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Subject: ACTION: Implementation of Prohibition on Certain Telecommunications Equipment or Services

TO THE ATTENTION OF DIVISION ADMINISTRATORS AND FINANCIAL MANAGERS

DUE DATE: EFFECTIVE IMMEDIATELY

Sent on behalf of the CFO

PURPOSE: To implement the requirements of 2 CFR 200.216 for funding obligated and expended through the Fiscal Management Information System (FMIS).

HCFA will separately provide this information to the acquisition workforce (all Contract Specialists and Contracting Officers) as well as those who have a Federal Acquisition certification to include Contracting Officer's Representatives (FAC-CORs), Program Managers (FAC-P/PM) and the purchase card community.

BACKGROUND: On August 13, 2018, the President signed the FY 2019 National Defense Authorization Act (NDAA). Section 889(b) prohibits Federal agencies, after August 13, 2020, from obligating or expending financial assistance to obtain certain telecommunications and video surveillance services and equipment from specific producers.

On January 22, 2020, the Office of Management and Budget (OMB) issued a Notice of Proposed Rulemaking that outlined revisions to 2 CFR 200, in part, to implement section 889 of the FY 2019 NDAA. Today, the Federal Register Notice issued the Final Rule and states that the amendment to 2 CFR 200.216 is effective on August 13, 2020.

The new 2 CFR 200.471 regulation provides clarity that the telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable for services and equipment from these specific providers. [OMB's Federal Register Notice](#) includes the new 2 CFR 200.216 and 2 CFR 200.471 regulations.

DISCUSSION: Effective today, recipients and subrecipients are 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) or enter into a contract to procure or obtain telecommunication or video surveillance equipment, services, or systems produced by:

- Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Since the FMIS Project Agreement Headers include language to emphasize that all 2 CFR 200 regulations are applicable, Division Offices or State DOTs do not need to add any language to FMIS project agreements specifically incorporating 2 CFR 200.216.

We are working with the Department to address a number of implementation issues on the scope and application of the rule and will provide additional information as it becomes available. In the meantime, please send any other potential implementation issues to the Financial Management and Policy Team Mailbox at FHWAFinancialMgmt@dot.gov.

ACTION: Effective immediately,

- (1) Division Offices should communicate this information to their State DOT to ensure they are aware of these new requirements and do not incur unallowable costs. Division Offices should also inform their State DOTs that these requirements apply to subrecipients.
- (2) Division Offices must not authorize or obligate project agreements, grant agreements, cooperative agreements, loans, or any other funding arrangements with State DOTs or other recipients unless they are in compliance with 2 CFR 200.216.
- (3) For existing project agreements, Division Offices must not approve Current Bill requests that are not in compliance with 2 CFR 200.216.

POINT OF CONTACT: Please contact Bob Eatmon, Acting Team Leader, Financial Management and Policy Team at Robert.Eatmon@dot.gov or at 720-879-1219, for any policy questions.