

CLIENT ALERT

Administration Seeks Delay in Extending Government Procurement Ban on Certain Chinese Telecommunications Equipment to Federal Contractors and Grant Recipients

June 12, 2019

Section 889 of the [NDAA for FY 2019](#) prohibits executive agencies from (1) procuring certain technologies from Huawei and other identified Chinese technology companies; (2) doing business with contractors that use those companies' products as a substantial component of their systems; and (3) using grant and loan funds to procure technology from those same sources. By [letter dated June 4, 2019](#), the Office of Management and Budget's (OMB) Acting Director submitted proposed legislation to Congress to delay the bans described at (2) and (3) above, to modify the ban in (3) to apply to any federal grant or loan recipient's use of the specified Chinese technology, and to specify an extended rulemaking process – including public meetings – to solicit input and potential mitigation solutions from affected parties. The first such [public meeting](#) has been scheduled for July 19, 2019. In a written explanation accompanying the proposed legislation, OMB acknowledges the practical challenges posed by the current schedule and the potential risk of a “dramatic reduction in the available industrial base,” either due to the cost of the regulatory burdens or because entities will decide that the commercial relationships are more valuable than complying with the Government's ban applicable to government contractors. In the interim, Huawei has sought expedited handling of its lawsuit (*Huawei Technologies USA, Inc. v. United States*, E.D.Tx 4:19-cv-0159) challenging this targeted procurement ban.

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