

## 25.401 Exceptions.

(a) This subpart does not apply to-

(1) *Acquisitions* set aside for small businesses;

(2) *Acquisitions* of arms, ammunition, or war materials, or purchases indispensable for national security or for *national defense* purposes;

(3) *Acquisitions* of *end products* for resale;

(4) *Acquisitions* from Federal Prison Industries, Inc., under [subpart 8.6](#), and *acquisitions* under [subpart 8.7](#), *Acquisition* from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled;

(5) Other *acquisitions* not using *full and open competition*, if authorized by [subpart 6.2](#) or [6.3](#), when the limitation of competition would preclude use of the procedures of this subpart; or *sole source acquisitions* justified in accordance with [13.501\(a\)](#); and

(6) Goods and services specifically excluded under individual trade agreements, such as exceptions negotiated by the U.S. Trade Representative for particular agencies. See the agency supplementary regulations.

(b) In the World Trade Organization Government *Procurement* Agreement (*WTO GPA*) and each FTA, there is a U.S. schedule that lists services that are excluded from that agreement in *acquisitions* by the *United States*. *Acquisitions* of the following services are excluded from coverage by the U.S. schedule of the *WTO GPA* or an FTA as indicated in this table:

| The Service<br>(Federal Service Codes from<br>the Federal <i>Procurement</i><br>Data System Product/Service<br>Code Manual are indicated in<br>paren-theses for some<br>services.) |                                                                        | WTO<br><i>GPA</i><br>and<br>KOREA<br>FTA | Bahrain<br>FTA,<br>CAFTA-DR,<br>Chile FTA,<br>Columbia<br>FTA,<br>USMCA,<br>Oman FTA,<br>Panama<br>FTA, and<br>Peru FTA | Singapore<br>FTA | Australia<br>and<br>Morocco<br>FTA |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|------------------|------------------------------------|
| (1)                                                                                                                                                                                | All services purchased in<br>support of military services<br>overseas. | X                                        | X                                                                                                                       | X                | X                                  |

|     |                                                                                                                                                                                                                                                                                                                            |   |   |   |   |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|
| (2) | (i) Automatic data processing (ADP) telecommunications and transmission services (D304), except enhanced ( <i>i.e.</i> , value-added) telecommunications services.                                                                                                                                                         | X | X |   |   |
|     | (ii) ADP teleprocessing and timesharing services (D305), telecommunications network management services (D316), automated news services, data services or other information services (D317), and other ADP and telecommunications services (D399).                                                                         | X | X |   |   |
|     | (iii) Basic telecommunications network services ( <i>i.e.</i> , voice telephone services, packet-switched data transmission services, circuit-switched data transmission services, telex services, facsimile services, and private leased circuit services, but not information services, as defined in 47 U.S.C.153(24)). | * | * | X | X |
| (3) | Dredging.                                                                                                                                                                                                                                                                                                                  | X | X | X | X |
| (4) | (i) Operation and management contracts of certain Government or privately owned facilities used for Government purposes, including <i>Federally Funded Research and Development Centers</i> .                                                                                                                              | X |   | X |   |

|     |                                                                                                                                                                                                                                                  |    |   |    |   |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|---|----|---|
|     | (ii) Operation of all Department of Defense, Department of Energy, or the National Aeronautics and Space Administration facilities; and all Government-owned research and development facilities or Government-owned environmental laboratories. | ** | X | ** | X |
| (5) | Research and development.                                                                                                                                                                                                                        | X  | X | X  | X |
| (6) | Transportation services (including launching services, but not including travel agent services).                                                                                                                                                 | X  | X | X  | X |
| (7) | Utility services.                                                                                                                                                                                                                                | X  | X | X  | X |
| (8) | Maintenance, repair, modification, rebuilding and installation of equipment related to ships (J019).                                                                                                                                             |    | X |    | X |
| (9) | Nonnuclear ship repair (J998).                                                                                                                                                                                                                   |    | X |    | X |

\* Note1. *Acquisitions* of the services listed at (2)(iii) of this table are a subset of the excluded services at (2)(i) and (ii), and are therefore not covered under the *WTO GPA*.

\*\* Note2. *Acquisitions* of the services listed at (4)(ii) of this table are a subset of the excluded services at (4)(i), and are therefore not covered under the *WTO GPA*.

**Parent topic:** [Subpart 25.4 - Trade Agreements](#)