

By: McQueeney

H.B. No. 129

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on certain governmental contracts with foreign adversary companies and federally banned companies; authorizing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2278 to read as follows:

CHAPTER 2278. PROHIBITION ON CONTRACTS WITH FOREIGN ADVERSARY COMPANIES AND FEDERALLY BANNED COMPANIES

Sec. 2278.001. DEFINITIONS. In this chapter:

(1) "Company" has the meaning assigned by Section [117.001](#), Business & Commerce Code.

(2) "Federally banned company" means a company:

(A) that produces or provides communications equipment or services listed on the covered list published by the Public Safety and Homeland Security Bureau of the Federal Communications Commission, as required by 47 C.F.R. Section [1.50002](#);

(B) listed in Supplement No. 4 to 15 C.F.R. Part [744](#);

(C) prohibited from participating in federal contracts under Section 889, John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232);

(D) identified as a Chinese military company by

1 the United States Department of Defense in accordance with Section
2 1260H, William M. (Mac) Thornberry National Defense Authorization
3 Act for Fiscal Year 2021 (Pub. L. No. 116-283);

4 (E) prohibited from participating in federal
5 contracts under Section 5949, James M. Inhofe National Defense
6 Authorization Act for Fiscal Year 2023 (Pub. L. No. 117-263);

7 (F) subject to economic and trade sanctions
8 administered by the Office of Foreign Assets Control of the United
9 States Department of the Treasury;

10 (G) subject to an order issued by the Federal
11 Acquisition Security Council under the Federal Acquisition Supply
12 Chain Security Act of 2018 (Title II, Pub. L. No. 115-390); or

13 (H) restricted under any similar sanction
14 program under federal law.

15 (3) "Foreign adversary" means:

16 (A) the People's Republic of China;

17 (B) the Republic of Cuba;

18 (C) the Islamic Republic of Iran;

19 (D) the Democratic People's Republic of Korea;

20 (E) the Russian Federation;

21 (F) the Syrian Arab Republic;

22 (G) the Venezuelan regime under Nicolás Maduro;

23 or

24 (H) an agent or entity under significant control
25 of a country described by Paragraphs (A) through (G).

26 (4) "Foreign adversary company":

27 (A) means a company that:

1 (i) is domiciled, incorporated,
2 headquartered, issued, or listed in a foreign adversary;

3 (ii) has its principal place of business in
4 a foreign adversary;

5 (iii) is controlled by the government,
6 military, or ruling political party of a foreign adversary; or

7 (iv) is majority owned by an entity
8 described by Subparagraph (i), (ii), or (iii); and

9 (B) does not include:

10 (i) a United States citizen;

11 (ii) a U.S. subsidiary, as defined by 15
12 C.F.R. Section 772.1; or

13 (iii) a parent company not described by
14 Paragraph (A) that derives not more than 50 percent of the company's
15 total annual global revenue from subsidiaries from a foreign
16 adversary, regardless of whether the subsidiaries are companies
17 described by Paragraph (A).

18 (5) "Governmental entity" has the meaning assigned by
19 Section [2251.001](#).

20 Sec. 2278.002. PROHIBITED CONTRACTS; EXCEPTION. (a)
21 Except as provided by Subsection (b), a foreign adversary company,
22 federally banned company, or company that provides final goods or
23 services manufactured or produced by a foreign adversary company or
24 federally banned company may not submit a bid for a contract or
25 enter into a contract with a governmental entity relating to goods
26 or services.

27 (b) A governmental entity may enter into a contract with a

1 company described by Subsection (a) if:

2 (1) there is no other reasonable option for procuring
3 the good or service;

4 (2) the entity preapproves the contract; and

5 (3) failure to procure the good or service would pose a
6 greater threat to this state than the threat associated with
7 procuring the good or service.

8 Sec. 2278.003. CERTIFICATION REQUIRED. A governmental
9 entity shall require a vendor submitting a bid for a contract
10 relating to goods or services to include in the bid a written
11 certification that the vendor is not prohibited from submitting the
12 bid or entering into the contract under Section 2278.002(a).

13 Sec. 2278.004. FALSE CERTIFICATION; VIOLATION. (a) A
14 governmental entity that determines that a vendor holding a
15 contract with the entity was ineligible to have the contract
16 awarded under Section 2278.002(a) because the vendor's
17 certification submitted under Section 2278.003 was false shall
18 notify the vendor that the vendor is in violation of this chapter.
19 The notice must include the basis for the entity's determination
20 that the vendor is in violation of this chapter.

21 (b) A governmental entity, on making a final determination
22 that a vendor violated this chapter, shall refer the matter to the
23 attorney general for enforcement under Section 2278.006.

24 Sec. 2278.005. CONTRACT TERMINATION FOR FALSE
25 CERTIFICATION; BARRING FROM STATE CONTRACTS. (a) A governmental
26 entity, on making a final determination that a vendor violated this
27 chapter, shall immediately terminate the contract without further

1 obligation to the vendor.

2 (b) A vendor that violates this chapter is barred from
3 responding to a solicitation for or being awarded a contract for
4 goods or services by any governmental entity until the fifth
5 anniversary of the date the vendor receives a final determination
6 under Section 2278.004.

7 Sec. 2278.006. CIVIL PENALTY. (a) A vendor that violates
8 this chapter is liable to the state for a civil penalty in an amount
9 equal to the greater of:

10 (1) twice the amount of the contract terminated under
11 Section 2278.005; or

12 (2) \$250,000.

13 (b) The attorney general may bring an action to recover a
14 civil penalty imposed under this section.

15 SECTION 2. Chapter 2278, Government Code, as added by this
16 Act, applies only to a contract for which the request for bids or
17 proposals or other applicable expression of interest is made public
18 on or after the effective date of this Act. A contract for which the
19 request for bids or proposals or other applicable expression of
20 interest is made public before that date is governed by the law in
21 effect on the date the request or other expression of interest is
22 made public, and the former law is continued in effect for that
23 purpose.

24 SECTION 3. This Act takes effect September 1, 2025.