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PUBLIC ENTITY RESTRICTIONS

2024 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill concerns restrictions on a public entity.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a municipality from entering into a sister city relationship with certain other municipalities;
- ▶ prohibits certain public entities from using the procurement process under certain circumstances to:
 - contract with certain foreign entities for certain technology products or services; or
 - obtain a product that was made using forced labor;
- ▶ requires certain entities to provide a certification involving certain procurement contracts;
- ▶ includes cross references relating to the new requirements; and

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18 ▸ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a coordination clause.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **63G-6a-602**, as last amended by Laws of Utah 2020, Chapter 257

26 **63G-6a-702**, as last amended by Laws of Utah 2020, Chapter 257

27 ENACTS:

28 **10-1-206**, Utah Code Annotated 1953

29 **63G-6a-121**, Utah Code Annotated 1953

30 **Utah Code Sections affected by Coordination Clause:**

31 **63G-6a-121**, Utah Code Annotated 1953

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33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **10-1-206** is enacted to read:

35 **10-1-206 . Sister municipality restriction.**

36 (1) As used in this section, "forced labor" means labor from a child or an adult that is
 37 obtained through the use of force or coercion.

38 (2) A municipality may not enter into or renew a sister city agreement or arrangement with
 39 another municipality unless the other municipality confirms that there are no forced
 40 labor production facilities within the other municipality's borders.

41 (3) An agreement in violation of Subsection (2) is void.

42 *The following section is affected by a coordination clause at the end of this bill.*

43 Section 2. Section **63G-6a-121** is enacted to read:

44 **63G-6a-121 . Specific procurement restrictions relating to forced labor and**
 45 **restricted foreign entities.**

46 (1) As used in this section:

47 (a) "Forced labor" means labor from a child or an adult that is obtained through the use
 48 of force or coercion.

49 (b) "Forced labor product" means a product that was made:

50 (i) using forced labor; or

51 (ii) includes a component that was made using forced labor.

- 52 (c) "Restricted foreign entity" means:
- 53 (i) a company that is owned or directly controlled by the government of China, Iran,
- 54 North Korea, or Russia;
- 55 (ii) a company that the United States Secretary of Defense is required to list as a
- 56 military company under the requirements of federal national defense authorization
- 57 acts;
- 58 (iii) an affiliate of a company described in Subsection (1)(c)(i) or (1)(c)(ii);
- 59 (iv) a company, entity, or other subsidiary headquartered in the country with a
- 60 commercial or defense industrial base of which a company described in
- 61 Subsection (1)(c)(ii) is a part;
- 62 (v) a company appearing on the designated entity lists of the United States
- 63 Department of Defense, United States Department of Commerce, or the Federal
- 64 Communications Commission; or
- 65 (vi) a subsidiary of a company described in Subsection (1)(c)(i), (1)(c)(ii), or
- 66 (1)(c)(v) or a country, company, or other entity described in Subsection (1)(c)(iv).
- 67 (2) (a) Except as provided under Subsection (3), an executive branch procurement unit,
- 68 judicial procurement unit, or legislative procurement unit may not procure:
- 69 (i) technology or technology services, networks, or systems from a restricted foreign
- 70 entity; or
- 71 (ii) a forced labor product.
- 72 (b) (i) A vendor that submits a bid or a proposal to a procurement unit described in
- 73 Subsection (2)(a) for a contract involving technology or technology services,
- 74 networks, or systems, shall certify that the vendor is not a restricted foreign entity.
- 75 (ii) A vendor that submits a bid or proposal to a procurement unit described in
- 76 Subsection (2)(a) for a contract involving a product shall certify that the product is
- 77 not a forced labor product.
- 78 (3) (a) Except as provided under Subsection (3)(b), a procurement unit described in
- 79 Subsection (2)(a) shall reject a bid or proposal submitted in violation of Subsection
- 80 (2).
- 81 (b) A procurement unit described in Subsection (2)(a) is not required to comply with the
- 82 requirements described in Subsection (2) if:
- 83 (i) the procurement unit has determined that there are no other reasonable options for
- 84 the procurement; or
- 85 (ii) the product or service, or the contract pertaining to the product or service, was

86 obtained or entered into before May 1, 2024.

87 (4) The board may make rules in accordance with Chapter 3, Utah Administrative
88 Rulemaking Act, to address procurement restrictions relating to restricted foreign
89 entities and forced labor products.

90 Section 3. Section **63G-6a-602** is amended to read:

91 **63G-6a-602 . Contracts awarded by bidding.**

92 A procurement unit may award a contract for a procurement item by the bidding
93 process, in accordance with:

94 (1) the rules of the rulemaking authority; and

95 (2) if applicable, the requirements under Section 63G-6a-121, Specific procurement
96 restrictions relating to forced labor and restricted foreign entities.

97 Section 4. Section **63G-6a-702** is amended to read:

98 **63G-6a-702 . Contracts awarded by request for proposals.**

99 (1) A procurement unit may award a contract for a procurement item by the request for
100 proposals process, in accordance with:

101 (a) rulemaking authority rules[-] ; and

102 (b) if applicable, the requirements under Section 63G-6a-121, Specific procurement
103 restrictions relating to forced labor and restricted foreign entities.

104 (2) The procurement of architect-engineer services is governed by Part 15, Design
105 Professional Services.

106 Section 5. **Effective date.**

107 This bill takes effect on May 1, 2024.

108 Section 6. **Coordinating H.B. 404 with S.B. 135.**

109 If H.B. 404, Public Entity Restrictions, and S.B. 135, Advanced Air Mobility and
110 Aeronautics Amendments, both pass and become law, the Legislature intends that, on
111 January 1, 2025, the following language be added as Subsection (5) to Section
112 63G-6a-121 enacted in H.B. 404:

113 "(5) Notwithstanding this section, a procurement of an unmanned aircraft system is
114 governed by Title 72, Chapter 10, Part 12, Prohibition on the Purchase of Unmanned
115 Aircraft Manufactured or Assembled by a Covered Foreign Entity."