By:  Campbell, Creighton

     Paxton S.B. No. 541

A BILL TO BE ENTITLED

AN ACT

relating to the barring of certain vendors from participation in contracts with the state or a political subdivision and to prohibiting the use of technologies manufactured or sold by certain of those vendors.

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

SECTION 1.  Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. USE OF CERTAIN TECHNOLOGIES BY GOVERNMENTAL ENTITY PROHIBITED

Sec. 620.001.  DEFINITION. In this chapter, "governmental entity" means:

(1)  a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code;

(2)  the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council or another agency in the judicial branch of state government; or

(3)  a political subdivision of this state, including a municipality, county, or special purpose district.

Sec. 620.002.  PROHIBITION. A governmental entity shall adopt a policy prohibiting the installation or use by the governmental entity of a technology manufactured or sold by an entity 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), as it existed on January 1, 2023.

SECTION 2.  Section 2155.077, Government Code, is amended by adding Subsection (a-3) to read as follows:

(a-3)  The comptroller shall bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if the vendor:

(1)  is 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), as it existed on January 1, 2023;

(2)  contracts with an entity described by Subdivision (1) to provide products or services to this state; or

(3)  is designated as a risk to state security by the Homeland Security Council, with advice from the governor, unless the federal government has determined that the vendor does not pose a risk to national security.

SECTION 3.  Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.909 to read as follows:

Sec. 271.909.  BARRING CERTAIN VENDORS FROM PARTICIPATION IN CONTRACTS. The governing body of a political subdivision by ordinance, order, or other measure shall bar a vendor from participating in contracts with the political subdivision if the vendor:

(1)  is 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), as it existed on January 1, 2023;

(2)  contracts with an entity described by Subdivision (1) to provide products or services to this state; or

(3)  is designated as a risk to state security by the Homeland Security Council, with advice from the governor, unless the federal government has determined that the vendor does not pose a risk to national security.

SECTION 4.  Section 421.026, Government Code, is amended to read as follows:

Sec. 421.026.  REPORTS [~~REPORT~~].  (a) The council shall annually submit to the governor a report stating:

(1)  the status and funding of state programs designed to detect and deter homeland security emergencies, including the status and funding of counterterrorism efforts;

(2)  recommendations on actions to reduce threats to homeland security, including threats related to terrorism; and

(3)  recommendations for improving the alert, response, and recovery capabilities of state and local agencies.

(b)  The council shall submit a report to the legislature identifying each vendor designated as a risk to state security for purposes of barring the vendor from participating in contracts under Section 2155.077(a-3)(3) of this code and Section 271.909(3), Local Government Code. The council shall submit an update to the report under this subsection each time the council designates a vendor as a risk to state security.

SECTION 5.  Not later than November 1, 2023, each governmental entity shall adopt the policy required by Chapter 620, Government Code, as added by this Act.

SECTION 6.  The changes in law made by this Act apply only to a contract for which a state agency or political subdivision first advertises or otherwise solicits offers, bids, proposals, qualifications, or other applicable expressions of interest on or after the effective date of this Act. A contract for which a state agency or political subdivision first advertises or otherwise solicits offers, bids, proposals, qualifications, or other applicable expressions of interest before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7.  This Act takes effect September 1, 2023.