

HOUSE BILL No. 1049

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22-9.

Synopsis: Public purchasing. Specifies requirements for the department of administration's application of factors or criteria to proposals offered in response to a request for proposals for a purchase by a state agency. Requires the department of administration, before a contract is awarded, to provide an explanation of the method by which the factors or criteria are applied to a proposal.

Effective: July 1, 2016.

Bacon

January 5, 2016, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1049

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-22-9-2.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 2.1. (a) This section applies only:**
4 **(1) to a purchase by a state agency; and**
5 **(2) if the evaluation of proposals includes factors or criteria**
6 **other than price and quality.**
7 **(b) Price must be assigned not less than fifty percent (50%) of**
8 **the total possible score assigned to all the factors or criteria.**
9 **(c) Evaluation of the prices offered by offerors may require that**
10 **price meet a threshold described in the request for proposals, but**
11 **the scores given to the prices offered by offerors meeting any**
12 **threshold must be assigned proportionate to the amount of the**
13 **price offered.**
14 SECTION 2. IC 5-22-9-2.2 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2016]: **Sec. 2.2. (a) This section applies only:**
17 **(1) to a purchase by a state agency; and**



1 **(2) if the factors or criteria used to evaluate proposals include**
 2 **whether a business is any of the following:**

3 **(A) A minority owned business.**

4 **(B) A women owned business.**

5 **(C) A veteran's business enterprise.**

6 **(b) The following apply to the application of the factors or**
 7 **criteria described in subsection (a)(2):**

8 **(1) Each factor or criterion may be applied only one (1) time**
 9 **to a proposal.**

10 **(2) A factor or criterion must be applied to any person that**
 11 **meets the factor or criterion regardless of whether the person**
 12 **is the offeror or a potential subcontractor of the offeror.**

13 **(3) If a person identified in a proposal meets more than one**
 14 **(1) factor or criterion, only one (1) factor or criterion may be**
 15 **applied for that person.**

16 **(4) The total score assigned an offeror for meeting any of the**
 17 **relevant factors or criteria may be based on the size of the**
 18 **positive benefit that the offer will provide to the type of**
 19 **business.**

20 SECTION 3. IC 5-22-9-2.3 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2016]: **Sec. 2.3. (a) This section applies only:**

23 **(1) to a purchase by a state agency; and**

24 **(2) if the evaluation of proposals includes consideration of**
 25 **whether either or both of the following apply:**

26 **(A) An offeror is an Indiana business.**

27 **(B) An offeror has a substantial economic impact in**
 28 **Indiana.**

29 **(b) As used in this section, "Indiana business" has the meaning**
 30 **set forth in IC 5-22-15-20.5.**

31 **(c) The Indiana business preference provided in IC 5-22-15-20.5**
 32 **must be used to determine an adjusted offer price for each offeror**
 33 **in the same manner as provided under IC 5-22-15. After adjusted**
 34 **offer prices are determined, the adjusted prices of the offerors may**
 35 **then be assigned a score as required by this chapter and as stated**
 36 **in the request for proposals.**

37 **(d) The proposal of an offeror that qualifies as an Indiana**
 38 **business may not be assigned a score for a substantial economic**
 39 **impact in Indiana lower than the score assigned to a proposal of an**
 40 **offeror that does not qualify as an Indiana business.**

41 SECTION 4. IC 5-22-9-6 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: **Sec. 6. (a) As provided in the request for**



1 proposals or under the rules or policies of the governmental body,
2 discussions may be conducted with, and best and final offers obtained
3 from, responsible offerors who submit proposals determined to be
4 reasonably susceptible of being selected for award.

5 **(b) This subsection applies only to a purchase made by a state**
6 **agency. Before discussions are conducted under this section, the**
7 **purchasing agency must provide each offeror described in**
8 **subsection (a) the following information:**

9 **(1) An explanation of the requirements for and method of**
10 **assignment of a score to each factor or criterion used in**
11 **evaluating the offeror's proposal. The explanation must**
12 **include an explanation of how the offeror's score was**
13 **computed.**

14 **(2) A reasonable opportunity to respond to the explanation for**
15 **consideration of the purchasing agency in making the award.**

