
HOUSE BILL No. 1612

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13.6-5-13; IC 5-16-1-9; IC 36-1-12-4.3.

Synopsis: Public works projects. Requires the specifications for equipment or materials for a public works project to be written to describe the required performance and design characteristics of the equipment or materials. Limits the circumstances under which a brand name may be specified.

Effective: July 1, 2003.

Whetstone, Frenz

January 16, 2003, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1612



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 4-13.6-5-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 13. (a) The specifications for equipment or materials
4 for a public works project must be written to describe the required
5 performance and design characteristics of the equipment or
6 materials.**

7 **(b) If it is impossible or impractical to specify the required
8 performance and design characteristics for equipment or
9 materials, specifications may state a brand name only if the
10 specifications cite at least three (3) examples of equipment or
11 materials of equal or equivalent design that would establish an
12 acceptable range for equipment or materials of equal or equivalent
13 design. The specifications must state clearly that the cited
14 examples:**

- 15 **(1) are used only to denote the quality standard desired;**
- 16 **(2) do not restrict bidders to a specific brand, make,**
- 17 **manufacturer, or name;**



- 1 **(3) are used only to set forth and convey to bidders the**
- 2 **general style, type, character, and quality of product desired;**
- 3 **and**
- 4 **(4) that equivalent products are acceptable.**
- 5 **(c) If it is impossible to:**
- 6 **(1) specify performance and design characteristics for**
- 7 **equipment or materials as required by subsection (a); and**
- 8 **(2) cite at least three (3) examples because there are not that**
- 9 **many examples of equal or equivalent design in competition**
- 10 **as required by subsection (b);**
- 11 **the specifications must cite as many examples as are available.**
- 12 **(d) In citing examples of equipment of equal or equivalent**
- 13 **design, specifications must permit maximum interchangeability**
- 14 **and compatibility of the cited examples.**
- 15 **(e) The brand of product used in a public works project may not**
- 16 **limit competition on future public works projects.**
- 17 **(f) If a particular brand of equipment or materials is preferred:**
- 18 **(1) the brand must be bid as an alternate to the base bid; and**
- 19 **(2) the base bid must cite at least three (3) examples of equal**
- 20 **or equivalent design that establish an acceptable range for**
- 21 **equipment or materials of equal or equivalent design.**
- 22 **(g) Substitution of materials or equipment of equal or equivalent**
- 23 **design must be submitted to the architect or engineer for approval**
- 24 **or disapproval. The architect or engineer must approve or**
- 25 **disapprove of the substitution before bids are opened.**
- 26 **SECTION 2. IC 5-16-1-9 IS ADDED TO THE INDIANA CODE**
- 27 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
- 28 **1, 2003]: Sec. 9. (a) The specifications for equipment or materials**
- 29 **for a public works project must be written to describe the required**
- 30 **performance and design characteristics of the equipment or**
- 31 **materials.**
- 32 **(b) If it is impossible or impractical to specify the required**
- 33 **performance and design characteristics for equipment or**
- 34 **materials, specifications may state a brand name only if the**
- 35 **specifications cite at least three (3) examples of equipment or**
- 36 **materials of equal or equivalent design that would establish an**
- 37 **acceptable range for equipment or materials of equal or equivalent**
- 38 **design. The specifications must state clearly that the cited**
- 39 **examples:**
- 40 **(1) are used only to denote the quality standard desired;**
- 41 **(2) do not restrict bidders to a specific brand, make,**
- 42 **manufacturer, or name;**

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1 (3) are used only to set forth and convey to bidders the
 2 general style, type, character, and quality of product desired;
 3 and

4 (4) that equivalent products are acceptable.

5 (c) If it is impossible to:

6 (1) specify performance and design characteristics for
 7 equipment or materials as required by subsection (a); and

8 (2) cite at least three (3) examples because there are not that
 9 many examples of equal or equivalent design in competition
 10 as required by subsection (b);

11 the specifications must cite as many examples as are available.

12 (d) In citing examples of equipment of equal or equivalent
 13 design, specifications must permit maximum interchangeability
 14 and compatibility of the cited examples.

15 (e) The brand of product used in a public works project may not
 16 limit competition on future public works projects.

17 (f) If a particular brand of equipment or materials is preferred:

18 (1) the brand must be bid as an alternate to the base bid; and

19 (2) the base bid must cite at least three (3) examples of equal
 20 or equivalent design that establish an acceptable range for
 21 equipment or materials of equal or equivalent design.

22 (g) Substitution of materials or equipment of equal or equivalent
 23 design must be submitted to the architect or engineer for approval
 24 or disapproval. The architect or engineer must approve or
 25 disapprove of the substitution before bids are opened.

26 SECTION 3. IC 36-1-12-4.3 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2003]: Sec. 4.3. (a) The specifications for equipment or materials
 29 for a public works project must be written to describe the required
 30 performance and design characteristics of the equipment or
 31 materials.

32 (b) If it is impossible or impractical to specify the required
 33 performance and design characteristics for equipment or
 34 materials, specifications may state a brand name only if the
 35 specifications cite at least three (3) examples of equipment or
 36 materials of equal or equivalent design that would establish an
 37 acceptable range for equipment or materials of equal or equivalent
 38 design. The specifications must state clearly that the cited
 39 examples:

40 (1) are used only to denote the quality standard desired;

41 (2) do not restrict bidders to a specific brand, make,
 42 manufacturer, or name;

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- 1 **(3) are used only to set forth and convey to bidders the**
2 **general style, type, character, and quality of product desired;**
3 **and**
4 **(4) that equivalent products are acceptable.**
5 **(c) If it is impossible to:**
6 **(1) specify performance and design characteristics for**
7 **equipment or materials as required by subsection (a); and**
8 **(2) cite at least three (3) examples because there are not that**
9 **many examples of equal or equivalent design in competition**
10 **as required by subsection (b);**
11 **the specifications must cite as many examples as are available.**
12 **(d) In citing examples of equipment of equal or equivalent**
13 **design, specifications must permit maximum interchangeability**
14 **and compatibility of the cited examples.**
15 **(e) The brand of product used in a public works project may not**
16 **limit competition on future public works projects.**
17 **(f) If a particular brand of equipment or materials is preferred:**
18 **(1) the brand must be bid as an alternate to the base bid; and**
19 **(2) the base bid must cite at least three (3) examples of equal**
20 **or equivalent design that establish an acceptable range for**
21 **equipment or materials of equal or equivalent design.**
22 **(g) Substitution of materials or equipment of equal or equivalent**
23 **design must be submitted to the architect or engineer for approval**
24 **or disapproval. The architect or engineer must approve or**
25 **disapprove of the substitution before bids are opened.**

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