

Compliance Notice

This compliance notice is to ensure that the University of Rochester community is aware of the restrictions imposed by Section 889 of [2019 National Defense Authorization Act \(NDAA\)](#) - Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

General compliance responsibilities for the University of Rochester community

- Do not procure covered telecommunications equipment or services (“covered telecommunications equipment or services” is defined below).
- Do not provide covered telecommunications equipment or services to the U.S. Government.
- Do not use (e.g. do not operate) covered telecommunications equipment or services.
- Notify **Mark Wright, Senior Counsel** (mark.wright@rochester.edu) *immediately* if you become aware of any covered telecommunications equipment or services being used by or procured for the University, and/or prior to making any representation to the U.S. Government in connection with Section 889 of the 2019 NDAA.
- Questions can be submitted to export@rochester.edu.

“Covered telecommunications equipment or services” is defined to mean, among other things:

- Telecommunications equipment produced by:
 - **Huawei Technologies Company or ZTE Corporation** (or any subsidiary or affiliate of such entities)
- For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by:
 - **Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company** (or any subsidiary or affiliate of such entities)

Background

Section 889 of the 2019 NDAA contains prohibitions on the use and procurement of “covered telecommunications equipment or services”. Absent a specific waiver provided by a federal agency, the University of Rochester may not provide to the U.S. government or use “covered telecommunications and surveillance equipment or services” ***anywhere in its operations or processes, even if unrelated to a federal contract***. Because the University has received federal contracts that include the NDAA prohibitions, this use restriction is applicable immediately.

Prohibitions

Section 889 of the 2019 NDAA is implemented through the Federal Acquisition Regulations (FAR) ([52.204-24](#); [52.204-25](#); [52.204-26](#)) and Uniform Guidance (2 CFR [200.216](#)).

- The prohibition on using federal loan or grant funds to procure or obtain covered telecommunications equipment or services became [effective August 13, 2020](#) (2 CFR [200.216](#)).
- The prohibition on federal contractors providing covered telecommunications equipment or services to the U.S. Government section became [effective August 13, 2019](#) (FAR clause [52.204-24](#) contains the representation: Offeror...“will” or “will not” not provide covered telecommunications equipment or services to the Government...)
- The prohibition on federal contractors ***using*** covered telecommunications equipment became [effective August 13, 2020](#) and applies ***“regardless of whether that usage is in performance of work under a Federal contract.”*** As a result, the University must provide a representation to the U.S. Government whether or not it is using covered telecommunications equipment or services (FAR clause [52.204-24](#)). And, there is a ***one business day*** reporting requirement upon identification of covered telecommunications equipment or services during contract performance (FAR clause [52.204-25](#)).

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Frequently Asked Questions about “use” of covered telecommunications equipment or services:

1. **My department, office or lab is not funded by the U.S. Government, do the prohibitions against using covered telecommunications equipment or services apply to my work at the University of Rochester?**
Yes, the prohibition on using covered telecommunications equipment or services applies regardless of whether the use is in performance of work under a Federal contract.
2. **If I have a personal cell phone that is covered telecommunications equipment (e.g. a Huawei phone), may I continue to use it?**
Do not use the cell phone for University work. However, you may use the cell phone for personal use.
3. **Does it matter if the equipment or service being used was purchased prior to the effective date of these laws / regulations?**
No, the prohibition on use of covered telecommunication equipment or services applies regardless of when the equipment was purchased or when the services were initiated.
4. **My department, or the University, has identified covered telecommunications equipment that was purchased for our departmental use. Are we responsible for replacing this equipment immediately?**
No, contact Mark Wright as noted above. The University will assess the action that needs to occur, and next steps will be determined and communicated.