



UNITED STATES DEPARTMENT OF COMMERCE  
Chief Financial Officer and  
Assistant Secretary for Administration  
Washington, D.C. 20230

## PROCUREMENT MEMORANDUM 2021-02-Revised

### ACTION

**MEMORANDUM FOR:** Bureau Procurement Officials

**FROM:** *for:* Barry E. Berkowitz  
Senior Procurement Executive  
and Director for Acquisition Management

**SUBJECT:** Purchase Card Guidance for the Implementation of the Section 889(a)(1)(B) Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment

### 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.

### Purpose

The purpose of this memorandum is to provide guidance to purchase cardholders to facilitate implementation of the interim FAR rule 2019-009, published on July 14, 2020, that implements prohibitions contained in Section 889(a)(1)(B) of the NDAA for Fiscal Year 2019.

### Interim Rule Requirements

Effective August 13, 2020, Federal agencies are prohibited from **contracting with** any entity that uses equipment, systems, or services 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 an exception applies, or a waiver has been granted.

The interim rule requires offerors, after conducting a reasonable inquiry, to provide a representation regarding use of covered telecommunications equipment or services when submitting an offer.

### **Applicability**

The interim rule applies to all procurements at all dollar values including micro-purchases made using purchase cards. The provisions and clauses of interim rule FAR 52.204-24 are the authority requiring vendors to make representations when submitting an offer. However, per FAR 13.201(d), micro-purchases do not require provisions or clauses. Therefore, purchase cardholders are not required to obtain from vendors the Section 889 representation clauses and reporting provision found in interim rule FAR 52.204-24 regarding the use of covered equipment/services. Regardless, cardholders are still responsible for ensuring their purchases are compliant with Section 889 by taking the required actions below.

### **Required Actions**

Purchase cardholders must comply with the following when making purchases on the purchase card:

- **Government Mandatory Sources:** To the maximum extent practicable, cardholders must satisfy requirements for supplies and services from the Government mandatory sources listed in FAR 8.002 and 8.003.
- **Non-Mandatory Sources:** If cardholders are unable to satisfy requirements for supplies and services from the Government mandatory sources listed in FAR 8.002 and 8.003, cardholders must satisfy requirements from or through the non-mandatory sources listed in CAM 1313.301, Sections 6.9d and 6.10, before considering open market sources.
  1. Federal supply schedules,
  2. Governmentwide acquisition contracts,
  3. Multi-agency contracts,
  4. Federal strategic sourcing initiative (FSSI) vehicles, and
  5. Department of Commerce strategically sourced vehicles.

**NOTE:** All purchase card purchases of telecommunication equipment and services and video surveillance equipment must still comply with the requirements of Procurement Memorandum 2019-04.

- Open Market Sources:

Beta.SAM.gov Vendor Search. If products or services cannot be purchased from a Government mandatory source or a non-mandatory source listed above, cardholders should search Beta.SAM.gov to determine if the proposed open market source has a Section 889 representation. Note: If using a third-party processor such as PayPal, Groupon, or Amazon Marketplace, cardholders must search for the name of the seller, not the third-party processor.

1. If the proposed vendor has a section 889 representation in Beta.SAM.gov which states that: (i) the vendor **“does not”** provide covered telecommunications equipment/services as part of its offered products/services **and** (ii) the vendor **“does not”** use covered telecommunications equipment services or any equipment system or service that uses covered telecommunications equipment or service; then the cardholder can make the purchase from the proposed vendor and document his/her file with a copy of the Beta.SAM.gov representation.
2. If the proposed vendor does not have a Section 889 representation in Beta.SAM.gov **or** has a representation which states that: (i) the vendor **“does”** provide covered telecommunications equipment/services as part of its offered products/services **or** (ii) the vendor **“does”** use covered telecommunications equipment services or any equipment system or service that uses covered telecommunications equipment or service; then **cardholders must comply with the following:**
  - a. Information Technology (IT) Purchases. **Cardholders must refer all information technology purchases to their cognizant servicing acquisition office for purchase by contract.**
  - b. Purchases Other than Information Technology. Cardholders must document their files with the market research conducted including the non-mandatory sources considered before completing the purchase.

Cardholders should work with their bureau’s Office of Chief Information Officer if they have questions regarding whether an item is considered IT or non-IT.

### **Definition**

Information Technology (IT) means computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including cloud computing, maintenance and help-desk services or other professional services that support any point of the life cycle of the equipment or service), and related services and resources. This term also refers to any equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage,

analysis, evaluation, manipulation, management, movement, control, display, switching, transmission, or reception of data or information by the agency. Examples of such technology include (1) **all smart technology** such as watches, calculators, electronic measuring devices, virtual assistants, devices with Bluetooth connectivity, such as headphones; (2) desktop and laptop computer equipment; readily portable computer peripheral devices, tablet computers; (3) portable music player; (4) televisions; DVD players; and digital cameras; (5) mobile or cellular phones.

**Effective Date**

This Procurement Memorandum is effective immediately and remains in effect until it is otherwise rescinded or superseded.

Please direct any questions regarding this Procurement Memorandum to [OAM\\_Mailbox@doc.gov](mailto:OAM_Mailbox@doc.gov).

Attachment A – SOP beta.SAM.gov

**Department of Commerce**  
**Standard Operating Procedure**  
**SAM.gov Representations and Certifications**  
**Section 889 Search**

**Purpose:** The purpose of this Standard Operating Procedure (SOP) is to provide instructions to assist cardholders with searching for vendor Section 889 Representations before making purchases from open market sources. Steps to Search SAM.gov:

1. Go to [SAM.GOV](https://sam.gov)
2. Select Search Records

The screenshot shows the SAM.gov website interface. At the top left is the SAM.GOV logo. To the right is a yellow banner with the text: "A NEW WAY TO SIGN IN - If you already have a SAM account, use your SAM email for login.gov." and a "Log In" button. Below the banner is a navigation menu with links: HOME, SEARCH RECORDS, DATA ACCESS, CHECK STATUS, ABOUT, and HELP. A "Login.gov FAQs" link is also present. Below the navigation menu is a section for alerts, each preceded by a red triangle icon. The alerts include information about scheduled maintenance, RRF participation requirements, registration expiration extensions, and SVOG application requirements. Below the alerts is a section titled "The System for Award Management (SAM) is an official website of the U.S. government. There is no cost to use SAM. You can use this site for FREE to:" followed by a bulleted list of services: Register to do business with the U.S. government, Update or renew your entity registration, Check status of an entity registration, and Search for entity registration and exclusion records. At the bottom is a "Getting Started" section with three columns: "Create A User Account" with a person icon, "Register Entity" with a folder icon, and "Search Records" with a magnifying glass icon. A blue arrow points to the "Search Records" icon. Below the "Search Records" column, it states: "Do a public search for existing entity registration records or exclusion records. Federal users can log in to see additional information."

3. Enter name of company or DUNS under “**Quick Search**” and click Search

**SAM.GOV**

A NEW WAY TO SIGN IN - If you already have a SAM account, use your SAM email for login.gov. **Log In** [Login.gov FAQs](#)

HOME SEARCH RECORDS DATA ACCESS CHECK STATUS ABOUT HELP

ALERT: SAM.gov will be completely unavailable due to scheduled maintenance from Friday, May 21 at 4:00 PM EST through Monday, May 24 at 9:00 AM EST as it is upgraded to the modernized environment. [Learn more.](#)

ALERT: Small business owners who seek to participate in the Restaurant Revitalization Fund (RRF) will not be required to have a DUNS Number, will not need to register in SAM.gov, and will not need a CAGE Code. SBA will share more information on the RRF soon. Visit [SBA](#) to stay informed.

ALERT: Each entity registration expiring between April 1 and September 30, 2021 will have an additional 180 days added to its expiration date. Read more about the extension on [Interact](#).

ALERT: SAM.gov will be down for scheduled maintenance Saturday, 05/15/2021 from 8:00 AM to 1:00 PM.

ALERT: Shuttered Venue Operators Grant (SVOG) Applicants - Applicants for relief under the SVOG program are required to register in SAM.gov. If you have submitted your SAM.gov registration, but the registration is not yet active, you can still apply for relief under the SVOG program. During the SVOG application process, you will have to attest that you have submitted your SAM.gov registration. To stay informed, please visit [SBA](#).

### Search Records

**Search Tips to Get Started:**

- Looking for entity registration records or entity exclusion records in SAM? Use **Quick Search** if you know an entity's Business Name, DUNS Number or CAGE Code. Use **Advanced Search** to structure your search using multiple categories and criteria.
- Are you a Federal government employee? Create a SAM user account with your government e-mail address and log into SAM before searching to see FOUO information and registrants who chose to opt out of the public search.
- Conducting small business-focused research? In addition to what is contained in SAM, small businesses can provide the Small Business Administration (SBA) supplemental information about themselves. Use the [SBA's Dynamic Small Business Search](#) to conduct further market research.
- Trying to find a contractor participating in the Disaster Response Registry? Use the **Disaster Response Registry Search** to locate contractors willing to provide debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief services in the event of a national disaster.

**Choose Quick Search or Advanced Search**

**QUICK SEARCH:**

apple inc.

APPLE, INC  
Apple Inc.

Enter DUNS number ONLY

CAGE Code Search: Enter CAGE code ONLY

**SEARCH** Need Help?

**ADVANCED SEARCH:**  
Use specific criteria in multiple categories to structure your search.

**ADVANCED SEARCH - ENTITY**

**ADVANCED SEARCH - EXCLUSION**

**DISASTER RESPONSE REGISTRY SEARCH**

4. Verify under the “**Search Results**” that the DUNS and/or name of company is correct and select the company.
  - a. If the proposed vendor is not registered in SAM.gov, refer to Procurement Memorandum 2021-02 to determine how to proceed with the purchase.

## 5. Select the View Details for Vendor:

Total records: 258 Save PDF Export Results Print

Result Page: [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [NEXT](#) Sort by: Relevance Order by: Descending

**FILTER RESULTS**

**By Record Status**

Active

Inactive

**By Record Type**

Entity Registration

Exclusion

Apply Filters

Your search for Apple Inc.\* returned the following results...

|  |                                    |
|--|------------------------------------|
| <b>Entity</b> Apple Inc.                   | Status: <b>Active</b>              |
| DUNS: <b>060704780</b>                     | CAGE Code: <b>58839</b>            |
| Has Active Exclusion?: <b>No</b>           | DoDAAC: <span>View Details</span>  |
| Expiration Date: <b>03/13/2022</b>         | Debt Subject to Offset?: <b>No</b> |
| Purpose of Registration: <b>All Awards</b> |                                    |


|  |                                    |
|--|------------------------------------|
| <b>Entity</b> APPLE TRANSFER INC           | Status: <b>Active</b>              |
| DUNS: <b>619785900</b>                     | CAGE Code: <b>4QQC0</b>            |
| Has Active Exclusion?: <b>No</b>           | DoDAAC: <span>View Details</span>  |
| Expiration Date: <b>08/27/2021</b>         | Debt Subject to Offset?: <b>No</b> |
| Purpose of Registration: <b>All Awards</b> |                                    |

|  |                                    |
|--|------------------------------------|
| <b>Entity</b> APPLE TRANSFER INC           | Status: <b>Active</b>              |
| DUNS: <b>619785900</b>                     | CAGE Code: <b>5MCX1</b>            |
| Has Active Exclusion?: <b>No</b>           | DoDAAC: <span>View Details</span>  |
| Expiration Date: <b>08/27/2021</b>         | Debt Subject to Offset?: <b>No</b> |
| Purpose of Registration: <b>All Awards</b> |                                    |

|  |                                    |
|--|------------------------------------|
| <b>Entity</b> APPLE TRANSFER INC           | Status: <b>Active</b>              |
| DUNS: <b>619785900</b>                     | CAGE Code: <b>1ELR1</b>            |
| Has Active Exclusion?: <b>No</b>           | DoDAAC: <span>View Details</span>  |
| Expiration Date: <b>08/27/2021</b>         | Debt Subject to Offset?: <b>No</b> |
| Purpose of Registration: <b>All Awards</b> |                                    |



6. Select "Reps & Certs":

**SAM.GOV** A NEW WAY TO SIGN IN - If you already have a SAM account, use your SAM email for login.gov. **Log In** [Login.gov FAQs](#)

HOME SEARCH RECORDS DATA ACCESS CHECK STATUS ABOUT HELP

**ALERT:** SAM.gov will be completely unavailable due to scheduled maintenance from Friday, May 21 at 4:00 PM EST through Monday, May 24 at 9:00 AM EST as it is upgraded to the modernized environment. [Learn more.](#)

**ALERT:** Small business owners who seek to participate in the Restaurant Revitalization Fund (RRF) will not be required to have a DUNS Number, will not need to register in SAM.gov, and will not need a CAGE Code. SBA will share more information on the RRF soon. Visit [SBA](#) to stay informed.

**ALERT:** Each entity registration expiring between April 1 and September 30, 2021 will have an additional 180 days added to its expiration date. Read more about the extension on [Interact](#).

**ALERT:** SAM.gov will be down for scheduled maintenance Saturday, 05/15/2021 from 8:00 AM to 1:00 PM.

**ALERT:** Shuttered Venue Operators Grant (SVOG) Applicants - Applicants for relief under the SVOG program are required to register in SAM.gov. If you have submitted your SAM.gov registration, but the registration is not yet active, you can still apply for relief under the SVOG program. During the SVOG application process, you will have to attest that you have submitted your SAM.gov registration. To stay informed, please visit [SBA](#).

**Entity Dashboard** Apple Inc. 1 Apple Park Way  
DUNS: 060704780 CAGE Code: 58839 Cupertino, CA, 95014-0642, UNITED STATES  
Status: Active  
Expiration Date: 03/13/2022  
Purpose of Registration: All Awards

Entity Overview

- Entity Overview
- Entity Registration
  - Core Data
  - Assertions
  - Reps & Certs**
  - POCs
- Exclusions
  - Active Exclusions
  - Inactive Exclusions
  - Excluded Family Members

RETURN TO SEARCH

**Entity Registration Summary**

Name: Apple Inc.  
Doing Business As: Apple  
Business Type: Business or Organization  
Last Updated By: Katherine Klass  
Registration Status: Active  
Activation Date: 03/16/2021  
Expiration Date: 03/13/2022

**Exclusion Summary**

Active Exclusion Records? No



## 7. Click & Download FAR Report:

The screenshot displays the SAM.gov Entity Dashboard for Apple Inc. The dashboard includes a navigation menu with options like HOME, SEARCH RECORDS, DATA ACCESS, CHECK STATUS, ABOUT, and HELP. A yellow banner at the top right promotes a new sign-in method using SAM email. The main content area features several alerts regarding system maintenance and registration requirements. The Entity Dashboard section shows Apple Inc.'s details, including DUNS number (060704780), CAGE Code (58839), and status (Active). A sidebar on the left lists navigation options such as Entity Overview, Registration, Exclusions, and Excluded Family Members. The main content area is titled 'Review Representations & Certifications' and contains a 'Review FAR/DFARS Reprs and Certs' button. Below this, a dropdown menu is set to 'Current Record', and a 'VIEW HISTORICAL RECORD' button is visible. A yellow box highlights the 'FAR Report' link, with a blue arrow pointing to it. The 'FAR & DFARS Report' section contains a certification statement and a list of FAR and DFARS provisions to be reviewed.

**Entity Dashboard**

Apple Inc.  
DUNS: 060704780 CAGE Code: 58839  
Status: Active  
Expiration Date: 03/13/2022  
Purpose of Registration: All Awards

1 Apple Park Way  
Cupertino, CA, 95014-0642,  
UNITED STATES

- Entity Overview
- Entity Registration
  - Core Data
  - Assertions
  - Reps & Certs
  - POCs
- Exclusions
  - Active Exclusions
  - Inactive Exclusions
  - Excluded Family Members

RETURN TO SEARCH

Review Representations & Certifications

Review FAR/DFARS Reprs and Certs

Current Record

**FAR Report** FAR & DFARS Report

I have read each of the FAR and DFARS provisions presented on this page. By submitting this certification, I, Katherine Klass, am attesting to the accuracy of the representations and certifications contained herein, including the entire NAICS table. I understand that I may be subject to criminal prosecution under Section 1001, Title 18 of the United States Code or civil liability under the False Claims Act if I misrepresent Apple Inc. in any of these representations or certifications to the Government.

**READ ONLY PROVISIONS - The following FAR and DFARS provisions are provided for you to read. They do not require completion of any data. Select the provision number to expand and review the full text. When certifying to the information on this page, you are also certifying that you have read each one of these provisions.**

[FAR 52.203-11](#): Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

[FAR 52.203-18](#): Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation

[FAR 52.209-10](#): Prohibition on Contracting with Inverted Domestic Corporations.

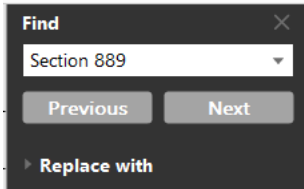
[FAR 52.212-5](#): Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items.

[FAR 52.219-6](#): Compliance with Environmental Employment Reporting Requirements

8. Report will open automatically in PDF format to review the company searched:

|  |
|--|
| <b>FAR Report</b>  |
| <b>Certification for: Apple Inc.</b>                             |
| <b>DUNS: 060704780</b>   |
| <b>Certification Validity From: Sat Mar 13 12:02:11 EST 2021</b> |
| <b>To : Sun Mar 13 12:02:11 EDT 2022</b>                         |

9. Locate (Control F in Adobe and type 889) “**Section 889**” and select Next.



10. Under (2) (i) and (ii) identify if “does” or “does not” is selected

(v) Covered Telecommunications Equipment or Services - Representation. Section 889(a)(1) and Section 889(a)(1)(B) of Public Law 115-232.

(1) The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(2) The Offeror represents that-

(i) It [ ] does [X] **does not** provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(ii) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it [ ] does, [X] **does not** use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

11. **Final Step:** Refer to Procurement Memorandum 2021-02 Revised to determine how to proceed with the purchase.

## Section 889 Representations for eMarketplace Vendors:

The Department of Commerce is participating in the GSA eMarketplace Pilot. Section 889 Representations for eMarketplace vendors: Amazon, Overstock, and Fisher Scientific are available on the SmartPay3 website at:

<https://www.commerce.gov/oam/policy/smartpay-3>. Note: The representations are for items sold and shipped by the actual eMarketplace vendor (e.g. Amazon, Fisher Scientific, Overstock) not items from third party vendors. Cardholders must use the steps outlined in this document to search for Representations for items sold by third party vendors on the marketplace.