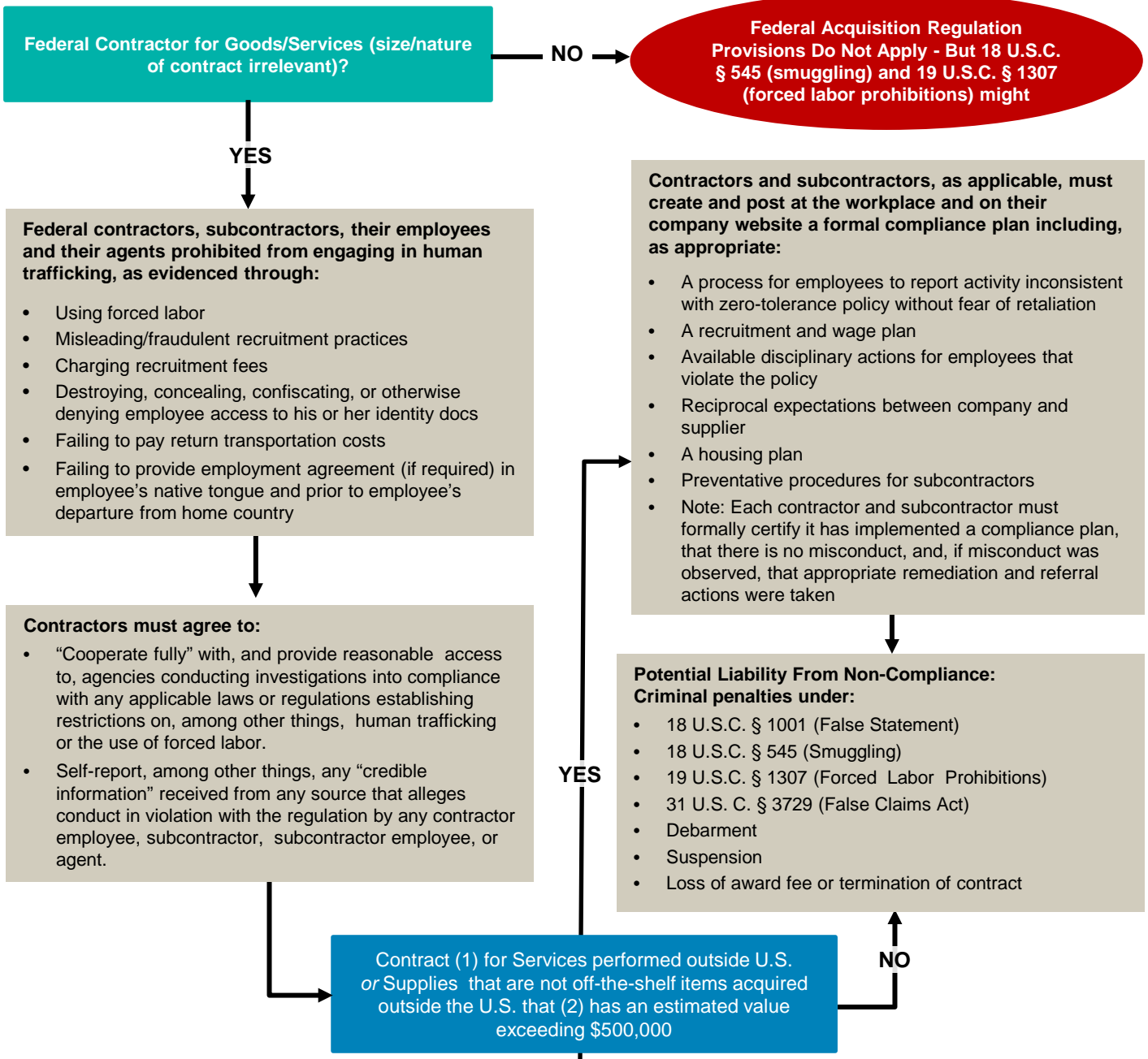




DECONSTRUCTING THE FEDERAL ACQUISITION REGULATION PROVISIONS ON HUMAN TRAFFICKING



Federal Contractor for Goods/Services (size/nature of contract irrelevant)?

NO

Federal Acquisition Regulation Provisions Do Not Apply - But 18 U.S.C. § 545 (smuggling) and 19 U.S.C. § 1307 (forced labor prohibitions) might

YES

Federal contractors, subcontractors, their employees and their agents prohibited from engaging in human trafficking, as evidenced through:

- Using forced labor
- Misleading/fraudulent recruitment practices
- Charging recruitment fees
- Destroying, concealing, confiscating, or otherwise denying employee access to his or her identity docs
- Failing to pay return transportation costs
- Failing to provide employment agreement (if required) in employee's native tongue and prior to employee's departure from home country

Contractors must agree to:

- "Cooperate fully" with, and provide reasonable access to, agencies conducting investigations into compliance with any applicable laws or regulations establishing restrictions on, among other things, human trafficking or the use of forced labor.
- Self-report, among other things, any "credible information" received from any source that alleges conduct in violation with the regulation by any contractor employee, subcontractor, subcontractor employee, or agent.

Contractors and subcontractors, as applicable, must create and post at the workplace and on their company website a formal compliance plan including, as appropriate:

- A process for employees to report activity inconsistent with zero-tolerance policy without fear of retaliation
- A recruitment and wage plan
- Available disciplinary actions for employees that violate the policy
- Reciprocal expectations between company and supplier
- A housing plan
- Preventative procedures for subcontractors
- Note: Each contractor and subcontractor must formally certify it has implemented a compliance plan, that there is no misconduct, and, if misconduct was observed, that appropriate remediation and referral actions were taken

YES

Potential Liability From Non-Compliance: Criminal penalties under:

- 18 U.S.C. § 1001 (False Statement)
- 18 U.S.C. § 545 (Smuggling)
- 19 U.S.C. § 1307 (Forced Labor Prohibitions)
- 31 U.S. C. § 3729 (False Claims Act)
- Debarment
- Suspension
- Loss of award fee or termination of contract

Contract (1) for Services performed outside U.S. or Supplies that are not off-the-shelf items acquired outside the U.S. that (2) has an estimated value exceeding \$500,000

NO

"Trafficking" is defined broadly to include (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, and (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
Note: These rules take effect on March 2, 2015.