

05-05

FOR: ESTABLISHMENT OF THE "BUY INDIANA" PRESUMPTION

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, over \$.40 of every public purchasing dollar in state government is being spent outside Indiana and, as a result, the public's business is being transacted with out-of-state companies out of the public's view; and

WHEREAS, when our tax dollars are spent on goods and services provided by Indiana-based businesses that employ Hoosiers, our State benefits from increased employment opportunities, more tax revenues to fund our schools, roads, police and fire protection, health care, and other public services, and enhanced oversight of the use of public funds;

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. Subject to such policies and procedures as may be developed and approved in accordance with paragraph 3 below, state procurement shall be subject to a "Buy Indiana" presumption requiring state agencies to buy their supplies and services from "Indiana businesses," as defined by IC 5-22-15-20.5.
2. The Department of Administration (DOA) shall undertake all efforts to increase the percentage of state procurement from Indiana businesses to 90 percent of the State's total procurement volume.
3. In furtherance of such efforts, the Commissioner of Administration shall, as soon as practicable following the date hereof, develop procurement policies and procedures to give effect to the "Buy Indiana" presumption. Such policies and procedures, which shall be subject to the Governor's approval, shall set forth the guidelines (and any *de minimis* or other exceptions thereto) to be followed by state agencies in conducting their procurement efforts on the basis of the "Buy Indiana" presumption.
4. The DOA shall also promulgate rules and, if necessary, recommend such legislative reform as may be necessary to implement more fully this "Buy Indiana" presumption.
5. State contracts that do not meet any of the *de minimis* or other exceptions under the Buy Indiana policies and procedures shall only be awarded to "out-of-state businesses," as defined by IC 5-22-15-20(b), upon the DOA's approval of a written request by the contracting agency for a waiver of the "Buy Indiana" presumption. This written request shall set forth (a) the reasons for seeking the waiver and (b) list each Indiana business that submitted a bid to provide the goods or perform the services sought by the State.
6. This Executive Order shall not be deemed to authorize any state agency, as defined in IC 4-13-1-1, to conduct its purchasing functions in a manner contrary to applicable law, nor shall it create any right or benefit, substantive or procedural, enforceable at law or equity by any person against the State, its agencies or instrumentalities, its officers or employees, or any other person.
7. This Executive Order shall not apply to procurement of supplies and services to address immediate and serious government needs at a time of emergency, including without limitation a threat to the public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, or such other threat as may be proclaimed by the Governor or determined by the Commissioner of Administration.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

Mitchell E. Daniels, Jr.
Governor of Indiana

ATTEST: Todd Rokita
Secretary of State