

**MEMORANDUM**

TO: Stephanie Warner, Ohio Department of Administrative Services

FROM: Chris Smyke, Executive Assistant

DATE: December 28, 2016

RE: **CSI Review – Veteran-Friendly Business Procurement Program (123:5-1-01 and 123:5-1-16)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC § 107.54.

Analysis

On October 17, 2016, the Ohio Department of Administrative Services (DAS) submitted a draft rule package consisting of one new and one amended rule to the CSI Office. The official public comment period closed on November 15, 2016 with no comments submitted.

The proposed rule package establishes the rules governing the Veteran-Friendly Business Procurement program. This is a new statutory program (ORC 9.318) administered by the Department of Administrative Services (DAS) that awards bonus points to a company certified as a "Veteran-Friendly Business Enterprise" as it submits a bid or other proposal for a contract with the state. Ohio Administrative Code (OAC) 123:5-1-01 is amended with additional definitions necessary to bring the rule in line with the new statute. OAC 123:5-1-16 establishes the operational framework of the program, including the certification process as well as the application of preference upon certified businesses. DAS shall administer the program for all state agencies except the Ohio Department of Transportation (ODOT), which is separately adopting its own rules.

DAS primarily conducted its early stakeholder outreach between ODOT, the Ohio Department of Veteran Services (DVS) and the veteran business community. The feedback from ODOT

pertained to eligibility criteria, particularly the percentage of employees/owners/board members who must be veterans. DVS provided input relating to determining the appropriate forms of documentation to verify an individual's status as a veteran. The veteran business community furnished a suggestion to explore how the program could work in concert with similar federal programs. However, upon researching this option, DAS determined that this sort of coordination was not possible based on the wording of the statute.

In the BIA, the adversely impacted business community is identified as businesses, both certified and not certified under the program, that compete for opportunities to conduct business with the state. The Department reasons that the businesses that do not qualify for the program may miss out on opportunities and that it is not possible to quantify this impact presently. In addition, the BIA indicates that businesses interested in the program would need to expend time to collect and submit the application and requisite documentation. The BIA, based on similar state programs, estimates the time required to complete these tasks to be under four hours.

The BIA justifies the adverse impact by noting the benefits of participation in the program and the need to ensure that all businesses are treated fairly and consistently under the Veteran-Friendly Business Procurement program. Additionally, the program and most of its requirements are prescribed by statute. As a result, following review of the draft rules, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rules and amendments are justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Administrative Services should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office