

HOUSE BILL NO. 5067

September 28, 2023, Introduced by Reps. Markkanen, Hoadley, Thompson, Alexander, Bierlein, Meerman, DeBoyer, Maddock, Bruck, Johnsen, Smit, Fink, Jaime Greene, Cavitt, Rigas, Schmaltz, Roth and Kunse and referred to the Committee on Government Operations.

A bill to prohibit units of local government from awarding, extending, or renewing certain procurement contracts; to establish procedures related to the solicitation of certain procurement contracts by units of local government; and to prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "local government
2 contracting act".

3 Sec. 3. As used in this act:

4 (a) "Controlled entity" means an entity to which any of the

1 following apply:

2 (i) The entity is owned by the government of a foreign country
3 of concern.

4 (ii) The government of a foreign country of concern has a
5 controlling interest in the entity.

6 (iii) The entity is organized under the laws of, or has its
7 principal place of business in, a foreign country of concern.

8 (b) "Controlling interest" means the possession of the power
9 to direct or cause the direction of the management or policies of
10 an entity, whether through ownership of securities, by contract, or
11 otherwise. A government that directly or indirectly has the right
12 to vote 25% or more of the voting interests of an entity or is
13 entitled to 25% or more of the entity's profit is presumed to
14 possess a controlling interest.

15 (c) "Foreign country of concern" means any of the following:

16 (i) The People's Republic of China.

17 (ii) The Russian Federation.

18 (iii) The Islamic Republic of Iran.

19 (iv) The Democratic People's Republic of Korea.

20 (v) The Republic of Cuba.

21 (vi) The Venezuelan regime of Nicolás Maduro.

22 (vii) The Syrian Arab Republic.

23 (viii) An agency of, or any other entity under significant
24 control of, an entity listed in subparagraphs (i) to (vii).

25 (d) "Procurement contract" includes, but is not limited to, a
26 contract for any of the following:

27 (i) The construction, alteration, or repair of any building or
28 other property of a unit of local government.

1 (ii) The acquisition or disposal of supplies, services, or
2 information technology.

3 (e) "Unit of local government" means a political subdivision
4 of this state, including school districts, community college
5 districts, intermediate school districts, cities, villages,
6 townships, counties, and authorities, if the political subdivision
7 has as its primary purpose the providing of local governmental
8 service for citizens in a geographically limited area of the state
9 and has the power to act primarily on behalf of that area.

10 Sec. 5. (1) Beginning on the effective date of this act, if a
11 procurement contract will give a contractor access to personal
12 identifying information of any individual, an applicant for the
13 contract shall provide the unit of local government with an
14 affidavit signed under penalty of perjury attesting that the
15 applicant is not a controlled entity, and the unit of local
16 government may not knowingly enter into the procurement contract
17 with a controlled entity.

18 (2) Beginning July 1, 2025, a unit of local government may not
19 do either of the following:

20 (a) Knowingly extend or renew a procurement contract that gave
21 the contractor access to personal identifying information of any
22 individual unless the contractor provides the unit of local
23 government with an affidavit signed under penalty of perjury
24 attesting that the contractor is not a controlled entity.

25 (b) Knowingly extend or renew a procurement contract that gave
26 the contractor access to personal identifying information of any
27 individual with a controlled entity.

28 (3) If an applicant or contractor violates this section, both
29 of the following apply:

1 (a) The applicant or contractor may be ordered to pay a civil
2 fine in an amount that is equal to twice the amount of the applied
3 for or awarded contract.

4 (b) The applicant or contractor may be ineligible to enter
5 into, extend, or renew a contract with the unit of local government
6 for not more than 5 years, as determined by the unit of local
7 government.

8 Sec. 7. Beginning on the effective date of this act, a unit of
9 local government may not enter into a procurement contract with a
10 person unless the contract includes an agreement that the person
11 may not use or provide any information or communication technology
12 or service, equipment, component, network, or system to which any
13 of the following apply:

14 (a) The technology or service, equipment, component, network,
15 or system is identified on the list described in section 272 of the
16 management and budget act, 1984 PA 431, MCL 18.1272.

17 (b) A federal agency has prohibited, restricted transactions
18 with, restricted the licensing of, or otherwise limited the
19 technology or service, component, network, or system because of a
20 national security concern.

21 (c) The technology or service, equipment, component, network,
22 or system is designed, developed, manufactured, or supplied by a
23 company or affiliate that is owned by, controlled by, or domiciled
24 in a foreign country of concern, as determined by a state or
25 federal agency.

26 Sec. 9. (1) A unit of local government shall not use or
27 provide any information or communication technology or service,
28 equipment, component, network, or system to which any of the
29 following apply:

1 (a) The technology or service, equipment, component, network,
2 or system is identified on the list described in section 272 of the
3 management and budget act, 1984 PA 431, MCL 18.1272.

4 (b) A federal agency has prohibited, restricted transactions
5 with, restricted the licensing of, or otherwise limited the
6 technology or service, component, network, or system because of a
7 national security concern.

8 (c) The technology or service, equipment, component, network,
9 or system is designed, developed, manufactured, or supplied by a
10 company or affiliate that is owned by, controlled by, or domiciled
11 in a foreign country of concern, as determined by a state or
12 federal agency.

13 (2) A unit of local government shall establish security
14 procedures to ensure that local information and property are not
15 susceptible to exploitation by a foreign country of concern.

16 Enacting section 1. This act does not take effect unless
17 Senate Bill No. ____ or House Bill No. 5066 (request no. 02340'23 *)
18 of the 102nd Legislature is enacted into law.