

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2020-0051, Sequence No. 4]

Federal Acquisition Regulation; Federal Acquisition Circular 2020-08; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of an interim rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2020-08. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC.

DATES: For effective date see the separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Farpolicy@gsa.gov or call 202-969-4075. Please cite FAC 2020-08, FAR case 2019-009.

RULE LISTED IN FAC 2020-08

Subject	FAR Case
Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment	2019-009

ADDRESSES: The FAC, including the SECG, is available via the internet at https://www.regulations.gov.

SUPPLEMENTARY INFORMATION: A summary for each 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 summary. FAC 2020-08 amends the FAR as follows:

Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment (FAR Case 2019-009)

This interim rule amends the Federal Acquisition Regulation to implement section 889(a)(1)(B) of Title VII of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232). Paragraph (a)(1)(B) of section 889 prohibits executive agencies from entering into, 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 an exception applies or a waiver is granted.

To implement paragraph (a)(1)(B) of section 889, the provision at 52.204-24 requires all offerors to represent, after conducting a reasonable inquiry, whether covered telecommunications equipment or services are used by the offeror, and if so, to provide further information. The clause at 52.204-25 prohibits the head of an executive agency 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, unless an exception applies or a waiver is granted. The contractor must report use of any such equipment, systems, or services discovered during contract performance.

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 information and communication technology systems.

William F. Clark, Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2020-08 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2020-08 is effective July 14, 2020 except for FAR Case 2019-009, which is effective [August 13, 2020].

Kim Herrington, Acting Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses, Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II, Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

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