

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1151

By: McCall

6
7 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

4 As used in the Procurement Protection Act of 2024:

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

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

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

19 a. the Federal Communications Commission, including but
20 not limited to any equipment or service deemed to pose
21 a threat to national security identified on the
22 Covered List developed pursuant to 47 C.F.R. Section
23 1.50002, and published by the Public Safety and
24 Homeland Security Bureau of the Federal Communications

1 Commission pursuant to the federal Secure and Trusted
2 Communications Networks Act of 2019, 47 U.S.C. Section
3 1601 et seq.,

- 4 b. the United States Department of Commerce,
- 5 c. the Cybersecurity and Infrastructure Security Agency,
- 6 d. the Federal Acquisition Security Council, and
- 7 e. Section 889 of the John S. McCain National Defense
8 Authorization Act for Fiscal Year 2019;

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

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

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

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

23 A. Except as provided by subsection E of this section, the
24 following covered companies shall be ineligible to, and shall not,

1 bid on or submit a proposal for a contract with a state agency or
2 political subdivision of the state for goods or services:

- 3 1. A state-owned enterprise of a foreign adversary;
- 4 2. A company domiciled within a foreign adversary;
- 5 3. A foreign adversary company; or
- 6 4. A federally banned corporation.

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

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

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

- 20 1. The company shall be liable for a civil penalty in an amount
21 that is equal to the greater of Two Hundred Fifty Thousand Dollars
22 (\$250,000.00) or twice the amount of the contract for which a bid or
23 proposal was submitted;

24

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

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

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

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

9 2. The contract is preapproved by the Office of Management and
10 Enterprise Services; and

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

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

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

24

1 B. A bid or offer that does not include the disclosure required
2 by subsection A of this section may be given a period after the bid
3 or offer is submitted to cure nondisclosure. The State Purchasing
4 Director may consider the disclosure when evaluating the bid or
5 offer or awarding the contract.

6 C. The State Purchasing Director shall provide the state agency
7 with the name of each entity disclosed under subsection A of this
8 section as doing business or having done business in or with a
9 foreign adversary, a state-owned enterprise of a foreign adversary,
10 or a company.

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

21 E. No bid or offer may be submitted for a state contract or for
22 any contract with a political subdivision of the state if the
23 bidder, offeror, or any of its corporate parents or subsidiaries,
24 within the sixty (60) months before submission of the bid or offer,

1 had business operations that involved contracts with or provision of
2 goods or services to any military entity of any foreign adversary,
3 any state-owned enterprise of a foreign adversary, or any federally
4 banned corporation.

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

8 1. The company shall be liable for a civil penalty in an amount
9 that is equal to the greater of Two Hundred Fifty Thousand Dollars
10 (\$250,000.00) or twice the amount of the contract for which a bid or
11 proposal was submitted;

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

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

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

17

18 59-2-10412 LRB 02/22/24

19

20

21

22

23

24