

## **IC 5-16-8**

### **Chapter 8. Steel Procurement for Public Works**

#### **IC 5-16-8-1**

##### **Definitions**

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Foundry products" means products cast from ferrous and nonferrous metals by foundries in the United States.

(c) "Person" means a natural person, corporation, limited liability company, partnership, or other business unit or association.

(d) "Public agency" means:

(1) the state of Indiana;

(2) a department, agency, board, commission, or institution of the state of Indiana; or

(3) a county, city, township, school or conservancy district, or other governmental unit or district;

that receives public bids for construction or other public works under Indiana law.

(e) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

(f) "United States" refers to the United States of America. The term includes all territory, continental or insular, subject to the jurisdiction of the United States.

*As added by Acts 1978, P.L.27, SEC.1. Amended by P.L.8-1993, SEC.66; P.L.6-2007, SEC.1; P.L.3-2008, SEC.30.*

#### **IC 5-16-8-2**

##### **Public agency contract provisions; rules for determining reasonable pricing**

Sec. 2. (a) Each public agency shall require that every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works contain a provision that, if any steel or foundry products are to be used or supplied in the performance of the contract or subcontract, only steel or foundry products made in the United States shall be used or supplied in the performance of the contract or any of the subcontracts unless the head of the public agency determines, in writing, that the cost of steel or foundry products is considered to be unreasonable.

(b) The head of each public agency shall issue rules which provide that, for purposes of subsection (a), the bid or offered price of any steel or foundry products of domestic origin is not considered unreasonable if the price does not exceed the sum of:

(1) the bid or offered price of like steel or foundry products of foreign origin (including any applicable duty); plus

(2) a differential of fifteen percent (15%) of the bid or offered price of the steel or foundry products of foreign origin.

However, the fifteen percent (15%) differential provided by subdivision (2) may be increased to twenty-five percent (25%), if the head of the public agency determines that use of steel or foundry products of domestic origin would benefit the local or state economy through improved job security and employment opportunity. Whenever the head of a public agency determines that the differential should be increased above fifteen percent (15%) for a particular project, the head of the agency shall file a report with the governor and the legislative services agency detailing the reasons for such determination and the probable impact on the economy of the use of domestic steel or foundry castings in the project. A report filed under this subsection with the legislative services agency must be in an electronic format under IC 5-14-6.

*As added by Acts 1978, P.L.27, SEC.1. Amended by Acts 1981, P.L.59, SEC.1; P.L.28-2004, SEC.59; P.L.6-2007, SEC.2.*

### **IC 5-16-8-3**

#### **Payment contingent upon compliance; recovery of payments made upon noncomplying contracts**

Sec. 3. A public agency may not authorize or make any payments to a person under a contract containing the provision required by section 2 of this chapter unless the public agency is satisfied that such person has fully complied with that provision. Payments made to a person by a public agency which should not have been made as a result of this section shall be recoverable directly from the contractor or subcontractor who did not comply with section 2 of this chapter by the attorney general upon suit filed in the circuit court of the county in which the contract was executed or performed.

*As added by Acts 1978, P.L.27, SEC.1.*

### **IC 5-16-8-4**

#### **Nonapplicability to steel products in insufficient supply**

Sec. 4. This chapter does not apply if the head of the public agency determines, in writing, that steel or foundry products are not produced in the United States in sufficient quantities to meet the requirements of the contract.

*As added by Acts 1978, P.L.27, SEC.1. Amended by P.L.6-2007, SEC.3.*

### **IC 5-16-8-5**

#### **Purpose and construction of chapter**

Sec. 5. This chapter is designed to promote the general welfare of the people of this state and is supplemental to all laws concerning public works and shall be liberally construed to fully effectuate its purposes.

*As added by Acts 1978, P.L.27, SEC.1.*