6-3. National Defense Authorization Act Section 889 Representation

a. Effective August 13, 2020, FAR Case 2018-017 amends the FAR to implement section 889(a)(1(B) of the John S. McCain NDAA for Fiscal Year 2019 which prohibits Federal agencies from purchasing products or services from entities that use covered equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, regardless of whether that usage is in performance of work under Federal contract. DPCAP 889 Memorandum dated September 9, 2020 requires recording of specific 889 designations in the bank's EAS for **all** GPC transactions. DPCAP GPC Memorandum dated June 29, 2022 provides further guidance on completing the required fields. CHs must record 889 Designation information in the bank's EAS.

b. **889 Representation**. Federal law requires CHs to obtain a current 889 representation for each transaction and to include the representation with their transaction documentation. The representation contains the language from FAR 52.204-26, Covered Telecommunications Equipment or Services- Representation. CHs may obtain the vendor's 889 representation by using one of the following methods:

1) Search for vendor on the 889 GSA Easy Search Tool: https://889.smartpay.gsa.gov/.

2) Use the robotic process automation (RPA) tool to search SAM.gov. Send an email to info@section889request.com with the vendor's Unique Entity ID (UEI) or Cage code in the subject line. Do not include any text in the body of the email. The RPA will return an email with the vendor's FAR 52.204-26 language, if applicable.

3) Log into the System for Award Management (SAM.gov) website. Locate the vendor's entity registration and review FAR 52.204-26, under Reps and Certs.

4) Use the vendor's completed 889 representation form. The form must be dated and signed. Completed forms are valid for 1 year after date of signature unless the vendor updates their systems at which time the vendor will need to fill out a new 889 form.

c. The requirement to obtain an 889 representation does not apply under the following conditions:

1) Contract payments. When the GPC is used as a method of payment against a contract, the Contracting Officer is responsible for ensuring compliance prior to award.

2) Inter/intra-governmental payments.

3) SF 182 individual training payments.

4) Fraudulent (external) transactions.

5) Fees (e.g., convenience check fees).

6) Refunds and transaction credits/discounts.

d. Pursuant to DoD policy, bank EAS entries must indicate how the vendor's 889 representation was obtained. For 100% of transactions, CH must enter appropriate 889 designation in the bank's EAS. CHs must enter one of the allowable codes in Table 6-2 in the following locations in the bank's EAS,

as applicable:

1) CHs creating manual orders will use the “889 Designation” field in Order Management.

2) CHs receiving editable eOrders will use the “889 Designation” field in Order Management.

3) CHs receiving non-editable eOrders will use the “889 Designation” field in the Custom Fields tab in Transaction Management.

BOs must check for bank EAS entries when reconciling. BOs and A/OPCs must monitor 889 compliance during DM case dispositions and should use the “Cyber Security Non-Compliance” finding for cases without an 889 bank EAS entry once CI 193 is implemented.

Table 6-2: DoD Allowable Purchase Log Entries

Text to Enter in the 889 Designation Field	**Applicability**
889 Merchant Rep	Merchant provided the required 889 representation at FAR 52.204-26(c)(2) or equivalent with a “does not” response; the CH relied upon the representation to make the purchase.
889 ODNI	Merchant provided the required 889 representation at FAR 52.204-26(c)(2) or equivalent with a “does” response, but it has been determined the required supplies/services are covered by an ODNI waiver granted in accordance with FAR 4.2104 (e.g., the transaction is for supplies/services included in a Product Service Code (PSC)-based waiver); the CH relied upon the waiver to make the purchase.
889 Exception	Merchant has provided the required 889 representation at FAR 52.204- 26(c)(2) with a “does” response, but in conjunction with the supporting contracting office, a FAR 52.204-25(c) exception applies; the CH relied upon the exception to make the purchase. Written approval from the supporting contracting office must be included with the transaction supporting data.
889 Payment	CH was not required to obtain the required 889 representation at FAR 52.204-26(c)(2) because the GPC was used only as a method of payment. Examples include the following payments: contract payments; intra/inter- governmental payments; and SF 182 commercial training payments.
889 Non-Compliant	CH purchased supplies/services without obtaining the required 889 representation at FAR 52.204-26, that were not covered by an ODNI waiver, an Executive Agency waiver, or a FAR authorized exception. The purchase was NOT in compliance with GPC policy.

Text to Enter in the 889 Designation Field	Applicability
Fraudulent (external) Transactions	CH should select when transaction is believed to be a fraudulent purchase.
Disputed Transactions	CH should select when disputing the transaction.
Fees (e.g., Convenience Check)	CH should select when transaction is for fees.
Refunds & Trans Credits/Discounts	CH should select when transaction is for refunds and transaction credits and discounts.
Memo for Record approved by A/OPC	For other A/OPC-approved scenarios, CHs should prepare a short MFR documenting the situation and include it with the transaction supporting data in the bank's EAS or as otherwise directed in Component GPC record retention instructions.

Parent topic: CHAPTER 6 - OPERATIONAL GUIDANCE AND PROCEDURES