

HOUSE BILL NO. 2504

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

5192H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 37, RSMo, by adding thereto one new section relating to the office of administration, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 37, RSMo, is amended by adding thereto one new section, to be known as section 37.003, to read as follows:

37.003. 1. This section shall be known and may be cited as the "Procurement Protection Act".

2. As used in this section, the following terms shall mean:

(1) "Company", any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit;

(2) "Domicile", either the country in which a company is registered, where the company's affairs are primarily completed, or where the majority of ownership share is held;

(3) "Federally banned corporation," any company or designated equipment currently banned or at any point hereto banned at the federal level. This shall include bans resulting from, but not limited to, the following federal agencies and acts:

(a) The Federal Communications Commission including, but not limited to, any equipment or service deemed to pose a threat to national security identified on the Covered List developed pursuant to 47 C.F.R. 1.50002, as amended and published by the

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **Public Safety and Homeland Security Bureau of the Federal Communications**
19 **Commission under the federal Secure and Trust Communications Networks Act of**
20 **2019, 47 U.S.C. 1601 et seq., as amended;**

21 **(b) The Commerce Department;**

22 **(c) The Cybersecurity and Infrastructure Security Agency;**

23 **(d) The Federal Acquisition Security Council; and**

24 **(e) Section 889 of the John S. McCain National Defense Authorization Act, as**
25 **amended;**

26 **(4) "Foreign adversary", the People's Republic of China, the Russian**
27 **Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea,**
28 **the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab**
29 **Republic, including any agent of or any other entity under significant control of such**
30 **foreign country of concern, or any other entity deemed by the governor in consultation**
31 **with the attorney general;**

32 **(5) "Foreign adversary company", any company domiciled in a foreign**
33 **adversary, or owned or controlled, in whole or in part, by the government of a foreign**
34 **adversary, by individuals acting in official government capacities of a foreign adversary,**
35 **by a company domiciled in a foreign adversary, or by any company otherwise under**
36 **control of a foreign adversary;**

37 **(6) "Government of China", the People's Republic of China led by the Chinese**
38 **Communist Party.**

39 **3. Except as provided in subsection 7 of this section, the following covered**
40 **companies shall be ineligible to, and shall not, bid on or submit a proposal for a contract**
41 **with a state agency or political subdivision of the state for goods or services:**

42 **(1) A state-owned enterprise of a foreign adversary;**

43 **(2) A foreign adversary company; or**

44 **(3) A federally banned corporation.**

45 **4. For the purposes of complying with subsection 3 of this section, any company**
46 **which shall offer to provide goods or services to a state agency or a political subdivision**
47 **of the state manufactured or produced by a covered company under subsection 3 of this**
48 **section shall, for the purposes of this section, be considered a covered company.**

49 **5. A state agency or any political subdivision of the state shall require a company**
50 **that submits a bid or proposal with respect to a contract for goods or services to certify**
51 **that the company is not a covered company as defined under subsection 3 of this section.**

52 **6. If the office of administration determines that a company has submitted a**
53 **false certification under subsection 4 of this section:**

54 **(1) The company shall be liable for a civil penalty in an amount that is equal to**
55 **the greater of two hundred fifty thousand dollars or twice the amount of the contract for**
56 **which a bid or proposal was submitted;**

57 **(2) The state agency or the office of administration shall terminate the contract**
58 **with the company; and**

59 **(3) The company shall be ineligible to and shall not bid on a state contract for**
60 **sixty months.**

61 **7. Notwithstanding the provisions of subsection 3 of this section, a state agency**
62 **may enter into a contract for goods manufactured by a covered company if:**

63 **(1) There is no other reasonable option for procuring this good;**

64 **(2) The contract is pre-approved by the office of administration; and**

65 **(3) Not procuring this good would pose a greater threat to the state than the**
66 **threat associated with the good itself.**

67 **8. Each bid or offer submitted for a state contract shall include a disclosure of**
68 **whether the bidder, offeror, or any of its corporate parents or subsidiaries within the**
69 **twenty-four months before submission of the bid or offer had business operations that**
70 **involved contracts with or provision of supplies or services from or to any foreign**
71 **adversary, state-owned enterprise of a foreign adversary, or a company domiciled**
72 **within a foreign adversary, including the name of each such entity. A bid or offer that**
73 **does not include this disclosure may be given a period after the bid or offer is submitted**
74 **to cure nondisclosure. The office of administration may consider the disclosure when**
75 **evaluating the bid or offer or awarding the contract.**

76 **9. Any company that wishes to submit a bid or offer for a state contract or for**
77 **any contract with a political subdivision of the state shall certify with the office of**
78 **administration that the bidder, offeror, or any of its corporate parents or subsidiaries**
79 **has not within the sixty months before submission of the bid or offer had business**
80 **operations that involved contracts with or provision of goods or services to any military**
81 **entity of any foreign adversary, any state-owned enterprise of a foreign adversary, any**
82 **political party of a foreign adversary, or any federally banned corporation.**

83 **10. No bid or offer shall be submitted for a state contract or for any contract**
84 **with a political subdivision of the state if the bidder, offeror, or any of its corporate**
85 **parents or subsidiaries, within the sixty months before submission of the bid or offer,**
86 **had business operations that involved contracts with or provision of goods or services to**
87 **any military entity of any foreign adversary, any state-owned enterprise of a foreign**
88 **adversary, or any federally banned corporation.**

89 **11. The office of administration shall provide state agencies with the name of**
90 **each entity disclosed under this section as doing business or having done business in or**

91 **with a foreign adversary, a state-owned enterprise of a foreign adversary, or a company**
92 **domiciled within a foreign adversary.**

93 **12. If the office of administration determines that a company has submitted a**
94 **false certification under subsection 8 of this section, the following penalties shall apply:**

95 **(1) The company shall be liable for a civil penalty in an amount that is equal to**
96 **the greater of two hundred fifty thousand dollars or twice the amount of the contract for**
97 **which a bid or proposal was submitted;**

98 **(2) The office of administration shall terminate the contract with the company;**
99 **and**

100 **(3) The company shall be ineligible to, and shall not, bid on a state contract for**
101 **sixty months.**

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