

Executive Order 13514 — Federal Leadership in Environmental, Energy, and Economic Performance



Guiding Principles

- Lead by example.
- Be a good neighbor.
- Partner with your contractors to maximize sustainable acquisition throughout the supply chain.
- Think efficiency when procuring energy or water-using products.
- Set and meet measurable goals.
- Promote EMS throughout the DOE complex.
- Ensure 95% of new contract actions meet greening objectives.

Reference: FAR 23, 52.223, DEAR 923, 952.223, 970.23, and 970.5223

Overview

Executive Order 13514 — Federal Leadership in Environmental, Energy, and Economic Performance continues an increasing awareness of mankind's effect on the Earth's environment. The Executive Order was issued as a follow on to Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, which replaced the Greening the Government series of Executive Orders intended to improve the Federal impact on environment, energy and acquisition management and lead others along the route of environmental awareness and responsibility.

While Executive Order 13423 revoked the earlier Greening the Government Executive Orders, the new Executive Order 13514 did not revoke Executive Order 13423 as that Order was made

statutory by Section 748 of the 2009 Omnibus Appropriations Act.

The new Executive Order, like its predecessor, does not cancel any of the requirements found in the earlier orders. It does update some of the earlier goals and increases emphasis on some items. While the earlier Orders called for reductions in Federal greenhouse gas emissions, this Order calls for an inventory of all Federal greenhouse gas emissions and expands the definition beyond direct greenhouse gas emissions from sources that are owned or controlled by the Federal agency.

Of particular significance to acquisition activities, the new Order includes an increased emphasis on high performance sustainable buildings including planning and targets for zero net energy buildings. The new Order requires that 95 percent of all new contract actions (including task and delivery orders) for products and services be energy efficient, water-efficient, have recycled or biobased content, be environmentally preferable, non-ozone depleting, non-toxic or less-toxic than traditional alternatives provided such products and services meet DOE performance requirements. DOE success here will necessitate that sustainable acquisition extend down to certain subcontracts when permitted by the applicable clauses, i.e., DEAR 952.223-78 or 970.5223-7.

Background

The Greening the Government Executive Orders were written during an earlier administration. The Orders primarily concerned environmental attributes even though their subjects included energy, transportation and acquisition. Executive Order 13423 rearranged their content into one comprehensive package addressing resource stewardship issues by primary subject matter. The result was a single, concise Order with an extensive set of implementing instructions. Now Executive Order 13514 has updated the subject matter.

Effective Date

This Guide chapter is effective upon issuance.

Purpose

The primary purpose of this chapter is to ensure that DOE Acquisition personnel are aware of the many environmental, energy, transportation and economic considerations affecting the acquisition process. The former Green Acquisition Advocates at DOE contracting activities will be recast as the Sustainable Acquisition Advocates in keeping with the new Executive Order and FAR revision. They will continue to serve as team members for implementing sustainable acquisition initiatives within each DOE Contracting Activity. The Sustainable Acquisition Advocates will work with Environmental Sustainability Coordinators, Energy Coordinators, Fleet Managers and other specialists to ensure that the procurement organization is an informed

and supportive team member. This chapter includes appropriate roles and responsibilities for the Sustainable Acquisition Advocates and the DOE procurement community as they partner with other DOE personnel to implement sustainable acquisition. DOE management contractors are encouraged to appoint Advocates for the sites they manage. A list of Federal and contractor advocates is enclosed as Attachment 4. This list will be updated from time to time, changes should be reported to Richard Langston, MA-61.

Guidance Included in this Guide Chapter

Executive Order 13514

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Highlights of Executive Order 13514

Policy

Section 1 of the Order contains an exceptionally broad policy statement that for purposes of this Guide can be abbreviated as:

Federal agencies shall leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services.

Goals

Section 2 of the Order requires each agency to set goals related to the following:

- a percentage reduction target for agency-wide reductions of scope 1 and 2 greenhouse gas emissions in absolute terms by fiscal year 2020 (see Section 19 for these definitions);
- a percentage reduction target for reducing agency-wide scope 3 greenhouse gas emissions in absolute terms by fiscal year 2020;
- a comprehensive inventory of absolute greenhouse gas emissions, including scope 1, scope 2, and specified scope 3 emissions (i) within 15 months of the date of this order (October 5, 2009) for fiscal year 2010, and (ii) thereafter, annually for the preceding fiscal years;
- various goals to improve water use efficiency and management;
- various goals to promote pollution prevention and eliminate waste;
- advance regional and local integrated planning;
- implement high performance sustainable Federal building design, construction, operation and management, maintenance, and deconstruction
- advance sustainable acquisition to ensure that 95 percent of new contract actions including task and delivery orders, for products and services with the exception of acquisition of weapon systems, are energy-efficient (Energy Star or Federal Energy Management Program (FEMP) designated), water-efficient, biobased, environmentally preferable (e.g., Electronic Product Environmental Assessment Tool (EPEAT) certified), non-ozone depleting, contain recycled content, or are non-toxic or less-toxic alternatives, where such products and services meet agency performance requirements;
- promote electronics stewardship; and
- sustainable environmental management
- DOE's plan and goals are at http://www.energy.gov/media/DOE_Sustainability_Plan_2010.PDF

Duties

Sections 3 through 7 assign duties to various Leadership positions.

Section 3 describes the duties of an Interagency Steering Committee on Federal Sustainability.

The Director of OMB will have many important functions in leading the agencies but one of those functions important to the acquisition community will be Section 4(b) dealing with preparation of Agency Score Cards. Acquisition factors are now a part of the agency environmental score card and the score card will now also measure compliance with the required attainment of 95% of all new contract actions meeting sustainable acquisition criteria.

The Chair of the Council on Environmental Quality has several duties including issuance of guidance for greenhouse gas accounting and reporting under Section 5.

The Federal Environmental Executive is again given responsibility for preparing reports on the accomplishments of the agencies in Section 6.

The Order requires each Agency to appoint a Senior Sustainability Officer. DOE has appointed the Deputy Secretary as the DOE Senior Sustainability Officer pursuant to Section 7.

The Senior Sustainability Officer is responsible for:

- (i) preparing the targets for agency-wide reductions and the inventory of greenhouse gas emissions required under subsections 2(a), (b), and (c) of the order;
- (ii) preparing and submitting to the CEQ Chair and the OMB Director, for their review and approval, a multi-year Strategic Sustainability Performance Plan (Sustainability Plan or Plan) as described in section 8 of the order;
- (iii) preparing and implementing the approved Plan in coordination with appropriate offices and organizations within the agency including the General Counsel, Chief Information Officer, Chief Acquisition Officer, Chief Financial Officer, and Senior Real Property Officers, and in coordination with other agency plans, policies, and activities;
- (iv) monitoring the agency's performance and progress in implementing the Plan, and reporting the performance and progress to the CEQ Chair and the OMB Director, on such schedule and in such format as the Chair and the Director may require; and
- (v) reporting annually to the head of the agency on the adequacy and effectiveness of the agency's Plan in implementing this order.

Other Requirements

Section 8 of the Order requires each Agency to prepare a Strategic Sustainability Performance Plan for OMB/CEQ approval.

Section 9 of the Order addresses Greenhouse Gas Accounting and Reporting. DOE's Federal Energy Management Program is assigned a central role in developing reporting procedures.

Section 10 of the Order addresses the development of recommendations for sustainable locations for Federal facilities.

Section 11 of the Order addresses the development of recommendations regarding the use of public transportation (or other shared transportation alternatives such as Federal shuttle buses, van pools and car pools) by Federal employees.

Section 12 of the Order addresses management of the Federal Transportation Fleet.

Section 13 of the Order addresses vendor and contractor greenhouse gas emissions. It calls on the Office of Federal Procurement Policy to study reducing greenhouse gas emissions associated with the supply of products and services to the Federal government.

Section 14 of the Order requires the Environmental Protection Agency to issue guidance regarding storm water management.

Section 15 of the Order requires the Federal Environmental Executive to develop a regional implementing plan taking into account energy and environmental priorities of particular regions of the United States.

Section 16 of the Order requests the Agencies to coordinate with the Climate Change Adaptation Task Force.

Section 17 of the Order allows the Head of the Agency to apply provisions of the Order to its facilities located outside the United States if such action is determined in the best interests of the United States.

Section 18 of the Order allows the Director of National Intelligence to exempt an intelligence activity to the extent determined necessary to protect intelligence sources and methods from unauthorized disclosure.

Section 19 of the Order contains definitions. The definition of Greenhouse Gases expanded in the order latest order. Earlier Orders limited Federal greenhouse gas emissions to those direct from sources that are owned or controlled by the Federal agency. These are now Scope 1 gases. The definition expanded to include Scope 2: direct greenhouse gases resulting from the generation of electricity, heat or steam purchased by a Federal agency; and Scope 3, greenhouse gas emissions from sources not owned by the Federal agency or controlled by a Federal agency but related to Agency activities such as vendor supply chains, delivery services, and employee travel and commuting.

Section 20 of the Order contains its general provisions.

Executive Order 13221, Energy Efficient Standby Power Devices

This Executive Order concerns Federal acquisition of commercial, off-the-shelf, products that have standby power devices. The Executive Order requires that Federal agencies acquire models of such products which consume no more than one watt of power while in their standby power consuming mode. If such products are unavailable, agencies are to purchase products with the lowest possible standby power wattage. Agencies are to adhere to these requirements when life-cycle cost-effective and practicable and where the relevant product's utility and performance are not compromised as a result. This Order was issued separately from the Greening the Government Orders and was not picked up by the later comprehensive Orders. It remains a stand alone requirement. Information is available at http://www1.eere.energy.gov/femp/technologies/standby_power.aspx

Executive Order 13423

Generally, the requirements of old Executive Order 13423 are included in the new Executive Order 13514 but the new Order did not revoke the old Order as that Order was extended indefinitely by Section 748 of the 2009 Omnibus Appropriations Act. Section 3(e) of the earlier Order required the Head of the Agency to ensure that contracts entered into after the date of the order for contractor operation of government-owned facilities or vehicles require the contractor to comply with the provisions of the order with respect to such facilities or vehicles to the same extent as the agency would be required to comply if the agency operated the facilities or vehicles. That requirement has been added to the Department of Energy Acquisition Regulation.

Which DOE Offices are Responsible for Various Duties under the Order?

The Deputy Secretary has been designated the DOE Senior Sustainability Officer for implementing Executive Order 13514. The Senior Sustainability Officer monitors and reports to the Director, Office of Management and Budget, and the Chair, Council on Environmental Quality regarding DOE's progress in implementing the Executive Order and meeting its goals.

The Office of Health, Safety and Security, HS-22, has lead responsibility for management of the Sustainable Acquisition Program, which includes the EPA designated recovered material content products, and the USDA biobased material content products. HS-20 also has responsibility for EPEAT products, non-ozone depleting products and other environmentally preferable products. HS-20 has lead responsibility for the environmental aspects of the Executive Order.

The Federal Energy Management Program, EE-2L, has lead responsibility for energy efficiency and Energy Savings Performance Contracts. The Federal Energy Management

Program also has lead responsibility for the fuel efficiency aspects of the Executive Order.

While the above Offices have lead responsibility, the Office of Procurement and Assistance Management and the entire DOE procurement community including our ever important contractor, must play a substantive role in assisting program elements to successfully accomplish these programs. To ensure that this occurs, this Guide provides roles and responsibilities for the procurement community.

What Must the Heads of the Contracting Activity Do?

- The Heads of the Contracting Activity must ensure that the requirements of Executive Order 13514 are included in each management and operating contract or any other contract requiring contractor operation of Government owned facilities or vehicles.
- The Heads of the Contracting Activity must appoint a Sustainable Acquisition Advocate for each Contracting Activity who will perform the duties below.

What Must the Sustainable Acquisition Advocate Do?

- serve as the procurement expert on sustainable acquisition initiatives under the Executive Order;
- ensure designated product specifications are incorporated in all applicable contracts;
- educate the procurement staff regarding the Executive Order; and,
- promote sustainable acquisition products and services to the procurement staff and customers.

A list of additional responsibilities which may be performed by the Sustainable Acquisition Advocates is provided at Attachment 1.

What Must the Contracting Officers Do?

When reviewing and drafting solicitations and contracts, Contracting Officers must ensure that the appropriate provisions and clauses are contained in their solicitations and contracts including those applicable to management and operating contracts and other contracts for the operation of Government owned facilities. This responsibility includes ensuring that designated product specifications are incorporated in all applicable contracts.

Contracting Officers must work with requirements personnel, contracting personnel and contractor personnel to be certain that all are aware of their responsibilities in this area. An

Executive Order 13514 Contracting Checklist is provided at Attachment 2.

Ensure that data entry personnel responsible for entering data into the Federal Procurement Data System – Next Generation are trained regarding products and services with recovered content (blocks 8K and 8L). Ensure that data is entered correctly and consistent with the instructions provided by the FPDS Data Dictionary.

Proper Use of Solicitation Provisions and Contract Clauses

A large number of environmental and energy efficiency solicitation provisions and contract clauses are in the FAR and DEAR. Here are their usage instructions.

FAR 52.223-1 and 2, Biobased Products Preference Provision and Clause.

The Biobased Products Preference Program is sponsored by the United States Department of Agriculture (USDA). It is modeled after the EPA Recovered Material Program. FAR 52.223-1, Biobased Product Certification, is a solicitation provision containing a certification for offerors to certify that they will furnish products meeting the USDA biobased content specifications for the products being delivered. FAR 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, is a clause to be used in service and construction contracts which may involve the use of biobased products, e.g., use of a biobased roof coating in a construction or service contract. The biobased program does not require a second certification following delivery as does the EPA recovered materials program (see FAR 52-223-9). Instructions for usage are found at FAR 23.406.

FAR 52.223-3, Hazardous Material Identification and Material Safety Data.

This clause goes in all solicitations and contracts if the contract will require the delivery of hazardous materials. Here are some characteristics of hazardous materials:

- Chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes;
- Chemicals which are combustible liquids, compressed gases, explosives, flammable liquids, flammable solids, organic peroxides, oxidizers, pyrophorics, unstable (reactive) or water-reactive;
- Chemicals which in the course of normal handling, use, or storage operations may produce or release dusts, gases, fumes, vapors, mists or smoke which have any of the above characteristics.

The clause requires the contractor to provide notice of any hazardous material before its shipment and to provide material safety data sheets with the material. The clause is to be used with its Alternate I by civilian agencies which adds an additional paragraph (i). If the contracting office receives material safety data sheets, they are to be forwarded to the local safety office. Further information is available at <http://www.gsa.gov/portal/content/101201>. Instructions for use of this clause may be found at FAR 23.303.

FAR 52.223-4, Recovered Material Certificate.

This solicitation provision should be used in solicitations that are for, or specify the use of EPA designated products. This requires the offeror to certify that it will deliver a product with the required recycled content. Usage instructions are at 23.406(c). This is not required in products for commercial off the shelf (COTS) items.

FAR 52.223-5, Pollution Prevention and Right to Know Information.

- a) Include this clause in solicitations and contracts that provide for performance, in whole or in part, on a Federal facility.
- b) Use it with its Alternate I if the contract provides for contractor
 - 1) operation or maintenance of a Federal facility at which the Federal agency has implemented or plans to implement an Environmental Management System (EMS) or
 - 2) Activities and operations that are i) to be performed at a Government operated facility that has implemented or plans to implement an EMS; and ii) That the Agency has determined are covered by the EMS.
- c) Use the clause with Alternate II if 1) the contract provides for contractor operation on a Federal facility and 2) the agency has determined that the contractor activities should be within the FCA or an EMS audit. Usage instructions are at FAR 23.1005.

You will see the acronym FCA used in FAR 23.1005. It stands for Facility Compliance Audits. Any agency not setting up an established regulatory environmental compliance audit program was required to develop and implement a program to conduct facility environmental compliance audits. DOE has established its regulatory environmental compliance program through DOE O 450.1 and will not be performing FCAs but will instead conduct EMS audits.

It is a best practice to include the FAR 52.223-5 clause in any DOE management and operating contract. As a practical matter, however, recognize that it is overridden by DEAR 970.5204-2, Laws, Regulations, and DOE Directives, which incorporates DOE Order 450.1, into DOE management contracts. It is much broader than the FAR clause and includes compliance with Emergency Planning and Community Right to Know Act requirements.

FAR 52.223-6, Drug Free Workplace.

Include this clause in all solicitations and contracts except contracts a) below the simplified acquisition threshold, b) for acquisition of commercial items, c) performed outside the U.S., d) by law enforcement agencies if deemed inappropriate because of undercover operations, or e) where application would be inconsistent with international obligations or the laws and regulations of a foreign country. Usage instructions are at FAR 23.505.

Important Note: See DEAR 923.570-1(b). If the contract is performed at DOE facilities or if the contract contains the DEAR 952.204-2 Security clause, then the DOE Drug Free Workplace Program at 10 CFR 707 replaces this clause. Do not use FAR 52.223-6 in such contracts.

FAR 52.223-7, Notice of Radioactive Materials.

Include this in solicitations and contracts for supplies which are, or which contain, a) radioactive materials requiring specific licensing under regulations issued pursuant to the Atomic Energy Act of 1954; or, b) radioactive material not requiring specific licensing under regulations in which the specific activity is greater than 0.002 microcuries per gram or the activity per gram equals or exceeds 0.01 microcuries. Usage instructions are at FAR 23.602.

FAR 52.223-8, Reserved.**FAR 52.223-9, Estimate of Percent of Recovered Material Content for EPA-Designated Products.**

Insert this in solicitations and contracts, exceeding the simplified acquisition threshold, that contain the solicitation provision at 52.223-4. This requires a report at the time of contract completion concerning the actual percent of recovered material content. There is an alternate I that can be used if technical personnel advise that estimates can be verified. As a practical matter, the recovered material content cannot be verified after manufacture. While some consider this certification unnecessary, it is statutorily required. Usage instructions are at FAR 23.406(d).

FAR 52.223-10, Waste Reduction Program.

Insert this clause in all solicitations and contracts for contractor operation of Government-owned or Government-leased facilities and all solicitations and contracts for support services at Federal facilities. It requires the contractor, to have a waste reduction program in compliance with the requirements of 2(e) of Executive Order 13423 and Section 6002 of the Resource Conservation and Recovery Act. This clause is similar to 970.5223-6 which is required for DOE contracts except the DEAR clause is tailored to DOE management contracts. Usage instructions are at FAR 23.706(a).

FAR 52.223-11, Ozone-Depleting Substances.

Insert this in all solicitations and contracts for ozone-depleting substances or supplies or equipment which may contain ozone depleting substances. The most significant of these are halon used in certain fire suppressing equipment and certain forms of freon used in refrigeration equipment. The clause requires labeling the equipment if it contains ozone-depleting substances. See usage instructions at 23.804(a).

FAR 52.223-12, Refrigeration Equipment and Air Conditioners.

Insert this in all solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment containing ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers. The clause prohibits venting ozone-depleting substances into the atmosphere and requires that the substance be recaptured before equipment disposal. Usage instructions are at 23.804(b).

FAR 52.223-13 and 14 Toxic Chemical Release Certification and Reporting

Ensure that competitive solicitations exceeding the simplified acquisition threshold, except those for commercial items, contain the solicitation provision at FAR 52.223-13 Certification of Toxic Chemical Release Reporting as required by FAR 23.906(a). Ensure that competitive contracts exceeding the simplified acquisition threshold contain the clause at FAR 52.223-14, Toxic Chemical Release Reporting, if the solicitation contained the 52.223-13 solicitation provision and the contractor did not certify that its facilities were exempt from reporting. See the instruction at FAR 23.906(b).

FAR 52.223-15, Energy Efficiency in Energy Consuming Products.

Insert this clause in solicitations and contracts when energy-consuming products listed in the ENERGY STAR® Program or FEMP will be—

- (a) Delivered;
- (b) Acquired by the contractor for use in performing services at a Federally-controlled facility;
- (c) Furnished by the contractor for use by the Government; or
- (d) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

Usage instructions are at FAR 23.206. Use is not required if the energy efficient item is not reasonably available or not life cycle cost effective.

FAR 52.223-16 IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products

In accordance with 23.706(b)(1), use this clause, in all solicitations and contracts for—

- (i) Personal computer products;
- (ii) Services that require furnishing of personal computer products for use by the Government; or
- (iii) Contractor operation of Government-owned facilities.

DOE activities are to use it with its Alternate I when there are sufficient EPEAT Silver registered products available to meet DOE needs.

FAR 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts.

As prescribed in FAR 23.406(e), include the clause at 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts, in service or construction solicitations and contracts unless the contract will not involve the use of EPA-designated items.

DEAR 952.223-71, Integration of Environment, Safety and Health into Work Planning and Execution.

As prescribed in DEAR 923.7002, insert this clause in all contracts and subcontracts for, work to be performed at a Government-owned facility where the Department has elected to assert its statutory authority to establish and enforce occupational safety and health standards applicable to the work conditions of contractor and subcontractor employees, and to the protection of public health and safety.

DEAR 952.223-72, Radiation Protection and Nuclear Criticality.

As prescribed in DEAR 923.7002, insert this clause in contracts or subcontracts for work to be performed at a facility where DOE does not elect to assert its statutory authority to enforce occupational safety and health standards applicable to the working conditions of contractor and subcontractor employees but does need to enforce radiological safety and health standards pursuant to provisions of the contract or subcontract rather than by reliance upon the Nuclear Regulatory Commission licensing requirements (including agreements with states under section 274 of the Atomic Energy Act).

DEAR 952.223-75, Preservation of Individual Occupational Radiation Exposure Records.

This clause is to be used in contracts containing the clause at 952.223-71 or 952.223-72.

DEAR 952.223-76, Conditional Payment of Fee or Profit – Safeguarding Restricted Data and Other Classified Information and Protection of Worker Safety and Health.

Include this clause in all contracts that contain both the Security clause, 952.204-2, and the Nuclear Hazards Indemnity Agreement clause, 952.250-70.

DEAR 952.223-77, Conditional Payment of Fee or Profit – Protection of Worker Safety and Health.

Include this clause in contracts that do not contain the Security clause, 952.204-2, but do require Nuclear Hazards Indemnity Agreement clause, 952.250-70.

DEAR 952.223-78 Sustainable Acquisition Program

Insert the clause at 952.223-78, Sustainable Acquisition Practices, or its Alternate I, in all contracts under which the contractor operates Government-owned facilities or Government-owned fleets or performs construction at a Government-owned facility. All such contracts should also include the following clauses: FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223-10, Waste Reduction Program; FAR 52.223-XX, Compliance with Environmental Management Systems (Codification Pending) (see 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223-15, Energy Efficiency in Energy Consuming Products; and FAR 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

DEAR 970.5223-1, Integration of Environment, Safety, and Health into Work Planning and Execution.

Include this clause in management contracts at a facility where DOE will exercise its statutory authority to enforce occupational Safety and health standards for contractor and subcontractor employees at the facility.

DEAR 970.5223-3, Agreement Regarding Workplace Substance Abuse Programs at DOE Facilities.

Include this provision in solicitations that contemplate contractor management of a DOE facility.

DEAR 970.5223-4, Workplace Substance Abuse Programs At DOE Sites.

Include this clause in all contracts for contractor management of a DOE facility.

DEAR 970.5223-6, Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management.

Insert this clause in all contracts for the operation of DOE facilities or motor vehicle fleets. This clause was required by Section 2(e) of the old Executive Order 13423. That Order was made statutory by Section 748 of the 2009 Omnibus Appropriations Act.

970.5223-7, Sustainable Acquisition.

Insert this clause in all contracts for the management and operation of DOE facilities or for construction (Alternate I) at a DOE facility. All such contracts should also include the following clauses: FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223-10, Waste Reduction Program; FAR 52.223-XX, Compliance with Environmental Management Systems (Codification Pending) (see 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223-15, Energy Efficiency in Energy Consuming Products; and FAR 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

What Internet Resources Are Available to Help Us?

There are numerous information resources available on the Internet to assist you. There is a listing of these in Attachment 3.

The Office of Health, Safety and Security maintains the Sustainable Acquisition Page at <http://www.hss.energy.gov/pp/epp/>.

Attachment 1**SAMPLE SUSTAINABLE ACQUISITION ADVOCATE
ACTIVITIES**

Ensure that personnel at your contracting activity are aware of the following sustainable acquisition programs and the Federal preference for these products over equivalent products lacking the favorable attributes:

- Alternative fuel vehicles and alternative fuels required by the Energy Policy Act of 2005. Find information at <http://www.afdc.energy.gov/afdc> .
- Biobased products designated by the U.S. Department of Agriculture in the BioPreferred program. Biobased products are those designated by the United States Department of Agriculture (USDA) pursuant to the Farm Security and Rural Investment Act, 7 USC 8102. This coverage is part of the Affirmative Procurement Program found at FAR 23.4. USDA maintains a Home Page with the list of designated items at: <http://www.biobased.oce.usda.gov/fb4p/> .
- Energy from renewable sources required by the Energy Policy Act of 2005 at <http://www.eere.energy.gov/> .
- Energy Star® products identified by DOE and EPA at <http://energystar.gov> , as well as FEMP-designated energy-efficient products at <http://www1.eere.energy.gov/femp/> .
- Environmentally preferable products and services, including EPEAT-registered electronic products. A Home Page identifying environmentally preferable electronic equipment is at: <http://www.epeat.net> . At this time the page is limited to computers and monitors but this is to be expanded. Environmentally preferable products and services however are much broader than just electronic products. EPA provides a Home Page explaining this initiative at: <http://www.epa.gov/opptintr/epp/> .
- Non-ozone depleting substances, as identified in EPA's Significant New Alternatives Program at <http://www.epa.gov/ozone/snap/index.html> .
- Products with low or no toxic or hazardous constituents, consistent with section VIII.A of the implementing instructions for Executive Order 13423. Each agency is tasked by the Implementing Instructions to develop goals and a list of toxic chemicals, hazardous substances and other pollutants by January 24, 2008. Information on this is available at <http://www.epa.gov/ecotox> .

- Recycled content products designated in EPA's Comprehensive Procurement Guidelines at <http://www.epa.gov/epawaste/consERVE/tools/cpg/products/index.htm> .
- Water-efficient products, including those meeting EPA's Water-Sense standards <http://www.epa.gov/watersense/> . EPA has already introduced some water efficient technology advancements but has others in process. More information is available at their Home Page.

Ensure that personnel at the contracting activity are aware of the need to specify products designated in the EPA Comprehensive Procurement Guidelines for procurement with recycled content, the USDA Biobased Procurement Preference Program, as well as the ENERGY STAR® and Federal Energy Management Program products. Ensure that personnel at the contracting activity are aware of the need to specify environmental, energy and economic aspects of Executive Order 13514 and the required solicitation provisions and contract clauses. EPA designated products are listed at <http://www.epa.gov/epawaste/consERVE/tools/cog/products/index.htm> while USDA items are listed at <http://www.biobased.oce.usda.gov/fb4p/>.

Promote employee support of the environmental, energy efficiency, and transportation initiatives through informational displays and promotional activities.

Support sustainable acquisition program initiatives to include Affirmative Procurement Program, ENERGY STAR®, and Federal Energy Management Program, as well as environmental and transportation initiatives and accomplishments in local Home Pages, Intranet sites, newsletters, et cetera.

Support initiatives to promote participation in pilot acquisitions of environmentally preferable products.

Promote a team approach among the members of the local acquisition community including procurement, property, environment, program, supply, facilities, construction, etc.

Promote consideration of a broad range of environmental factors in developing plans, drawings, work statements, specifications, or other product descriptions for use at the facility. Include such factors as elimination of virgin material requirements, use of biobased products, use of recovered materials, reuse of products, life cycle cost, recyclability, use of environmentally preferable products, waste prevention (including toxicity reduction or elimination) and ultimate disposal.

Coordinate with the Environmental Sustainability Coordinator to ensure that local procedures provide a means for purchase cardholders to report their sustainable acquisition accomplishments and transactions pursuant to support reporting requirements.

Review justifications to acquire other than an EPA or USDA designated items because it is impossible to acquire the item:

1. Competitively within a reasonable time frame; or,
2. Meeting appropriate performance standards; or,
3. At a reasonable price.

Attachment 2**GREENING THE GOVERNMENT CONTRACTING CHECKLIST**

Ensure that all acquisitions of items designated in the EPA Comprehensive Procurement Guidelines have the EPA recommended content level as provided in EPA's Recovered Materials Advisory Notices (RMANs) for the items which are available at <http://www.epa.gov/epawaste/consERVE/tools/cpg/products/index.htm>

Ensure that all acquisitions of items designated in the USDA Biobased Procurement Preference Program have the USDA recommended content level as provided in USDA's rule containing product specifications which are available at <http://www.biobased.ocs.usda.gov/fb4p/>.

In conjunction with requirements personnel, consider aggregating purchases of EPA and USDA designated, environmentally preferable, energy efficient, EPEAT registered or transportation items to the extent that such action will promote economy or efficiency.

Insert the clause at 952.223-78, Sustainable Acquisition Program, or its Alternate I, in all contracts, other than management and operating contracts, under which the contractor operates Government-owned facilities or Government-owned fleets or performs construction at a Government-owned facility. All such contracts should also include the following clauses: FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts; FAR 52.223-10, Waste Reduction Program; FAR 52.223-XX, Compliance with Environmental Management Systems (Codification Pending) (see FAR 923.903 regarding the applicability of this clause to specific DOE contracts); FAR 52.223-15, Energy Efficiency in Energy Consuming Products; and FAR 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts

Ensure that contracts for support service contracts to be performed at a Federal facility, include the clause at FAR 52.223-10, Waste Reduction Program, as required by FAR 23-705.

Ensure that management and operating contracts which include Federal motor vehicle fleet operations contain a special provision requiring compliance with Executive Order 13423 and include the clause at DEAR 970.5223-6.

Ensure that management and operating contracts include the sustainable acquisition program clause of DEAR 970.5223-7 and that management contractor personnel are aware of the program and their responsibilities under the Sustainable Acquisition Program.

Ensure that the clause at FAR 52.223-11, Ozone-Depleting Substances is inserted in solicitations and contracts for ozone-depleting substances or supplies that may contain ozone-depleting substances (typically refrigeration and fire suppression equipment) as required by FAR

23.804(a).

Ensure that the clause at FAR 52.223-12, Refrigeration Equipment and Air Conditioners, is inserted in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers as required by FAR 23.804(b).

Ensure that competitive solicitations exceeding the simplified acquisition threshold, except those for commercial items, contain the solicitation provision at FAR 52.223-13 Certification of Toxic Chemical Release Reporting as required by FAR 23.906(a). Ensure that competitive contracts exceeding the simplified acquisition threshold contain the clause at FAR 52.223-14, Toxic Chemical Release Reporting, if the solicitation contained the 52.223-13 solicitation provision and the contractor did not certify that its facilities were exempt from reporting. See the instruction at FAR 23.906(b).

Ensure that all management and operating contracts contain the clause at 52.223-5, Pollution Prevention and Right to Know Information, as required by FAR 23.1005.

Ensure that Federal Procurement Data System contract coding, regarding the procurement of EPA designated products, or services including EPA designated products, (blocks 8K and 8L), is entered correctly and consistent with the instructions contained in the FPDS Data Dictionary.

When developing acquisition plans, ensure that Executive Order 13514 requirements are addressed. Include such factors as elimination of virgin material requirements, use of biobased products, use of recovered materials, reuse of products, life cycle cost, recyclability, use of environmentally preferable products, water savings, waste prevention (including toxicity reduction or elimination) and ultimate disposal. Consider whether ENERGY STAR[®] products or products designated in the upper 25% of energy efficiency by the Federal Energy Management Program are available.

Review procurement requests to ensure that, when acquiring items designated in the EPA Comprehensive Procurement Guidelines, recovered content requirements are specified or that a written justification is provided as required by FAR 23.404(b).

Review procurement requests to ensure that, when acquiring items designated in the USDA Biobased Procurement Preference Program, biobased content requirements are specified or that a written justification is provided as required by FAR 23.404(b).

A copy of the justification should be maintained at the site if acquisition of a nonconforming product is necessary. Repetitive requirements may be covered by class determinations when no alternative is available.

Review procurement requests to ensure that, when acquiring items designated as EPEAT, the EPEAT registered electronic products are specified.

Review procurement requests to ensure that, when acquiring items designated as ENERGY STAR or FEMP, the ENERGY STAR/FEMP qualified products are specified.

Review procurement requests to ensure that, when acquiring items designated as WaterSense, the WaterSense labeled products are specified.

When procuring paper products, comply with Section 2(d)(ii) of Executive Order 13423 which mandates a minimum recycled content of 30% (this may be reduced to 20% only if the 30% content product is not reasonably available, does not meet reasonable performance requirements, or is unreasonably priced).

When procuring lubricants, coolants or tires, purchase re-refined, bio-based, reclaimed and/or retread products.

When issuing contracts for vehicular or heavy equipment maintenance, specify that re-refined or bio-based lubricants, reclaimed coolants, and retread tires be used whenever practical.

When procuring electricity, consider the purchase of electricity from clean energy sources including 1) renewable energy sources, preferably generated on site; 2) less greenhouse intensive, non petroleum energy sources such as natural gas; and 3) clean, more efficient fossil energy technologies.

Attachment 3

INTERNET INFORMATION RESOURCES

Product Type

- Biobased Products are described at <http://www.biopreferred.gov/> .
- Energy efficient products are at <http://energystar.gov/products> for Energy Star products.
- Environmentally preferable products are at <http://www.epa.gov/opptintr/epp/>
- Energy efficient products are at <http://www.femp.energy.gov/procurement> for FEMP designated products.
- Environmentally preferable and energy efficient electronics including desktop computers, laptops and monitors are at <http://www.epeat.net> the Electronic Products Environmental Assessment Tool (EPEAT) the Green Electronics Council site
- Non-Ozone Depleting Alternative Products are at

<http://www.epa.gov/ozone/strathome.html>
- Recycled Content Products are described at

<http://www.epa.gov/gpv/epawaste/conservation/tools/cpg/products/index.htm>
- Water efficient plumbing products are at <http://epa.gov/watersense> .

DOE Internet Resources

DOE Health, Safety and Security <http://www.hss.energy.gov/pp> is a good starting place within HSS' extensive Home Page.

DOE Energy Efficiency and Renewable Energy's Federal Energy Management Program maintains <http://www1.eere.energy.gov/femp> with energy efficient product information and standby power device information.

<http://www1.eere.energy.gov/femp/financing/mechanisms.html> contains extensive Energy Savings Performance Contract information.

<http://www1.eere.energy.gov/vehiclesandfuels/index.html> contains information on alternate fuel

vehicles and alternate fuels.

EPA Internet Resources

The Environmental Protection Agency maintains <http://www.fedcenter.gov/> as a general information resource with daily announcements.

EPA's Comprehensive Procurement Guidelines information site is at <http://www.epa.gov/epawaste/consERVE/tools/cpg/products/index.htm>. It describes EPA's designated products, their specifications, their sources of supply and other useful information.

<http://www.epa.gov/opptintr/epp> is an EPA training site for Environmentally Preferable Purchasing.

<http://www.epa.gov/lawsregs/> contains most environmental laws and regulations.

USDA Internet Resource

<http://www.biopreferred.gov> is USDA's Biobased site.

Other Information Resources

The Office of the Federal Environmental Executive maintains: <http://www.ofee.gov> as the Home Page of the Office of the Federal Environmental Executive.

Attachment 4

Sustainable Acquisition Advocates

Program Management

The Sustainable Acquisition Program is managed by the Office of Health, Safety and Security with the collaboration of the Office of Procurement and Assistance Management.

Program Manager: Corey R. Buffo, HS-22

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Support Consultant: Sandra Cannon

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There is a more comprehensive listing of contacts involved in various aspects of DOE's environmental programs at <http://www.hss.energy.gov/pp/epp> Click EPP Resources and then DOE Contacts.

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Sandia National Laboratory

Vacant

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Thomas Jefferson National Accelerator Facility

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Western Area Power Administration

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Attachment 5

Table of FAR and DEAR Environmental Citations

References	Title
Executive Order 13423	Strengthening Federal Environmental, Energy, and Transportation Management
Executive Order 13221	Energy Efficient Standby Power Devices
Executive Order 13514	Federal Leadership in Environmental, Energy and Economic Performance
FAR 23.1	Sustainable Acquisition
FAR 23.2	Energy and Water Efficiency and Renewable Energy
FAR 23.4	Use of Recovered Materials and Biobased Products
FAR 23.7	Contracting for Environmentally Preferable Products and Services
FAR 23.8	Ozone-Depleting Substances
FAR 23.10	Federal Compliance with Right to Know Act and Pollution Prevention Requirements
FAR 36.104(b)	High Performance Sustainable Building Design, Construction, Renovation, and Maintenance Management and Deconstruction
FAR 52.223-1	Biobased Product Certification
FAR 52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts
FAR 52.223-3	Hazardous Material Identification and Material Safety Data
FAR 52.223-4	Recovered Material Certification
FAR 52.223-5	Pollution Prevention and Right to Know Information
FAR 52.223-9	Estimate of Percentage of Recovered Material Content for EPA Designated Products
FAR 52.223-10	Waste Reduction Program
FAR 52.223-11	Ozone-Depleting Substances
FAR 52.223-12	Refrigeration Equipment and Air Conditioners
FAR 52.223-15	Energy Efficiency in Energy Consuming Products
FAR 52.223-16	IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products

FAR 52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts
DEAR 923.1	Sustainable Acquisition
DEAR 923.5	Workplace Substance Abuse Programs
DEAR 923.9	Contractor Compliance with Environmental Management Systems
DEAR 923.70	Environmental, Conservation, and Occupational Safety Programs
DEAR 952.223-71	Integration of Environment, Safety, and Health into Work Planning and Execution
DEAR 952.223-72	Radiation Protection and Nuclear Criticality
DEAR 952.223-75	Preservation of Individual Occupational Radiation Exposure Records
DEAR 952.223-76	Conditional Payment of Fee or Profit – Safeguarding Restricted Data and Other Classified Information and Protection of Worker Safety and Health
DEAR 952.223-77	Conditional Payment of Fee or Profit – Protection of Worker Safety and Health
DEAR 952.223-78	Sustainable Acquisition Program (this is per the Policy Flash 2011-8)
DEAR 970.2301	Sustainable Acquisition
DEAR 970.2303	Hazardous Materials Identification and Material Safety
DEAR 970.2305.	Workplace Substance Abuse Programs – Management and Operating Contracts
DEAR 970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution
DEAR 970.5223-3	Agreement Regarding Workplace Substance Abuse Programs at DOE Facilities
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites
DEAR 970.5223-6	Executive Order 13423 Strengthening Federal Environmental, Energy and Transportation Management
DEAR 970.5223-7	Sustainable Acquisition Program (this is per the Policy Flash 2011-8)