

## **TIGER TIPS**

# **RESOURCES FOR AUBURN RESEARCHERS**

### **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

#### **Federal Requirements**

##### **Contracts**

In accordance with Federal regulation, Auburn University currently needs to certify that they do not "use" telecommunications equipment or services produced or provided by certain Chinese companies (including ZTE, Hangzhou Hikvision Digital Technology, Huawei Technologies, Hytera Communications Corporation, Dahua Technology Company, **and** their subsidiaries and affiliates). This requirement, which implements [Section 889\(a\)\(1\)\(B\) \(Part B\)](#) of the National Defense Authorization Act (FY19 NDAA), Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment is effective as of **August 13, 2020**.

Section 889 (a)(1)(A) (**Part A**) was implemented in FY 2019 through a series of FAR clauses ([52.204-24](#), [52.204-25](#), and [52.204-26](#)) **effective August 13, 2019** which required contractors to represent that they are not **providing** under a federal contract 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 reflected above, "Covered telecommunications equipment or services" are those from the companies reflected in the first paragraph.

It is important to note that the prohibited list can be added to by the government as more companies are "*reasonably identified to be an entity owned or controlled by, or otherwise connected to the government of the People's Republic of China.*"

##### **Financial Assistance**

The FY19 NDAA also contained a related prohibition on the use of loan and grant funds in Section 889(b)(1). OMB's final guidance on 2 CFR Part 200 (Uniform Guidance) was also published in the Federal Register on August 13, 2020 and has an impact on financial assistance (grants/cooperative agreements).

Under [2 CFR 200.216](#) Prohibition on certain telecommunications and video surveillance services or equipment, recipients and subrecipients are now prohibited from obligating or expending loan or grant funds to (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. OMB has also added a new 2 CFR 200.471 to provide clarity that costs for any covered equipment or services described in 2 CFR 200.216 are unallowable.

## Why is this Important?

As a recipient of federal funding, Auburn University (“AU”) is required to provide the government with the above-referenced certification. The interim rule **prohibits federal agencies from contracting with an entity that itself uses any equipment, system, or service that uses covered telecommunications equipment or services as an essential component of any system or as critical technology as part of any system (regardless of whether the internal use has any nexus to the entity's government contracts).**

## AU’s Response

The offices of Information Technology (“OIT”), Innovation Advancement & Commercialization (“IAC”), Procurement & Business Services (“PBS”), Research Security Compliance (“RSC”), and Sponsored Programs (“OSP”) have been working together to conduct a reasonable inquiry to ensure that AU complies with the new federal requirements.

To date:

- (1) OIT indicated that they do not have any of this type of equipment on campus; and
- (2) Procurement and Business Services confirmed that the specific restricted companies are NOT registered in AU’s Vendor Center.

The following are activities to be conducted:

- (1) Procurement and Business Services will ask Connections to not list components from these companies as purchase options for AU employees.
- (2) Procurement and Business Services will include the required FAR clause in the general terms/conditions document for vendors.
- (3) Communications (such as this) will be shared broadly across campus and posted to websites to continue to share this information.

## What Can YOU Do?

We are asking all faculty, staff, and administrators to be aware of these restrictions and to be mindful when planning a purchase in which telecommunications equipment or services are to be acquired. Please work with PBS when planning these purchases to identify appropriate vendors. Also, be sure to be monitoring purchase card transactions related to purchases. Should questions arise related to potential purchases or vendors, please reach out to Procurement and Business Services. For questions related to interpretation of the regulations, please contact Tony Ventimiglia (ventiaf@auburn.edu).

## Additional Resources

[NASA Brochure](#)

[Federal Register](#)