

Top 6 Section 889 Myths

Section 889 restrictions impact nearly every US government contractor. Altana AI can reduce the compliance burden.

Introduction

Section 889 refers to the Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment which is part of the 2019 National Defense Authorization Act ("NDAA"). Section 889 restricts the US government's procurement and use of certain Chinese telecommunication equipment and services as a means to protect national security.

There are two prohibitions under Section 889 - Parts A and B. Part A ("the purchase provision") bans the US government from purchasing telecommunications and video surveillance equipment or services manufactured or provided by specific Chinese companies and their subsidiaries or affiliates. Part B ("the use provision") bans government agencies from contracting with companies 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 unless a waiver is obtained or an exception applies.

Myth 1: Section 889 restriction only applies to five Chinese companies.

Part A restricts the US government from procuring or obtaining products or services produced by or incorporating telecommunications equipment/technology/services from five specified companies: Huawei Technology Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company. However, the ban also applies to "any subsidiary or affiliate" of these five companies as well as any entity reasonably believed to be owned, controlled by, or connected to the Chinese government. This effectively expands the ban to hundreds of entities, some of which may not even be registered or based in China. Furthermore, the Department of Defense has authority to add to or amend this list..

Part B only applies only to the prime contractor as per this Department of Defense memo. This means the prime is prohibited from using covered equipment/technology/services from the five specified companies, their subsidiaries or affiliates, and any entity linked to the Chinese government in their operations. However, the prohibition does not apply to their subcontractors unless the covered products or services used by the prime contractor are ultimately passed on to the US government.



Myth 2: The ban only applies to new government contracts.

It is true that the Section 889 restrictions do not apply to existing contracts. However, it does apply to all new government contracts, as well as any extensions and options.

Myth 3: An existing government contractor later discovers the use of prohibited technology in their supply chain. There is nothing to worry about since they didn't use prohibited technology in their goods/services when the contract was awarded.

If a contractor determines that the products/services being provided to the US government incorporates any covered technology, they must immediately respond affirmatively to the [FAR 52.204-24](#) certification and provide the necessary additional information. They must also determine whether the incorporated technology makes up a "substantial or essential" part of the product.

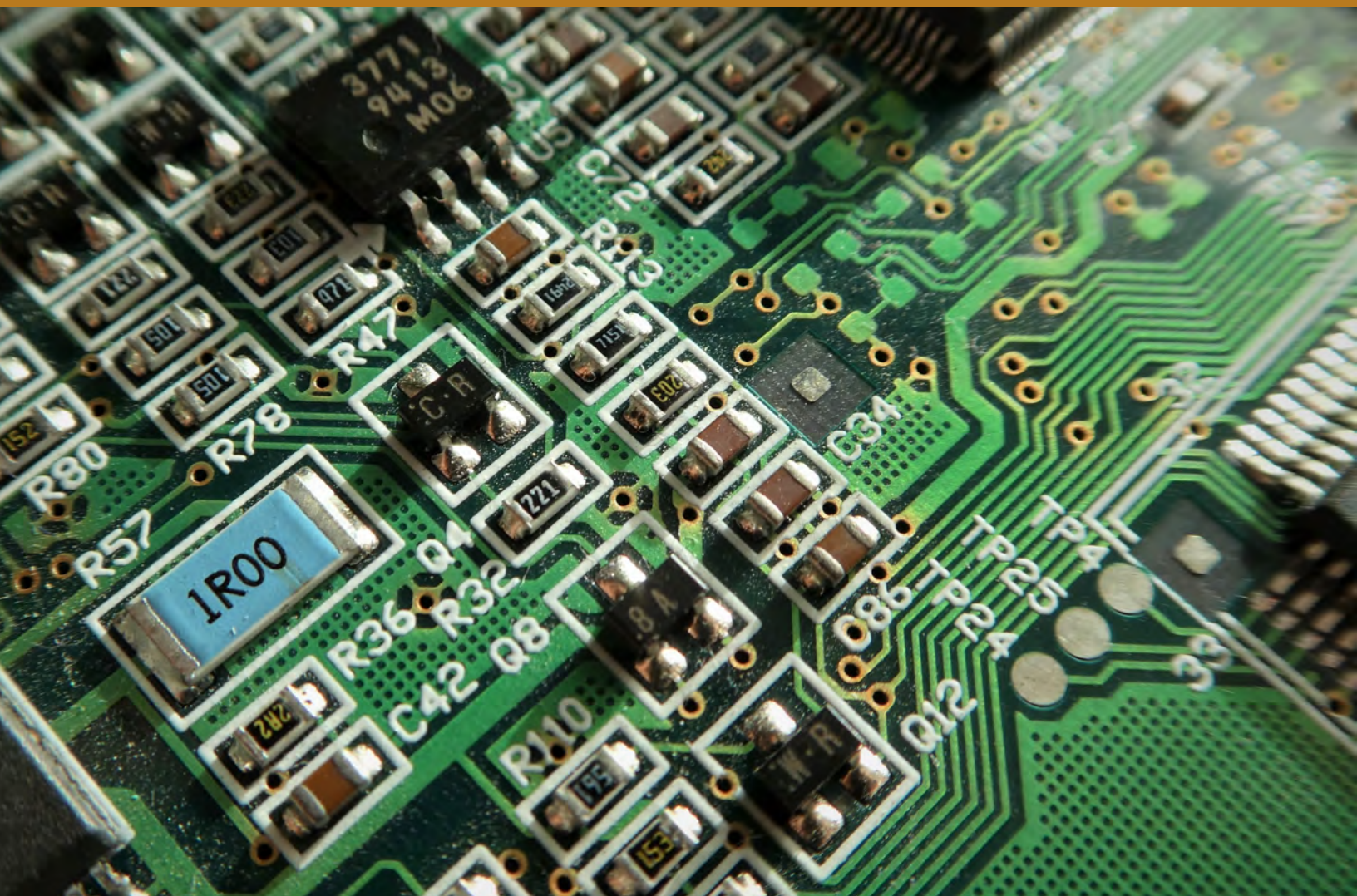
Myth 4: The restriction only applies to a contractor's US operations.

The prohibition applies to a contractor's use of covered equipment or services anywhere in its operations worldwide, regardless of whether that use is in performance of work under a Federal contract or not.

Myth 5: The Section 889 ban only applies to major-purchase contracts.

The Section 889 ban applies to all US government procurements including micro-purchases (those less than \$10,000 USD) even though the representation provision ([FAR 52.204-24](#)) and the reporting clause ([FAR 52.204-25](#)) are not required to support them.

Even if a contractor doesn't have any direct arrangements with any of the five named companies, their suppliers or their suppliers' suppliers may.



Myth 6: The restriction only applies to a contract if the contractor is using covered equipment/services to perform a US government contract.

The Part B prohibition on “use” is regardless of whether that usage is in performance of work under a Federal contract or not. The government cannot contract with a company that uses prohibited covered technology even if the equipment or services are not being used to perform a government contract. A contractor’s use of prohibited equipment or services, regardless of whether under a government contract or not, will trigger the need for an affirmative representation for new awards, extensions and options.

Know Your Supply Chain with Altana AI

Government contractors need confidence that covered technology does not exist in their supply chains. However, they can’t be certain nor can they eliminate non-compliant behaviors if they can’t see them. The ambiguity and complexity of the new Section 889 restrictions render traditional compliance methods inefficient. They require unprecedented visibility into supply chains networks and corporate affiliations. Altana can ease the compliance burden by programmatically constructing extended supply chain network visibility so contractors won’t have to manually monitor legislation for changes or manually track all the entities involved in their complex global supply chains.

Altana can help ensure and maintain Section 889 -

- **Extended supply chain visibility** - The Altana Atlas can programmatically construct a company’s global supply chain for visibility beyond direct tier 1 suppliers. Even if a contractor doesn’t have any direct contracts, agreements, or affiliations with any of the five named companies or the Chinese government, their suppliers or their suppliers’ suppliers may.
- **Complement existing processes** - An Altana Atlas search can complement supplier questionnaire processes to ensure none of the banned entities have an ownership stake in any suppliers, supply chain partners, or their “subsidiaries and affiliates”.
- **Reduce compliance costs** - Altana reduces the manual effort involved in researching and confirming supply chain networks and ownership.
- **Dynamic oversight** - Use the Altana Atlas to employ regular supply chain screening for immediate visibility as additional companies are added to the list of banned companies.



Altana AI was formed by leaders in supply chain artificial intelligence with a mission to improve global commerce. Altana helps governments, enterprises, and financial institutions build safe, lawful, inclusive, and resilient supply chains. Without pooling sensitive data, Altana's customers gain global supply chain visibility and shared risk intelligence through the Altana Atlas - a shared artificial intelligence model of the global supply chain.

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