

April 15, 2020

TO THE MEMBERS OF THE UNITED STATES CONGRESS:

Our organizations, which represent nearly every sector of the American economy, urge Congress to defer the implementation date of section 889(a)(1)(B) of the National Defense Authorization Act for Fiscal Year 2019 (P.L. 115–232), commonly referred to as part B, to no earlier than August 13, 2021. Part B is expected to take effect on August 13, 2020.

The business community and government have a joint interest in protecting the supply chains of agencies, such as the Department of Defense, and companies (including the industrial base and small business suppliers) from U.S. adversaries. Our groups have ongoing concerns about the sweeping, unclear compliance language in part B. We want to resolve the uncertainties in the requirements in collaboration with lawmakers and agency officials before the law goes into effect in four months. But resolving these concerns via formal comments and related advocacy has not been possible because the rule to implement part B has not been released for public comment.

Part B bans agencies from contracting with a provider that “uses” (a term that is not clearly defined in law or regulation) any covered equipment or service in its supply chains, even if the provider does not know the covered technology is being used for governmental or commercial work. As a result, U.S. providers will be barred from supplying essentially any service or good, such as personal protective equipment, to agencies. Part B will lead to a dramatic reduction in supplies to the government.

If part B is implemented as written, many businesses with international and domestic operations will be forced to halt their work providing key products and services to agencies, including equipment that is needed to fight the coronavirus pandemic today and in the coming months. Even small and midsize businesses with mostly domestic footprints will be negatively affected by part B owing to the interconnected nature of trade and supply chains. Given the ongoing nature of the rulemaking process for part B, and the challenges posed to the public and private sectors by the coronavirus pandemic, both policymakers and businesses have a shared interest in modifying the implementation schedule.

Our organizations believe that the business community and policymakers want to avoid disruptions to agencies’ contracting operations and mission areas, particularly at a time when the U.S. faces serious challenges from the coronavirus. The effective date of part B should be postponed until at least August 13, 2021, to ensure that businesses can adequately respond to the coronavirus pandemic and recover from its effects; policymakers can achieve their security goals with modest interruption to the supplier community; and our associations have time to work with Congress and agencies to make part B achievable.

We look forward to continuing to work with you to reduce risks to our nation’s supply chains and mitigate the coronavirus pandemic.

Sincerely,

Aerospace Industries Association (AIA)  
Alliance for Automotive Innovation  
American Automotive Policy Council (AAPC)  
Computing Technology Industry Association (CompTIA)  
Information Technology Industry Council (ITI)  
National Defense Industrial Association (NDIA)  
Motor & Equipment Manufacturers Association (MEMA)  
Security Industry Association (SIA)  
Semiconductor Industry Association  
U.S. Chamber of Commerce