

COUNCIL OF THE DISTRICT OF COLUMBIA

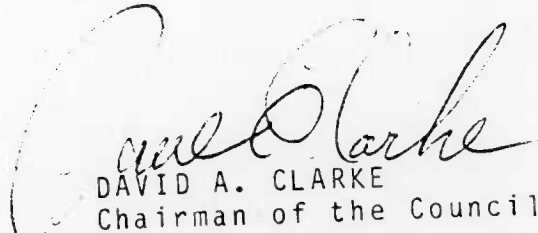
NOTICE

D.C. LAW 6-116

"South Africa and Namibia Contracting  
Sanction Amendment Act of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-165 on first and second readings, March 11, 1986, and March 25, 1986, respectively. Following the signature of the Mayor on April 8, 1986, this legislation was assigned Act No. 6-151, published in the April 25, 1986, edition of the D.C. Register, (Vol. 33 page 2432) and transmitted to Congress on April 11, 1986 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-116, effective May 23, 1986.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

April 11,14,15,16,17,18,21,22,23,24,25,28,29,30  
May 1,2,5,6,7,8,9,12,13,14,15,16,19,20,21,22

D.C. LAW 6 - 116

EFFECTIVE  
DATE MAY 23 1986

AN ACT

D.C. ACT 6 - 151

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APR 08 1986

To amend the District of Columbia Procurement Practices Act of 1985 to provide a sanction against entities with business interests in the Republic of South Africa or Namibia in the awarding of District of Columbia government contracts.

CODIFICATION,  
New subchapter  
of chapter  
of title 1

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "South Africa and Namibia Contracting Sanction Amendment Act of 1986".

Sec. 2. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; to be codified at D.C. Code, sec. 1-1181.1 et seq.), is amended by inserting a new title Xa to read as follows:

"TITLE Xa - SOUTH AFRICA AND NAMIBIA CONTRACTING SANCTIONS"

"Sec. 1001a. Application of the title.

"(a) This title shall apply to every invitation for bids and request for proposals for procurement or disposal of goods and services by covered agencies and employees,

except when federal law specifically prohibits its

New,  
D.C. Code, s  
1-1192.1  
(1987 supp.)

application.

"(b) This title shall not apply to emergency procurement activities undertaken by District agencies pursuant to section 312 of this act, or by independent agencies.

"(c) The Council and the courts of the District of Columbia may formally agree to be bound by the provisions of this title, or by the final rules and procedures adopted pursuant to this title.

"(d) The District shall not enter into cooperative purchasing agreement unless the agreement requires that bids and proposals received pursuant to the agreement be evaluated in a manner consistent with this title.

"Sec. 1002a. Definitions. For the purposes of this title, the term:

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1-1192.2  
(1987 supp.)

"(1) 'Agency' means the various forms of government as defined in section 102 (3), (4), & (5) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1502(3), (4), & (5)).

"(2) 'Business interests in the Republic of South Africa or Namibia' means any of the following, whether done directly or through a subsidiary or affiliate:

"(A) Ownership or lease, in whole or in part, of any real property, or improvement to real property,

located in the Republic of South Africa or Namibia;

"(B) Employment of employees in the Republic of South Africa or Namibia;

"(C) Ownership of outstanding loans to the government of the Republic of South Africa or Namibia, to any entity owned by the government of the Republic of South Africa or Namibia, to privately owned corporations organized under the laws of the Republic of South Africa or Namibia, or to any organization for the purpose of establishing or acquiring a business interest in the Republic of South Africa or Namibia; or

"(D) Being party to trade agreements with the Republic of South Africa or Namibia.

"(3) 'Council' means the Council of the District of Columbia.

"(4) 'Demerit' means a quantitative point recorded as a negative factor.

"(5) 'District' means the District of Columbia government and its agencies.

"(6) 'Formal solicitation' means an invitation for bids or a request for proposals.

"(7) 'Offeror' means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other legal business entity that submits a bid or proposal in response to a formal solicitation by a

District agency.

"(8) 'Price penalty' means the dollar amount which is added to the bid or proposal price submitted by an offeror with business interests in the Republic of South Africa or Namibia.

"(9) 'Prohibited list' means the most recent list of companies doing business in or with the Republic of South Africa or Namibia issued by the Mayor pursuant to section 5 of the Prohibition of the Investment of Public Funds in Financial Institutions and Companies Making Loans to or Doing Business with the Republic of South Africa or Namibia Act of 1983, effective March 8, 1984 (D.C. Law 5-50; D.C. Code, sec. 47-139).

"(10) 'Quantitative evaluation' means an evaluation that reviews the criteria specified in the solicitation document, and which may include the use of the relative ranking technique, the weighted factors technique, or other method specified in the solicitation document.

"Sec. 1003a. Determination of entities with business interests in the Republic of South Africa or Namibia.

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D.C. Code, sec  
1-1192.3  
(1987 supp.)

"(a) An offeror shall be designated as having business interests in the Republic of South Africa or Namibia if:

"(1) The offeror states in the affidavit required by section 1005a that it or any parent, subsidiary, or affiliated organization has business interests in the

Republic of South Africa or Namibia;

"(2) The offeror is included on the prohibited list, has not petitioned the Mayor for removal from the list pursuant to rules issued by the Mayor, and has not submitted to the agency convincing documentary evidence to show why it should not be included on the list; or

"(3) The agency has established through other documentary evidence that the offeror has business interests in the Republic of South Africa or Namibia within the meaning of this title.

"(b) An agency, upon determining that an offeror is an entity with business interests in the Republic of South Africa or Namibia, shall provide the offeror with written notice of the determination and the impact the determination will have on the offeror's bid or proposal.

"Sec. 1004a. Sanctions.

"(a) Notwithstanding any other provision of law, a limited sanction shall be imposed against an offeror which has business interests in the Republic of South Africa or Namibia.

"(b) When a quantitative evaluation of bids or proposals is used, the sanction shall be demerits assigned to offerors with business interests in the Republic of South Africa or Namibia and shall in no case exceed 6% of the maximum possible point score as indicated in the formal

solicitation.

"(c) When a lowest price evaluation of bids and proposals is used the sanction shall be a price penalty, based on a sliding scale that takes into account the estimated amount of the formal solicitation and shall in no case exceed 6% of the lowest bid or proposal price. When the imposition of a price penalty would leave the offeror as the lowest bidder, the contract shall be awarded in the amount of the offeror's original bid, consistent with the District Government Procurement Regulations.

"(d) If the imposition of a penalty pursuant to this section results in an equal quantitative evaluation or an equal lowest price evaluation between an offeror with business interests in the Republic of South Africa or Namibia and an offeror who does not have these business interests, the contract shall be awarded to the offeror with no business interests in the Republic of South Africa or Namibia.

"Sec. 1005a. Notice and affidavit requirements.

"(a) Each formal solicitation issued by a District agency under its procurement authority shall state the provisions of this title concerning the award of contracts to entities with business interests in the Republic of South Africa or Namibia.

"(b) Each offeror shall be required to submit a sworn

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1-1192.5  
(1987 supp.)

ew,  
.C. Code,  
-1192.4  
1987 supp

affidavit stating whether the offeror, its parent corporation, or any of its subsidiaries or affiliates has any business interests in the Republic of South Africa or Namibia. An affidavit submitted by or on behalf of a joint venture shall state whether any participant in the joint venture or a parent corporation, subsidiary or affiliate of the participant has any business interests in the Republic of South Africa or Namibia.

"(c) Inclusion of an offeror on the prohibited list shall create a rebuttable presumption that the entity has business interests in the Republic of South Africa or Namibia.

"(d) The contracting agency shall make the affidavits required by this section available for inspection by the public at the time of filing and at any time thereafter during normal business hours.

"(e) The contracting agency shall make all reasonable efforts to verify the accuracy of affidavits submitted pursuant to this section.

"(f) Misrepresentations of the existence of business interests in the Republic of South Africa or Namibia in affidavits submitted pursuant to this section shall be grounds for suspension or debarment of the offeror from consideration for award of contracts or subcontracts.

"Sec. 1006a. Rules.



"(a) Within 60 days of the effective date of this title, the Mayor shall issue, as a part of the District Government Procurement Regulations, rules necessary to implement the provisions of this title.

"(b) The rules issued by the Mayor shall be transmitted to the Council for a 60-day review period, excluding Saturdays, Sundays, holidays, and days of Council recess.

"(c) The Council may, by resolution, approve or disapprove the rules, in whole or in part, within the 60-day review period. If the Council, by resolution, does not approve or disapprove the rules before the expiration of the 60-day review period, the rules shall become effective at the expiration of the 60-day review period."

Sec. 3. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; to be codified at D.C. Code, sec. 1-1181.1 et seq.), is amended to read as follows:

(a) Section 107(2) (D.C. Code, sec. 1-1181.7) is amended by inserting after "means" the phrase ", for purposes other than those set forth in title Xa,". D.C. Code, sec. 1-1181.7 (1987 supp.)

(b) Section 205 (D.C. Code, sec. 1-1182.5) is amended as follows: D.C. Code, sec. 1-1182.5 (1987 supp.)

(1) Subsection (a)(3) is amended by striking the phrase "30-day review period" and inserting the phrase "60-day review period" in its place;

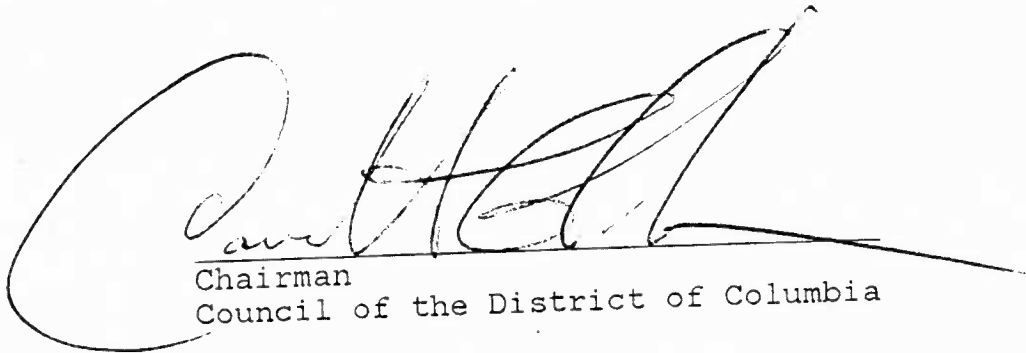
(2) Subsection (a)(4) is amended by striking the phrase "30-day review period" wherever it appears in that subsection, and inserting the phrase "60-day review period" in its place; and

(3) Subsection (b) is amended by striking the phrase "30-day review period" and inserting the phrase "60-day review period" in its place.

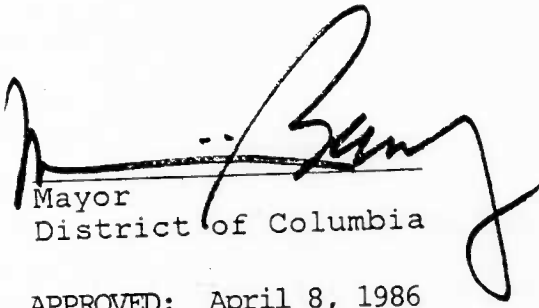
Sec. 4. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 24, 1973 (87 Stat. 813; D.C. Code, sec.  
1-233(c)(1)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: April 8, 1986



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Six - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 6-165

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 3-11-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Crawford, Winter and Schwartz

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 5 rows of member names and their voting status.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Date: 3/28/86

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 3-25-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 5 rows of member names and their voting status.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Date: 3/28/86

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 5 rows of member names and their voting status.