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Inspector General
Accredited

Foreign Countries of Concern & Scrutinized Companies



In 2023, the Florida legislature enacted legislation [Chapter 2023-33, Laws of Florida (SB 264) and Chapter 2023-351, Laws of Florida (HB No. 5-C)] impacting contracts involving local governments and foreign countries of concern, prohibiting economic incentives to foreign countries, and amending Florida laws regarding scrutinized companies. Legislators indicated that the legislation was intended to address Florida's national security interests.

Interests of Foreign Countries

Among other provisions, SB 264 created section 287.138, Florida Statutes, effective July 1, 2023, prohibit governmental entities¹ from knowingly contracting with any entity that would give access to an individual's personal identifying information², if:

- (a) The entity is owned by the government of a foreign country of concern³;
- (b) The government of a foreign country of concern has a controlling interest in the entity; or
- (c) The entity is organized under the laws of or has its principal place of business in a foreign country of concern.

¹ §287.138(d), F.S. defines "governmental entity" as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, but not limited to, the Commission on Ethics, the Public Service Commission, the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

² The term "personal identifying information" is not defined in the statute. However, the Florida Department of Management Services enacted Rule 60A-1.020, Florida Administrative Code, to implement the new law, as required by section 287.138(7), Florida Statutes. The rule provides that the term shall have the same meaning ascribed in section 501.171, Florida Statutes.

³ §287.138(c), F.S. defines "foreign country of concern" as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern.

"Enhancing Public Trust in Government"

Beginning July 1, 2025, a governmental entity is prohibited from extending or renewing a contract with an entity meeting the requirements of (a)-(c) above, if the contract would give such entity access to an individual's personal identifying information.⁴

Beginning January 1, 2024, a governmental entity may not accept a bid, proposal, or reply, or enter into a contract with an entity, which would grant the entity access to an individual's personal identifying information, unless the entity provides the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of provisions in (a)-(c) above.⁵

Similarly, beginning July 1, 2025, when an entity extends or renews a contract with a governmental entity, which would grant the entity access to an individual's personal identifying information, the entity must provide the governmental entity with such affidavit.⁶

As prescribed in section 287.138(7), the affidavit noted above was developed by the Department of Management Services as Form PUR 1355, "Foreign Country of Concern Attestation Form,"⁷ effective 10/23.

SB 264 also created section 288.0071, Florida Statutes, effective July 1, 2023, to prohibit governmental entities⁸ from knowingly entering into contracts for an economic incentive⁹ with a foreign entity.¹⁰ Before providing any economic development incentive, a government entity must require the recipient or applicant to provide the government entity with an affidavit signed under penalty of perjury attesting that the recipient or applicant is not a foreign entity.



⁴ [§287.138\(3\), F.S.](#)

⁵ [§287.138\(4\)\(a\), F.S.](#)

⁶ [§287.138\(4\)\(b\), F.S.](#)

⁷ <https://www.flrules.org/Gateway/reference.asp?No=Ref-15958>

⁸ For the purposes of section 288.0071, "governmental entity" includes a state agency; a political subdivision; or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

⁹ Section 288.0071(b) defines "economic incentive" as all programs administered by, or for which an applicant for the program must seek certification, approval, or other action by, the department of commerce under chapter 288, chapter 212, or chapter 220; and all local economic development programs, grants, or financial benefits administered by a political subdivision or an agent thereof.

¹⁰ Section 288.0071(1)(d), defines "foreign entity" as an entity: 1. Owned or controlled by the government of a foreign country of concern; or 2. A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity.

Scrutinized Companies List

[Section 215.473, Florida Statutes](#) (2007), required the state to maintain a “Scrutinized Companies with Activities in Sudan List” and a “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.” On November 13, 2023, Governor Ron DeSantis signed into law Chapter 2023-351 (HB No. 5-C), amending section 215.473, to redesignate the “Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List” as the “Scrutinized Companies with Activities in Iran Terrorism Sections List,” and to expand the definition of “scrutinized company.”

Section 215.473(1)(dd)4., as amended, expands the definition of “scrutinized company” to include the following business activities specific to Iran:

- (b) On or after January 10, 2024, more than 10 percent of the company’s total revenues or assets are linked to Iran and involve the energy, petrochemical, financial, construction, manufacturing, textile, mining, metals, shipping, shipbuilding, or port sectors of Iran, and the company has failed to take substantial action to cease scrutinized business operations within 1 year and to refrain from such new business operations; or
- (d) The company has, with actual knowledge, on or after January 10, 2024, an investment of \$20 million or more, or any combination of investments of at least \$10 million each, which in the aggregate equals or exceeds \$20 million in any 12-month period and involves oil-related activities in Iran, mineral-extraction activities in Iran, or the energy, petrochemical, financial, construction, manufacturing, textile, mining, metals, shipping, shipbuilding, or port sectors of Iran.

Section 287.135(2), Florida Statutes, prohibits a company to submit a bid or proposal or to enter into or renew a contract with an agency or local governmental entity for goods or services of:

- (a) *Any amount if*, at the time of the bid, proposal, contract, or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; or
- (b) *One million dollars or more if*, at the time of the bid, proposal, contract, or renewal, the company:
 1. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to s. 215.473; or
 2. Is engaged in business operations in Cuba or Syria.

[Notwithstanding the foregoing, an agency or local governmental entity, on a case-by-case basis, may allow a company to be eligible for, bid on, submit a proposal for or enter into or renew a contract for goods or service; who is on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum

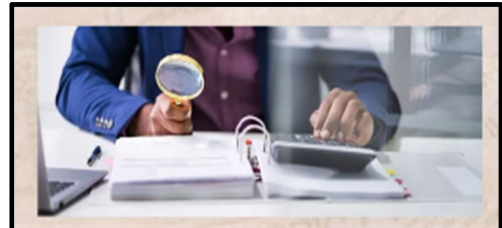
Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or a company engaged in business operations in Cuba or Syria under certain circumstances identified in the statute].

Per section 287.135(5), at the time a company submits a bid or proposal, for a contract, or before a company enters into or renews a contract with an agency or local governmental entity for goods or services of \$1 million or more, the company must certify that the company is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List and that it does not have business operations in Cuba or Syria. Additionally, the company must certify that the company is not participating in a boycott of Israel, for goods and services of any amount.

Chapter 2023-351 (HB No. 5-C) amended section 287.135(3)(a)5., Florida Statutes, to provide that any contract with an agency or local governmental entity for goods or services of \$1 million or more entered into or renewed on or after July 1, 2018, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification or has been placed on a list created pursuant to s. 215.473, relating to scrutinized active business operations in Iran.

Recommendations

We recommend that local governments review their policies and procedures and make any necessary revisions to ensure they receive signed affidavits, attestations, or certifications required by sections 287.138(4), 288.0071(3), section 287.135(5) and Florida Statutes.



Also, governmental entities should check the State Board of Administration's List of Prohibited Investments (Scrutinized Companies) prior to awarding a contract.