

Subpart 12.1 - Acquisition of Commercial Products and Commercial Services

Parent topic: [Part 12 - Acquisition of Commercial Products and Commercial Services](#)

12.101 Policy.

The head of the agency shall—

- (a) Conduct *market research* to determine whether *commercial products, commercial services, or nondevelopmental items* are available that could meet the agency's requirements;
- (b) Acquire *commercial products, commercial services, or nondevelopmental items* when they are available to meet the needs of the agency; and
- (c) Require prime contractors and subcontractors at all tiers to incorporate, to the maximum extent practicable, *commercial products, commercial services, or nondevelopmental items* as components of items supplied to the agency.

12.102 Applicability.

- (a) This part shall be used for the *acquisition of supplies* or services that meet the definitions of "*commercial product*" or "*commercial service*" at [2.101](#).
- (b) *Contracting officers* shall use the policies in this part in conjunction with the policies and procedures for *solicitation, evaluation and award* prescribed in [part 13, Simplified Acquisition Procedures](#); [part 14, Sealed Bidding](#); or [part 15, Contracting by Negotiation](#), as appropriate for the particular *acquisition*.
- (c) Contracts for the *acquisition of commercial products or commercial services* are subject to the policies in other parts of the FAR. When a policy in another part of the FAR is inconsistent with a policy in this part, this [part 12](#) shall take precedence for the *acquisition of commercial products or commercial services*.
- (d) The definition of *commercial product* uses the phrase "purposes other than governmental purposes". These purposes are those that are not unique to a government.
- (e) This part shall not apply to the *acquisition of commercial products or commercial services*—
 - (1) At or below the *micro-purchase threshold*;
 - (2) Using the [Standard Form 44](#) (see [13.306](#));
 - (3) Using the imprest fund (see [13.305](#));
 - (4) Using the Governmentwide commercial purchase card as a method of purchase rather than only as a method of payment; or

(5) Directly from another *Federal agency*.

(f)

(1) *Contracting officers* may treat any *acquisition of supplies* or services that, as determined by the *head of the agency*, are to be used to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack, as an *acquisition of commercial products* or *commercial services*.

(2) A contract in an amount greater than \$20 million that is awarded on a sole source basis for a product or service treated as a *commercial product* or *commercial service* under paragraph (f)(1) of this section but does not meet the definition of a *commercial product* or *commercial service* as defined at FAR [2.101](#) shall not be exempt from—

(i) Cost accounting standards (see [subpart 30.2](#)); or

(ii) *Certified cost or pricing data* requirements (see [15.403](#)).

12.103 Commercially available off-the-shelf (COTS) items.

Commercially available off-the-shelf (COTS) items are defined in [2.101](#). Unless indicated otherwise, all of the policies that apply to *commercial products* also apply to COTS items. Section [12.505](#) lists the laws that are not applicable to COTS (in addition to [12.503](#) and [12.504](#)).