

**SUBPART 212.5—APPLICABILITY OF CERTAIN LAWS TO THE
ACQUISITION OF COMMERCIAL ITEMS AND COMMERCIALY
AVAILABLE OFF-THE-SHELF ITEMS**
(Revised October 29, 2021)

212.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

(a) The following laws are not applicable to contracts for the acquisition of commercial items:

- (i) 10 U.S.C. 2306(b), Prohibition on Contingent Fees.
 - (ii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.
 - (iii) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.
 - (iv) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.
 - (v) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.
 - (vi) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.
 - (vii) 10 U.S.C. 2408(a), Prohibition on Persons Convicted of Defense Related Felonies.
 - (viii) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards (see [252.242-7004](#)).
 - (ix) 107 Stat 1720 (Section 843(a), Pub. L. 103-160), Reporting Requirement Regarding Dealings with Terrorist Countries.
 - (x) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial items. For the restriction that specifically applies to commercial ball or roller bearings as end items, see [225.7009-3](#) (section 8065 of Pub. L. 107-117).
 - (xi) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) and similar sections in subsequent DoD appropriations acts.
- (c) The applicability of the following laws has been modified in regard to contracts for the acquisition of commercial items:
- (i) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203-6).
 - (ii) 10 U.S.C. 2306a, Truth in Negotiations Act (see FAR 15.403-1(b)(3)).

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

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

- (i) 10 U.S.C. 2306(b), Prohibition on Contingent Fees.
- (ii) 10 U.S.C. 2313(c), Examination of Records of a Contractor.
- (iii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.
- (iv) 10 U.S.C. 2327, Reporting Requirement Regarding Dealings with Terrorist Countries.
- (v) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.
- (vi) 10 U.S.C. 2391 note, Notification of Substantial Impact on Employment.
- (vii) 10 U.S.C. 2393, Prohibition Against Doing Business with Certain Offerors or Contractors.
- (viii) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.
- (ix) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.
- (x) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.
- (xi) 10 U.S.C. 2408(a), Prohibition on Persons Convicted of Defense Related Felonies.
- (xii) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards.
- (xii) 10 U.S.C. 2501 note, Notification of Proposed Program Termination.
- (xiv) 10 U.S.C. 2534, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.
- (xv) 10 U.S.C. 2631, Transportation of Supplies by Sea (except as provided in the clause at [252.247-7023](#), Transportation of Supplies by Sea).
- (xvi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years, unless the restriction specifically applies to commercial items. For the restriction that specifically applies to commercial ball or roller bearings as end items, see [225.7009-3](#) (section 8065 of Pub. L. 107-117).
- (xvii) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111-118) and similar sections in subsequent DoD appropriations acts.

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(b) Certain requirements of the following laws have been eliminated for subcontracts at any tier for the acquisition of commercial items or commercial components:

(i) 10 U.S.C. 2393(d), Subcontractor Reports Under Prohibition Against Doing Business with Certain Offerors (see FAR 52.209-6).

(ii) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203-6).

212.505 Applicability of certain laws to contracts for the acquisition of COTS items.

Paragraph (a)(1) of 10 U.S.C. 2533b, Requirement to buy strategic materials critical to national security from American sources, is not applicable to contracts and subcontracts for the acquisition of commercially available off-the-shelf items, except as provided at [225.7003-3\(b\)\(2\)\(i\)](#).