

Obtaining an 889

Background

- Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019 contains two prohibitions related to Federal Contracting: • The first prohibition, set forth in Section 889(a)(1)(A), took effect August 13, 2019 to prohibit the Government from procuring and obtaining any equipment, system or service that uses covered telecommunications equipment or services from five named Chinese companies and their subsidiaries or affiliates. This prohibition is implemented in Federal Acquisition Regulation (FAR) 4.2102.
- The second prohibition, set forth in Section 889 (a)(1)(B), which became effective August 13, 2020, prohibits the Government from contracting with any entity that uses 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, unless an exception applies, or a waiver has been granted. This prohibition was implemented through interim FAR rule 2019-009. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

How To:

1. Go to [GSA 889 Representations Tool](#) Check to see if an entity has a section 889 representation in SAM.gov. Search by business name, website, CAGE code, or SAM.gov Unique Entity ID

Or

2. Utilize the form on our site and have the vendor fill it out.

Air Force NAF P-Card Use of Covered Telecommunications Equipment or Services Representation

Section 1 – References

1. USD DTM 22-002 Nonappropriated Fund Procurement Implementation of Section 889 of NDAA FY19
2. Air Force NAF Purchase Card Program Interim Policy Memorandum Mar 2023

Section 2 – Merchant Representation

After conducting a reasonable inquiry, for purposes of this representation, the Merchant represents that it—

- does does not use covered telecommunications equipment or services, or use 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.

Merchant Name _____

Merchant Authorized Rep Name _____

Merchant Authorized Rep Signature _____

Date Signed _____

Section 3 - Instructions

- A. Cardholder (CH) provides this representation document to the merchant to complete, sign, and return to the CH.
- B. Merchant verifies the list of prohibited companies fills out Section 2 above and returns the form to the CH.

Procedures for Merchant: review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) or on the GSA SmartPay website (<https://smartpay.gsa.gov/content/prohibited-vendor-list>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”. Conducting business with merchants who use telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities); 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) is strictly prohibited.

- C. If a merchant represents “does not” the CH can rely on the representation and make the purchase
- D. If a merchant represents "does" or the merchant declines to complete the representation, the CH shall not make the purchase with that merchant. CH must find an alternate merchant that represents "does not" The following NAF PC transactions are exempt as these transactions are payments, not purchases.
 1. Contract Payment Official - use of the NAF PC as a payment method only
 2. Inter/Intra-Governmental Payments - (ex. DLA Document Services, NSN items using FedMall)
 3. Training Payments
- E. Retain all documentation that supports this representation.