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BILL M 225

**SECURE PROCUREMENT
IN RESPECT OF CHINA ACT**

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Explanatory Note

This Bill prohibits public bodies from contracting for goods or services from suppliers that meet certain criteria with respect to the People's Republic of China if comparable goods or services are available from a supplier located in Canada or a country with which Canada has in place a free trade agreement or economic cooperation agreement.

The Bill also mandates disclosure and reporting in respect of contracts with a value greater than \$50 000 with suppliers under Chinese ownership or control, as defined in the Bill.

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

“**Chinese supplier**” means any supplier of goods or services that

- (a) is incorporated, headquartered, owned or controlled, directly or indirectly, by an entity located in the People’s Republic of China, or
- (b) sources more than 50 percent of the value of the goods or services from the People’s Republic of China;

“**comparable goods or services**” means goods or services substantially similar in quality, performance and suitability for the intended purpose;

“**contract**” means a contract for the supply of goods or services;

“**public body**” means a public body as defined in the *Freedom of Information and Protection of Privacy Act* and any organization designated by regulation as a public body;

“**trusted partner jurisdiction**” means Canada or any country with which Canada has in place a free trade agreement or economic cooperation agreement.

Mandatory sourcing from trusted partner

- 2** (1) A public body must not procure goods or services from a Chinese supplier if comparable goods or services are available from a supplier located in a trusted partner jurisdiction.
- (2) For the purposes of subsection (1), the criterion of availability is met if a supplier in a trusted partner jurisdiction is capable of providing comparable goods or services within a delivery period that is reasonable given the nature of the procurement.
- (3) For certainty, a public body may not consider the cost of goods or services as a factor in deciding whether to procure goods or services from a Chinese supplier.

Transparency and disclosure

- 3 (1) In this section, “**Chinese ownership or control**”, in respect of a potential vendor, means ownership or control by a company that is
- (a) is incorporated, headquartered, owned or controlled, directly or indirectly, by an entity located in the People’s Republic of China, or
 - (b) sources more than 50 percent of the value of the goods or services of the company from the People’s Republic of China.
- (2) Before entering into a contract with a value greater than \$50 000, a public body must obtain from each potential vendor identified by the public body a declaration in the prescribed form specifying
- (a) if Chinese ownership or control of the potential vendor exceeds 10 percent, and
 - (b) if more than 20 percent of the goods or services under a contract with the vendor are to be sourced from the People’s Republic of China.
- (3) Each public body must publish, on a publicly accessible website, an annual report that includes a summary of
- (a) the aggregate value of contracts entered into by the public body with Chinese suppliers in the previous fiscal year, and
 - (b) the total value of all contracts entered into by the public body in the previous fiscal year to which subsection (2) (a) or (b) apply, expressed as a percentage of the total value of all contracts entered into by the public body in the previous fiscal year.

Offence Act

- 4 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Regulations

- 5 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
- (a) whether or not a supplier is located in a trusted partner jurisdiction for the purposes of section 2 (1),
 - (b) the form and content of a declaration referred to in section 3 (1),
 - (c) methods for determining what constitutes comparable good or services,
 - (d) the designation of organizations as public bodies,
 - (e) any other matter necessary for carrying out the intent of this Act, and
 - (f) a bidding process for the purposes of section 3 (1).

Commencement

- 6 This Act comes into force by regulation of the Lieutenant Governor in Council.