

CLIENT ALERT

GSA Requiring Mass Modification to MAS Solicitation and Will Issue Mass Bilateral Modifications to All Multiple Award Schedule Contracts to Prohibit Use of Huawei/ZTE Equipment

Aug.04.2020

Last week, the General Services Administration (“GSA”) announced its intention to initiate in August 2020 a mass modification to the GSA Multiple Award Schedule (“MAS”) solicitation to add the new FAR clause 52.204-25 prohibiting contractors from using goods or services using Huawei or ZTE (or their subsidiaries or affiliates’) telecommunications equipment or services. On August 13, 2020 two revised FAR clauses –a “Representation” clause, FAR 52.204-24 and a “Prohibition” clause, FAR 52.204-25 – will become effective August 13, 2020. See FAR Council Publishes 2019 NDAA Section 889(a)(1)(B) Interim Rule Further Prohibiting Use of Huawei, ZTE, and Others’ Telecommunications Technology by Contractors. GSA will provide contractors 90 days to accept the mass modification. GSA states orders may not be placed on a contract until the contract is modified to incorporate FAR clause 52.204-25.

The notice also alerts GSA MAS contractors to an upcoming bilateral modification applying the FAR covered telecommunications prohibition to existing MAS contracts. In 2019, when GSA issued a similar bilateral modification for the 2019 NDAA Section 889 (a)(1)(A) prohibition, GSA noted that it could cancel the contracts of those that did not accept the modification and provided 60 days to accept the bilateral modification.

GSA will host an industry webinar on the mass modification tomorrow, on August 5. Attendees must register. This August 5 webinar is in addition to the panel discussion scheduled for August 12 to discuss Section 889 implementation (questions for the panel are due by COB August 5). In commenting and evaluating the GSA’s modification approach, contractors should carefully consider the impact this change could have on their current contract. In particular, contractors should consider whether and how to seek a price increase before executing any bilateral modification, taking into account their contract-specific pricing and the potential additional contract administration costs associated with meeting the new clause requirements.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Lorraine M. Campos

Partner – Washington, D.C.
Phone: +1 202.624.2786
Email: lcampos@crowell.com

Adelicia R. Cliffe

Partner – Washington, D.C.
Phone: +1 202.624.2816
Email: acliffe@crowell.com

Alan W. H. Gourley

Partner – Washington, D.C.
Phone: +1 202.624.2561

Email: agourley@crowell.com

M. Yuan Zhou

Counsel – Washington, D.C.

Phone: +1 202.624.2666

Email: yzhou@crowell.com

Stephanie L. Crawford

Associate – Washington, D.C.

Phone: +1 202.624.2811

Email: scrawford@crowell.com