



THE MARYLAND HOUSE OF DELEGATES ANNAPOLIS, MARYLAND 21401

HB188

Honorable Chair Pena-Melnyk, Vice-Chair Cullison and members of the HGO Committee,

HB188 is a reintroduction from last session that would prohibit Maryland from using funds to purchase technology products, and/or services from manufacturers or other providers that are owned by, affiliated with and/or unduly influenced by countries subject to the International Traffic in Arms Regulations. There is also special section abrogating the bill if federal law preempts it. This bill passed out of this committee and House chamber unanimously. Countries identified under **ITAR** are:

- Afghanistan
- Afghanistan,
- Belarus
- Cambodia
- Central African Republic
- China
- Cuba
- Cyprus
- Democratic Republic of the Congo
- Eritrea
- Ethiopia
- Haiti
- Iran
- Iraq
- Kyrgyzstan
- Lebanon
- Libya
- Nicaragua
- N. Korea
- Russia
- Somalia
- South Sudan
- Sudan
- Syria
- Venezuela
- Vietnam
- Zimbabwe

Allowing ITAR listed countries into our procurement system poses significant risks to national security, the economy, and critical infrastructure. ITAR listed countries could exploit vulnerabilities in the supply chain, potentially leading to catastrophic effects on security and the digital economy. Also, enacting legislation to prohibit procurement bids to countries under embargo, aligns with responsible governance. It safeguards Maryland's reputation as a responsible actor in international affairs, avoids potential legal consequences, and promotes ethical conduct in trade practices. This ensures that the state remains in compliance with federal regulations, contributes to national security efforts, and upholds a commitment to global stability.

The Department of Homeland Security emphasizes the need for additional authority to address supply chain risks effectively and protect against threats posed by foreign-based suppliers like Kaspersky Lab (Russia), ZTE (China), and Huawei (China).

In summary, allowing ITAR listed countries into the Maryland procurement system can compromise national security, economic stability, and critical infrastructure. Vigilance and measures to safeguard against such risks are crucial to protect the country's interests.

Foreign adversaries in the US procurement system can exploit vulnerabilities in the supply chain, compromise critical infrastructure, and pose risks to national security. Some examples of foreign adversaries include:

1. **China:** The government of the People's Republic of China has been identified as a foreign adversary concerning the security of the United States bulk power system
2. **Russia:** Russia targets U.S. advances through various technology transfer mechanisms, including illicit procurement networks and joint ventures with Western companies
3. **Iran, North Korea, Cuba, and Venezuela:** These countries have also been identified as foreign adversaries by the Department of Energy.

These adversaries can compromise the confidentiality, integrity, or availability of targeted networks, introduce counterfeit or malicious products into the supply chain, and exploit business activities to gain unauthorized access to protected data.

Vigilance and robust measures are essential to safeguard against such threats and protect national interests.

1. **Russian Procurement Networks:** Cases have been identified involving alleged procurement networks created to assist the Russian military and intelligence services in obtaining sensitive technologies, such as military tactical equipment, airplane braking technology, and quantum cryptography, in violation of US export law.
2. **Chinese Violation of Sanctions:** A case involved a Chinese national violating US sanction by attempting to sell materials used in the production of weapons of mass destruction to Iran, using his employer to conduct transactions with a US financial institution for the benefit of an Iranian entity

Countries like Belarus, Congo, China, and Russia may be subject to embargoes due to various concerns:

1. **Belarus:** The country's human rights record and political situation have led to international sanctions. Doing business with Belarus may indirectly support practices inconsistent with human rights values.
2. **Congo:** Conflict minerals, human rights abuses, and unstable governance have prompted embargoes. Engaging in business with Congo could inadvertently contribute to these issues.
3. **China:** Concerns about intellectual property theft, human rights violations, and geopolitical tensions have led to trade restrictions. Maryland should exercise caution to avoid supporting activities that conflict with these principles.

4. **Russia:** Political disputes, annexation of Crimea, and interference in neighboring countries have resulted in sanctions. Conducting business with Russia could be seen as disregarding international norms and contributing to geopolitical tensions.

For Maryland, refraining from business with these countries aligns with federal policies, if we don't trust these countries to sell arms to, then we probably shouldn't be doing business with them. These countries alone are known for This ensures that the state doesn't inadvertently support practices contrary to human rights, stability, and global security. It also demonstrates a commitment to responsible and ethical trade practices in the international arena.

Prohibiting deals with embargoed nations in Maryland makes logical sense as it safeguards our state's reputation and aligns with federal regulations. By adhering to ethical trade practices, we contribute to global stability, foster diplomatic goodwill, and prioritize the security and integrity of Maryland. This approach not only complies with international norms but also reinforces our commitment to responsible governance, ultimately benefiting the well-being and prosperity of our community.

These instances highlight the importance of vigilance and robust measures to safeguard against foreign adversaries exploiting vulnerabilities in the US procurement system, emphasizing the need for enhanced security protocols and oversight to protect national interests and security.

#	Purchase Order(s), Contract or ERC (Emergency Resource Card)	Date Ordered	Vendor	MD Tax Clearance #	Description	Total Price	Complete or Qty Delivered as of 09/25/2020
1	H00P0601441 H00P0601729	4/1 5/14	2J Group Inc. Laurel, MD	20-2097-1111	(20,000) KN95 Masks; (1,000,000) isolation gowns- LVL2	\$70,000.00 \$6,900,000.00	Complete
2	H00P0601556	4/20	Acute Care Gasses II LLC Ridgefield Park, NJ		(400) (371) mobile ventilators - Astral 150	\$3,300,000.00 \$3,524,500.00	Complete
3	H00P0601530	4/15	Air Products & Chemicals, Inc. Allentown, PA	20-2098-1111	Oxygen tank supply and installation at JCI & MCI Oxygen Supply Term: 3 months	\$500,000.00	Complete
4	H00P0601527 H00P0601615 H00P0601654 H00P0601736	4/15 4/24 5/1 5/15	AllMark Door Company Aston, PA		(264,314) hand sanitizer, (250,000) Gowns, Level 2, (520,000) KN95; (49,536) Hand sanitizer; (10,000) N95 masks	\$636,392.00 \$799,406.40 \$2,345,000.00 \$2,165,750.00	Complete
5	ERC	5/7	AMA Systems, LLC Elkridge, MD	20-2149-1000	(40,000) KN-95 masks	\$112,000.00	Complete
6	H00P0601537	4/17	Atlantic Emergency Solutions, Inc. Manassas, VA	20-2096-1111	(5,000,000) N95 masks (Metropolitan Washington Council of Governments cooperative order)	\$8,636,319.09	CANCELLED
7	ERC	4/30	Baltimore Spirits Company Baltimore, MD	20-2221-1111	(4,500) Gallons- hand sanitizer	\$138,915.00	Complete
8	Direct Voucher	4/8	Blue Door Pharma Rockville, MD	20-2094-1111	(400) SH300 Ventilators (2) AEONMED VG70 Ventilators; (50,000) N95 Masks; (100,000) isolation gowns - LVL-3; (229,268) isolation gowns - LVL-2	\$19,913,200.00 \$2,549,418.00	Complete
9	H00P061445	4/1	BlueFlame Medical LLC Washington DC		(110) ICU Ventilators; (1,550,000) N95 Masks	\$12,542,000.00	CANCELLED
10	H00P0601504	4-9	Carestream Health, Inc. Rochester, NY	20-2093-0010	(2) X-Ray machines	\$237,522.00	Complete
11	H00P0601584	4/23	Citywide Youth Development Baltimore, MD	20-2093-0010	(8,400) reusable isolation gowns- MD manufactured	\$109,200.00	Complete
12	H00P0601473	4/6	ClearMask LLC (MBE/DBE/SBE) Baltimore, MD	20-2092-0001	(500,000) Face Masks	\$750,000.00	(216,000) masks
13	H00P0601508 H00P0601716	4/10 5/13	Comm-Tronics, Inc Glen Burnie, MD	20-1593-1111	(16) Nursing Call Stations for Baltimore Convention Center, Washington Adventist	\$120,390.00 \$228,121.56	Complete
14	H00P0601590 H00P0601594 H00P0601595 H00P0601596 H00P0601597 H00P0601598 H00P0601786	4/22	Curtis Engine & Equipment Baltimore, MD		Generators for medical tents, including switch gear, installation, maintenance, fuel. Term: 04/22/20-07/21/20 (month-to-month thereafter)	\$1,250,000 (estimated total usage, including fuel)	On-going (generators on site)
15	H00P0601674	5/5	Design Co. Ltd. Seoul South Korea		(2,000,000) KN95 masks	\$3,280,000.00	Complete
16	Direct Voucher	4/18	Economy Kangwa Co., Ltd. South Korea		(1,000,000) KN95 Masks, (1,000,000) Surgical Masks	\$2,350,000.00	Complete
17	H00P0601541	4/16	Eminence Group LLC Marriottsville, MD		(200,000) KN95 Masks- MD manufactured	\$770,000.00	In production

Screenshot from COVID-related Emergency Procurement Report:
<https://bpw.maryland.gov/MeetingDocs/2020-Sept-02-Agenda.pdf>

Test Item 7 Blue Flame Medical, LLC			
Procuring Agency	Using Agency	Description	Purchase Price
DGS	MDH	Purchase of 1,550,000 N95 masks and 37 ventilators	\$6,271,000
OLA Conclusions as of August 31, 2021			
DGS did not procure the masks and ventilators in accordance with all requirements of State procurement regulations. Based on our testing, MDH appeared to have received all of the masks and ventilators it purchased from the vendor; however, MDH could not document that the masks were inspected or account for the disposition of at least 475,400 N95 masks purchased from Blue Flame Medical, LLC with an associated purchase price of \$2,149,712.			

Background
 In June 2020, the chairs of the Senate Education, Health, and Environmental Affairs and the House Health and Government Operations Committees requested that we conduct a review of this procurement, which was the subject of extensive media coverage. According to State records, on April 1, 2020, DGS issued a purchase order to Blue Flame Medical, LLC to purchase 1,550,000 N95 masks and 110 ventilators on behalf of MDH. The total cost was \$12,542,000, of which \$6,271,000 was required as an initial deposit. The cost of each N95 mask was \$4.52 and the cost of each ventilator was \$41,000. Our review of the vendor's website on August 9, 2021 disclosed that Blue Flame Medical, LLC sells medical supplies to help limit the spread of COVID-19. As of August 2, 2021, although the vendor's website listed N95 masks and other medical equipment there were no ventilators advertised for sale.

On May 4, 2020, DGS canceled the purchase and attempted to recover its deposit from Blue Flame Medical, LLC due to the vendor's failure to deliver any items within the expected time frame. In October 2020, DGS entered into a settlement agreement with the vendor which allowed Blue Flame Medical, LLC to keep the initial deposit of \$6,271,000 as payment for the 1,550,000 N95 masks and 37 ventilators, which were ultimately provided. According to MDH records, the masks and ventilators were delivered to MDH warehouses, and consequently, MDH was responsible for the inspection, storage, and distribution of the masks and ventilators and for the related recordkeeping.

Procurement
 Our review disclosed that the masks and ventilators were not procured in accordance with State procurement regulations for emergency procurements.

While the aforementioned purchase order included the quantity to be purchased and the related payment terms, it did not contain certain critical provisions required by State procurement regulations, such as dispute resolution, delays and extensions, conformance of specifications, and delivery and acceptance.

DGS provided us with an email sent by the Secretary of DGS to senior DGS procurement officials on March 29, 2020 which indicated that Blue Flame Medical, LLC had been identified as a potential vendor by the Director of Federal Regulations for the Governor's Office. According to this email, Blue Flame Medical, LLC had a direct link to a manufacturer in China that could provide various medical supplies within 8 to 10 days. As previously noted in this report, DGS did not obtain competition for purchases of PPE and medical equipment made on behalf of MDH. DGS also could not provide written documentation to support that it had determined the vendor's prices were reasonable; although not specifically required by State regulations for emergency procurements, we believe such a determination would be prudent given that the masks and ventilators were effectively procured as sole source.

At the time of the procurement, Blue Flame Medical, LLC was not registered with SDAT to do business in the State, as required, and as of July 21, 2021 was still unregistered. The procurement was reported to the BPW and published on eAMA 5 days and 25 days after the respective deadlines provided for in State procurement regulations.

Monitoring and Payment
 During the aforementioned Review of Procurement of Certain COVID Tests, we conducted a physical inventory on November 17, 2020 and determined that MDH received 1,550,000 N95 labeled masks and 37 ventilators from Blue Flame Medical, LLC in accordance with the terms of the settlement agreement. MDH provided evidence that the ventilators had been inspected, were operational, and met all applicable requirements. However, beyond product labeling, MDH could not provide documentation to support that the masks purchased from the vendor were inspected to ensure they met the applicable requirements (that is, they were indeed N95 masks).

MDH also could not explain the disposition of at least 475,400 of the N95 masks with an associated purchase price of \$2,149,712. Specifically, during our current review, we conducted a second physical inventory on July 8, 2021 and determined that only 928,000 of the masks were still on hand. While MDH inventory records indicated that 146,600 had been distributed, there was no record of the disposition of the other 475,400. MDH warehouse personnel advised us that the unaccounted for masks had been distributed, but that MDH's inventory records had not been

Screenshot from COVID-related Emergency Procurement Report:

[..\Downloads\Covid Procurement Audit \(002\).pdf](..\Downloads\Covid Procurement Audit (002).pdf)

Thank you for your consideration once again. I request a favorable report for HB188.

Sincerely,

Delegate Brian Chisholm