic sale.
 - The required public notice must include a statement that the sale will be conducted electronically.

DISPOSING OF REAL PROPERTY

Sale or Rental Proceeds

- Proceeds generated by the sale of property should be receipted into the fund which originally purchased the property unless otherwise provided by statute.

DISPOSING OF REAL PROPERTY

Special Provisions Regarding Certain Sales or Transfers of Real Property:

- **IC 36-1-11-4.2** Property not Acquired through Eminent Domain – Economic Development
- **IC 36-1-11-5** Assessed Value of Property is less than \$15,000 or part of Public Right-Of-Way
- **IC 36-1-11-5.6** Sale or Transfer to Nonprofit Corporation
- **IC 36-1-11-5.7** Sale or Transfer to Fire Department
- **IC 36-1-11-7** Exchange of Property with Person other than Governmental Entity
- **IC 36-1-11-8** Transfer or Exchange with another Governmental Entity
- **IC 36-1-11-9** Exchange of Property as Part of Purchase Price of New Property

DISPOSING OF REAL PROPERTY

IC 36-1-11-4.2 Property Not Acquired by Eminent Domain

Purpose of Disposal:

- *To promote economic development, or*
- *To facilitate compatible land use planning*
- Two Appraisals
- May sell or transfer for average of two appraisals
- Public Notice stating amount to be accepted.
- May reject all bids; must have written determination for rejection.

DISPOSING OF REAL PROPERTY

IC 36-1-11-5 Assessed Value of Property is less than \$15,000 or part of Public Right-Of-Way

- Most recent assessment
- Not assessed and part of public right-of-way

Disposing Agent Determination:

1. the highest and best use of the tract is sale to an abutting landowner;
2. the cost to the public of maintaining the tract equals or exceeds the estimated fair market value; or
3. it is economically unjustifiable to sell the tract under IC 36-1-11-4.

DISPOSING OF REAL PROPERTY

IC 36-1-11-5 Required Procedures

Public Notice

- Notification of abutting landowners via certified mail

Appraisal

- Required unless Assessed Value less than \$6,000

Offer to Purchase

- Abutting Landowner

DISPOSING OF REAL PROPERTY

IC 36-1-11-5.7 Sale or Transfer to Fire Department

- Without consideration or for a nominal consideration
- For construction of a fire station or other purposes related to firefighting
- "Fire Department" refers to a volunteer fire department, fire protection district, or fire protection territory
- Applies to real property or personal property, notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of IC 36-1-11

DISPOSING OF REAL PROPERTY

IC 36-1-11-8 Transfer or Exchange with another Governmental Entity

- Each entity must adopt a substantially identical resolution stating agreed terms and conditions.
- Transfer may be made for any amount of real property, cash, or other personal property, as agreed upon by the entities.

DISPOSING OF REAL PROPERTY

IC 36-1-11-9 Exchange of Property as Part of Purchase Price of New Property

- Purchase of New Property
- Trade In or Exchange
- Part of purchase price or Reduction in Purchase Price
- Advertising Not Required



DISPOSING OF REAL PROPERTY

IC 36-1-11-10 Leasing of Property

- Disposing Agent Determination – Best Interest
- Two Appraisals – Fair Rental Value
- Bid Process
- Award to highest and best bidder or reject all bids
- Terms and Conditions
 - May include option to renew or option to purchase
 - May provide that rental payments apply to purchase price
 - Purchase price must equal minimum sale price determined by disposing agent
 - May not be leased for more than three years
- Rental at less than 90% of average of two appraisals requires additional notice

DISPOSING OF REAL PROPERTY

Other Special Provisions – Certain Sales or Transfers of Real Property

- IC 36-1-11-4.1 Provision for Lease Back
- IC 36-1-11-4.3 Public Easement or Right-of-Way
- IC 36-1-11-5.9 Sale - Acquired by Tax Default
- IC 36-1-11-12 Leasing of Property - Request for Proposals
- IC 36-1-11-14 Gift of Tract; Reconveyance
- IC 36-1-11-15 Gift of Tract by Nonprofit; Reconveyance
- IC 36-1-11-17 Reconveyance

DISPOSING OF REAL PROPERTY

Redevelopment Property

IC 36-7-14-12.2 Powers of the Redevelopment Commission

The redevelopment commission may

“hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of areas needing redevelopment on the terms and conditions that the commission considers best for the unit and its inhabitants.”

DISPOSING OF REAL PROPERTY

Redevelopment Property – Other Considerations

IC 36-7-14-22

Procedures for Redev Comm Sale/Lease Property

IC 36-7-14-22.2

Urban Enterprise Assoc or Comm Develop Corp

IC 36-7-14-22.5

Additional Powers – Real Property

IC 36-7-14-22.6

Sale to Abutting Landowner

IC 36-7-14-22.7

Disposal of Real Property; Appraisal

IC 36-7-14-22.8

New Opportunity Area

DISPOSING OF REAL PROPERTY

Other Statutory Provisions – Sale of Certain Property

IC 8-1.5-2	Utility Property
IC 36-9-37-26	Property Acquired by Foreclosure or Conveyance
IC 5-23	Public Private Agreements
IC 8-22-2-8	Sale by Board of Aviation Commissioners

PUBLIC PURCHASES

INDIANA STATE BOARD OF ACCOUNTS

INTRODUCTION TO INDIANA CODE 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.”
- 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 INDIANA CODE 5-22

- IC 5-22-3-3: “The purchasing agency of a governmental body may establish written policies for purchases made by the purchasing agency. The written policies may apply to all purchases generally or to a specific purchase as stated in the solicitation for the purchase. A written policy established under this subsection may:
 - (1) supplement this article or a rule adopted by the purchasing agency's governmental body; and
 - (2) not be inconsistent with this article or a rule adopted by the purchasing agency's governmental body

INTRODUCTION TO INDIANA CODE 5-22 CONTINUED

- IC 5-22-3-4:
 - Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:
 - (1) Rules adopted by the governmental body.
 - (2) Written policies of the purchasing agency.
 - (3) A solicitation

INTRODUCTION TO INDIANA CODE 5-22 CONTINUED

- IC 5-22-4-5 and IC 5-22-4-6
 - The individuals designated by the purchasing agency are the purchasing agents for the governmental body.
 - A purchasing agency may have more than one purchasing agent.

CATEGORIES

- 3 Categories of Purchases (based on price):
 - > \$150,000
 - At least \$50,000 and not more than \$150,000
 - < \$50,000

INVITATION FOR BIDS

- IC 5-22-7-2
 - Purchasing agent shall issue an invitation for bids.
 - Invitation for bids must include:
 - A description.
 - All contractual terms and conditions.
 - A statement of the bid evaluation criteria including any of the following: Inspection, Testing, Quality, Workmanship, Delivery, Suitability for a purpose. Criteria must be measurable.
 - Time and place bids will be opened.
 - A statement whether bids must be accompanied by a certified check other evidence of financial responsibility that may be imposed in accordance with policies of the governmental body.
 - Conditions under which a bid may be canceled or rejected as specified by IC 5-22-18-2.

INVITATION FOR BIDS

- IC 5-22-7-5: "The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1."
 - *As per IC 5-3-1-2(e), published two times at least one week apart with the second publication at least seven days before the date bids will be received.*

RECEIVING BIDS

IC 5-22-7-6

- Bids must be opened publicly at the time and place designated on the invitation for bids.

IC 5-22-7-7

- Bids must be accepted without alteration and evaluated based on the requirements provided in the invitation for bids.

IC 5-22-7-8

- Contract must be awarded by written notice to the lowest responsible and responsive bidder.

IC 5-22-7-9

- Purchasing agency must maintain: the name of each bidder, the amount of each bid, and other information required by this article and any rules adopted under this article. Information is subject to public inspection after the contract is awarded.

OTHER PROCEDURES

IC 5-22-18-1

- The purchasing agent may give additional notices if they determine it will increase competition, but the latest publication has to be at least seven days from the deadlines.

IC 5-22-18-2

- If the purchasing agent determines it is in the best interest of the governmental unit, then they can cancel a solicitation or reject all offers in whole or in part.
- The reasons for the cancellation or rejection must be documented in the contract file.

IC 5-22-18-3

- The governmental body may make a written determination that it is in the best interest to delay the opening.
- They are required to announce at the original scheduled opening the rescheduled day, time and place.

SMALL PURCHASES – PRICE \$50,000 TO \$150,000

IC 5-22-8-3

- For purchases of \$50,000 to \$150,000, the purchasing agent should invite three quotes from businesses known to be in the field.
- The invitation to quote must be mailed at least seven days before the deadline for receiving quotes.
- Upon receiving a satisfactory quote, the purchasing agent shall award a contract to the lowest and responsive offeror.

SMALL PURCHASES – PRICE < \$50,000

IC 5-22-8-2

- For purchases less than \$50,000 the purchasing agent should follow policies established by the purchasing agency or rules adopted by the governmental body.

SPECIAL PURCHASING METHODS

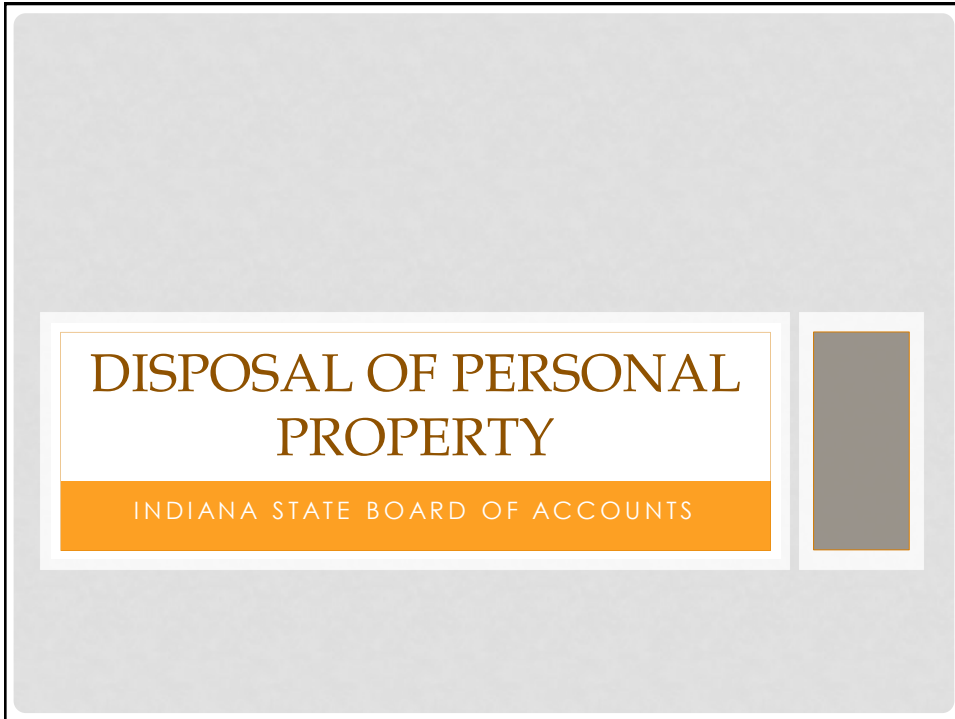
IC 5-22-10-1

- A purchasing agent may make a purchase under this chapter without soliciting bids.
- Some types of specific methods:
 - *Emergency Conditions*
 - *Savings to governmental body*
 - *Data processing contract or license agreements*
 - *Compatibility of equipment, accessories, or replacement parts*
 - *No offer received under other purchasing methods*
 - *Governmental discounts available*
 - *Single source for supply*

SPECIAL PURCHASING METHODS CONTINUED

IC 5-22-10-3

- Purchasing agent must keep contract records in a separate file if they are going to make a special purchase.
- Contract file must include the determination for the basis of the special purchase and the basis of selecting the particular contractor.
- Records must be maintained for a minimum of five years and include: each contractor's name, the amount and type of contract, and the description of supplies purchased.



DISPOSAL OF PERSONAL PROPERTY

IC 5-22-22 Disposal of Personal Property

- Applies to all political subdivisions
- Exceptions are listed in IC 5-22-1-2, IC 5-22-22-1 (b) and (c)
- Definitions are listed in IC 5-22-2

DISPOSAL OF PERSONAL PROPERTY

IC 5-22-22-3 General Provisions

A purchasing agency may sell personal property that:

1. has been left in the custody of an officer or employee of a governmental body and has remained unclaimed for more than one year; or
2. belongs to the governmental body but is no longer needed or is unfit for the purpose for which it was intended.

DISPOSAL OF PERSONAL PROPERTY

Disposal Procedures:

- One Item estimated value > \$1,000
- More than one item estimated total value > \$5,000

IC 5-22-22-4 Auctioneer

IC 5-22-22-4.5 Internet Sales
 [approved sites = www.in.gov/iot/2379.htm]

IC 5-22-22-5 Public Sale or Sealed Bids

DISPOSAL OF PERSONAL PROPERTY

IC 5-22-22-11 Notice of Sale

- Publication in accordance with IC 5-3-1 at least fifteen days before the date of sale
- In addition to notice provided by auctioneer or internet auction site.

DISPOSAL OF PERSONAL PROPERTY

Public/Private Sale or Transfer Without Advertising

- | | |
|--------------|---|
| IC 5-22-22-6 | One item with estimated value less than \$1,000 or |
| | More than one item with estimated value less than \$5,000 |

- | | |
|--------------|---------------------|
| IC 5-22-22-7 | Recyclable Property |
|--------------|---------------------|

DISPOSAL OF PERSONAL PROPERTY

Special Situations

IC 5-22-22-8	Worthless property
IC 5-22-22-9	Law Enforcement Vehicles
IC 5-22-22-10	Exchange between Purchasing Agency & Governmental Body
IC 5-22-22-12	Transfer to Volunteer Fire Department, Fire Protection District, Fire Protection Territory

RESOURCES

- Indiana State Board of Accounts – in.gov/sboa



Indiana Codes ▼

Compensation and Benefits ▼

Deposit and Investment of Funds ▼

Public Purchasing Law ▼

Purchase of Land or Structures ▼

RESOURCES

- Indiana General Assembly – iga.in.gov

Indiana General Assembly
2017 Session

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T A C S Keyword

Upcoming Meetings Monday
View calendar details < Feb 20 2017 >

8:30	(H) Education	Room 156-C
9:00	(H) Insurance	Room 156-B
9:30	(S) Civil Law	Room 130
10:00	(H) Public Health	House Chamber

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CONTACT INFORMATION

Todd Caldwell
Susan Gordon, CPA
Directors of Audit Services

Cities.Towns@sboa.in.gov

(317) 232-2513