

CHAPTER 164

CYBERSECURITY AND PROTECTION OF CRITICAL INFRASTRUCTURE

§2021. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2023, c. 681, §1 (NEW).]

1. Chief Information Officer. "Chief Information Officer" has the same meaning as in section 1972, subsection 2.

[PL 2023, c. 681, §1 (NEW).]

2. Foreign adversary. "Foreign adversary" means a foreign government or foreign nongovernment person whom the United States Secretary of Commerce has determined, pursuant to 15 Code of Federal Regulations, Section 7.4 (2024), has engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or the security and safety of United States persons.

[PL 2023, c. 681, §1 (NEW).]

3. Foreign adversary business entity. "Foreign adversary business entity" means any type of organization, entity or enterprise engaged in commerce, whether operated for profit, that is organized under the laws or rules of a foreign adversary, directly or indirectly owned or controlled by a foreign adversary or domiciled within the geographic borders of a foreign adversary.

[PL 2023, c. 681, §1 (NEW).]

4. Local governmental entity. "Local governmental entity" means any local government, political subdivision or school district and any other public or private agency, person, partnership, corporation or business entity acting on behalf of any local governmental entity.

[PL 2023, c. 681, §1 (NEW).]

5. State agency. "State agency" means the State, or any department, agency, board, commission or other body of State Government, including publicly funded institutions of higher education.

[PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2022. Chief Information Officer to establish lists

The Chief Information Officer shall establish and maintain: [PL 2023, c. 681, §1 (NEW).]

1. List of prohibited companies. A list of companies, including foreign adversary business entities, that pose a national security risk or a risk to the security and safety of persons of the United States. The list must include, but is not limited to, all companies identified by statute, regulation or official guidance from the United States Department of Commerce, the Federal Communications Commission, the United States Department of Homeland Security or any other appropriate federal agency as posing a national security risk or a risk to the security and safety of persons of the United States; and

[PL 2023, c. 681, §1 (NEW).]

2. List of prohibited information and communications technology and services. A list of information and communications technology and services that pose a national security risk or a risk to the security and safety of persons of the United States. The list must include, but is not limited to, all information and communications technology and services identified by statute, regulation or official

guidance from the United States Department of Commerce, the Federal Communications Commission, the United States Department of Homeland Security or any other appropriate federal agency as posing a national security risk or a risk to the security and safety of persons of the United States. [PL 2023, c. 681, §1 (NEW).]

The lists must be published on the publicly accessible website of the Department of Administrative and Financial Services, Office of Information Technology and updated at least annually. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2023. Prohibited contract, use or purchase by state agency

Except as provided in sections 2027 and 2028, a state agency may not contract with a company included on the list of prohibited companies established and maintained by the Chief Information Officer pursuant to section 2022, subsection 1 or use, obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services established and maintained by the Chief Information Officer pursuant to section 2022, subsection 2. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2024. Prohibited contract, use or purchase by local governmental entity

Except as provided in section 2027, a local governmental entity may not use state funds in a contract with a company included on the list of prohibited companies established and maintained by the Chief Information Officer pursuant to section 2022, subsection 1 or use, obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services established and maintained by the Chief Information Officer pursuant to section 2022, subsection 2. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2025. Indirect transfer of state funds

A local governmental entity, when purchasing information or communications technology or services or entering into a contract for goods or services, shall take all reasonable steps to ensure state funds are not indirectly transferred to a company on the list of prohibited companies maintained by the Chief Information Officer pursuant to section 2022, subsection 1. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2026. Prohibited contract, use or purchase by judicial branch and legislative branch

Except as provided in sections 2027, 2029 and 2030, an office of the legislative branch or judicial branch may not contract with a company included on the list of prohibited companies established and maintained by the Chief Information Officer pursuant to section 2022, subsection 1 or use, obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services established and maintained by the Chief Information Officer pursuant to section 2022, subsection 2. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2027. Exemption; law enforcement

The prohibitions in sections 2023 and 2024 do not apply to law enforcement entities, such as the State Police, a county sheriff's office and local law enforcement departments, to the extent the prohibitions restrict a law enforcement entity's ability to protect the public or investigate criminal activity. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2028. Waiver of prohibitions; executive branch

Upon written request from a state agency, the Chief Information Officer may waive the prohibitions imposed in sections 2023 and 2024 as long as the waiver does not pose a national security risk or a risk to the security and safety of persons of the United States. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2029. Waiver of prohibitions; legislative branch

The Legislative Council, established in Title 3, section 161, or its designee, may waive the prohibitions imposed in sections 2023 and 2024 as long as the waiver does not pose a national security risk or a risk to the security and safety of persons of the United States. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2030. Waiver of prohibitions; judicial branch

The State Court Administrator under Title 4, section 15, or the State Court Administrator's designee, may waive the prohibitions imposed in sections 2023 and 2024 as long as the waiver does not pose a national security risk or a risk to the security and safety of persons of the United States. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2030-A. Certification required; civil violation

A person that submits a bid or proposal for a contract with the State for goods or services shall certify that the person is not a foreign adversary business entity. A person that submits a false certification under this section commits a civil violation for which a fine may be adjudged in an amount that is twice the amount of the contract for which the bid or proposal was submitted or \$250,000, whichever is greater. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2030-B. Contracts void

The following contracts entered into by a state agency on or after the effective date of this chapter are void: [PL 2023, c. 681, §1 (NEW).]

1. Foreign adversary business entity. A contract with a foreign adversary business entity; [PL 2023, c. 681, §1 (NEW).]

2. Prohibited company. A contract with a company included on the list of prohibited companies established and maintained by the Chief Information Officer pursuant to section 2022, subsection 1 that was not granted a waiver under section 2028; and

[PL 2023, c. 681, §1 (NEW).]

3. Prohibited information or communications technology or services. A contract to purchase information or communications technology or services included on the list of prohibited information or communications technology or services established and maintained by the Chief Information Officer pursuant to section 2022, subsection 2 that was not granted a waiver under section 2028.

[PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

§2030-C. Rules

The department may adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A. [PL 2023, c. 681, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 681, §1 (NEW).

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