

State Purchasing Bureau Policy

NOTICE

This guidance document is advisory in nature but is binding on the Nebraska Department of Administrative Services until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department of Administrative Services and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document. See Neb. Rev. Stat. § 84-901.03

Policy No: 24-07
Application: Services
Subject: Application to Contract with Scrutinized Company under LB 1300
Effective Date: 07-19-2024

- I. Under the Foreign Adversary Contracting Prohibition Act (the "Act"), Neb. Rev. Stat. § 73-903 et seq., absent an exception, public entities may not "enter into any contract or contract renewal that would result in any state or local government funds from being transferred (a) to a scrutinized company in connection with any technology-related product or services; or (b) to any company in connection with any technology-related product or service that originates with a scrutinized company." Neb. Rev. Stat. § 73-906 (1)(a) and (b).
- II. The Act provides an exception for contracts that have been "preapproved by the Department of Administrative Services." Neb. Rev. Stat. § 73-906(2)(ii)
- III. To receive preapproval from the Director of Administrative Services or designee, public entities have the burden to show the following:
 - A. There is no other reasonable option for procuring the product or service contemplated in the contract at this time.
 - B. Not procuring the product or service would pose a greater threat to the state than the threat associated with the product or service itself
 - C. The proposed contract or renewal is for a period of no longer than one (1) year; and
 - D. The public entity has a detailed plan to obtain alternative sourcing before the contract or renewal period is completed.
- IV. Preapproval from the Department of Administrative Services is only valid for the period . Under the Act, public entities must receive a new preapproval from the Department of Administrative Services before entering a new contract or renewal for the same products or services.
- V. Approved public entity applications to contract with a scrutinized company shall be published to the website Department of Administrative Services – Materiel Division, State Purchasing Bureau.
- VI. To file an application for preapproval to contract with a scrutinized company, please fill out SPB Form 12 and submit it to as.materielpurchasing@nebraska.gov.

The foregoing policy is duly signed and executed on this 18th day of July, 2024.



Director,
State of Nebraska,
Department of Administrative Services

July 18, 24
DATE



Material Administrator,
State of Nebraska,
Department of Administrative Services

July 18, 2024
DATE

