



11 August 2020

MEMORANDUM FOR NASA CONTRACTOR COMMUNITY

SUBJECT: Preparing NASA Contractors for Section 889(a)(1)(B) of National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019, Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment /Assessing Section 889 Impacts

As you are aware, the FAR Council member agencies (NASA, DoD, and GSA) published an interim rule on July 14, 2020 to implement prohibitions contained in Section 889(a)(1)(B) (Part B) of the NDAA for FY 2019 (FAR Rule 2019-009, Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment). This interim rule is effective August 13, 2020, and currently applies only at the prime contractor level; it does not flow-down to subcontractors. The purpose of this memorandum is to work with our industry partners to ensure there is awareness about this FAR requirement and to assess if your company will be impacted by it.

APPLICABILITY: Section 889 Part B of the FY 2019 NDAA requires Contracting Officers to take specific actions prior to awarding, or extending or renewing, contracts, task orders, or delivery orders on or after August 13, 2020, and requires contractors to take certain steps to comply with this law. NASA Contracting Officers, when awarding, or extending or renewing, contracts, task orders, or delivery orders on or after August 13, 2020 are required to adhere to the following rules:

- Shall not award contracts or issue task or delivery orders to an offeror 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 at FAR 4.2102(b) applies or a waiver is granted.
- Shall not exercise an option period or otherwise extend a contract, task order, or delivery order, 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 at FAR 4.2102(b) applies or a waiver is granted.
- Shall include the provision at FAR 52.204–24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment, and the clause at FAR 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment in solicitations issued —
 - on or after August 13, 2020, and resultant contracts, task orders, or delivery orders; and

- before August 13, 2020, provided award of the resulting contracts, task orders, or delivery orders occurs on or after August 13, 2020.

Contracting Officers will also modify existing contracts, and task and delivery orders, to include the FAR clauses stated above, in accordance with FAR 1.108(d) prior to placing an order, exercising options, or performing any other contract action that would require a modification.

Effective August 13, 2020, contractors shall comply with FAR 52.204-24 and FAR 52.204-25. In preparation for the enactment of this new rule, NASA held a public meeting on January 30, 2020, to enable NASA to better understand the risk to your company and to ensure that we maintain the Agency's space industrial base. To continue those efforts, please share impact information at the following link [Contractor 889 Impact Notification](#) no later than **August 21, 2020**. NASA is committed to partnering with you to become compliant and maintain performance.

Additionally, the attached Section 889 Contractor Brochure includes a summary of Section 889 FY 2019 NDAA requirements and proactive readiness tips for requesting a waiver, if necessary. This brochure is also available at <https://www.hq.nasa.gov/office/procurement/regs/memos/NASA-Section-889-Flyer.pdf>.

Our point of contact for this activity is Andre Sheppard, who can be reached at the following email address: HQ-SECTION-889@mail.nasa.gov.

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Attachment: Section 889 Contractor Brochure