

SECTION 889

Section 889 ("Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment") is part of the Fiscal Year 2019 National Defense Authorization Act (NDAA). There are two prohibitions in the legislation, Part A and Part B.

RECOMMENDED CONTRACTOR COMPLIANCE ACTIONS

1. **Regulatory Familiarization.** Read and understand the rule and necessary actions for compliance.
1. **Corporate Enterprise Tracking.** Determine through reasonable inquiry whether you use "covered telecommunications" equipment or services.
1. **Education.** Educate your purchasing/procurement, and materials management professionals to ensure they are familiar with the entity's compliance plan.
1. **Cost of Removal.** Implement procedures if the entity decides to replace existing covered telecommunications equipment or services and ensure new equipment and services acquired for use by the entity are compliant.
1. **Representation.** Provide representation re use and alert Government if use is discovered during contract performance.

For more details see the FAR representation ([52.204-24](#), [52.204-26](#)) and FAR reporting ([52.204-25](#)) requirements.

For Details on the Recommended Compliance Steps: See the [FEDERAL REGISTER](#)



Why are these changes important?



U.S. foreign adversaries are using increasingly sophisticated methods such as supply chain and cyber operations to gain access to critical infrastructure and steal sensitive information



The increasing reliance on foreign owned or controlled telecommunications equipment, may create vulnerabilities in U.S. Supply chains



China is increasingly asserting itself by stealing U.S. technology and intellectual property to erode U.S. economic and military superiority.



Chinese companies, including the companies identified in the FAR rule, are legally required to cooperate with their intelligence services. China's reputation for close collaboration between its government and industry to amass technological secrets presents additional threats to U.S. Government contractors.



The FAR rule ensures contractors keep national security interests in mind by ensuring that they do not use certain equipment and services that Congress has determined may present national security concerns.

Part A - The Government Cannot Obtain Prohibited Telecom

Part A became effective on **August 13, 2019**.

Part A prohibits the government from **obtaining** (through a contract or other instrument) certain telecommunications equipment (including video surveillance equipment) or services produced by the following *covered entities* and their subsidiaries and affiliates:

- **Huawei Technologies Company**
- **ZTE Corporation**
- **Hytera Communications Corporation**
- **Hangzhou Hikvision Digital Technology Company**
- **Dahua Technology Company**

The Department of Defense has the authority to add additional companies to this list.

Part A has been added to the Federal Acquisition Regulation (FAR) at [FAR subpart 4.21](#).

Note that the Part A ban also applies to **commercial items** ([FAR 12.301\(d\)\(6\)](#)) and **micro-purchases** ([FAR 13.201\(j\)](#)).

Have questions about GSA's implementation of Section 889? Click [HERE](#).

Part B - Government Contractors Cannot Use Prohibited Telecom

Part B is effective **August 13, 2020**.

Part B prohibits the government from contracting with any entity that **uses** certain telecommunications equipment or services produced by the *entities* listed in the statute.

- The Government cannot contract with an entity 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.
- Prohibition applies regardless of **whether or not** that usage is in performance of work under a Federal contract.
- The prohibition applies to **every sector** and **every dollar amount**. **Your ability to enter into contracts with the Government will be impacted by Part B.**
- After conducting a **reasonable inquiry**, entities will represent whether they **do or do not use** prohibited telecommunications equipment or services.

Part B has been added to the Federal Acquisition Regulation (FAR) at [FAR subpart 4.21](#).