

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](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.