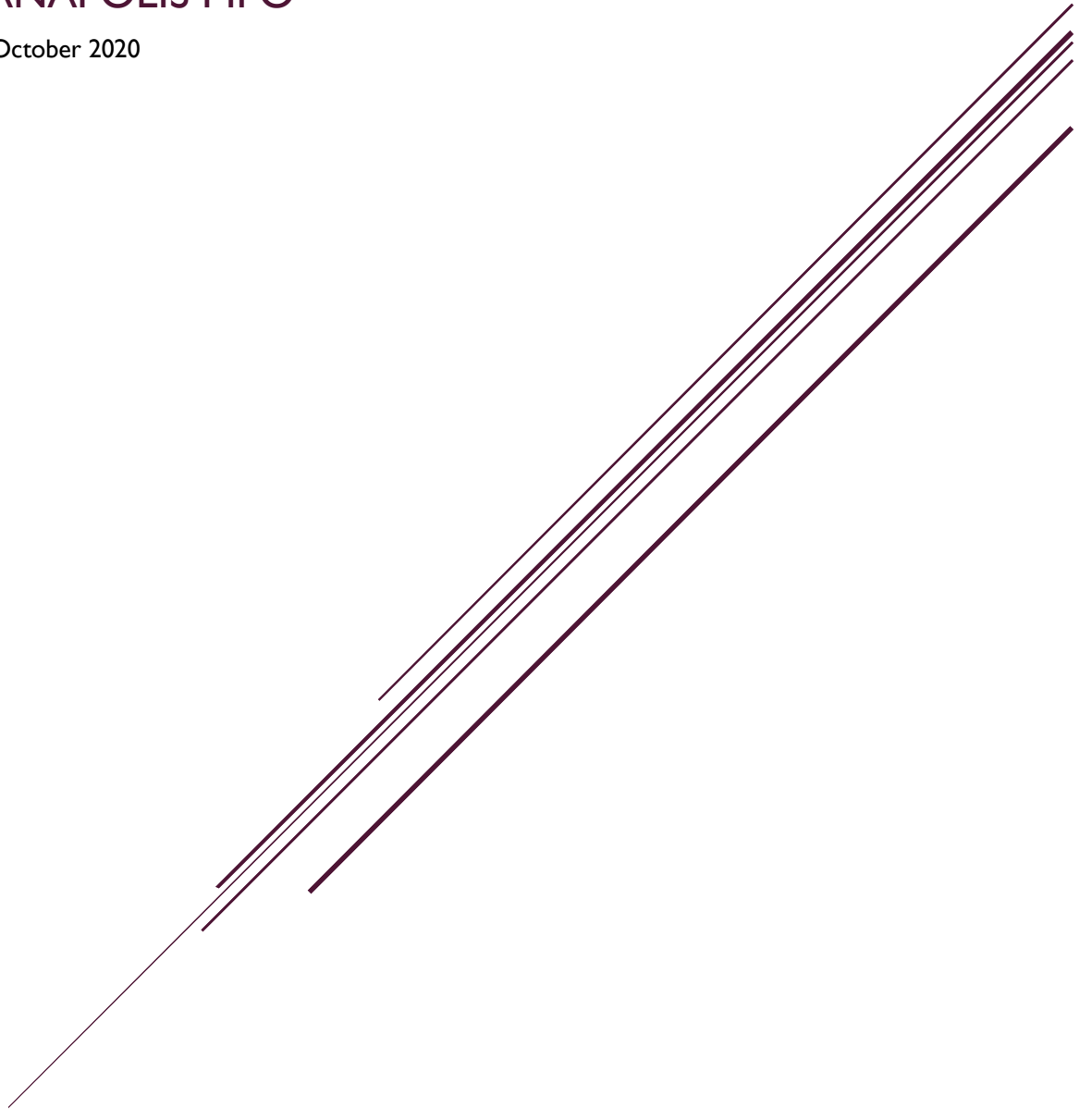


# PROCUREMENT POLICY & PROCEDURES

INDIANAPOLIS MPO

Updated October 2020



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# A Guide to IMPO Procurement Methods

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	<b>Description</b>	<b>Notice</b>	<b>Documentation</b>
<b>Microtransaction</b>	Purchases under \$10,000 / year Quotes from 3 qualified vendors Spread around if possible	None	Subject to audit
<b>Small Purchase Quotes</b>	Purchases Less than \$150,000 Selection based on low cost, qualified Quotes from 3 qualified vendors	14-30 day advanced 7-day Website, Social Media, TeMPO, Vendor List	Subject to audit
<b>Request for Information</b>	When seeking information, ideas May not lead to a contract	14-30 day advanced 7-day Website, Social Media, TeMPO, Vendor List	None
<b>Request for Proposals</b>	Selection based on detailed qualifications, approach, and pricing	14-day advanced <b>Public Notice</b> 7-day Website, Social Media, TeMPO, Vendor List	5-year Register of Proposals Publicly available upon request
<b>Non-Competitive / Special Purchase</b>	Purchasing agent determines purchase to meet one of the special criteria	None (unless public notice required)	5-year record Publicly available upon request

# Project Manager Checklist

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- i. **Pre-Release**
  - IMPO executive or deputy director will give the budgeted project amount and the go-ahead for the project manager to begin procurement.
  - Executive director reviews draft request approximately two weeks before the release date.
  - Project manager will download the most up-to-date consultant list from [Constant Contact](#) and send out a heads-up e-mail at least two weeks (but preferably at least 30 days) before the release date.
  - Project manager will post a heads-up on social media (Facebook, Twitter, Instagram) and in TeMPO at least once prior to the release date.
  
- ii. **Release, During Open Call**
  - Once the final request has been approved by the executive director, it is ready to be distributed and advertised.
  - On the release date, project manager will post or send the request to:
    - the IMPO website ([www.indympo.org](http://www.indympo.org));
    - the latest Constant Contact consultant list;
    - all IMPO Policy and Technical committees;
    - (if required) Project manager will send out a public notice of the request. IMPO social media accounts (Facebook, Twitter, Instagram); and in the IMPO's TeMPO newsletter.
  - Project manager will invite selection committee members and put a hold on their calendars to reserve time for potential shortlist interviews.
  - Based on the request's criteria for evaluation, the project manager will create scoresheets for selection committee.
  - Upon receiving each submission, send a receipt e-mail. After deadline, forward the final submissions package to the selection committee and coordinate meetings / interviews as needed. Save scoresheets in the appropriate folder on the IMPO's file network.
  
- iii. **Selection, Contracting, and Documentation**
  - PM assembles selection committee in person or call to discuss scoring
  - If interviews are required, inform shortlist firms and make arrangements
  - After selection, begin contract negotiations, following contracting guidelines
  - [Document](#) the selection process as appropriate
  - Immediately notify executive director of any disputes, protests, or claims.

# I. General Principles

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This procurement document applies to all purchases and/or procurements by the Indianapolis Metropolitan Planning Organization without regard to the source of funds, including local funds, State, and Federal assistance funding, except as provided by law. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards outlined in United States Code and Indiana Code.

## I. Compliance and Oversight

### i. Code Citations

- a. This policy is based on regulations for a nonfederal agency in [2 CFR § 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements](#) and in [Indiana Code 5-22, Public Purchasing](#).

### ii. State and Federal Oversight

- a. The Indianapolis Metropolitan Planning Organization (IMPO) will make technical specifications on procurements available whenever such review is needed to ensure the item or service specified is the one being proposed for acquisition. Specifications will still be available for review, even after the solicitation has been developed. ([USC 200.324-a](#))
- b. The IMPO self-certifies this procurement system, and will request review by the Federal Highway Administration (FHWA – the IMPO’s federal oversight agency) and the Indiana Department of Transportation (INDOT) each time there’s a major revision. Self-certification will not limit federal or state authority to survey the system, but it will exempt the IMPO from the pre-procurement review and other required oversight that applies to non-compliant agencies.

## II. Fair Competition, Disadvantaged Businesses

### i. Fair Competition, Equal Information

- a. Consultants will be given fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.
- b. The IMPO will provide equivalent information to all consultants with which it chooses to have discussions. This principle of equal information will guide every aspect of the IMPO’s procurement process.
- c. To ensure objective consultant performance and eliminate unfair competitive advantage, consultants that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals will be excluded from competing for such procurements. ([USC 200.319a](#))
- d. In competitive procurements, the IMPO will not specify a “brand name” product instead of allowing an equal product to be offered and describing the performance or other relevant requirements of the procurement. ([USC 200.319a](#))
- e. If any offeror is granted an in-person interview, every short-list offeror must be granted the same opportunity.

## ii. Women and Minority Businesses

- a. The IMPO will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. The IMPO will continue to utilize the Indiana Department of Transportation's (INDOT's) Disadvantaged Business Enterprise (DBE) goal form to establish disadvantaged business goals. Affirmative steps include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's businesses enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
  - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - vi. Requiring the prime consultant, if subcontracts are to be let, to take the affirmative steps listed above.
- b. The IMPO project manager – assisted as necessary by management – will request a DBE goal through the INDOT [DBE Goal Request Form](#). INDOT typically responds via email within 48 hours. The IMPO project manager will incorporate the goal into the request, and save a PDF of that email in the project folder with the procurement documentation.

## iii. Communication with Vendors on Competitive Procurements

- a. The IMPO will maintain a vendor contact list, and vendors on that list will receive information about all competitive IMPO procurements.
- b. Project managers are encouraged to discuss the IMPO's goals and expectations prior to the release date, and to notify the MPO's consultant list 30 days prior to a competitive procurement's release date. Vendors may sign up for that list on the IMPO website under Contracting Opportunities, <https://www.indympo.org/how-we-work/contract-opportunities>.
- c. Project managers will post a 14-day heads up about upcoming procurements, a notice 7 days ahead of release, and a reminder on the release date to the following channels:
  - i. the IMPO website ([www.indympo.org](http://www.indympo.org));
  - ii. the latest Constant Contact consultant list;
  - iii. all IMPO Policy and Technical committees;
  - iv. IMPO social media accounts ([Facebook](#), [Twitter](#), [Instagram](#)); and in the IMPO's [TeMPO newsletter](#).
  - v. (if required by RFP or Special Purchase) public notice in local periodicals of record, per [Public Involvement Plan](#) policies;

- d. Between a competitive procurement's release date and the questions due date, IMPO staff other than the project manager and purchasing agents are prohibited from communicating with prospective bidders about the open procurement. All communications during this period will be summarized in the official questions and answers document. No communication about the procurement is allowed between the questions due date and the procurement due date.
- e. After the due date and until a vendor is officially selected, communications with bidders about the procurement will be managed by the project manager and purchasing agents.
- f. In conducting discussions with a selected or prospective consultant, information derived from proposals submitted by competing consultants that is not included in the procurement's public documentation will be used in discussion only when the identity of the consultant providing the information is not disclosed to others.
- g. The IMPO will generally utilize electronic communication means with vendors and to satisfy statutory communications requirements (not including public notice). Electronic communications must have security features to protect content as sufficiently as non-electronic means.

### III. IMPO Staff Responsibilities

#### i. Purchasing Agents

- a. The IMPO executive director and deputy director are the designated purchasing agents for the IMPO, duly authorized and empowered by law and entrusted with authority to make purchases of materials, equipment, goods, and supplies, or leases of equipment. (IC 5-22-2-26)
- b. The IMPO's purchasing agents are authorized to act as agents in the administration of purchasing duties, and to make certain determinations about how the IMPO will comply with purchasing responsibilities, and when procurements will be initiated.
- c. IMPO purchasing agents will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. (USC 200.318)
- d. IMPO procurement agents are authorized to deem responses as qualified or unqualified based on the evaluation criteria in the procurement.

#### ii. Conflict of Interest, Gifts

- a. No employee will participate in the selection, award, or administration of a contract supported by a Federal award if he / she / they have a real or apparent conflict of interest. Such a conflict arises when the employee or any member of their immediate family, his / her / their partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. (USC 200.112)
- b. Employees of the IMPO will not solicit nor accept gratuities, favors, or anything of monetary values from consultants or parties to subcontracts. (USC 200.112)



### iii. Anti-Lobbying

- a. The IMPO will comply with the [Byrd Anti-Lobbying Amendment](#) in the use of federal funds.
- b. The IMPO will not use public funds to promote a position on a local public transit question, consistent with [IC 8-25-2-12](#).
- c. Any time the IMPO does engage in lobbying, only local funds will be utilized and the source of funds will be tracked through the IMPO's financial system.

## 2. Procurement Methods

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Choosing the proper procurement method typically involves examining a combination of factors, including what is being procured (e.g. good or service, type of service, type of project, etc.), the appropriate basis for selection (e.g. qualification, low quote, best approach), and the anticipated cost of the good or service. A purchasing agent will approve the method of procurement prior to staff drafting a request.

### I. Micro Purchase

- a. Procurement by micro purchase is the acquisition of supplies, assets, software, or services, the aggregate dollar amount of which does not exceed Indiana's micro purchase threshold of \$10,000. ([USC § 200.67 / IC 5-22-8-2](#))
- b. Purchase requirements may not be artificially divided to constitute a micro purchase. ([IC 5-22-8-1](#))
- c. To the extent practicable, the IMPO will distribute micro purchases equitably among qualified (preferably local) consultants. Micro purchases may be awarded without soliciting competitive quotes if the IMPO considers the price to be reasonable.
- d. The IMPO may purchase supplies under this section by inviting quotes from at least three (3) qualified vendors known to deal in the lines or classes of supplies to be purchased. ([USC 200.320b / IC 5-22-8-3](#))

### II. Small Purchase Quotes

- a. Small purchases are relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than \$150,000.
- b. Purchase requirements may not be artificially divided to constitute a small purchase. ([IC 5-22-8-1](#))
- c. The small purchase request will include a clear and accurate description of the [Technical Requirements](#) for the product or service being procured.
- d. The IMPO may purchase supplies under this section by inviting quotes from at least three (3) qualified vendors known to deal in the lines or classes of supplies to be purchased. ([USC 200.320b / IC 5-22-8-3b](#))
- e. The IMPO will send an invitation to quote to the qualified vendors at least seven days before the time fixed for receiving quotes. ([IC 5-22-8-3c](#))

- f. If the IMPO receives a satisfactory quote, it will award a contract to the lowest responsible and responsive vendor for each line or class of supplies required. ([IC 5-22-8-3d](#))
- g. IMPO purchasing agents may reject all quotes. ([IC 5-22-8-3e](#)) If no quotes are received from a responsible and responsive vendor, the purchasing agent may purchase supplies under the [Special Purchase](#) method. ([IC 5-22-8-3f](#))

### III. Request for Information

- a. The IMPO may utilize a Request for Information (RFI) to obtain specific knowledge or ideas for future projects, required scoping elements, technical considerations, market conditions, or other information.
- b. Notice of an RFI will be e-mailed to the vendor contact list, posted in TeMPO, on the IMPO website, and on social media at least seven (7) days before the time fixed for receiving quotes.
- c. The IMPO may establish a fact-finding team to meet with respondents to an RFI, which may or may not lead to additional procurements or actions by the IMPO.
- d. The IMPO will generally utilize RFIs ahead of large competitive procurements to help guide scope, fee expectations, and technical requirements. The existence of this RFI process does not preclude regular communications between IMPO staff and the vendor community.

### IV. Request for Proposals

- a. Requests for Proposals (RFPs) will be utilized to select team for a specific project or need, when a vendor can be selected based on their project approach, qualifications, value, and other factors. ([IC 5-22-9-2](#))
- b. The RFP will include a clear and accurate description of the [Technical Requirements](#) for the product or service being procured.
- c. The IMPO will list all factors or criteria that will be used in evaluating the responses and a statement concerning the relative importance of price and the other evaluation factors in the RFP. ([USC 200.319c](#)) Vendors will be asked to submit pricing using the [Electronic Sealed Quote](#) methodology.
- d. RFPs will be publicized as described in [Communication with Vendors on Competitive Procurements](#). The IMPO will also give public notice of all RFPs, as described in the IMPO's [Public Involvement Plan](#). ([IC 5-22-9-3](#))
- e. All responses to publicized requests will be considered to the maximum extent practical. However, release of a RFP is not a commitment to initiate a contract and the IMPO may opt not to proceed at any time. Responding vendors will be notified promptly when there is a delay in selection or a major change to the procurement.
- f. Contracts may be awarded to the responsible consultant whose qualifications are most advantageous to the IMPO's program, using the RFP's evaluation criteria.
- g. After vendor selection, IMPO staff will create a [Register of Proposals](#) consistent with [Indiana Code 5-22-9-5](#), publicly available upon request.

## V. Non-Competitive / Special Purchase

- a. In some cases, the IMPO may make a non-competitive special purchase without soliciting bids or proposals. (IC-5-22-10-1)
- c. A special purchase must be made with competition as is practicable under the circumstances. (IC 5-22-10-1)
- d. The IMPO will maintain a separate folder for contract records for Special Purchases, organized by year, for five (5) years. Special purchase contract records contract records are subject to audit by the State Board of Accounts. The record shall contain:
  - i. Requirements of the special purchase;
  - ii. The consultant's name;
  - iii. The amount and type of contract;
  - iv. A description of the supplies purchased under the contract; and
  - v. A written determination of the basis for the special purchase and the selection of the particular consultant. (IC 5-22-10-3)
- e. IMPO purchasing agents may utilize a non-competitive special purchase when one or more of the following circumstances apply (IC 5-22-10):
  - i. When there exists, under emergency conditions, a threat to public health, welfare, or safety;
  - ii. When there exists a unique opportunity to obtain supplies or services at a substantial savings to the IMPO;
  - iii. To make purchases at an auction;
  - iv. For data processing contracts or license agreements for software programs or for supplies or services when only one (1) source meets the IMPO's reasonable requirements;
  - v. The compatibility of equipment, accessories, or replacement parts is a substantial consideration in the purchase, and only one (1) source meets the IMPO's reasonable requirements;
  - vi. When purchase of the required supplies or services under another purchasing method would seriously impair the functioning of IMPO;
  - vii. When the IMPO has solicited for a purchase under another procurement method and has not received a responsive offer;
  - viii. For the evaluation of supplies or a system containing supplies to obtain functional information or comparative data;
  - ix. When, in the judgement of the purchasing agent, a special purchase may advance the long term competitive position of the governmental body;
  - x. When the market structure is based on price but the IMPO is able to receive a dollar or percentage discount of the established price;
  - xi. For supplies 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;
  - xii. When a purchasing agent determines in writing that supplies can be purchased from a supplier at prices equal to or less than the prices stipulated in current federal supply service schedules established by the federal General Services

- Administration and it is advantageous to the IMPO's interest in efficiency and economy;
- xiii. For supplies or services when the purchase is made from a vendor who has a contract with a federal agency that requires those supplies to be available to state or political subdivisions;
  - xiv. For supplies or services when the purchase is made from a vendor who has a contract with a state agency that requires those supplies or services to be available to political subdivisions;
  - xv. For supplies if the purchasing agent determines that the IMPO 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. If a purchasing agent leases surplus federal materials, they shall immediately give public notice in accordance with [IC 5-3-1](#); or
  - xvi. By accepting a gift for the IMPO.

## VI. Unsolicited Proposals

- a. An unsolicited proposal is a written application for a new or innovative idea submitted to the IMPO on the initiative of the consultant attempting to obtain a contract with the MPO, and is not in response to a request for proposals or any other IMPO-initiated solicitation or program.
- b. The IMPO accepts the submission of valid unsolicited proposals which contribute new and innovative ideas consistent with the IMPO's mission. However, the requirements for consultant resources are normally program specific and must be responsive to the IMPO's needs.
- c. Specific criteria can be found in [48 CFR 15.603](#) for submissions to be accepted under an unsolicited proposal. A valid unsolicited proposal must be innovative and unique, must be independently originated and developed by the offeror (without government support), and include sufficient detail to permit a determination by the IMPO.
- d. Prospective consultants are encouraged to make preliminary contacts with IMPO personnel prior to preparing detailed unsolicited proposals or submitting proprietary information to the IMPO ([USC 48 CFR § 15.603](#)).

## 3. Procurement Components and Procedures

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### I. Specific Processes

#### i. Technical Requirements

- a. Incorporate a clear and accurate description of technical requirements for the material, product, or service to be procured.
- b. Such description will not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- c. Detailed product specifications must be avoided whenever possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by submissions and offers will be clearly stated.
- d. All requirements expected to be fulfilled and all other factors being considered must be identified. (USC 200.319c)
- e. Geographic location of the vendor may be a criterion provided its application leaves an appropriate number of qualified firms, given the nature and the size of the project, to compete for the contract. (USC 200.319a)

#### ii. Procurement Schedule, Questions Deadline

- a. Competitive procurements will include a schedule that includes the deadlines for questions, when the question responses will be publicly posted, potential interview dates, and the selection date.
- b. In general, the IMPO will strive for this timing (all in calendar days):
  - i. Preliminary notice 14 days before release date (30 days preferred);
  - ii. Notice of procurement 7 days before release date
  - iii. Questions deadline at least 5 days after release date
  - iv. Question responses 2 days after question deadline
  - v. Due date 5 or more days after question deadline
  - vi. Preliminary scores complete 10 days after deadline
  - vii. Notify selected bidder within 24 hours of last interview

#### iv. Electronic Sealed Quote

- a. In some procurement methods, pricing will be included but should not influence a selection committee’s review of qualifications or approach. This Electronic Sealed Quote method will be used to avoid accidental early disclosure of pricing to the selection team.
- b. Offerors should submit their response in a single PDF, without pricing (either total price or hourly rate). Their quote should be in a separate PDF, password protected using “QUOTE” as the password.

- c. Inclusion of pricing in the response may be grounds for disqualification of an offeror. An IMPO staff member who is not on the selection committee will conduct a preliminary review of responses and may redact pricing prior to sharing responses with the selection team. The staff member will also collect the quotes and only share them with the selection committee after preliminary scores are complete.
  - d. Once scores have been tallied, price quotes will be disclosed for the selection team to consider, and scores will be amended. From these scores, the selection team will determine which consultant(s) to hire or interview.
  - e. The IMPO reserves the right to choose to directly hire a consultant when a consultant is clearly ranked highest, forgoing the interview process. The IMPO also reserves the right to negotiate price with a top scoring consultant and/or explore more appropriate options.
- v. **Selection Committee**
- a. The project manager will form a selection committee for competitive procurements. Notwithstanding any Conflicts of Interest, IMPO selection committees will comprise of 3 to 9 members.
  - b. The IMPO project manager will work with purchasing agents to identify and recruit selection committee members. In addition to the project manager, selection committees may include procurement agents, other IMPO staff, employees of partner public agencies (e.g. IndyGo, INDOT, cities, towns, or counties), and in some cases employees of private or non-profit organizations (i.e. a local economic development office, a non-bidding technical expert, a professional organization, a representative from an underrepresented group). Selection committees may (and often will) comprise entirely of IMPO staff members.
  - c. Selection committee meetings may take place in person, on the phone, virtually, or through email.
  - d. Selection committee members who cannot attend interviews will be removed from the selection committee, and their scores will be discarded.
- vi. **Interviews**
- a. The IMPO may utilize interviews to learn more about a submission, or to differentiate between high-quality offers. Selection teams will work with the purchasing agents after initial scoring to determine whether interviews will be utilized.
  - b. Interviews may be conducted in person, on the phone, or virtually. If any offeror is granted an in-person interview, the same opportunity must be made available to every short-list offeror.
  - c. Interview dates will be included in the initial procurement. After the initial round of scoring all responses, it will be up to the Selection Committee whether to proceed with interviews, and which offerors to invite.
  - d. Include information concerning whether potential interviews and discussions may be conducted with consultants who are on the short-list. (IC 5-22-9-2) The selection committee will then select the best and final proposals based on evaluated criteria.

- vii. **Subconsultants**
  - a. The IMPO encourages teaming. Various arrangements will be acceptable to the IMPO; the IMPO could contract directly with multiple vendors, or one vendor may serve as the prime consultant with subconsultants. ([IC 5-22-9-7](#))
  - b. Subcontract agreements are between the prime and the subconsultant. The IMPO will not be a party to subcontract agreements but maintains oversight of the funds.
  - c. If a subconsultant is not identified in the procurement, an IMPO procurement agent must understand budget and staffing implications, then agree in writing to adding the subconsultant to the project.

## II. Documentation and Public Disclosure

- i. **Basic Procurement Documentation**
  - a. The IMPO will maintain records sufficient to detail the history of procurement. These records include, at the very least, rationale for the method of procurement, selection of contract type, consultant selection or rejection, and the basis for the contract price. (USC 200.318i)
- ii. **Register of Proposals**
  - a. For every [Request for Proposals](#), a Register of Proposals will be prepared and made available for public inspection upon request after the contract is awarded. The Register of Proposals will include the following:
    - i. A copy of the RFP;
    - ii. A list of all persons to whom copies of the request for proposals were given (the vendor contact list and board emails, plus posting locations);
    - iii. A list of all proposals received, which must include all of the following:
      - 1. The names and addresses of all respondents;
      - 2. The dollar amount of each offer; and
      - 3. The name of the chosen consultant and the dollar amount of the contract.
    - iv. The basis on which the award was made; and
    - v. The entire contents of the contract file except for proprietary information included with an offer. ([IC 5-22-9-5](#))
- iii. **Special Purchase Documentation**
  - a. The IMPO will maintain the contract records for a special purchase in a separate file, sorted by year, for no less than five years.
  - b. The IMPO will include a written determination for the following:
    - i. The special purchase;
    - ii. The basis for selecting a particular consultant;
    - iii. Each consultant's name;
    - iv. The amount and type of each contract; and
    - v. A description of the supplies purchased under each contract.
  - c. The contract records for a special purchase are subject to audit by the state board of accounts.

#### iv. Public Disclosures

- a. The [Register of Proposals](#) and [Special Purchase Records](#) will be available upon request for public, state, or federal oversight agency review for up to 5 years after the selection. (IC 5-22-9-5)
- b. The IMPO will make all procurement documents available for review upon request when:
  - i. The IMPO procurement procedures or operation fails to comply with United States Code procurement standards, as determined by the Federal Highway Administration (FHWA);
  - ii. The procurement is expected to exceed the \$250,000 and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
  - iii. The procurement, which is expected to exceed the \$250,000, specifies a “brand name” product.

### III. Disputes, Protests, and Claims

#### i. Claims

- a. A claim is a written assertion by one of the contracting parties seeking the payment of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to the IMPO contract. A regular invoice is not a claim, but may be converted to a claim by written notice to the IMPO.
- b. Any claim associated with a dispute or protest must be submitted to the IMPO in writing. Once a claim has been received, the appropriate procedure will commence within 45 days of the official receipt of the claim.

#### ii. Disputes

- a. Disputes are official complaints to resolve disagreements between the IMPO and a selected vendor. Only a consultant, as a party to a contract with federal funding, is allowed to file a dispute claim. Subconsultants may not file disputes.
- b. A dispute may be initiated by either the consultant or the IMPO by notifying the other party in writing and stating specifically the nature of the dispute.
- c. In the event of a dispute, the consultant shall provide the IMPO material and information as the IMPO may reasonably acquire to resolve the dispute.
- d. Within 45 days of receiving final notice, an IMPO purchasing agent and the project manager will meet to consider the complaint.
- e. A decision is not considered final until it is communicated in writing from IMPO executive director to the consultant. The final decision shall be communicated to the consultant within 5 business days after such decision.
- f. A dispute must exhaust all administrative remedies with the IMPO and the grantee before pursuing a protest with the applicable State or Federal agency.

#### iii. Protests

- a. After a contract has been awarded, any actual or prospective consultant who is aggrieved in connection with the pending award of the contract or any element of the



process leading to the award of the contract may protest to the IMPO Project Manager. A protest is a written statement that concerns any unresolved issues arising out of the procurement process with the IMPO. Filing shall be considered complete when the protest is received by the project manager, who will notify the executive director upon receipt.

- b. The IMPO shall require a deposit from a protester to compensate the IMPO for the expenses of administering the protest. If the protest is decided in the protestor's favor, the entire deposit shall be returned to the protestor. If the protest is not decided in the protestor's favor, the deposit shall be forfeited to the IMPO. The deposit shall be the greater of 1% of the pending award or \$5,000.
- c. In the event of a timely protest, the executive director shall stay the award of contract, unless, after consulting with the IMPO attorney, the executive director determines that the award of the contract without delay is necessary to protect substantial interests of the IMPO.
- d. The executive director and project manager have to authority to review, settle, and resolve the protest.
- e. If the executive director determines that the pending award of a contract or any element of the process leading to the award involved a significant violation of law or applicable rule or regulation, all steps necessary and proper to correct the violation shall be taken. If the protest is determined to be without merit, the executive director shall promptly issue a decision in writing stating the reason for the decision and furnish a copy to the protestor and any other interested party, and the process leading to the award shall proceed forthwith.
- f. A protestor must exhaust all administrative remedies with the IMPO and the grantee before pursuing a protest with the applicable State or Federal agency.

## 4. Project Award, Price Negotiations, and Contracting

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- i. **Insurance Requirements**
  - a. Vendors must maintain business insurance that meets or exceeds the limits listed in the IMPO's boilerplate contract.
  - b. Requested exceptions may be granted by the executive director on a case by case basis if specific contract or vendor conditions warrant special consideration.
- ii. **Vendor Verification**
  - a. The IMPO will award contracts only to responsible consultants possessing the ability to perform successfully under the terms and conditions of the proposed procurement.
  - b. Vendors must be registered with either the [City of Indianapolis](#) or the [State of Indiana](#).
  - c. Vendor registration will be verified in the contracting process. The IMPO may not authorize a contract with a vendor until their City or State registration is verified by IMPO staff.
- iii. **Term of Selection, Renewals**
  - a. Competitive procurements are valid for three (3) calendar years from the request's issuance date. Unless a special purchase condition applies, the IMPO must re-compete the work when the three-year term is up.
  - b. The IMPO may amend contracts with selected vendors, revise scope and completion date, and initiate additional phases of work with the selected vendor. Public notice is required when a [Small Purchase by Quotes](#) exceeds the federal simple acquisition threshold of \$250,000.
  - c. The IMPO will not automatically renew contracts nor will it accept contracts without an expiration date. And additional terms awarded will not exceed the original contract term. ([USC Appendix II to Part 200](#))
- iv. **Contract Cost and Price**
  - a. The IMPO will perform a cost or price analysis in connection with every procurement action greater than \$150,000.
  - b. The IMPO will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
  - c. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the IMPO under *Cost Principles* in United States code.
  - d. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used. ([USC 200.323](#))
- v. **Debarment**
  - a. A contract award will not be made to parties listed on the governmentwide exclusions in the System for Award Management ([USC 200.213](#)).
- vi. **Contract Types**
  - a. The IMPO will use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the consultant

exceeds at its own risk. Time and materials type contract means a contract whose cost the IMPO is the sum of: (1) the actual cost of materials; and (2) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

- b. Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the consultant for cost control or labor efficiency. Therefore, each contract must have a set ceiling price that the consultant exceeds at its own risk. Further, the IMPO will assert a high degree of oversight in order to obtain reasonable assurance that the consultant is using efficient methods and effective cost controls. ([USC 200.318](#))

## vii. Required Contract Provisions

- a. All contracts should specify a term for the agreement. The term is the length of time within which services shall be performed, specifying a termination date for the agreement, or specifying a time frame in terms of months or years.
- b. Contracts may not automatically renew at the end of a term and contracts without an expiration date are not accepted. The length of an additional term in a contract may not exceed the length of the original contract term. Contracts may be renewed or amended up to three years with the same firm before needing to return to bid.
- c. IMPO contracts using federal funds are subject to [Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#). In addition to required provisions, all contracts made by the IMPO under the Federal award must contain provisions covering the following, as applicable:
  - i. All contracts in excess of \$10,000 will address termination for cause and for convenience by the IMPO, including the manner by which it will be impacted and the basis for settlement.
  - ii. Contracts for more than \$250,000 must address administrative, contractual, or legal remedies in instances where consultants violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- d. Debarment and Suspension: A contract award will not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). ([USC 200.213](#))
- e. Byrd Anti-Lobbying Amendment: The IMPO will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, any member of Congress in connection with obtaining any Federal contract, grant, or any other award. The IMPO will disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award in the Unified Planning Work Program.
- f. The IMPO acquires title to all property, assets, equipment, and other items which were acquired, fabricated, or otherwise provided by the consultant in performance of an IMPO contract, and to which the consultant is entitled to reimbursement. ([FAR 45.402](#))