

## Federal Acquisition Regulation

## 4.2101

Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use on or after October 1, 2018, of any hardware, software, or services developed or provided, in whole or in part, by a covered entity. Contractors are prohibited from—

(a) Providing any Kaspersky Lab covered article that the Government will use on or after October 1, 2018; and

(b) Using any Kaspersky Lab covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

[83 FR 28143, June 15, 2018, as amended at 88 FR 69510, Oct. 5, 2023]

### 4.2003 Notification.

When a contractor provides notification pursuant to 52.204-23, follow agency procedures.

### 4.2004 Contract clause.

The contracting officer shall insert the clause at 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities, in all solicitations and contracts.

[83 FR 28143, June 15, 2018, as amended at 88 FR 69510, Oct. 5, 2023]

## Subpart 4.21—Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

SOURCE: 84 FR 40220, Aug. 13, 2019, unless otherwise noted.

### 4.2100 Scope of subpart.

This subpart implements paragraphs (a)(1)(A) and (a)(1)(B) of section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232).

[84 FR 40220, Aug. 13, 2019, as amended at 85 FR 42676, July 14, 2020]

### 4.2101 Definitions.

As used in this subpart—

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core

telephone network). Backhaul can be wireless (*e.g.*, microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);

(2) 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);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) 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.

*Critical technology* means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear non-proliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;