

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; 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) 2019-05. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the internet at <http://www.regulations.gov>.

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 2019-05, FAR Case 2018-017.

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:

RULE LISTED IN FAC 2019-05

Subject	FAR case	Analyst
Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	2018-017	Francis.

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.

Janet M. Fry,
Director, Federal Acquisition Policy Division, Office of Government-Wide Policy.

Federal Acquisition Circular (FAC) 2019-05 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 2019-05

is effective August 13, 2019 except for FAR Case 2018-017, which is effective August 13, 2019.

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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48 CFR Parts 1, 4, 12, 13, 39, and 52

[FAC 2019-05; FAR Case 2018-017; Docket No. 2018-0017, Sequence No. 1]

RIN 9000-AN83

Federal Acquisition Regulation: Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

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

ACTION: Interim rule.