



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR H.B. 2436

state contracts; foreign adversary; prohibition

Purpose

Prohibits a covered company from entering into a contract with a state agency or political subdivision of the state for goods or services.

Background

The Arizona Department of Administration (ADOA) is statutorily charged with providing centralized administrative services for the State of Arizona. Duties of ADOA include: 1) administering health, life and other forms of insurance coverage for eligible individuals including state employees, retirees and their dependents; 2) providing state government IT services; and 3) establishing and providing risk management services. ADOA is also responsible for: 1) administering the State Personnel System; 2) managing the statewide accounting system; and 3) serving as the state's central procurement authority ([A.R.S. Title 41, Chapter 4](#)).

The Arizona Procurement Code regulates the buying, purchasing, renting, leasing and acquiring of materials, services and construction services by the State of Arizona using public monies. The procurement process is overseen by ADOA, with the Director of ADOA acting as the Central Procurement Officer. Certain public bodies are exempt from requirements of the Arizona Procurement Code. All political subdivisions and other local public agencies of Arizona may adopt all or any part of the Arizona Procurement Code. Other public bodies, including the Arizona Board of Regents and the Judicial branch must adopt rules prescribing procurement policies and procedures for itself and institutions under its jurisdiction that are substantially equivalent to the other policies and procedures prescribed by the Arizona Procurement Code ([A.R.S. Title 41 Ch. 23](#)).

Procurement is the buying, purchasing, renting, leasing or otherwise acquiring of any materials, services, construction or construction services and includes all functions that pertain to obtaining any materials, services, construction or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration ([A.R.S. § 41-2503](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits a covered company from bidding on, submitting a proposal for or entering into a contract with a state agency or political subdivision of the state for goods or services.

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2. Requires all companies that submit a bid or proposal for a state contract for goods or services to submit a certification letter to ADOA certifying that the company is not a covered company.
3. Allows a state agency to enter into a contract for goods manufactured by a covered company if:
 - a) there are no other reasonable options for the procurement of the specific good;
 - b) the contract is preapproved by ADOA; and
 - c) not procuring the specific good would pose a greater threat to the state than the threat associated with the manufacture of the good by a covered company.
4. Requires each bid or offer submitted for a state contract to include a disclosure stating whether, 24 months before submission of a bid or offer, the bidder, offerer or any of its subsidiaries had any business operations involving contracts with or services from:
 - a) a foreign adversary;
 - b) a state-owned enterprise of a foreign adversary; or
 - c) a company domiciled within a foreign adversary.
5. Stipulates that if a bid or offer submitted for a state contract does not include a disclosure, the bidder or offerer may be given an opportunity after the bid or offer is submitted to submit the disclosure.
6. Allows a procurement officer to consider the disclosure when evaluating the bid or offer or when awarding the contract.
7. Requires each procurement officer to provide the state agency with the name of each entity disclosed in the submitted disclosure.
8. Prohibits a bid or offer from being submitted for a state contract or for a contract with a political subdivision of the state if the bidder, the offerer or any of its subsidiaries have, at least 60 months before submission of the bid or offer, had any business operations involving contracts with or services from:
 - a) a military entity of any foreign adversary;
 - b) a political party of a foreign adversary; or
 - c) a federally banned corporation.
9. Stipulates that if ADOA determines that a company has submitted a certification letter that is false or misleading or a company has violated the prohibition relating to certain business operations in the last 60 months, all the following must occur;
 - a) the company is liable for a civil penalty of \$250,000 or twice the amount of the contract for which the bid or proposal was submitted, whichever is greater;
 - b) the state agency or ADOA must terminate the contract with the company; and
 - c) the company may not bid on any state contracts for at least 60 months.
10. Defines *company* as any of the following that exists for the purpose of making a profit:
 - a) a sole proprietorship;
 - b) an organization;
 - c) a corporation;
 - d) an association;

- e) a partnership;
- f) a joint venture;
- g) a limited partnership;
- h) a limited liability partnership;
- i) a limited liability company; or
- j) any other entity or business association.

11. Includes in the definition of *company*:

- a) a wholly owned subsidiary;
- b) a majority owned subsidiary;
- c) a parent company; or
- d) an affiliate of any entities or business associations.

12. Defines *covered company* as:

- a) a state-owned enterprise of a foreign adversary;
- b) a company domiciled within a foreign adversary;
- c) a federally banned corporation; or
- d) a company of a foreign adversary.

13. Includes in the definition of *covered company*:

- a) a company owned or controlled, in whole or in part, by the government of a foreign adversary;
- b) a company owned or controlled, in whole or in part, by individuals acting in official government capacities of a foreign adversary; or
- c) any other company that sells the goods or services of a covered company to any state agency or political subdivision of the state as a third-party vendor.

14. Defines *domicile* as the country where:

- a) a company is registered;
- b) the company's affairs are primarily completed; or
- c) the majority of ownership share is held.

15. Defines *federally banned corporation* as any company banned by:

- a) the Federal Communications Commission;
- b) the U.S. Department of Commerce; or
- c) the Federal Acquisition Security Council.

16. Defines *foreign adversary* as:

- a) China, including the Hong Kong Special Administration Region;
- b) Cuba;
- c) Iran;
- d) North Korea;
- e) Russia;
- f) Saudi Arabia;
- g) Syria; or
- h) Venezuela.

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17. Includes in the definition of *foreign adversary* any agency or any other entity under significant control of a foreign adversary or other entity deemed by the Governor.

18. Designates this legislation as the *Protection Procurement Act*.

19. Becomes effective on the general effective date.

House Action

GOV	2/14/24	DP	5-2-2-0
3 rd Read	2/29/24		31-28-0-0-1

Prepared by Senate Research

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JT/MA/slp