

RAIN-2020-G05

EPA Implementation of Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment and Termination Provisions from Office of Management and Budget Final Guidance ([85 FR 49506](#))

Notification Date: August 28, 2020

Effective Date: August 13, 2020

Purpose: This Recipient/Applicant Information Notice (RAIN) informs recipients and applicants of EPA's implementation of two Office of Management and Budget (OMB) Final Guidance requirements that became effective upon publication in the Federal Register on August 13, 2020: (1) Prohibition of Certain Telecommunication and Video Surveillance Services or Equipment and (2) Termination Provisions.

Summary: OMB revised 2 CFR 200 to align with section 889 of the National Defense Authorization Act for FY 2019 ([NDAA 2019](#)) which prohibits executive Agency heads from obligating or expending loan or grant funds to procure or obtain, extend, or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain the equipment, services, or prohibited systems identified in NDAA 2019. Effective August 13, 2020, OMB added a new section, 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, which prohibits Federal award recipients from using loan or grant funds to enter into contracts (or extend or renew contracts) with entities that use covered telecommunications equipment or services. This prohibition applies even if the contract is not intended to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services. These prohibitions extend to subrecipients including borrowers under EPA funded revolving loan programs as well as contributions to meet a required cost share under an EPA assistance agreement. The regulation allows EPA, subject to the availability of funds, to provide support to assist recipients transition from covered telecommunications and services.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in NDAA 2019 are recorded in the [System for Award Management](#) exclusion list.

OMB also revised 2 CFR 200.340(a)(2), *Termination*, to strengthen the ability of the Federal awarding agency to terminate Federal awards, to the greatest extent authorized by law, when the Federal award no longer effectuates the program goals or Federal awarding agency priorities. The intent of this change is to ensure that Federal awarding agencies prioritize ongoing support to Federal awards that meet program goals. EPA will implement this provision in a term and condition consistent with the guidance at 2 CFR 200.340(b). For instance, following the issuance of a Federal award, if evidence reveals that a specific award objective is ineffective at achieving program goals, it may be in the government's interest to terminate the Federal award. Further, additional evidence may cause the Federal awarding agency to significantly question the feasibility of the intended objective of the award, such that it may be in the interest of the government to terminate the Federal award. Other similar circumstances may indicate that termination under 2 CFR 200.340(a)(2) is warranted.

Action: Effective August 13, 2020, all EPA assistance agreement recipients must comply with the OMB revised regulation at [2 CFR 200.216](#) and are subject to the regulation at [2 CFR 200.340](#).

Special Note: 2 CFR 200.216 applies to EPA recipients and subrecipients obligations and expenditures on or after August 13, 2020. It is the sole responsibility of pass-through entities receiving EPA funds to communicate this requirement to their subrecipients including borrowers under EPA funded revolving loan fund programs. EPA does not have a direct relationship with subrecipients.

To fully implement these regulatory requirements, EPA has updated our [General Terms and Conditions](#).

EPA recipients should contact the Grants Specialist listed on their award document if they believe they need EPA support to transition from covered telecommunications equipment and services to comply with 2 CFR 200.216.

Related Resources:

[Frequently Asked Questions on the Prohibition on Covered Telecommunications and Video Surveillance Services or Equipment](#)