

REFERENCE TITLE: **procurement services; outsourcing prohibited**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1249

Introduced by
Senator Burton Cahill

AN ACT

AMENDING TITLE 41, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; RELATING TO THE STATE PROCUREMENT CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 23, Arizona Revised Statutes, is amended
3 by adding article 11, to read:

4 ARTICLE 11. OUTSOURCING OF JOBS

5 41-2651. Definition of development assistance

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "DEVELOPMENT
7 ASSISTANCE" MEANS ANY FORM OF PUBLIC ASSISTANCE, INCLUDING TAX EXPENDITURES,
8 MADE FOR THE PURPOSE OF STIMULATING ECONOMIC DEVELOPMENT OF A CORPORATION,
9 INDUSTRY, GEOGRAPHIC JURISDICTION OR ANY OTHER SECTOR OF THE STATE'S ECONOMY,
10 INCLUDING INDUSTRIAL DEVELOPMENT BONDS, TRAINING GRANTS, LOANS, LOAN
11 GUARANTEES, ENTERPRISE ZONES, EMPOWERMENT ZONES, TAX INCREMENT FINANCING, FEE
12 WAIVERS, LAND PRICE SUBSIDIES, INFRASTRUCTURE WHOSE PRINCIPAL BENEFICIARY IS
13 A SINGLE BUSINESS OR DEFINED GROUP OF BUSINESSES AT THE TIME IT IS BUILT OR
14 IMPROVED, MATCHING FUNDS, TAX ABATEMENTS AND TAX CREDITS AND TAX DISCOUNTS OF
15 EVERY KIND, INCLUDING CORPORATE FRANCHISE, PERSONAL INCOME, SALES AND
16 COMPENSATING USE, RAW MATERIALS, REAL PROPERTY, JOB CREATION, INDIVIDUAL
17 INVESTMENT, EXCISE, UTILITY, INVENTORY, ACCELERATED DEPRECIATION AND RESEARCH
18 AND DEVELOPMENT TAX CREDITS AND DISCOUNTS.

19 41-2652. Contracts where work performed outside of the United
20 States prohibited; civil action

21 A. A STATE GOVERNMENTAL UNIT SHALL NOT AWARD A CONTRACT OR DEVELOPMENT
22 ASSISTANCE TO A VENDOR, BIDDER, CONTRACTOR OR SUBCONTRACTOR OR AN APPLICANT
23 FOR DEVELOPMENT ASSISTANCE THAT PERFORMS THE WORK AT A SITE OUTSIDE OF THE
24 UNITED STATES. THIS SECTION DOES NOT SUPERSEDE OR REPLACE AN EXISTING
25 REQUIREMENT IN STATUTE FOR DEVELOPMENT ASSISTANCE PROGRAMS.

26 B. EACH VENDOR WHO SUBMITS A BID OR CONTRACT TO PROVIDE SERVICES AND
27 ALL DEVELOPMENT ASSISTANCE APPLICANTS SHALL CERTIFY THAT THE SERVICES COVERED
28 BY THE BID, CONTRACT OR DEVELOPMENT ASSISTANCE WILL BE PERFORMED IN THE
29 UNITED STATES.

30 C. IF, DURING THE LIFE OF THE CONTRACT, THE VENDOR, CONTRACTOR,
31 SUBCONTRACTOR OR DEVELOPMENT ASSISTANCE RECIPIENT SHIFTS WORK THAT IS FUNDED
32 UNDER THE CONTRACT OVERSEAS, THE STATE GOVERNMENTAL UNIT SHALL TERMINATE THE
33 CONTRACT FOR NONCOMPLIANCE. IN ADDITION, THE VENDOR, CONTRACTOR,
34 SUBCONTRACTOR OR DEVELOPMENT ASSISTANCE RECIPIENT SHALL INCUR PENALTIES TO
35 THE STATE GOVERNMENTAL UNIT IN AN AMOUNT EQUAL TO THE AMOUNT PAID BY THE
36 STATE GOVERNMENTAL UNIT FOR THE PERCENTAGE OF WORK THAT WAS PERFORMED WITH
37 WORKERS OUTSIDE OF THE UNITED STATES. ANY CONTRACTOR, SUBCONTRACTOR, VENDOR,
38 BIDDER OR DEVELOPMENT ASSISTANCE RECIPIENT THAT VIOLATES THIS ARTICLE IS NOT
39 ENTITLED TO RECEIVE ANY STATE CONTRACTS OR DEVELOPMENT ASSISTANCE FOR A
40 PERIOD OF FIVE YEARS AFTER THE DATE OF DETERMINATION OF THE VIOLATION.

41 D. A STATE GOVERNMENTAL UNIT MAY BRING A CIVIL ACTION IN STATE OR
42 FEDERAL COURT TO COMPEL ENFORCEMENT OF THIS ARTICLE. IF THE STATE
43 GOVERNMENTAL UNIT PREVAILS IN THE CIVIL ACTION, THE COURT SHALL AWARD
44 REASONABLE ATTORNEY FEES AND COSTS TO THE STATE GOVERNMENTAL UNIT.