



## **POLICY FLASH 2007-48**

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**DATE:** June 18, 2007

**TO:** Procurement Directors

**FROM:** Office of Procurement and Assistance Policy, MA-61  
Office of Procurement and Assistance Management

**SUBJECT: Revised Acquisition Guide Chapter 23 – Implementation of Executive Order 13423 Strengthening Federal Environmental, Energy, and Transportation Management**

**SUMMARY:** Acquisition Guide Chapter 23 has been updated to implement Executive Order 13423 which replaces the previous Greening the Government series of Executive Orders. It does not revise or rescind any requirements found in the earlier orders; however, it updates previous goals and their baselines and adds new initiatives such as the Electronics Stewardship/Electronic Product Environmental Assessment Tool, the WaterSense water efficiency labeling program, Plug-In Hybrid Vehicles, and Sustainable Design/High Performance Buildings. Also note that Executive Order 13423 continues to emphasize the acquisition process as a tool to achieve these goals.

Questions regarding this Policy Flash may be referred to Richard Langston at (202) 287-1339 or [Richard.Langston@hq.doe.gov](mailto:Richard.Langston@hq.doe.gov).



Michael P. Fischetti, Director  
Office of Procurement and  
Assistance Policy

Attachment

## **Executive Order 13423 — Strengthening Federal Environmental, Energy, and Transportation Management in Acquisition**

Reference: FAR 23, 52.223, OFPP Policy Letter 07-01, DEAR 923, 952.223, 970.23, and 970.5223



### **Guiding Principles**

- Lead by example
- Be a good neighbor
- Be good stewards of our natural resources
- Think efficiency when procuring energy or water using products
- Set, and meet, measurable goals

### **Overview**

Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, replaces the Greening the Government series of 4 Executive Orders intended to improve the Federal impact on environment, energy and transportation management and lead others along the route of environmental responsibility. The Executive Orders being replaced are:

- 13101 - Greening the Government Through Waste Prevention, Recycling and Federal Acquisition;
- 13123 - Greening the Government Through Efficient Energy Management;
- 13148 - Greening the Government Through Leadership in Environmental Management; and,
- 13149 - Greening the Government Through Fleet and Transportation Efficiency.

Executive Order 13134, Developing and Promoting Biobased Products and Bioenergy, was also revoked while Executive Order 13221, Energy Efficient Standby Power Devices, was retained.

While the new Executive Order revokes the earlier Greening Orders, it does not change policy or cancel any of the requirements found in the earlier orders. It does update some of the earlier goals and their baselines and it adds new items such as the Electronics Stewardship/Electronic Product Environmental Assessment Tool, the WaterSense water efficiency labeling program, Plug-In Hybrid Vehicles, and Sustainable Design/High Performance Buildings which were developed subsequent to the Greening Orders. An important point for acquisition personnel to note is that Executive Order 13423 continues the emphasis on the acquisition process as a tool to

achieve these goals. See, for example, Section VII, Acquisition and Green Product Designations, of the Implementing Instructions for the Executive Order. Other sections which will be heavily dependent on the acquisition process include Section X, Sustainable Design/High Performance Buildings, Section XI, Vehicle Fleet Management, and Section XII, Electronics Stewardship.

## **Background**

The Greening the Government Executive Orders had been written during an earlier administration. The Orders primarily concerned environmental attributes even though their subjects included energy and transportation. These orders have been rearranged into one comprehensive package addressing resource stewardship issues by primary subject matter. The result is a single, concise Order with an extensive set of implementing instructions.

## **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, and transportation considerations affecting the acquisition process. These include Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, and Executive Order 13221, Energy Efficient Standby Power Devices. Green Acquisition Advocates at DOE contracting activities will continue to serve as team members for implementing stewardship initiatives within each DOE Contracting Activity. They will continue their efforts to ensure that the stewardship objectives of Executive Orders 13423 and 13221 affecting acquisition programs and transactions are met. The Advocates work with Recycling 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 Green Acquisition Advocates and the DOE procurement community as they partner with other DOE personnel to implement Government-wide Greening the Government initiatives. DOE management contractors are encouraged to appoint Advocates for the sites they manage. A list of Federal and contractor advocates is enclosed as Attachment 8.

## **Guidance Included in this Guide chapter**

<b>What Is Current Acquisition Policy Relative to Environmental, Energy and Transportation Requirements.....</b>	<b>5</b>
<b>Executive Order 13423</b>	
<b>Highlights of Executive Order 13423.....</b>	<b>5</b>
<b>Executive Order 13423 Goals.....</b>	<b>5</b>
<b>Head of Agency Duties.....</b>	<b>6</b>
<b>Duties of the Director, Office of Management and Budget.....</b>	<b>6</b>
<b>Duties of the Federal Environmental Executive.....</b>	<b>6</b>
<b>Executive Order 13423 Exemptions.....</b>	<b>6</b>
<b>Highlights of Executive Order 13221.....</b>	<b>6</b>
<b>Executive Order 13423 Implementing Instructions.....</b>	<b>7</b>
<b>Who Is Responsible For Implementing the Executive Orders?.....</b>	<b>13</b>
<b>Which DOE Offices are Responsible for Various Duties.....</b>	<b>14</b>
<b>What Must the Head of the Contracting Activity Do?.....</b>	<b>15</b>
<b>What Must the Contracting Officer Do?.....</b>	<b>15</b>
<b>Proper Use of Solicitation Provisions and Contract Clauses.....</b>	<b>15</b>
<b>What Tools are Available to Help?.....</b>	<b>21</b>
<b>Attachment 1 — Sample Green Acquisition Advocate Activities.....</b>	<b>22</b>
<b>Attachment 2 — Greening the Government Contracting Checklist.....</b>	<b>25</b>
<b>Attachment 3 — Internet Information Resources.....</b>	<b>28</b>
<b>Attachment 4 — Federal Procurement Data System Coding Instructions.....</b>	<b>30</b>

**Attachment 5 — List of EPA-Designated Products.....32**

**Attachment 6 — List of USDA-Designated Products.....34**

**Attachment 7 — List of ENERGYSTAR and FEMP Designated Products.....35**

**Attachment 8 — Green Acquisition Advocates Roster.....37**

**Attachment 9 — Table of FAR and DEAR Environmental Citations.....44**

## **What is Current Acquisition Policy Relative to Environmental, Energy and Transportation Requirements?**

### **Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management**

Executive Order 13423 replaces several earlier executive orders known as the Greening the Government Executive Orders. As mentioned in the Overview section of this chapter, the earlier Greening the Government Executive Orders have been revoked but Executive Order 13221, Energy Efficient Standby Power Devices was retained. The full text of both Executive Orders is available at <http://ofee.gov/eo/eo.htm>. The detailed requirements of this Order are contained in Implementing Instructions issued, separately, by the Chairman of the Council on Environmental Quality. These detailed instructions will be discussed separately, after these highlights of the Executive Order.

### **Highlights of Executive Order 13423**

#### **Goals**

Section 2 of the Order sets goals for the following:

- Energy efficiency and reduced greenhouse gas emissions;
- Renewable energy consumption is to come from new renewable sources located when feasible on agency property;
- Water consumption;
- Agency acquisitions of goods and services must require (i) use of sustainable environmental practices including acquisition of biobased, environmentally preferable, energy efficient, water efficient, and recycled content products, and (ii) paper with at least 30% post-consumer fiber content;
- Reduced acquisition, use, and disposal of hazardous chemicals and materials and maintenance of cost-effective waste prevention and recycling programs in agency facilities;
- New construction and major renovation of buildings will comply with Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings;
- Motor vehicles fleets are to reduce petroleum consumption by 2% annually through the end of Fiscal Year 2015, increase use of non-petroleum based fuels by 10% annually, and use plug-in hybrid vehicles when commercially available at a reasonable cost; and,
- When acquiring electronic products ensure that 95% of such purchases meet Electronic Product Environmental Assessment Tool standards when such standards exist, ii) the Energy Star feature on agency computers and monitors is enabled, iii) policies are developed to extend the useful life of electronic equipment, and iv) environmentally sound practices are followed when disposing of equipment which has reached the end of its useful life.

**Head of Agency Duties** — One of these duties is especially important to DOE. Section 3(e) states:

- ensure that contracts for contractor operation of government-owned facilities or vehicles require the contractor to comply with the provisions of this order with respect to such facilities or vehicles to the same extent as the agency would be required to comply

**Director of OMB Duties** — Two of these duties will prove important to the acquisition community as Section 5(c) and 5(d) of the Order will be assigned to the Office of Federal Procurement Policy.

- Section 5(c) gives OMB responsibilities for implementation of Section 2(d) of the Act which deals with the acquisition of goods and services.
- Section 5(d) of the Order also assigns OMB the responsibility for any needed changes in the Federal Acquisition Regulation.

**Federal Environmental Executive Duties** — The Federal Environmental Executive is again given responsibility for preparing reports to the President on the accomplishments of the agencies. Such reports are required every 2 years.

**Exemption Authority** — Section 8 provides exemptions for intelligence as well as law enforcement, protective force, emergency response, or military tactical vehicle fleets.

### **Highlights of 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. Information is available at

[http://www1.eere.energy.gov/femp/procurement/eep\\_standby\\_power.html](http://www1.eere.energy.gov/femp/procurement/eep_standby_power.html)

## **Executive Order 13423 Implementing Instructions**

Executive Order 13423 includes detailed implementing instructions issued by the Chairman of the Council on Environmental Quality. The full text may be found at: <http://www.fedcenter.gov/Documents/index.cfm?id=6825> . These instructions are divided into their subject matter. This chapter will cover general highlights of these instructions and provide more detailed discussion of acquisition related instructions especially Instruction VII, Acquisition and Green Product Designations. The implementing instructions follow.

**Instruction I. Introduction.** This concerns background and organization of the instructions, and describes the duties of the various offices and interagency work groups involved in making these initiatives work. Should you find yourself assigned to any of these offices or work groups you might want to review this instruction.

**Instruction II. Environmental Management Systems.** This concerns implementation of these systems throughout the Federal system. This instruction has no new requirements except it requires that the reviews include the goals of Section 2 of Executive Order 13423. One of those goals, acquisition of goods and services using sustainable, environmental practices, is not yet included in many DOE Environmental Management Systems. It should be expected that this goal will be added and the Green Acquisition Advocates and other acquisition personnel should be supportive of this need.

OMB does maintain a Departmental Score Card on Environmental Management Systems. While the Department has not yet attained a Green score it is striving to accomplish such a rating. The Green Acquisition Advocates and other acquisition personnel should be prepared to assist in these reviews for their own facility. These reviews are covered in DOE G 450.1-2 and they will typically look into the organization's procurement procedures to ensure that they address the organization's environmental obligations.

**Instruction III. Compliance Management Plans.** This concerns an alternative procedure which might be used instead of Environmental Management System reviews. DOE did not choose to adopt the alternative for itself or its management contractors.

**Instruction IV. Reporting and Monitoring.** This provides that reporting and monitoring under the new Order will remain unchanged from that required by the old Order for the present. Most of the reporting and monitoring addressed by the Order does not involve contract data but energy and fuel usage, pollution prevention, hazardous waste reduction, and recycling accomplishments. The Electronic Product Environmental Assessment Tool coverage, discussed at Instruction XII below, does establish a goal that states that 95% of electronic product acquisitions should comply with EPEAT standards to the extent that they exist for the specific products being acquired. It appears that this Order will place more emphasis on monitoring progress rather than the quantitative reporting under the earlier orders.



**Instruction V. Training.** This discusses agency requirements to provide training.

**Instruction VI. Energy and Water Management.** This discusses means to minimize energy and water usage in Federal facilities. It includes Energy Savings Performance Contracts, Utility Energy Savings Contracts, EnergyStar® and FEMP designated products, and water saving WaterSense products.

**Instruction VII, Acquisition and Green Product Designations,** contains the bulk of the “green” purchasing guidance.

**Part A** – This part of the instructions gives the Office of Federal Procurement Policy the lead to issue more detailed guidance to the acquisition community. An OFPP Policy Letter is the expected short term product.

**Part B** - Agencies are required to give preference in their acquisition programs to the acquisition of the following types of products over like products lacking the preferable attribute [Remember these are not in any order of preference although recycled content products on EPA’s list will take preference over biobased products on USDA’s list due to wording of the Farm Security and Rural Investment Act.]:

- Alternative fuel vehicles and alternative fuels required by the Energy Policy Act of 2005 at [http://www.eere.energy.gov/femp/about/fleet\\_requirements.html](http://www.eere.energy.gov/femp/about/fleet_requirements.html)
- 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/program/equip\\_procurement.html](http://www1.eere.energy.gov/femp/program/equip_procurement.html) .
- Environmentally preferable products and services, including EPEAT-registered electronic products. The EPEAT initiative is a relatively new initiative described in Acquisition Letter 2007-08. FAR Case 2006-030 is being processed to add this to the FAR. A Home Page has been established to identify environmentally preferable electronic equipment 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.cpg>
- 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.

## **Part C – Standards, Coordination and Review of Green Products**

### **Printing and Writing Paper**

Each agency is required in its acquisition of products or support services to specify the use of paper products that contain 30% post consumer fiber content or 20% post consumer fiber if 30% post consumer fiber content is not available at a reasonable price. DOE and its management contractors have met this standard for a number of years. EPA is to review the standard and recommend adjustment if necessary.

### **Comprehensive Procurement Guidelines**

EPA is to review the list of EPA Designated Products for consistency in light of the more recent Biobased, Environmentally Preferable, EnergyStar<sup>®</sup> and FEMP product lists as well as efficiency and obsolescence. EPA is to eliminate those designations found inefficient or obsolete due to market changes.

### **Environmentally Preferable Products and Services**

Each agency is to purchase environmentally preferable products and services using EPA's Guidance on the Acquisition of Environmentally Preferable Products and Services at <http://www.epa.gov/epp/> . EPA may be able to provide services in support of such efforts.

## Energy Efficient Standby Power Devices

When acquiring energy-consuming products, agencies shall acquire products with low standby power requirements. When designating additional EnergyStar products, EPA and DOE shall ensure that the products also meet FEMP standards for low standby power.

### D. Program Coordination, Guidance, and Models

#### Coordination

Each of the agencies promoting green products is now required to actively coordinate its efforts with other agencies to avoid conflicting designations, and maximize the goals and objectives of the individual programs and the Executive Order. The programs and their sponsors are:

Comprehensive Procurement Guidelines	EPA
Environmentally Preferable Procurement	EPA
EnergyStar and FEMP Designated Products	EPA and DOE
Low Standby Power Devices	DOE
WaterSense	EPA
Alternative Fuel Vehicles and Alternative Fuels	DOE
BioPreferred	USDA

#### Guidance

Each of the Green Products sponsoring agencies is to provide detailed guidance for minimizing conflicts in program implementation and for meeting multiple program requirements, e.g., EnergyStar roofing panels containing recovered or BioPreferred content.

#### Model Programs

EPA, USDA and DOE are charged with responsibility for assisting other agencies through outreach, promotion, guidance and technical assistance regarding the Green Products programs.

### Instruction VIII. Pollution Prevention and Management of Toxic and Hazardous Chemicals

#### A. Goals and Plans for Toxic and Hazardous Chemicals

This coverage is very similar to that provided under the earlier Executive Order 13148. Each agency is required to develop goals for reducing the use and release of hazardous and toxic chemicals which may harm human health or the environment. Current coverage is at DOE O 450.1-2 which is being updated. Remember relevant contract clauses at FAR 52.223-13 and 14.

**B. Ozone Depleting Substances**

This coverage is again similar to that found in Executive Order 13148. Remember relevant contract clauses at FAR 52.223-11 and -12.

**C. Compliance with the Emergency Planning and Community Right-to-Know Act and the Pollution Prevention Act**

This section deals with managing toxic wastes and hazardous materials at Federal facilities. In instances where a contractor manages facilities, the contract should contain the contract clause at FAR 52.223-5 which provides for contractor assistance in preparing the Federal reports.

**Instruction IX. Solid Waste Diversion and Recycling.**

This requires each agency to submit a waste diversion goal or confirm its existing goal if it wishes to retain a pre-existing goal.

**Instruction X. Sustainable Design/High Performance Buildings**

This coverage is new in the sense that it was not a topic under any of the prior Greening the Government Executive Orders. This topic results from an Interagency Working Group which entered into a High Performance and Sustainable Buildings Memorandum of Understanding in 2006. The group maintains a Home Page at <http://www.wbdg.org/index.php>. Sustainable design for buildings, both new and existing buildings, as well as leased buildings, will be of increasing interest and focus within the Federal sector.

**Instruction XI. Vehicle Fleet Management**

Much of this coverage is a repeat of prior coverage under Executive Order 13149. Executive Order 13423 does speak of increasing the use of non-petroleum based fuels by 10% annually. There was concern that this language would hinder the Department's promotion of Alternative Fuels including Biodiesel fuel which is often a blend including some amount of petroleum based fuel. In the implementing instructions, this was avoided by using a definition of Alternative Fuels from 10 CFR 490.2 which includes Biodiesel fuel. When biodiesel is used at 100% it is considered an alternative fuel. When lesser blends are used they are taken as partial alternative fuels credits so long as the blend has at least 20% non-petroleum based content.

Plug-In Hybrid Vehicles are another new item in Executive Order 13423. The Order pledges that the Federal sector will procure such vehicles when they become commercially available. Such vehicles are to be capable of the typical short urban commute and could displace petroleum fueled vehicles for this function. For longer trips the vehicles would operate as other hybrids with a small conventional internal combustion engine.

**Goals**

The agencies are to increase alternative fuels usage by 10% per year and decrease petroleum usage by 2% per year through the end of Fiscal Year 2015.

**Instruction XII. Electronics Stewardship**

This topic is new in the sense that it is not brought forward from the Greening the Government Executive Orders. While it is related to the energy efficiency goals of Executive Orders 13123 and 13221, its recognition in EO 13423 is the result of an Interagency Working Group which executed a Federal Electronics Challenge Memorandum of Understanding in 2005. It does not limit itself to the acquisition and use of electronic products but also to their design, reuse, de-manufacturing, and the recycling of their materials.

Life-Cycle Activities — The implementing instructions require each agency to seek to reduce the environmental and energy impacts of its electronic equipment purchase, use, and disposal through continual improvements to the acquisition, design, specifications, material choices, distribution, and use of new electronic equipment, and the reuse, de-manufacturing, and recycling of surplus electronic equipment.

Electronics Stewardship Plan — The implementing instructions require each agency to develop an electronics stewardship plan. The plan is to address the acquisition, operations, and end of life phases of the agencies' electronics assets and be developed by an interdisciplinary team.

The plan is to address how the agency will:

- Acquire 95% of its electronic products as EPEAT-registered products;
- Purchase electronic products that are rated EPEAT Silver or higher when available
- Ensure Energy Star features are enabled on agency computers and monitors;
- Have policies and programs to extend the useful life of electronic equipment; and,
- Ensure that electronic products are reused, donated, sold, or recycled using environmentally sound management practices at end of life.

The plan must also address how the agency will report its compliance with the goals of the electronic stewardship portions of the Executive Order.

Federal Electronics Challenge — Each agency is to choose either to be a member of the Federal Electronics Challenge or to implement an equivalent electronics stewardship program that addresses the acquisition, operation, and end of life management strategies for its electronic assets.

## Who Is Responsible For Implementing the Executive Order?

Section 3 of Executive Order 13423 requires the Head of each agency to:

- (a) Implement within the agency sustainable practices for
  - (i) energy efficiency, greenhouse gas emissions avoidance or reduction, and petroleum products use reduction,
  - (ii) renewable energy, including bio-energy,
  - (iii) water conservation,
  - (iv) acquisition,
  - (v) pollution and waste prevention and recycling,
  - (vi) reduction or elimination of acquisition and use of toxic or hazardous chemicals,
  - (vii) high performance construction, lease, operation, and maintenance of buildings,
  - (viii) vehicle fleet management, and
  - (ix) electronic equipment management;
  
- (b) Implement within the agency environmental management systems (EMS) at all appropriate organizational levels to ensure
  - (i) use of EMS as the primary management approach for addressing environmental aspects of internal agency operations and activities, including environmental aspects of energy and transportation functions,
  - (ii) establishment of agency objectives and targets to ensure implementation of this order, and
  - (iii) collection, analysis, and reporting of information to measure performance in the implementation of this order;
  
- (c) Establish within the agency programs for
  - (i) environmental management training,
  - (ii) environmental compliance review and audit, and
  - (iii) leadership awards to recognize outstanding environmental, energy, or transportation management performance in the agency;
  
- (d)
  - (i) designate a senior civilian officer of the United States, compensated annually in an amount at or above the amount payable at level IV of the Executive Schedule, to be responsible for implementation of this order within the agency,
  - (ii) report such designation to the Director of the Office of Management and Budget and the Chairman of the Council on Environmental Quality, and
  - (iii) assign the designated official the authority and duty to (A) monitor and report to the head of the agency on agency activities to carry out subsections (a) and (b) of this section, and (B) perform such other duties relating to the implementation of this order within the agency as the head of the agency deems appropriate;
  
- (e) Ensure that contracts entered into after the date of this order for contractor operation of government-owned facilities or vehicles require the contractor to comply with the provisions of

this 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;

(f) Ensure that agreements, permits, leases, licenses, or other legally-binding obligations between the agency and a tenant or concessionaire entered into after the date of this order require, to the extent the head of the agency determines appropriate, that the tenant or concessionaire take actions relating to matters within the scope of the contract that facilitate the agency's compliance with this order;

(g) Provide reports on agency implementation of this order to the Chairman of the Council on such schedule and in such format as the Chairman of the Council may require; and

(h) Provide information and assistance to the Director of the Office of Management and Budget, the Chairman of the Council, and the Federal Environmental Executive.

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

The Assistant Secretary, Energy Efficiency and Renewable Energy, has been designated the Agency Executive for implementing Executive Order 13423. The Agency Executive monitors and reports to the Federal Environmental Executive and the Director of the Office of Management and Budget regarding DOE's progress in implementing the Executive Order and meeting its goals.

The Office of Nuclear Safety and Environment, HS-20, has lead responsibility for management of the Affirmative Procurement Program, which includes both 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 these Offices have lead responsibility, the Office of Procurement and Assistance Management and the entire DOE procurement community 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 Head of the Contracting Activity Do?**

The Head of the Contracting Activity must ensure that the requirements of Executive Order 13423 are included in each management and operating contract or any other contract requiring contractor operation of Government owned facilities or vehicles.

The Head of each Contracting Activity must appoint a Green Acquisition Advocate who will:

- serve as the procurement expert on environmental, energy and transportation initiatives under the Executive Order;
- educate the procurement staff regarding the Executive Order; and,
- promote Affirmative Procurement, environmentally preferable and energy efficient products and services to the procurement staff and customers.

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

## **What must the Contracting Officer Do?**

When reviewing and drafting solicitations and contracts, the Contracting Officer 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.

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 13423 Contracting Checklist is provided at Attachment 2.

Must 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 26 and 27). Ensure that data is entered correctly and consistent with the instructions provided by Attachment 4.

## **Proper Use of Solicitation Provisions and Contract Clauses**

A large number of environmental, energy, and transportation provisions and clauses are in the FAR and DEAR. There are a number of FAR cases in process which will add more. 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).

**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/gsa/ep/contentView.do?programId=10196&channelId=-13603&ooId=10733&contentId=13918&pageTypeId=8199&contentType=GSA\\_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=FL2](http://www.gsa.gov/Portal/gsa/ep/contentView.do?programId=10196&channelId=-13603&ooId=10733&contentId=13918&pageTypeId=8199&contentType=GSA_BASIC&programPage=%2Fep%2Fprogram%2FgsaBasic.jsp&P=FL2)

**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 containing recovered material content. This requires the offeror to certify that it will deliver a product with the required recycled content.

**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.

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.

**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.

**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 \$100,000, 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.

**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 Section 701 of Executive Order 13101 (this will be updated to Section 2(e) of Executive Order 13423) and Section 6002 of the Resource Conservation and Recovery Act. This clause is similar to DEAR 970.5223-2 which is required for management and operating contracts except the DEAR clause is tailored to DOE's management contract environment and has a reporting requirement.

**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.

**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.

**FAR 52.223-13, Certification of Toxic Chemical Release Reporting.**

Insert this provision in all solicitations for competitive contracts exceeding \$100,000 unless determined, in accordance with 23.905(b), that it is not practicable to do so. The offeror certifies that it will file reports required by the Emergency Planning and Community Right to Know Act or that it is exempt.

**FAR 52.224-14, Toxic Chemical Release Reporting.**

When the solicitation contains the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting, the resulting contract shall contain the clause at FAR 52.223-14 if the contract is to exceed \$100,000. The contractor agrees that, unless it is exempt, it will file specified reports required by various environmental statutes and regulations.

**FAR Cases Pending with Clause Requirements**

**FAR Case 2005-039** will require a clause to be used in service and construction contracts which may involve the use or specification of recovered materials products in construction or service contracts, e.g., use of recovered material flooring products in a construction , renovation or design contract.

**FAR Case 2006-008** will require a clause alerting contractors that EnergyStar<sup>®</sup> or FEMP designated products are to be furnished or specified in any contract, including construction and service contracts, for energy using products.

**FAR Case 2006-030** will require a clause alerting contractors furnishing computers and monitors that they must furnish products designated bronze or silver on the Electronic Products Environmental Assessment Tool at <http://epeat.net> . These products have been evaluated as more beneficial to the environment than other products lacking the designation. The case has been implemented early in DOE, see Acquisition Letter 2007-08 for details

**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, and to be made applicable to, 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, and be made applicable to, 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 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 970.5223-2, Affirmative Procurement Program.**

Include this clause in contracts for the management of DOE facilities including national laboratories. This clause implements the Affirmative Procurement Program including recovered material content products, biobased material content products, and environmentally preferable products. It contains a reporting requirement for recovered material content products and a limited flow down requirement providing that the contractor will flow down the clause if it subcontracts duties involving the acquisition of the recovered material content products. Examples would include the supply function or operation or maintenance of Federal fleet vehicles. This clause will be updated to reference Executive Order 13423 rather than 13101.

**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 970.5223-5, DOE Motor Vehicle Fleet Fuel Efficiency.**

Include this clause in all contracts that include motor vehicle fleet management. It will be updated to reference Executive Order 13423 rather than 13149.

**What Tools Are Available to Help Us?**

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

The Office of Procurement and Assistance Management maintains an *Acquisition and the Environment* Home Page at [http://management.energy.gov/policy\\_guidance/Acquisition\\_and\\_the\\_Environment.htm](http://management.energy.gov/policy_guidance/Acquisition_and_the_Environment.htm) .

Attachment 1**SAMPLE GREEN ACQUISITION ADVOCATE ACTIVITIES**

Ensure that personnel at your contracting activity are aware of the following green or sustainable 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 at [http://www.eere.energy.gov/femp/about/fleet\\_requirements.html](http://www.eere.energy.gov/femp/about/fleet_requirements.html)
- 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/program/equip\\_procurement.html](http://www1.eere.energy.gov/femp/program/equip_procurement.html) .
- Environmentally preferable products and services, including EPEAT-registered electronic products. The EPEAT initiative is a relatively new initiative described in Acquisition Letter 2007-08. FAR Case 2006-030 is being processed to add this to the FAR. A Home Page has been established to identify environmentally preferable electronic equipment 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.cpg>
- 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 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<sup>®</sup> and Federal Energy Management Program products. Ensure that personnel at the contracting activity are aware of the environmental, energy and transportation aspects of Executive Order 13423 and the required solicitation provisions and contract clauses. EPA designated products are listed at [www.doe.epa/cpg](http://www.doe.epa/cpg) while USDA items are listed at <http://www.biobased.oce.usda.gov/public/index.cfm>

Ensure that Purchase Card Program training includes awareness of and support for the Affirmative Procurement Program and the ENERGY STAR<sup>®</sup> and Federal Energy Management Program initiatives and the Electronic Products Environmental Assessment Tool at <http://www.epeat.net>. Promote use of the Online Affirmative Procurement Training for Purchase Card Users module available at the *Acquisition and the Environment* Home Page.

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

Support program initiatives to include Affirmative Procurement Program, ENERGY STAR<sup>®</sup>, 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 Recycling Coordinator to ensure that local procedures provide a means



for purchase cardholders to report their Affirmative Procurement Program transactions pursuant to that Program's reporting requirements.

Review justifications to acquire other than an EPA designated item 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/cpg> .

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.oce.usda.gov/public/index.cfm> .

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.

Ensure that contracts for operation of a Federal facility, and 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 include the environmental preference clause of DEAR 970.5223-2 and that management contractor personnel are aware of the program and their responsibilities under the Affirmative Procurement Program.

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 970.5223-5.

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 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 \$100,000, 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 \$100,000 contain the clause at FAR 52.223-14, Toxic Chemical Release Reporting, if the

solicitation contained the preceding 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 26 and 27), is entered correctly and consistent with the instructions provided by Attachment 4.

When developing acquisition plans, ensure that Executive Order 13423 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<sup>®</sup> 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.

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 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 will 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****DOE Internet Resources**

[http://management.energy.gov/policy\\_guidance/Acquisition\\_and\\_the\\_Environment.htm](http://management.energy.gov/policy_guidance/Acquisition_and_the_Environment.htm) is the Office of Procurement and Assistance Management information site which includes hyperlinks to all of the sites listed here. Click on “Procurement” then “Regulations and Guidance” and then “*Acquisition and the Environment*.”

<http://www.hss.energy.gov/nuclearsafety/nsep/p2/epp/> is the Office of Nuclear Safety and Environmental Assistance, HS-21, page dealing with Executive Order 13243. The page contains information on policy, products, purchasing approaches, life cycle analyses, outreach tools, quarterly teleconference minutes, award programs, and an extensive listing of DOE and contractor personnel with recycling duties and experience which can serve as an information network tool.

<http://energystar.gov> is the ENERGY STAR<sup>®</sup> information site.

<http://www.eere.energy.gov/femp/> is the Federal Energy Management Program information site.

[http://www1.eere.energy.gov/femp/program/equip\\_procurement.html](http://www1.eere.energy.gov/femp/program/equip_procurement.html) contains FEMP product energy 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**

<http://www.epa.gov/cpg> is EPA’s Comprehensive Procurement Guidelines information site. 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/epahome/lawregs.htm> contains most environmental laws and regulations

### **USDA Internet Resource**

<http://www.biobased.oce.usda.gov/public/index.cfm> is USDA's Biobased site.

### **Other Information Resources**

<http://www.ofee.gov> is the Home Page of the Office of the Federal Environmental Executive. This page has a wealth of helpful information and is kept current.

**ATTACHMENT 4****Coding Procurements Involving Affirmative Procurement Program Items**

The Federal Procurement Data System – Next Generation collects information regarding the acquisition of Affirmative Procurement Program Items, also known as products with recovered material content, or EPA-designated items. USDA-designated items are being added to the Affirmative Procurement Program but there is no FPDS-NG reporting requirement for those products.

Question. What are Affirmative Procurement Program items?

Answer. They are products with recycled content which Federal agencies and Contractors operating Government- owned facilities are required to purchase with the requisite recycled content. They are designated in the Comprehensive Procurement Guidelines, 40 CFR 247, by the Environmental Protection Agency. The Product Categories are:

- Construction Products
- Landscaping Products
- Nonpaper Office Products
- Paper Products
- Parks and Recreation Products
- Transportation Products
- Vehicular Products
- Miscellaneous Products

You may review the list and more detailed information about the products, including recommended recycled content, at the Internet address shown below. A listing of the products is also included in this attachment. The following instructions relate to the EPA designated questions.

These requirements are also discussed at the FPDS-NG on line data dictionary.

**ITEM 26      USE OF EPA DESIGNATED PRODUCTS**

The Resource Conservation and Recovery Act (RCRA), Section 6002, Executive Order 13423, and FAR 23.4 require the purchase of Environmental Protection Agency (EPA) designated products with a required minimum material content as described in an agency's Affirmative Procurement Program (APP). This list of EPA-designated products is available at <http://www.epa.gov/cpg>. This requirement applies to all contracts that require EPA-designated products. When purchasing a product or products on this list without the required minimum recovered material content, a written justification based on exception codes B, C, or D below is required by FAR 23.405(c). If more than one exception applies or more than one justification was completed, report the predominant exception code or the code for the highest cost EPA-

designated product for which a justification was completed. Select one of the following:

<u>CODE</u>	<u>DESCRIPTION</u>
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A EPA-designated product or products were purchased and all contained the required minimum recovered material content.

B EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) competitively within a reasonable time pursuant to FAR 23.405(c)(1).

C EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) at a reasonable price pursuant to FAR 23.405(c)(2).

D EPA-designated product or products were purchased without the required minimum recovered material content and a justification was completed based on inability to acquire the product(s) to reasonable performance standards in the specifications pursuant to FAR 23.405(c)(3).

E No EPA-designated products were required.

<u>ITEM 27</u>	<u>USE OF RECOVERED MATERIALS CLAUSES</u>
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A Use this code if the contract contains any of these provisions or clauses, FAR 52.223-4, Recovered Material Certification, FAR 52.223-9, Estimate of Recovered Material Content for EPA-Designated Products, or FAR 52.223-10, Waste Reduction Program.

B Use this code if the contract contains none of the provisions or clauses at A above.



**Attachment 5**

**List of EPA Designated Products** - Consult the EPA Home Page for recovered material content

Construction Products

- Building Insulation Products
- Carpet (Polyester)
- Carpet Cushion
- Cement and Concrete containing:
  - Coal Fly Ash
  - Ground Granulated Blast Furnace Slag
  - Cenospheres
  - Silica Fume
- Consolidated/Reprocessed Latex Paint
- Floor Tiles
- Flowable Fill
- Laminated Paperboard
- Modular Threshold Ramps
- Nonpressure Pipe
- Patio Blocks
- Railroad Grade Crossing Surfaces
- Shower and Restroom Dividers/Partitions
- Structural Fiberboard

Landscaping Products

- Compost made from yard trimmings or food waste
- Garden and soaker hoses
- Hydraulic Mulch
- Lawn and garden edging
- Plastic lumber landscaping timbers and posts

Non-Paper Office Products

- Binders, clipboards, file folders, clip portfolios, and presentation folders
- Office Furniture
- Office Recycling Containers
- Office Waste Receptacles
- Plastic Clip Portfolios
- Plastic Desktop Accessories
- Plastic Envelopes
- Plastic Trash Bags
- Printer Ribbons
- Toner Cartridges

Paper and Paper Products

- Commercial/Industrial Sanitary Tissue Products
- Miscellaneous Papers
- Newsprint
- Paperboard and Packaging Products
- Printing and Writing Papers

Park and Recreation Products

- Park Benches and Picnic Tables
- Plastic Fencing
- Playground Equipment Containing
- Playground Surfaces
- Running Track

Transportation Products

- Channelizers
- Delineators
- Flexible Delineators
- Parking Stops
- Traffic Barriers
- Traffic Cones

Vehicular Products

- Engine Coolants
- Rebuilt Vehicular Parts
- Re-refined Lubricating Oil
- Retread Tires

Miscellaneous Products

- Awards and Plaques
- Bike Racks
- Blasting Grit
- Industrial Drums
- Manual-grade Strapping
- Mats
- Pallets
- Signage
- Sorbents

**Attachment 6**

**LIST OF USDA-DESIGNATED PRODUCTS**

These Products were designated in a final rule published in the March 16, 2006 Federal Register, 71 FR 13686

Mobile Equipment Hydraulic Fluids

Roof Coatings

Water Tank Coatings\*

Diesel Fuel Additives

Penetrating Lubricants

Bedding, Bed Linens, and Towels\*

\*These products will not require preference until November 20, 2007.

**Attachment 7****ENERGY STAR Qualified and FEMP Designated Products****Lighting:**

Compact Fluorescent Lamps, *Residential Light Fixtures*  
Fluorescent Lamps & Ballasts, Fluorescent Luminaires, Downlight  
Luminaires, Industrial Luminaires  
Exit Signs, Ceiling Fans, *Traffic Lights*

**Commercial & Industrial Equipment:**

Unitary (Packaged) Air Conditioners  
Air-Cooled Electric Chillers, Water-Cooled Electric Chillers, Air-Source & Water-Source,  
Heat Pumps, Ground-Source Heat Pumps, Commercial Boilers, Electric Motors  
Distribution Transformers

**Food Service Equipment:**

Solid Door Refrigerators and Freezers  
Gas Griddles  
Fryers, Hot Food Holding Cabinets, Steam Cookers, Beverage Vending Machines  
Water Coolers  
Ice Machines, Pre-Rinse Spray Valves

**Office Equipment:**

Computers<sup>†</sup> Monitors<sup>†</sup> Laptops<sup>†</sup> Printers<sup>†</sup> Fax Machines<sup>†</sup> Copiers<sup>†</sup>  
*Scanners<sup>†</sup> Multifunction Devices<sup>†</sup> Mailing Machines, External Power Adapters*

**Home Electronics:**

*Televisions (TV)<sup>†</sup> Video Cassette Recorders (VCR)<sup>†</sup> Combination Units (TV + VCR)<sup>†</sup>  
Digital Video Display (DVD) Products<sup>†</sup> Cordless Telephones Answering Machines  
Combination Telephone/Answering Machine Home Audio<sup>†</sup>*

**Appliances:**

Refrigerators, Freezers, Dishwashers, Clothes Washers, Room Air Conditioners,  
*Dehumidifiers*  
*Room Air Cleaners*

**Residential Equipment:**

Central Air Conditioners, Air-Source Heat Pumps, Ground-Source Heat Pumps, Gas Furnaces, Residential Boilers

Electric Water Heaters Gas Water Heaters

*Ventilation Fans Programmable Thermostats*

**Plumbing:**

Faucets, Showerheads, Urinals

**Construction Products:**

Residential Windows, Doors and Skylights, Roof Products

## Attachment 8

# Green Acquisition Advocates

## Albuquerque – NNSA Service Center

Ann Howe  
U.S. Department of Energy  
Pennsylvania & H Street  
Kirtland Air Force Base  
Albuquerque, NM 87116  
Phone: 505-845-5200  
Internet Address: [ahowe@doeal.gov](mailto:ahowe@doeal.gov)

## Chicago Operations

Keith Adkins <a href="mailto:keith.adkins@ch.doe.gov">keith.adkins@ch.doe.gov</a> Chicago Operations Office 9800 South Cass Avenue Argonne, IL 60439 Phone: 630-252-2120	Cynthia Anderson <a href="mailto:Cynthia.anderson@ch.doe.gov">Cynthia.anderson@ch.doe.gov</a>  630 252-2844
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## Eco-Purchasing Consultants

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**Attachment 9****Subject: Greening the Government Requirements  
in the FAR and the DEAR**

<b>References</b>	<b>Title</b>
Executive Order 13423	Strengthening Federal Environmental, Energy, and Transportation Management
Executive Order 13221	Energy Efficient Standby Power Devices
FAR 23.2	Energy Conservation
FAR 23.4	Use of Recovered Materials and Biobased Products
FAR 23.7	Contracting for Environmentally Preferable and Energy Efficient Products and Services
FAR 23.8	Ozone-Depleting Substances
FAR 23.9	Contracting Compliance with Toxic Chemical Release Reporting
FAR 23.10	Federal Compliance with Right to Know Act and Pollution Prevention Requirements
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 52.223-13	Certification of Toxic Chemical Release Reporting
FAR 52.223-14	Toxic Chemical Release Reporting
DEAR 923.4	Use of Recovered Materials
DEAR 923.5	Workplace Substance Abuse Programs
DEAR 923.7	Contracting for Environmentally Preferable and Energy –Efficient Products and Services

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 970.2303	Hazardous Materials Identification and Material Safety
DEAR 970.2304	Use of Recovered/Recycled Materials
DEAR 970.2305.	Workplace Substance Abuse Programs – Management and Operating Contracts
DEAR 970.2307	Contracting for Environmentally Preferable and Energy Efficient Products and Services
DEAR 970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution
DEAR 970.5223-2	Affirmative Procurement Program
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 970.5223-5	DOE Motor Vehicle Fleet Fuel Efficiency
DEAR 970.5223-2	Acquisition and Use of Environmentally Preferable Products and Services