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**HOUSE BILL No. 1275**

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**DIGEST OF INTRODUCED BILL**

**Citations Affected:** IC 4-13.6-6; IC 5-22.

**Synopsis:** State contracting. Provides a 10% price preference to Indiana businesses for public works and contracts for services and supplies awarded by the state. Provides that to be considered responsible, an offeror for a purchase by the state that is required to register with the secretary of state must have registered at least 45 days before the solicitation for the purchase is issued. Provides that a contract for services entered into by a state agency must specify that only citizens of the United States and individuals authorized to work in the United States may be employed in the performance of services under the contract or any subcontract.

**Effective:** July 1, 2004.

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**Dvorak**

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January 15, 2004, read first time and referred to Committee on Appointments and Claims.

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Introduced

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

### HOUSE BILL No. 1275

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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:*

SOURCE: IC 4-13.6-6-2; (04)IN1275.1.1. --> SECTION 1. IC 4-13.6-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Except as provided **in section 2.7 of this chapter or** in rules adopted under section 2.5 of this chapter, the division shall award a contract to the lowest responsible and responsive contractor.

SOURCE: IC 4-13.6-6-2.7; (04)IN1275.1.2. --> SECTION 2. IC 4-13.6-6-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.7. (a) As used in this section, "Indiana business" refers to a business that is an Indiana business as determined under IC 5-22.**

**(b) There is a price preference of ten percent (10%) for a contractor that is an Indiana business.**

**(c) A contractor that wants to claim a preference provided under this section**

must state in the contractor's bid that the contractor claims the preference provided by this section.

(d) The division shall compute a preference under this section in the same manner that a preference is computed under IC 5-22-15.

(e) Notwithstanding subsection (b), the division shall award a contract to the lowest responsive and responsible contractor, regardless of the preference provided in this section, if the lowest responsive and responsible contractor is an Indiana contractor.

SOURCE: IC 5-22-2-13.7; (04)IN1275.1.3. --> SECTION 3. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.7. "Indiana business" refers to any of the following:**

(1) A business whose principal place of business is located in Indiana.  
(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.  
(4) A business that manufactures or assembles in Indiana the supplies that are the subject of the purchase.

SOURCE: IC 5-22-6-1; (04)IN1275.1.4. --> SECTION 4. IC 5-22-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1. (a) This section does not apply to a contract for services awarded by a state agency.**

(b) The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate.

SOURCE: IC 5-22-6-3; (04)IN1275.1.5. --> SECTION 5. IC 5-22-6-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 3. (a) This section applies to a contract for services awarded by a state agency.**

(b) A contract for services must be awarded under one (1) of the following statutes:

(1) IC 5-22-7.

(2) IC 5-22-8, if applicable.

(3) IC 5-22-9.

**(4) IC 5-22-10, if applicable.**

SOURCE: IC 5-22-15-1; (04)IN1275.1.6. --> SECTION 6. IC 5-22-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) This chapter applies to a purchase of supplies **or services** under this article by any of the following:

(1) A governmental body.

(2) A state educational institution.

(3) An instrumentality of the state that performs essential governmental functions on either a statewide or local basis.

(4) The state lottery commission created by IC 4-30-3-1.

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(b) This chapter applies to a purchase made under IC 5-17-1.

SOURCE: IC 5-22-15-20; (04)IN1275.1.7. --> SECTION 7. IC 5-22-15-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) This section does not apply to **a state agency or** the state lottery commission created by IC 4-30-3-1.

(b) As used in this section, "out-of-state business" refers to a business that is not an Indiana business.

(c) A governmental body may adopt rules to give a preference to an Indiana business that submits an offer for a purchase under this article if all of the following apply:

(1) An out-of-state business submits an offer for the purchase.

(2) The out-of-state business is a business from a state that gives purchase preferences unfavorable to Indiana businesses.

(d) Rules adopted under subsection (c) must establish criteria for determining the following:

~~(1) Whether an offeror qualifies as an Indiana business under the rules.~~

~~(2) (1) When another state's preference is unfavorable to Indiana businesses.~~

~~(3) (2) The method by which the preference for Indiana businesses is to be computed.~~

(e) Rules adopted under subsection (c) may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

SOURCE: IC 5-22-15-20.5; (04)IN1275.1.8. --> SECTION 8. IC 5-22-15-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2004]: **Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.**

**(b) This section does not apply to the state lottery commission created by IC 4-30-3-1.**

**(c) There is a price preference of ten percent (10%) for supplies or services purchased from an Indiana business.**

**(d) Notwithstanding subsection (c), a state agency shall award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if the lowest responsive and responsible offeror is an Indiana business.**

SOURCE: IC 5-22-16-4; (04)IN1275.1.9. --> SECTION 9. IC 5-22-16-4, AS AMENDED BY P.L.254-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) This subsection applies to a purchase of supplies or services for

a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase ~~property~~ **supplies** or services from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) **Except as provided in subsection (d),** the purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

**(d) This subsection applies only to a contract awarded by a state agency. In order to be considered responsible, an offeror that is a business required to register with the secretary of state must have registered with the secretary of state at least forty-five (45) days before the solicitation for the purchase was issued.**

SOURCE: IC 5-22-17-15; (04)IN1275.1.10. --> SECTION 10. IC 5-22-17-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 15. A contract for services entered into by a state agency must specify that only the following may be employed in the performance of services under the contract or any subcontract awarded under the contract:**

**(1) Citizens of the United States.**

**(2) Individuals authorized to work in the United States.**