

**SUBCHAPTER B—ACQUISITION PLANNING**

**PART 812—ACQUISITION OF COMMERCIAL ITEMS**

*(Revised 4/24/2020)*

**Subpart 812.1—Acquisition of Commercial Items—General**

**Sec.**

812.102

Applicability.

812.102-70

Applicability of Veterans preferences.

**Subpart 812.3—Solicitation Provisions and Contract Clauses for the  
Acquisition of Commercial Items**

812.301

Solicitation provisions and contract clauses for the acquisition of commercial items.

Authority: 38 U.S.C. 8127-8128; 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301-1.304.

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**Subpart 812.1—Acquisition of Commercial Items – General****812.102 Applicability.****812.102-70 Applicability of Veterans preferences.**

Based on the authority under 38 U.S.C. 8127 and 8128, the Veterans First Contracting Program in subpart [819.70](#) applies to VA contracts under this part. The provisions and clauses prescribed reflect agency unique statutes applicable to the acquisition of commercial items.

**Subpart 812.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

[\[Deviation per Class Deviation from VAAR Parts 802, 812, and 852 Regarding Gray Market and Counterfeit Medical and Information Technology Items, dated March 26, 2020, revises VAAR 812.301 to add clause prescriptions regarding gray market and counterfeit items. This deviation expires once incorporated in the VAAR or the VA Acquisition Manual \(VAAM\) or is otherwise rescinded.\]](#)

**812.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f)(1) Contracting officers shall insert the provision [852.212-70](#), Provisions and Clauses Applicable to VA Acquisition of Commercial Items, in all solicitations and contracts for commercial acquisitions and check only those provisions that apply to the individual solicitation.

(2) Contracting Officers shall insert the clause [852.212-71](#), Gray Market Items, in solicitations and contracts for new medical equipment for VA Medical Centers and that include FAR provisions [52.212-1](#), Instruction to Offerors—Commercial Items, and [52.212-2](#), Evaluation—Commercial Items.

(g) Contracting officers shall insert the clause [852.212-72](#), Gray Market and Counterfeit Items, in solicitations and contracts for new medical supplies, new medical equipment, new information technology equipment, and maintenance of medical or information technology equipment that includes replacement parts if used, refurbished, or remanufactured parts are unacceptable, when the associated solicitation includes FAR provisions [52.212-1](#) Instruction to Offerors-Commercial Items, and [52.212-2](#), Evaluation-Commercial Items.

(h) Contracting officers shall insert the clause [852.212-73](#), Gray Market and Counterfeit Items – Information Technology (IT) Maintenance Allowing Other-than-New Parts, in solicitations and contracts for the maintenance of information technology equipment that includes replacement parts, if used, refurbished, or

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remanufactured parts are acceptable, when the associated solicitation includes FAR provisions [52.212-1](#), Instruction to Offerors-Commercial Items, and [52.212-2](#), Evaluation-Commercial Items.