Subpart 44.4 - Subcontracts for Commercial Products and Commercial Services

Parent topic: Part 44 - Subcontracting Policies and Procedures

44.400 Scope of subpart.

This subpart prescribes the policies limiting the *contract clauses* a contractor *may* be required to apply to any subcontractors that are furnishing *commercial products*, including *commercial components*, or *commercial services* in accordance with 41 U.S.C. 3307.

44.401 Applicability.

This subpart applies to all contracts and subcontracts. For the purpose of this subpart, the term "subcontract" has the same meaning as defined in part 12.

44.402 Policy requirements.

(a) Contractors and subcontractors at all tiers *shall*, to the maximum extent practicable:

(1) Be required to incorporate *commercial products*, *commercial services*, or *nondevelopmental items* as *components* of items delivered to the Government; and

(2) Not be required to apply to any of its divisions, subsidiaries, *affiliates*, subcontractors or suppliers that are furnishing *commercial products* or *commercial services* any clause, except those-

(i) Required to implement provisions of law or Executive orders applicable to subcontractors furnishing *commercial products* or *commercial services*; or

(ii) Determined to be consistent with customary commercial practice for the item being acquired.

(b) The clause at 52.244-6, Subcontracts for *Commercial Products* and *Commercial Services*, implements the policy in paragraph (a) of this section. Notwithstanding any other clause in the prime contract, only those clauses identified in the clause at 52.244-6 are required to be in subcontracts for *commercial products* or *commercial services*.

(c) Agencies *may* supplement the clause at 52.244-6 only as necessary to reflect agency unique statutes applicable to the *acquisition* of *commercial products* and *commercial services*.

44.403 Contract clause.

The *contracting officer shall* insert the clause at 52.244-6, Subcontracts for *Commercial Products* and *Commercial Services*, in *solicitations* and contracts other than those for *commercial products* or

commercial services.