

1 ENGROSSED HOUSE
2 BILL NO. 1151

By: McCall of the House

3 and

4 Dahm of the Senate
5

6 An Act relating to state government; creating the
7 Procurement Protection Act of 2024; declaring
8 legislative intent; defining terms; providing for
9 procurement restrictions for certain entities;
10 providing penalties; providing exceptions; requiring
11 disclosure of certain procurements; providing for
12 penalties; providing for noncodification; providing
13 for codification; and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law not to be
16 codified in the Oklahoma Statutes reads as follows:

17 A. This act shall be known and may be cited as the "Procurement
18 Protection Act of 2024".

19 B. The Procurement Protection Act of 2024 ensures that
20 suppliers to the state and to political subdivisions of the state
21 are safe, reliable, and free from undue influence from foreign
22 adversaries.

23 SECTION 2. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 85.61 of Title 74, unless there
is created a duplication in numbering, reads as follows:

As used in the Procurement Protection Act of 2024:

1 1. "Company" shall mean any sole proprietorship, organization,
2 association, corporation, partnership, joint venture, limited
3 partnership, limited liability partnership, limited liability
4 company, or other entity or business association, including all
5 wholly owned subsidiaries, majority owned subsidiaries, parent
6 companies, or affiliates of such entities or business associations,
7 that exists for the purpose of making a profit;

8 2. "Domicile" shall mean either the country in which a company
9 is registered, where the company's affairs are primarily completed,
10 or where the majority of ownership share is held;

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

15 a. the Federal Communications Commission, including but
16 not limited to any equipment or service deemed to pose
17 a threat to national security identified on the
18 Covered List developed pursuant to 47 C.F.R. Section
19 1.50002, and published by the Public Safety and
20 Homeland Security Bureau of the Federal Communications
21 Commission pursuant to the federal Secure and Trusted
22 Communications Networks Act of 2019, 47 U.S.C. Section
23 1601 et seq.,

24 b. the United States Department of Commerce,

- c. the Cybersecurity and Infrastructure Security Agency,
- d. the Federal Acquisition Security Council, and
- e. Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019;

4. "Foreign adversary" shall mean any country designated by the United States Secretary of State as hostile or a Country of Particular Concern (CPC);

5. "Foreign adversary company" shall mean any company domiciled in a foreign adversary, owned or controlled, in whole or in part, by the government of a foreign adversary, by individuals acting in official government capacities of a foreign adversary, by a company domiciled in a foreign adversary, or by any company otherwise under control of a foreign adversary; and

6. "Government of China" shall mean the People's Republic of China led by the Chinese Communist Party.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.62 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by subsection E of this section, the following covered companies shall be ineligible to, and shall not, bid on or submit a proposal for a contract with a state agency or political subdivision of the state for goods or services:

- 1. A state-owned enterprise of a foreign adversary;
- 2. A company domiciled within a foreign adversary;

1 3. A foreign adversary company; or

2 4. A federally banned corporation.

3 B. For the purposes of complying with subsection A of this
4 section, any company which shall offer to provide goods or services
5 to a state agency, or a political subdivision of the state,
6 manufactured or produced by a covered company under subsection A of
7 this section shall, for the purposes of this section, be considered
8 a covered company.

9 C. A state agency or any political subdivision of the state
10 shall require a company that submits a bid or proposal, with respect
11 to a contract for goods or services, to certify that the company is
12 not a covered company as defined under subsection A of this section.

13 D. If the Office of Management and Enterprise Services
14 determines that a company has submitted a false certification under
15 subsection C of this section:

16 1. The company shall be liable for a civil penalty in an amount
17 that is equal to the greater of Two Hundred Fifty Thousand Dollars
18 (\$250,000.00) or twice the amount of the contract for which a bid or
19 proposal was submitted;

20 2. The state agency or the Office of Management and Enterprise
21 Services shall terminate the contract with the company; and

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

1 E. Notwithstanding subsection A of this section, a state agency
2 may enter into a contract for goods manufactured by a covered
3 company if:

4 1. There is no other reasonable option for procuring this good;

5 2. The contract is preapproved by the Office of Management and
6 Enterprise Services; and

7 3. Not procuring this good would pose a greater threat to the
8 state than the threat associated with the good itself.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 85.63 of Title 74, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Each bid or offer submitted for a state contract shall
13 include a disclosure of whether or not the bidder, offeror, or any
14 of its corporate parents or subsidiaries within the twenty-four (24)
15 months before submission of the bid or offer had business operations
16 that involved contracts with or provision of supplies or services
17 from or to any foreign adversary, state-owned enterprise of a
18 foreign adversary, or a company domiciled within a foreign
19 adversary.

20 B. A bid or offer that does not include the disclosure required
21 by subsection A of this section may be given a period after the bid
22 or offer is submitted to cure nondisclosure. The State Purchasing
23 Director may consider the disclosure when evaluating the bid or
24 offer or awarding the contract.

1 C. The State Purchasing Director shall provide the state agency
2 with the name of each entity disclosed under subsection A of this
3 section as doing business or having done business in or with a
4 foreign adversary, a state-owned enterprise of a foreign adversary,
5 or a company.

6 D. Any company that wishes to submit a bid or offer for a state
7 contract or for any contract with a political subdivision of the
8 state must certify with the state agency or the Office of Management
9 and Enterprise Services that the bidder, offeror, or any of its
10 corporate parents or subsidiaries has not, within the sixty (60)
11 months before submission of the bid or offer, had business
12 operations that involved contracts with or provision of goods or
13 services to any military entity of any foreign adversary, any state-
14 owned enterprise of a foreign adversary, any political party of a
15 foreign adversary, or any federally banned corporation.

16 E. No bid or offer may be submitted for a state contract or for
17 any contract with a political subdivision of the state if the
18 bidder, offeror, or any of its corporate parents or subsidiaries,
19 within the sixty (60) months before submission of the bid or offer,
20 had business operations that involved contracts with or provision of
21 goods or services to any military entity of any foreign adversary,
22 any state-owned enterprise of a foreign adversary, or any federally
23 banned corporation.

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1 F. If the Office of Management and Enterprise Services
2 determines that a company has submitted a false certification under
3 subsection A of this section:

4 1. The company shall be liable for a civil penalty in an amount
5 that is equal to the greater of Two Hundred Fifty Thousand Dollars
6 (\$250,000.00) or twice the amount of the contract for which a bid or
7 proposal was submitted;

8 2. The state agency or the Office of Management and Enterprise
9 Services shall terminate the contract with the company; and

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

12 SECTION 5. This act shall become effective November 1, 2024.

13 Passed the House of Representatives the 13th day of March, 2024.

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Presiding Officer of the House
of Representatives

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18 Passed the Senate the ___ day of _____, 2024.

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Presiding Officer of the Senate

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