

# Contract for Services – What Are the Statutory Procedures?

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The Indiana Public Purchasing law provides procedures and requirements for purchases by governmental agencies, including school corporations. (See IC 5-22) This law addresses various matters such as purchasing preferences, purchasing methods, and specific procedures governmental agencies must follow when making purchases of specific and/or certain values. It is considered to be the law to go to whenever a governmental agency wants to purchase or contract for goods and services to determine what procedures need to be followed to make the purchase legally.

While the Public Purchasing law provides for detailed procedures and in some cases restrictions when a governmental agency is purchasing goods, it does not follow this pattern for purchases or contracting for services. In fact, there are only two statutes that address the purchase of services by a governmental agency. IC 5-22-6-1 states the purchasing agent of the school board may purchase services using any procedure the school board or the purchasing agent considers appropriate. IC 5-22-6-2 provides the school board may adopt rules or a policy addressing the purchase of services.

These statutes provide the school board will greater flexibility when purchasing services vis-à-vis purchasing goods which requires more burdensome, specific procedures. The school board does not have to but may adopt a policy and/or rules or procedures for the purchase of services. There is no requirement to obtain quotes, proposals, or bids unless the school board determines such procedures should be used or other specific provisions of the public purchase law should be utilized to purchase services. A school board also has the option to delegate to its purchasing agent the responsibility to determine the appropriate method to be used when purchasing services for the school corporation.

The next question is what qualifies as a service? The statute defines services to mean “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.” (See IC 5-22-2-30) In the case of the service including equipment such as a contract for telephone services, which generally includes the telephonic equipment in order to provide the telephone services or services for repairs where the service provider will provide equipment or supplies to do the contracted service, the purchase or contract for services will need to be analyzed to determine if the equipment is incidental to the services performed. If this is the case, the purchase may be treated as a purchase for services. To avoid any ambiguity, a school board has the option to adopt a policy or rule that states if any purchase of a service involves equipment the purchase should be treated as a purchase for goods under the Indiana Public Purchasing law.