

Section 889 Part B of the FY19 National Defense Authorization Act

Frequently Asked Questions for Industry

Q1: What does the FAR rule say?

A1: The FAR rule and GSA guidance are available on [acquisition.gov](https://www.acquisition.gov).

Q2: What telecommunication equipment and services are contractors prohibited from using as a substantial or essential component of any system, or as critical technology as part of any system?

A2: FAR clause 52.204-25 prohibits the following:

- Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
- For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- Telecommunications or video surveillance services provided by such entities or using such equipment; or
- Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Q3: What is the purpose of the modification?

A3: The purpose of the modification is to incorporate revised FAR clause 52.204-25 into the contract. FAR clause 52.204-25:

- Prohibits contractors from providing to the Government any equipment, 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, on or after August 13, 2019, unless the agency confirms that an exception applies or a waiver is granted;
- Prohibits agencies from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, 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, on or after August 13, 2020, unless the agency confirms that an exception applies or a waiver is granted; and
- Mandates that contractors report any covered equipment or services if discovered during the course of contract performance.

Q4: What happens if I don't accept the modification?

A4: Acceptance of the modification is required to implement Section 889(a)(1)(B) of the FY19 John S. McCain National Defense Authorization Act (P.L. 115-232). Per [FAR Case 2019-009](#),

orders may not be placed against this contract until revised FAR clause 52.204-25 is incorporated into the contract.

If the modification is not accepted by the deadline, GSA may initiate contract ending action.

Q5: What am I required to do if I discover covered telecommunications equipment during contract performance?

A5: In accordance with FAR clause 25.204-25, in the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>.

For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.