

Paul Ray, Acting Administrator
Office of Management and Budget
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, D.C. 20006

Dear Mr. Ray:

Pursuant to 5 CFR § 1320.13, the Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) request Office of Management and Budget (OMB) emergency approval of an Information Collection Requirement (ICR) to collect information to support implementation of Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year (FY) 2019 (Pub. L. 115-232), which prohibits the head of an executive agency from procuring or obtaining, or extending or renewing 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. This prohibition takes effect on August 13, 2019. The additional information that will be collected consists of the following: 1) a representation identifying whether covered telecommunications equipment or services will be present in an offer and, if so, detailed information about the use of such equipment or services; and 2) reporting if prohibited equipment, systems, and services are discovered during the performance of a contract. This information collection will be effected through a solicitation provision and a contract clause, included in the Federal Acquisition Regulation through publication of an interim rule.

Passage of section 889 reflects concern on the part of Congress that certain entities providing covered telecommunications equipment and services represent an unacceptable risk to Government information, information and telecommunication systems, and national security. The prohibition takes effect on August 13, 2019, and agencies are already planning for the purchase of equipment and services with anticipation that contracts will be awarded beyond this date. The information to be collected is necessary to ensure that this purchasing is done responsibly and consistent with national security.

In view of the foregoing, DoD, GSA, and NASA request emergency OMB approval for this ICR no later than July 31, 2019, to be effective immediately for the maximum period of 6 months. The collection of information is needed prior to the expiration of time periods established and is essential to the successful implementation of this national security effort.

Moreover, DoD, GSA, and NASA cannot comply with the normal clearance procedures because public harm is reasonably likely to result if current clearance procedures are followed. Agencies would be more likely to purchase the equipment, systems, and services in violation of the prohibition in section 889(a)(1)(A).

For these reasons, DoD, GSA, and NASA request a waiver under the requirements set forth in 5 CFR § 1320.13, for prior publication in the *Federal Register*, due to the urgent requirement to implement the Section 889 prohibition.


Going forward, and in response to public comments received in response to the interim rule, DoD, GSA, and NASA will take all practicable steps to consult with interested agencies and members of the public in order to minimize the burden of the collection of information. Such steps will include preparing a *Federal Register* notice in order to submit a permanent Information Collection Requirement.

If you have any questions, please contact William Clark, Director, Governmentwide Acquisition Policy, General Services Administration, at 202-834-6668 or email william.clark@gsa.gov.

Sincerely,

Kim Herrington
Acting Principal Director
Defense Pricing and Contracting
Department of Defense

Date


Allison Fahrenkopf Brigati
Deputy Administrator
U.S. General Services Administration

July 31, 2019
Date

Monica Y. Manning
Assistant Administrator
Office of Procurement
National Aeronautics and Space Administration

Date