

STATE OF NEW YORK

7584

IN SENATE

January 28, 2020

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to prohibiting the procurement of telecommunications equipment or services which originate from Chinese entities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 163-b
2 to read as follows:

3 § 163-b. Restriction on contracts for certain telecommunications
4 equipment or services originating from Chinese entities. 1. For purposes
5 of this section, the following terms shall have the following meanings:

6 (a) "Covered telecommunications equipment or services" shall mean:

7 (1) telecommunications equipment manufactured by Huawei Technologies
8 Company or ZTE Corporation, or any subsidiary or affiliate of such enti-
9 ties;

10 (2) video surveillance and telecommunications equipment used for the
11 purpose of public safety, security of state government facilities or
12 other national or state security purposes manufactured by Hytera Commu-
13 nications Corporation, Hangzhou Hikvision Digital Technology Company,
14 Dahua Technology Company, or any subsidiary or affiliate of such enti-
15 ties;

16 (3) telecommunications or video surveillance services provided by such
17 entities as referenced in this subdivision or using such equipment; or

18 (4) telecommunications or video surveillance equipment or services
19 produced or provided by an entity that the director of the department of
20 homeland security and emergency services, in consultation with the
21 secretary of state, reasonably believes to be an entity owned or
22 controlled by, or otherwise connected to, the government of a covered
23 foreign country.

24 (b) "Covered foreign country" shall mean the People's Republic of
25 China.

26 (c) "Interconnection arrangement" shall mean a business contract
27 between telecommunications organizations for the purpose of intercon-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD14748-01-0

1 necting such organizations networks and exchanging telecommunications
2 traffic.

3 2. Notwithstanding any inconsistent provision of law, the state and
4 any department, bureau, board, commission, authority, or any other agen-
5 cy or instrumentality of the state shall not:

6 (a) enter into a contract or agreement to procure, obtain, extend or
7 renew a contract to purchase or obtain any equipment, system or service
8 that uses covered telecommunications equipment or services as a substan-
9 tial or essential component of any system, or as critical technology as
10 part of any system; or

11 (b) enter into a contract or agreement with an entity that uses any
12 equipment, system or service that uses covered telecommunications equip-
13 ment or services as a substantial or essential component of any system,
14 or as critical technology as part of any system.

15 3. (a) The state and any department, bureau, board, commission,
16 authority, or any other agency or instrumentality of the state shall not
17 obligate or expend loan or grant funds to procure or obtain, extend or
18 renew a contract to procure, obtain, or enter into, extend or renew a
19 contract to procure or obtain the equipment, services or systems
20 described in subdivision two of this section.

21 (b) In furtherance of paragraph (a) of this subdivision, the state and
22 any department, bureau, board, commission, authority, or any other agen-
23 cy or instrumentality of the state shall prioritize available funding
24 and technical support to assist affected businesses, institutions and
25 organizations as is reasonably necessary for those affected entities to
26 transition from covered communications equipment and services, to
27 procure replacement equipment and services as part of such transitions
28 and to ensure that communications service to users and customers is
29 sustained.

30 4. Subdivisions two and three of this section shall not apply to:

31 (a) the state and any department, bureau, board, commission, authori-
32 ty, or any other agency or instrumentality of the state contracting with
33 an entity to provide a service that connects to the facilities of a
34 third-party, including, but not limited to, backhaul, roaming or inter-
35 connection arrangements; or

36 (b) telecommunications equipment that cannot route or redirect user
37 data traffic or permit visibility into any user data or packets that
38 such equipment transmits or otherwise handles.

39 5. (a) The head of any department, bureau, board, commission, authori-
40 ty, or any other agency or instrumentality of the state may consider
41 waiver requests and may grant such waiver to a requesting entity which
42 shall waive the requirements of subdivision two of this section if such
43 entity:

44 (1) provides a compelling justification for additional time to be
45 granted to comply with the requirements of subdivision two of this
46 section; and

47 (2) includes in such waiver a full and complete description of the
48 presence of covered telecommunications or video surveillance equipment
49 or services in such entity's supply chain and a phase-out plan to elimi-
50 nate such covered telecommunications or video surveillance equipment or
51 services from such entity's systems.

52 (b) Any waiver granted pursuant to this subdivision shall be valid for
53 a period of not more than two years from the time such waiver is grant-
54 ed.

55 § 2. This act shall take effect on the ninetieth day after it shall
56 have become a law.