



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2019-0002, Sequence No. 4]

Federal Acquisition Regulation; Federal Acquisition

Circular 2019-05; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2019-05, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2019-05, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Farpolicy@gsa.gov or call 202-969-4075. Please cite FAC 2019-05, FAR Case 2018-017.

Rule Listed in FAC 2019-05

<u>Subject</u>	<u>FAR Case</u>	<u>Analyst</u>
*Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	2018-017	Francis

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR Case, refer to the specific subject set forth in the document following this item summary. FAC 2019-05 amends the FAR as follows:

Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (FAR Case 2018-017)

This interim rule amends the FAR to implement section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232). Paragraph (a)(1)(A) of section 889 prohibits agencies from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunication equipment or services as a substantial or essential

component of any system, or as a critical technology as part of any system on or after August 13, 2019, unless an exception applies or a waiver has been granted. Further prohibitions at paragraph (a)(1)(B) of section 889 go into effect August 13, 2020, and will be addressed through separate rulemaking.

To implement paragraph (a)(1)(A) of section 889, this interim rule provides a new solicitation provision and contract clause. The provision at FAR 52.204-24 requires offerors to represent whether their offer includes covered telecommunications equipment or services and if so, to identify additional details about its use. Representations are also required for orders on indefinite delivery contracts. The clause at FAR 52.204-25 prohibits contractors from providing 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, unless an exception applies or the covered telecommunications equipment or services are covered by a waiver described in FAR 4.2104. The contractor must also report any such equipment, systems, or services discovered during contract performance; this requirement flows down to subcontractors.

This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off-the-shelf items. It may have a significant economic impact on a substantial number of small entities.

This interim rule is being implemented as a national security measure to protect Government information, and Government information and communication technology systems.

Contracting officers shall modify certain contracts to include the new FAR clause, as specified in the "Dates" section of the preamble of the interim rule. Contracting officers also shall include the new FAR provision in solicitations for an order, or notices of intent to place an order, under those contracts.

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