
HOUSE BILL No. 1757

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 that specifications for equipment or materials for a public works project must 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, 2005.

Whetstone

January 19, 2005, read first time and referred to Committee on Local Government.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1757



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, 2005]: **Sec. 13. (a) The specifications for equipment or materials
4 for a public works project must specify the required performance
5 and design characteristics of the equipment or materials.**
6 **(b) If it is impossible or impractical to specify the required
7 performance and design characteristics for equipment or
8 materials, specifications may state a brand name of equipment or
9 material only if the specifications cite at least three (3) examples of
10 equipment or materials of equal or equivalent design that would
11 establish an acceptable range for equipment or materials of equal
12 or equivalent design. The specifications must state clearly that
13 equivalent products are acceptable and that the cited examples:**
14 **(1) are used only to denote the quality standard desired;**
15 **(2) do not restrict bidders to a specific:**
16 **(A) brand;**
17 **(B) make;**



1 (C) manufacturer; or
 2 (D) name; and
 3 (3) are used only to set forth and convey to bidders the:
 4 (A) general style;
 5 (B) type;
 6 (C) character; and
 7 (D) quality;
 8 of product desired.
 9 (c) If it is impossible or impractical to:
 10 (1) specify performance and design characteristics for
 11 equipment or materials as required by subsection (a); and
 12 (2) cite at least three (3) examples because there are not that
 13 many examples of equal or equivalent design in competition
 14 as required by subsection (b);
 15 the specifications must cite as many examples as are available.
 16 (d) In citing examples of equipment or materials of equal or
 17 equivalent design, specifications must permit maximum
 18 interchangeability and compatibility of the cited examples.
 19 (e) The brand of product used in a public works project may not
 20 limit competition on future public works projects.
 21 (f) If a particular brand of equipment or materials is preferred:
 22 (1) the brand must be bid as an alternate to the base bid; and
 23 (2) the base bid must cite at least three (3) examples of equal
 24 or equivalent design that establish an acceptable range for
 25 equipment or materials of equal or equivalent design.
 26 (g) Substitution of equipment or materials of equal or equivalent
 27 design must be submitted to the architect or engineer for approval
 28 or disapproval. The architect or engineer must approve or
 29 disapprove the substitution before bids are opened.
 30 SECTION 2. IC 5-16-1-9 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2005]: Sec. 9. (a) The specifications for equipment or materials
 33 for a public works project must specify the required performance
 34 and design characteristics of the equipment or materials.
 35 (b) If it is impossible or impractical to specify the required
 36 performance and design characteristics for equipment or
 37 materials, specifications may state a brand name of equipment or
 38 material only if the specifications cite at least three (3) examples of
 39 equipment or materials of equal or equivalent design that would
 40 establish an acceptable range for equipment or materials of equal
 41 or equivalent design. The specifications must state clearly that
 42 equivalent products are acceptable and that the cited examples:

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- 1 (1) are used only to denote the quality standard desired;
- 2 (2) do not restrict bidders to a specific:
 - 3 (A) brand;
 - 4 (B) make;
 - 5 (C) manufacturer; or
 - 6 (D) name; and
- 7 (3) are used only to set forth and convey to bidders the:
 - 8 (A) general style;
 - 9 (B) type;
 - 10 (C) character; and
 - 11 (D) quality;
- 12 of product desired.
- 13 (c) If it is impossible or impractical to:
 - 14 (1) specify performance and design characteristics for
 - 15 equipment or materials as required by subsection (a); and
 - 16 (2) cite at least three (3) examples because there are not that
 - 17 many examples of equal or equivalent design in competition
 - 18 as required by subsection (b);
- 19 the specifications must cite as many examples as are available.
- 20 (d) In citing examples of equipment or materials of equal or
- 21 equivalent design, specifications must permit maximum
- 22 interchangeability and compatibility of the cited examples.
- 23 (e) The brand of product used in a public works project may not
- 24 limit competition on future public works projects.
- 25 (f) If a particular brand of equipment or materials is preferred:
 - 26 (1) the brand must be bid as an alternate to the base bid; and
 - 27 (2) the base bid must cite at least three (3) examples of equal
 - 28 or equivalent design that establish an acceptable range for
 - 29 equipment or materials of equal or equivalent design.
- 30 (g) Substitution of equipment or materials of equal or equivalent
- 31 design must be submitted to the architect or engineer for approval
- 32 or disapproval. The architect or engineer must approve or
- 33 disapprove the substitution before bids are opened.
- 34 SECTION 3. IC 36-1-12-4.3 IS ADDED TO THE INDIANA CODE
- 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 36 1, 2005]: Sec. 4.3. (a) The specifications for equipment or materials
- 37 for a public works project must specify the required performance
- 38 and design characteristics of the equipment or materials.
- 39 (b) If it is impossible or impractical to specify the required
- 40 performance and design characteristics for equipment or
- 41 materials, specifications may state a brand name only if the
- 42 specifications cite at least three (3) examples of equipment or

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

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