

## Waiver Process

Each agency must designate a senior agency official for Supply Chain Risk Management and participate in the Federal Acquisition Security Council's (FASC)

01. A compelling justification for additional time needed
02. A full and complete laydown of covered telecom
03. A phase-out plan to eliminate the covered telecom

Within NASA, the Office of the Chief Information Officer (OCIO), the Office of Procurement (OP) and the Office of the General Counsel (OGC) have jointly led this implementation effort, working closely with other agencies and consulting with OMB and the ODNI.

As part of their analysis, the NASA team conducted a deep-dive search to determine whether NASA currently uses any telecommunications equipment developed by / owned by the prohibited companies. The team also developed a process that the Administrator would use to consider any waivers to the Sect. 889 requirements and to the recently-published Federal Acquisition Regulation (FAR) 4.2104.

Section

# 889

Prohibition on Certain  
Telecommunications and  
Video Surveillance  
Services or Equipment

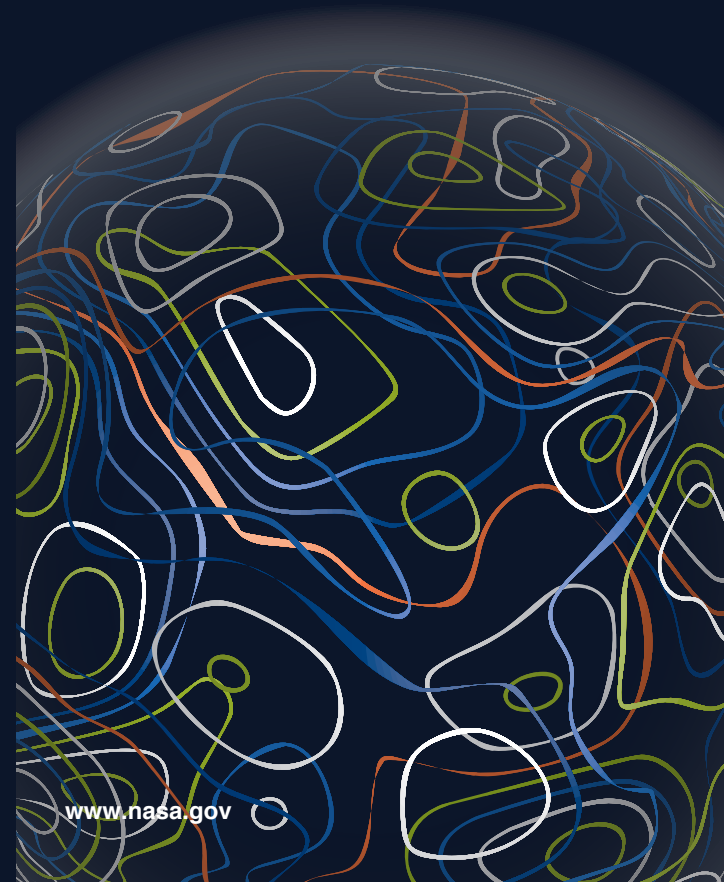
Understanding the Basics of Section 889  
and How NASA is Responding.



National Aeronautics Space Administration

**For more details** see the FAR representation ([52.204-24](#), [52.204-26](#)) and FAR reporting ([52.204-25](#)) requirements.

**For details on the Recommended Compliance Steps:**  
See the [Federal Register](#)



# How to Ensure COMPLIANCE

01.

First Determine

02.

Second Educate

03.

Third Identify



## Regulatory Familiarization

Read and understand the rule and necessary actions for compliance.



## Corporate Enterprise Tracking

Determine through reasonable inquiry whether you use "covered telecommunications" equipment or services.



## Education

Educate your purchasing/procurement, and materials management professionals to ensure they are familiar with the entity's compliance plan.



## Cost of Removal

Implement procedures if the entity decides to replace existing covered telecommunications equipment or services and ensure new equipment and services acquired for use by the entity are compliant.



## Representation

Provide representation re use and alert Government if use is discovered during contract performance.



## Phase-out Plan and Submit Waiver Information

Develop a phase-out plan and provide waiver information to the Government along with the complete laydown of the presence of the covered telecommunications equipment or services.

## Why Are These Things Important?



U.S. foreign adversaries are using increasingly sophisticated methods such as supply chain and cyber operations to gain access to critical infrastructure and steal sensitive information.



The increasing reliance on foreign owned or controlled telecommunications equipment, may create vulnerabilities in U.S. Supply chains.



China is increasingly asserting itself by stealing U.S. technology and intellectual property to erode U.S. economic and military superiority.



Chinese companies, including the companies identified in the FAR rule, are legally required to cooperate with their intelligence services. China's reputation for close collaboration between its government and industry to amass technological secrets presents additional threats to U.S. Government contractors.



The FAR rule ensures contractors keep national security interests in mind by ensuring that they do not use certain equipment and services that present national security concerns.

## PLAN A: The Government Cannot Obtain Prohibited Telecom

Effective: **August 13, 2019**

Part A prohibits the government from obtaining (through a contract or other instrument) certain telecommunications equipment (including video surveillance equipment) or services produced by the following covered entities and their subsidiaries and affiliates: Huawei Technologies Company, ZTE Corporation Hytera Communications Corporation Hangzhou Hikvision Digital, Technology Company and Dahua Technology Company (see [Section 889\(a\)\(1\)\(B\) of FY 2019 NDAA](#)).

The Department of Defense has the authority to add additional companies to this list.

Part A has been added to the Federal Acquisition Regulation (FAR) at [FAR subpart 4.21](#). Note that the Part A ban also applies to commercial items ([FAR 12.301\(d\)\(6\)](#)) and micro-purchases ([FAR 13.201\(j\)](#)).

NASA Procurement Class Deviation ([PCD 15-03D](#)) includes additional guidance on Section 889(a) Part A.

## PLAN B: Government Contractors Cannot Use Prohibited Telecom

Effective: **August 13, 2020**

Part B prohibits the government from contracting with an entity that uses certain telecommunications equipment or services produced by the entities listed in the statute.

01. The Government cannot contract with an entity 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.
02. Prohibition applies regardless of whether or not that usage is in performance of work under a Federal contract.
03. After conducting a reasonable inquiry, entities will represent whether they do or do not use prohibited telecommunications equipment or services.

Part B has been added to the Federal Acquisition Regulation (FAR) at [FAR subpart 4.21](#).