IC 5-22 Version a

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 A different version of IC 5-22, as added by P.L.19-1997, SEC.7, was repealed by P.L.253-1997(ss), SEC.39, and re-enacted at IC 5-24 by P.L.253-1997(ss), SEC.40.

IC 5-22-1

Chapter 1. Application

IC 5-22-1-0.1

Application of certain amendments to chapter

Sec. 0.1. 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.220-2011, SEC.100. Amended by P.L.13-2013, SEC.10.

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 5-22-5-9 and IC 5-22-15 apply to a state educational institution.

(3) Military officers and military and armory boards of the state.

(4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.

(5) A local hospital authority under IC 5-1-4.

(6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.

(7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

(8) A library board under IC 36-12-3-16(b).

(9) A local housing authority under IC 36-7-18.

(10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(11) A person paying for a purchase or lease with funds other than public funds.

(12) A person that has entered into an agreement with a governmental body under IC 5-23.

(13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil,

and industrial waste.

(14) The department of financial institutions established by IC 28-11-1-1.

(15) The insurance commissioner in retaining an examiner for purposes of IC 27-1-3.1-9.

As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.82; P.L.184-2005, SEC.2; P.L.19-2007, SEC.1; P.L.213-2007, SEC.3; P.L.217-2007, SEC.3; P.L.11-2011, SEC.2.

IC 5-22-1-3

Excluded items; exceptions

Sec. 3. (a) Except as provided in subsection (b), this article does not apply to the following types of activities:

(1) A contract between governmental bodies except for a contract authorized under this article.

(2) A public works project.

(3) A collective bargaining agreement between a governmental body and its employees.

(4) The employment relationship between a governmental body and an employee of the governmental body.

(5) An investment of public funds.

(6) A contract between a governmental body and a body corporate and politic.

(7) A contract for social services.

(8) A contract with a body corporate and politic.

(b) IC 5-22-3-7 applies to any:

(1) contract;

(2) project;

(3) agreement;

(4) employment relationship; or

(5) investment;

described in subsection (a).

As added by P.L.49-1997, SEC.1. Amended by P.L.165-2005, SEC.1 and P.L.222-2005, SEC.24.

IC 5-22-2
Chapter 2. Definitions

IC 5-22-2-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 1 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.220-2011, SEC.101. Amended by P.L.13-2013, SEC.11.

IC 5-22-2-1
Applicability of definitions
Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.
As added by P.L.49-1997, SEC.1. Amended by P.L.165-2005, SEC.2 and P.L.222-2005, SEC.25.

IC 5-22-2-1.3
"Affiliate"
Sec. 1.3. "Affiliate" means a business entity that effectively controls or is controlled by a contractor or is associated with a contractor under common ownership or control, whether by shareholdings or other means, including a subsidiary, parent, or sibling of a contractor.
As added by P.L.165-2005, SEC.3 and P.L.222-2005, SEC.26. Amended by P.L.1-2006, SEC.123.

IC 5-22-2-2
"Change order"
Sec. 2. "Change order" means a written order that:
(1) is signed by the purchasing agent; and
(2) directs the contractor to make changes that the contract authorizes the purchasing agent to order without the consent of the contractor.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-2.5
"Consolidated purchase"
Sec. 2.5. "Consolidated purchase" means the purchase of multiple supplies or services from one (1) vendor.
As added by P.L.46-2007, SEC.1.

IC 5-22-2-2.7
"Committee"
Sec. 2.7. "Committee" refers to the committee for the purchase of products and services established under IC 16-32-2-2.
As added by P.L.46-2007, SEC.2.

IC 5-22-2-3

"Contract modification"

Sec. 3. "Contract modification" means a written alteration:

(1) in a specification, delivery point, rate of delivery, period of performance, price, quantity, or another provision of a contract; and

(2) accomplished by mutual action of the parties to the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-4

"Contractor"

Sec. 4. "Contractor" refers to a person who has a contract with a governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-5

"Cost reimbursement contract"

Sec. 5. "Cost reimbursement contract" means a contract that entitles a contractor to receive:

(1) reimbursement for costs that are allowable and allocable in accordance with the contract terms and the provisions of this article; and

(2) a fee, if any.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-6

"Data"

Sec. 6. "Data" means recorded information, regardless of its form or characteristics.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-7

Repealed

(Repealed by P.L.177-2005, SEC.47.)

IC 5-22-2-8

"Designee"

Sec. 8. "Designee" means an authorized representative.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-9

"Established catalog price"

Sec. 9. "Established catalog price" refers to the price included in a catalog, price list, schedule, or other form that:

(1) is regularly maintained by the manufacturer or contractor;

(2) is either published or otherwise available for inspection by customers; and

(3) states prices at which sales are currently or were last made to a significant number of any category of buyers, or buyers constituting the general buying public, for the supplies or services involved.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-10
"Executive branch"

Sec. 10. "Executive branch" refers to the department of state government provided in Articles 5 and 6 of the Constitution of the State of Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-11
"Fiscal body"

Sec. 11. "Fiscal body" means the following:

(1) For a state agency, the term refers to the budget agency.

(2) For a political subdivision, the term has the meaning set forth in IC 36-1-2-6.

(3) For a governmental body not described in subdivision (1) or (2), the term means the person that has primary responsibility for the fiscal affairs of the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-12
"Gift"

Sec. 12. "Gift" includes a bequest, cooperative agreement, and grant.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-13
"Governmental body"

Sec. 13. "Governmental body" means an agency, a board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following:

(1) The executive branch.

(2) The judicial branch.

(3) The legislative branch.

(4) A political subdivision.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-13.2
"Office of technology"

Sec. 13.2. "Office of technology" refers to the office of technology established by IC 4-13.1-2-1.

As added by P.L.177-2005, SEC.21.

IC 5-22-2-13.5
"Internet"

Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

As added by P.L.93-2004, SEC.4.

IC 5-22-2-13.7
"Internet purchasing site"

Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.
As added by P.L.93-2004, SEC.5.

IC 5-22-2-13.9
Repealed

(Repealed by P.L.177-2005, SEC.47.)

IC 5-22-2-14
"Invitation for bids"

Sec. 14. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-15
"Judicial branch"

Sec. 15. "Judicial branch" refers to the department of state government provided in Article 7 of the Constitution of the State of Indiana.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-16
"Legislative branch"

Sec. 16. "Legislative branch" refers to the department of state government provided in Article 4 of the Constitution of the State of Indiana.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-17
"Offer"

Sec. 17. (a) "Offer" means a response to a solicitation.

(b) The term includes a bid, proposal, and quote.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-18
"Offeror"

Sec. 18. "Offeror" means a person that submits an offer to a governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-19
"Operating agreement"

Sec. 19. "Operating agreement" has the meaning set forth in IC 5-23-2-7.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-20
"Person"

Sec. 20. "Person" includes an association, a business, a committee, a corporation, a fiduciary, an individual, a joint stock company, a joint venture, a limited liability company, a partnership, a sole proprietorship, a trust, or another legal entity, organization, or group of individuals.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-21
"Policy"

Sec. 21. "Policy" refers to a governmental body's or purchasing agency's written statement of:

(1) purchasing procedure; or

(2) substantive purchasing purposes;

that does not have the force and effect of law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-22
"Political subdivision"

Sec. 22. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-23
"Public funds"

Sec. 23. (a) "Public funds" means money:

(1) derived from the revenue sources of the governmental body; and

(2) deposited into the general or a special fund of the governmental body.

(b) The term does not include either of the following:

(1) Money received by any person managing or operating a public facility under an authorized operating agreement under IC 5-23.

(2) Proceeds of bonds payable exclusively by a private entity.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-24
"Purchase"

Sec. 24. (a) "Purchase" includes buy, procure, rent, lease, or otherwise acquire.

(b) The term includes the following activities:

(1) Description of requirements.

(2) Solicitation or selection of sources.

(3) Preparation and award of contract.

(4) All phases of contract administration.

(5) All functions that pertain to purchasing.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-25
"Purchasing agency"

Sec. 25. "Purchasing agency" means a governmental body that is authorized to enter into contracts by this article, rules adopted under this article, or by another law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-26
"Purchasing agent"

Sec. 26. "Purchasing agent" means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the purchasing agency.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-27
"Purchase description"

Sec. 27. (a) "Purchase description" means the words used in a solicitation to describe the supplies or services to be purchased.

(b) The term includes specifications attached to, or made a part of, the solicitation.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-28
"Request for proposals" or "RFP"

Sec. 28. "Request for proposals" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-28.5
"Reverse auction"

Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.

As added by P.L.93-2004, SEC.6.

IC 5-22-2-29
"Rule"

Sec. 29. "Rule" refers to the following:

(1) With respect to an agency of the executive branch, a rule adopted under IC 4-22-2.

(2) With respect to a governmental body not described in subdivision (1), an order, an ordinance, a resolution, or another procedure by which the governmental body is authorized by law to adopt a policy that has the force and effect of law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-30

"Services"

Sec. 30. "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-31

"Social services"

Sec. 31. "Social services" means services obtained from funds covered by IC 31-25-2-8.

As added by P.L.49-1997, SEC.1. Amended by P.L.128-2012, SEC.3.

IC 5-22-2-32

"Solicitation"

Sec. 32. (a) "Solicitation" means the procedure by which a governmental body invites persons to submit an offer to enter into a contract with the governmental body for the purchase or sale of supplies by the governmental body.

(b) The term includes an invitation for bids, a request for proposals, and a request for quotes.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-33

"Special fund"

Sec. 33. "Special fund", as used with respect to the state, means a dedicated fund.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-34

"Special purchase"

Sec. 34. "Special purchase" refers to a purchase authorized under IC 5-22-10.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-35

"Specification"

Sec. 35. (a) "Specification" means a description of the physical or functional characteristics of a supply or service or the nature of a supply or service.

(b) The term includes a description of any requirements for inspecting, testing, or preparing a supply or service for delivery.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-36

"State agency"

Sec. 36. "State agency" has the meaning set forth in IC 4-13-1-1.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-37

Repealed

(Repealed by P.L.2-2007, SEC.390.)

IC 5-22-2-38

"Supplies"

Sec. 38. (a) "Supplies" means any property.

(b) The term includes equipment, goods, and materials. The term does not include an interest in real property.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-39

"Using agency"

Sec. 39. "Using agency" means a governmental body that uses supplies or services purchased under this article.

As added by P.L.49-1997, SEC.1.

IC 5-22-3

Chapter 3. General Provisions

IC 5-22-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 7 of this chapter in the 2005 regular session of the general assembly applies only to a contract entered into or renewed after May 6, 2005.

As added by P.L.220-2011, SEC.102. Amended by P.L.13-2013, SEC.12.

IC 5-22-3-1

Good faith requirement

Sec. 1. All parties involved in the negotiation, performance, or administration of contracts under this article shall act in good faith.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-2

Compliance with terms and conditions of gift

Sec. 2. Notwithstanding this article, a governmental body may comply with the terms and conditions of a gift if noncompliance with those terms and conditions would invalidate the gift.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-3

Rules; written policies

Sec. 3. (a) 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.

(b) 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.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-4

Electronic transmission of notice or other materials

Sec. 4. (a) 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.

(b) Rules, written policies, and solicitation statements described in subsection (a):

(1) are subject to this article; and

(2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

(1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.

(2) The governmental body receives the offer on a fax machine, by electronic mail, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

(d) A governmental body conducting a reverse auction must receive electronic offers for supplies through an Internet purchasing site.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.2; P.L.1-2003, SEC.19; P.L.93-2004, SEC.7.

IC 5-22-3-5

Offers submitted by trusts

Sec. 5. (a) This section applies whenever a trust submits an offer to a governmental body to do either of the following:

(1) Enter into a contract with the governmental body.

(2) Purchase surplus property from the governmental body under this article.

(b) As used in this section, "trust" has the meaning set forth in IC 30-4-1-1(a).

(c) An offer submitted by a trust must identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-6

Property interest in award of contract

Sec. 6. An offeror does not gain a property interest in the award of a contract by a governmental body unless:

(1) the offeror is awarded the contract; and

(2) the contract is completely executed.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-7

Prospective contractors required to make certifications concerning deceptive acts and telephone privacy; sanctions

Sec. 7. (a) This section applies to every use of funds by a governmental body. However, this section does not apply to a contract in which one (1) party is a political subdivision, including a body corporate and politic created by or authorized by a political

subdivision.

(b) A prospective contractor may not contract with a governmental body unless the prospective contractor includes the following certifications as terms of the contract with the governmental body:

(1) The contractor and any principals of the contractor certify that:

(A) the contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC 24-4.7;

(ii) IC 24-5-12; or

(iii) IC 24-5-14;

in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) the contractor will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

(2) The contractor and any principals of the contractor certify that an affiliate or principal of the contractor and any agent acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:

(A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

(c) If a certification in subsection (b) concerning compliance with IC 24-4.7, IC 24-5-12, or IC 24-5-14 is materially false or if the contractor, an affiliate or a principal of the contractor, or an agent acting on behalf of the contractor or an affiliate or a principal of the contractor violates the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law, the attorney general may bring a civil action in the circuit or superior court of Marion County to:

(1) void a contract under this section, subject to subsection (d); and

(2) obtain other proper relief.

However, a contractor is not liable under this section if the contractor or an affiliate of the contractor acquires another business entity that violated the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14 within the preceding three hundred sixty-five (365) days before the date of the acquisition if the acquired business entity ceases violating IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law, as of the date of the acquisition.

(d) If:

(1) the attorney general notifies the contractor, department of administration, and budget agency in writing of the intention of the attorney general to void a contract; and

(2) the attorney general does not receive a written objection

from the department of administration or budget agency, sent to both the attorney general and the contractor, within thirty (30) days of the notice;

a contract between a contractor and a governmental body is voidable at the election of the attorney general in a civil action brought under subsection (c). If an objection of the department of administration or the budget agency is submitted under subdivision (2), the contract that is the subject of the objection is not voidable at the election of the attorney general unless the objection is rescinded or withdrawn by the department of administration or the budget agency.

(e) If the attorney general establishes in a civil action that a contractor is knowingly, intentionally, or recklessly liable under subsection (c), the contractor is prohibited from entering into a contract with a governmental body for three hundred sixty-five (365) days after the date on which the contractor exhausts appellate remedies.

(f) In addition to any remedy obtained in a civil action brought under this section, the attorney general may obtain the following:

(1) All money the contractor obtained through each telephone call made in violation of the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law.

(2) The attorney general's reasonable expenses incurred in:

(A) investigation; and

(B) maintaining the civil action.

As added by P.L.165-2005, SEC.4 and P.L.222-2005, SEC.27.

IC 5-22-4

Chapter 4. Purchasing Organizations

IC 5-22-4-1

Purchasing agencies for agencies of executive branch

Sec. 1. (a) Except as provided in this chapter, the Indiana department of administration created by IC 4-13-1-2 is the purchasing agency for all agencies of the executive branch.

(b) Except as provided in this chapter, the individuals designated by the commissioner of the Indiana department of administration are the purchasing agents for all agencies of the executive branch.

As added by P.L.49-1997, SEC.1.

IC 5-22-4-2

Purchasing agencies for Indiana department of transportation

Sec. 2. (a) Except as provided in subsection (c), the Indiana department of transportation is the purchasing agency for the Indiana department of transportation.

(b) Except as provided in subsection (c), the individuals designated by the commissioner of the Indiana department of transportation are the purchasing agents for the Indiana department of transportation.

(c) Notwithstanding subsections (a) and (b), the Indiana department of transportation may request the Indiana department of administration to make purchases for the Indiana department of transportation. If the Indiana department of transportation makes a request under this subsection, section 1 of this chapter applies to those purchases.

As added by P.L.49-1997, SEC.1.

IC 5-22-4-3

Purchasing agencies for courts

Sec. 3. (a) Except as provided in subsections (c) and (d), a court in the judicial branch is the purchasing agency for that court.

(b) The individuals designated by a court are the purchasing agents for that court.

(c) Notwithstanding subsections (a) and (b), if a county has established a purchasing agency for the county, both of the following apply:

(1) The purchasing agency established by the county is the purchasing agency for a circuit or superior court of the county.

(2) Section 5 of this chapter applies to the purchases of a circuit or superior court of the county.

(d) Notwithstanding subsections (a) and (b), a court may request either of the following to be the purchasing agency for the court:

(1) A purchasing agency of the executive branch.

(2) A purchasing agency of a political subdivision.

If a court requests a purchasing agency described in this subsection to be the purchasing agency for the court, the section of this chapter applicable to that purchasing agency applies to purchases made for

the court.
As added by P.L.49-1997, SEC.1. Amended by P.L.201-2011, SEC.8.

IC 5-22-4-4
Purchasing agencies for house of representatives, senate, and agencies under jurisdiction of legislative council

Sec. 4. (a) Except as provided in subsection (e), the house of representatives is the purchasing agency for the house of representatives. The individuals designated by the speaker of the house of representatives are the purchasing agents for the house of representatives.

(b) Except as provided in subsection (e), the senate is the purchasing agency for the senate. The individuals designated by the president pro tempore of the senate are the purchasing agents for the senate.

(c) Except as provided in subsection (e), the legislative services agency is the purchasing agency for an agency under the jurisdiction of the legislative council. The individuals designated by the executive director of the legislative council are the purchasing agents for an agency under the jurisdiction of the legislative council.

(d) Except as provided in subsection (e), an agency of the legislative branch not described in subsections (a) through (c) is the purchasing agency for the agency. The individuals designated by the head of the agency are the purchasing agents for the agency.

(e) Notwithstanding subsections (a) through (d), an agency described in subsections (a) through (d) may request either of the following to be the purchasing agency for the agency making the request:

(1) Another agency described in this section.
(2) A purchasing agency of the executive branch.

If an agency makes a request under this subsection, the section of this chapter applicable to the purchasing agency to which the request was made applies to purchases made for the requesting agency.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-5
Purchasing agencies for political subdivision

Sec. 5. (a) The purchasing agency for a political subdivision is the person designated by law or by rule of the governmental body.

(b) The individuals designated by the purchasing agency are the purchasing agents for the governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-6
Number of purchasing agents

Sec. 6. A purchasing agency may have more than one (1) purchasing agent.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-7

Cooperative purchasing organizations

Sec. 7. (a) A governmental body may enter into an agreement with other governmental bodies under IC 36-1-7 to form a cooperative purchasing organization.

(b) This article applies to the purchases made by a cooperative purchasing organization.

(c) A cooperative purchasing organization is the purchasing agency for a governmental body with respect to the purchases made for the governmental body by the cooperative purchasing organization. An individual designated by the cooperative purchasing organization is a purchasing agent for the governmental body with respect to the purchases made for the governmental body by the cooperative purchasing organization.

As added by P.L.49-1997, SEC.1.

IC 5-22-4-8

Purchases by school; purchasing agents

Sec. 8. (a) As used in this section, "board" refers to either of the following:

(1) With respect to the Indiana School for the Blind and Visually Impaired, the board established by IC 20-21-3-1.

(2) With respect to the Indiana School for the Deaf, the board established by IC 20-22-3-1.

(b) As used in this section, "school" refers to either of the following:

(1) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.

(2) The Indiana School for the Deaf established by IC 20-22-2-1.

(c) As used in this section, "superintendent" refers to the chief executive officer of the school.

(d) Except as provided in subsection (f), the school is the purchasing agency for the school.

(e) Except as provided in subsection (f), the superintendent is the purchasing agent for the school for purchases with a value of not more than twenty-five thousand dollars ($25,000).

(f) The Indiana department of administration and the board shall develop and implement a written policy for purchases by the school with a value of more than twenty-five thousand dollars ($25,000).

As added by P.L.69-1999, SEC.2. Amended by P.L.1-2005, SEC.83; P.L.218-2005, SEC.3.

IC 5-22-4-9

Repealed

(Repealed by P.L.146-2008, SEC.806.)

IC 5-22-5

Chapter 5. Specifications

IC 5-22-5-1

Rules; policies

Sec. 1. (a) A governmental body may adopt rules or establish policies for the preparation, maintenance, and content of specifications.

(b) Rules or policies may include a description of requirements for inspecting, testing, or preparing an item for delivery.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-2

Duties of purchasing agents

Sec. 2. A purchasing agent shall prepare, issue, revise, maintain, and monitor the use of specifications.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-3

Purposes of specifications

Sec. 3. A specification must do the following:

(1) Promote overall economy for the purposes intended.

(2) Encourage competition in satisfying the governmental body's needs.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-4

Indexed file of specifications

Sec. 4. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-5

Request for specifications

Sec. 5. (a) The procedure described in this section may be used by a purchasing agent when both of the following are satisfied:

(1) The purchasing agent makes a written determination that the development of specifications by the governmental body is not feasible.

(2) The executive of the governmental body approves of the use of this section.

(b) The purchasing agent may issue a request for specifications that must include the following:

(1) The factors or criteria that will be used in evaluating the specifications.

(2) A statement concerning the relative importance of evaluation factors.

(3) A statement concerning whether discussions may be conducted with persons proposing specifications to clarify the

specification requirements.

(c) The purchasing agent shall give notice of the request for specifications under IC 5-3-1.

(d) As provided in the request for specifications, the purchasing agent may discuss proposed specifications with persons proposing specifications to clarify specification requirements.

(e) Persons proposing specifications must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposed specifications.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-6

Purchase of degradable and disposable plastic products

Sec. 6. (a) This section does not apply to a political subdivision.

(b) As used in this section, "biodegradation" means the conversion of all constituents of a plastic into miscellaneous component parts by the microbial action of fungi and bacteria upon natural materials such as cornstarch.

(c) As used in this section, "chemical degradation" means the conversion of all constituents of a plastic into miscellaneous component parts through the chemical reactions of additives such as auto-oxidants and the environment with the plastic.

(d) As used in this section, "degradable" means capable of being broken down by one (1) or more of the following degradation processes:

(1) Biodegradation.

(2) Photodegradation.

(3) Chemical degradation.

(e) As used in this section, "photodegradation" means the conversion of all constituents of a plastic product into miscellaneous component parts through the physical breakdown of the plastic product upon sufficient exposure to ultraviolet radiation.

(f) As used in this section, "plastic" includes a hybrid material containing plastic as a major component.

(g) As used in this section, "refuse bag" means a disposable plastic bag that is designed to hold garbage, grass clippings, fallen leaves, or other refuse. The term includes a disposable plastic bag that is designed to be placed inside and to catch the refuse deposited in a rigid refuse receptacle.

(h) When purchasing disposable plastic products, including refuse bags, a governmental body shall purchase disposable plastic products that are degradable if all the following apply:

(1) Degradable products are available at the time of the purchase.

(2) It is economically feasible to purchase degradable products.

(3) The purchase of degradable products is not inappropriate because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

(4) The degradable product to be purchased is economically and functionally the equivalent of disposable plastic products that:

(A) meet applicable specifications; and

(B) are not degradable.

(5) The degradable product to be purchased is, in the determination of the purchasing agent, a type of product for which the use of degradable materials is appropriate based upon:

(A) the functional use of the product; and

(B) whether the product will probably be recycled or disposed of in a final disposal facility.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-7

Purchase of recycled paper products

Sec. 7. (a) This section does not apply to a political subdivision.

(b) A governmental body purchasing paper products shall purchase recycled paper products if all of the following apply:

(1) Recycled paper products are available at the time of a purchase.

(2) It is economically feasible to purchase recycled paper products.

(3) The purchase of recycled paper products is not inappropriate because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-8 Version a

Purchase of mid-level blend fuel, E85, and blended biodiesel fuel by governmental bodies; exemptions

Note: This version of section effective until 1-1-2015. See also following version of this section, effective 1-1-2015.

Sec. 8. (a) This section does not apply to a political subdivision, except a school corporation (as defined in IC 20-18-2-16(a)).

(b) As used in this section, "blended biodiesel" has the meaning set forth in IC 6-3.1-27-2.

(c) As used in this section, "diesel fueled vehicle" refers to a vehicle that is capable of using diesel to fuel its primary motor.

(d) As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

(e) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

(f) As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(g) As used in this section "mid-level blend fuel" means a fuel blend consisting of:

(1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and

(2) gasoline as the balance.

(h) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(i) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase mid-level blend fuel or E85 to fuel the gasoline fueled vehicles owned or operated by the governmental body.

(j) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

(k) The following vehicles are exempt from the requirements of subsections (i) and (j):

(1) A vehicle that is leased by the governmental body for thirty (30) days or less.

(2) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(l) The following vehicles are exempt from the requirements of subsection (i) or (j), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

As added by P.L.274-2001, SEC.1. Amended by P.L.6-2005, SEC.1; P.L.148-2009, SEC.1.

IC 5-22-5-8 Version b

Purchase of mid-level blend fuel, E85, and blended biodiesel fuel by governmental bodies; exemptions

Note: This version of section effective 1-1-2015. See also preceding version of this section, effective until 1-1-2015.

Sec. 8. (a) This section does not apply to a political subdivision, except a school corporation (as defined in IC 20-18-2-16(a)).

(b) As used in this section, "blended biodiesel" refers to a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater). The term does not include biodiesel (B100).

(c) As used in this section, "diesel fueled vehicle" refers to a vehicle that is capable of using diesel to fuel its primary motor.

(d) As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

(e) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

(f) As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(g) As used in this section "mid-level blend fuel" means a fuel blend consisting of:

(1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and

(2) gasoline as the balance.

(h) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(i) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase mid-level blend fuel or E85 to fuel the gasoline fueled vehicles owned or operated by the governmental body.

(j) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

(k) The following vehicles are exempt from the requirements of subsections (i) and (j):

(1) A vehicle that is leased by the governmental body for thirty (30) days or less.

(2) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(l) The following vehicles are exempt from the requirements of subsection (i) or (j), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

As added by P.L.274-2001, SEC.1. Amended by P.L.6-2005, SEC.1; P.L.148-2009, SEC.1; P.L.190-2014, SEC.10.

IC 5-22-5-8.5

State entities required to purchase or lease clean energy vehicles; exceptions; rules; reports

Sec. 8.5. (a) As used in this section, "clean energy vehicle" means any of the following:

(1) A vehicle that operates on one (1) or more of the following energy sources:

(A) A rechargeable energy storage system.

(B) Hydrogen.

(C) Compressed air.

(D) Compressed or liquid natural gas.

(E) Solar energy.
(F) Liquefied petroleum gas.
(G) Any other alternative fuel (as defined in IC 6-3.1-31.9-1).

(2) A vehicle that operates on gasoline and one (1) or more of the energy sources listed in subdivision (1).

(3) A vehicle that operates on diesel fuel and one (1) or more of the energy sources listed in subdivision (1).

(b) As used in this section, "state entity" means the following:

(1) A state agency.

(2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive (including the administrative), legislative, or judicial department of state government.

The term includes a state elected official's office and excludes a state educational institution.

(c) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(d) Except as provided in subsection (e), if a state entity purchases or leases a vehicle, it must purchase or lease a clean energy vehicle unless the Indiana department of administration determines that the purchase or lease of a clean energy vehicle:

(1) is inappropriate because of the purposes for which the vehicle will be used; or

(2) would cost at least twenty percent (20%) more than the purchase or lease of a vehicle that:

(A) is not a clean energy vehicle; and

(B) is designed and equipped comparably to the clean energy vehicle.

(e) The requirements of subsection (d) do not apply to the:

(1) purchase or lease of vehicles by or for the state police department; and

(2) short term or temporary lease of vehicles.

(f) The Indiana department of administration shall adopt rules or guidelines to provide a preference for the purchase or lease by state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana.

(g) Before August 1, each state entity shall annually submit to the Indiana department of administration information regarding the use of clean energy vehicles by the state entity. The information must specify the following for the preceding state fiscal year:

(1) The amount of alternative fuels purchased by the state entity.

(2) The amount of conventional fuels purchased by the state entity.

(3) The average price per gallon paid by the state entity for each type of fuel purchased by the state entity.

(4) The total number of vehicles purchased or leased by the

state agency that were clean energy vehicles and the total number of vehicles purchased or leased by the state agency that were not clean energy vehicles.

(5) Any other information required by the Indiana department of administration.

(h) Before September 1, the Indiana department of administration shall annually submit to the general assembly in an electronic format under IC 5-14-6 and to the governor a report that lists the information required under subsection (g) for each state entity and for all state agencies in the aggregate.

As added by P.L.151-2009, SEC.3. Amended by P.L.277-2013, SEC.3.

IC 5-22-5-9

Purchases of biobased products

Sec. 9. (a) This section applies to a purchase of supplies by any of the following:

(1) A governmental body.

(2) A state educational institution.

(b) As used in this section, "biobased product" refers to an item designated by the United States Department of Agriculture as a biobased product for federal procurement under Section 9002 of the federal Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102).

(c) A governmental body or a state educational institution shall, whenever possible, purchase biobased products if all of the following apply:

(1) Biobased products are available at the time of the purchase.

(2) It is economically feasible to purchase biobased products.

(3) The purchase of biobased products is not inappropriate because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

As added by P.L.19-2007, SEC.2.

IC 5-22-6

Chapter 6. Purchase of Services

IC 5-22-6-1

Procedures

Sec. 1. 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.

As added by P.L.49-1997, SEC.1.

IC 5-22-6-2

Rules; policies

Sec. 2. (a) A governmental body may adopt rules governing the purchase of services for the governmental body.

(b) The purchasing agency of a governmental body may establish policies regarding the purchase of services for the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-6.5

Chapter 6.5. Contracts for Collection Services

IC 5-22-6.5-1

"Person" defined

Sec. 1. As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, the state, a unit of local government, an agency of the state or a unit of local government, or a group of such persons acting in concert.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-2

"Service" defined

Sec. 2. As used in this chapter, "service" means an action or actions to be performed under authority of the state, a state agency, a body corporate and politic, a state university, a unit of local government, or an agency of a unit of local government permitted by law to be done by its chief officer or governing or legislative body for the convenience or necessity of its citizens, but not including any action that constitutes the exercise of its discretionary powers, an exercise of state sovereignty, or the taking of legislative, quasi-legislative, judicial, or quasi-judicial action.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-3

Authorization

Sec. 3. (a) The state, a unit of local government, a state agency, an agency of a unit of local government, a body corporate and politic, or a state university may let a contract with a public or private person for the performance of any ministerial service that it must or may have done under its direction that is necessary or desirable in the public interest.

(b) Notwithstanding IC 4-6-2-6, the state, a state agency, a body corporate and politic, a state university, a unit of local government, or an agency of a unit of local government may:

(1) contract with a collection agency to collect any amount owed to the state, state agency, body corporate and politic, state university, or unit of local government; and

(2) authorize a collection agency in a contract for collection services to collect from the debtor a collection fee.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-4

Procedure for awarding contract

Sec. 4. (a) The state, a state agency, and a governmental body described in IC 5-22-2-13(1) through IC 5-22-2-13(4) shall award a contract for collection services using any procedure authorized by statute.

(b) A unit of local government or an agency of a unit of local government may award a contract for collection services using any

procedure authorized by statute.
As added by P.L.22-1997, SEC.9. Amended by P.L.1-2009, SEC.24.

IC 5-22-7

Chapter 7. Competitive Bidding

IC 5-22-7-1

Compliance with chapter required

Sec. 1. A purchasing agent shall follow the procedure described in this chapter in awarding a contract for supplies, unless another purchasing method is required or authorized by this article.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-2

Invitation for bids

Sec. 2. (a) A purchasing agent shall issue an invitation for bids.

(b) An invitation for bids must include the following:

(1) A purchase description.

(2) All contractual terms and conditions that apply to the purchase.

(3) A statement of the evaluation criteria that will be used, including any of the following:

(A) Inspection.

(B) Testing.

(C) Quality.

(D) Workmanship.

(E) Delivery.

(F) Suitability for a particular purpose.

(G) The requirement imposed under IC 5-22-3-5.

(4) The time and place for opening the bids.

(5) A statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be imposed in accordance with rules or policies of the governmental body.

(6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-3

Objective measurement of evaluation criteria

Sec. 3. Evaluation criteria that will:

(1) affect the bid price; and

(2) be considered in the evaluation for an award;

must be objectively measurable.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-4

Criteria for bid evaluation

Sec. 4. Only criteria specified in the invitation for bids may be used in bid evaluation.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-5
Notice of invitation for bids

Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the computer gateway administered by the office of technology.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

(1) the computer gateway administered by the office of technology; or

(2) any other electronic means available to the political subdivision.

As added by P.L.49-1997, SEC.1. Amended by P.L.251-1999, SEC.5; P.L.31-2002, SEC.3; P.L.93-2004, SEC.8; P.L.177-2005, SEC.22.

IC 5-22-7-6
Public opening of bids

Sec. 6. The purchasing agency shall open bids publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-7
Bids; acceptance; evaluation

Sec. 7. Bids must be:

(1) unconditionally accepted without alteration or correction, except as provided in sections 11 through 13 of this chapter; and

(2) evaluated based on the requirements provided in the invitation for bids.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-8
Awarding of contract

Sec. 8. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-9
Maintenance of information by purchasing agency

Sec. 9. (a) The purchasing agency shall maintain the following information:

(1) The name of each bidder.

(2) The amount of each bid.

(3) Other information required by this article and rules adopted under this article.

(b) The information described in subsection (a) is subject to public inspection after each contract award.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-10
Rules; policies

Sec. 10. (a) The governmental body may adopt rules or establish policies to allow any of the following:

(1) Correction or withdrawal of inadvertently erroneous bids before or after award.

(2) Cancellation of awards or contracts based on a mistake described in subdivision (1).

(b) Except as provided in a rule or policy, a purchasing agency must make a written decision to:

(1) permit the correction or withdrawal of a bid; or

(2) cancel awards or contracts based on bid mistakes.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-11
Prohibited changes after bid opening

Sec. 11. A purchasing agency may not permit changes in:

(1) bid prices; or

(2) other provisions of bids prejudicial to the interest of the governmental body or fair competition;

after bid opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-12
Proposed additions to contract

Sec. 12. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:

(1) Declare the bidder nonresponsive.

(2) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.

(3) Accept any of the proposed additions to the contract, subject to section 13 of this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-13
Acceptance of proposed additions to contract; permitted changes to requirements of invitation for bids

Sec. 13. (a) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition.

(b) A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency.

As added by P.L.49-1997, SEC.1.

IC 5-22-7.3

Chapter 7.3. Negotiated Bidding

IC 5-22-7.3-1

Applicability

Sec. 1. (a) This chapter applies only to a purchasing agency in the executive branch.

(b) Subject to the policies of the purchasing agency, a purchasing agent may follow the procedure described in this chapter in awarding a contract for supplies instead of awarding a contract under IC 5-22-7.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-2

Invitations for bids; requirements

Sec. 2. (a) A purchasing agent may issue an invitation for bids.

(b) An invitation for bids must include the following:

(1) A purchase description.

(2) All contractual terms and conditions that apply to the purchase.

(3) A statement of which, if any, of the following will be used to evaluate bids:

(A) Inspection.

(B) Testing.

(C) Quality.

(D) Workmanship.

(E) Delivery.

(F) Suitability for a particular purpose.

(G) The requirement imposed under IC 5-22-3-5.

(H) Any other evaluation criteria stated in the invitation for bids.

(4) The procedure for opening the bids, including the date, time, and place for opening the bids.

(5) A statement concerning whether a bid must be accompanied by a certified check or other evidence of financial responsibility that may be required in accordance with policies of the purchasing agency.

(6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2.

(7) A statement concerning whether, and the procedures under which, discussions may be conducted with bidders before a contract is awarded. The procedures for conducting discussions with bidders must be consistent with fair competition among all bidders.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-3

Evaluation criteria

Sec. 3. Evaluation criteria that will:

(1) affect the bid price; and
(2) be considered in the evaluation for an award;
must be objectively measurable.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-4
Criteria used in bid evaluation
Sec. 4. Only criteria specified in the invitation for bids may be used in bid evaluation.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-5
Invitation for bids; notice
Sec. 5. (a) The purchasing agency shall:
(1) give notice of the invitation for bids in the manner required by IC 5-3-1; and
(2) provide electronic access to the notice through the computer gateway administered by the office of technology.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-6
Bid opening; agency employee witnesses
Sec. 6. (a) An employee of the purchasing agency shall open bids in the presence of one (1) or more other employees of the purchasing agency according to the procedure stated in the invitation for bids as required by section 2(b)(4) of this chapter.
(b) Individuals other than employees of the purchasing agency may not be present at an opening of bids unless the bids are opened publicly.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-7
Bids; confidentiality during negotiation; evaluation
Sec. 7. Bids must be:
(1) opened so as to avoid disclosure of contents to competing bidders during the process of negotiation; and
(2) evaluated based on the requirements provided in the invitation for bids.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-8
Contract award
Sec. 8. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-9
Bid register requirements; public inspection of contract files; confidential proprietary information
Sec. 9. (a) The purchasing agency shall prepare a bid register.

(b) The bid register must contain the following:

(1) A copy of all documents that are included as part of the invitation for bids.

(2) A list of all persons to whom copies of the invitation for bids were given.

(3) A list of all bids received. The list of bids received must include the following information:

(A) The name and address of each bidder.

(B) The dollar amount of all bid prices received during the bidding process.

(C) The name of the successful bidder and the dollar amount of that bidder's bid.

(4) The basis on which the award was made.

(5) Documentation of the purchasing agency's negotiating process with bidders. The documentation must include the following:

(A) A log of the date and times of each meeting with a bidder. The log must include the identity of the bidder.

(B) A description of the nature of all communications with each bidder.

(C) Subject to subdivision (6), a copy of all written communications, including electronic communications, with each bidder.

(6) The entire contents of the contract file except for proprietary information included with a bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids.

(c) Except as provided in section 10 of this chapter, the bid register is subject to public inspection only after the contract award.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-10
Purchases over $200,000

Sec. 10. (a) This section applies only if the amount of the purchase is more than two hundred thousand dollars ($200,000).

(b) After the purchasing agency has completed any negotiations, the purchasing agency shall set a date, time, and place for publishing the bid register required by section 9 of this chapter. The date set under this subsection may not be less than seven (7) days before the purchasing agency notifies the successful bidder of the award of the contract.
As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-11
Erroneous bids

Sec. 11. (a) The purchasing agency may establish policies to allow any of the following:

(1) Correction or withdrawal of inadvertently erroneous bids before or after an award.

(2) Cancellation of awards or contracts based on a mistake described in subdivision (1).

(b) Except as provided in a rule or policy, a purchasing agency must make a written decision to:

(1) permit the correction or withdrawal of a bid; or

(2) cancel awards or contracts based on bid mistakes.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-12

Additional material in bid

Sec. 12. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:

(1) Declare the bidder nonresponsive.

(2) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.

(3) Accept any of the proposed additions to the contract, subject to section 13 of this chapter.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-13

Acceptance of contract additions; written determination by agency required

Sec. 13. (a) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition.

(b) A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.5

Chapter 7.5. Online Reverse Auctions

IC 5-22-7.5-1

Authorization for reverse auction

Sec. 1. (a) A purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to:

(1) issue an invitation for bids; and

(2) receive bids.

(b) Except as provided in this chapter, a purchasing agency and a bidder must comply with the requirements of this article when participating in a reverse auction.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-2

Necessity for written policies

Sec. 2. (a) Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following:

(1) Establish procedures for all the following:

(A) Transmitting notices, solicitations, and specifications.

(B) Receiving offers.

(C) Making payments.

(D) Protecting the identity of a bidder or an offeror.

(E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing.

(F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection.

(G) Establishing the procedure for the opening of offers.

(2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

(b) Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this section.

As added by P.L.93-2004, SEC.9. Amended by P.L.160-2006, SEC.7.

IC 5-22-7.5-3

Bids in a reverse auction

Sec. 3. If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made:

(1) in accordance with the policies described in section 2 of this chapter; and

(2) through the Internet purchasing site;

may be evaluated by the purchasing entity at the close of bidding.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-4

Requirements of Internet purchasing site for reverse auction

Sec. 4. When used for a reverse auction, an Internet purchasing site must do the following:

(1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.

(2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.

(3) Conceal information that identifies a bidder.

(4) Comply with this article.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-5

Bidder fees

Sec. 5. The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted under section 2 of this chapter.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-6

Opening reverse auction bids

Sec. 6. For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-7

Noncollusion affirmation inapplicable

Sec. 7. IC 5-22-16-6(a)(2) does not apply to a reverse auction.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-8

Repealed

(Repealed by P.L.160-2006, SEC.11.)

IC 5-22-8
Chapter 8. Small Purchases

IC 5-22-8-1
Applicability of chapter

Sec. 1. (a) This chapter applies only to a purchase expected by the purchasing agent to be less than one hundred fifty thousand dollars ($150,000).

(b) Purchase requirements may not be artificially divided so as to constitute a small purchase under this chapter.

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

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.

IC 5-22-8-3
Purchases between $50,000 and $150,000

Sec. 3. (a) This section applies only if the purchasing agent expects the purchase to be:

(1) at least fifty thousand dollars ($50,000); and

(2) not more than one hundred fifty thousand dollars ($150,000).

(b) A purchasing agent may purchase supplies under this section by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

(c) The purchasing agent shall mail an invitation to quote to the persons described in subsection (b) at least seven (7) days before the time fixed for receiving quotes.

(d) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(e) The purchasing agent may reject all quotes.

(f) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under IC 5-22-10-10.

As added by P.L.7-1998, SEC.3. Amended by P.L.195-2007, SEC.3.

IC 5-22-9

Chapter 9. Request for Proposals

IC 5-22-9-1

Use of request for proposals

Sec. 1. Subject to the policies of the purchasing agency, a purchasing agent may award a contract using the procedure provided by this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.160-2006, SEC.8; P.L.195-2007, SEC.4.

IC 5-22-9-2

Request for proposals; contents

Sec. 2. The purchasing agent shall solicit proposals through a request for proposals, which must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

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

(3) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility, which may be imposed in accordance with rules of the governmental body.

(4) A statement concerning whether discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-3

Public notice of request for proposals

Sec. 3. (a) The purchasing agency shall give public notice of the request for proposals in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the computer gateway administered by the office of technology.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through the electronic gateway administered by the office of technology.

As added by P.L.49-1997, SEC.1. Amended by P.L.251-1999, SEC.6; P.L.31-2002, SEC.4; P.L.177-2005, SEC.23.

IC 5-22-9-4

Opening of proposals

Sec. 4. Proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-5

Register of proposals; contents

Sec. 5. (a) A register of proposals must be:

(1) prepared; and

(2) open for public inspection after contract award.

(b) The register of proposals must contain the following:

(1) A copy of the request for proposals.

(2) A list of all persons to whom copies of the request for proposals were given.

(3) A list of all proposals received, which must include all of the following:

(A) The names and addresses of all offerors.

(B) The dollar amount of each offer.

(C) The name of the successful offeror and the dollar amount of that offeror's offer.

(4) The basis on which the award was made.

(5) The entire contents of the contract file except for proprietary information included with an offer, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the request for proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-6

Responsible offerors; discussions; final offers

Sec. 6. As provided in the request for proposals or under the rules or policies of the governmental body, discussions may be conducted with, and best and final offers obtained from, responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-7

Award

Sec. 7. (a) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals.

(b) If provided in the request for proposals, award may be made to more than one (1) offeror whose proposals are determined in writing to be advantageous to the governmental body, taking into consideration price and other evaluation factors set forth in the request for proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-8

Rules; policies

Sec. 8. The governmental body may provide by rule or policy that:

(1) it is either not practicable or not advantageous to the governmental body to purchase specified types of supplies by competitive sealed bidding; and

(2) receiving proposals is the preferred method for purchase of

that type of supply.
As added by P.L.49-1997, SEC.1.

IC 5-22-9-9
Fair and equal treatment of offerors

Sec. 9. (a) Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

(b) In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may be used in discussion only if the identity of the offeror providing the information is not disclosed to others. The purchasing agency must provide equivalent information to all offerors with which the purchasing agency chooses to have discussions.
As added by P.L.49-1997, SEC.1. Amended by P.L.160-2006, SEC.9; P.L.195-2007, SEC.5.

IC 5-22-9-10
Evaluation; factors and criteria

Sec. 10. The only factors or criteria that may be used in the evaluation of proposals are those specified in the request for proposals.
As added by P.L.49-1997, SEC.1.

IC 5-22-10

Chapter 10. Special Purchasing Methods

IC 5-22-10-1

Purchase without soliciting bids or proposals

Sec. 1. Notwithstanding any other provision of this article, a purchasing agent may make a purchase under this chapter without soliciting bids or proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-2

Competition

Sec. 2. A special purchase must be made with competition as is practicable under the circumstances.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-3

Contract files; record listing all contracts

Sec. 3. (a) A purchasing agent shall maintain the contract records for a special purchase in a separate file.

(b) A purchasing agent shall include in the contract file a written determination of the basis for:

(1) the special purchase; and

(2) the selection of a particular contractor.

(c) Notwithstanding any other law, a governmental body shall maintain a record listing all contracts made under this chapter for a minimum of five (5) years. The record must contain the following information:

(1) Each contractor's name.

(2) The amount and type of each contract.

(3) A description of the supplies purchased under each contract.

(d) The contract records for a special purchase are subject to annual audit by the state board of accounts.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-4

Emergency conditions

Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by IC 10-19-8-1 may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

As added by P.L.49-1997, SEC.1. Amended by P.L.123-2002, SEC.9; P.L.22-2005, SEC.3.

IC 5-22-10-5

Savings to governmental body

Sec. 5. A purchasing agent may make a special purchase when there exists a unique opportunity to obtain supplies or services at a

substantial savings to the governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-6
Auctions
Sec. 6. A purchasing agent may make a special purchase at an auction.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-7
Data processing contract or license agreements
Sec. 7. A purchasing agent may make a special purchase of data processing contracts or license agreements for:
(1) software programs; or
(2) supplies or services, when only one (1) source meets the using agency's reasonable requirements.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-8
Compatibility of equipment, accessories, or replacement parts
Sec. 8. A purchasing agent may make a special purchase when:
(1) the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the purchase; and
(2) only one (1) source meets the using agency's reasonable requirements.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-9
Purchasing method impairs functioning of agency
Sec. 9. A purchasing agent may make a special purchase when purchase of the required supplies or services under another purchasing method under this article would seriously impair the functioning of the using agency.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-10
No offer received under other purchasing method
Sec. 10. A purchasing agent may make a special purchase when the purchasing agency has solicited for a purchase under another purchasing method described in this article and has not received a responsive offer.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-11
Evaluation of supplies or system containing supplies
Sec. 11. A purchasing agent may make a special purchase for the evaluation of supplies or a system containing supplies for any of the following reasons:
(1) To obtain:
(A) functional information; or

(B) comparative data.

(2) For a purpose that in the judgment of the purchasing agent may advance the long term competitive position of the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-12

Governmental discount available

Sec. 12. A purchasing agent may make a special purchase when the market structure is based on price but the governmental body is able to receive a dollar or percentage discount of the established price.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-13

Single source for supply; award of contract

Sec. 13. Subject to sections 14 and 15, a purchasing agent may award a contract for a supply when there is only one (1) source for the supply and the purchasing agent determines in writing that there is only one (1) source for the supply.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-14

General Services Administration price

Sec. 14. A purchasing agent may make a purchase from a person when the purchasing agent determines in writing that:

(1) supplies can be purchased from the person or the person's authorized representative at prices equal to or less than the prices stipulated in current federal supply service schedules established by the federal General Services Administration; and

(2) it is advantageous to the governmental body's interest in efficiency and economy.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-15

Purchase from person who has contract with federal agency

Sec. 15. (a) A purchasing agent may purchase supplies if the purchase is made from a person who has a contract with a federal agency and the person's contract with the federal agency requires the person to make the supplies available to the state or political subdivisions.

(b) A purchasing agent for a political subdivision may purchase supplies if the purchase is made from a person who has a contract with a state agency and the person's contract with the state requires the person to make the supplies or services available to political subdivisions, as provided in IC 4-13-1.6 or IC 5-22-17-9.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-16

Acquisition of supplies through transfer from federal government

Sec. 16. (a) A purchasing agent may acquire supplies if the purchasing agent determines that the governmental body can obtain the transfer of the supplies from the federal government under IC 4-13-1.7 at a cost less than would be obtained from purchase of the supplies by soliciting for bids or proposals.

(b) A governmental body may not make a purchase under this section if title to the property will be transferred to the governmental body before a sufficient appropriation to pay the costs of the purchase is appropriated. However, if the supplies will be transferred to the governmental body upon conditional sale or under a lease, a lease with option to purchase, or a contract for the use of the supplies, the governmental body may make the purchase under this section if there are sufficient funds appropriated to pay the consideration required for one (1) year of the agreement.

(c) A purchasing agent who purchases or leases surplus federal materials shall, at the time of the purchase or lease, or immediately thereafter, give public notice in accordance with IC 5-3-1.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-17

Acquisition of supplies through acceptance of gift

Sec. 17. A purchasing agent may acquire supplies by accepting a gift for the purchasing agent's governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-18

Special purchase of copyrighted material

Sec. 18. A purchasing agent for a state purchasing agency may make a special purchase of copyrighted materials to be used, provided, or distributed by a state agency.

As added by P.L.22-1997, SEC.10.

IC 5-22-10-19

Purchase from public utility following independent appraisal

Sec. 19. A purchasing agent may make a special purchase from a public utility if the purchase or lease price is a negotiated price that considers the results of an independent appraisal that the purchasing agency obtains and an independent appraisal that the public utility obtains.

As added by P.L.7-1998, SEC.4.

IC 5-22-10-20

Purchase of petroleum products by aviation commissioners, airport authority, or port authority

Sec. 20. (a) This section applies to the purchase of petroleum products by:

(1) a board of aviation commissioners under IC 8-22-2;

(2) an airport authority under IC 8-22-3; or

(3) a port authority organized under IC 8-10-5.

(b) A purchasing agent may make a special purchase of petroleum

products if the petroleum products are for resale to the general public.

As added by P.L.7-1998, SEC.5. Amended by P.L.8-2013, SEC.1.

IC 5-22-11

Chapter 11. Purchases From the Department of Correction

IC 5-22-11-1

Requirement to purchase from the department of correction

Sec. 1. Subject to section 2 of this chapter, a governmental body shall purchase from the department of correction supplies and services produced or manufactured by the department under IC 11-10-6 as listed in the department's printed catalog unless the supplies and services cannot be furnished in a timely manner.

As added by P.L.49-1997, SEC.1.

IC 5-22-11-2

Specifications for supplies and services

Sec. 2. Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

As added by P.L.49-1997, SEC.1.

IC 5-22-11-3

Catalog

Sec. 3. The department of correction shall furnish each governmental body a catalog with the following information:

(1) Supplies and services available for sale.

(2) Prices of supplies and services available for sale.

As added by P.L.49-1997, SEC.1.

IC 5-22-12

Chapter 12. Purchase of Rehabilitation Center Products

IC 5-22-12-1

Applicability of chapter

Sec. 1. This chapter applies only to the following governmental bodies:

(1) A state institution (as defined in IC 12-7-2-184).

(2) A penal facility operated by the department of correction.

(3) An institution operated by the state department of health under IC 16-19-6.

(4) A political subdivision.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-2

"Bureau" defined

Sec. 2. As used in this chapter, "bureau" refers to the rehabilitation services bureau of the division of disability and rehabilitative services established under IC 12-12-1-1.

As added by P.L.49-1997, SEC.1. Amended by P.L.141-2006, SEC.8.

IC 5-22-12-3

"Rehabilitation center" defined

Sec. 3. As used in this chapter, "rehabilitation center" refers to the rehabilitation center established under IC 12-12-3-1.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-4

Conditions for purchases

Sec. 4. A governmental body shall purchase articles produced by the rehabilitation center under the same conditions as articles produced by the department of correction under IC 5-22-11, unless similar articles are produced by the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-5

Catalog

Sec. 5. The bureau shall publish a catalog for the use of governmental bodies, showing the products and services available through the rehabilitation center.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-6

Purchase of articles listed in catalog

Sec. 6. (a) Whenever a governmental body needs an article listed in the catalog published under section 5 of this chapter, the governmental body:

(1) shall give the bureau a reasonable time to produce or supply the article; and

(2) except for an article produced by the department of

correction, may not elsewhere:

(A) contract for;

(B) purchase; or

(C) pay a bill for;

an article described in the catalog unless the article cannot be furnished by the bureau.

(b) A governmental body may contract elsewhere for purchase of an article described in the catalog if the bureau gives a written statement that the bureau cannot furnish the article.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-7

Specifications for supplies

Sec. 7. Supplies purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

As added by P.L.49-1997, SEC.1.

IC 5-22-13

Chapter 13. Purchases From Qualified Nonprofit Agencies for Persons With Severe Disabilities

IC 5-22-13-1

"Qualified agency" defined

Sec. 1. As used in this chapter, "qualified agency" refers to a nonprofit agency for persons with severe disabilities that meets all of the following conditions:

(1) The agency complies with Indiana laws governing private nonprofit organizations.

(2) The agency is certified by the Wage and Hour Division of the United States Department of Labor.

(3) The agency meets the standards adopted by the secretary of family and social services.

(4) The agency makes reports under IC 16-32-2-7.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-2

Conditions for purchases; political subdivisions

Sec. 2. (a) This section applies only to a governmental body that is a political subdivision.

(b) A governmental body may purchase supplies and services without advertising or calling for bids from a qualified agency under the same conditions as supplies produced by the department of correction are purchased under IC 5-22-11.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-3

Conditions for purchase; governmental bodies other than political subdivisions

Sec. 3. (a) This section applies to a governmental body not covered by section 2 of this chapter.

(b) A governmental body shall purchase supplies and services without advertising or calling for bids from a qualified agency under the same conditions as supplies produced by the department of correction are purchased under IC 5-22-11.

(c) Except as provided in subsection (d), before a purchasing agent issues a solicitation for supplies or services, the purchasing agent shall do either of the following:

(1) Obtain a written determination within seven (7) business days from:

(A) the committee; or

(B) a person designated by the committee;

that no qualified agency can provide the supplies or services.

(2) Certify that the supplies or services offered by a qualified agency cannot be obtained as required in section 5 of this chapter.

(d) If a purchasing agent issues a solicitation for a consolidated purchase of supplies or services, or both, the purchasing agent shall

do either of the following:

(1) Require vendors to purchase:

(A) supplies;

(B) services; or

(C) both supplies and services;

from a catalog of a qualified agency kept by the committee.

(2) Establish scoring standards to ensure participation in the solicitation by a qualified agency.

As added by P.L.49-1997, SEC.1. Amended by P.L.46-2007, SEC.3.

IC 5-22-13-4

Apportionment of purchases

Sec. 4. A governmental body may apportion purchases of supplies and services under this chapter on an equitable basis among the interested qualified agencies.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-5

Supplies and services must meet specifications; determination of fair market price

Sec. 5. (a) Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price as described under subsection (b).

(b) A fair market price under this section must cover for the qualified agency the costs of raw materials, labor, overhead, and delivery cost. In determining the fair market price, the purchasing agent shall use one (1) or more of the following:

(1) Available information from reliable market sources.

(2) A market survey from a person designated by the committee.

(3) Previous contract prices.

(4) The range of bids from the most recent solicitation, including a determination of:

(A) the median price of the bids;

(B) the average price of the bids; and

(C) any market conditions or specifications that have changed since the most recent solicitation.

As added by P.L.49-1997, SEC.1. Amended by P.L.46-2007, SEC.4.

IC 5-22-14

Chapter 14. Small Business Set-Aside Purchases

IC 5-22-14-1

"Small business"

Sec. 1. As used in this chapter, "small business" means a business that:

(1) is independently owned and operated;

(2) is not dominant in its field of operation; and

(3) satisfies the criteria:

(A) in the rules adopted under section 3 of this chapter; or

(B) to be a veteran owned small business concern as specified in section 3.5 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.90-2013, SEC.1.

IC 5-22-14-2

"Small business set-aside"

Sec. 2. As used in this chapter, "small business set-aside" means a purchase in which the solicitation states that offers will be accepted only by small businesses.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-3

Rules; businesses that are not small businesses

Sec. 3. (a) A governmental body may adopt rules to implement this chapter. The Indiana department of administration shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted by a governmental body must establish criteria for determining qualifications as a small business. In establishing criteria, the rules may use any standards established for determination of small business status that are used by an agency of the federal government. A governmental body may also receive assistance from the Indiana economic development corporation to establish criteria or to implement the rules.

(c) The rules adopted by a governmental body may consider the number of employees employed by an offeror and the dollar volume of the offeror's business. The rules must provide that when computing the size of an offeror, the annual sales and receipts of the offeror and all of its affiliates must be included.

(d) The rules adopted by a governmental body must include the following criteria:

(1) A wholesale business is not a small business if its annual sales for its most recently completed fiscal year exceed four million dollars ($4,000,000).

(2) A construction business is not a small business if its average annual receipts for the preceding three (3) fiscal years exceed four million dollars ($4,000,000).

(3) A retail business or business selling services is not a small business if its annual sales and receipts exceed five hundred thousand dollars ($500,000).

(4) A manufacturing business is not a small business if it employs more than one hundred (100) persons.

(5) A business in any of the following sectors is not a small business if it employs more than one hundred (100) persons or if its annual sales exceed five million dollars ($5,000,000):

(A) Information technology.

(B) Life sciences.

(C) Transportation.

(D) Logistics.

As added by P.L.49-1997, SEC.1. Amended by P.L.4-2005, SEC.31; P.L.160-2006, SEC.10.

IC 5-22-14-3.5

Veteran owned small business concern; eligibility

Sec. 3.5. (a) A business qualifies as a small business for purposes of this chapter if the business is an Indiana small business concern owned and controlled by veterans, as defined in 15 U.S.C. 632(q)(3) as in effect January 1, 2013, and the business:

(1) has a current verification as a veteran owned small business concern under 38 CFR 74, et seq., by the Center of Veterans Enterprise of the United States Department of Veterans Affairs;

(2) is owned and controlled by one (1) or more veterans who have been residents of Indiana for at least one (1) year before making an offer or, in the case of a corporation, have at least fifty-one percent (51%) of the corporation's stock owned by one (1) or more veterans who have been residents of Indiana for at least one (1) year before making an offer; and

(3) has its principal place of business located in Indiana.

(b) The Indiana economic development corporation may assist the Indiana department of administration in doing any of the following:

(1) Compiling and maintaining a comprehensive list of veteran owned small businesses.

(2) Assisting veteran owned small businesses in complying with the procedures for bidding on state contracts.

(3) Examining requests from the Indiana department of administration for the purchase of supplies or services to help determine which purchases may be consistent with the goal described in section 11(a) of this chapter.

(4) Simplifying specifications and contract terms to increase the opportunities for veteran owned small businesses to participate in state contracts.

(c) The Indiana economic development corporation, in consultation with the Indiana department of administration, may develop programs to encourage cities, counties, towns, townships, and private businesses to adopt the goal for contracts with veteran owned small businesses described in section 11(a) of this chapter.

As added by P.L.90-2013, SEC.2.

IC 5-22-14-4

Identification of supplies; designation as small business; notice

Sec. 4. (a) A governmental body that has adopted rules under this chapter may identify as a small business set-aside specific supplies for which purchase has been requested under this article.

(b) A small business designation must be made before the solicitation for the purchase is issued and the public notice of the purchase must state that the purchase is a small business set-aside.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-5
Reasonable expectation of two offers

Sec. 5. A governmental body may not designate a purchase as a small business set-aside unless there is a reasonable expectation that offers will be obtained from at least two (2) small businesses capable of furnishing the desired supplies or service at a fair and reasonable price.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-6
Solicitation confined to small businesses

Sec. 6. If a purchase is designated as a small business set-aside, the solicitation must be confined to small businesses.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-7
Award of contract

Sec. 7. A contract shall be awarded to the lowest responsible and responsive offeror among the small businesses in accordance with the rules of the governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-8
Acceptance of offer resulting in unreasonable price

Sec. 8. If the purchasing agent determines that acceptance of the lowest responsible and responsive offer will result in the payment of an unreasonable price, the purchasing agent shall reject all offers and may withdraw designation of the purchase as a small business set-aside.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-9
Assistance from Indiana economic development corporation

Sec. 9. The Indiana economic development corporation may assist a governmental body in doing any of the following:

(1) Compiling and maintaining a comprehensive list of small businesses.

(2) Assisting small businesses in complying with the procedures for bidding on governmental contracts.

(3) Examining requests from governmental bodies for the purchase of supplies to help determine which purchases are to be designated small business set-asides.

(4) Simplifying specifications and contract terms to increase the opportunities for small business participation in governmental contracts.

(5) Investigations by a governmental body to determine the responsibility of offerors on small business set-asides.

As added by P.L.49-1997, SEC.1. Amended by P.L.4-2005, SEC.32.

IC 5-22-14-10

Purchases subject to other provisions and rules; conflict of laws

Sec. 10. A purchase from a small business under this chapter is subject to:

(1) all other provisions of this article; and

(2) the rules of the governmental body.

If there is a conflict between the laws described in subdivisions (1) and (2) and this chapter, this chapter governs.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-11 Version a

Veteran owned small business concern; rules; state contracting goals; procurement policies and procedures; reporting requirement

Note: This version of section effective until 3-24-2014. See also following version of this section, effective 3-24-2014.

Sec. 11. (a) The Indiana department of administration shall adopt rules under IC 4-22-2 to do the following:

(1) Increase contracting opportunities for Indiana veteran owned small businesses described in section 3.5 of this chapter with a goal to procure in each state fiscal year at least three percent (3%) of state contracts with Indiana veteran owned small businesses.

(2) Develop procurement policies and procedures to accomplish the goal described in subdivision (1), including guidelines to be followed by the Indiana department of administration in conducting the department's procurement efforts.

These procurement policies do not apply to a procurement of supplies and services to address immediate and serious government needs at a time of emergency, including a threat to the public health, welfare, or safety that may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, a threat proclaimed by the President of the United States or the governor, or a threat declared by the commissioner of the Indiana department of administration.

(b) The Indiana department of administration shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. Beginning in 2014, after June 30 and before November 1 of each year, the Indiana department of administration shall submit a report to the governor, the Indiana department of veterans' affairs, the commission on military and veterans affairs, and, in an electronic format under IC 5-14-6, the legislative council. The report must include:

(1) the percentage goal obtained by the Indiana department of

administration during the previous state fiscal year; and

(2) a summary of why the Indiana department of administration failed to meet the goal and what actions are being taken by the Indiana department of administration to meet the goal in the current state fiscal year.

(c) The Indiana department of administration shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted. The Indiana department of veterans' affairs shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted by the Indiana department of administration.

As added by P.L.90-2013, SEC.3. Amended by P.L.2-2014, SEC.16.

IC 5-22-14-11 Version b

Veteran owned small business concern; rules; state contracting goals; procurement policies and procedures; reporting requirement

Note: This version of section effective 3-24-2014. See also preceding version of this section, effective until 3-24-2014.

Sec. 11. (a) The Indiana department of administration shall adopt rules under IC 4-22-2 to do the following:

(1) Increase contracting opportunities for Indiana veteran owned small businesses described in section 3.5 of this chapter with a goal to procure in each state fiscal year at least three percent (3%) of state contracts with Indiana veteran owned small businesses.

(2) Develop procurement policies and procedures to accomplish the goal described in subdivision (1), including guidelines to be followed by the Indiana department of administration in conducting the department's procurement efforts.

These procurement policies do not apply to a procurement of supplies and services to address immediate and serious government needs at a time of emergency, including a threat to the public health, welfare, or safety that may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, a threat proclaimed by the President of the United States or the governor, or a threat declared by the commissioner of the Indiana department of administration.

(b) The Indiana department of administration shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. Beginning in 2014, after June 30 and before November 1 of each year, the Indiana department of administration shall submit a report to the governor, the Indiana department of veterans' affairs, and the interim study committee on public safety and military affairs established by IC 2-5-1.3-4 and the legislative council in an electronic format under IC 5-14-6. The report must include:

(1) the percentage goal obtained by the Indiana department of administration during the previous state fiscal year; and

(2) a summary of why the Indiana department of administration

failed to meet the goal and what actions are being taken by the Indiana department of administration to meet the goal in the current state fiscal year.

(c) The Indiana department of administration shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted. The Indiana department of veterans' affairs shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted by the Indiana department of administration.

As added by P.L.90-2013, SEC.3. Amended by P.L.2-2014, SEC.16; P.L.53-2014, SEC.68.

IC 5-22-15

Chapter 15. Purchasing Preferences

IC 5-22-15-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) A purchase of supplies under this article by any of the following:

(A) A governmental body.

(B) A state educational institution.

(C) An instrumentality of the state that performs essential governmental functions on either a statewide or local basis.

(D) The state lottery commission created by IC 4-30-3-1.

(2) A purchase made under IC 5-17-1.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.1; P.L.133-2012, SEC.36.

IC 5-22-15-2

"Absolute preference"

Sec. 2. As used in this chapter, "absolute preference" means a requirement that a governmental body must purchase supplies described under this chapter, regardless of price.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-3

"Adjusted offer"

Sec. 3. As used in this chapter, "adjusted offer" means the offer price of an offeror for preferred supplies as determined under section 10 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.2; P.L.133-2012, SEC.37.

IC 5-22-15-4

"Preferred supplies"

Sec. 4. As used in this chapter, "preferred supplies" means supplies that are given a preference under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-5

"Price preference percentage"

Sec. 5. As used in this chapter, "price preference percentage" means the percentage preference provided by this chapter for a specified kind or item of supplies.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.3; P.L.133-2012, SEC.38.

IC 5-22-15-6

"Total adjusted offer"

Sec. 6. As used in this chapter, "total adjusted offer" means the sum of the offers and adjusted offers of an offeror for each item of

supplies.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-7
Allowable preferences; limitations

Sec. 7. (a) An offeror may claim one (1) of the following types of preference for which the offeror is eligible:

(1) An Indiana business preference under rules adopted under section 20 of this chapter or IC 4-13.6-6-2.5.

(2) A preference for supplies as provided by sections 16, 18, 19, and 24 of this chapter.

(3) An Indiana small business preference as provided by section 23 of this chapter.

(4) An Indiana farm product preference as provided by section 23.5 of this chapter.

(b) An offeror may not claim more than one (1) preference as provided by sections 16, 18, 19, and 24 of this chapter for a given supply item.

(c) This section does not:

(1) apply to; or

(2) limit;

action of the Indiana department of administration under rules adopted under section 21 of this chapter.
As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.2; P.L.209-2001, SEC.1; P.L.122-2011, SEC.2.

IC 5-22-15-8
Offer must indicate preferred supply or service

Sec. 8. An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply.
As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.4; P.L.133-2012, SEC.39.

IC 5-22-15-9
Certification that supply meets required qualifications

Sec. 9. A purchasing agent may require an offeror who claims a preference for a given supply item under section 8 of this chapter to certify that the supply offered meets the qualifications set for preferred supplies under this chapter.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-10
Computation of adjusted offer; formula

Sec. 10. (a) This section does not apply to an absolute preference.

(b) If an offeror offers a preferred supply for a given supply item, the purchasing agent shall compute an adjusted offer for that item according to the following formula:

STEP ONE: Determine the price preference percentage for the supply item under this chapter.

STEP TWO: Multiply the offeror's offer for the supply item by the percentage determined under STEP ONE.

STEP THREE: Subtract the number determined under STEP TWO from the offeror's offer for the supply item.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.5; P.L.133-2012, SEC.40.

IC 5-22-15-11
Award to offeror with lowest total adjusted offer

Sec. 11. Notwithstanding any statute requiring the award of a contract to the lowest offeror, but subject to section 12 of this chapter, a purchasing agent shall award a contract to the offeror whose total adjusted offer is lower than the total adjusted offer of each other offeror.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-12
Award of contract; requirements

Sec. 12. Award of a contract under section 11 of this chapter is subject to the following:

(1) A requirement of an applicable statute to award a contract to a responsible and responsive bidder.

(2) A requirement of an applicable statute to award a contract:

(A) to the best bidder; or

(B) in the case of a purchase under IC 5-22-9, to the offeror whose offer is most advantageous to the governmental body.

(3) The authority of the purchasing agent under IC 5-22-17-12 to award contracts separately or for a combination of a line or class of supplies.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.6.

IC 5-22-15-13
Contracts awarded separately; combination of line or class of supplies

Sec. 13. If a purchasing agent awards contracts separately, or for a combination of a line or class of supplies under an applicable law, the purchasing agent shall compute total adjusted offers and award contracts as if each combination of lines or classes of supplies to be awarded a contract had been solicited separately.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-14
Price

Sec. 14. The price paid for preferred supplies purchased under a contract awarded under this chapter shall be the price offered for the supplies and not the adjusted offer price of the supplies.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-15
Rules

Sec. 15. A governmental body may adopt rules to implement this chapter.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-16
Price preference for supplies that contain recycled or post-consumer materials

Sec. 16. (a) This section does not apply when the purchase description is limited to a supply that meets the description set forth in subsection (b).

(b) There is a price preference for supplies that contain recycled materials or post-consumer materials.

(c) The amount of the price preference and the recycled materials' composition of the supplies must be set by one (1) of the following:

(1) Rules adopted by the governmental body.
(2) Policies established by the purchasing agency.
(3) The solicitation.

The preference shall be set to maximize the use of recycled materials when economically practical.

(d) A price preference set under subsection (c) may not be less than ten percent (10%) or exceed fifteen percent (15%).
As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.3.

IC 5-22-15-17
Repealed

(Repealed by P.L.153-1999, SEC.6.)

IC 5-22-15-18
Price preference for soybean oil based ink

Sec. 18. (a) Notwithstanding section 1 of this chapter, this section does not apply to a purchase of supplies by any of the following:

(1) A political subdivision.
(2) A state educational institution.

(b) This section does not apply when the purchase description is limited to soybean oil based ink.

(c) There is a price preference of ten percent (10%) for soybean oil based ink.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-19
Price preference for soy diesel/bio diesel

Sec. 19. (a) This section does not apply when the purchase description is limited to a fuel of which at least twenty percent (20%) by volume is soy diesel/bio diesel.

(b) As used in this section, "soy diesel/bio diesel" includes fuels (other than alcohol) that are primarily esters derived from biological materials, including oilseeds and animal fats, for use in compression and ignition engines.

(c) There is a price preference of ten percent (10%) for soy diesel/bio diesel.

(d) The price preference under this section applies to a purchase of fuel of which at least twenty percent (20%) by volume is soy diesel/bio diesel.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-20
Preferences to Indiana businesses; rules

Sec. 20. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) As used in this section, "out-of-state business" refers to a business that is not an Indiana business.

(c) A governmental body may adopt rules to give a preference to an Indiana business that submits an offer for a purchase under this article if all of the following apply:

(1) An out-of-state business submits an offer for the purchase.

(2) The out-of-state business is a business from a state that gives purchase preferences unfavorable to Indiana businesses.

(d) Rules adopted under subsection (c) must establish criteria for determining the following:

(1) Whether an offeror qualifies as an Indiana business under the rules.

(2) When another state's preference is unfavorable to Indiana businesses.

(3) The method by which the preference for Indiana businesses is to be computed.

(e) Rules adopted under subsection (c) may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

(f) Rules adopted under subsection (c) must provide that a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided under this section, if:

(1) the offeror is an Indiana business; or

(2) the offeror is a business from a state bordering Indiana and the offeror's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

As added by P.L.49-1997, SEC.1. Amended by P.L.66-2004, SEC.3.

IC 5-22-15-20.5
"Indiana business"; criteria; price preferences; awarding of contracts; exception

Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of

its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (b). The Indiana department of administration may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There are the following price preferences for supplies purchased from an Indiana business:

(1) Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

(e) If an Indiana business offers to provide supplies manufactured, assembled, or produced in Indiana, and if two (2) or more bids submitted were the same, the following price preference is available to the Indiana business, in addition to the price preference available under subsection (d):

(1) Three percent (3%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Two percent (2%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

The Indiana department of administration shall adopt rules under IC 4-22-2 to establish guidelines for determining when supplies are manufactured or assembled in Indiana.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business. If the business claims the preference as an Indiana business described in subsection (b)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the

amount of the business's payroll paid to Indiana residents.

(C) The number of the business's employees and the number of the business's employees who are Indiana residents.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

As added by P.L.66-2004, SEC.4. Amended by P.L.4-2005, SEC.33; P.L.123-2009, SEC.1; P.L.122-2011, SEC.3.

IC 5-22-15-20.7
Repealed

(Repealed by P.L.133-2012, SEC.41.)

IC 5-22-15-20.9
Price preferences for local Indiana businesses

Sec. 20.9. (a) This section applies only to a contract awarded by a political subdivision if the political subdivision provides in the solicitation that this section applies to the purchase.

(b) As used in this section, "affected county" refers to an Indiana county:

(1) in which the political subdivision awarding a contract under this article is located; or

(2) that is adjacent to the county described in subdivision (1).

(c) As used in this section, "local Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in an affected county.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of affected counties.

(3) A business that employs residents of affected counties as a majority of its employees.

(4) A business that makes significant capital investments in the affected counties as defined in rules adopted by the political subdivision.

(5) A business that has a substantial positive economic impact on the affected counties as defined by criteria in rules adopted by the political subdivision.

(d) There are the following price preferences for supplies purchased from a local Indiana business:

(1) Five percent (5%) for a purchase expected by the purchasing agency to be less than fifty thousand dollars ($50,000).

(2) Three percent (3%) for a purchase expected by the purchasing agency to be at least fifty thousand dollars ($50,000) but less than one hundred thousand dollars ($100,000).

(3) One percent (1%) for a purchase expected by the purchasing

agency to be at least one hundred thousand dollars ($100,000).

(e) Notwithstanding subsection (d), a purchasing agency may award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if the lowest responsive and responsible offeror is a local Indiana business.

(f) A business that wants to claim a preference provided under this section must do all the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the purchasing agency:

(A) The location of the business's principal place of business. If the business claims the preference as a local Indiana business described in subsection (c)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to residents of affected counties.

(C) The number of the business's employees and the number of the business's employees who are residents of affected counties.

(D) If the business claims the preference as a local Indiana business described in subsection (c)(4), a description of the capital investments made in the affected counties and a statement of the amount of those capital investments.

(E) If the business claims the preference as a local Indiana business described in subsection (c)(5), a description of the substantial positive economic impact the business has on the affected counties.

As added by P.L.172-2011, SEC.22. Amended by P.L.17-2012, SEC.1; P.L.67-2012, SEC.1.

IC 5-22-15-21

Promotion of purchase of supplies manufactured in the United States; rules

Sec. 21. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) A governmental body shall adopt rules to promote the purchase of supplies manufactured in the United States.

(c) Rules adopted under subsection (b) shall provide that supplies manufactured in the United States shall be specified and purchased unless the governmental body determines that any of the following apply:

(1) The supplies are not manufactured in the United States in reasonably available quantities.

(2) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States.

(3) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured

outside the United States.

(4) The purchase of supplies manufactured in the United States is not in the public interest.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-22

Absolute preference to coal mined in Indiana

Sec. 22. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) This section does not apply if federal law requires the use of low sulphur coal in the circumstances for which the coal is purchased.

(c) Whenever a purchasing agent purchases coal for use as fuel, the purchasing agent shall give an absolute preference to coal mined in Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-23

Price preference for supplies to Indiana small business

Sec. 23. (a) A governmental body shall give a fifteen percent (15%) preference for supplies to an Indiana small business (as defined in IC 5-22-14-1) that submits an offer for purchase under this article.

(b) The governmental body may adopt rules to establish criteria to carry out this section.

As added by P.L.153-1999, SEC.4.

IC 5-22-15-23.5

Price preference for Indiana agricultural products

Sec. 23.5. (a) A governmental body may give up to a ten percent (10%) price preference for agricultural products grown, produced, or processed in Indiana.

(b) A governmental body may adopt rules to establish criteria to carry out this section.

As added by P.L.122-2011, SEC.4.

IC 5-22-15-24

Purchasing agents for government entities to give high calcium foods preference

Sec. 24. (a) This section applies in addition to any requirements placed upon a governmental entity by the United States Department of Agriculture under the National School Lunch Program or the School Breakfast Program.

(b) This section applies to:

(1) a governmental entity listed in section 1 of this chapter; or

(2) a business that contracts with a governmental entity listed in section 1 of this chapter;

that purchases food or beverages to be processed and served in a building or room owned or operated by the governmental entity.

(c) High calcium foods and beverages are preferred supplies. A

purchasing agent shall give a preference to foods and beverages that:

(1) contain a higher level of calcium than products of the same type and quality; and

(2) are equal in price to or lower in price than products of the same type and quality.

(d) Notwithstanding subsection (c), if the director of a state institution (as defined in IC 12-7-2-184) determines that a high calcium food or beverage that is preferred under subsection (c) would interfere with the proper treatment and care of a patient of the state institution, the purchasing agent for the state institution is not required to purchase the high calcium food or beverage for that patient.

As added by P.L.209-2001, SEC.2.

IC 5-22-15-24.2

Forced labor; supplies prohibition

Sec. 24.2. (a) As used in this section, "forced labor" has the meaning set forth in 19 U.S.C. 1307.

(b) If an offeror offers to furnish supplies made in a country other than the United States, a governmental body may not award a contract to the offeror for those supplies if the supplies were made using forced labor.

(c) A governmental body shall inform offerors in the solicitation of the provisions of this section.

As added by P.L.194-2001, SEC.1.

IC 5-22-15-25

Steel products

Sec. 25. (a) As used in this section, "steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more such operations, by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

(b) As used in this section, "United States" includes all territory, continental or insular, subject to the jurisdiction of the United States.

(c) Unless the head of the purchasing agency makes a written determination described in subsection (d), a solicitation must require that if any steel products are used in:

(1) the manufacture of the supplies required under the contract; or

(2) supplies used in the performance of the services under the contract by the contractor or a subcontractor of the contractor;

the steel products must be manufactured in the United States.

(d) Subsection (c) does not apply if the:

(1) head of the purchasing agency determines in writing that:

(A) the cost of the contract with the requirements of subsection (c) would be greater than one hundred fifteen percent (115%) of the cost of the contract without the requirements of subsection (c); and

(B) failure to impose the requirements of subsection (c) would not in any way:

(i) harm the business of a facility that manufactures steel products in Indiana; or

(ii) result in the reduction of employment or wages and benefits of employees of a facility described in item (i); or

(2) purchase is:

(A) less than ten thousand dollars ($10,000); and

(B) made under the small purchase policies (as described in IC 5-22-8-2(b)) established by the purchasing agency or under rules adopted by the governmental body.

(e) A purchasing agency shall inform offerors in the solicitation of the provisions of this section.

As added by P.L.194-2001, SEC.2.

IC 5-22-16

Chapter 16. Qualifications and Duties of Offerors and Prospective Contractors

IC 5-22-16-1

Responsibility of offeror; determination

Sec. 1. (a) If a purchasing agent determines that an offeror is not responsible, that determination must be made in writing by the purchasing agent.

(b) If an offeror fails to provide information required by the purchasing agent concerning a determination of whether the offeror is responsible, that offeror may not be considered responsible under this article.

(c) Information furnished by an offeror under this section shall not be disclosed outside the purchasing agency without the offeror's prior written consent.

(d) In determining whether an offeror is responsible, a purchasing agent may consider the following factors:

(1) The ability and capacity of the offeror to provide the supplies or service.

(2) The integrity, character, and reputation of the offeror.

(3) The competency and experience of the offeror.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-2

Responsiveness of offeror; determination

Sec. 2. In determining whether an offeror is responsive, a purchasing agent may consider the following factors:

(1) Whether the offeror has submitted an offer that conforms in all material respects to the specifications.

(2) Whether the offeror has submitted an offer that complies specifically with the solicitation and the instructions to offerors.

(3) Whether the offeror has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-3

Prequalified contractors

Sec. 3. Prospective contractors may be prequalified for particular types of supplies. Solicitation mailing lists of potential contractors may include any or all of such prequalified persons.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-4

Registration with secretary of state; payment of gross retail tax; condition of doing business

Sec. 4. (a) An 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.

(b) This subsection applies to a purchase of tangible personal property for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2007, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase tangible personal property from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

As added by P.L.49-1997, SEC.1. Amended by P.L.254-2003, SEC.3; P.L.66-2004, SEC.5; P.L.246-2005, SEC.54; P.L.211-2007, SEC.4.

IC 5-22-16-5

Evidence of financial responsibility

Sec. 5. (a) A purchasing agent may specify in a solicitation that an offeror must provide evidence of financial responsibility in order to be considered responsible. The evidence of financial responsibility may be a bond, certified check, or other evidence specified by the purchasing agent in the solicitation.

(b) An offeror must file evidence of financial responsibility in the amount, at the time, and as specified by the purchasing agent in the solicitation.

(c) If a bond or certified check is required as the evidence of financial responsibility, the amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond, certified check, or other evidence of financial responsibility shall be made payable to the governmental body.

(d) This section does not preclude the use of a performance bond in addition to the bid bond, certified check, or other evidence of financial responsibility if the amount of the performance bond is stated in the solicitation.

(e) The check of an unsuccessful offeror shall be returned to the offeror by the purchasing agent upon selection of successful offerors. The check of a successful offeror shall be held until delivery or until completion of the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-6

Noncollusion affirmation

Sec. 6. (a) An offeror must file with the purchasing agent an affirmation, made under the penalties for perjury, that states in substance the following:

(1) The offeror has not entered into a combination or an agreement:

(A) relative to the price to be offered by a person;

(B) to prevent a person from making an offer; or

(C) to induce a person to refrain from making an offer.

(2) The offeror's offer is made without reference to any other offer.

(b) The purchasing agent may require the affirmation to be made in the contract documents.

(c) The purchasing agent shall reject an offer that the purchasing agent finds to be collusive.

(d) If after the purchasing agent has awarded the contract, the purchasing agent discovers that the successful offeror's affirmation was false, the purchasing agent shall declare the contract forfeited and award a new contract.

(e) A person convicted of perjury for filing a false affirmation under this section may not be a party to a contract under this article for three (3) years following the date of conviction.

As added by P.L.49-1997, SEC.1.

IC 5-22-16.5

Chapter 16.5. Disqualification of Contractors Dealing with the Government of Iran

IC 5-22-16.5-1

Inapplicability of statute because of ceasing federal authority

Sec. 1. This chapter does not apply if federal law ceases to authorize the states to adopt and enforce provisions relating to public contracting such as those in this chapter.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-3

"Energy sector of Iran"

Sec. 3. As used in this chapter, "energy sector of Iran" includes any activity to develop petroleum or natural gas resources or nuclear power in Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-4

"Financial institution"

Sec. 4. As used in this chapter, "financial institution" has the meaning set forth in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C. 1701 note), as in effect on January 1, 2012.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-5

"Iran"

Sec. 5. As used in this chapter, "Iran" includes the government of Iran and any agency or instrumentality of the government of Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-6

"List"

Sec. 6. As used in this chapter, "list" refers to the list developed under section 9 of this chapter.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-7

"Person"

Sec. 7. For purposes of this chapter, "person" includes a successor to, or an affiliate of, the person.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-8
Activities that qualify as engaging in investment activities in Iran; exception

Sec. 8. (a) For purposes of this chapter, a person engages in investment activities in Iran if either of the following is true:

(1) The person provides goods or services of twenty million dollars ($20,000,000) or more in value in the energy sector of Iran, including providing any of the following for the energy sector of Iran:

(A) Oil or liquified natural gas tankers.

(B) Products used to construct or maintain pipelines used to transport oil or liquified natural gas.

(2) The person is a financial institution that extends twenty million dollars ($20,000,000) or more in credit to another person, for forty-five (45) days or more, if that other person:

(A) will use the credit to provide goods or services in the energy sector in Iran; and

(B) is, at the time the financial institution extends credit, a person identified on the list as a person engaging in investment activities in Iran under subdivision (1).

(b) A person's investment contract with the Indiana public retirement system may not be used as the basis for making a determination under this chapter that the person is engaged in investment activities in Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-9
Development of list of persons who engage in investment activities in Iran

Sec. 9. (a) Not later than July 1, 2012, the department, using credible information available to the public, shall develop a list of persons the department determines to be engaged in investment activities in Iran.

(b) The department may enter into contracts for the development of the list.

(c) The list must be updated not later than every one hundred eighty (180) days.

(d) The department shall publish the list on the department's Internet web site.

(e) The department shall make every effort to avoid erroneous inclusion of a person on the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-10
Requirements before publication of list

Sec. 10. (a) Before the department publishes the list under section 9 of this chapter, the department shall do the following:

(1) Provide ninety (90) days advance written notice to any person of the department's intent to include that person on the list. The notice required by this subdivision must include the

following information:

(A) A statement that a person's inclusion on the list would make the person nonresponsible for purposes of:

(i) submitting an offer in response to a solicitation;

(ii) submitting a bid, offer, or proposal relating to a public works project; or

(iii) otherwise entering into or renewing a contract to provide supplies or services;

with the state or a political subdivision.

(B) A statement that the person will be removed from the list if the person ceases engaging in investment activities in Iran.

(C) A statement that the person's status as nonresponsible with respect to this chapter ends when the person's name is removed from the list.

(2) Provide a person that is to be placed on the list an opportunity to demonstrate in writing to the department that the person is not engaged in investment activities in Iran.

(b) If a person demonstrates to the department that the person is not engaged in investment activities in Iran, the department may not include the person on the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-11

Person on list; nonresponsible; removal of nonresponsible designation

Sec. 11. (a) Except as provided in section 12 of this chapter, a person that is placed on the list is considered nonresponsible for purposes of:

(1) submitting an offer in response to a solicitation;

(2) submitting a bid, offer, or proposal relating to a public works project; or

(3) otherwise entering into or renewing a contract to provide supplies or services;

with the state or a political subdivision.

(b) Except as provided in section 12 of this chapter, a person's status as nonresponsible under this chapter ends when the person's name is removed from the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-12

Award of contracts to persons on list; conditions under which award permitted; written findings

Sec. 12. (a) Section 11 of this chapter does not apply to the award of a particular contract to a person if either subdivision (1) or subdivision (2) applies:

(1) The purchasing agency awarding the contract finds in writing that all of the following are true:

(A) The person's investment activities in Iran were made before July 1, 2012.

(B) The person's investment activities in Iran have not been

expanded or renewed after July 1, 2012.

(C) The purchasing agency determines that it is in the best interest of the purchasing agency's governmental body to enter into the contract with the person.

(D) The person has adopted and publicized and is implementing a formal plan to:

(i) cease investment activities in Iran; and

(ii) refrain from engaging in any new investments in Iran.

(2) Either of the following applies:

(A) If the governmental body awarding the contract is a political subdivision, the executive of the political subdivision makes a written finding that the governmental body would be unable to obtain the supplies or services for which the solicitation is made unless a contract is awarded to the person.

(B) If the governmental body is a state agency, the governor makes a finding that the state would be unable to obtain the supplies or services for which the solicitation is made unless a contract is awarded to the person.

(b) A finding made under subsection (a) must be in writing and shall be placed in the contract file.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-13

Award of contracts; certification requirements

Sec. 13. (a) This section does not apply if a finding made under section 12 of this chapter is placed in the contract file.

(b) At the time a contract is awarded or renewed, the person that is being awarded or has the contract must certify in writing to the governmental body awarding or renewing the contract that the person is not engaged in investment activities in Iran.

(c) The certification required by this section shall be placed in the contract file.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-14

Consequences for false certification; procedures; civil actions; persons barred from maintaining civil actions

Sec. 14. (a) If a purchasing agency, using credible information available to the public, determines that a certification given by a person to the purchasing agency's governmental body under section 13(b) of this chapter is false, the purchasing agency shall:

(1) notify the person in writing of the purchasing agency's determination that the certification is false; and

(2) give the person ninety (90) days within which to respond to the written notice.

(b) If the person fails to demonstrate to the purchasing agency that the person has ceased the person's investment activities in Iran within ninety (90) days after the notice is given to the person under subsection (a), the following apply:

(1) The purchasing agency shall report to the attorney general the following:

(A) The name of the person that the purchasing agency has determined to have submitted a false certification.

(B) The information upon which the purchasing agency has made its determination.

The attorney general shall determine whether to bring a civil action under this section against the person.

(2) If the purchasing agency is a political subdivision, the purchasing agency may also provide the information described in subdivision (1) to an attorney representing the political subdivision. An attorney representing the political subdivision may bring a civil action under this section against the person if the attorney general declines to bring a civil action against the person under this chapter.

(3) If it is determined in a civil action under this section that the person submitted a false certification, the following apply:

(A) The court may impose on the person a civil penalty of two hundred fifty thousand dollars ($250,000).

(B) The person shall pay all reasonable costs incurred in the action, including the following:

(i) Costs incurred by the governmental body in the investigations that led to the purchasing agency's finding that the person filed a false certification.

(ii) Reasonable attorney's fees and other litigation costs incurred by the governmental body.

(C) The purchasing agency may terminate the contract with the governmental body with respect to which the false certification was made.

(D) The purchasing agency may consider the person nonresponsible for purposes of the awarding of any contracts by the governmental body for not more than three (3) years after the date of the purchasing agency's determination under subsection (a).

(c) A civil action brought under this section must be filed not later than three (3) years after the purchasing agency makes the determination under subsection (a).

(d) A person other than the governmental body, including an unsuccessful offeror, may not:

(1) bring a civil action under this section;

(2) file a bid protest; or

(3) bring any other kind of action;

based on the purchasing agency's determination of a false certification under subsection (a).

(e) This section does not create a private right of action for the imposition of the penalties provided for in this section.

As added by P.L.21-2012, SEC.4.

IC 5-22-17

Chapter 17. Contracts

IC 5-22-17-1

Cost plus a percentage of cost contract

Sec. 1. A governmental body may not enter into a cost plus a percentage of cost contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-2

Cost reimbursement contract

Sec. 2. A governmental body may enter into a cost reimbursement contract if the purchasing agent determines in writing that the contract is likely to be less costly to the governmental body than any other contract type, or that it is impracticable to obtain the supplies required except under such a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-3

Contracts for supplies; time periods

Sec. 3. (a) This section does not apply to a discounted contractual arrangement for services or supplies funded through a designated leasing entity.

(b) Subject to subsections (c) through (e) and section 5 of this chapter, a contract for supplies may be entered into for a period not to exceed four (4) years.

(c) County and municipal hospitals may contract for the purchase of supplies for more than one (1) year but not more than five (5) years if the supplies are purchased under IC 5-22-7.

(d) The contract must specify that payment and performance obligations are subject to the appropriation and availability of funds.

(e) A political subdivision must have available a sufficient appropriation balance or an approved additional appropriation before a purchasing agent may award a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-4

Renewal of contracts

Sec. 4. (a) A contract that contains a provision for escalation of the price of the contract may be renewed under this section if the price escalation is computed using:

(1) a commonly accepted index named in the contract; or

(2) a formula set forth in the contract.

(b) Subject to section 5 of this chapter, with the agreement of the contractor and the purchasing agency, a contract may be renewed any number of times.

(c) The term of a renewed contract may not be longer than the term of the original contract.

As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.5.

IC 5-22-17-5
Funds not appropriated or not available; cancellation of contract

Sec. 5. (a) When the fiscal body of the governmental body makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract, the contract is considered canceled.

(b) A determination by the fiscal body that funds are not appropriated or otherwise available to support continuation of performance is final and conclusive.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-5.5
Applicability; prohibition on state contracts and grants with entities that perform abortions; appropriations; termination of contract

Sec. 5.5. (a) This section does not apply to hospitals licensed under IC 16-21-2 or ambulatory surgical centers licensed under IC 16-21-2.

(b) An agency of the state may not:

(1) enter into a contract with; or

(2) make a grant to;

any entity that performs abortions or maintains or operates a facility where abortions are performed that involves the expenditure of state funds or federal funds administered by the state.

(c) Any appropriation by the state:

(1) in a budget bill;

(2) under IC 5-19-1-3.5; or

(3) in any other law of the state;

to pay for a contract with or grant made to any entity that performs abortions or maintains or operates a facility where abortions are performed is canceled, and the money appropriated is not available for payment of any contract with or grant made to the entity that performs abortions or maintains or operates a facility where abortions are performed.

(d) For any contract with or grant made to an entity that performs abortions or maintains or operates a facility where abortions are performed covered under subsection (b), the budget agency shall make a determination that funds are not available, and the contract or grant shall be terminated under section 5 of this chapter.

As added by P.L.193-2011, SEC.1.

IC 5-22-17-6
Early performance; completion after termination date

Sec. 6. (a) The purchasing agent may specify in a contract that early performance of the contract will result in increased compensation at either:

(1) a percentage of the contract amount; or

(2) a specific dollar amount;

determined by the purchasing agent.

(b) The purchasing agent may specify in a contract that

completion of the contract after the termination date of the contract will result in a deduction from the compensation in the contract at either:

(1) a percentage of the contract amount; or

(2) a specific dollar amount;

determined by the purchasing agent.

(c) Notice of inclusion of contract provisions permitted under this section in a contract must be included in the solicitation.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-7

Contract for remediation of hazardous waste site

Sec. 7. (a) As used in this section, "release" means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, or spilling into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any petroleum or hazardous substance.

(b) As used in this section, "remediation" means any of the following:

(1) Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment that may otherwise result from a release or threat of a release.

(2) Actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release of petroleum or a hazardous substance into the environment to eliminate the release of petroleum or hazardous substances so that the petroleum or hazardous substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.

(3) The cleanup or removal of released petroleum or hazardous substances from the environment.

(c) Notwithstanding section 3 of this chapter, a contract for remediation of a hazardous waste site may be entered into for any period not to exceed ten (10) years. The other provisions of section 3 of this chapter apply to a contract for remediation of hazardous waste.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-8

Contract for supplies and services to implement EBT program

Sec. 8. (a) As used in this section, "division" refers to the division of family resources established by IC 12-13-1-1.

(b) As used in this section, "EBT program" refers to an electronic benefits transfer program.

(c) Notwithstanding section 3 of this chapter, the division may enter into a contract for supplies and services to implement an EBT program for an initial period not to exceed five (5) years. The division may renew the contract for any number of successive periods not to exceed two (2) years each.

As added by P.L.49-1997, SEC.1. Amended by P.L.145-2006, SEC.15.

IC 5-22-17-9
Extension of offers to political subdivisions

Sec. 9. A contract entered into by a state agency may require the contractor to offer to political subdivisions the services or supplies that are the subject of the contract under conditions specified in the contract.
As added by P.L.49-1997, SEC.1.

IC 5-22-17-10
Contract for petroleum products

Sec. 10. (a) As used in this section, "petroleum products" includes the following:

(1) Gasoline.
(2) Fuel oils.
(3) Lubricants.
(4) Liquid asphalt.

(b) A purchasing agent may award a contract for petroleum products to:

(1) the lowest responsible and responsive offeror; or
(2) all responsible and responsive offerors.

(c) A contract entered into under this section may allow for the escalation or de-escalation of price.

(d) This subsection applies to a petroleum products contract that is awarded to all responsible and responsive offerors as provided in subsection (b). The purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide five (5) business days written notice of any change in price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memoranda. The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror, taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors.
As added by P.L.49-1997, SEC.1.

IC 5-22-17-11
Contract for sand, gravel, asphalt, paving materials, or crushed stone

Sec. 11. A county may award a sand, gravel, asphalt paving materials, or crushed stone contract to more than one (1) responsible and responsive offeror if both of the following apply:

(1) The specifications allow for offers to be based upon service to specific geographic areas.

(2) The contracts are awarded by geographic area.
The county is not required to describe the geographic areas in the specifications.
As added by P.L.7-1998, SEC.7.

IC 5-22-17-12
Separate contracts; awarding contract to an offeror other than the lowest offeror

Sec. 12. (a) A solicitation may provide that offers will be received and contracts will be awarded separately or for any combination of a line or a class of supplies or services contained in the solicitation.

(b) If the solicitation does not indicate how separate contracts might be awarded, the purchasing agent may award separate contracts to different offerors under this section only if the purchasing agent makes a written determination showing that the award of separate contracts is in the interest of efficiency or economy.

(c) If the purchasing agent awards a contract for a line or class of supplies or services, or any combination of lines or classes, to an offeror other than the lowest offeror, the purchasing agent must make a written determination stating the reasons for awarding a contract to that offeror.
As added by P.L.7-1998, SEC.8.

IC 5-22-17-13
Contracts for supplies or services for an unspecified number of items at a fixed price per unit

Sec. 13. A solicitation may provide that the purchasing agent will award a contract for supplies or services 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.
As added by P.L.7-1998, SEC.9.

IC 5-22-17-14
Contracts involving steel products

Sec. 14. A contract awarded under this article must include the requirements of IC 5-22-15-25(c) unless the head of the purchasing agency makes a determination under IC 5-22-15-25(d).
As added by P.L.194-2001, SEC.3.

IC 5-22-18

Chapter 18. Other Procedures Governing Purchasing

IC 5-22-18-1

Public notice

Sec. 1. (a) Whenever public notice is required by this article, notice shall be given by publication in the manner prescribed by IC 5-3-1.

(b) The purchasing agent may give notice other than as required in IC 5-3-1 that the purchasing agent considers will increase competition.

(c) The purchasing agent shall schedule all notices given under this section to provide a reasonable amount of time for preparation and submission of responses after notification. The period between:

(1) the last publication, mailing, or posting of notices required by this section; and

(2) the final date set for submitting offers;

must be at least seven (7) calendar days.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-2

Cancellation of solicitation; rejection of offer

Sec. 2. (a) When the purchasing agent determines it is in the best interests of the governmental body:

(1) a solicitation may be canceled; or

(2) offers may be rejected;

in whole or in part as specified in the solicitation.

(b) The reasons for a cancellation of a solicitation or rejection of offers must be made a part of the contract file.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-3

Offers opened after time stated in solicitation

Sec. 3. Notwithstanding any other law, offers may be opened after the time stated in the solicitation if both of the following apply:

(1) The governmental body makes a written determination that it is in the best interest of the governmental body to delay the opening.

(2) The day, time, and place of the rescheduled opening is announced at the day, time, and place of the originally scheduled opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-4

Contract and purchasing records; protection of documents

Sec. 4. (a) Except as provided in this section or by another law, contract and purchasing records are public records subject to public inspection under IC 5-14-3.

(b) A governmental body may establish policies or adopt rules for the protection of documents submitted to the governmental body in

response to a solicitation.

(c) Policies or rules may provide procedures for the following:

(1) Protection of offers before opening to prevent disclosure of contents.

(2) Afford unobstructed evaluation of offers and award of contracts by the purchasing agent after opening.

(3) Protection of offers from tampering before and after opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-5

Purchase order or lease made public record by political subdivisions

Sec. 5. (a) This section applies only to a political subdivision.

(b) Within thirty (30) days after the acceptance of an offer, the purchasing agent shall deliver in person or by first class mail to the successful offeror the original of each purchase order or lease, retain a copy for the purchasing agent's records, and file a copy for public record and inspection as follows:

(1) When a purchase or lease is made for a county or municipality, the copy of the purchase order or lease must be filed with the fiscal officer of the unit.

(2) When a purchase or lease is made for a township, the copy of the purchase order or lease must be filed with the fiscal officer of the county.

(3) When a purchase or lease is made for a school corporation or a quasi-public corporation, the copy of the purchase order or lease must be filed with the records of the corporation.

As added by P.L.7-1998, SEC.10.

IC 5-22-19

Chapter 19. Determinations

IC 5-22-19-1

Determinations final and conclusive; judicial review

Sec. 1. The determinations required by this article are final and conclusive, and subject to judicial review under section 2 of this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-2

Petition for judicial review; filing; relief

Sec. 2. (a) A person aggrieved by a determination under this article may file a petition for judicial review of that determination in a court of appropriate jurisdiction.

(b) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by a determination that is any of the following:

(1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Contrary to constitutional right, power, privilege, or immunity.

(3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.

(4) Without observance of procedure required by law.

(5) Unsupported by substantial evidence.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-3

Burden of demonstrating invalidity

Sec. 3. The burden of demonstrating the invalidity of the determination is on the person asserting the invalidity.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-4

Setting aside determination; remanding case

Sec. 4. (a) If the court finds that a person has been substantially prejudiced by a determination, the court may set aside the determination. The court may remand the case to the governmental body for further proceedings and compel an action by the governmental body that has been unreasonably delayed or unlawfully withheld.

(b) A court may not award damages in an action under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-5

Standing

Sec. 5. An Indiana taxpayer has standing to:

(1) challenge a determination made under IC 5-22-15-25(d); and

(2) enforce a contract provision required by IC 5-22-17-14 if the contract is related to steel products (as defined in IC 5-22-15-25(a)) or supplies manufactured by steel products.

As added by P.L.194-2001, SEC.4.

IC 5-22-20

Chapter 20. Modification and Termination of Contracts

IC 5-22-20-1

Policies or rules for inclusion of clauses or contract provisions

Sec. 1. A governmental body may establish policies or adopt rules permitting or requiring any of the following:

(1) The inclusion of clauses providing for adjustments in prices or time of performance.

(2) The inclusion of contract provisions dealing with either of the following:

(A) The unilateral right of the governmental body to order, in writing either of the following:

(i) Changes in the work within the scope of the contract.

(ii) Temporary stopping of the work or delaying performance.

(B) Variations occurring between estimated quantities of work in a contract and actual quantities.

As added by P.L.49-1997, SEC.1.

IC 5-22-20-2

Adjustments in price; computation

Sec. 2. Adjustments in price under clauses established under section 1 of this chapter must be computed in one (1) or more of the following ways:

(1) By agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of the performance as practicable.

(2) By unit prices specified in the contract or subsequently agreed upon.

(3) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon.

(4) In such other manner as the contracting parties may mutually agree.

(5) In the absence of agreements by the parties, by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses, with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-21

Chapter 21. Disposition of State Surplus Personal Property

IC 5-22-21-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to personal property owned by a governmental body that is a state agency.

(b) This chapter does not apply to the following:

(1) The sale of timber by the department of natural resources under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under IC 32-34-1.

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22.

As added by P.L.49-1997, SEC.1. Amended by P.L.2-2002, SEC.34; P.L.182-2009(ss), SEC.79.

IC 5-22-21-2

"Commissioner" defined

Sec. 2. As used in this chapter, "commissioner" refers to the commissioner of the department.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-4

"Surplus property" defined

Sec. 4. As used in this chapter, "surplus property" means property that is not usable by a state agency as determined under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-5

Sales of property; requirements

Sec. 5. Subject to IC 8-23-7 and this chapter, all sales of property belonging to a state agency, other than property on which allowance is made on another purchase with the written approval of the commissioner, shall be:

(1) conducted by the commissioner;

(2) based on competitive bids; and

(3) made to the highest responsible bidder.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-6

Commissioner to adopt procedures

Sec. 6. The commissioner shall adopt a procedure requiring the following:

(1) Each state agency shall notify the department of surplus property.

(2) The department shall inspect the surplus property and determine if the property is usable by other state agencies.

(3) A state agency that requests the purchase of:

(A) new property; or

(B) material to be used for rehabilitation programs;

shall accept by transfer or purchase surplus property that is usable by a state agency instead of purchasing new property or materials.

(4) Property that is not usable by other state agencies may be:

(A) sold under section 7 or 7.5 of this chapter or IC 5-22-22;

(B) demolished, discarded, donated under section 7.6 of this chapter, or junked if the property has no market value; or

(C) disposed of if the property can be recycled in conjunction with a program administered by the department to promote recycling of property, the components of property, or the materials of property.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-7

Sales to political subdivisions

Sec. 7. Except as provided in section 7.5 of this chapter, surplus property available for sale may, under the policies prescribed by the budget agency, be offered for sale to political subdivisions. The policies of the budget agency must require that if the property is in the possession of the Indiana department of transportation and is to be offered to political subdivisions, the commissioner shall notify each supervisor of county highways appointed under IC 8-17-3-1 of the sale.

As added by P.L.49-1997, SEC.1. Amended by P.L.49-2002, SEC.1; P.L.246-2005, SEC.55.

IC 5-22-21-7.5

Surplus computer hardware; offer to educational entities

Sec. 7.5. (a) This section applies to surplus computer hardware that:

(1) is not usable by a state agency as determined under section 6 of this chapter; and

(2) has market value.

(b) As used in this section, "educational entity" refers to a school corporation as defined in IC 36-1-2-17 or nonpublic schools as defined in IC 20-10.1-1-3 before July 1, 2005, or IC 20-18-2-12.

(c) As used in this section, "market value" means the value of the property is more than the estimated costs of sale and transportation of the property.

(d) Surplus computer hardware available for sale may, under the

policies prescribed by the budget agency, be offered to an educational entity.
As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.84; P.L.246-2005, SEC.56; P.L.246-2005, SEC.57; P.L.1-2006, SEC.124; P.L.133-2012, SEC.42.

IC 5-22-21-7.6
Donation of surplus computer hardware to educational entities

Sec. 7.6. (a) This section applies to surplus computer hardware that is:

(1) not usable by a state agency as determined under section 6 of this chapter; and

(2) not sold to an educational entity or political subdivision after being offered for sale.

(b) The department may donate the surplus computer hardware to an educational entity or a school corporation (as defined by IC 36-1-2-17) or nonpublic schools (as defined in IC 20-18-2-12).
As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.85.

IC 5-22-21-8
Sale when property not purchased by political subdivision

Sec. 8. If a political subdivision does not purchase surplus property under section 7 of this chapter, the surplus property shall be sold under IC 5-22-22.
As added by P.L.49-1997, SEC.1.

IC 5-22-21-9
Sales made for cash only

Sec. 9. A sale of property under this chapter or under IC 5-22-22 must be made for cash.
As added by P.L.49-1997, SEC.1.

IC 5-22-21-10
Proceeds of sales

Sec. 10. (a) The proceeds of a sale under this chapter or under IC 5-22-22 shall be deposited in the state treasury and credited to the fund from which the property was purchased.

(b) The proceeds are subject to allotment by the budget agency with the approval of the governor.
As added by P.L.49-1997, SEC.1.

IC 5-22-21-11
Persons prohibited from bidding

Sec. 11. The commissioner may prohibit any of the following from bidding on property sold under this chapter or IC 5-22-22 when a state employee has participated in the disposal process of the state agency that has possession of the property:

(1) The state employee.

(2) The spouse of the state employee.

(3) An unemancipated child of the state employee.

(4) An agent of any of the individuals described in subdivisions (1) through (3).

As added by P.L.49-1997, SEC.1.

IC 5-22-22

Chapter 22. Disposition of Surplus Personal Property by a Governmental Body

IC 5-22-22-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to personal property owned by a governmental body.

(b) This chapter does not apply to dispositions of property described in any of the following:

(1) IC 5-22-21-1(b).

(2) IC 36-1-11-5.5.

(3) IC 36-1-11-5.7.

(c) This chapter does not apply to any of the following:

(1) The disposal of property under an urban homesteading program under IC 36-7-17 or IC 36-7-17.1.

(2) The lease of school buildings under IC 20-47.

(3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.

(4) The disposal of property by a redevelopment commission established under IC 36-7.

(5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.

(6) The disposal of a municipally owned utility under IC 8-1.5.

(7) The sale or lease of property by a unit (as defined in IC 36-1-2-23) to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.

(8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

(9) The sale or lease of property acquired under IC 36-7-13 for industrial development.

(10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.

(11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.

(12) The disposition of property by a soil and water conservation district under IC 14-32.

(13) The disposal of surplus property by the health and hospital corporation established and operated under IC 16-22-8.

(14) The disposal of personal property by a library board under IC 36-12-3-5(c).

(15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.

(16) The disposal of an interest in property by a housing authority under IC 36-7-18.

(17) The disposal of property under IC 36-9-37-26.
(18) The disposal of property used for park purposes under IC 36-10-7-8.
(19) The disposal of curricular materials that will no longer be used by school corporations under IC 20-26-12.
(20) The disposal of residential structures or improvements by a municipal corporation without consideration to:
(A) a governmental body; or
(B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.
(21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:
(A) listed on the National Register of Historic Places; or
(B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.
(22) The disposal of real property without consideration to:
(A) a governmental body; or
(B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;
when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.
(23) The disposal of property to a person under an agreement between the person and a governmental body under IC 5-23.
As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.86; P.L.184-2005, SEC.3; P.L.2-2006, SEC.33; P.L.188-2007, SEC.1; P.L.118-2013, SEC.1; P.L.286-2013, SEC.3.

IC 5-22-22-2
Applicability of laws regarding disposition of state surplus personal property
Sec. 2. If the property is owned by a state agency, IC 5-22-21, to the extent applicable, also applies to the disposition of the property.
As added by P.L.49-1997, SEC.1.

IC 5-22-22-3
Sale by purchasing agent
Sec. 3. A purchasing agency may sell 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 (1) year; or
(2) belongs to the governmental body but is no longer needed or is unfit for the purpose for which it was intended.
As added by P.L.49-1997, SEC.1.

IC 5-22-22-4
Use of auctioneer

Sec. 4. (a) If the property to be sold is:

(1) one (1) item, with an estimated value of one thousand dollars ($1,000) or more; or

(2) more than one (1) item, with an estimated total value of five thousand dollars ($5,000) or more;

the purchasing agency may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and conduct a public auction.

(b) The advertising by an auctioneer under this section must include a detailed description of the property to be sold.

(c) The purchasing agency shall pay an auctioneer who conducts a sale under this section from the gross proceeds of the sale received before other expenses and liens are paid.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-4.5
Internet sales; costs

Sec. 4.5. (a) The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following:

(1) The site is approved by the office of technology established by IC 4-13.1-2-1.

(2) The site is linked to the electronic gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology.

(b) The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold.

(c) The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

As added by P.L.31-2002, SEC.5. Amended by P.L.198-2007, SEC.3.

IC 5-22-22-5
Public sale or sealed bids; advertisements

Sec. 5. (a) If:

(1) an auctioneer is not engaged under section 4 of this chapter; or

(2) the surplus property is not sold through an Internet auction site under section 4.5 of this chapter;

the purchasing agency shall sell the property at a public sale or by sealed bids delivered to the office of the purchasing agency before the date of sale.

(b) Advertisement of the sale shall be made in accordance with IC 5-3-1.

(c) All sales shall be made to the highest responsible bidder.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.6.

IC 5-22-22-6
Public or private sale or transfer without advertising

Sec. 6. If the property to be sold is:

(1) one (1) item, with an estimated value of less than one thousand dollars ($1,000); or

(2) more than one (1) item, with an estimated total value of less than five thousand dollars ($5,000);

the purchasing agency may sell the property at a public or private sale or transfer the property, without advertising.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-7

Sale or transfer of recyclable property

Sec. 7. If the property to be sold is material that:

(1) may be recycled; and

(2) has been collected in conjunction with a recycling program;

the purchasing agency may, without advertising, sell the property at a public or private sale or transfer the property.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-8

Worthless property

Sec. 8. (a) If the property is worthless, it may be demolished or junked.

(b) For purposes of this section and IC 5-22-21-6(4)(B), property may be considered worthless or of no market value if the value of the property is less than the estimated costs of the sale and transportation of the property.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.11.

IC 5-22-22-9

Disposal of law enforcement vehicles

Sec. 9. (a) If a purchasing agency disposes of a law enforcement vehicle that is a model year of 1994 or after and is painted in a color scheme of more than one (1) color by transferring the vehicle to:

(1) a person who will operate the vehicle on a public highway in Indiana, the person must repaint the vehicle in:

(A) a monochrome color scheme; or

(B) a color scheme that does not duplicate the color scheme of an Indiana law enforcement vehicle;

before the vehicle is operated on a public highway in Indiana;

(2) a person who will sell or otherwise transfer the vehicle to another person who will operate the vehicle on a public highway in Indiana, the person must repaint the vehicle in:

(A) a monochrome color scheme; or

(B) a color scheme that does not duplicate the color scheme of an Indiana law enforcement vehicle;

before the vehicle is sold or otherwise transferred to the other person to be operated on a public highway in Indiana;

(3) a person who will sell or otherwise transfer the vehicle to another person who will not operate the vehicle on a public highway in Indiana, the person is not required to repaint the vehicle before the vehicle is sold or otherwise transferred to the

other person; or

(4) another governmental body, the governmental body is not required to repaint the vehicle before the vehicle is operated on a public highway in Indiana.

(b) Before a purchasing agency disposes of a law enforcement vehicle that is painted in a color scheme of more than one (1) color, the purchasing agency must provide a copy of this subsection to the prospective purchaser of the vehicle.

(c) A person who violates this section commits a Class C infraction.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-10

Exchange of property between purchasing agency and governmental body

Sec. 10. (a) A purchasing agency may exchange property with another governmental body upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity.

(b) A transfer under this section may be made for any amount of property or cash as agreed upon by the governmental bodies.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-11

Notice of sale

Sec. 11. (a) Notice of a sale under this chapter must be given by publication of the time, place, and terms of the sale, as provided in IC 5-3-1 in the county where the property is located. The publication shall be made at least fifteen (15) days before the date of the sale.

(b) Notice under this section is required in addition to notice:

(1) given by an auctioneer under section 4 of this chapter; or

(2) provided by an Internet auction site under section 4.5 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.7.

IC 5-22-22-12

Transfer to volunteer fire department, fire protection district, or fire protection territory

Sec. 12. (a) This section applies to the following surplus property:

(1) Fire trucks.

(2) Emergency service vehicles.

(3) Firefighting or emergency services equipment.

(b) As used in this section, "fire department" refers to any of the following:

(1) A volunteer fire department (as defined in IC 36-8-12-2).

(2) The board of fire trustees of a fire protection district established under IC 36-8-11.

(3) The provider unit of a fire protection territory established under IC 36-8-19.

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a

governmental body may transfer title of surplus property to a fire department for the fire department's use in providing fire protection or emergency services.

(d) A fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the fire departments located in the same county as the governmental body may be transferred to any fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a fire department under this section by:

(1) sale;

(2) gift; or

(3) another arrangement acceptable to the governmental body and the fire department.

As added by P.L.83-1998, SEC.1. Amended by P.L.1-1999, SEC.8; P.L.31-2002, SEC.8; P.L.128-2008, SEC.5.

IC 5-22-23

Chapter 23. Telephone Calling Systems for Confined Offenders

IC 5-22-23-0.5

Application of chapter

Sec. 0.5. This chapter does not apply to solicitations for telephone calling systems (including local, interlata, intralata, and interstate long distance services) for confined offenders made before March 20, 2002.

As added by P.L.220-2011, SEC.103.

IC 5-22-23-1

"Confined" defined

Sec. 1. For purposes of this chapter, "confined" has the meaning set forth in IC 11-8-1-6.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-2

"Department" defined

Sec. 2. For purposes of this chapter, "department" refers to the Indiana department of administration.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-3

"Offender" defined

Sec. 3. For purposes of this chapter, "offender" has the meaning set forth in IC 11-8-1-9.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-4

"System" defined

Sec. 4. For purposes of this chapter, "system" means a telephone calling system (including local, intralata, interlata, and interstate long distance services) for confined offenders.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-5

Requirements of system solicitation; deposit of commissions into correctional facilities calling system fund

Sec. 5. (a) This section applies to a solicitation for a system by the department.

(b) Notwithstanding any other law, the solicitation must include a statement concerning the following:

(1) Any security and fraud control services considered necessary by the department, including the use of collect calling services as the sole means of confined offender communications with the general population.

(2) The goal of reducing the total cost of a telephone call placed by a confined offender by soliciting competitive proposals that

emphasize lower:

(A) per call service charges;

(B) per minute rates; and

(C) commission rates.

(c) The department shall accept the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals. The determination must include the consideration of any requirement imposed under subsection (b).

(d) The department shall deposit commissions received under a contract entered into under a solicitation into the correctional facilities calling system fund established by section 7 of this chapter.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-6

Requirements of a system solicitation by certain purchasing agents

Sec. 6. (a) This section applies to a purchasing agent for the following:

(1) A community corrections advisory board.

(2) A juvenile detention center.

(3) A juvenile detention facility.

(4) A county jail.

This section does not apply to a purchasing agent for a county with a population less than seventy-five thousand (75,000).

(b) Notwithstanding any other law, a solicitation by a purchasing agent:

(1) must include any security and fraud control services considered necessary by the purchasing agency, including the use of collect calling services as the sole means of confined offender communications with the general population; and

(2) may not solicit:

(A) a per call service charge;

(B) a per minute rate; or

(C) a commission rate;

that exceeds the terms of a contract between the state and a telecommunications provider for the same service under the most recent solicitation submitted by the department under this article.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-7

Establishment and management of the correctional facilities calling system fund

Sec. 7. (a) The correctional facilities calling system fund is established for the purposes of improving, repairing, rehabilitating, and equipping department of correction facilities. The fund consists of the following:

(1) Money deposited in the fund under section 5(d) of this chapter.

(2) Money appropriated by the general assembly.

(3) Money received from any other source.

(b) The department of correction shall administer the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund may not be spent unless the general assembly includes a specific line item appropriation in the budget bill or otherwise specifically appropriates the money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.65-2002, SEC.1.

IC 5-22 Version b

ARTICLE 22. REPEALED

(Repealed by P.L.253-1997(ss), SEC.39.)

Note: This version of IC 5-22, as added by P.L.19-1997, SEC.7, was repealed by P.L.253-1997(ss), SEC.39, and re-enacted at IC 5-24 by P.L.253-1997(ss), SEC.40. See also the preceding version of IC 5-22, as added by P.L.49-1997, SEC.1.