



DEPARTMENT OF HEALTH AND HUMAN SERVICES

# OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



November 13, 2020

TO: All Medicaid Fraud Control Unit Directors

FROM: Alexis Crowley  
Grants Management Officer

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Date: 2020.11.13 10:50:12  
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SUBJECT: Prohibition on Federal Funding of Certain Telecommunication & Video Surveillance Services or Equipment; 2 CFR § 200.216

## Purpose

A new provision of Federal law and regulation prohibits, for national security reasons, Federal agencies and Federal awardees from obligating or expending Federal award funds on certain telecommunications products and contracting with certain entities. The new regulation, found at 2 CFR § 200.216, applies to grant awards issued after August 13, 2020, and thus applies to the Federal Fiscal Year 2021 and future Medicaid Fraud Control Unit (MFCU) awards.

OIG and other Federal awarding agencies have been directed to provide guidance on the new requirement and include a term and condition as part of the Notice of Award for grant recipients.

## Guidance

Grant recipients are responsible for ensuring they are in compliance with the new requirement. To ensure compliance, we recommend and encourage each of the MFCUs to:

- Determine through reasonable inquiry whether your organization currently uses “covered telecommunications” equipment, services or systems, especially with respect to surveillance equipment.
- Take necessary actions to comply with the regulation as quickly as is feasibly possible.
- To the extent that purchasing decisions are made at the Office of Attorney General or other parent agency level, communicate and consult with the information technology and procurement officials in those agencies to ensure due diligence and to verify compliance.
- To the extent that the MFCU makes its own purchasing decisions, establish internal controls and a plan for ensuring compliance.

OIG has amended the Terms and Conditions of the MFCU FY 2021 award [here](#) and as outlined below.

### **General Term and Condition**

#### Prohibition on certain telecommunications and video surveillance equipment or services

As described in 2 CFR § 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain, or
- (3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment or services means any of the following:
  - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
  - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

If you have questions about the information in this memo, please contact Alexis Crowley at [alexis.crowley@oig.hhs.gov](mailto:alexis.crowley@oig.hhs.gov) and the program analyst assigned to your State.