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State Examiner

SPECIAL DISTRICT BULLETIN

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UPCOMING TRAINING

Currently we do not have any training scheduled for special districts this coming quarter.

PUBLIC PURCHASES LAW – OVERVIEW

Definitions

Change Order	IC 5-22-2-2
Committee	IC 5-22-2-2.7
Contract Modification	IC 5-22-2-3

Special Districts Bulletin

Page 2

June 2026

Contractor	IC 5-22-2-4
Cost Reimbursement Contract	IC 5-22-2-5
Fiscal Body	IC 5-22-2-11
Governmental Body	IC 5-22-2-13
Internet Purchasing Site	IC 5-22-2-13.7
Invitation for Bids	IC 5-22-2-14
Offer	IC 5-22-2-17
Offeror	IC 5-22-2-18
Operating Agreement	IC 5-22-2-19
Person	IC 5-22-2-20
Policy	IC 5-22-2-21
Political Subdivision	IC 5-22-2-22
Public Funds	IC 5-22-2-23
Purchase	IC 5-22-2-24
Purchasing Agency	IC 5-22-2-25
Purchasing Agent	IC 5-22-2-26
Purchase Description	IC 5-22-2-27
Request for Proposals (RFP)	IC 5-22-2-28
Rule	IC 5-22-2-29
Services	IC 5-22-2-30
Solicitation	IC 5-22-2-32
Special Fund	IC 5-22-2-33
Special Purchase	IC 5-22-2-34
Specification	IC 5-22-2-35
Supplies	IC 5-22-2-38
Using Agency	IC 5-22-2-39

Other terms related to purchasing are also defined in IC 5-22-2.

General Rules

The Public Purchasing Law, IC 5-22, applies to every expenditure of public funds by a governmental body to purchase equipment, goods, or materials, unless specifically exempted by law, IC 5-22-1-1.

If the item to be purchased (equipment, goods, or materials, a “supply”, IC 5-22-2-38) has a cost equal to or above \$150,000, then the purchasing agent must follow the competitive bidding procedures of IC 5-22-7.

If the item to be purchased costs less than \$50,000, then the purchasing agent may purchase in accordance with the small purchase policies established by the purchasing agency or under rules adopted by the governmental body, IC 5-22-8-2.

If the item to be purchased costs between \$50,000 and \$150,000, the purchasing agent may purchase supplies by inviting quotes from at least three (3) persons known to deal in the supplies to be purchased, IC 5-22-8-3.

Purchases and purchase requirements may not be artificially divided so as to constitute a small purchase under IC 5-22-8, IC 5-22-8-1(b).

A governmental body may adopt rules to regulate purchases of the governmental body. IC 5-22-3-3

Exception to the General Rules

Purchase of Services: The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate, IC 5-22-6-1. A governmental body may adopt rules and establish policies governing the purchase of services for the governmental body, IC 5-22-6-2.

Public Works: Public works projects are governed by IC 36-1-12. “Public work” means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement, IC 36-1-12-2.

Non-applicability of IC 5-22 to certain governmental bodies, see IC 5-22-1-2.

Types of activities excluded from IC 5-22, see IC 5-22-1-3

Special Purchasing Methods

No solicitation of bids or proposals, IC 5-22-10:

1. Competition required, IC 5-22-10-2.

2. Unique opportunity for substantial savings, IC 5-22-10-5.
3. Auctions, IC 5-22-10-6.
4. Data processing contracts or license agreements, IC 5-22-10-7.
5. Compatibility, IC 5-22-10-8.
6. Failure to receive responsive offer, IC 5-22-10-10.
7. Discount, IC 5-22-10-12.
8. Single source, IC 5-22-10-13.
9. Contract with federal or state agency, IC 5-22-10-15.
10. Gifts, IC 5-22-10-17.

Other Special Purchasing Situations

1. Online reverse auctions, IC 5-22-7.5.
2. Qualified nonprofit agencies for individuals with a disability, IC 5-22-13.
3. Small business set-aside purchases, IC 5-22-14.

Purchasing Preferences

1. Definitions, IC 5-22-15-2 through IC 5-22-15-6.
2. Indiana business preference in rules adopted under IC 5-22-15-20.
3. Preference for supplies as provided by IC 5-22-15-16, -18, -19, -24.
4. Indiana small business preference as provided by IC 5-22-15-23.
5. Indiana farm product preference as provided by IC 5-22-15-23.5.
6. Absolute preference for coal mined in Indiana, IC 5-22-15-22.
7. Supplies manufactured in the United States, IC 5-22-15-21.
8. Steel products manufactured in the United States, IC 5-22-15-25.
9. Governmental body may adopt rules to implement IC 5-22-15, IC 5-22-15-15.

Other Special Purchasing Requirements

1. Purchase from Department of Correction, IC 5-22-11.
2. Purchase of rehabilitation center products, IC 5-22-12.
3. Petroleum products, IC 5-22-17-10.

Request for Proposal Process

A purchasing agent may award a contract using the procedure provided by IC 5-22-9:

1. Request for proposals (RFP), IC 5-22-9-2, -3, -4, -5, -8.
2. Discussions, final offers, awards, IC 5-22-9-6, -7, -9.
3. Evaluation of proposals, IC 5-22-9-10.

Qualifications and Duties of Offerors

1. Responsible and responsive offerors, IC 5-22-16-1, -2.
2. Registration with Secretary of State - foreign corporation, IC 5-22-16-4.

3. Evidence of financial responsibility, performance bond, IC 5-22-16-5.
4. Non-collusion affirmation required, IC 5-22-16-6.

Contracts

1. Cost plus percentage of cost contracts prohibited, IC 5-22-17-1.
2. Cost reimbursement contract allowed under conditions, IC 5-22-17-2.
3. Time period for contracts - generally 4 years, IC 5-22-17-3.
4. Appropriations, cancellation, IC 5-22-17-3 and IC 5-22-17-5.
5. Award of contracts, separate awards, IC 5-22-17-12.
6. Fixed price per unit, IC 5-22-17-13.
7. Renewal of contracts, IC 5-22-17-4.
8. Early or late performance, IC 5-22-17-6.
9. Policies and rules for inclusion of certain clauses or provisions, IC 5-22-20-1.
10. Adjustments in price, IC 5-22-20-2.

Other Administrative Provisions

Other procedures governing purchasing are set forth in IC 5-22-18:

1. Public notice, competition, IC 5-22-18-1.
2. Cancellation of solicitation and rejection of offers, IC 5-22-18-2.
3. Offers opened after time stated in solicitation, IC 5-22-18-3.
4. Public inspection of contract and purchasing records, IC 5-22-18-4.
5. Delivery of purchase order or lease, IC 5-22-18-5.
6. Determinations are final, IC 5-22-19.
7. Rules and policies on changes in work, IC 5-22-20-1.
8. Adjustments in price, IC 5-22-20-2.
9. Electronic transmission of material, IC 5-22-3-4, IC 5-22-7-5, IC 5-22-7.3-5, IC 5-22-7.3-9, IC 5-22-9-3