

Commerciality Determination

Commercial versus Non-Commercial Goods & Services

	Commercial Products/Services	Non-Commercial (Custom, R&D, Specially Developed)
Definition	Items of a type customarily used by the general public or non-governmental entities for non-government purposes, sold or leased in the commercial marketplace with only minor modification (if any).	Everything else – custom-built for the government (or in support of a government contract), prototypes, unique R&D deliverables, specialty engineering, etc.
Key Test	Sold in substantial quantities to the general public at established catalog/market prices.	Not sold to the general public or only sold with major modifications for government use.
Procurement	Purchase (typically)	Subcontract
Flow-Downs	No “kitchen sink” flowdowns allowed.	Full, traditional flowdowns apply – all FAR/DFARS clauses required by the prime contract or law.
Competition Requirements	Simplified or commercial procedures (FAR 12)	Full FAR 15 negotiated procurement rules usually apply.
Thresholds	Typically, micro-purchases and simplified acquisitions.	Higher scrutiny requires formal purchase orders, justification, sole source justification, etc.
Examples	Lab supplies, laptops, software licenses, janitorial services, and off-the-shelf lab equipment.	Custom prototype software, new technology development, unique testing services, and unique or highly modified parts.