

House File 2596 - Introduced

HOUSE FILE 2596

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 700)

A BILL FOR

1 An Act relating to qualifications to bid on or submit a
2 proposal for certain public contracts, and providing
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 8A.311C Qualifications to bid or
2 submit proposals.

3 1. For purposes of this section:

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

11 b. "Domicile" means any of the following:

12 (1) The country in which a company is registered.

13 (2) The country in which the company's affairs are primarily
14 completed.

15 (3) The country in which the majority of a company's
16 ownership shares are held.

17 c. "Federally banned company" means a company banned from
18 doing business in the United States by the federal government.
19 Such bans include but are not limited to those resulting from
20 actions taken by any of the following federal agencies or
21 pursuant to any of the following federal laws:

22 (1) The federal communications commission, including but
23 not limited to the covered list developed pursuant to 47 C.F.R.
24 §1.50002 and published by the public safety and homeland
25 security bureau of the federal communications commission.

26 (2) The United States department of commerce.

27 (3) The United States cybersecurity and infrastructure
28 security agency.

29 (4) The federal acquisition security council.

30 (5) Section 889 of the John S. McCain National Defense
31 Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232.

32 d. "Foreign adversary" means the People's Republic of China,
33 the Russian Federation, the Islamic Republic of Iran, the
34 Democratic People's Republic of Korea, the Republic of Cuba,
35 the Venezuelan regime of Nicolas Maduro, or the Syrian Arab

1 Republic, including an agent of or an entity under significant
2 control of such foreign country of concern, or an entity deemed
3 a foreign adversary by the governor in consultation with the
4 department.

5 *e.* "*Foreign adversary company*" means a company owned
6 or controlled, in whole or in part, by the government of a
7 foreign adversary, by individuals acting in official government
8 capacities of a foreign adversary, by a company domiciled in a
9 foreign adversary, or by a company otherwise under control of a
10 foreign adversary.

11 2. Except as provided under subsection 5, all of the
12 following are ineligible to bid on or submit a proposal for a
13 contract with the state or a political subdivision of the state
14 for goods or services, including but not limited to under this
15 chapter, or chapter 8B, 26, 73, or 73A:

16 *a.* A foreign adversary company.

17 *b.* A federally banned company.

18 *c.* A company that offers to provide goods or services
19 manufactured or produced by a foreign adversary company or
20 federally banned company.

21 3. A company that submits a bid or proposal for a contract
22 with the state or a political subdivision of the state
23 for goods or services must certify that the company is not
24 ineligible to bid on the contract under subsection 2.

25 4. If the department determines that a company has submitted
26 a false certification under subsection 3, all of the following
27 apply:

28 *a.* The department shall assess the company a civil penalty
29 of not less than two hundred fifty thousand dollars, or twice
30 the amount of the contract for which a bid or proposal was
31 submitted, whichever is greater. Civil penalties collected
32 under this paragraph shall be deposited in the general fund of
33 the state.

34 *b.* The contract is void.

35 *c.* The company shall be ineligible to bid on a public

1 contract for sixty months.

2 5. Notwithstanding subsection 2, the state or a political
3 subdivision of the state may enter into a contract for goods
4 manufactured by a foreign adversary company or federally banned
5 company if all of the following criteria are met:

6 a. There is no other reasonable option for procuring the
7 goods.

8 b. The contract is preapproved by the department.

9 c. Failure to procure the goods would pose a greater threat
10 to this state than the threat associated with procuring the
11 goods from a foreign adversary company or federally banned
12 company.

13 6. Each bid or offer submitted for a public contract must
14 include a disclosure of whether the bidder, offeror, or its
15 corporate parents or subsidiaries, within the twenty-four-month
16 period before submission of the bid or offer, had business
17 operations that involved contracts with or the provision of
18 supplies or services from or to a foreign adversary.

19 7. A bidder or offeror that does not include the disclosure
20 required by subsection 6 may be given a reasonable period after
21 the bid or offer is submitted to cure the nondisclosure. The
22 state or political subdivision may consider the disclosure when
23 evaluating the bid or offer or awarding the contract.

24 8. Each state entity or political subdivision that receives
25 a disclosure under subsection 6 shall provide the disclosure
26 to the department.

27 9. A company which wishes to submit a bid or offer for a
28 public contract with the state or political subdivision of the
29 state must certify that the bidder, offeror, or any of its
30 corporate parents or subsidiaries, has not within the sixty
31 months before submission of the bid or offer had business
32 operations that involved contracts with or the provision of
33 goods or services to a military entity of a foreign adversary,
34 a foreign adversary company, a political party of a foreign
35 adversary, or a federally banned company.

1 10. Each state entity or political subdivision shall
2 provide the department with the name of each entity disclosed
3 under subsection 9 as doing business or having done business
4 with a military entity of a foreign adversary, a foreign
5 adversary company, a political party of a foreign adversary,
6 or a federally banned company.

7 11. If the department determines that a company has
8 submitted a false certification under subsection 9, all of the
9 following apply:

10 a. The department shall assess the company a civil penalty
11 of not less than two hundred fifty thousand dollars, or twice
12 the amount of the contract for which a bid or proposal was
13 submitted, whichever is greater. Civil penalties collected
14 under this paragraph shall be deposited in the general fund of
15 the state.

16 b. The contract is void.

17 c. The company shall be ineligible to bid on a public
18 contract for sixty months.

19 Sec. 2. Section 26.16, Code 2024, is amended to read as
20 follows:

21 **26.16 Prequalification requirements prohibited.**

22 A Except to the extent provided in section 8A.311C, a
23 governmental entity shall not by ordinance, rule, or any
24 other action relating to contracts for public improvements
25 for which competitive bids are required by **this chapter**
26 impose any requirement that directly or indirectly restricts
27 potential bidders to any predetermined class of bidders defined
28 by experience on similar projects, size of company, union
29 membership, or any other criteria. However, a governmental
30 entity shall require nonresident bidders to comply with section
31 8A.311B, subsection 4.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill prohibits a foreign adversary company, a federally

1 banned company, or a company that offers to provide goods
2 or services manufactured or produced by such an entity from
3 bidding on or submitting a proposal for a contract to supply
4 goods or services to the state or a political subdivision of
5 the state.

6 The bill requires a company to certify that it is not
7 ineligible for a public contract under the bill. If the
8 certification is false, the department of administrative
9 services (DAS) must assess the company a civil penalty of
10 at least \$250,000, the contract is void, and the company is
11 ineligible to bid on a public contract for 60 months.

12 The bill permits a contract with a foreign adversary company
13 or federally banned company if there is no other reasonable
14 way to obtain the goods, the contract is preapproved by DAS,
15 and failure to obtain the goods poses a greater threat than
16 obtaining the goods from the prohibited entity.

17 When making a bid or offer on a public contract, a company
18 must disclose whether the bidder, offeror, or its corporate
19 parents or subsidiaries had contracts with, or provided or
20 received supplies or services to or from, a foreign adversary.
21 A company must also certify that the bidder, offeror, or its
22 corporate parents or subsidiaries has not had contracts with or
23 provided goods or services to a military entity or political
24 party of a foreign adversary, a foreign adversary company, or a
25 federally banned company 60 months before submission of the bid
26 or offer. The public entity must submit this information to
27 DAS. If the certification is false, the penalties previously
28 set forth apply.