

52.204–24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment.

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Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it “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” in paragraph (c)(1) in the provision at 52.204–26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212–3, Offeror Representations and Certifications—Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it “does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services” in paragraph (c)(2) of the provision at 52.204–26, or in paragraph (v)(2)(ii) of the provision at 52.212–3.

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- 5. Amend section 52.204–26 by—
- a. Revising the date of the provision;
- b. In paragraph (a), removing “has” and adding “and “reasonable inquiry” have” in its place; and
- c. Revising paragraph (c).

The revisions read as follows:

52.204–26 Covered Telecommunications Equipment or Services—Representation.

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Covered Telecommunications Equipment or Services—Representation (OCT 2020)

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(c) *Representations.* (1) The Offeror represents that it [] does, [] 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.

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

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- 6. Amend section 52.212–3 by—
- a. Revising the date of the provision;
- b. In paragraph (a) adding the definition “Reasonable inquiry” in alphabetical order;
- c. Removing from paragraph (v) introductory text “of Public” and adding “and section 889 (a)(1)(B) of Public” in its place; and
- d. Revising paragraph (v)(2).

The revisions and addition read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

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Offeror Representations and Certifications—Commercial Items (Oct 2020)

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(a) * * *
Reasonable inquiry has the meaning provided in the clause 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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(v) * * *
 (2) The Offeror represents that—
 (i) It [] does, [] 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, that it [] does, [] does not use covered telecommunications

equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–09; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2020–09, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2020–09, which precedes this document. These documents are also available via the internet at <https://www.regulations.gov>.

DATES: August 27, 2020.

FOR FURTHER INFORMATION CONTACT: Farpolicy@gsa.gov or call 202–969–4075. Please cite FAC 2020–09, FAR case 2019–009.

RULE LISTED IN FAC 2020–09

Subject	FAR case
* Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment	2019–009

ADDRESSES: The FAC, including the SECG, is available via the internet at <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this summary. FAC 2020–09 amends the FAR as follows:

Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment (FAR Case 2019–009)

This second interim rule amends the Federal Acquisition Regulation to implement section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232). The

first interim rule was published July 14, 2020.

This rule reduces the information collection burden imposed on the public by making updates to the System for Award Management (SAM) to allow an offeror to represent annually, after conducting a reasonable inquiry, whether it uses covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services. The burden to the public is reduced by allowing an offeror that responds “does not” in the annual representation at 52.204–26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(ii) of 52.212–3, Offeror Representations and Certifications—Commercial Items, to skip the offer-by-

offer representation for paragraph (d)(2) within the provision at 52.204–24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. The provision at 52.204–26 requires that offerors review SAM prior to completing their required representations.

This rule applies to all acquisitions, including acquisitions at or below the simplified acquisition threshold and to acquisitions of commercial items, including commercially available off-the-shelf items. It may have a significant economic impact on a substantial number of small entities.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

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