

**Subpart 25.4—Trade Agreements****25.400 Scope of subpart.**

(a) This subpart provides policies and procedures applicable to acquisitions that are covered by—

(1) The World Trade Organization Government Procurement Agreement (WTO GPA), as approved by Congress in the Uruguay Round Agreements Act (Pub. L. 103–465);

(2) Free Trade Agreements (FTA), consisting of—

(i) NAFTA (the North American Free Trade Agreement, as approved by Congress in the North American Free Trade Agreement Implementation Act of 1993 (Pub. L. 103–182) (19 U.S.C. 3301 note));

(ii) Chile FTA (the United States-Chile Free Trade Agreement, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act (Pub. L. 108–77) (19 U.S.C. 3805 note));

(iii) Singapore FTA (the United States-Singapore Free Trade Agreement, as approved by Congress in the United States-Singapore Free Trade Agreement Implementation Act (Pub. L. 108–78) (19 U.S.C. 3805 note));

(iv) Australia FTA (the United States-Australia Free Trade Agreement, as approved by Congress in the United States-Australia Free Trade Agreement Implementation Act (Pub. L. 108–286) (19 U.S.C. 3805 note));

(v) Morocco FTA (The United States—Morocco Free Trade Agreement, as approved by Congress in the United States—Morocco Free Trade Agreement Implementation Act (Pub. L. 108–302) (19 U.S.C. 3805 note));

(vi) CAFTA–DR (The Dominican Republic-Central America-United States Free Trade Agreement, as approved by Congress in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53) (19 U.S.C. 4001 note));

(vii) Bahrain FTA (the United States-Bahrain Free Trade Agreement, as approved by Congress in the United States-Bahrain Free Trade Agreement Implementation Act (Pub. L. 109–169) (19 U.S.C. 3805 note));

(viii) Oman FTA (the United States-Oman Free Trade Agreement, as approved by Congress in the United

States-Oman Free Trade Agreement Implementation Act (Pub. L. 109–283) (19 U.S.C. 3805 note));

(ix) Peru FTA (the United States-Peru Trade Promotion Agreement, as approved by Congress in the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110–138) (19 U.S.C. 3805 note));

(x) Korea FTA (the United States-Korea Free Trade Agreement Implementation Act (Pub. L. 112–41) (19 U.S.C. 3805 note));

(xi) Colombia FTA (the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112–42) (19 U.S.C. 3805 note)); and

(xii) Panama FTA (the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112–43) (19 U.S.C. 3805 note));

(3) The least developed country designation made by the U.S. Trade Representative, pursuant to the Trade Agreements Act (19 U.S.C. 2511(b)(4)), in acquisitions covered by the WTO GPA;

(4) The Caribbean Basin Trade Initiative (CBTI) (determination of the U.S. Trade Representative that end products or construction material granted duty-free entry from countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, *et seq.*), with the exception of Panama, must be treated as eligible products in acquisitions covered by the WTO GPA);

(5) The Israeli Trade Act (the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 2112 note)); or

(6) The Agreement on Trade in Civil Aircraft (U.S. Trade Representative waiver of the Buy American statute for signatories of the Agreement on Trade in Civil Aircraft, as implemented in the Trade Agreements Act of 1979 (19 U.S.C. 2513)).

## Federal Acquisition Regulation

25.401

(b) For application of the trade agreements that are unique to individual agencies, see agency regulations.

[69 FR 77873, Dec. 28, 2004, as amended at 71 FR 219, 2006; 71 FR 20307, Apr. 19, 2006; 71 FR 36937, June 28, 2006; 71 FR 67777, Nov. 22, 2006; 74 FR 28428, June 15, 2009; 77 FR 13954, Mar. 7, 2012; 77 FR 27549, May 10, 2012; 77 FR 69724, Nov. 20, 2012; 79 FR 24209, Apr. 29, 2014]

### 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; and

(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).

(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 (Federal Service Codes from the Federal Procurement Data System Product/Service Code Manual are indicated in parentheses for some services.)	WTO GPA AND KOREA FTA	Bahrain FTA, CAFTA-DR, Chile FTA, Co- lumbia FTA, NAFTA, Oman FTA, Panama FTA, and Peru FTA	Singapore FTA	Australia and Morocco FTA
(1) All services purchased in support of military services 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, telegraph services, facsimile services, and private leased circuit services, but not information services, as defined in 47 U.S.C. 153(20)).	*	*	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 Federally Funded Research and Development Centers.	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