

12.504 Applicability of certain laws to subcontracts for the acquisition of commercial products and commercial services.

(a) The following laws are not applicable to *subcontracts* at any tier for the *acquisition* of *commercial products* or *commercial services* at any tier:

(1) 10 U.S.C.2631, Transportation of *Supplies* by Sea (except for the types of *subcontracts* listed at 47.504(d)).

(2) 15 U.S.C.644(d), Requirements relative to *labor surplus areas* under the Small Business Act (see subpart 19.2).

(3) [Reserved]

(4) 41 U.S.C. chapter 65, Contracts for Materials, *Supplies*, Articles, and Equipment Exceeding \$10,000 (see subpart 22.6).

(5) 41 U.S.C.4703, Validation of Proprietary Data restrictions (see subpart 27.4).

(6) 41 U.S.C.3901(b) and 10 U.S.C. 3321(b), Contingent Fees (see subpart 3.4).

(7) 41 U.S.C.4706(d) and 10 U.S.C. 3841(d), Examination of Records of Contractor, when a subcontractor is not required to provide *certified cost or pricing data* (see 15.209(b)), unless using funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

(8) 41 U.S.C.1708(e)(3), Minimum Response Time for *Offers* (see subpart 5.2).

(9) 41 U.S.C.2302, Rights in *Technical Data* (see subpart 27.4).

(10) 41 U.S.C.chapter 81, *Drug-Free Workplace Act* (see subpart 23.5).

(11) 46 U.S.C.App.1241(b), Transportation in American Vessels of Government Personnel and Certain Cargo (see subpart 47.5) (except for the types of *subcontracts* listed at 47.504(d)).

(12) 49 U.S.C.40118, Fly American provisions (see subpart 47.4).

(13) Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355 (10 U.S.C. 4601 note prec.), Payment Protections for Subcontractors and Suppliers (see 28.106-6).

(b) The requirements for a certificate and clause under the Contract Work Hours and Safety Standards statute, 40 U.S.C.37, (see subpart 22.3) are not applicable to *subcontracts* at any tier for the *acquisition* of *commercial products* or *commercial services* or *commercial components*.

(c) The applicability of the following laws has been modified in regard to *subcontracts* at any tier for the *acquisition* of *commercial products* or *commercial services*:

(1) 41 U.S.C.4704 and 10 U.S.C. 4655, Prohibition on Limiting Subcontractor Direct Sales to the *United States* (see subpart 3.5).

(2) 41 U.S.C.chapter 35, and 10 U.S.C. chapter 271, *Truthful Cost or Pricing Data* (see subpart 15.4).

(3) 41 U.S.C.chapter 15, Cost Accounting Standards (48 CFR Chapter 99) (see 12.214).

Parent topic: Subpart 12.5 - Applicability of Certain Laws to the Acquisition of Commercial Products, Commercial Services and Commercially Available Off-the-Shelf Items