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On Aug. 12, Director of National Intelligence John Ratcliffe granted the Pentagon a temporary waiver to the prohibitions under Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019^[1] to further assess a broader waiver request from the U.S. Department of Defense (DOD).

Section 889 has been a source of considerable concern for federal contractors^[2] that found the requirements unclear, overly burdensome, and—given the COVID-19 pandemic—difficult to implement by the Aug. 13 deadline.

“The thought that somebody in six or seven levels down in the supply chain could have one camera in a parking lot and that would invalidate one of our major primes being able to do business with us gives us a bit of pause,” Under Secretary of Defense for Acquisition and Sustainment Ellen Lord testified^[3] before a June 10 House Armed Services Committee hearing.

Under Secretary Lord requested a waiver for end-of-year essential services such as supplies, equipment, food, clothing, transportation, care and support necessary to execute the DOD mission. In the Aug. 12 memo^[4] to Lord, Ratcliffe granted the waiver until Sept. 30, 2020, and asked that Lord provide the following information so that subject matter experts can determine whether the waiver should be extended or otherwise altered:

1. “Demonstrate an understanding of the potential increased risks;”
2. “Describe specific mitigation measures in place to address such risks; and”
3. “Describe a committed plan to seeking alternatives to contracting with entities that use prohibited goods and services.”

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