

GENERAL SERVICES ADMINISTRATION  
Washington, DC 20405

ADM 5450.176  
August 28, 2020

GSA DELEGATION OF AUTHORITY

SUBJECT: Delegation of Authority for Granting Certain Agency-level Waivers to  
Section 889 of the John S. McCain National Defense Authorization Act for  
Fiscal Year 2019

1. Purpose. This Order delegates the authority and the responsibility for granting certain waivers identified by Section 889(d)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (pub. L. 115-232) to the GSA Senior Procurement Executive (SPE).

2. Background. Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Section 889) contains two prohibitions regarding covered telecommunications equipment or services (as defined at Section 889(f)(3)):

- Agencies may not “procure or obtain or extend or renew a contract to procure or obtain 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[.]” (Section 889(a)(1)(A))
- Agencies may not “enter into a contract (or extend or renew a contract) with an entity that uses 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” (Section 889(a)(1)(B))

Section 889(d)(1) states that:

The head of an executive agency may, on a one-time basis, waive the requirements under subsection (a) with respect to an entity that requests such a waiver. The waiver may be provided, for a period of not more than two years after the effective dates described in subsection (c), if the entity seeking the waiver—

(A) provides a compelling justification for the additional time to implement the requirements under such subsection, as determined by the head of the executive agency; and

(B) submits to the head of the executive agency, who shall not later than 30 days thereafter submit to the appropriate congressional committees, a full and complete laydown of the presences of covered telecommunications or video surveillance equipment or services in the entity's supply chain and a phase-out plan to eliminate such covered telecommunications or video surveillance equipment or services from the entity's systems.

The Section 889 waiver provision was implemented in the Federal Acquisition Regulation (FAR) at FAR § 4.2104. For executive agency waiver requirements, the FAR provides that an executive agency should utilize guidance, briefings, and best practices issued by the Office of the Director of National Intelligence (ODNI). FAR § 4.2104(a)(2)(iii).

ODNI provided guidance to executive agencies for use when evaluating the risk associated with granting a waiver. Specifically, the ODNI Strategic Supply Chain Security Guidance - Appendix C identifies "high risk" Product Service Codes (PSCs). If the procurement associated with a waiver request contains any "high risk" PSCs, ODNI has instructed that additional scrutiny and analysis should be undertaken before the waiver is granted.

3. Cancellation. N/A

4. Delegation of Authority. With respect to Section 889(d)(1), the General Services Administration (GSA) Administrator hereby delegates the authority to grant waivers to the Senior Procurement Executive, and take all necessary related actions, for all procurements not associated with any PSC listed in the ODNI Strategic Supply Chain Security Guidance - Appendix C. The GSA Administrator's authority to grant waivers for all procurements associated with any PSC listed in the ODNI Strategic Supply Chain Security Guidance – Appendix C is not delegated.

a. The SPE is authorized to re-delegate this authority to:

(1) The Commissioner and Deputy Commissioner of the Federal Acquisition Service (FAS);

(2) The Commissioner and Deputy Commissioner of Public Buildings Service (PBS);

(3) The Chief Administrative Services Officer.

b. Limitations on Re-delegation of this Authority. The FAS Commissioner, the FAS Deputy Commissioner, the PBS Commissioner, and the PBS Deputy Commissioner may re-delegate this authority one level.

5. Implementing Actions.

a. The changes outlined in this Delegation of Authority become effective upon signature.

b. The Chief Acquisition Officer and the SPE, in conjunction with the appropriate officials, will take the actions necessary to implement this Delegation of Authority.

6. Signature.

/S/  
EMILY W. MURPHY  
Administrator

August 28, 2020  
Date