

# Fiscal Note

**BILL #** HB 2436

**TITLE:** state contracts; foreign adversary; prohibition

**SPONSOR:** Diaz

**STATUS:** House Engrossed

**PREPARED BY:** Ethan Scheider

## Description

The bill would prohibit a state agency or a political subdivision from entering into a contract with a company affiliated with a foreign adversary. The bill also establishes exceptions to this requirement. Additionally, the bill would establish penalties for prohibited companies who attempt to enter into a contract with a public entity or submit a false or misleading letter of certification.

## Estimated Impact

We estimate that the bill could potentially increase state contract costs if it decreases the number of companies who are eligible to compete for state contracts in the procurement process. We are unable to estimate this impact in advance, in part since we do not know how frequently the statutory exceptions to the bill requirements will be used.

The bill may also generate revenue in the form of civil penalties.

We have requested the Arizona Department of Administration's (ADOA) estimated impact of this legislation and are awaiting their response.

## Analysis

The bill would prohibit companies with ties to foreign adversaries from submitting a bid or offer for a state contract or contract with a political subdivision of this state. The bill defines foreign adversaries as one of the following countries: China (including Hong Kong), Cuba, Iran, North Korea, Russia, Saudi Arabia, Syria, and Venezuela. The bill would also prohibit bids from any corporation banned by the Federal Communications Commissions, U.S. Department of Commerce, or the Federal Acquisition Security Council.

The bill would include an exception for the procurement of manufactured goods if there are no other reasonable options for the procurement of the specific good, the contract is preapproved by ADOA, and not procuring the good would pose a greater threat than the association with the company.

The bill would require all companies submitting a bid or offer for a state contract to submit a letter certifying that the company is not a prohibited company or had business operations with a military entity of any foreign adversary, a political party of a foreign adversary or a federally banned corporation in the prior 60 months.

The bill would also establish that companies who have violated this prohibition or submitted a certification letter deemed by ADOA to be false or misleading are subject to:

- a civil penalty, deposited to the General Fund, of \$250,000 or twice the amount of the contract for which a bid or offer was submitted (whichever is greater);

(Continued)



- termination of the contract; and
- a ban of 60 months from submitting a bid or offer on any state contract.

**Local Government Impact**

The bill would prohibit certain companies from attempting to enter into a contract with a political subdivision of the state, such as counties, cities, towns, school districts, and community college districts. To the extent this reduces the number of eligible bidders for these contracts, local government costs could increase. We are unable to estimate this impact in advance.

4/10/24