

# IHS Issues Final Rule Implementing “Buy Indian Act”

Category: Policy Blog

written by Alexandra Payan | February 24, 2022

On January 13, 2022, the Indian Health Service (IHS) announced publication of [the final rule implementing the Buy Indian Act](#) (“Final Rule”). This rule supplements the Federal Acquisition Regulation (FAR) and the Department of Health and Human Services Acquisition Act (HHSAR). The rule will become effective March 14, 2022. Once the rule is effective, IHS will update the Indian Health Manual, Part 5, Chapter 5, Section 6-1 Buy Indian Policy.

The Buy Indian Act provides the IHS with authority to set-aside procurement contracts for Indian-owned and controlled businesses. The Buy Indian Act rule has been in development at the Indian Health Service (IHS) since 2016, in collaboration with the Health and Human Services (HHS) and the Assistant Secretary for Financial Resources (ASFR). Over the course of four (4) public consultation sessions, comments were received, reviewed, addressed, and incorporated into the final rule.

The Final Rule is intended to encourage procurement relationships with Indian labor and industry. It formalizes the administrative procedure by which IHS carries out acquisition activities with the intent of ensuring uniformity for offers submitted by Indian labor and industry under solicitations set-aside under the Buy Indian Act and the Final Rule.

According to IHS Acting Deputy Director Elizabeth Fowler, this rule aims to improve business processes that support value-based purchasing and standardized management strategies in contracts. IHS hopes that the Rule advances the IHS mission and supports economic sustainability and development across Indian Country. Dr. Fowler also indicated that IHS intends to use the rule to set-aside for Indian Economic Enterprises a significant portion of the \$1 billion in commercial contract dollars it currently obligates per year.

As identified by IHS, the final rule has capacity to:

- alleviate unnecessary regulatory burden on Indian Economic Enterprises
- expand application of the Buy Indian Act to all construction including the planning, design and construction of health care facilities, personnel quarters, and water supply and waste disposal facilities;
- better adhere to the language of the Buy Indian Act;
- strengthen oversight of the Buy Indian Act to reduce the potential for fraud and abuse;
- and clarify the preference for Indian Economic Enterprises;

IHS has committed to providing support during the implementation phase of incorporating the new strategies and is dedicated to improving compliance, training, and reporting in respect to the Buy Indian Act.

Indian-owned and controlled businesses which are interested in competing for IHS Buy Indian Act set-aside acquisitions will be required to fill out an IHS Indian Economic Enterprise self-certification form. The form will be attached to all IHS solicitations set-aside under the Buy Indian Act. Completed and signed forms must be submitted with a quote/proposal in response to the specific IHS solicitation. Potential offerors can also reach out to any IHS Contracting Officer to obtain a

copy of the form. Once IHS has updated the Indian Health Manual the form will also be made available on the IHS Division of Acquisition Policy webpage.

Potential offerors with additional questions, can contact Santiago Almaraz, IHS head of contracting activity at [santiago.almaraz@ihs.gov](mailto:santiago.almaraz@ihs.gov) or Ken Truesdale, acting director-division of acquisition policy, at [kenneth.truesdale@ihs.gov](mailto:kenneth.truesdale@ihs.gov).

For technical questions concerning this rule contact: Carl Mitchell, Director, Division of Regulatory Policy Coordination (DRPC), Office of Management Services (OMS), IHS, 301-443-6384, [carl.mitchell@ihs.gov](mailto:carl.mitchell@ihs.gov); or Santiago Almaraz, Acting Director, OMS, IHS 301-443-4872, [santiago.almaraz@ihs.gov](mailto:santiago.almaraz@ihs.gov).