

South Carolina Code of Laws

Unannotated

Title 11 - Public Finance

CHAPTER 35

South Carolina Consolidated Procurement Code

ARTICLE 23

Statewide Provisions

SECTION 11-35-5300. Prohibition of contracting with discriminatory business.

(A) A public entity may not enter into a contract with a business to acquire or dispose of supplies, services, information technology, or construction unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in this article.

(B) For purposes of this section:

(1) "Boycott" means to blacklist, divest from, or otherwise refuse to deal with a person or firm when the action is based on race, color, religion, gender, or national origin of the targeted person or entity. "Boycott" does not include:

(a) a decision based on business or economic reasons, or the specific conduct of a targeted person or firm;

(b) a boycott against a public entity of a foreign state when the boycott is applied in a nondiscriminatory manner; and

(c) conduct necessary to comply with applicable law in the business's home jurisdiction.

(2) "Public entity" means the State, or any political subdivision of the State, including a school district or agency, department, institution, or other public entity of them.

(3) A "jurisdiction with whom South Carolina can enjoy open trade" includes World Trade Organization members and those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

(C) This section does not apply if a business fails to meet the requirements of subsection (A) but offers to provide the goods or services for at least twenty percent less than the lowest certifying business. Also, this section does not apply to contracts with a total potential value of less than ten thousand dollars.

(D) Failure to comply with a provision of this section is not grounds for a protest filed pursuant to Section 11-35-4210 or any other preaward protest process appearing in a procurement ordinance adopted by a political subdivision pursuant to Section 11-35-50 or Section 11-35-70, or similar law.

HISTORY: 2015 Act No. 63 (H.3583), Section 1, eff June 4, 2015.

Editor's Note

2015 Act No. 63, Section 5, provides as follows:

"Section 5. This act takes effect upon approval by the Governor and does not apply to contracts entered into before the effective date of this act."