



February 25, 2022

ENGROSSED HOUSE BILL No. 1242

DIGEST OF HB 1242 (Updated February 24, 2022 11:08 am - DI 148)

Citations Affected: IC 4-13; IC 5-22; IC 16-32.

Synopsis: State purchasing. Requires the department of administration (department) to determine the technological upgrades and other expenditures required to collect and compile information regarding purchases made by state agencies from the following: (1) A minority business enterprise. (2) A nonprofit agency for individuals with disabilities. (3) A veteran owned small business. (4) A women's business enterprise. Provides that if a nonprofit agency for individuals with disabilities (qualified agency) withdraws from a department pilot project through which the qualified agency sells products or services to governmental bodies through a third party contractor, the department must award the qualified agency a quantity purchase agreement (QPA) for the same products and services and under the same terms under which the qualified agency had a QPA with the department before participating in the pilot project. Provides that the qualified agency must agree to provide the same products or services at a price less than the price provided for the products or services under the pilot project. Requires a state agency to purchase supplies or services from a QPA for those supplies or services awarded to a qualified agency unless the
(Continued next page)

Effective: Upon passage.

Miller D, Pressel, Bartlett, Harris

(SENATE SPONSORS — PERFECT, BUCK, ROGERS,
RANDOLPH LONNIE M)

January 6, 2022, read first time and referred to Committee on Government and Regulatory Reform.

January 20, 2022, amended, reported — Do Pass.

January 24, 2022, read second time, ordered engrossed.

January 25, 2022, engrossed. Read third time, passed. Yeas 89, nays 0.

SENATE ACTION

February 1, 2022, read first time and referred to Committee on Commerce and Technology.

February 24, 2022, amended, reported favorably — Do Pass.

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Digest Continued

state agency solicits quotes from three other sources for the supplies or services and receives a quote offering a price for the supplies or services that is less than the price under the QPA. Provides the qualified agency with an opportunity to provide the supplies or services at a price less than the quote obtained by the state agency. Requires the department, in consultation with the committee for the purchase of supplies and services of individuals with a disability, to adopt administrative rules to establish a goal to procure in each state fiscal year at least 1.5% of state contracts with qualified agencies. Provides that this goal must be administered so as not to diminish any other state contracting goals established under existing law.

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February 25, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1242

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

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

1 SECTION 1. IC 4-13-1-4.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 4.3. (a) As used in this section, "diversity**
4 **business" refers to any of the following:**
5 (1) A minority business enterprise, as defined in
6 IC 4-13-16.5-1(h).
7 (2) A qualified agency, as defined in IC 5-22-13-1.
8 (3) A veteran owned small business, as defined in
9 IC 4-13-16.5-1(p).
10 (4) A women's business enterprise, as defined in
11 IC 4-13-16.5-1(q).
12 (b) The department shall determine any upgrades to computer
13 hardware and software systems, and any additional personnel,
14 resources, and expenditures required to enable the department to
15 collect and compile the following information regarding purchases
16 made by state agencies from diversity businesses during a state
17 fiscal year:

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- 1 **(1) For each diversity business from which a purchase was**
 2 **made, the following information:**
 3 **(A) The classification of the diversity business as described**
 4 **in subsection (a).**
 5 **(B) The Internal Revenue Service principal business code**
 6 **for the diversity business.**
 7 **(C) A description of each kind of supply item or service**
 8 **purchased from the diversity business.**
 9 **(D) For each supply item purchased from the diversity**
 10 **business, the following information:**
 11 **(i) The frequency of purchases.**
 12 **(ii) The number or volume of items purchased.**
 13 **(iii) The name of each state agency that has made**
 14 **purchases of the particular supply item.**
 15 **(iv) For each state agency that has made purchases of**
 16 **that supply item, the total expenditures for that**
 17 **particular supply item.**
 18 **(v) Whether the particular supply item is a newly added**
 19 **supply item from the previous year's report.**
 20 **(E) For each kind of service purchased from a diversity**
 21 **business, the following information:**
 22 **(i) The nature of the service.**
 23 **(ii) The name of each state agency that has made**
 24 **purchases of that particular service.**
 25 **(iii) For each state agency that has made purchases of**
 26 **that particular service, the total expenditures for that**
 27 **particular service.**
 28 **(iv) Whether the particular service is a newly added**
 29 **service from the previous year's report.**
 30 **(2) Totals of all amounts reported under subdivision (1).**
 31 **(3) Specific information and examples relating to the reasons**
 32 **state agencies have not purchased supplies and services from**
 33 **diversity businesses, such as any of the following:**
 34 **(A) Supplies or services needed by state agencies are not**
 35 **provided by diversity businesses.**
 36 **(B) Supplies or services do not meet specifications.**
 37 **(C) Supplies or services cannot be provided at a fair**
 38 **market price.**
 39 SECTION 2. IC 5-22-13-6 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 41 **UPON PASSAGE]: Sec. 6. (a) This section applies to a qualified**
 42 **agency that:**



- 1 (1) participates in or, before January 1, 2022, participated in
2 a pilot project; and
- 3 (2) before the qualified agency's participation in the pilot
4 project, had a QPA awarded by the department to sell
5 supplies or services directly to governmental bodies that the
6 qualified agency currently sells through the third party
7 contractor under the pilot project.
- 8 (b) As used in this section, "department" refers to the Indiana
9 department of administration created by IC 4-13-1-2.
- 10 (c) As used in this section, "pilot project" refers to a project
11 established by the department through which a qualified agency
12 sells supplies or services covered by this chapter to governmental
13 bodies through a third party contractor that has been awarded a
14 contract by the department under this article.
- 15 (d) As used in this section, "QPA" refers to a quantity purchase
16 agreement.
- 17 (e) After a qualified agency withdraws from the pilot project, at
18 the request of the qualified agency, the department shall award to
19 the qualified agency a QPA for the same supplies or services that
20 the qualified agency provided through the third party contractor.
21 The department shall award a QPA to the qualified agency not
22 later than thirty (30) days after the date of the qualified agency's
23 request.
- 24 (f) The department shall award a QPA to the qualified party:
25 (1) without requiring a new procurement under this article;
26 and
27 (2) under the same terms and conditions under which the
28 qualified agency previously had a QPA with the department;
29 if the qualified agency agrees to provide the same supplies or
30 services at a price less than the price provided for the supplies or
31 services under the pilot project as of January 1 of the year the
32 qualified agency withdraws from the pilot project.
- 33 (g) This section does not release a qualified agency from any
34 contractual obligations that it might otherwise owe to the third
35 party contractor.
- 36 SECTION 3. IC 5-22-13-7 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
38 UPON PASSAGE]: Sec. 7. (a) As used in this section, "department"
39 refers to the Indiana department of administration created by
40 IC 4-13-1-2.
- 41 (b) As used in this section, "QPA" refers to a quantity purchase
42 agreement awarded by the department.



1 (c) Except as provided in subsection (e), if a state agency wants
2 to purchase supplies or services that are covered by a QPA
3 awarded to a qualified agency, the state agency must purchase
4 those supplies or services from the qualified agency under the
5 QPA.

6 (d) A state agency may purchase the supplies or services outside
7 of the QPA only if all of the following apply:

8 (1) The state agency notifies the qualified agency of its intent
9 to purchase the supplies or services outside of the QPA.

10 (2) Not later than thirty (30) days after the notice to the
11 qualified agency under subdivision (1), the state agency
12 solicits at least three (3) quotes to purchase the supplies or
13 services from sources other than the qualified agency.

14 (3) Not later than thirty (30) days after the notice to the
15 qualified agency under subdivision (1), the state agency
16 receives a quote for the supplies or services from a source
17 other than the qualified agency for a price less than the price
18 for the supplies or services from the QPA. The state agency is
19 not required to receive three (3) quotes under this subdivision.

20 (4) Not later than thirty (30) days after the notice to the
21 qualified agency under subdivision (1), the state agency
22 notifies the qualified agency of the amount of the lower price
23 quote it received for the supplies or services under subdivision
24 (3).

25 (5) Not later than fifteen (15) days after the notice to the
26 qualified agency under subdivision (4), the qualified agency
27 notifies the state agency that the qualified agency declines to
28 offer a price for the supplies or services that is lower than the
29 quote received for the supplies or services under subdivision
30 (3). If the qualified agency does not respond to the notice
31 within the time described in this subdivision, the requirement
32 of this subdivision is satisfied.

33 (e) If the qualified agency offers to provide the supplies or
34 services at a price less than the quote obtained by the state agency
35 under subsection (d)(3), the state agency shall purchase the
36 supplies or services from the qualified agency at the lower price
37 offered by the qualified agency. If the qualified agency declines to
38 offer a lower price, or if the qualified agency does not respond to
39 the notice under subsection (d)(4), the state agency may purchase
40 the supplies or services under the quote described in subsection
41 (d)(3).

42 (f) If a state agency purchases supplies or services as provided



1 in this section, the state agency must place written documentation
2 of the following in the contract file:

3 (1) Documentation of the notice to the qualified agency under
4 subsection (d)(1).

5 (2) Documentation of the request for quotes required under
6 subsection (d)(2).

7 (3) Documentation of a quote from a source other than the
8 qualified agency showing the date the quote was received and
9 the amount of the quote.

10 (4) Documentation of the notice to the qualified agency under
11 subsection (d)(4).

12 (5) Documentation of the qualified agency's response or lack
13 of response under subsection (d)(5).

14 SECTION 4. IC 16-32-2-9 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 9. (a) The Indiana department of
17 administration shall, in consultation with the committee, adopt
18 rules under IC 4-22-2 to do the following:

19 (1) Increase contracting opportunities for qualified nonprofit
20 agencies with a goal to procure in each state fiscal year at
21 least one and one-half percent (1.5%) of state contracts with
22 qualified nonprofit agencies.

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

28 (b) The procurement policies developed under subsection (a)(2)
29 do not apply to a procurement of supplies and services to address
30 immediate and serious government needs at a time of emergency,
31 including a threat to the public health, welfare, or safety that may
32 arise by reason of floods, epidemics, riots, acts of terrorism, major
33 power failures, a threat proclaimed by the President of the United
34 States or the governor, or a threat declared by the commissioner.

35 (c) The goal set under subsection (a) must be administered so as
36 not to diminish any of the goals adopted under IC 4-13-16.5.

37 (d) The Indiana department of administration shall annually
38 evaluate its progress in meeting the goal described in this section
39 for the previous state fiscal year. After June 30 and before
40 November 1 of each year, the Indiana department of
41 administration shall submit a report to the governor, the
42 committee, and the legislative council in an electronic format under



- 1 **IC 5-14-6. The report must include the following information:**
- 2 **(1) The percentage goal obtained by the Indiana department**
- 3 **of administration during the previous state fiscal year.**
- 4 **(2) A summary of why the Indiana department of**
- 5 **administration failed to meet the goal and what actions are**
- 6 **being taken by the Indiana department of administration to**
- 7 **meet the goal in the current state fiscal year.**
- 8 **(e) The Indiana department of administration shall post the**
- 9 **report described in subsection (d) on the Indiana department of**
- 10 **administration's Internet web site not later than thirty (30) days**
- 11 **after the report is submitted.**
- 12 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1242, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1242 as introduced.)

MILLER D

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1242, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete line 1, begin a new line block indented and insert:

"(1) participates in or, before January 1, 2022, participated in a pilot project; and".

Page 3, line 4, delete "products" and insert "**supplies**".

Page 3, line 11, delete "products" and insert "**supplies**".

Page 3, line 27, delete "." and insert ";

if the qualified agency agrees to provide the same supplies or services at a price less than the price provided for the supplies or services under the pilot project as of January 1 of the year the qualified agency withdraws from the pilot project."

Page 3, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 5. IC 5-22-13-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) As used in this section, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(b) As used in this section, "QPA" refers to a quantity purchase agreement awarded by the department.

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(c) Except as provided in subsection (e), if a state agency wants to purchase supplies or services that are covered by a QPA awarded to a qualified agency, the state agency must purchase those supplies or services from the qualified agency under the QPA.

(d) A state agency may purchase the supplies or services outside of the QPA only if all of the following apply:

(1) The state agency notifies the qualified agency of its intent to purchase the supplies or services outside of the QPA.

(2) Not later than thirty (30) days after the notice to the qualified agency under subdivision (1), the state agency solicits at least three (3) quotes to purchase the supplies or services from sources other than the qualified agency.

(3) Not later than thirty (30) days after the notice to the qualified agency under subdivision (1), the state agency receives a quote for the supplies or services from a source other than the qualified agency for a price less than the price for the supplies or services from the QPA. The state agency is not required to receive three (3) quotes under this subdivision.

(4) Not later than thirty (30) days after the notice to the qualified agency under subdivision (1), the state agency notifies the qualified agency of the amount of the lower price quote it received for the supplies or services under subdivision (3).

(5) Not later than fifteen (15) days after the notice to the qualified agency under subdivision (4), the qualified agency notifies the state agency that the qualified agency declines to offer a price for the supplies or services that is lower than the quote received for the supplies or services under subdivision (3). If the qualified agency does not respond to the notice within the time described in this subdivision, the requirement of this subdivision is satisfied.

(e) If the qualified agency offers to provide the supplies or services at a price less than the quote obtained by the state agency under subsection (d)(3), the state agency shall purchase the supplies or services from the qualified agency at the lower price offered by the qualified agency. If the qualified agency declines to offer a lower price, or if the qualified agency does not respond to the notice under subsection (d)(4), the state agency may purchase the supplies or services under the quote described in subsection (d)(3).

(f) If a state agency purchases supplies or services as provided



in this section, the state agency must place written documentation of the following in the contract file:

- (1) Documentation of the notice to the qualified agency under subsection (d)(1).
- (2) Documentation of the request for quotes required under subsection (d)(2).
- (3) Documentation of a quote from a source other than the qualified agency showing the date the quote was received and the amount of the quote.
- (4) Documentation of the notice to the qualified agency under subsection (d)(4).
- (5) Documentation of the qualified agency's response or lack of response under subsection (d)(5).

SECTION 4. IC 16-32-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) The Indiana department of administration shall, in consultation with the committee, adopt rules under IC 4-22-2 to do the following:**

- (1) Increase contracting opportunities for qualified nonprofit agencies with a goal to procure in each state fiscal year at least one and one-half percent (1.5%) of state contracts with qualified nonprofit agencies.
- (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 Indiana department of administration's procurement efforts.

(b) The procurement policies developed under subsection (a)(2) 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.

(c) The goal set under subsection (a) must be administered so as not to diminish any of the goals adopted under IC 4-13-16.5.

(d) The Indiana department of administration shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. After June 30 and before November 1 of each year, the Indiana department of administration shall submit a report to the governor, the committee, and the legislative council in an electronic format under



IC 5-14-6. The report must include the following information:

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

(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.

(e) The Indiana department of administration shall post the report described in subsection (d) on the Indiana department of administration's Internet web site not later than thirty (30) days after the report is submitted."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1242 as printed January 20, 2022.)

PERFECT, Chairperson

Committee Vote: Yeas 11, Nays 0.

