STATE OF NEW YORK

7584--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

§ 163-b. Restriction on contracts for certain telecommunications equipment, products, or services originating from Chinese entities that pose a cyber security threat. 1. For purposes of this section, the following terms shall have the following meanings:

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

(1) telecommunications equipment manufactured by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities;

(2) video surveillance and telecommunications equipment used for the purpose of public safety, security of state government facilities or other national or state security purposes manufactured by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any subsidiary or affiliate of such entities;

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

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

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

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(5) equipment, products, or services covered under the provisions of Section 515 of Public Law 113-76, 28 Stat. 80-81, the Consolidated Appropriations Act, 2014, found to pose a cyber security threat.

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

(c) "Interconnection arrangement" shall mean a business contract between telecommunications organizations for the purpose of interconnecting such organizations networks and exchanging telecommunications traffic.

2. Notwithstanding any inconsistent provision of law, the state and any department, bureau, board, commission, authority, or any other agency or instrumentality of the state shall not:

(a) enter into a contract or agreement to procure, obtain, extend or renew a contract to purchase or obtain any equipment, products, system or service that uses covered telecommunications equipment, products or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(b) enter into a contract or agreement with an entity that uses any equipment, product, system or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

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

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

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

(a) the state and any department, bureau, board, commission, authority, or any other agency or instrumentality of the state contracting with an entity to provide a service that connects to the facilities of a third-party, including, but not limited to, backhaul, roaming or interconnection arrangements; or

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

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

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

(2) includes in such waiver a full and complete description of the presence of covered telecommunications or video surveillance equipment, products, or services in such entity's supply chain and a phase-out plan

to eliminate such covered telecommunications or video surveillance equipment, products, or services from such entity's systems.

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

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