

PROPOSED AMENDMENT

HB 1242 # 8

DIGEST

QPAs; purchasing goals. 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 quantity purchase agreement (QPA) for those supplies or services awarded to a qualified agency unless the 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 of administration, 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 nonprofit agencies. Provides that this goal must be administered so as not to diminish any other state contracting goals established under existing law.

- 1 Page 3, delete line 1, begin a new line block indented and insert:
- 2 **"(1) participates in or, before January 1, 2022, participated in**
- 3 **a pilot project; and".**
- 4 Page 3, line 4, delete "products" and insert "**supplies**".
- 5 Page 3, line 11, delete "products" and insert "**supplies**".
- 6 Page 3, line 27, delete "." and insert ";
- 7 **if the qualified agency agrees to provide the same supplies or**
- 8 **services at a price less than the price provided for the supplies or**
- 9 **services under the pilot project as of January 1 of the year the**
- 10 **qualified agency withdraws from the pilot project."**
- 11 Page 3, between lines 30 and 31, begin a new paragraph and insert:
- 12 **"SECTION 5. IC 5-22-13-7 IS ADDED TO THE INDIANA CODE**
- 13 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 14 **UPON PASSAGE]: Sec. 7. (a) As used in this section, "department"**
- 15 **refers to the Indiana department of administration created by**
- 16 **IC 4-13-1-2.**
- 17 **(b) As used in this section, "QPA" refers to a quantity purchase**
- 18 **agreement awarded by the department.**
- 19 **(c) Except as provided in subsection (e), if a state agency wants**
- 20 **to purchase supplies or services that are covered by a QPA**

1 awarded to a qualified agency, the state agency must purchase
2 those supplies or services from the qualified agency under the
3 QPA.

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

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

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

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

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

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

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

40 (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

1 administration shall submit a report to the governor, the
2 committee, and the legislative council in an electronic format under
3 IC 5-14-6. The report must include the following information:

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

6 (2) A summary of why the Indiana department of
7 administration failed to meet the goal and what actions are
8 being taken by the Indiana department of administration to
9 meet the goal in the current state fiscal year.

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

14 Renumber all SECTIONS consecutively.

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