

IC 5-16

ARTICLE 16. PUBLIC WORKS

IC 5-16-1

Chapter 1. Public Works by State Agencies

IC 5-16-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 8 of this chapter by P.L.20-1991 applies to public works contracts for which notices calling for sealed proposals for the work are published after June 30, 1991.

As added by P.L.220-2011, SEC.97.

IC 5-16-1-1

Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-16-1-1.1

Application of chapter

Sec. 1.1. (a) For purposes of this section, the term "person" includes a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, or individual.

(b) This chapter applies to the construction, alteration, or repair of a public building or other public work or improvement owned by the state. In addition, the provisions of this chapter concerning the adoption of plans and specifications and the awarding of contracts also apply to work or improvements to be performed on real property that is being or that will be leased by the state from another person if:

(1) the estimated cost of the work or improvement is twenty-five thousand dollars (\$25,000) or more; and

(2) the lease gives the state an option to buy the real property.

As added by Acts 1979, P.L.42, SEC.1. Amended by Acts 1981, P.L.57, SEC.1; P.L.33-1983, SEC.14; P.L.52-1986, SEC.1; P.L.8-1993, SEC.58.

IC 5-16-1-1.2

Adoption of plans and specifications; awarding of contract

Sec. 1.2. (a) When a public building or other public work or improvement of any character is to be constructed, erected, altered, or repaired at the expense of the state or a commission created by law (excepting the Indiana department of transportation), and when the estimated costs of the work or improvement is greater than twenty-five thousand dollars (\$25,000) the board, commission, trustee, officer, or agent acting on behalf of the state or commission created by law (excepting the Indiana department of transportation), shall adopt plans and specifications and shall award a contract for the public work or improvement to the lowest and best bidder who submits a bid for the performance of the work.

(b) Notwithstanding subsection (a), whenever the cost of any

public work is estimated to be less than twenty-five thousand dollars (\$25,000), the officer or agent acting on behalf of the state or commission having authority to employ workmen and own, rent, or lease equipment may purchase materials in the manner provided by law and perform the work by means of its own workmen and owned or leased equipment without awarding a construction contract for the work.

As added by Acts 1981, P.L.57, SEC.2. Amended by P.L.28-1983, SEC.53; P.L.52-1986, SEC.2; P.L.18-1990, SEC.11.

IC 5-16-1-1.3

Construction or alteration of certain public buildings

Sec. 1.3. Construction or alteration of any public building, the estimated cost of which is more than twenty-five thousand dollars (\$25,000), may not be undertaken by any officer or agent hereinbefore mentioned or referred to except pursuant to and in compliance with plans and specifications therefor approved by a duly licensed architect or engineer.

As added by Acts 1981, P.L.57, SEC.3.

IC 5-16-1-1.4

Securing bids or causing work to be done; placement of plans on file

Sec. 1.4. For the purpose of securing bids or for the purpose of causing the work to be done in the desired manner, the state or commission created by law (excepting the Indiana department of transportation) shall prepare, and place on file in its office, plans and specifications of the building or improvements sought to be constructed, erected, altered, or repaired whenever the estimated cost of the work is greater than twenty-five thousand dollars (\$25,000).

As added by Acts 1981, P.L.57, SEC.4. Amended by P.L.52-1986, SEC.3; P.L.18-1990, SEC.12.

IC 5-16-1-1.5 Version a

State educational institutions; performance of certain work by its own employees

Note: This version of section amended by P.L.229-2011, SEC.77. See also following version of this section amended by P.L.172-2011, SEC.19.

Sec. 1.5. The governing board of any state educational institution, acting on behalf of said institution, may purchase materials in the manner provided by law and perform any work by means of its own employees and owned or leased equipment in the construction, rehabilitation, extension, maintenance or repair of any building, structure, improvement or facility of said institutions, without awarding a contract therefor, whenever the cost of such work shall be estimated to be less than one hundred fifty thousand dollars (\$150,000).

As added by Acts 1981, P.L.57, SEC.5. Amended by P.L.229-2011, SEC.77.

IC 5-16-1-1.5 Version b

State educational institutions; performance of certain work by its own employees; procedure

Note: This version of section amended by P.L.172-2011, SEC.19. See also preceding version of this section amended by P.L.229-2011, SEC.77.

Sec. 1.5. (a) The governing board of any state educational institution, acting on behalf of said institution, may purchase materials in the manner provided by law and perform any work by means of its own employees and owned or leased equipment in the construction, rehabilitation, extension, maintenance, or repair of any building, structure, improvement, or facility of said institutions, without awarding a contract therefor, whenever the cost of such work shall be estimated to be less than one hundred fifty thousand dollars (\$150,000).

(b) The workforce of a state educational institution may perform a public work described in subsection (a) only if:

- (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and
- (2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the state educational institution:

(A) publishes a notice under IC 5-3-1 that:

- (i) describes the public work that the state educational institution intends to perform with its own workforce; and
- (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the state educational institution's own workforce.

A public work project performed by a state educational institution's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) If a public work project involves a structure, an improvement, or a facility under the control of a state educational institution, the state educational institution may not artificially divide the project to bring any part of the project under this section.

As added by Acts 1981, P.L.57, SEC.5. Amended by P.L.172-2011, SEC.19.

IC 5-16-1-1.6

Declaration of emergency reconstruction or repair of building or structure; bids by invitation

Sec. 1.6. In the case of fire, flood, windstorm, casualty or other extraordinary emergency, including mechanical failure of any part of a building or structure, and where the health, safety or welfare of the public or the necessary governmental operations are endangered by such loss or damage, the responsible board or commission may, upon a declaration of emergency recorded in its minutes, proceed to

reconstruct or repair the building or structure without advertising for bids. However, in such an emergency, bids shall be invited from at least three (3) or more persons, firms, limited liability companies, or corporations known to deal in the work required to be done, and the minutes of the board or commission shall show the names of those persons, firms, limited liability companies, or corporations invited to bid.

As added by Acts 1981, P.L.57, SEC.6. Amended by P.L.8-1993, SEC.59.

IC 5-16-1-1.7

Purdue University; agricultural or forestry land; declaration of emergency; bids by invitation

Sec. 1.7. On agricultural or forestry land owned or occupied by Purdue University and used by it for educational or research purposes, the trustees of the university may, upon a declaration of necessity recorded in its minutes, award contracts without advertising for bids or otherwise satisfying the requirements of this chapter, if the cost of work is estimated to be less than two hundred thousand dollars (\$200,000). However, bids shall be invited from at least three (3) or more persons, firms, limited liability companies, or corporations known to deal in the work required to be done. The minutes of the board shall show the names of those invited to bid.

As added by Acts 1981, P.L.57, SEC.7. Amended by P.L.8-1993, SEC.60; P.L.229-2011, SEC.78; P.L.172-2011, SEC.20.

IC 5-16-1-1.8

Repealed

(Repealed by P.L.24-1985, SEC.25(b).)

IC 5-16-1-1.9

Educational institutions; building construction or repair contracts

Sec. 1.9. Notwithstanding this article, a state educational institution may award a contract for any construction or repair work to any building, structure, or improvement of the institution without advertising for bids and meeting other contract awarding requirements of this article whenever the estimated cost of the project is less than one hundred fifty thousand dollars (\$150,000). However, in awarding any contract under this section the state educational institution must do the following:

- (1) Invite bids from at least three (3) persons, firms, limited liability companies, or corporations known to deal in the work required to be done.
- (2) Give notice of the project if the estimated cost of the project is more than twenty-five thousand dollars (\$25,000). If required, notice must include a description of the work to be done and be given in at least one (1) newspaper of general circulation printed and published in the county in which the work is to be done.
- (3) Award the contract to the lowest and best bidder.

As added by Acts 1981, P.L.58, SEC.1. Amended by P.L.52-1986, SEC.4; P.L.70-1989, SEC.1; P.L.8-1993, SEC.61; P.L.2-2007, SEC.103; P.L.229-2011, SEC.79; P.L.172-2011, SEC.21.

IC 5-16-1-2

Bidders; submission of statement of experience, proposed plan, financial status, and trust relationship; forms

Sec. 2. (a) Each bidder shall be required to submit under oath with and as a part of the bidder's bid a statement of:

- (1) the bidder's experience;
- (2) the bidder's proposed plan for performing such work;
- (3) the equipment available for the performance of such work;
- (4) the bidder's financial status; and
- (5) if a trust (as defined in IC 30-4-1-1(a)), the name of each:
 - (A) beneficiary of the trust; and
 - (B) settlor empowered to revoke or modify the trust.

(b) The statements required by this section shall be submitted on forms which shall be prescribed by the state board of accounts. The forms prescribed shall:

- (1) be designated, respectively, as the experience questionnaire, the plan and equipment questionnaire, and the contractor's financial statement; and
- (2) be based, so far as applicable, on the standard questionnaires and financial statements for bidders as approved and recommended by the joint conference on construction practices, for use in investigating the qualifications of bidders on public construction work.

The forms shall be used by all such boards, commissions, trustees, officers, and agents in obtaining the information required in the administration of this chapter.

(c) If the information submitted by any bidder on the forms prescribed in this section is found, on examination, to be unsatisfactory, the bid submitted by such bidder shall not be considered.

(Formerly: Acts 1947, c.306, s.2; Acts 1965, c.251, s.1; Acts 1967, c.152, s.1.) As amended by P.L.33-1983, SEC.15; P.L.336-1989(ss), SEC.15.

IC 5-16-1-3

Filing of plans and specifications; notice; publication; minimum bid invitations

Sec. 3. (a) Upon the filing of the plans, specifications, and drawings, as provided in section 1.4 of this chapter, the officer or agent shall twice publish a notice indicating that drawings, plans, and specifications are on file at the office and calling for sealed proposals for the work by a day fixed in the publication. The time lapse between the date of publication and the date of receiving bids is governed by the size of the contemplated project and is in the discretion of the board, commission, trustee, officer, or agent publishing the notice. In no event shall the lapsed time be more than

six (6) weeks.

(b) Notwithstanding subsection (a), if a public building or other public work or improvement under this chapter is estimated to cost less than twenty-five thousand dollars (\$25,000) and a contract is to be awarded for the work, the awarding officer, commission, or agent may:

- (1) publish notice in the manner provided in subsection (a); or
- (2) invite bids from not less than three (3) persons, firms, limited liability companies, or corporations, known to deal in the work proposed to be done, by mailing a notice for the work not less than three (3) days before the time fixed for receiving bids indicating that plans and specifications are on file in a certain office.

(Formerly: Acts 1947, c.306, s.3; Acts 1949, c.136, s.2.) As amended by P.L.52-1986, SEC.5; P.L.8-1993, SEC.62.

IC 5-16-1-4

Repealed

(Repealed by P.L.33-1983, SEC.17.)

IC 5-16-1-5

Repealed

(Repealed by P.L.1-1990, SEC.62.)

IC 5-16-1-6

Trench safety systems; cost recovery

Sec. 6. (a) This section applies to a public building or other public work or improvement that may require creation of a trench of at least five (5) feet in depth.

(b) IOSHA regulations 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract documents for a public works project.

(c) The contract documents for a public works project shall provide that the cost for trench safety systems shall be paid for:

- (1) as a separate pay item; or
- (2) in the pay item of the principal work with which the safety systems are associated.

As added by P.L.1-1990, SEC.63.

IC 5-16-1-7

Minority business enterprises; award of contracts

Sec. 7. A board, a commission, a trustee, an officer, or agent must establish as a goal that five percent (5%) of the contracts awarded be let to minority business enterprises (as defined in IC 4-13-16.5-1).

As added by P.L.1-1990, SEC.64.

IC 5-16-1-8

Plumbing installations; proof of licensure

Sec. 8. (a) A person who submits a bid for a public works contract under this chapter that involves the installation of plumbing must

submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(b) If a public works contract under this chapter is awarded to a person who does not meet the requirements of subsection (a), the contract is void.

As added by P.L.20-1991, SEC.2.